



Proposals by the German transmission system operators (TSOs) to simplify certain elements of current environmental legislation

An expansion of the EU's electricity grid is necessary in order to maintain a reliable supply for consumers with electricity, ensure affordable energy prices, strengthen the EU's energy resilience and meet the EU's climate targets. To this end, permitting procedures need to be accelerated, as recognised in the Council Conclusions of 30 May 2024 and the Affordable Energy Action Plan (2025):

*The Council invites the Commission to identify measures to **accelerate permitting** procedures of grids for a swifter development of electricity grids, while ensuring public engagement.¹*

We agree with the underlying assumption that permitting remains a bottleneck for the timely development of electricity infrastructure. Experience with Projects of Common and Mutual Interest (PCIs and PMIs) shows that focusing on procedural deadlines, such as in the TEN-E Regulation, has not led to real acceleration. This is because permitting timelines are primarily driven by the volume and complexity of underlying legal obligations. Unless these material law requirements are streamlined, shortening deadlines will not result in faster project delivery.

The recently revised Renewable Energy Directive (REDIII) took account of this notion by introducing the concept of “areas for grid and storage infrastructure necessary to integrate renewable energy into the electricity system” (see Art. 15e of the REDIII), reducing the duplication of environmental assessments and allowing for more streamlined procedures, while maintaining a high level of environmental protection. While the implementation of the related provisions is still ongoing in Germany, building upon the experience from the Emergency Regulation, we assess the potential impact of REDIII, once implemented, on reducing permitting lead times as significant. The upcoming Grids Package should build upon this framework by incorporating further targeted exemptions from sectoral legislation with hardly any added value to nature conservation.

Concretely, the German Transmission System Operators (TSOs), 50Hertz, Amprion, TenneT, and TransnetBW (4TSOs) propose to generally exempt projects expanding the electricity grid from the following three EU directives:

1. **European Water Framework Directive**
2. **European Marine Strategy Framework Directive**

¹ Council of the European Union, Council conclusions on “Advancing a sustainable and resilient electricity grid infrastructure”, 30 May 2024, ST 10459/24.



3. European Soil Monitoring Law

These sectoral exemptions would be easy to achieve, and significantly reduce the bureaucratic burden for project developers, while maintaining environmental protection standards. Furthermore, we propose an amendment to EU law regarding the mitigation of risks during construction in the context of the Environmental Liability Directive when applying the Emergency Regulation (*Council Regulation (EU) 2022/2577*) and rules under REDIII.

For each of the above-mentioned proposals for **sectoral exemptions**, we describe:

- the administrative burden triggered by the corresponding environmental assessment for grid expansion projects;
- the specific benefits of these environmental assessments for nature conservation;
- what acceleration and savings potential would be associated with a corresponding sectoral exemption; and
- the specific proposal for the respective legislative amendment (= sectoral exemption).

In addition we propose a few, limited adjustments to the the F-Gas Regulation (EU)2024/573 in view of improving its practical implementation for network operators.



1. European Water Framework Directive

1.1. Effort of application in grid expansion projects

Water as a protected good, including surface waters and groundwater, has always been under scrutiny in permitting procedures for grid expansion projects, irrespective of the application of the Water Framework Directive². The (initial) objective of the Water Framework Directive required Member States to use their River Basin Management Plans (RBMPs) and Programmes of Measures (PoMs) to protect and, where necessary, **restore water bodies in order to reach good status**, and to **prevent deterioration**. In 2015, the European Court of Justice ruled that aforementioned obligations of the directive do not amount solely to related Plans, but also apply to individual projects. The ruling addressed the deepening of various parts of the river Weser, including direct effects of dredging and of discharging the dredged material into the Weser at certain locations, and other hydrological and morphological consequences for sections of the river.

Since the ECJ's ruling, the rules of the Water Framework Directive apply also to electricity grid expansion projects. However, unlike other sectors (such as in the case of waterways, see e.g. ECJ ruling above), electricity network expansion has only marginal impact on water as a protected resource. In the case of overhead line projects, this impact is limited to isolated interventions, e.g. during the **construction** of pylons. In the case of underground cable projects, the interventions are generally limited to the construction period. For both project types, related **permits are needed** irrespective of the Water Framework Directive, e.g. when the pumping of ground water is required when constructing the foundation of pylons. When it comes to **operational** impacts on water as a protected resource, these are generally negligible in grid operations.

Nevertheless, assessments under the Water Framework Directive (WFD) must be conducted as part of the permitting procedure concerning the aforementioned principles, namely “non-deterioration” and enhancing and restoring related types of water. Concretely, this means that project promoters need to map and assess each surface and groundwater body in a given projects planning area, report on potential (!) aspects of deterioration, chemical status of related water bodies, and various other elements as part of the analysis. These assessments, usually in form of technical reports based on the Directive, are taking on such dimensions that in the case of large projects such as SuedLink or SuedOstLink, the documentation covering all stages of the procedure now exceeds 1,000 pages for assessments under the Water Framework Directive only, without this resulting in any relevant findings or material impact.

² E.g. the [Water Resources Act](#) in the case of Germany



On top of sheer paper work, the preparation of the technical reports and the coordination and review of their content currently tie up considerable time and human resources on the part of the project developers, their service providers, and the competent technical and permitting authorities, without any discernible added value. Next to delaying the project, this incurs costs for the project developers, which ultimately have to be borne by electricity consumers via grid fees.

1.2 Benefits for nature conservation

None

1.3 Acceleration and savings potential of an exemption for grid expansion projects

A regulation for accelerated grid development that exempts this sector from the assessments associated with the WFD can save project developers, technical authorities, and licensing authorities **a considerable amount of time, capacity, and money without compromising the quality of water-related environmental standards in the implementation of projects.** Existing environmental legislation would remain in place, continuing ensuring a high level of protection for nature. The key elements of the WFD such as river basin management plans would also remain in place, ensuring that the goals of the WFD continue to be pursued.

1.4 Proposed sectoral exemption

See 2.4 - we propose the same targeted exemption for both the Water Framework Directive and the European Marine Strategy Framework Directive.

2. European Marine Strategy Framework Directive (MSFD)

2.1. Effort of application in grid expansion projects

Modern offshore grid technologies are specifically designed to minimize environmental impact, utilizing advanced materials and construction methods that reduce effects to marine habitats. Furthermore, offshore grid projects must comply with other stringent environmental regulations, ensuring they already align with protection objectives outlined in the MSFD. The OSPAR Commission's 2021 background document on the environmental impacts of subsea cables³ concludes that such infrastructure generally has **limited and localized effects** on the marine environment. According to the report, *“the physical disturbance caused by cable installation is temporary and reversible, and electromagnetic fields and heat*

³ OSPAR Commission (2021). *Background Document on Cables*. OSPAR Agreement 2021-09. Available at: <https://www.ospar.org/documents?v=52457>



emissions are considered to have minimal ecological impact” (OSPAR, 2021). Nevertheless, the competent approval authorities require technical reports for MSFD assessments. So far, there have been no court rulings on whether the requirements of the MSFD are legally binding for the approval of a project. In line with the jurisprudence related to the Water Framework Directive (WFD), project approvals cautiously assume that the objectives of the MSFD for marine waters could have a corresponding effect on the approval process. This applies to projects in both the exclusive economic zone and the 12 nautical mile zone. Some of the technical reports are very lengthy. The situation is very similar to the Water Framework Directive. This requires considerable time and human resources on the part of the project developers, their service providers, and the competent technical and approval authorities, without any discernible added value. In addition, this incurs costs for the project developers, which are ultimately passed on to electricity customers.

2.2 Benefits for nature conservation

None

2.3 Acceleration and savings potential of an exemption for grid expansion projects

Since the Marine Strategy Framework Directive assessments and the preparation of the corresponding technical reports do not provide any discernible added value for marine protection in grid expansion projects, the Marine Strategy Framework Directive should not be applied to grid expansion projects. This would save project developers, technical authorities, and licensing authorities a **considerable amount of time, capacity, and money without compromising the quality of water-related environmental standards in the implementation of projects**

2.4 Proposed sectoral exemption

Article 15e (2) RED III:

“By way of derogation from Article 2(1) and Article 4(2) of and Annex I, point 20, and Annex II, point (3)(b), to Directive 2011/92/EU of the European Parliament and of the Council, and by way of derogation from Article 6(3) of Directive 92/43/EEC and notwithstanding Article 4 of Directive 2000/60/EEC and Articles 1 and 5 of Directive 2008/56/EC, Member States may, under justified circumstances, including where needed to accelerate the deployment of renewable energy in order to achieve the climate and renewable energy targets, exempt grid and storage projects which are necessary to integrate renewable energy into the electricity system from the environmental impact assessment pursuant to Article 2(1) of Directive 2011/92/EU, from an assessment of their implications for Natura 2000 sites pursuant to Article 6(3) of Directive 92/43/EEC and from the assessment of their implications on species protection pursuant to Article 12(1) of Directive



92/43/EEC and to Article 5 of Directive 2009/147/EC as well as from the assessment of their impact on the management objectives of Directive 2000/60/EEC and their impact on the objectives of the Marine Strategy Framework Directive (MSFD) in accordance with Articles 1 and 5 of Directive 2008/56/EC, provided that the grid or storage project is located in a dedicated infrastructure area designated in accordance with paragraph 1 of this Article and that it complies with the rules established, including on proportionate mitigation measures to be adopted, in accordance with paragraph 1, point (e), of this Article. Member States may also grant such exemptions in relation to infrastructure areas designated before 20 November 2023 if they were subject to an environmental assessment pursuant to Directive 2001/42/EC. Such derogations shall not apply to projects that 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 Directive 2011/92/EU.”



3. European Soil Monitoring Directive

3.1 Effort of application in grid expansion projects

As the Soil Monitoring Directive has not entered into force yet (but adoption in 2025 is highly likely), the additional burden imposed on grid infrastructure projects by this directive are forecasts at this stage. We expect significant additional effort on assessment of ecosystem losses in the early planning stages, obligations to minimise soil sealing and soil removal (resulting in stricter permitting conditions for underground HVDC cables), additional public participation at an early stage and obligatory investigation of all “potentially” contaminated sites. Therefore, it can be expected that, as seen in the WFD and MSFD, corresponding technical reports must be written for soil aspects, especially regarding Art. 11 of the Soil Monitoring Law.

Meanwhile, any electricity grid project already has to follow extensive soil protection practices via existing environmental law.

3.2 Benefits of application to nature conservation

None

3.3 Acceleration and savings potential with an exemption for grid expansion projects

Recital (30e) of the Soil Monitoring Law states that *the provisions concerning land take in this Directive do not impose new permitting procedures and should not prevent permitting of activities, including for projects of overriding public interest, and should not impinge on the spatial planning.*

As a general exemption for such projects of overriding public interest is not provided for in the main body of the directive, it would be a logical step within the spirit of the law to clarify that electricity grid infrastructure should not be delayed by the new directive. This would also avoid lengthy court cases regarding the correct interpretation of the recital and its relationship with the main body of the directive. Moreover, EU, national and regional law, standards and methods already implement a high level of soil protection, including for grid expansion projects.

More stringent monitoring is therefore not necessary, particularly for grid expansion projects which, compared to projects in other sectors, cause only minor and localized soil damage in the case of overhead lines, and which is almost exclusively limited to the construction phase in the case of underground cables.

The additional administrative and expert work associated with the application of the Soil Monitoring Law is therefore unnecessary for grid expansion projects and must be avoided in order to prevent the creation of new bureaucracy that would tie up extensive human and time resources for project developers, their service



providers, and the specialist and approval authorities, prolong the duration of procedures and thereby delay urgently needed network expansion projects.

Furthermore, the new testing requirements and detailed testing parameters and methods associated with the application of the Soil Monitoring Law would not generate any added value in terms of project-related soil protection in grid expansion projects, but would merely slow down projects and create new administrative burdens for developers.

3.4 Proposed sectoral exemption

Proposal to supplement the Soil Monitoring Law with a general exemption for the Emergency Regulation and RED III.

Article 25 (3) (new) RED III:

„Art. 10, 11, 12 (4), 14 (3), 22 and 23 do not apply to projects falling under Regulation (EU) 2022/2577 or Directive (EU) 2023/2413.”

4. Proposal for an amendment regarding the mitigation of risks during construction for grid expansion projects

4.1 Requirement for the legislative proposal

The Emergency Regulation (Council Regulation (EU) 2022/2577) and Directive (EU) 2023/2413 (RED III) provide for procedural simplifications with respect to compliance with species protection requirements during the approval phase of renewable energy projects. However, it remains necessary to clarify that such simplifications shall also apply during the implementation phase, in particular in relation to the provisions of Directive 2004/35/EC (Environmental Liability Directive).

In the absence of such clarification, there is a risk that legal uncertainties concerning environmental liability may shift from the approval to the implementation phase. This may result in the need to adopt mitigation measures during construction, thereby offsetting the procedural acceleration achieved during approval.

Accordingly, it is proposed that the following case is addressed at Union level:

Where, in accordance with the provisions of Council Regulation (EU) 2022/2577 or Article 15e of Directive (EU) 2018/2001 as inserted by Directive (EU) 2023/2413, individuals of strictly protected species of wild fauna or flora – whose presence was not known at the time of approval – are adversely affected during the



construction phase of a project, such impacts shall not be considered to constitute environmental damage within the meaning of Directive 2004/35/EC.

Furthermore, it should be clarified that such impacts shall not give rise to administrative or criminal liability where no mitigation measures could be required at the time of approval due to the absence of knowledge regarding the presence of the species concerned, or where proportionate mitigation measures cannot be implemented without undue delay.

To ensure legal certainty and maintain the effectiveness of the accelerated permitting framework, two options are proposed:

1. The introduction of a general exemption or derogation clause under Directive 2004/35/EC (Environmental Liability Directive); or
2. The insertion of a specific exemption provision under Article 6 of Council Regulation (EU) 2022/2577 and Article 15e of Directive (EU) 2018/2001, as amended by Directive (EU) 2023/2413.

Additionally, a targeted amendment to Union species protection law is proposed, to align the relevant provisions with Article 6 of Council Regulation (EU) 2022/2577 and Article 15e of Directive (EU) 2018/2001.

4.2 Legislative proposal

Proposals for amending the Environmental Liability Directive:

The text marked in **red** refers only to RED III.

Option 1:

Art. 6 Emergency Regulation, new last sentence / **new Art. 15e (2) sentence 3 RED III (all other sentences are moved down one sentence):**

*“Member States may provide for exemptions from the provisions of Directive 2004/35/EC for the implementation of the projects referred to in sentences 1 **and 2.**”*

Alternatively, the provision could be worded as follows, without any scope for implementation:
*“The provisions of Directive 2004/35/EC shall not apply to the establishment, modification, and operation of the projects referred to in sentences 1 **and 2.**”*

Option 2:

Art. 6 Emergency Regulation, new last sentence / **Art. 15e (2) sentence 3 RED III:**



"A detrimental change in protected species within the meaning of Article 2(3) of Directive 2004/35/EC resulting from the implementation of a project under a permit does not constitute environmental damage within the meaning of Article 2(1) of Directive 2004/35/EC, insofar as that change results from the application of sentences 1 to 3 [concerning Council Regulation (EU) 2022/2577]/ sentences 1 and 2 [concerning RED III].“

In addition, the heading for Art. 6 of the Emergency Regulation should be amended and reference should also be made to the implementation of the projects (addition in green):
*“Acceleration of the permit-granting process **and the implementation of the projects** of renewable energy projects and for related grid infrastructure which is necessary to integrate renewables into the system”*

Proposals for amending EU species protection law:

An addition to Article 6 of the Emergency Regulation at the end / **Article 15e (6) of RED III** could be considered:

“Article 12(1) of Directive 92/43/EEC and Article 5 of Directive 2009/147/EC do not apply in the context of the implementation of the projects referred to in sentence 1 / paragraph 2, sentence 1 and 2.“

Alternatively, exceptions could also be regulated in the Directive 92/43/EEC and the Directive 2009/147/EC.

5. Improving the practical implementation of the F-Gas Regulation (EU)2024/573

Background

The F-Gas Regulation adopted in 2024 sets out a clear path to phase out particularly harmful greenhouse gases in electrical switchgear. However, the smooth implementation of the F-Gas Regulation faces a number of hurdles due to some provisions that are technically imprecise and create legal uncertainty. These deficiencies need to be addressed urgently to provide a legally robust environment for the realization of grid projects.

As some technologies substituting SF6 are still in the development stage, the F-Gas Regulation also contains safeguards to deviate from specific provisions in case of emerging monopoly situations. The time limitation of these safeguards is neither sufficient nor appropriate as supplier roadmaps have been postponed, and a potential monopoly may dramatically increase prices for network operators and ultimately, consumers.



Please find below an overview of the amendments that would not change the ambition level of the Regulation, but enable are more legally secure and implementation, taking account of developing technologies and avoiding monopoly situations.

The proposed Environment Omnibus provides a timely opportunity to amend the F-Gas Regulation and provide clarity for network operators on all voltage levels, without reopening or changing the ambition level of the Regulation.

Proposals for amendments

Art.	Original Text	Change or amendment	Justification
Art 3(47) new	(new definition of 'compatibility' in the context of electrical switch gear)	'compatibility' in the context of electrical switchgear means that the expansion components have the same system design as the existing system and therefore enable the same functionality (emergency concept, accessibility, etc.) and operational management.	According to Art. 13(15), an exemption from the prohibition regulation (Art. 13.9) is permitted if the existing part of the installation is "incompatible" with the equipment for the extension of a switchgear in which fluorinated greenhouse gases with a lower global warming potential than the fluorinated greenhouse gases in the existing electrical switchgear are used. However, compatibility is not defined in the Regulation. We therefore suggest to define the concept of compatibility in the context of electrical switchgear to reduce legal uncertainty. Justification: From an operational point of view, the use of different insulating gases in a switchgear system should be avoided. Reasons for this include Increased complexity when rectifying breakdowns/defects; Provision of replacement material, emergency concepts, etc. ; Provision of various gases and equipment for gas handling; - Increased training and certification requirements for employees; ☐ Risk assessment and recommendations for action are necessary - especially in the event of gas blow-offs due to flashovers; Mixing of (partially) decomposed SF6 with undecomposed or partially decomposed alternative gases
Art. 3(48) new		'Putting into operation' is the moment of handover of the equipment to the operator for use/exploitation, after completion	The definition provided by DG CLIMA FAQ in June 2025 cfe52d31-9203-435d-b043-62f74900fd96_en should, for reasons of legal



		<i>of any necessary tests of functionality, performance or other, and any required inspections. On the other hand, energization or connection to the grid is not a requirement.</i>	certainty, be included in the F-Gas Regulation.
13 (11) b	By way of derogation from paragraph 9, the putting into operation of electrical switchgear using or whose functioning relies upon insulating or breaking medium with a global warming potential lower than 1 000 is allowed if, following a procurement procedure that considers the technical specificities of the equipment required for the specific use concerned one of the following situations applies: [...] (b) during the first 2 years after the relevant dates referred to in paragraph 9, points (c) and (d), no bids or only bids offering equipment from one manufacturer of electrical switchgear with insulating or breaking medium with a global warming potential of less than one was received;	By way of derogation from paragraph 9, the putting into operation of electrical switchgear using or whose functioning relies upon insulating or breaking medium with a global warming potential lower than 1 000 is allowed if, following a procurement procedure that considers the technical specificities of the equipment required for the specific use concerned one of the following situations applies: [...] (b) during the first 2 years after the relevant dates referred to in paragraph 9, points (c) and (d); no bids or only bids offering equipment from one manufacturer of electrical switchgear with insulating or breaking medium of less than one was received;	- With postponed development roadmaps for many high-voltage applications for electrical switchgear, the monopoly clause becomes less relevant in the fixed timeframe. - The limitation of the monopoly clause to two years does not contribute to affordability or incentivise the availability of F-Gas-free switchgear – therefore, it should be removed. - There is furthermore no reason why a monopoly clause should only become effective on the GWP <1 level – a monopoly might also occur on GWP < 1000 level – it therefore should be extended. - Removal of first section is also a proposal to implement the feedback from parliamentary question, i.e. the exemption 13(11) can also be used before relevant dates and not only during the first two years after relevant dates.
Art. 35(5)	By 1 January 2030, the Commission shall publish a report on the effects of this Regulation. The report shall include an evaluation of the following: [...] e) the risk of excessive reduction of competition in the market due to the prohibitions and related exceptions under Article 13(9) in particular those on high voltage electrical switchgear of more than 145 kV or more than 50 kA short circuit current.	By 1 January 2028 , the Commission shall publish a report on the effects of this Regulation. The report shall include an evaluation of the following: [...] e) the risk of excessive reduction of competition in the market due to the prohibitions and related exceptions under Article 13(9) in particular those on high voltage electrical switchgear of more than 145 kV or more than 50 kA short circuit current.	It is desirable that the Commission follows a more proactive approach to avoiding potential monopolies for different voltage levels (not only above 145 kV) or situations where competition is being limited in a way that leads to sharp price increases. Thus, an earlier evaluation of the ramifications on the electrical switchgear market, for both gas-insulated and air-insulated switchgear, shall be envisaged.