

Legal Update – september 2023

Analysis of RED III Directive



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[European Parliament legislative resolution of 12 September 2023 on the proposal for a directive of the European Parliament and of the Council amending Directive \(EU\) 2018/2001 of the European Parliament and of the Council, Regulation \(EU\) 2018/1999 of the European Parliament and of the Council and Directive 98/70/EC of the European Parliament and of the Council as regards the promotion of energy from renewable sources and revoking Council Directive \(EU\) 2015/652 \("RED III Directive"\)](#) was voted last Tuesday, September 12 by the European Parliament to boost the deployment of renewable energy, in line with the European Green Pact and the REPowerEU plan.

The legislation will speed up procedures for granting permits for new renewable energy plants, such as solar panels or wind turbines, or for retrofitting existing ones. Members of the European Parliament also ensured that Member States ("**Member States**" or "**EEMM**") set an indicative target for innovative renewable energy technologies of at least 5% of new installed renewable energy capacity, as well as a binding framework for cross-border energy projects. They advocated stricter criteria on the use of biomass to ensure that the EU does not subsidize unsustainable practices. Biomass use must be carried out in a way that avoids a negative impact on soil quality and biodiversity.

Status

The RED III Directive was approved by 470 votes in favor, 120 against and 40 abstentions. It will still have to be formally approved by the Council to enter into force.

Main objectives

The legislative revision comes out of the "Target 55" package, adapting existing climate and energy legislation to meet the EU's new target of reducing at least 55% of greenhouse gas (GHG) emissions by 2030.

The updated RED III Directive on renewable energy sources raises the share of renewables in the EU's final energy consumption to 42.5% by 2030, although Member States should strive to reach 45%.

In the transport sector, the deployment of renewables should reduce the sector's greenhouse gas emissions by 14.5% by 2030, using more advanced biofuels and a more ambitious share of renewable fuels of non-biological origin (such as hydrogen).

Some of the measures in the RED III Directive are highlighted below.

Renewable acceleration zones

In the RED III Directive, a distinction is made between projects located in areas particularly suitable for the deployment of renewable energy projects, whose timeframes can be rationalized, namely renewable acceleration zones, and projects located outside such zones.

In this regard, the Member States will ensure that renewable acceleration zones for one or more types of renewable energy sources are adopted within 27 months of the entry into force of the RED III Directive. In these renewable acceleration zones, Member States should ensure that the absence of a response from the relevant competent authorities within the set deadline will result in the specific intermediate administrative steps being considered as approved except for the environmental impact assessment.

In addition, Member States may, no later than six months from the date of entry into force, declare as renewable acceleration zones specific areas that have already been designated as suitable areas for accelerated deployment of one or more types of renewable energy technology provided that certain conditions are met (i) they are outside Natura 2000 sites, (ii) the plans defining such areas have been subject to a strategic environmental assessment, and (iii) projects located in such areas apply appropriate and proportionate standards and measures to address the adverse environmental impact that may arise.

Authorization procedure

The permitting procedure distinguishes between projects located inside or outside renewable acceleration zones:

- ▶ Procedure for granting authorizations in renewable acceleration zones: Member States must ensure that the procedure for granting authorizations for renewable

energy projects does not exceed twelve months for renewable energy projects located in renewable acceleration zones. And, in the case of marine renewable energy projects, the permitting procedure shall not exceed two years. However, due to extraordinary circumstances, any of these periods may be extended for a maximum period of six months.

- ▶ Permit granting procedure: Member States must ensure that the permit granting procedure for renewable energy projects does not exceed two years if they are located outside renewable acceleration zones. However, in the case of offshore renewable energy projects, the permitting procedure shall not exceed three years.
- ▶ Repowering in renewable acceleration zones: the procedure for granting authorizations for the repowering of renewable energy plants, for new facilities with a capacity of less than 150 kW, for co-location energy storage facilities, including electrical and thermal facilities, as well as for their connection to the grid, located in renewable acceleration zones, shall not exceed six months. However, in the case of offshore wind energy projects, the procedure for granting authorizations will not exceed twelve months.
- ▶ Repowering: the procedure for granting authorizations for the repowering of renewable energy plants, for new facilities with a capacity of less than 150 kW and for co-location energy storage, as well as for the connection of such plants, facilities and storage to the grid, located outside renewable acceleration zones, shall not exceed twelve months, also with respect to environmental assessments when required. However, in the case of marine renewable energy projects, the procedure for granting authorizations shall not exceed two years. Where duly justified by extraordinary circumstances, Member States may extend either time limit by a maximum of three months.

Environmental impact assessment

On the other hand, the RED III Directive also introduces certain measures regarding environmental impact assessment, among others:

- ▶ Where an environmental assessment is required, it must be carried out in a single procedure combining all relevant assessments in relation to a given renewable energy project. In addition, where an environmental impact assessment is required, the competent authority must issue an opinion on the scope and level of detail of the information to be included by the project developer in the environmental impact assessment report, the scope of which shall not be subsequently extended.
- ▶ Member States may, in justified circumstances, exempt grid and storage projects that are necessary to integrate renewable energy into the electricity system from the environmental impact assessment.
- ▶ In renewable acceleration zones, renewable energy projects that comply with the standards and measures defined in the plans drawn up by Member States should benefit from the presumption that they do not have significant effects on

the environment. Such projects should therefore be exempted from the obligation to carry out a project-specific environmental impact assessment within the meaning of Directive 2011/92/EU, except in the case of projects for which a Member State has decided to require an environmental impact assessment in its mandatory national list of projects and projects likely to have significant effects on the environment in another Member State or where a Member State likely to be significantly affected so requests.

Guarantees of origin

Finally, the new RED III Directive establishes that guarantees of origin shall be valid for transaction for a period of twelve months from the production of the corresponding energy unit. Member States shall ensure that, no later than eighteen months after the production of the unit of energy, all guarantees of origin that have not been cancelled expire.

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