

Renewable energy in Bulgaria – new rules in force since October 2023

A set of numerous, and substantial, amendments entered into force on 13 October 2023, after the matter had been on the agenda of the Bulgarian parliament for quite a long time. Some of the amendments are aimed at aligning local law with the applicable EU requirements while others seek to improve the overall environment and the respective procedures related to renewable energy (RE) projects. Below, we remark on the changes we find most deserving of attention.

1. Encouragement of RE

The framework for encouragement of RE has been expanded. Thus, RE projects may benefit in the future from obtaining **construction rights on state or municipal land** without the standard tender/competition procedures. RE projects would also be able to go through **simplified procedures for the conversion of agricultural land** into land eligible for construction while **agro-photovoltaic systems¹ could be built also without a change in the agricultural status** of the land².

Further, in line with Art. 4 (3) of Regulation 2577/2022, in cases of applications for construction permits regarding **solar energy installations for own consumption between 20 kW and 50 kW** in existing buildings and their adjacent land plots in urbanized territories, the **failure of the authorities to take a decision within one month shall result in the permit being considered granted**, provided that the capacity of the solar energy equipment does not exceed the existing capacity of the connection to the distribution grid. Similarly, an express reference to Regulation 2577/2022 has been inserted in the local law with respect to the conditions and time limits for granting permits for building heat pump installations.

Overall, the local law now requires that **all permits for the construction and commissioning of RE projects in artificial areas and construction zones be issued within a one-year period**.

2. Connection of RE projects to grid

The rules setting limitations based on geographical zoning and the annual connection capacity of the grids have been repealed.

Then, a new and more detailed set of rules for connecting RE projects to the grid has been introduced (it's worth mentioning that RE projects that have already started connection procedures under the previous rules and where there are preliminary or final connection agreements in place shall be completed in accordance with those rules).

The law now provides that the price for the connection to be paid by the RE producer shall include the costs for increasing the transmission capacity of the respective grid when such increase is necessary for the connection of the RE project and if the investment programme of the network operator does not envisage such increase in the time period concerned. The **relevant RE producer shall cover such costs**

¹ Systems built on agricultural land which may function without affecting the standard use of the land for its purpose

² It's worth noting that the related amendments in the Preservation of Agricultural Land Act are already being contested before the Constitutional Court

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on the basis of the proportion between the connected output and the additional transmission capacity that will be ensured.

Various time limits within the connection process are introduced by the amendments while the **overall period between the filing of an application for connection and the signing of a connection agreement is generally set to six months** (this doesn't include the design and construction of connection facilities). More favourable provisions in terms of time limits and/or procedural requirements shall apply to certain smaller projects.

An important change concerns the **introduction of guarantees to be provided by RE producers within the connection process**. In particular, each producer shall provide a guarantee in the form of a deposit/bank guarantee for the amount of **BGN 50,000 (approximately EUR 25,000) per each MW** of connected output within three months after receiving from the respective operator an opinion on the conditions for the connection. The purpose of such measure is to filter the serious investors and projects among the numerous connection applications being submitted for connection to the grids (many of which concern projects that will never be realized in practice). Once the generating facility is connected to the grid the guarantee provided shall be released or set off against the connection price due by the producer. Again, certain small RE projects are exempt.

As part of the package of measures aimed to address the connection issues faced by RE investors, the law also amends the Energy Act and **provides for the possibility for a connection on the basis of a temporary access scheme** for the period until the necessary expansion or modernization of the transmission grid can be implemented. For safety considerations, it will be possible that certain limitations are imposed on such installations within the period of temporary access.

The amendments are also aimed at improving predictability and transparency regarding possibilities for connection of RE projects, which has been a major issue for years. Grid operators are requested to maintain and publish **e-registers with up-to-date information** on the submitted connection applications, connection related requests from distribution operators to the transmission operators, status of submitted applications/requests, technical data and conditions related to connections to the grid as well as the free capacity for connection at the different points of the distribution and transmission grids. The operators of the grids are basically required to create the registers with most of the information by mid-December 2023 (certain elements will have to be completed by April 2024).

In the same line of increased transparency, the Sustainable Energy Development Agency is obliged under the amending law to draft, and publish online, a special **manual covering the procedures for construction/reconstruction** of RE facilities.

Last but not least, **sanctions are substantially increased** in cases of breaches by the operators of the grids of the rules related to the connection of RE producers. After the amendments, the sanction may reach up to BGN 1,000,000 (approximately EUR 500,000) and BGN 3,000,000 (approximately EUR 1,500,000) in cases of repeated violation. Liability is envisaged also for board members and the relevant officials of the operators.

3. Annual cap on revenues of RE producers under contracts for compensation with premiums

The amending law sets a **cap on the revenues of producers with facilities having an installed capacity of 500 kW or more** which were historically incentivized by feed-in tariffs that were subsequently replaced by contracts for compensation with premiums.

Such contracts are amended directly by virtue of the entry into force of the new law and the total amount of premiums paid within one year to the producers concerned shall be limited by either: a) the reaching by the producer of the net specific production quantity threshold on the basis of which the feed-in tariff was defined; or b) the reaching by the total amount of revenues from the sale of electricity and premiums of the value calculated on the basis of the net specific production quantity and the corresponding feed-in tariff.

4. Opportunities for end clients

The amendments introduce into Bulgarian legislation the notions of **renewable self-consumers and renewable energy communities** along with the respective provisions that form the legal framework in the local law for their activities.

These amendments mark the opening up of long-awaited opportunities in the Bulgarian energy sector even though further rules at the sub-legislative level will need to be adopted in order to ensure the smooth practical operation of the activities.

5. Centres for administrative services

Following the amendments, **each municipality shall create a centre for administrative services** that shall provide upon request directions and information on the procedures for the construction/renovation of RE facilities.

Such centres should also organize the procedures for the provision of administrative services related to the issuance of building permits and documents for commissioning RE generation facilities and the equipment for connection to the grid of such facilities.

The centres should further perform coordination functions involving the investor, other competent authorities and the grid operator so as to facilitate construction and connection to the grid.

The law requires these centres be operational by mid-February 2024.

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