Accelerating the deployment of renewable energy during the crisis

On 9 November 2022, the European Commission proposed a temporary emergency regulation on accelerating the deployment of renewable energy. Its main aim is to simplify permit-granting procedures for renewable energy projects, in particular for solar installations, heat pumps, and projects involving the repowering of renewable energy plants. Accelerating the rollout of renewables is considered one of the main measures that could help the EU address the current energy crisis, improve security of supply and reduce energy prices.

Background

The European Commission published a legislative proposal for a Council regulation laying down a framework to accelerate the deployment of renewable energy on 9 November 2022. The proposal defines renewable energy projects as being of an overriding public interest and proposes to streamline the permit-granting procedure for installing solar energy equipment, repowering renewable energy plants and deploying heat pumps. The regulation targets technologies that are quick to implement in the short term, have considerable potential for reducing gas consumption and, because of their low operational cost, could help bring down energy bills. The regulation would apply for 1 year, but its length could be extended following a review scheduled to take place by 1 July 2023.

The regulation comes in response to the European Council conclusions of 20-21 October 2022, which called for the ‘fast-tracking of the simplification of permitting procedures to accelerate the rollout of renewables and related grids’. It complements several other regulations adopted in 2022 to mitigate the energy crisis, such as the regulations on gas storage, gas demand reduction and on addressing high energy prices. The newly proposed regulation also builds on the REPowerEU plan, which includes a revision of the Renewable Energy Directive (RED) focusing on long-term structural changes (currently under negotiation).

The legal basis for this regulation is Article 122 of the Treaty on the Functioning of the European Union (TFEU), which envisages adoption by the Council only. The Commission justifies the use of this article as opposed to Article 194 (joint adoption by the European Parliament and the Council), by the urgent and temporary nature of the measure, and the time needed to adopt and begin transposing the revised Renewable Energy Directive. The lack of ‘democratic checks’ was one of the concerns voiced by the European Environmental Bureau, along with reservations regarding the interplay with environmental legislation. However, industry players, such as Solar Power Europe, have been strongly supportive of the emergency proposal.

Main points of the proposed Council regulation

Overriding public interest

The proposal regards renewable energy plants and installations as being of an overriding public interest and therefore as eligible for a simplified assessment during the permit-granting procedures. Some derogations from EU environmental legislation (the Water Framework, Birds and Habitats Directives) would be made possible, providing appropriate species conservation measures were ensured.

Solar energy installations

A maximum 1-month deadline is proposed for the permit-granting procedure for solar energy equipment on artificial structures such as buildings. These installations would also be exempt from some environmental assessments. Small-scale installations (50 kW or less) for ‘renewables self-consumers’, as defined in the RED, would benefit from ‘positive administrative silence’, whereby the permit would be considered granted if there was no feedback from the relevant authorities within a month of the application being submitted.
**Repowering renewable plants**

The permit-granting period for repowering (i.e. the renewal or upgrading) of renewable power plants would be limited to 6 months; this period would also cover all relevant environmental assessments that needed to be made. Environmental assessments would be limited to potential impacts resulting from the change or extension compared to the original project. Moreover, a simplified procedure for grid connections would apply in cases of repowering not exceeding a 15% increase in total capacity.

**Heat pumps**

The proposal introduces a 3-month deadline for permit granting for the installation of heat pumps. The grid connection of smaller heat pumps would be permitted automatically following notification to the relevant entity (up to 12 kW capacity, or up to 50 kW capacity if installed by a renewables self-consumer).

**Legislative context**

As part of the REPowerEU plan of May 2022 to phase out Russian fossil fuels and accelerate the clean energy transition, the Commission proposed a targeted revision of the Renewable Energy Directive. This revision aims to increase to 45% the target share of renewable energy sources in EU consumption by 2030. The currently binding target is 32%, while a broader RED revision as part of the 'fit for 55' package proposed a target of 40%. The REPowerEU revision also proposed simplified procedures for renewable energy installations, overlapping to some extent with the newly proposed regulation on accelerating the deployment of renewables that is the focus of this paper (e.g. permit granting for solar installations and repowering of renewable energy power plants). While negotiations on the longer-term revision of the RED are currently ongoing, the newly proposed regulation is seen as a temporary emergency measure responding to the need to achieve some of the REPowerEU objectives faster in the light of the worsening energy crisis, in particular the objective to accelerate the rollout of renewables.

**European Parliament position**

As Article 122 TFEU is the legal basis, the Parliament is not participating in the negotiations. However, it has taken a position on the revised version of the RED, which includes provisions that touch upon the same topics. On 14 September 2022, Parliament adopted its first-reading position on the RED revision proposed under the 'fit for 55' package. The position supported the streamlining of permitting procedures for both renewable energy projects and related grid infrastructure projects. It also highlighted the importance of accelerating the deployment of solar rooftops and heat pumps in order to reduce fossil fuel imports.

On 14 November 2022, Parliament's Committee on Industry, Research and Energy (ITRE) voted on its draft amendments to the RED revision under REPowerEU. The report supports the new target of 45%, calls for shorter approval periods for new renewable installations and supports simplified assessments. Parliament is expected to vote on this report during its December 2022 plenary session.

In its resolution of 5 October 2022 on the EU's response to the increase in energy prices in Europe, Parliament commented on the use of Article 122 as the legal basis for the recent regulation on an emergency intervention to address high energy prices. It regretted that the Commission proposal took the form of a Council regulation under Article 122 rather than a regulation under the ordinary legislative procedure. Parliament also confirmed its readiness to ‘act swiftly on this pressing issue if called upon, as it requires full democratic legitimacy and accountability’. The currently proposed regulation on accelerating renewables is the fourth in a series of energy-related acts proposed in 2022 under Article 122. The others include the above-mentioned regulation to address high energy prices, the regulation on gas demand reduction and the recently proposed regulation on enhancing solidarity through better coordination of gas purchases, exchanges of gas across borders and reliable price benchmarks.

The Member States’ ambassadors to the EU (Coreper) discussed the text on 18 November 2022. The energy ministers in the Council are expected to reach a political agreement on 24 November 2022.