

EDF's comments and good practices on the issue of permitting for RES projects
Follow-up to the exchange EDF Renewables / DG ENER

Comments on Repower EU

EDF welcomes the Commission's recent proposals on permitting in its communication Repower EU and the guidelines to be adopted later in May or June, especially:

- The classification of construction and operation of RES plants and their connection to the grid **as project of 'overriding public interest'** which should accelerate some procedures. We must consider their deployment as an "imperative reason of overriding public interest" within the meaning of the Habitats directive (art. 16 c).
- The ex-ante designation by Member States of **'go-to' areas** which are identified as particularly suitable areas for RES deployment. **Long term planning is key to provide visibility to investors and communities** and ensure a cost-effective deployment of RES.

EDF's proposal related to permitting issues

Today complex and lengthy authorization procedures are the main obstacles to the rapid deployment of RES. In France an onshore wind project takes on average 7 years - including 2-3 years of appeals in courts. To tackle this, three main issues should be addressed:

- **Scarcity of land availability: no physical constraints but regulatory ones**
 - Many restrictions as to where renewable electricity projects can be built
 - A lack of space due to military and civil aviation constraints and to...
 - ...Minimal distances to infrastructure or distance/co-visibility with historical monuments (due to a strict interpretation of the Council of Europe Landscape Convention at national level)
- **Very strict application of the regulations on protected species** – Habitats and Bird Directives. We should find a way to better reconcile biodiversity and climate targets (cf. recent German *Osterpaket* which includes a revamp of the method to calculate the likelihood of birds colliding with wind blades, a simplified procedure to prove whether endangered birds are breeding in the area, limits to the burden that can be imposed on wind turbine operators, and an exhaustive list of 16 protected bird species).
- **Lack of staff in the administration at national level:** authorities at all levels lack sufficient digital and/or human resources to process a growing number of permitting applications.

To address these issues, some good practices have been implemented in France:

- Improvement in the procedure of appeal by **reducing the number of levels of court jurisdiction examination**. Instead of three levels before 2016, there is now only two levels of jurisdiction for onshore and one for offshore (Conseil d'Etat).
- **Introduction of the "envelope permit"** : notion for offshore wind which now allows the developer not to set the technical parameters of the project too far in advance and thus enables the use of the most recent technologies during the construction phase (in order to lower the cost of electricity).
- **Introduction of the 'one-stop-shop'** for the permitting process for onshore wind: streamlines the authorization process with a single point of contact with the administration. It could be extended to other RES.
- **Thresholds have been defined** in a government instruction for repowering project. The number of wind turbines and the height of the turbines are key parameters to look at. Depending on the case, the need for a new environmental impact assessment (EIA) will not be

the same – for example with the same number of turbines and a height increase below 10%, the repowering of the project is considered as a ‘non substantial modification of the original permit’ and therefore only requires a simplified EIA. Nonetheless, it is crucial to include provisions preventing the legislation from any modification that could hinder repowering (eg. new air constraints or environmental areas).

Please find below some concrete actions for specific RES technologies:

- Solar: promotion of the co-use of land, especially agri-PV, to ease the access to lands
- Onshore: more dialogue with civil and defense aviation (military radar constraints) and a facilitated repowering (simplified environmental impact assessments for example)
- Offshore: long-term maritime spatial planning, acceleration of the volume of auctions
- Hydropower: support to the refurbishment of existing infrastructures, better remuneration of storage

EDF’s analysis on the current discussions on the Revision of REDII

We welcome the incentives on the following topics through amendments tabled in ITRE Committee:

- **Strengthening obligation on Maritime Spatial Planning** for offshore wind and support to the coexistence of activities (AM 538 Greens)
- **Recognizing renewable projects as ‘*overriding public interest*’** for the Union and the national law (AM 569 PPE Italians, AM 570 S&D Italians)
- **Facilitating repowering projects** (AM 600 Renew)
- **Clarifying the notion of protected species**: reference to the whole population and not to the individual animal (AM 602 Petersen)
- **Implementing a single administrative contact point** (AM 594 Renew, 643)
- **Identifying ex ante favorable land, especially agricultural areas** and lakes that would facilitate Agri PV and floating PV (AM 597 Renew)
- **Reporting for Member States on their permitting processes with KPI in the framework of the NECPs** (AM 575 Greens)

In the last Council proposal in REV3 (2022/03/30), a reference is made to ‘**public interest and serving public safety**’ (paragraph 8 article 15). We advocate for a stronger wording, which would refer to the exact formulation of the Habitats Directive (article 16): “*imperative reason of overriding public interest*”.