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PROPOSAL

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
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Delegations will find attached document COM(2022) 591 final.

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2022/0367 (NLE)

Proposal for a

COUNCIL REGULATION

laying down a framework to accelerate the deployment of renewable energy

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The European Green Deal put renewable energy at the heart of the clean energy transition. The current international tensions following Russia's invasion of Ukraine, the overall geopolitical context and the very high energy prices have exacerbated the need to accelerate energy efficiency and the deployment of renewable energy in the Union with the objective to phase out EU's dependence on Russian fossil fuels.

In this context, on 18 May 2022, the Commission adopted, as part of the REPowerEU plan, a proposal to amend Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources ("REDII"), Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency in order to accelerate the green transition towards renewable energy and increased energy efficiency. The proposal introduced more ambitious energy efficiency and renewable energy targets, measures to further simplify and streamline the administrative permit-granting procedures applicable to renewable energy projects in a coordinated and harmonised manner across the EU as well as measures to increase the deployment of solar installations on buildings. The Council and the European Parliament are currently working towards the adoption of the revised REDII.

Since the publication of the REPowerEU plan on 18 May 2022, the situation of the energy crisis has worsened, calling for urgent action. Record spikes of the natural gas price in summer, further disruption of the supplies through the North Stream I pipeline, increased inflation and electricity price fluctuations cause economic and social hardship, placing a heavy burden on citizens and on the economy. Rising energy costs are leading to reduced purchasing power for citizens and loss of competitiveness for companies. The shortage in gas and power supply and the relatively inelastic energy demand have led to significant increases in prices and volatility of gas and electricity prices in the EU. National measures to counter these trends may lead to fragmentation of the internal market and may not guarantee solidarity.

In that context, the ongoing crisis calls for temporary but immediate action to achieve some of its objectives faster, including accelerating Europe's clean energy transition. The European Union has taken steps to reduce gas demand and intervene on energy markets in order to address the impact of the crisis for this winter. Despite these actions, the situation remains extremely challenging. European consumers and businesses continue to be exposed to prices that are too high and volatile. Unpredictable events, like the sabotage of pipelines, may still further disrupt our security of supply. Tensions on gas markets are likely to persist, also beyond this winter. Faster deployment of renewables is necessary for a definitive end to the current emergency as it will immediately and structurally reduce demand for fossil fuels in the power, heating and cooling, industry and transport sectors. Thanks to their low operational costs, renewables can positively impact energy prices across the EU.

Lengthy and complex administrative procedures have been identified as one of the key obstacles hampering the speed and number of investments in renewables and related infrastructure. On 20 and 21 October 2022, the European Council, in its conclusions, called

for a fast-tracking of the simplification of permitting procedures in order to accelerate the rollout of renewables and grids including by means of emergency measures. Some of the measures introduced in the May 2022 proposal to accelerate the permit-granting process for renewable energy plants, in particular those related to the overriding public interest presumption, repowering of plants and permit-granting for solar equipment on existing structures, can be implemented by Member States in a rapid manner, without requiring burdensome changes to their national procedures and legal systems. The crisis calls for immediate targeted measures in these areas as well as other measures to promote specific technologies such as heat pumps which accelerate the transition away from the use of gas in heating. If implemented immediately, these measures have the potential to increase renewable generation in the short-term and thus increase the contribution of the renewables to addressing the ongoing crisis.

- **Consistency with existing policy provisions in the policy area**

The proposed instrument sets out temporary, proportionate and extraordinary measures. It complements existing relevant EU initiatives and legislation and is complementary to the initiatives already taken by the Commission to respond to the current crisis in energy markets. It builds upon the "REPowerEU" Plan of 18 May 2022 which puts the massive speed-up and scale-up in renewable energy in power generation, industry, buildings and transport at the core of the strategy to accelerate the phasing out of Russian fossil fuels.

In particular, the Commission proposed as part of the "REPowerEU" plan a revision of Directive (EU) 2018/2001 which increases the binding 2030 EU target to 45% by 2030, up from 40% of the previous proposal from 14 July 2021, and establishes a framework for streamlining and speeding up the administrative permit-granting process for renewable energy projects.

The proposed instrument is a temporary urgency measure. It is time limited to one year's duration, with a review clause in order to consider extending its validity, if necessary.

The proposed regulation reflects the need to take urgent action in response to the energy crisis, as called for by the above-mentioned European Council conclusions. It aims to address the current energy crisis through focused immediate action that accelerates the deployment of renewable energy projects which have high potential of rapid and effective impact. To this end, the proposed instrument identifies a set of measures the immediate application of which would ensure a short-term acceleration of the permit-granting procedures for renewable energy projects.

In this context, it should be noted that, in line with the Council Recommendation on ensuring a fair transition towards climate neutrality and the Commission Recommendation on speeding up permit-granting procedures for renewable energy projects and facilitating Power Purchase Agreements, ensuring adequate staffing of the permit-granting bodies and environmental assessment authorities with relevant skills and qualifications remains essential to reap the full benefits of any simplification of permitting procedures aiming at acceleration the roll out of renewables and grids.

Similarly, national permitting authorities should seek to speed up permitting procedures of renewable energy technology manufacturing sites as achieving the REPowerEU goals will require diversifying the supply of renewable energy equipment and of critical raw materials,

reducing sectoral dependencies, overcoming supply chain bottlenecks and expanding the EU's clean energy technology manufacturing capacity.

- **Consistency with other Union policies**

The proposal is an extraordinary measure, to be applied for a limited time, which is consistent with a broader set of initiatives to enhance the Union's energy resilience and to mitigate the impact of high energy prices and potential disruptions of the energy supplies. The proposal does not compromise the functioning of the internal market, as well as the measures for addressing interrupted energy supplies and solidarity mechanisms. The proposal is fully in line with the Commission's European Green Deal ambition for faster decarbonisation, and roll-out of renewable energy projects and builds upon the objectives for speeding up the reduction in dependency on Russian fossil fuels by deploying renewable energy at a large scale as an alternative source. The proposal is in line with environmental objectives, as accelerated deployment of renewable energy is key to mitigate the impacts of both climate change and pollution, which are driving biodiversity loss and threaten public health and safety, in line with the objectives of the European Climate Law (Regulation (EU) 2021/1119).

The proposal is in line with the recommendations made to Member States in the context of the 2022 European Semester framework to streamline permitting of renewable energy projects. It is also expected to accelerate investments in renewable energy under the Recovery and Resilience Facility, including REPowerEU chapters to be included under national Recovery and Resilience Plans.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for this instrument is Article 122(1) of the Treaty on the Functioning of the European Union ('TFEU').

The current disruption to gas supplies and resulting impacts on gas and electricity prices constitute a severe difficulty in the supply of energy pursuant to Article 122 TFEU. The weaponisation of gas supply and the Russian Federation's manipulation of the markets through intentional disruptions of gas flows have led not only to skyrocketing energy prices, but also to endangering security of supply. Soaring electricity prices are putting a significant burden on consumers and businesses, and if no action is taken, they risk reaching unsustainable levels, which could have significant wider social and economic implications. EU leaders and the Commission have identified the urgent need for additional measures to help increase access to renewable energy to mitigate the impact on EU citizens, improve security of supply and be better prepared for the coming winter. The temporary measures under the proposed Regulation aim to ensure a targeted coordinated approach to accelerate specific permit-granting procedures applicable to those renewable energy projects which have high potential of immediate and effective impact. They therefore address the specific administrative authorisation bottlenecks for the implementation of these projects.

- **Subsidiarity (for non-exclusive competence)**

A cost-efficient, fast and large-scale deployment of sustainable renewable energy in line with the ambition of the European Green Deal and the REPowerEU Communication cannot be achieved by Member States alone. An EU approach is needed to provide the right incentives to Member States with different levels of ambition to accelerate, in a coordinated way, the energy transition from the traditional fossil fuel-based energy system towards a more integrated and energy-efficient energy system based on renewable energies.

Taking into account the different energy policies among Member States, action at EU level, supported by the robust governance framework, is more likely to achieve the EU climate and pollution reduction targets through the required increased deployment of renewables than national or local action alone.

Lengthy and complex administrative procedures are among the key barriers for investments in renewable energies and their related infrastructure. The duration and complexity of the permit-granting procedures greatly varies between different renewable energy technologies and between Member States. Member States are taking action on addressing permitting barriers identified at national level and are encouraged to continue doing so, for instance also via the collaborative work in the European Commission's Single Market Enforcement Taskforce[1]. A coordinated European approach to shortening and simplifying permit-granting procedures and administrative processes is needed to speed up the necessary deployment of renewable energies. This is in turn necessary for the EU to reach its climate and energy 2030 targets, its long-term objectives of climate neutrality and zero pollution as well as phase out its dependence on Russian fossil fuels and reduce energy prices. Taking into account the different energy policies, priorities and procedures among Member States, and in view of the urgency to accelerate the deployment of renewable energy across all Member States, action at EU level is more likely to achieve the required objectives than national or local action alone.

Finally, the proposed Regulation introduces targeted amendments to existing pieces of Union legislation. This intervention, which will further streamline certain permit-granting procedures, justifies the need for action at Union level.

- **Proportionality**

The initiative complies with the proportionality principle. In view of the unprecedented geopolitical situation created by Russia's invasion of Ukraine, the continuous highly volatile energy prices and the need to ensure Europe's energy security of supply for the upcoming winter season and throughout next year, there is a clear need for coordinated and urgent action to immediately accelerate the deployment of renewable energy sources in addition to the actions proposed by the Commission as part of the REPowerEU plan of 18 May 2022. However, the identified actions are limited to those targeting the specific administrative authorisation bottlenecks affecting the implementation of those renewable energy projects which have a high potential of rapid and effective impact.

- **Choice of the instrument**

[1] The European Commission together with the Member States are working in the Single Market Enforcement Taskforce (SMET) to find effective solutions to a number of barriers identified in the RES Simplify interim report: https://data.europa.eu/doi/10.2833/239077

Taking into account the urgent need to accelerate the deployment of renewable energy projects to replace gas and given the scale of the energy crisis, the potential of its social, economic and financial impacts and the urgency to mitigate them, the Commission deems it suitable to act by way of a regulation which is of general scope and directly and immediately applicable. The Regulation is time limited. This would result in a swift, uniform and Union-wide approach as regards specific permit-granting procedures applicable to certain renewable energy projects to address the severe difficulties, which the Union is currently facing.

3. STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

• Stakeholder consultations

On 20 and 21 October 2022, the European Council, in its conclusions, called for a fast-tracking of the simplification of permitting procedures in order to accelerate the rollout of renewables and grids including by means of emergency measures. Due to the urgency to prepare the proposal so that it can be adopted on time by the Council, a formal stakeholder consultation could not be carried out. However, the Commission plans to engage with stakeholders, and notably renewable energy producers, representatives of civil society and of national administration, for ensuring a successful implementation of this Regulation. The proposal also builds on extensive discussions with stakeholders, Member States and the European Parliament in the context of the preparation of the proposal for a revision of Directive (EU) 2018/2001 of 18 May 2022, and the subsequent co-decision negotiations, as well as the RES Simplify project[2].

• Impact assessment

Given the temporary and urgent nature of the measures that respond to an emergency situation, an impact assessment could not be carried out.

• Fundamental rights

No negative impact has been identified on fundamental rights. The overarching aim of this review is to increase the use of renewable energy, which is in line with Article 37 of the Charter of Fundamental Rights of the European Union, under which a high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development. Furthermore, streamlined procedures for permit granting in the proposed Regulation consider the need to protect legitimate expectations and existing investments, and therefore will not jeopardise the right to own and use lawfully acquired possessions, as enshrined in Article 17 of the Charter of Fundamental Rights. The provisions of this Regulation are also drafted in a manner which does not negatively affect public health and the legal interests of the individuals.

4. BUDGETARY IMPLICATIONS

This proposal does not require additional resources from the EU budget.

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2 https://www.eclareon.com/de/projects/res-simplify

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 122(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Russian Federation's military aggression against Ukraine and the unprecedented reduction of natural gas supplies from the Russian Federation to Member States threaten the security of supply of the Union and its Member States. At the same time, the weaponisation of gas supply and the Russian Federation's manipulation of the markets through intentional disruptions of gas flows have led to skyrocketing energy prices in the Union, endangering not only the economy in the Union, but also seriously threatening security of supply. A fast deployment of renewable energy sources can help to mitigate the effects of the current energy crisis, by forming a defence against Russia's actions. Renewable energy can significantly contribute to counter Russia's weaponising of energy by strengthening the Union's security of supply, reducing volatility in the market and lowering energy prices.

(2) In May 2022, the Commission adopted, as part of the REPowerEU Plan, an amendment to Directive (EU) 2018/2001[3]. This amendment increased the level of ambition of the 2030 binding EU target for the share of renewable energy in the Union's gross final energy consumption and addressed lengthy administrative permit-granting procedures, which are one of the key barriers for investments in renewables and their related infrastructure. The impact of the proposed amendments to Directive (EU) 2018/2001 will be a significant scaling-up and speeding-up of renewable energy deployment in power generation, industry, buildings and transport. This in turn will accelerate the phasing out of Russian fossil fuels and will contribute to lower electricity prices for citizens and businesses as well as improving security of supply of energy. However, such impact will materialise only in the medium to long term given that the amendment of Directive (EU) 2018/2021 will take effect only after the

[3] COM(2022) 222 final.

adoption, entry into force and transposition of the Directive by the Member States into their national legislation

(3) Since May 2022, Russia's actions have further aggravated the situation in the market, in particular by increasing the risk of a complete halt of Russian gas supplies to the Union in the near future which has affected the Union's security of supply. This sharply increased the volatility of energy prices in the Union, sent gas and electricity prices to all-time highs during the summer. This led to growing electricity retail prices, which are expected to continue gradually trickling down to most consumer contracts, increasingly burdening households and businesses. The aggravated situation in the energy markets substantially contributed to the general inflation in the euro area and slowing down economic growth across the Union. This risk will persist regardless of any temporary reduction of wholesale prices and will be even more pertinent next year, as recognised in the latest emergency proposal by the Commission.[4] European energy companies could face severe difficulties in filling gas storage next year, as it is highly probable that less or even no pipeline gas will arrive in the Union from Russia given the current political situation. In addition, the target for 2023, set out in the Gas Storage Regulation (EU) 2022/1032, is to fill 90% of Union's gas storage capacities as opposed to 80% for this winter. Also, unpredictable events such as sabotage of pipelines and other risks of disruption to security of supply could create additional tensions on gas markets. Additionally, the competitiveness outlook of European renewable energy technology industries has been weakened by recent policies in other world regions aimed at providing support and speeding up the scale up of entire renewable energy technology value chains. These are all elements that were not factored in in the proposal for an amendment to Directive (EU) 2018/2001 of 18 May 2022.

(4) In this context and in order to tackle the exposure of European consumers and businesses to high and volatile prices causing economic and social hardship, to ease the required reduction in energy demand by replacing natural gas supplies with energy from renewable sources and to increase security of supply, the Union needs to take further immediate action to accelerate the deployment of renewable energy sources, in particular by targeted measures which are capable of achieving a short term acceleration of the pace of deployment of renewables in the Union.

(5) The urgent measures are selected because of their nature and potential to contribute to the solutions of the energy emergency in the short term. More particularly, several of the measures outlined in the May 2022 proposal to streamline the permit-granting process applicable to renewable energy projects can be implemented by Member States in a rapid manner, without requiring burdensome changes to their national procedures and legal systems and ensuring a positive acceleration of renewables in the short term. Some of these measures are of general scope, such as the introduction of a rebuttable presumption that renewable energy projects are of overriding public interest for the purposes of the relevant environmental legislation, or the introduction of clarifications regarding the scope of certain environmental Directives as well as the simplification of the permitting framework for the repowering of renewable energy plants by focusing on the impacts stemming from the changes or extensions compared to the original project. Other measures target specific technologies, such as the

[4] COM(2022) 553 final.

significantly shorter and faster permit-granting for solar equipment on existing structures. It is appropriate to implement these measures as quickly as possible, and to adapt them as necessary to accurately address the current challenges.

(6) It is necessary to introduce additional targeted measures addressed to specific technologies and types of projects which have the highest potential for quick deployment and immediate effect on the objectives of reducing the price volatility and reducing the natural gas demand without constraining overall energy demand. In addition to the acceleration of the permit-granting procedures, for solar energy equipment on artificial structures, it is appropriate to promote and accelerate the deployment of small-scale solar installations for renewables self-consumers including for collective self-consumers, such as local energy communities, since these are the cheapest and most accessible options with least environmental or other type of impacts for a fast roll-out of new renewable installations. In addition, these projects directly support households and companies that face high energy prices and shield consumers from price volatility. Repowering of renewable energy power plants is an option for rapidly increasing renewable energy production with the least impact on the grid infrastructure and the environment, including in the case of those renewable energy production technologies, such as wind power, for which permitting procedures are typically longer. Lastly, heat pumps are a direct renewable alternative for natural gas boilers and have the potential to significantly reduce the natural gas demand during the heating season.

(7) One of the measures proposed consists of the introduction of a rebuttable presumption that renewable energy projects are of overriding public interest and serving public health and safety, in particular, for the purposes of the relevant Union environmental legislation, except where there is clear evidence that these projects have major adverse effects on the environment which cannot be mitigated or compensated for. Renewable energy plants, including heat pumps or wind energy, are crucial to fight climate change and pollution, reduce energy prices, decrease the Union's dependence on fossil fuels and ensure the Union's security of supply. Presuming renewable energy plants, including heat pumps, as being of overriding public interest and serving public health and safety would allow such projects to benefit, where necessary, from a simplified assessment for specific derogations foreseen, in particular, in the relevant Union environmental legislation with immediate effect. In order to address the increased urgency for action, in the light of events since May 2022, this rebuttable presumption should apply to all renewable energy projects for which balancing of legal interests takes place within the duration of the present regulation. It only applies to new permitting procedures that start during the application of the regulation.

(8) This reflects the important role that renewable energy can play in the decarbonisation of the Union's energy system, in offering immediate solutions to replace fossil-fuel based energy and in addressing the aggravated situation in the market.

(9) In order to eliminate bottlenecks in the permit-granting process and operation of renewable energy plants, in the planning and permit-granting process, the construction and operation of energy plants from renewable sources and the related grid infrastructure development should be given priority when balancing legal interests in the individual case, at least for projects which are recognised as being of public interest. Concerning species protection, the preceding sentence should only apply if and to the extent that appropriate species conservation measures contributing to the

maintenance or restoration of the populations of the species at a favourable conservation status are undertaken and sufficient financial resources as well as areas are made available for this purpose.

(10) Solar energy is a key source of renewable energy to put an end to the Union's dependency on Russian fossil fuels while achieving the transition towards a climate-neutral economy. Solar photovoltaics, which is one of the cheapest sources of electricity available, and solar thermal technologies which provides renewable heating at low costs per unit of heat, can be rolled out rapidly, and directly benefit citizens and businesses. In this context, in line with the EU Solar Energy Strategy[5], the development of a resilient industrial solar value chain in the Union will be supported, including through the Solar PV Industry Alliance that will be launched at the end of 2022. Accelerating and improving permit granting for renewable energy projects will help underpinning an expansion of the Union's clean energy technology manufacturing capacity. The current circumstances and, in particular the very high volatility of energy prices, calls for immediate action to ensure significantly faster permit-granting procedures in order to significantly accelerate the pace of the installation of solar equipment on artificial structures, which are generally less complex than installations on the ground and which can rapidly contribute to mitigate the effects of the current energy crisis, provided that grid stability, grid reliability and grid safety are maintained. These installations should therefore benefit from shorter permit-granting procedures compared to other renewable energy projects.

(11) This proposal therefore introduces a maximum deadline of one month for the permit-granting process for the installation of solar energy equipment and its related co-located storage and grid connections in existing or future artificial structures created for purposes different than solar energy production. It also introduces a specific derogation for these installations from the need to carry out environmental assessments under Directive 2011/92/EU given that they are not likely to raise concerns related to competing uses of space or environmental impact. Investing in small decentralised solar energy installations to become renewable self-consumers is one of the most efficient means for energy consumers to reduce their energy bills and their exposure to price volatility. Self-consumption installations including for collective self-consumers, such as local energy communities, also contribute to reducing overall natural gas demand, to increasing resilience of the system and to the achievement of the Union's renewable energy targets. Installations below 50 kW are not likely to have major adverse effects on the environment or the grid and do not raise safety concerns. In addition, small installations of renewable self-consumers do not generally require capacity expansion at the grid connection point. In view of the immediate positive effects of this type of installation for consumers and the limited environmental impacts they may give rise to, it is appropriate to further streamline the permit-granting process applicable to them by introducing the concept of administrative positive silence in the relevant permit-granting procedures in order to promote and accelerate the deployment of these installations and to reap their benefits in the short term.

(12) Repowering existing renewable energy plants has a significant potential to rapidly increase renewable power generation, thus allowing to reduce gas consumption.

[5] COM/2022/221 final

Repowering enables the continued use of sites with significant renewable energy potential, which reduces the need to designate new sites for renewable energy projects. Repowering a wind energy power plant with more efficient turbines allows the existing capacity to be maintained but with fewer, bigger and more efficient turbines or increasing the capacity. Repowering also benefits from the existing grid connection, a likely higher degree of public acceptance and knowledge of environmental impacts.

(13) It is estimated that onshore wind capacity of 38 GW is reaching the end of its normal operational life of 20 years between 2021 and 2025. Decommissioning these capacities instead of repowering would lead to a substantial reduction of the currently installed renewable energy capacity, further complicating the situation in the energy market. Immediate simplification and accelerated permitting for repowering are crucial for maintaining and increasing the renewable energy capacity in the Union. To this end, the proposed Regulation introduces additional measures.

(14) It is therefore appropriate to introduce measures to further streamline the permit-granting process applicable to the repowering of renewable energy projects. In particular, the maximum deadline of six months applicable to the permit-granting process for the repowering of renewable energy projects should include all relevant environmental assessments. Moreover, whenever the repowering of a renewable energy plant or of a related grid infrastructure which is necessary to integrate renewable energy into the electricity system is subject to a screening or environmental assessment, these should be limited to assessing the potential impacts resulting from the change or extension compared to the original project.

(15) In order to promote and accelerate the repowering of existing renewable energy plants, a simplified procedure for grid connections should be immediately established where the repowering results in a limited increase in total capacity compared to the original project.

(16) When repowering a solar installation, increases in efficiency and capacity can be achieved without increasing the space occupied. The repowered installation thus does not have a different impact on the environment than the original installation as long as the space used is not increased in the process, and the originally required environmental mitigation measures continue to be complied with.

(17) Heat pumps are a key technology to produce renewable heating and cooling from ambient energy, including from wastewater treatment plants, and geothermal energy. They also allow the use of waste heat and cold. The rapid deployment of heat pumps which mobilises underused renewable energy sources such as ambient energy, geothermal energy and waste heat from industrial and tertiary sectors, including data centres, makes it possible to replace natural gas and other fossil fuel-based boilers with a renewable heating solution, while increasing energy efficiency. This will accelerate the reduction in the use of gas for the supply of heating, both in buildings as well as in industry. In order to accelerate the installation and use of heat pumps, it is appropriate to introduce targeted shorter permit-granting procedures for such installations, including a simplified procedure for grid connection of smaller heat pumps unless no such procedure is required by national law. Thanks to a quicker and easier installation of heat pumps, the increased use of renewables in the heating sector, which accounts for almost half of the Union's energy consumption will contribute to security of supply and help tackling a more difficult market situation.

(18) The provisions of the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters ('the Aarhus Convention') regarding access to information, public participation in decision-making, and access to justice in environmental matters, and in particular, the obligations of Member States relating to public participation and to access to justice, remain applicable.

(19) The principle of energy solidarity is a general principle under Union law[6] and applies to all Member States. In implementing the principle of energy solidarity, the proposed measures allow for cross-border distribution of the effects of faster deployment of renewable energy projects. They are addressed to renewable energy installations in all Member States and capture a wide scope of projects, including on existing structures, new installations of solar energy equipment of renewables self-consumers and repowering of existing installations. Given the degree of integration of Union energy markets, any increase in renewable energy deployment in a Member State should be beneficial also for other Member States in terms of security of supply and lower prices. It should help renewable electricity flow across the borders to where it is most needed and ensure that cheaply produced renewable electricity is exported to Member States where the electricity production is more expensive. In addition, the newly installed renewable energy capacities in the Member States will have an impact on the overall gas demand reduction across the Union.

(20) Article 122(1) of the Treaty on the Functioning of the European Union allows the Council to decide, on a proposal from the Commission and in a spirit of solidarity between the Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy. In the light of recent events and Russia's actions since May 2022, the high risk of a complete halt of Russian gas supplies, combined with the uncertain outlook for alternatives, pose a significant threat of disruption of the energy supplies, further increase of the energy prices and consequential pressure on the Union's economy. Therefore, additional urgent action is necessary.

(21) Considering the scale of the energy crisis, the level of its social, economic and financial impact and the need to act as soon as possible, this Regulation should enter into force as a matter of urgency on the day following that of its publication in the Official Journal of the European Union. Its validity is limited to one year, with a review clause in order to allow extending its validity, if necessary.

(22) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.

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6 Judgment of the Court of Justice of 15 July 2021, Germany v Poland, C-848/19 P, ECLI:EU:C:2021:598.

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purpose of this Regulation, the following definitions apply:

(1) ‘permit-granting process for renewable energy projects*’* means the process:

(a) comprising all relevant administrative permits issued to build, repower and operate plants for the production of energy from renewable sources including heat pumps, co-located energy storage facilities, and assets necessary for their connection to the grid, including grid connection permits and environmental assessments where these are required; and

(b) which starts from the acknowledgment of the reception of the application by the relevant authority and ends with the notification of the final decision on the outcome of the procedure by the relevant authority;

(2) ‘solar energy equipment’ means equipment that converts energy from the sun into thermal or electrical energy, in particular solar thermal and solar photovoltaic equipment.

Article 2

Overriding public interest

(1) The planning, construction and operation of plants and installations for the production of energy from renewable sources, and their connection to the grid and the related grid itself and storage assets shall be presumed as being in the overriding public interest and serving public health and safety when balancing legal interests in the individual cases, in particular, for the purposes of Articles 6(4) and 16(1)(c) of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1)(a) of Directive 2009/147/EC. This only applies to new permitting procedures that start during the application of the regulation.

(2) .Where a specific project has implemented appropriate mitigation measures to avoid collisions or prevent disturbance, and if it carries out a proper monitoring to assess the effectiveness of such measures and, in the light of the information gathered, takes further measures as required to ensure no significant negative impact on the population of the species concerned, 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 deliberate Member States shall ensure, at least for projects which are recognised as being of overriding public interest, that in the planning and permit-granting process, the construction and operation of energy plants from renewable sources and the related grid infrastructure development is given priority when balancing legal interests in the individual case. Concerning species protection, the preceding sentence shall only apply if and to the extent that appropriate species conservation measures contributing to the maintenance or restoration of the populations of the species at a favourable conservation status are

undertaken and sufficient financial resources as well as areas are made available for this purpose

Article 3

Permit-granting process for the installation of solar energy equipment

(1) The permit-granting process for the installation of solar energy equipment and co-located energy storage assets, including building-integrated solar installations, in existing or future artificial structures, with the exclusion of artificial water surfaces, shall not exceed one month, provided that the primary aim of such structures is not solar energy production. By way of derogation from Article 4(2) of Directive 2011/92/EU, and Annex II, points 3(a) and (b), read alone or in conjunction with point 13(a) of Annex II to that Directive, such installations of solar equipment shall be exempted from the requirement, if applicable, to be subject to a determination whether the project requires an environmental impact assessment or from the requirement to carry out a dedicated environmental impact assessment.

(2) For the installation of solar energy equipment of renewables self-consumers with a capacity of 50 kW or less, the lack of reply by the relevant authorities or entities within one month following the application shall result in the permit being considered as granted.

(3) All decisions resulting from the above permit-granting processes shall be publicly available.

Article 4

Repowering of renewable energy power plants

(1) The permit-granting process for repowering of projects, including the permits related to the upgrade of the assets necessary for their connection to the grid where the repowering results in an increase in capacity, shall not exceed six months including environmental assessments where required by relevant legislation.

(2) Where the repowering does not result in an increase in the capacity of the renewable energy power plant beyond 15%, and without prejudice to the need to assess any potential environmental impacts pursuant to the third paragraph of this Article, grid connections to the transmission or distribution grid shall be permitted within one month following application to the relevant entity unless there are justified safety concerns or there is technical incompatibility of the system components.

(3) Where the repowering of a renewable energy power plant or of a related grid infrastructure which is necessary to integrate renewables into the electricity system, is subject to a determination whether the project requires an environmental impact assessment procedure or an environmental impact assessment pursuant to Article 4 of Directive 2011/92/EU, such prior determination and/or environmental assessment shall be limited to the potential impacts stemming from the change or extension compared to the original project.

(4) Where the repowering of solar installations does not entail the use of additional space and complies with the applicable environmental mitigation measures established for the original installation, the project shall be exempted from the requirement, if applicable, to be subject to a determination whether the project requires an environmental impact assessment pursuant to Article 4 of Directive 2011/92/EU.

(5) All decisions resulting from permit-granting processes shall be publicly available.

Article 5

Acceleration of the deployment of heat pumps

(1) The permit-granting process for the installation of heat pumps shall not exceed three months.

(2) Grid connections to the transmission or distribution grid shall be permitted following notification to the relevant entity for:

(a) heat pumps of up to 12 kW capacity; and

(b) heat pumps installed by a renewables self-consumer pursuant to Article 2(14) of Directive (EU) 2018/2001 of up to 50 kW capacity, provided the capacity of the renewables self-consumer's renewable electricity generation installation amounts to at least 60% of the capacity of the heat pump.

unless there are justified safety concerns or there is technical incompatibility of the system components.

(3) All decisions resulting from permit-granting processes shall be publicly available.

Article 6

Entry into force and application

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply for a period of one year from its entry into force.

Article 7

Review

By 1 July 2023 at the latest, the Commission shall carry out a review of this Regulation in view of the development of the security of supply and energy prices and the need to further accelerate the deployment of renewable energy. It shall present a report on the main findings of that review to the Council. The Commission may, based on that report, propose to prolong the validity of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President