Modernization of environmental law and simplification of RES production licensing

April 28, 2020 > Greece > Projects, energy and natural resources

Rokas Law Firm | View firm profile

The Greek Parliament will soon be called upon to vote on a bundle of new legislative measures on the modernization of environmental legislation which will significantly amend the current licensing procedure for RES power plants.

In the spirit of greater integration of RES produced power by year 2030 as per the country's and the EU legal commitments deriving from the Paris Agreement (COP 21) and the 2030 Framework for Energy and Climate Policy, and in light of EU Directive 2018/2001 on the promotion of the use of energy from RES, the Ministry of Environment and Energy is about to introduce a more standardised and simplified process for submitting the application file and obtaining an authorisation to produce power form RES, which will replace the power production licensethat the Greek Regulatory Authority for Energy (RAE) issues up to now.

The draft law provides for the setting up of an Electronic Register for the applicants to apply for the issuing of a Certificate during the first 10 days of either February, June or October of each year (i.e. 3 submission rounds), provided that certain criteria, such as compatibility with the spatial plan for the sustainable development of RES, are met. RAE, however, will not undertake the time-consuming task of evaluating the viability of the projects and the maturity of the project (- the latter is examined during the environmental licensing process anyway). The Certificates are to be issued electronically within a short and predetermined deadline and will be valid for up to 25 years (with a 25-year extension possibility). The successful applicants will have the obligation to carry out the remaining licensing (environmental etc.) procedures and conclude a power purchase agreement within a reasonable timeframe or else their Certificate will automatically cease to be valid and the land location and grid capacity will be freed.

Furthermore, a Special Project Certificate shall be issued for the following plants: (i) hybrid plants, (ii) high-efficiency combined heat and power (CHP) plants with a capacity exceeding 35 MW, (iii) geothermal power plants, (iv) power plants falling under the category of "other RES plants" of article 4 of the law 4414/2016 (such as RES plants using waste not falling under other categories), (v) solar thermal power production plants connected to the networks of the Non Interconnected Islands, (vi) offshore wind parks, (vii) RES plants connected to the grid through a separate submarine cable, and (viii) hydroelectric plants with a capacity exceeding 15 MW. The applications for these projects shall be supported by certain additional documents and studies.

In case of limited network capacity or insufficient carrying capacity in the municipality or spatial overlapping of projects for which the applications have been submitted during the same round, RAE shall request that the affected applicants negotiate these issues amongst

them. If this fails, RAE shall proceed to comparatively evaluate such applications based on criteria such as titles of land ownership or possession, to be further specified though the issuance of a Regulation (expected in the future). Especially in case of insufficient carrying capacity in a certain municipality, during said evaluation period RAE will not be issuing Certificates for applications made during subsequent submission rounds.

In addition to the above, the new law introduces various provisions that aim to simplify and expedite the environmental licensing procedure (including the renewal and amendment thereof), as experience has shown that the respective deadlines envisaged in the existing legal framework are usually not met. Thus, the Approval of Environmental Terms and Conditions will be valid for 15 (instead of 10) years under the condition that the circumstances based on which they were issued remain unchanged; the deadlines for the completion of the environmental licensing, with the exception of the public consultation deadline, will be significantly reduced, while certain stages of the licensing procedure are merged. Moreover, a request on behalf of the authorities for the submission of supplementary data by the applying project operator will henceforth not constitute a reason for said authorities to delay the evaluation of the file submitted.

On a separate note, the draft law also introduces a more centralised governance model as regards the management of the country's protected areas (Natura 2000 areas etc.), in an effort to solve practical problems such as the shortage of administrative resources and the subsequent lack of scientific data on the biodiversity or the protected habitats, that the existing decentralised protected area management bodies are facing.

The draft law also includes measures aiming to correct the shortcomings of legal framework concerning the mapping of the country's forests, especially systemic errors such as erroneous classification as forests of areas that have lawfully changed use, and expediting the overall process of fully mapping out the country's forests.

Another issue that the draft law regulates is the adaptation of the legal framework to the Greek Council of State case law regarding the illegality of the exclusion from the forest maps of irregularly constructed housing facilities in forested areas. Thus, a case a cost-effectiveness analysis is planned to be introduced by means of economotechnical studies that shall indicate in which cases the provisional exclusion of the irregularly constructed edifices (accompanied by the provisions of compensatory measures) is more environmentally beneficial than their tearing down.

Rokas (Athens)
Mira Todorovic Symeonides – Partner
Maria Ioannou –Associate

More from Rokas Law Firm

- Modernization of environmental law and simplification of RES production licensing
- Greece Gas Update: DEPA Privatization