

TransnetBW position on the EC's proposals COM (2022) 222 on permit granting for renewable energy projects

On 18 May 2022, the European Commission published complementary amendments (COM (2022)222 final) to the Renewable Energy Directive (EU) 2018/2001 related to, among others, permit granting processes for renewable energy.

TransnetBW supports the overall spirit of the proposals and the aim to speed up the deployment of renewable energy across the EU. We share the Commission's view that lengthy and complex permit granting procedures are the key barrier for the implementation of renewable energy sources (RES).

The EC's proposals, however, fall short in addressing the very same barrier for the deployment of electricity networks which are indispensable for the integration of renewable energy sources into the power system. In our view, several of the proposals could and should be extended to electricity networks.

Executive summary

- / **Network operators should be involved in assessments for the designation of renewable go-to areas** (Art 15b) to ensure the availability and the potential of network infrastructure is duly taken into account. Likewise, transmission and distribution networks need to be taken into account when Member States designate renewable go-to areas as proposed under article 15c.
- / **Grid operators face similar administrative barriers in the permit-granting process as renewables projects.** Therefore, proposals for one-stop shops and the use of the most expeditious administrative and judicial procedures, as proposed in Article 16 should likewise apply for electricity networks, if not already the case.
- / **The exemption from Environmental Impact Assessments (EIA) for projects in 'go-to areas' as proposed in article 16a(3) should be extended to other environmental permits associated with the electricity infrastructure.**
- / The clarification provided in Article 16b(2) on **the interpretation of deliberate killings is highly relevant and welcome.** Likewise, the **clarification regarding pilot projects on mitigation measures (Art 16b(2)) is also very important as it removes current legal uncertainties in these areas.**
- / **Further harmonisation of the exemption provisions in special species protection law as well as a replacement of the individual-based protection approach by a population-based protection approach** of the Habitat Directive (92/43/EEC) and Bird Directive (2009/147/EC) would be essential to speed up overhead line projects.
- / TransnetBW welcomes the proposal that **renewable energy projects and network infrastructure are presumed as being in the "overriding public interest"** and serving public health and safety when balancing legal interests.
- / Legislators need to ensure that **proposals speeding up grid connection permits remain coherent with European Network Codes on requirements for grid connection of generators (Regulation (EU) 2016/631) and demand connection (Regulation (EU) 2016/1388).**

For any questions related to this document please contact Transnet BW's Brussels Representative, Michael Mieszczanski at m.mieszczanski@transnetbw.de.

Arts 15b - Mapping of areas necessary for national contributions towards the 2030 RES target

Network operators should be involved in assessments for the designation of renewable go-to areas

The EC proposes for Member States to identify, within one year after entry into force of the directive, the land and sea areas necessary for the installation of plants for the production of energy from renewable sources.

We welcome that such assessments are to be carried out for the identification of renewable go-to areas, which also take into account 'the availability of relevant grid infrastructure' or 'the potential to create such grid infrastructure'. Go-To areas will, under certain circumstances, require a minimum size to be effective. It is also important to ensure coordination between the authorisation procedures of RES plants and the needed transmission infrastructure projects, while taking into account the evolution of electricity demand. Therefore, we recommend in this exercise that national TSOs and relevant DSOs are closely involved to ensure the best possible use of existing infrastructure and options for establishing new infrastructure are applied (cf. 15b(2c)).

Article 15c - Renewables go-to areas

Transmission and distribution networks need to be considered by Member State plans designating go-to areas.

According to Art. 15c(1)(b), Member States shall establish 'appropriate rules' for the designated renewable go-to areas, including '*mitigation measures to be adopted for the installation of renewable energy plants, co-located energy storage facilities, as well as assets necessary for their connection to the grid*'. Furthermore, according to Art 15c(2) the plans designating go-to areas shall be subject to an environmental impact assessment.

Again, we welcome these proposals to speed up the deployment of renewable energy sources. Yet, again, these proposals fall short of considering the required electricity networks. Timely delivery of RES and the necessary grid infrastructure projects should go hand in hand. It is not sufficient to only refer to 'network connections' in this context, but we would recommend that the actual transmission and distribution networks are considered in the designation of renewable go-to areas.

Article 16 - Organisation and main principles of the permit-granting process

As stated earlier, **grid operators face similar administrative barriers in the permit-granting process**, including the environmental assessments and screening. Therefore, the scope of the article should be extended accordingly.

Extend the proposed provisions on one-stop shops and administrative and judicial procedures to electricity networks (Article 16(3), (7))

'**One stop shops**' have already proven effective for infrastructure projects that are Projects of Common Interest (as defined by the TEN-E Regulation (EU) 2022/869). Some Member States including Germany already employ 'one-stop shops' for network infrastructure permit granting, but this is not the case across the entire EU. We therefore recommend mirroring this requirement, as referred to in article 16 (3) for all network infrastructures.

It is much welcomed that the EC proposal under Article 16(7) requires **the most expeditious administrative and judicial procedures** available for appeals against permits for RES projects, including the environmental permit decisions. Again, it should be ensured that **grid infrastructure projects which are necessary for the integration of RES projects are also subject to expedient appeals, administrative and judicial procedures under article 16**. Furthermore, for legal certainty reasons and to avoid unnecessary project delays, we recommend that the directive introduces an obligation for Member States to establish strict and binding timeframes for case handling in administrative appeals procedures concerning permits for RES projects as well as for grid infrastructure projects related to the deployment of renewables. Appeals bodies should continuously control that the timeframes are met for each case.

Article 16a & 16b - Permit-granting process in/outside renewable go-to areas

Extend the exemption from EIA for projects in 'go-to areas' to other environmental permits associated with the infrastructure necessary to connect these areas to the grid

Streamlining and simplifying permitting and authorisation processes without compromising nature conservation ambitions is key for speeding up both renewable energy and grid development, as well as for contributing to achieving the European climate neutrality objectives. Article 16a(3) foresees that RES projects in already designated renewables go-to areas for the respective technology, co-located storage facilities as well as their connection to the grid are exempted from the requirement to carry out a dedicated environmental impact assessment under Article 2(1) of Directive 2011/92/EU, provided that these projects comply with the rules and measures set out in accordance with Article 15c(1b). As outlined earlier, we recommend that **this exemption should be applicable not only to the connection assets, but also to all those electricity network assets located in renewables go-to areas.**

As mentioned earlier, we strongly recommend **extending the scope of the proposed provisions aiming to speed up permit granting as much as possible to also include network infrastructure.** While we recognise that the permitting of power lines stretching for dozens or hundreds of kilometres are particularly complex, we would recommend mirroring the streamlined renewable project permitting processes to also include network infrastructure.

Moreover, the clarification provided in Article 16b(2) on **the interpretation of deliberate killings is highly relevant and welcome.** Again, it is crucial that this approach is mirrored for infrastructure development projects as this issue has been the cause of major legal and operational uncertainty for project developers and authorities alike.

Equally relevant is the **clarification regarding pilot projects on mitigation measures (Art 16b(2)).** Current uncertainties on these issues have prevented application of new solutions and with a legal clarification it is expected that it will be possible to tailor mitigation measures even better to the specific habitat in question and the options available there. Furthermore, it will encourage authorities and project developers to innovate on solutions. All in all, we see this approach as something which can in fact ensure enhanced environmental protection.

We would also **recommend further adaptations to the Habitat Directive (92/43/EEC) and Bird Directive (2009/147/EC):** the individual-based protection approach of species in the prohibitions of Art 5 a-c of the Bird Directive and Art 12.1(a-c) of the Habitat Directive should be replaced by a population-based protection approach and be subject to a significance criterion. In the context of overhead lines and the risk of bird strikes, it is essential to allow for exemptions in the Bird Directive (aligning them with those in the Habitats Directive) by including an additional reason for exception in Art. 9.1(a) "other compelling reasons of overriding public interest". Finally, the annexes of both directives should be updated to ensure that actually endangered species receive the intended protection.

Article 16d - Overriding public interest

According to Article 16d, Member States must 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 presumed as being in the "overriding public interest" and serving public health and safety when balancing legal interests in the individual cases for the purposes of Article 6(4) and 16(1c) of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1)(a) of Directive 2009/147/EC.

TransnetBW welcomes this proposal as it should help facilitate further permitting procedures and address permit-related and administrative barriers in order to foster renewable energy integration.

In addition to the above, we see the need to encourage Member States to adopt rules to ensure that projects covered by this Directive are not unduly restricted by national law. In some Member States, national legislation establishes different restrictions on land use which may inhibit TSOs' activities from the outset (for example, that projects cannot be realised because they are planned close to coasts, churches,

protected areas, land zone areas, etc.) National legislation could include options for exemptions to be granted in special cases.

Interface with EU network codes in scoping of grid connection permit

European TSOs have the role and obligation of providing grid connection including giving the grid connection permits to RES-installations to the transmission network. It is therefore highly important to ensure that the proposed simplifications and timelines related to grid connection permits as introduced in Articles 16a and 16b remain consistent with the requirements defined by the European Network Codes on requirements for grid connection of generators (Regulation (EU) 2016/631) and demand connection (Regulation (EU) 2016/1388). Most importantly, **a grid connection permit consists of three steps which cannot be meaningfully “front loaded” to comply with a given externally imposed deadline.** This is because some of the latter steps require information from the project developer, which can only be provided after the installation is constructed e.g. the exact technical capacity and properties vis-a-vis the interaction with the grid and the overall energy system.

About TransnetBW

TransnetBW is a certified electricity transmission system operator (TSO), operating the transmission grid in the German state of Baden-Württemberg. Through this grid, we ensure that electricity is supplied to the region, Germany and throughout Europe with interconnections to control areas within Germany as well as to Austria, France and Switzerland. TransnetBW is a member TSO of, among others, the European Network of Transmission System Operators ([ENTSO-E](#)) and the [Renewables Grid Initiative](#) (RGI).

For any questions related to this document please contact Transnet BW's Brussels Representative, Michael Mieszczanski at m.mieszczanski@transnetbw.de.

Annex: TransnetBW amendment proposals

Issue/Topic	Article	EC Original Text	TransnetBW Amendment proposal	Justification
Renewables go-to areas	Article 15c	(b) Establish appropriate rules for the designated renewable go-to areas, including on the mitigation measures to be adopted for the installation of renewable energy plants, co-located energy storage facilities, as well as assets necessary for their connection to the grid, in order to avoid or, if not possible, to significantly reduce the negative environmental impacts that may arise. Where appropriate, Member States shall ensure that appropriate mitigation measures are applied to prevent the situations described in Articles 6(2) and 12(1) of Directive 92/43/EEC, Article 5 of Directive 2009/147/EEC and Article 4(1)(a)(i) and (ii) of Directive 2000/60/EC.	b) Establish appropriate rules for the designated renewable go-to areas, including on the mitigation measures to be adopted for the installation of renewable energy plants, co-located energy storage facilities, as well as assets necessary for their connection to the grid and electricity networks , in order to avoid or, if not possible, to significantly reduce the negative environmental impacts that may arise. Where appropriate, Member States shall ensure that appropriate mitigation measures are applied to prevent the situations described in Articles 6(2) and 12(1) of Directive 92/43/EEC, Article 5 of Directive 2009/147/EEC and Article 4(1)(a)(i) and (ii) of Directive 2000/60/EC.	When designating go-to areas, member states need to take into account electricity networks to ensure that the generated electricity can be integrated into the power system. Electricity networks should likewise benefit from simpler and faster permit granting as far as possible.
Definitions	Article 2.89a)	(9a) '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.	(9a) '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, as well as electricity networks .	See justification above
Organisation and main principles of the permit-granting process	Article 16	(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	(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 and electricity networks , 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	See justification above

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		accordance with paragraph 2 to the notification of the final decision on the outcome of the procedure by the relevant authority or authorities.	accordance with paragraph 2 to the notification of the final decision on the outcome of the procedure by the relevant authority or authorities.	
	Article 16	(7) Member States shall ensure that administrative and judicial appeals in the context of a project for the development of renewable energy production plant or its related grid connection, including those related to environmental aspects shall be subject to the most expeditious administrative and judicial procedure that is available at the relevant national, regional and local level.'	(7) Member States shall ensure that administrative and judicial appeals in the context of a project for the development of renewable energy production plant or its related grid connection and electricity networks , including those related to environmental aspects shall be subject to the most expeditious administrative and judicial procedure that is available at the relevant national, regional and local level.'	<i>See justification above</i>
	Article 16		8[new] Member States shall ensure that Union environmental law is applied to the deployment of energy from renewable sources and the related grid infrastructure on the basis of the principle that the species protection refers to the entire population and not the individual specimens. 9[new] Member States shall ensure that applicants are allowed to submit all relevant documents also in digital form. If an applicant makes use of the digital application option, the entire permitting process including the administrative internal pro-cesses should be carried out digitally whenever possible. Member States shall further ensure the digitalization of the public hearings and the participation procedures as much as possible.	To reduce existing barriers to deployment of RES and the associated grid infrastructure in planning and approval procedures, we support a stronger and uniform anchoring of the population approach instead of individual protection. Digitalisation of the permitting process will help accelerating and simplifying the permit-granting procedures
	Article 16a	(3) Without prejudice to paragraphs 4 and 5, by derogation from Article 4(2) of Directive 2011/92/EU, and Annex II, points 3(a), (b), (d), (h), (i), and 6(c) alone or in conjunction with point 13(a) to that Directive as far as this concerns renewable energy projects, new applications for renewable energy plants,	(3) Without prejudice to paragraphs 4 and 5, by derogation from Article 4(2) of Directive 2011/92/EU, and Annex II, points 3(a), (b), (d), (h), (i), and 6(c) alone or in conjunction with point 13(a) to that Directive as far as this concerns renewable energy projects, new applications for renewable energy plants, except	<i>See justification above for amendment to article 15c</i>

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		<p>except for biomass combustion plants, including the repowering of plants, in already designated renewables go-to areas for the respective technology, co-located storage facilities as well as their connection to the grid, shall be exempted from the requirement to carry out a dedicated environmental impact assessment under Article 2(1) of Directive 2011/92/EU, provided that these projects comply with the rules and measures set out in accordance with Article 15c(1), point (b). The exemption from 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.</p> <p>By derogation from Article 6(3) of Directive 92/43/EEC, the plants referred to in the first subparagraph, shall not be subject to an assessment of their implications for Natura 2000 sites.</p>	<p>for biomass combustion plants, including the repowering of plants, in already designated renewables go-to areas for the respective technology, co-located storage facilities as well as their connection to the grid and electricity networks, shall be exempted from the requirement to carry out a dedicated environmental impact assessment under Article 2(1) of Directive 2011/92/EU and from the requirement to obtain opinions from the competent authorities concerning landscape and environmental aspects which are not included in the environmental impact assessment, provided that these projects comply with the rules and measures set out in accordance with Article 15c(1), point (b). The exemption from 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.</p> <p>By derogation from Article 6(3) of Directive 92/43/EEC, the plants referred to in the first subparagraph, shall not be subject to an assessment of their implications for Natura 2000 sites.</p>	<p>Projects covered by this Directive are not unduly restricted by national law. In some Member States, national legislation establishes different restrictions on land use which may inhibit TSOs' activities from the outset.</p>