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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 as regards the promotion of energy from renewable sources**

(Text with EEA relevance)

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

The European Green Deal put renewable energy at the heart of the clean energy transition. The current international tensions following Russia's invasion of Ukraine, the overall geopolitical context and the very high energy prices have exacerbated the need to accelerate the deployment of renewable energy in the Union with the objective to have an energy system that is more independent from third countries. Accelerating the green transition towards renewable energy will reduce emissions, reduce dependency on imported fossil fuels and provide affordable energy prices to European citizens and businesses across all sectors of the economy. The Union renewable energy target should reflect the pressing need to accelerate the deployment of renewable energy and should therefore be increased to [XX]%.

Lengthy and complex administrative procedures have been identified as one of the key obstacles for investments in renewables and related infrastructure. The interim report of the RES Simplify study, prepared for the Commission<sup>1</sup> and published together with the present proposal, has revealed that administrative and grid issues make up about 46% of all identified barriers and this is expected to rise in the future. For some wide-spread renewable technologies, such as wind power and photovoltaics, administrative barriers are increasingly becoming more important than other type of barriers. With advancing energy transition, as renewable technologies mature and the projects become less dependent on support schemes, administrative barriers become more prominent.

The most common barriers related to the administrative process for renewable energy projects identified in the RES Simplify study<sup>2</sup> are bureaucratic burden, non-transparent processes, a lack of legal coherence as well as an incomplete and vague framework and guidelines that lead to different interpretations of existing legislation by the competent authorities.

Conflicting public goods are the second main obstacle for the deployment of renewable installations. This is particularly the case for wind power, geothermal power and hydropower as well as solar photovoltaics. The most prominent among them concern environmental protection (biodiversity and protection of endangered species and protection of water bodies), other land uses and military/ air defence issues.

Further obstacles identified in the study relate to the lack of support from policy decision-makers or protracted opposition from public or private institutions or the public itself.

Finally, problems related to grid connections and operation procedures have also been identified as severely affecting renewable energy deployment in a number of Member States.

On 18 January 2022, the Commission published a Call for Evidence and an open public consultation to gather stakeholder feedback on the permit-granting procedures and processes for renewable energy projects.<sup>3</sup> This public consultation was carried out in the context of the preparation of the Commission Recommendation on permitting and Power Purchase

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<sup>1</sup> Technical support for RES policy development and implementation – Simplification of permission and administrative procedures for RES installations (“RES Simplify”).

<sup>2</sup> The RES Simplify study identifies and ranks the different types of administrative barriers faced by renewable energy projects. RES Simplify, pages 14-16.

<sup>3</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13334-Renewable-energy-projects-permit-granting-processes-&-power-purchase-agreements\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13334-Renewable-energy-projects-permit-granting-processes-&-power-purchase-agreements_en).

Agreements (PPA), adopted on 18 May, alongside the present proposal. The results of this public consultation confirm that administrative barriers are a key bottleneck for the acceleration of deployment of energy from renewable sources (see section 3 below for more details).

A precondition for the acceleration of renewable energy projects to materialise is therefore to simplify and shorten permitting, as set out in the REPower EU Communication<sup>4</sup>. The proposal aims at further simplifying and shortening the administrative permit-granting processes applicable to renewable energy projects in a coordinated and harmonised manner across the EU. This is necessary to accelerate the deployment of renewable energy across the EU in order to ensure the achievement of the EU's ambitious climate and energy targets for 2030 and the objective of climate-neutrality by 2050.

- **Consistency with existing policy provisions in the policy area**

This proposal amends the existing Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources. It builds on the existing framework to streamline administrative procedures for renewable energy projects, which introduces, among other elements, a maximum duration of the permit-granting process applicable to renewable energy plants. However, in the context of the current geopolitical situation additional measures are needed to further increase the supply of renewable energy in the Union. In particular, enhanced measures to accelerate permitting procedures for new renewable energy installations, or for adaption of existing installations, are required.

- **Consistency with other Union policies**

The proposal is consistent with a broader set of initiatives to enhance the Union's energy resilience and prepare against possible emergency situations, notably the Commission's 'Fit for 55' proposals, in particular the revision of Directive (EU) 2018/2001.

Following the recent geopolitical developments, in March 2022 the Commission issued the REPowerEU Communication. In accordance with the REPowerEU Communication, the Commission has published a recommendation on fast permitting for renewable energy projects, accompanied by guidance to help the Member States speed up permitting for renewable energy installations. This will give Member States the tools to already start reducing the time taken to approve applications for renewable energy installations, and so to quickly respond to the unprecedented energy crisis caused by the current geopolitical situation. In addition, the Commission presents this proposal to ensure that projects are approved in a simpler and faster way across all the Union. Following the recommendation with a legal proposal will give greater certainty to project promoters and investors, while Member States should already be moving in the direction of speeding up permitting procedures in accordance with the recommendation. Moreover, a speedy and efficient implementation of the Recommendation can play a key role to ensure that Member States meet their new obligations under the current proposal.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The proposal is based on two legal bases:

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<sup>4</sup> REPowerEU: Joint European Action for more affordable, secure and sustainable energy, COM(2022) 108 final ("REPower EU Communication").

- Article 194(2) of the Treaty on the Functioning of the European Union<sup>5</sup> (TFEU), which provides the legal basis for proposing measures to develop new and renewable forms of energy, one of the goals of the Union's energy policy, set out in Article 194(1)(c) TFEU.

- Article 192(1) of the TFEU, which provides the legal basis to amend the application of the Union environmental acquis.

- **Subsidiarity (for non-exclusive competence)**

*The need for EU action*

A cost-efficient, fast and large-scale deployment of sustainable renewable energy in line with the ambition of the European Green Deal and the REPower EU Communication cannot be achieved by Member States alone. An EU approach is needed to provide the right incentives to Member States with different levels of ambition to accelerate, in a coordinated way, the energy transition from the traditional fossil fuel-based energy system towards a more integrated and energy-efficient energy system based on renewables energies.

Taking into account the different energy policies among Member States, action at EU level, supported by the robust governance framework, is more likely to achieve the EU climate target and required increased deployment of renewables than national or local action alone.

Lengthy and complex administrative procedures are a key barrier for investments in renewables and their related infrastructure. The duration and complexity of the permit-granting procedures greatly varies between the different renewable energy technologies and between Member States. While Member States can take action to address those barriers which exist at national level, a coordinated European approach to shortening and simplifying permitting procedures and administrative processes is needed in order to speed up the necessary deployment of renewables. This is in turn necessary for the EU to achieve its climate and energy 2030 targets and its long-term objective of climate neutrality as well as phase out its dependence on Russian fossil fuels and reduce energy prices. Taking into account the different energy policies, priorities and procedures among Member States, and in view of the urgency to accelerate the deployment of renewable energy across all Member States, action at EU level is more likely to achieve the required objectives than national or local action alone.

*EU added value*

EU action on renewable energy brings added value because it is more efficient and effective than individual Member States' actions, avoiding a fragmented approach by addressing the transition of the European energy system in a coordinated way.

A European approach allows all Member States to fully harness their potentials for the cost-efficient deployment of renewables needed to achieve the Union climate and energy targets, making sure that renewable energy is smoothly deployed in all Member States.

- **Proportionality**

The initiative complies with the proportionality principle. In view of the unprecedented geopolitical situation created by Russia's invasion of Ukraine and the high energy prices, there is a clear need for coordinated and urgent action to accelerate the deployment of renewable energy. The balance between obligations and flexibility left to the Member States on how to achieve the objectives is considered appropriate given the imperative of achieving

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<sup>5</sup> OJ C 326, 26/10/2012, p.1

the 2030 targets and the objective of climate neutrality laid down in the European Climate Law as well as the urgency to reduce both Union's energy dependency and energy prices.

- **Choice of the instrument**

This proposal is a Directive amending Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources, increasing the Union's renewable energy target for 2030 and strengthening the permitting-related provisions of that Directive (Articles 15-17). This revision of Directive (EU) 2018/2001 is limited to what is considered necessary to have a renewable energy target that is consistent with the current pressing context and to streamline permitting procedures in order to accelerate the deployment of renewable energy projects.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Stakeholder consultations**

On 18 January 2022 the Commission published a Call for Evidence and a three-month open public consultation to gather stakeholder's feedback on the permit-granting procedures for renewable energy projects. This public consultation was carried out in the context of the preparation of the Commission Recommendation on permitting and Power Purchase Agreements (PPA), adopted on 18 May, alongside the present proposal. In this context, the Commission also organised a high-level stakeholder event and two workshops aimed at discussing the existing barriers and good practices in the permit-granting processes of the different Member States.

Due to the urgency of the proposal, which is put forward in reaction to the crisis triggered by the Russian invasion of Ukraine and the resulting need to urgently accelerate the deployment of renewable energy, the Commission builds on the results of these consultations and on the input provided by key stakeholders in different workshops, meetings and fora, in particular a high-level conference on permit-granting for renewable energy projects and PPAs and two workshops on permit-granting procedures for repowering projects in the wind energy and hydropower sectors.

#### *Summary of stakeholder views*

The open public consultation asked for the views on permitting procedures of two groups of stakeholders: public authorities, and project promoters and associations.

In their replies, 7 out of 8 (87.5%) public authorities indicate the lack of availability of sites on land or at sea as the main challenge to the expansion of renewable energy in their jurisdiction, followed by lack of grid capacity (62.5%), lack of public acceptance / conflict between public goods (50%) and duration of procedures (50%). When asked about the main bottlenecks for processing renewable energy project permits, complexity of coordination at different levels of government or administration is presented as the main barrier by public authorities (75%), followed by lack of human resources (50%) and lack of public acceptance or conflict between public goods (50%).

Approximately half of the project promoters and associations (70 / 155) ranked the length of administrative procedures as the most important barrier that prevents renewable energy projects from materialising while 62 pointed to grid connection issues. Respondents also ranked competition with environmental regulations (44) and the complexity of the applicable requirements or procedures (35) among the most important barriers. In the replies to the open text questions, respondents stressed the importance of spatial planning, expressed support for multiple uses of space, such as agri-PV, and called for the involvement of the local

population. The public consultation also delivered a clear call for a harmonised set of criteria for the designation of suitable areas for projects.

The views of the stakeholders as expressed in the open public consultation and during the workshops were taken into account when elaborating the present proposal.

- **Collection and use of expertise**

This proposal builds on the results of the RES Simplify study, which provides a comprehensive overview of the existing barriers related to permitting, national performance indicators as well as best practices related to permitting procedures for renewables, with a focus on administrative barriers in the power sector. The interim report of the study is published together with the adoption of the present initiative and the Recommendation on permitting and PPAs. This proposal also reflects the views shared by the relevant stakeholders during the consultation process.

- **Impact assessment**

Due to the politically sensitive and urgent nature of the proposal, no specific impact assessment was carried out. However, the above-mentioned study, the open public consultation and the extensive workshops organised with stakeholders, as well as the Commission's own analysis, provide solid insights into the problems related to permitting procedures as well as options to address them.

- **Fundamental rights**

In terms of consistency with the Charter for fundamental rights, the overarching aim of this review is to increase the use of renewable energy and reduce GHG emissions, and this is entirely in line with Article 37 of the Charter under which a high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

#### **4. BUDGETARY IMPLICATIONS**

This proposal amends an existing Directive on the promotion of renewable energy, and the administrative impact and costs are therefore estimated to be moderate, as most of the necessary structures and rules are in place. Member States will face some costs in implementing the new obligation to identify 'renewables go-to areas' but the overall streamlining of procedures is expected to bring significant cost savings for Member States. The proposal does not entail any additional costs for the EU budget.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

After the adoption of this amending Directive by the co-legislators, during the transposition period, the Commission will undertake the following actions to facilitate its transposition:

- Organisation of meetings with Member States' experts in charge of transposing the different parts of the Directive to discuss how to transpose them and solve doubts, either in the context of the Concerted Action for Renewable Energy Sources (CA-RES) or in a committee format.
- Availability for bilateral meetings and calls with Member States in case of specific question on the transposition of the Directive.

After the transposition deadline, the Commission will carry out a comprehensive assessment of whether Member States have completely and correctly transposed the Directive.

Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action established an integrated energy and climate planning, monitoring and reporting framework, to monitor progress towards the climate and energy targets in line with the transparency requirements of the Paris Agreement. Member States had to submit to the Commission their integrated national energy and climate plans by the end of 2019, covering the five dimensions of the Energy Union for the period 2021-2030. From 2023, Member States must report biennially on the progress made in implementing the plans and in addition, by 30 June 2023 they must notify the Commission of their draft updates of the plans, with the final updates due on 30 June 2024. This proposal will not create a new planning and reporting system, but would be subject to the existing planning and reporting framework under Regulation (EU) 2018/1999. A future revision of the Governance Regulation would allow a consolidation of these reporting requirements.

- **Explanatory documents (for directives)**

Following the ruling of the European Court of Justice in *Commission vs Belgium* (case C-543/17), Member States must accompany their notifications of national transposition measures with sufficiently clear and precise information, indicating which provisions of national law transpose which provisions of a directive. This must be provided for each obligation, not only at “article level”. If Member States comply with this obligation, they would not need, in principle, to send further explanatory documents on the transposition to the Commission.

- **Detailed explanation of the specific provisions of the proposal**

The main provisions which substantially change Directive (EU) 2018/2001 or add new elements are the following:

Article 1(1) adds new definitions to Article 2 of Directive (EU) 2018/2001, to define ‘renewables go-to area’, ‘multi-use’ and ‘rooftop and building-integrated solar installations’.

Article 1(2) increases the Union’s renewable energy target to [XX%]

Article 1(3) inserts a new Article 15b on the obligation for Member States to identify the land and sea areas necessary for the installation of plants for the production of energy from renewable sources in order to meet their national contributions towards the 2030 renewable energy target and to designate ‘renewables go-to areas’, which are particularly suitable areas for the installation of production of energy from renewable sources.

Article 1(4) replaces Articles 16 of Directive (EU) 2018/2001, extending the scope of the permit-granting process, clarifying the start of the permit-granting process and asking for the most expeditious administrative and judicial procedures available for appeals in the context of an application for a renewable energy projects.

Article 1(5) inserts Articles 16a, which regulates the duration of the permit-granting process for projects located in renewables go-to areas.

Article 1(7) inserts Article 16b, which regulates the duration of the permit-granting process for projects located outside renewables go-to areas.

Article 1(6) inserts Article 16c, which regulates the duration of the permit-granting process for rooftop solar installations.

Article 2 concerns transposition.

Article 3 concerns entry into force.

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Directive (EU) 2018/2001 of the European Parliament and of the Council as regards the promotion of energy from renewable sources**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,  
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) and Article 192(1) thereof,  
Having regard to the proposal from the European Commission,  
After transmission of the draft legislative act to the national parliaments,  
Having regard to the opinion of the European Economic and Social Committee<sup>6</sup>,  
Having regard to the opinion of the Committee of the Regions<sup>7</sup>,  
Acting in accordance with the ordinary legislative procedure,  
Whereas:

- (1) In the context of the European Green Deal, the European Climate Law<sup>8</sup> established the objective of the Union becoming climate neutral in 2050, as well as the target of a 55% reduction in greenhouse gas emissions by 2030. This requires an energy transition and significantly higher shares of renewable energy sources in an integrated energy system.
- (2) Renewable energy plays a fundamental role in delivering on these objectives, given that the energy sector contributes today over 75% of total greenhouse gas emissions in the Union. By reducing those greenhouse gas emissions, renewable energy also contributes to tackling environmental-related challenges such as biodiversity loss and to reducing pollution in line with the objectives of the Zero-Pollution Action Plan.
- (3) Directive (EU) 2018/2001 of the European Parliament and of the Council<sup>9</sup> sets a binding Union target to reach a share of at least 32 % of energy from renewable sources in the Union's gross final consumption of energy by 2030. Under the Climate Target Plan<sup>10</sup>, the share of renewable energy in gross final energy consumption would need to increase to 40% by 2030 in order to achieve the Union's greenhouse gas

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<sup>6</sup> OJ C , , p. .

<sup>7</sup> OJ C , , p. .

<sup>8</sup> Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), OJ L 243, 9.7.2021, p. 1–17

<sup>9</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, OJ L 328, 21.12.2018, p. 82–209

<sup>10</sup> Communication from the Commission COM(2020) 562 final of 17.9.2020, Stepping up Europe's 2030 climate ambition Investing in a climate-neutral future for the benefit of our people

emissions reduction target<sup>11</sup>. In this context, the [proposal to revise REDII] put forward by the Commission in July 2021, as part of the package delivering on the European Green Deal, proposed to double the share of renewable energy in the energy mix in 2030 compared to 2020, to reach at least 40%.

- (4) The REPowerEU Communication<sup>12</sup> outlined a plan to make the EU independent from Russian fossil fuels well before the end of this decade. The Communication foresees front-loading of wind and solar energy, increasing the average deployment rate by at least [30]%, and additional capacities by 2030 to accommodate for higher production of renewable hydrogen. It also invited the co-legislators to consider boosting the Fit for 55 proposals, including the [proposal to revise REDII] with higher or earlier targets for renewable energy.
- (5) In this context, the current pace of deployment of renewable energy projects will need to swiftly and significantly accelerate to meet the needed capacity increase on time, thereby increasing the availability of affordable, secure and sustainable energy in the Union. Therefore, the share of renewable energy in 2030 should reach at least [XX]%.
- (6) Lengthy administrative procedures are one of the key barriers for investments in renewables and their related infrastructure. These barriers include the complexity of the applicable rules for site selection and administrative authorisations for projects, the complexity and duration of the assessment of the environmental impacts of the projects, grid connection issues, constraints on adapting technology specifications during the permit-granting procedure, or staffing issues of the permitting authorities or grid operators. As a result, the lead time for renewable energy projects can take up to ten years. A precondition for the acceleration of renewable energy projects to materialise is to simplify and shorten permit-granting procedures, as set out in the REPowerEU Communication. The case for bringing down these barriers is now stronger than ever.
- (7) The 2009 Renewable Energy Directive<sup>13</sup> introduced requirements to simplify the administrative procedures faced by renewable energy developers. The 2018 Renewable Energy Directive strengthened these requirements by introducing rules on the organisation and maximum duration of the administrative part of the permit-granting process for renewable energy projects, covering all relevant permits to build, repower and operate plants, and for their grid connection.
- (8) The duration of the permit-granting procedures greatly varies between the different renewable energy technologies and between Member States. The Commission Recommendation on permitting and PPAs has identified the steps that the Member States should take in order to address the barriers identified at the national level. These relate to the length of the procedures, their complexity, site selection, grid connection as well as increasing public acceptance.
- (9) A further simplification and shortening of the administrative permit-granting processes in a coordinated and harmonised manner is necessary in order to ensure the

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<sup>11</sup> Point 3 of the Communication from the Commission COM(2020) 562

<sup>12</sup> REPowerEU: Joint European Action for more affordable, secure and sustainable energy, COM(2022) 108 final (“REPower EU Communication”).

<sup>13</sup> Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (Text with EEA relevance)

achievement of EU's ambitious climate and energy targets for 2030 and the objective of climate-neutrality by 2050, while taking into account the “do not significant harm” principle of the European Green Deal. The introduction of shorter and clear deadlines for decisions to be taken by the authorities competent for issuing the authorisation for the renewable energy installations on the basis of a completed application, will accelerate the deployment of renewable energy projects. It is appropriate however to make a distinction between projects in areas particularly suitable for the deployment of renewable energy projects, for which deadlines can be significantly streamlined (renewables go-to areas), and projects located outside those areas.

- (10) Some of the most common issues faced by renewable energy project developers relate to procedures established at national or regional level to assess the environmental impact of the proposed projects.
- (11) A faster roll-out of renewable energy projects could be supported by strategic planning carried out by Member States. Member States should identify the land and sea areas necessary for the installation of plants for the production of energy from renewable sources in order to meet their national contributions towards the revised 2030 renewable energy target in accordance with [amended Directive (EU) 2018/2001]. Such areas should reflect their estimated trajectories and total planned installed capacity and should be identified by renewable energy technology set in the Member States' updated national energy and climate plans pursuant to Article 14 of Regulation (EU) 2018/1999. The identification of the required land and sea areas should take into consideration the availability of the renewable energy resources and the potential offered by the different land and sea areas for renewable energy production of the different technologies, the projected energy demand overall and in the different regions of the country, and the availability of relevant grid infrastructure, storage and other flexibility tools bearing in mind the capacity needed to cater for the increasing amount of renewable energy.
- (12) Spatial planning and macro-siting measures are the most effective way to avoid significant environmental effects related to renewable energy projects. Member States should designate as renewables go-to areas areas particularly suitable to develop renewable energy projects, differentiating between technologies, and where the deployment of the specific type of renewable sources is expected to have a low environmental impact. In the designation of renewables go-to areas, Member States should avoid as much as possible protected areas. Member States may identify renewable go-to areas specific for one or more types of renewable energy installations and should indicate the type or types of renewable energy that are suitable to be produced in each renewable go-to area. Directive 2001/42/EC of the European Parliament and of the Council <sup>14</sup> establishes environmental assessments as an important tool for integrating environmental considerations into the preparation and adoption of plans and programmes. In order to designate renewables go-to areas, Member States should prepare a plan or plans encompassing the identification of selected areas and the applicable rules and measures for projects located in each area. Member States may prepare one single plan for all renewable go-to areas and technologies, or technology-specific plans identifying one or more renewable go-to areas. Each plan should be subject to a strategic environmental assessment ('SEA') carried out in accordance with the conditions set out in Directive 2001/42/EC in order

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<sup>14</sup> Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (“SEA Directive”).

to assess the impacts of each renewable technology on the relevant areas in such plan. Carrying out a SEA for this purpose would allow Member States to have a more integrated and efficient approach to territorial planning and to take environmental considerations into account at an early phase of the planning process at a strategic level. This would contribute to maximising the use of the energy potential from different renewable energy sources in a faster and streamlined manner while minimising the negative environmental impacts from these projects.

- (13) The strategic environmental assessment needed to designate renewables go-to areas remains subject to the obligations under the Aarhus Convention on access to information, public participation, on decision-making and access to justice in environmental matters, in particular in relation to Article 7 of that Convention.
- (14) The designation of the renewables go-to areas should aim to ensure that renewable energy production from these areas, together with existing renewables installations, future renewables installations outside of such areas and cooperation mechanisms, will be sufficient to achieve Member States' contribution to the Union renewable energy targets.
- (15) The concept of 'imperative reasons of overriding public interest' is referred to in several pieces of Union environmental legislation<sup>15</sup>. Under this legislation, the competent authorities must in certain circumstances carry out a case-by case assessment in order to examine, among other criteria, whether the reasons for carrying out a specific project prevail over the nature conservation objectives pursued by the legislation in question. If the competent authority establishes that the specific project serves an overriding public interest, and the other conditions established in the Union environmental legislation are met, the authority may allow the project to be carried out or to continue to operate. Renewable energy sources are crucial to fight climate change, reduce energy prices, decrease the Union's dependence on fossil fuels and ensure the Union's security of supply and may therefore be justified by "imperative reasons of overriding public interest" in relation to different public interests. The assessment to ascertain whether a specific renewable energy project may be considered an imperative reason of overriding public interest is currently carried out on a case-by-case basis under different time frames and leading to diverging results. In view of the geopolitical context and the urgency to accelerate the deployment of renewable energy sources, and in order to facilitate the use of existing flexibilities in the Union environmental legislation, the planning, construction and operation of plants for the production of energy from renewable sources, their connection to the grid and the related grid itself and storage assets should be considered as an imperative reason of overriding public interest and as serving public health and safety when balancing legal interests in the individual case for the purposes of the relevant Union environmental legislation. This would allow projects to benefit from a simplified assessment, which would however still have to verify whether the other conditions set under the Union environmental legislation are met. Member States may introduce

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<sup>15</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora; Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy. Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds does not expressly contain the notion of "overriding public interest" but it foresees in Article 9 the possibility to derogate from its Articles 5 to 8 "in the interest of public health and safety", which are reasons of overriding public interest.

derogations to this presumption in specific circumstances in accordance with the priorities set in their national integrated energy and climate plans.

- (16) The strategic environmental assessment of the plan prepared by the Member States to designate renewables go-to areas should replace the need to carry out a specific environmental impact assessment at project level in the sense of the Directive 2011/92/EU,<sup>16</sup> with the exception of projects which are likely to have significant effects on the environment in another Member State or where a Member State likely to be significantly affected so requests. The obligations under the Espoo Convention on environmental impact assessment in a transboundary context remain applicable for Member States where the project is likely to cause a significant transboundary impact in a third country.
- (17) Projects located in go-to areas should benefit from expedited administrative procedures, including tacit agreement in case of a lack of response by the competent authority on one administrative step beyond the established deadline, given that a dedicated environmental assessment would not be required, while projects located outside go-to areas would still need to carry out such assessment. The identification of renewables go-to areas is therefore aimed at allowing the renewable energy projects located in these areas to benefit from predictability and streamlined administrative procedures. However, the provisions concerning public participation as regards decisions on specific activities provided for by the Aarhus Convention on access to information, public participation, in decision-making, and access to justice in environmental matters, in particular Article 6 of that Convention, should remain applicable.
- (18) In view of the need to accelerate the deployment of renewable energy, the identification of renewables go-to areas should however not prevent the installation of renewable energy projects in other areas or in renewables go-to areas identified for other types of renewable energy. Such projects should be subject to the procedures foreseen for renewable energy projects located outside go-to areas. To speed up permitting at the scale necessary for the achievement of the above-mentioned targets, also the procedures applicable to projects outside of go-to areas should be simplified and streamlined.
- (19) Multiple use of space for renewable energy production and other land uses (such as food production or nature protection) alleviates land and sea use constraints. In this context, spatial planning is an important tool to identify and steer synergies for land use at an early stage. Member States should explore, enable and favour multi-use possibilities in all areas identified as a result of the spatial planning measures adopted.
- (20) The nature and species protection rules foreseen in Council Directive 92/43/EEC and Directive 2009/147/EEC, if relevant, should not result in halting the project in case of incidental negative impacts on an individual specimen. The operation of renewable energy plants may result in the occasional killing or disturbance of birds and other protected species under Directive 92/43/EEC or Directive 2009/147/EEC. However, such killing or disturbance would not be considered deliberate in the sense of these Directives if the projects have adopted, during their construction and operation, mitigation measures to avoid collisions and prevent disturbance and if they carry out a proper monitoring to assess the effectiveness of such measures and, in the light of the

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<sup>16</sup> Directive 2011/92/EU of the European parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (“EIA Directive”).

information gathered, take further measures as required to ensure no significant negative impact on the population of the species concerned.

- (21) In addition to installing new capacity, repowering existing renewable energy plants has a significant potential to contribute to the achievement of the renewable energy targets. Since, usually, the existing projects have been installed in sites with significant renewable energy resource potential, repowering can ensure the continued use of these sites while reducing the need to designate new sites for projects. Repowering includes further benefits such as the existing grid connection, a likely higher degree of public acceptance and knowledge of environmental impacts.
- (22) The 2018 Renewable Energy Directive introduced streamlined permit-granting procedures for repowering. In order to respond to the increasing need for the repowering of existing renewable energy plants and to make full use of the advantages it offers, it is appropriate to establish a fast-track procedure for the repowering of renewable energy installations located in go-to areas. For the repowering of projects located outside go-to areas, Member States should ensure a simplified and swift permit-granting process which should not exceed one year, while taking into account the “do no significant harm” principle of the European Green Deal
- (23) The installation of solar energy equipment in existing or future structures created for purposes different than solar energy production, with the exclusion of artificial water surfaces, such as rooftops, parking areas, roads and railways, do not typically raise concerns related to competing uses of land or environmental impact. These installations therefore may benefit from shorter permitting procedures .
- (24) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents<sup>17</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified, in particular following the judgment of the European Court of Justice in Case Commission vs Belgium<sup>18</sup> (case C-543/17).

HAVE ADOPTED THIS DIRECTIVE:

#### Article 1

#### *Amendments to Directive (EU) 2018/2001*

Directive (EU) 2018/2001 is amended as follows:

- (1) In Article 2, the following points are added:

(...) ‘renewables go-to area’ means a specific location, whether on land or sea, which has been designated by a Member State as particularly suitable for the installation of plants for the production of energy from renewable sources, other than biomass combustion plants.

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<sup>17</sup> OJ C 369, 17.12.2011, p. 14.

<sup>18</sup> Judgment of the Court of Justice of 8 July 2019, Commission v Belgium, C-543/17, ECLI: EU: C:2019:573.

(...) ‘multi-use’ means the co-existence, in a land or sea area, of renewable energy production and different uses, for example food production (agriculture, aquaculture or fisheries), nature protection or restoration.

(2) Article 3 is amended as follows:

Paragraph 1 is replaced by the following:

(1) Member States shall collectively ensure that the share of energy from renewable sources in the Union’s gross final consumption of energy in 2030 is at least [XX] %.

(3) The following Article 15b is inserted:

*‘ Article 15b*

***Mapping and ‘renewables go-to areas’***

(1) By [1 year after the entry into force], Member States shall identify the specific land and sea areas necessary for the installation of plants for the production of energy from renewable sources that is required in order to meet their national contributions towards the 2030 renewable energy target in accordance with Article 3. Such areas shall be commensurate with the estimated trajectories and total planned installed capacity by renewable energy technology set in their national energy and climate plans, as updated pursuant to Article 14 of Regulation (EU) 2018/1999.

(2) When identifying the areas referred to in paragraph 1 of this Article, Member States shall take into account:

- (a) the availability of the renewable energy resources and the potential for renewable energy production of the different technologies in the land and sea areas;
- (b) the projected energy demand;
- (c) the availability of relevant grid infrastructure, storage and other flexibility tools.

(3) By [2 years after the entry into force], Member States shall adopt a plan or plans designating renewables go-to areas, within the areas referred to in paragraph 1, for one or more types of renewable energy sources. In that plan, Member States shall:

- (a) Designate sufficiently homogeneous areas where the deployment of a specific type or types of renewable energy is expected to have a low environmental impact, in view of the particularities of the selected territory. In doing so, Member States shall:
  - give priority to artificial and built surfaces such as rooftops, parking areas, roads and railways, including the public land along those, waste sites, (former) industrial sites and (former) mines, artificial inland water bodies, lakes or reservoirs, urban waste water treatment sites, where appropriate, as well as degraded land not usable for agriculture;
  - exclude Natura 2000 sites and nature parks and reserves, the identified bird migratory routes as well as other areas identified

based on sensitivity maps and the tools referred to point (iii), except for artificial and built surfaces located in those areas such as rooftops, parking areas, roads and railways, including the public land in the immediate vicinity along those.

- Use all appropriate tools and datasets to identify the areas where the renewable energy projects would not have a significant environmental impact, including wildlife sensitivity mapping.

Member States shall explain in the plan the assessment made to identify each renewable go-to area on the basis of the above mentioned criteria.

- (b) Establish appropriate rules for the renewable go-to areas on mitigation measures to be adopted by renewable energy projects. Such measures shall be targeted to the specificities of each identified renewable go-to area and renewable energy technology or technologies to be deployed in each area. Member States shall require renewable energy plants to integrate mitigation measures to effectively prevent as much as possible the killing or disturbance of species protected under Council Directive 92/43/EEC and Directive 2009/147/EEC. Member States may allow the use of novel mitigation measures that have not been widely tested as regards their effectiveness to prevent as much as possible the killing or disturbance of species protected under Council Directive 92/43/EEC and Directive 2009/147/EEC or to prevent any other environmental risks. Member States may allow their use for one or several pilot projects for a limited time period, provided that their effectiveness is closely monitored and measures are taken immediately if they do not prove to be effective.
  - (4) Before its adoption, the plan or plans to designate renewable energy go-to areas shall be subject to a strategic environmental assessment, carried out in accordance with the conditions set out in Directive 2001/42/EC.
  - (5) Member States shall favour multi-use concepts in all areas identified as a result of the obligation in paragraph 1.
  - (6) The plan or plans designating renewables go-to areas shall be made public and shall be reviewed periodically, at least in the context of the update of the national energy and climate plans pursuant to Article 14 of Regulation (EU) 2018/1999.'
- (4) Article 16 is replaced by the following:

*Article 16*

***Organisation and main principles of the permit-granting process***

- (1) The permit-granting process shall cover all relevant administrative permits to build, repower and operate plants for the production of energy from renewable sources, co-located energy storage facilities, as well as assets necessary for their connection to the grid, including grid connection permits and environmental assessments where these are required. The permit-granting process shall comprise all procedures from the acknowledgment of the validity of the application in accordance with paragraph 2 to the notification of the final decision on the outcome of the procedure by the relevant authority or authorities.

- (2) No later than fourteen days for projects located in go-to areas and one month for projects located outside of go-to areas, following the receipt of the application, the competent authority shall validate the application or, if the project developer has not sent all the information required to process an application, request the project developer to submit a complete application within fourteen days. If the project developer does not submit a complete application within this deadline, the competent authority may reject the application in written form. In the event of a rejection, the competent authority shall justify its decision. The project developer may resubmit a new application at any point in time following such rejection. The date of the acknowledgement of the validity of the application by the competent authority shall serve as the start of the permit-granting process.
- (3) Member States shall set up or designate one or more contact points. Those contact points shall, upon request by the applicant, guide through and facilitate the entire administrative permit application and granting process. The applicant shall not be required to contact more than one contact point for the entire process. The contact point shall guide the applicant through the administrative permit application process, including the environmental related steps, in a transparent manner up to the delivery of one or several decisions by the responsible authorities at the end of the process, provide the applicant with all necessary information and involve, where appropriate, other administrative authorities. Applicants shall be allowed to submit relevant documents also in digital form. .
- (4) The contact point shall make available a manual of procedures for developers of renewable energy production projects and shall provide that information also online, addressing distinctly also small-scale projects and renewables self-consumers projects. The online information shall indicate the contact point relevant to the applicant's application. If a Member State has more than one contact point, the online information shall indicate the contact point relevant to the applicant's application.
- (5) Member States shall ensure that applicants have easy access to simple procedures for the settlement of disputes concerning the permit-granting process and the issuance of permits to build and operate renewable energy plants, including, where applicable, alternative dispute resolution mechanisms.
- (6) The deadlines established in Articles 16a, 16b and 16c shall apply without prejudice to judicial appeals, remedies and other proceedings before a court or tribunal, and to alternative dispute resolution mechanisms, including complaints procedures, non-judicial appeals and remedies, and may be extended for the duration of such procedures.
- (7) Administrative and judicial appeals in the context of a project for the development of renewable energy or its related grid connection, including those related to environmental aspects shall be subject to the most expeditious administrative and judicial procedure if available at the relevant national, regional or local level.'
- (8) By [three months from entry into force], until climate neutrality is achieved, Member States shall ensure that in the permit-granting process, the planning, construction and operation of plants for the production of energy from renewable sources, their connection to the grid and the related grid itself and

storage assets are considered as being in the overriding public interest and serving public health and safety when balancing legal interests in the individual case for the purposes of Council Directive 92/43/EEC, Directive 2009/147/EC and Directive 2000/60/EC, without prejudice to the existence of other conditions set out in these Directives, that have to be met in order for the exemptions regulated therein to apply. Member States may restrict the application of this provision to certain parts of their territory, certain types of technologies or to projects with certain technical characteristics in accordance with the priorities set in their national integrated energy and climate plans.

- (5) The following Article 16a is inserted:

*‘Article 16a*

***Duration of the permit-granting process for projects located in renewables go-to areas***

- (1) By derogation from Annex I, points 2(a) and 24, and from Annex II, points 3(a), (h) and (i) of Directive 2011/92/EU, all applications for renewable energy generation projects, except for biomass combustion plants, including the repowering of projects, located in renewables go-to areas for the respective technology shall be exempted from the requirement to carry out a dedicated environmental impact assessment under Article 2(1) of Directive 2011/92/EU. Such projects shall also be exempted from the assessment foreseen in Article 6(3) of Council Directive 92/43/EEC.

The derogation to the application of Directive 2011/92/EU above shall not apply to projects which are likely to have significant effects on the environment in another Member State or where a Member State likely to be significantly affected so requests, as provided for in Article 7 of the said Directive.

- (2) The permit-granting process for new projects located in renewables go-to areas shall not exceed one year. Where duly justified on the ground of extraordinary circumstances, that one-year period may be extended by up to three months. In such a case, Member States shall clearly inform the project developer about the extraordinary circumstances that justified the delay.
- (3) The permit-granting process for the repowering of projects and for new installations with an electrical capacity of less than 150 kW located in renewables go-to areas shall not exceed six months. Where duly justified on the ground of extraordinary circumstances, such as on grounds of overriding safety reasons where the repowering project impacts substantially on the grid or the original capacity, size or performance of the installation, that one year period may be extended by up to three months. Member States shall clearly inform the project developer about the extraordinary circumstances that justify the delay.
- (4) In the permit-granting process of projects located in renewables go-to areas, the lack of reply of the relevant administrative bodies within the established deadline shall result in the specific administrative step being considered as approved.’

- (6) The following Article 16b is inserted:

*‘Article 16b*

***Duration of the permit-granting process for projects located outside renewables go-to areas***

- (1) The permit-granting process referred to in Article 16(1) for projects located outside renewables go-to areas for the respective technology shall not exceed two years for power plants and co-located energy storage facilities, including environmental assessments where required by relevant legislation. Where duly justified on the grounds of extraordinary circumstances, that two-year period may be extended by up to three months. In such a case, Member States shall clearly inform the project developer about the extraordinary circumstances that justified the delay.
- (2) Where an environmental assessment is required under the applicable legislation, it shall be carried out in a single procedure that combines all relevant assessments for a given project. When the project is subject to an environmental impact assessment, the competent authority, taking into account the information provided by the project developer, shall 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, of which the scope shall not be extended subsequently.
- (3) In the context of the specific environmental assessment, Member States may allow the use of novel mitigation measures that have not been widely tested as regards their effectiveness to prevent as much as possible the killing or disturbance of species protected under Council Directive 92/43/EEC and Directive 2009/147/EEC or to prevent any other environmental risks. Member States may allow their use for one or several pilot projects for a limited time period, provided that their effectiveness is closely monitored and measures are taken immediately if they do not prove to be effective.
- (4) The permit-granting process for the repowering of projects and for new installations with an electrical capacity of less than 150 kW located outside renewables go-to areas shall not exceed one year including environmental assessments where required by relevant legislation. Where duly justified on the ground of extraordinary circumstances, that one year period may be extended by up to three months. Member States shall clearly inform the project developers about the extraordinary circumstances that justified the delay.
- (7) The following Article 16c is inserted:

*‘Article 16c*

***Duration of the permit-granting process for the installation of solar energy equipment in artificial structures***

The permit granting process for the installation of solar energy equipment, including building-integrated solar installations, in existing or future artificial structures, with the exclusion of artificial water surfaces, shall not exceed three months including all relevant procedures of competent authorities and entities, provided that the primary aim of such structures is not solar energy production.’

Article 2  
**Transposition**

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [one year after its entry into force] at the latest.

Notwithstanding the first subparagraph, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 1(2) and (5) [Articles 15b and 16b] by the dates specified therein and the laws, regulations and administrative provisions necessary to comply with Article 1(4) [Article 16a] by [two years after the entry into force of the Directive] at the latest.

They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3  
***Entry into force***

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*