



FEEDBACK on the INITIATIVE: Proposal for a Directive amending Directives (EU) 2018/2001, (EU) 2019/944, and (EU) 2024/1788 as regards the Acceleration of permit-granting Procedures
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Position Paper

Austrian Federal Economic Chamber (WKO)
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WKO Position Paper on the Proposal for a Directive amending Directives (EU) 2018/2001, (EU) 2019/944, and (EU) 2024/1788 as regards the acceleration of permit-granting procedures (2025/0400 (COD))

The Austrian Federal Economic Chamber welcomes the draft's objective of accelerating permit-granting procedures for energy-related infrastructure. Any progress in this direction is highly welcomed. Speeding up and streamlining permitting processes is an essential step toward delivering key infrastructure and transformation projects more rapidly, reducing bureaucracy burdens, and thus saving both time and resources. We particularly welcome the strengthening of the overriding public interest in permitting procedures and the desired digitalisation of the procedures.

Furthermore, we welcome the clarification that Member States should refrain from designating extensive areas in which the development of renewable energy projects is excluded a priori on environmental grounds, including landscape protection. We also support the establishment of a single national digital portal (one-stop shop), as well as the introduction of clear deadlines for the permitting of energy storage and charging infrastructure and for the hybridization of energy systems.

However, we still view certain aspects critically. In particular, we are concerned that the entire European Grids Package places mainly a focus on electricity. As a result, the specific system functions of hydrogen and CO₂ infrastructure - especially regarding long-term flexibility, seasonal balancing, resilience, and industrial decarbonization - are not given the necessary consideration they require.

In the following, we would like to address some especially important points in greater detail.

On public participation in permit-granting processes:

Avoid national fragmentation and additional organisational obstacles to project development Article 1 (3) states, that two new paragraphs are to be added to Article 15d of the Renewable Energy Directive. The new paragraphs are currently supposed to read as follows:

“3. Member States shall adopt measures to ensure that a share of the benefits of renewable energy projects with an installed capacity above 10 MW is passed on, directly or indirectly, to local citizens and communities in proximity to those projects.

4. Member States shall designate and finance an independent facilitator to promote dialogue between the project developer and the general public for renewable energy projects with an installed capacity above 10MW. The facilitator shall only intervene upon request by any of the relevant parties and shall:

- (a) facilitate public consultations, as necessary, including early consultations during the phase prior to the permit application;*
- (b) engage to find solutions to address potential concerns raised by local communities.*
- (c) ensure support and transparency in the choice of the type of benefit sharing measure, where relevant.*

Member States may set up a fee, paid by project developers, to finance the services of the facilitator.”

We see two problematic aspects here.

First, the proposed mandatory profit sharing for citizens and municipalities in renewable energy projects with an installed capacity of more than 10 MW (amendment to Article 15d of the RED) is viewed critically. It allows for a wide range of national implementation models and may therefore lead to legal uncertainty. Therefore, we would suggest deleting this part. Furthermore, we see no added value in the introduction of a facilitator. This measure would create an additional procedural hurdle, involving extra organizational effort that could be used by project opponents (even where concerns are not well founded) to delay proceedings. We also oppose the introduction of a “facilitator” due to the unnecessary additional costs it would entail - at the discretion of the member state especially for project developers.

On permit-granting procedure outside renewables acceleration area

Article 1(5) proposes that Article 16b of the Renewable Energy Directive should be amended as follows:

Maintain the mitigation-based exemption to ensure balanced species protection and efficient permitting

“(a) In paragraph 2, the following sentence is deleted:
‘Where a renewable energy project has adopted necessary mitigation measures, any killing or disturbance of the species protected under Article 12(1) of Directive 92/43/EEC and Article 5 of Directive 2009/147/EC shall not be considered to be deliberate’”

The deletion of the existing and highly welcome exception concerning the killing or disturbance of protected species, when necessary, mitigation measures are put in place (such as expert reports or shutdown algorithms for bird protection), which was introduced by RED III, is viewed critically. The aforementioned sentence contributes significantly to balancing interests with species protection and thus to speeding up permitting procedures. Removing this provision would represent a step in the wrong direction. The proposed deletion should therefore be withdrawn.

Provide essential legal clarity for tacit approvals & keep confidentiality interests protected

(b) the following paragraph 3 shall be added:
‘3. In the permit-granting procedure referred to in paragraph 1 and in paragraph 2, second subparagraph, Member States shall ensure that the lack of reply by the relevant competent authorities or entities within the established deadline results in the specific steps to be considered as approved, except for environmental decisions and grid connection permits, or where the principle of administrative tacit approval does not exist in the national legal system of the Member State concerned. All decisions shall be made publicly available, including final decisions granted tacitly.’;

We generally consider the introduction of tacit approval to be a potential instrument for accelerating permitting procedures. However, in its current formulation, the provision raises concerns and leaves certain aspects unclear, which should be clarified in order to ensure consistent application and legal certain.

The obligation to make all decisions publicly available, including tacit decisions (amendment to Article 16b of the RED), is considered problematic. This would also include decisions in complaint proceedings. In

such cases, however, no obligation to publish should apply. Decisions should only be made public if confidentiality interests are fully safeguarded.

On ‘overriding public interest’

Welcomed reduction of possible restriction of the application of ‘overriding public interest’

Article 1 (8) (a) states that the last two sentences of Article 16f of the Renewable Energy Directive are deleted. (*‘Member States may, in duly justified and specific circumstances, restrict the application of this Article to certain parts of their territory, to certain types of technology or to projects with certain technical characteristics in accordance with the priorities set out in their integrated national energy and climate plans submitted pursuant to Articles 3 and 14 of Regulation (EU) 2018/1999. Member States shall inform the Commission of such restrictions, together with the reasons therefor.’*)

We strongly welcome the deletion of the aforementioned sentences, which contributes to greater legal certainty for project developers.

On hydrogen storage technologies

No regulatory discrimination against hydrogen storage compared to other storage technologies

Article 1 (9) of the draft directive provides for far-reaching acceleration measures for so-called “stand-alone energy storage” facilities in Article 16h of the Renewable Energy Directive, including shortened permit-granting periods and procedural simplifications. However, Article 16h explicitly excludes hydrogen infrastructure—and therefore also hydrogen storage facilities—from the scope of these acceleration provisions. This results in regulatory inequality between storage technologies, even though hydrogen storage plays a crucial role in ensuring long-term flexibility, enabling seasonal storage, and facilitating the integration of renewable energy into the energy system. Hydrogen storage facilities, including underground storage installations, should therefore be explicitly included within the scope of the acceleration provisions applicable to storage infrastructure.

Lack of binding deadlines for permitting-granting-procedures for hydrogen storages

For so-called “stand-alone energy storage” facilities with a capacity exceeding 100 kW, the draft directive provides for a maximum permitting period of six months in Article 16 h (3). However, these binding deadlines are not to apply to hydrogen storage facilities and storage-related hydrogen infrastructure. As a result, hydrogen storage facilities continue to be subject to longer and less predictable permitting procedures despite their systemic relevance. Clear, binding deadlines for permit-granting procedures should also be provided for hydrogen storage facilities.

Lack of legal clarity regarding the recognition as projects of overriding public interest

The draft Directive classifies projects in the fields of renewable energy, storage, and related grid infrastructure as being of overriding public interest. However, the scope of application remains unclear with regard to hydrogen storage facilities and their connections. This lack of clarity creates a risk of inconsistent national interpretations and complicates the establishment of consistent permitting practices. Clear legal clarification is therefore required to ensure that hydrogen storage facilities and underground storage infrastructure, including their grid connections, are explicitly covered by the status of overriding public interest.

Conclusion

Even though we take a critical view of certain elements of the proposal, we would like to conclude by emphasizing that, in our view, all measures aimed at accelerating permit-granting procedures are welcome. In particular, we strongly support the strengthening of the recognition of public interest within permit-granting processes and view the planned digitalization of these procedures very positively.



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