

AMENDMENTS TO LAND LAW SET FRAMEWORK FOR FASTER DEVELOPMENT OF RENEWABLE ENERGY PROJECTS IN ROMANIA

Law no. 254/20.07.2022 On the Amendment and Completion of Land Law no. 18/1991 and On the Amendment of Art. 5 para. (3) letter b) of Government Emergency Ordinance no. 34/2013 was published in the Official Gazette of Romania no. 736 of July 21st, 2022, entering into force on July 24th, 2022 (“**Law 254/2022**”).

Scope of application: to introduce a simplified procedure for the development of renewable energy projects (PV, wind, biomass, bioliquid and biogas, storage capacities, transformer stations and other similar systems) in the outer city limits (in Romanian: *extravilan*) of a locality, on agricultural land from classes III, IV and V (arable, grasslands, vineyards, orchards), only based on a building permit and the approval of removing such agricultural land from the agricultural circuit.

Beneficiaries: power producers holding a licence from ANRE to generate electricity that intend to develop renewable energy systems on agricultural lands.

Procedure for authorizing development of renewable energy projects on agricultural lands: from the date of entry into force of Law 254/2022, the procedure for authorizing renewable energy projects on agricultural land should be significantly shortened, as it is no longer necessary to complete the procedure for approving a Zonal Urban Plan (PUZ) for the introduction of agricultural land inside city limits (in Romanian: *intravilan*), prior to the issuance of the building permit for the power generation facility.

Also, the definitive or temporary removal of the project land from the agricultural circuit shall occur at the time of the issuance of the building permit, subject to payment by the developer of the tariff for removal from the agricultural circuit, which is differentiated per the class of the agricultural land.

In the case of agricultural plots with larger areas than the one necessary for the development of the energy project, the developer can be applied for such removal only in connection to the agricultural land effectively occupied by the renewable energy projects. The result will be lower costs with the total removal tax (although the unit tax per m² remains unchanged) and the continued agricultural use of the area of land remaining in the agricultural circuit

Dual use option: except for arable lands, agricultural land outside a built-up area can be used in a dual system both for agricultural activities and to produce electricity from renewable sources.

Law 254/2022 also modifies the current system of exploitation of permanent grasslands, allowing for the use of areas occupied by permanent grasslands in a dual system, both for animal grazing and feed production, as well as to produce electricity from renewable sources.

Limitations: only development of renewable energy projects on agricultural land in the outer city limits not exceeding 50 hectares benefit from the simplified building authorization procedure provided by the Law 254/2002.

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This limitation in scope may affect the rentability of renewable energy projects, since high connection costs may be commercially acceptable only in case of high project capacity, which in turn requires availability of areas of land larger than 50 hectares.

The effects of the new law are limited in time only until December 31st, 2026.

Uncertainties: it is unclear whether the approval of a PUZ does not remain necessary for the approval of some urban parameters necessary for the edification of renewable energy projects (POT, CUT, height, etc.).

Law no. 50/1991 on the authorization of construction work provides that building permits are issued under and in compliance with the provisions of local urban planning documentation, approved by law. Renewable energy projects are not included by Law 50/1991 in the category of constructions exempted from the requirement to have such urban planning documentation in place.

Regarding the urban parameters, in the absence of a PUZ, the ones provided in the local urbanism regulation attached to the general urban plan will prevail – the PUG of a locality. In general, a PUG regulates only areas inside city limits, and not the agricultural land located outside city limits, which is usually non-buildable land. Therefore, no specific regime is set out for such land by the PUG.

However, it could be argued that the function of the agricultural land outside city limits derives from Law 254/2022 itself, which is turning agricultural use into industrial use by effect of issuance of a building permit, which has been expressly allowed on such agricultural land for renewable energy projects.

Under such an interpretation, the urban parameters set out in the local urbanism regulation part of the PUG would apply to agricultural land as well. If, however, the practice of local authorities continues to impose the prior approval of a PUZ to regulate the project land from an urban perspective, it would mean that Law 254/2022 did not achieve a significant improvement to the development of a renewable energy project timeline or the burdensome complexity of the current permitting process.

Only a corresponding change to Law 50/1991 expressly exempting the building permitting of renewable energy projects from the requirement to abide by urban parameters will settle these uncertainties.

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