



Legislative developments in the field of renewable energy

Implications for the Birds and Habitats Directives

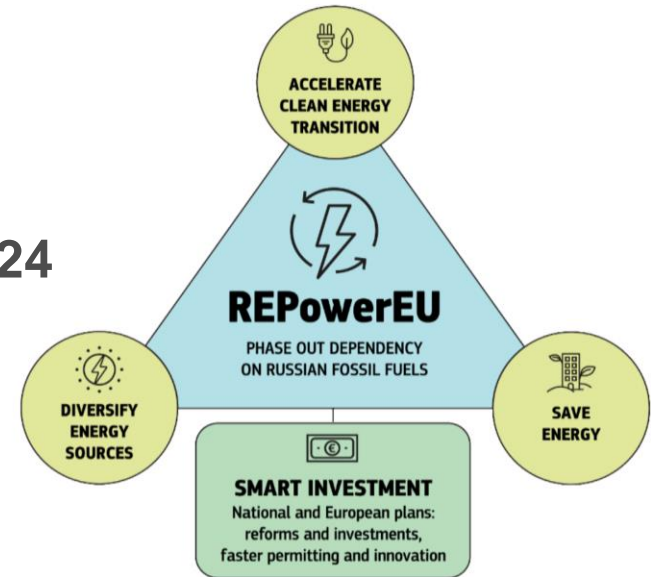
NADEG

Online meeting, 14 May 2024

Nature Conservation Unit, ENV D3

Revised Renewable Energy Directive

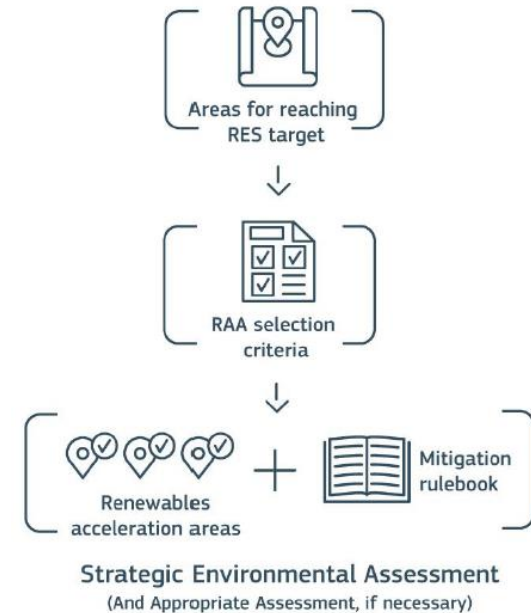
- The **REPowerEU plan** was adopted in May 2022 to accelerate the implementation of the European Green Deal and the clean energy transition
- **Revised Renewable Energy Directive (RED)** – entered into force 20 Nov 2023
 - Sets an **EU binding target of 42.5% share by 2030** with an aspiration to reach 45%
 - Transposition: ddl 21 May 2025 for most provisions/ **1 July 2024 for permitting provisions**
- Sets a **strategic approach** to spatial planning for RES
- Promotes **multi-use of space**
- **Relevant Articles for BHD: Art. 15c, 15e, 16a, 16b, 16f**



RAAs/ DIAs designation and permit-granting procedures

- MSs to **adopt plan(s)** by 21 Feb 2026 designating **Renewables Acceleration Areas (RAAs)** where RES are **not expected to have significant environmental impacts**:

- Priority to artificial and built areas
- Exclusion of Natura 2000 sites, nationally protected areas, major bird and marine mammal routes and other sensitive areas with exceptions (i.e. artificial and built surfaces therein)
- Use of appropriate and proportionate mapping tools and datasets
- Establish appropriate rules on **effective mitigation measures**
- Plan(s) must be subject to **SEA (and AA under HD if relevant)**, public and reviewed periodically
 - **projects exempted from EIA/ AA** (under conditions) – **subject to screening**
 - **accelerated permit-granting procedures** (6 months to 1 year and 1-2 years for offshore)
- By 21 May 2024 MSs may declare as RAAs areas already designated areas under conditions
- Similar optional provision for the designation of **Dedicated Infrastructure Areas (DIAs) for grid and storage infrastructure**



Overriding public interest (OPI) presumption

- By 21 February 2024 until climate neutrality is reached in the permit-granting procedure, the **planning, construction and operation of all RES, grid and storage assets** shall be **presumed as being in the Overriding public interest (OPI) and serving public health and safety** for the purposes of **Art 6(4) and Art 16(1) of HD, Art 9(1) of BD and Art 4(7) of WFD**.
- MSs may restrict this application to certain part of their territory, technologies and projects in accordance with NECP priorities.

Emergency regulation on RES

- Adopted 22 Dec 2022 - Set **temporary and targeted measures** to achieve immediate acceleration of permit-granting procedures of certain renewable energy projects
- Directly applicable in all MSs for **18 months** (30 Dec 2022 – 30 June 2024)
- Most provisions have a limited scope in terms of technologies and projects (e.g., solar installation on artificial structures and heat pumps) except **Articles 3 (OPI)**, 5 (repowering) and **6 (permit-granting)** that apply to all RES
- **Amended and prolonged for 12 months** (until 30 June 2025) by Council Regulation (EU) 2024/223 adopted on 22 December 2023
 - **New Article 3a on the assessment of alternative solutions** for the purposes of Articles 6(4) and 16(1) HD, Article 9(1) BD and Article 4(7) WFD

Summary of implications for the Birds and Habitats Directives

Article 6(3) HD

Projects in RAAs/ DIAs:

- **Exemptions from Appropriate Assessment**
- Projects **must be screened** and if highly likely to give rise to significant unforeseen adverse effects must be subject to EIA/ AA
 - wind and solar projects in RAAs and projects in DIAs may be exempted from EIA/ AA
 - For exempted projects: mitigation measures must be applied or if not available (monetary) compensation measures for species protection programmes.

Projects outside RAAs/ DIAs:

- AA (if required) in a single procedure with the EIA based on scoping opinion by the competent authorities.
- Accelerated deadlines for permit granting procedures: max 2 years (3 for offshore).

Article 12 HD and Article 5 BD

- Certain projects may be exempted from assessment of their implications for species protection under Art 12 HD and Art 5 BD:
 - Grid and storage projects in DIAs
 - All RES in dedicated renewable or grid areas subject to SEA until 30 June 2025 (emergency Regulation)
 - Appropriate mitigation and if not available (monetary) compensation measures must be applied to exempted projects

Article 6(4) & 16 HD and Article 9 BD

- Until neutrality is reached all RES projects are **presumed as being in the OPI and serving public health and safety** for the purposes of Art 6(4), 16(1) HD and Art 9(1) BD
 - **Art 6(4) HD:** RES assed as having a significant impact on priority habitats/ species in Natura 2000 can be authorised **without the need for a COM Opinion**
- Until 30 June 2025 (emergency Regulation), the **assessment of alternative solutions for Art 6(4)/ 16 HD and Art 9 BD may be restricted to projects of the same technology, energy capacity and timeframe** without significant higher **cost**. **Compensatory measures may be carried out in parallel** with the project.
- **Art. 16 HD/ Art. 9 BD: No derogations needed for occasional killing or disturbance of species if appropriate mitigation measures** are applied, monitored and adjusted as needed.

COM guidance and recommendations to accelerate renewable energy roll-out

- A series of **new and updated recommendations and guidance documents** to improve and streamline permitting procedures and auctions for renewables:
- [Updated Recommendation and guidance on speeding up permit-granting procedures](#)
- [Guidance on designating Renewables Acceleration Areas](#)
 - [Forthcoming study](#) on the designation of RAAs for onshore and offshore wind and solar photovoltaic energy
- [Recommendation and guidance on auction design for renewable energy](#)

EUSEW 2024: Policy session on RES and Nature

Home > EUSEW 2024 > Sessions > Session Details

Renewables

Finding the right balance: protecting nature and deploying renewables



13 June 2024

16:00 - 17:30 CEST

Remove from my agenda ★

A massive growth of wind and solar installations, as well as the accompanying grid infrastructure to integrate them will be needed by the end of the decade. This rapid and massive expansion may have implications for biodiversity if not well planned. There is consensus between industry and NGOs that reconciling renewable energy deployment and nature conservation and restoration objectives is doable and the best way forward. However, practical implementation is challenging.

The session aims to explore possibilities to reconcile both interests towards an acceleration of renewable energy deployment in a sustainable and nature-inclusive way, avoiding long-lasting impacts on biodiversity while highlighting win-win opportunities and concrete solutions.

Speakers



Antonella Battaglini
Chief Executive Officer
Renewable Grid Initiative

Profile



Humberto Delgado...
Director, ENV.D -...
European Commission

Profile



Cesare Di Girolamo...
Renewable Energy Scientist
The Nature Conservancy

Profile



Ask Helseth
Chief Executive Officer &...
Spoor

Profile



Penny Laurenson
Global Head of...
Lightsource bp

Profile

Join us in Brussels on the 13th of June 😊 (live streaming available)

Info and registration: https://sustainable-energy-week.ec.europa.eu/index_en

Questions to NADEG

1. What are the main challenges you expect to face in the identification of the Renewables Acceleration Areas and Dedicated Infrastructure Areas? Are you involved in this work?
2. Have you already observed or do you expect challenges in your country for the implementation of the Birds and Habitats Directives when implementing the revised RED?
3. Have you identified potential synergies in the implementation of the renewable energy legislation and the nature legislation?

Thank you!

