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PORTUGAL
RENEWABLE
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RED III

The new Renewable
Energies Directive



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Renewables Energy Directive (RED)

What is the Renewable Energy Directive?

The Renewable Energy Directive (RED) is a legal framework established by the European Union (EU) to promote the use of renewable energy sources within its member states, across all sectors of the economy

It establishes binding targets for the share of energy from renewable sources in the EU's overall energy consumption and outlines measures to achieve these targets



RED III

The revised RED is a key component of the European Green Deal and REPowerEU, aimed at achieving the Union's goals to combat climate change and decrease energy dependence on Russia

Primary goals:

- Reduce greenhouse gas emissions and achieve climate neutrality by 2050
- Increase the share of renewable energy in the EU's energy mix
- Enhance energy security and reduce dependence on fossil fuel imports
- Promote technological innovation (European Strategic Energy Technology Plan (SET-Plan)) and economic growth in the renewable energy sector
- Ensure sustainable development and environmental protection

New renewable energy target to be achieved by 2030:

- **from 32% to 42.5%** (with an aspiration to reach 45%)

Prioritizing renewable energy

The unattained renewable energy goals, the impact of the covid-19 pandemic and the war in Ukraine have motivated a reinforced legislative approach that guarantees a faster energy transition. To prioritize renewable energy and streamline procedures, RED III establishes:

Overriding public interest

Member States shall now ensure that, in the permit-granting procedure, the planning, construction and operation of renewable energy plants, the connection of such plants to the grid, the related grid itself, and storage assets *are presumed as being in the overriding public interest*

Reducing administrative hurdles

RED III reinforces the need for a simple, transparent, and less bureaucratic procedure

Additionally, it establishes the **single point of contact rule**: the applicant shall not be required to contact more than one contact point during the entire procedure

Streamlining the permit-granting procedures

New deadlines:

45 days to acknowledge the completeness of the application or request additional information

2 years (3 years for offshore projects), as a general rule, for the permit granting procedures

1 year (and 2 years for offshore projects) in the case of **(i)** repowering of renewable energy power plants, **(ii)** new installations with an electrical capacity of less than 150 kW and **(iii)** co-located energy storage

3 months for repowering projects < 15% increase in capacity

3 months for solar energy projects in existing infrastructures

1 month for solar energy project under 100kW (with full administrative positive silence)

3 months for ground source heat pumps

1 month for heat pumps below 50 MW

2 weeks for heat pumps of up to 12 kW (or up to 50 kW installed by renewables self-consumers)

Renewables acceleration areas & areas for grid and storage

Renewables acceleration areas are specific locations – on land, sea, or inland waters – designated by Member States as particularly suitable for the installation of renewable energy plants (for one or more types of renewable energy technologies)

Similarly, Member States may designate **areas for grid and storage**: dedicated zones for the development of projects necessary to integrate renewable energy into the electricity system

Criteria and limitations:

- These areas are chosen based on a minimal expected environmental impact
- Member States should prioritize artificial and built surfaces, avoid protected areas (namely Natura 2000 sites), consider restoration plans, and apply appropriate mitigation measures
- These areas are subject to environmental assessments, and the Member States must also ensure public participation

Renewables acceleration areas & areas for grid and storage

Projects in these areas benefit from:

Administrative positive silence

Except when subject to environmental impact assessment. Does not apply to the final decision

Exemption from environmental impact assessments

Except when they may impact another Member State's territory

Still implies a **screening process**: within 45 days – or 30 days for **(i)** grid and storage projects, **(ii)** installations under 150 kW; and **(iii)** repowering projects

Member States may even exempt wind and solar projects from these assessments

Streamlined administrative permit-granting procedures:

30 days to acknowledge the completeness of the application or request additional information

12 months (2 years for offshore projects) for projects in renewables acceleration areas

6 months (1 year for offshore projects) for repowering projects, new installations under 150 kW, and co-located energy storage (including power and thermal facilities and their grid connection)

Other aspects of RED III

Renewable Fuels of Non-Biological Origin (RFNBO)

RED III establishes a **new target** according to which Member States must ensure that by 2030 at least 42% of the hydrogen used in industry for final energy and non-energy purposes comes from RFNBO's (e.g., green hydrogen, green ammonia and e-fuel), and by 2035, it should amount to 60%

The definition RFNBOs now includes all its uses (not only as a transport fuel)

Additionally, **incentives and obligations** are drawn out, for Member States to ensure that their industry can switch to production processes RFNBOs, instead of fossil fuels

Note: Clarification by the European Commission (released on September 2, 2024) – offers guidance to Member States on how to achieve the RFNBO targets in both industry and transport

Other aspects of RED III

Transports

RED III establishes obligations and goals, for Member States and fuel suppliers, in view of a reduction of greenhouse gases in the transport sector

It also provides for calculation rules with regard to RFNBOs, regardless of their end use

Building requirements

Member States must set goals and adapt national legislation and building codes in order to achieve **EU's goal of 49%** renewable energy in the building sector's final energy consumption by 2030

Joint projects

By 31 December **2025**, each Member State shall agree to establish a framework for cooperation on joint projects with one or more other Member States for the production of renewable energy.

By 31 December **2030**, Member States shall *endeavor* to agree on two joint projects

By 31 December **2033**, Member States with an annual electricity consumption of more than 100 TWh shall *endeavor* to agree on establishing a third joint project

Transposition of RED III

Possible challenges regarding the transposition:

- Technical difficulties in the transposition due to the dispersion and complexity of the national laws that govern renewable energies;
- New deadlines put forward may not be feasible given the limited resources of some of the Member States' administrative authorities
- Streamlining of the environmental aspects of the permit granting procedures may create tensions between the population, the industry and governmental entities in environmental or culturally sensitive areas
- The storage industry, in the EU, is still underdeveloped (unlike in the UK, for example) – this might prove an obstacle to RED III's intent to accelerate the grid and storage projects

Partial transposition of the Directive

The deadline for the partial transposition of the Directive **was July 1, 2024**

Only Denmark has partially transposed the Directive in time - the Commission has issued letters of formal notice to the remaining Member States

Partial transposition:

The following matters are subject to a partial transposition:

- Areas for grid and storage
 - Article 1(6), in regard to article 15-E of the Directive (EU) 2018/2001
- Organization and main principles of the permit-granting procedure
- Permit-granting procedure outside renewables acceleration areas
- Accelerating the permit-granting procedure for repowering
- Permit-granting procedure for the installation of solar energy equipment
- Permit-granting procedure for the installation of heat pumps
- Overriding public interest
 - Article 1(7), in respect to articles 16, 16-B, 16-C, 16-D, 16-E and 16-F of the Directive (EU) 2018/2001

Challenges regarding the (partial) transposition

Some examples:

The Danish transposition of the Directive was enacted through two bills, and, in a general sense, it is a non-exhaustive transposition, for example:

- instead of setting the deadlines for the permit granting procedures (in accordance with those set out in the Directive), the bill assigns this definition to the competent ministries
- there is no express reference, for example, to the concept “overriding public interest”

The Portuguese proposal for a partial transposition, on the other hand, (although tardy) takes on a different approach, by being more comprehensive

Some stakeholders have already criticized aspects of this proposal, for example:

- the lack of transposition of the rule regarding the publication of the procedure's final decisions
- the absence of clear rules for the exemption of environmental impact assessment in repowering solar projects

Full transposition of the Directive

The deadline for the full transposition of the Directive is **May 21, 2025**

Given the delay in the partial transposition, it is unlikely that Member States will transpose the Directive in time

In Portugal, for example, the full transposition would imply a prior public consultation regarding the law transposing the Directive (as there was for the partial transposition) which has not even begun

As such, a breach of the deadline for the full transposition is likely

- A breach of the deadline for transposing RED III would have a relevant impact, as the **direct effect** of EU Directives would imply that some of the rules set out in the Directive – namely those regarding deadlines, positive administrative silence and exemptions from environmental requirements – could still be applicable, regardless of the national law

Challenges regarding the (full) transposition

In Portugal, some aspects of RED III were already signaled by stakeholders as key elements to address longstanding issues, for example:

- the **single point of contact rule** – given the current state of dispersion of the permit granting procedure among different entities in Portugal, it is unclear how this will be put in practice
- this new concept of **renewable acceleration areas** might stimulate the work already developed by the National Laboratory for Energy and Geology (“LNEG”), by impacting the existing Technical Report and map of the areas in mainland Portugal considered potentially suitable for installing renewable electricity projects
However, historical difficulties in the identification of landowners, geo-referencing, and a lack of articulation between the different local authorities might hamper this goal

Without prejudice, the **insufficiency of the national electric grid capacity** – a chronic issue affecting the national renewables energy sector – might jeopardize Portugal’s ability to be in line with EU’s renewables energy target

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