

New Spatial and Urban Planning Law affects onshore and offshore RES projects

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Introduction

In December 2020 Law 4759/2020 on the Modernisation of Spatial and Urban Planning Legislation and Other Provisions (OJ A' 245/9.12.2020) was enacted. For renewable energy source (RES) projects in particular, the implications of this new law are twofold as it includes provisions that:

- modify the legal framework for the development and financing of RES projects; and
- affect where such projects will be sited.

Siting of projects

The new law amends the provisions of Law 4447/2016 (OJ A' 241/23.12.2016) on spatial planning by introducing mechanisms which expedite and streamline the procedures regarding the forward planning of the siting of all types of activity in Greece, whether onshore or offshore, based on their anticipated impact on society, the economy and the environment.

The new law retains the classification of the spatial planning instruments as those of a nationwide, regional, local and special nature, as provided in Law 4447/2016. Under the new law, the National Spatial Strategy has a more declaratory and strategic purpose, whereas the rest of the aforementioned spatial planning instruments are to be designed to specify and implement these strategic objectives. With regard to the energy sector, the regional spatial frameworks shall contain the guidelines for the sustainable development of the energy sector in the country's regions, whereby the RES sector in particular will have a predominant role. The new law also maintains the previous provisions of Law 4447/2016 which envisage the nationwide implementation of a spatial planning framework regarding especially RES projects siting. Under the new law, this special framework may amend the local urban plans at any time, where necessary. As a rule, the opposite will not apply. In this respect, it is noted that the Ministry of Environment and Energy is launching a procedure to revise the 2009 special framework for the spatial planning of RES projects to reflect the recent technological advancements in the RES industry and safeguard environmentally sensitive areas, such as the small islands.

Maritime spatial planning

The new law also envisages the implementation of a nationwide maritime (offshore) strategy and the respective maritime spatial frameworks (which will constitute a form of maritime regional planning). The law sets out the objectives for planning maritime activity siting – mainly, the sustainable development of the maritime conventional energy and RES sector, with a view to secure:

- the energy supply of the Greek islands;
- the development of maritime transport and aquaculture activities; and
- the protection and improvement of the maritime environment, including achieving resilience against the effects of climate change.

With regard to the hierarchy of the various planning instruments, the law provides that unless otherwise regulated, the maritime spatial frameworks will comply with the directions and provisions of the special spatial frameworks in place (eg, the one concerning the development of RES projects in Greece), as well as with the objectives and provisions of the EU Maritime Strategy.

The new law aims to disassociate the offshore spatial planning from that of onshore coastal areas, in an effort

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not only to align the existing relevant Greek legal framework (Law 4546/2018) with the EU Maritime Spatial Planning Directive (2014/89/EU), but also to avoid potential overlaps with other onshore spatial planning instruments.

The law also prescribes the procedure for the approval (including public consultation), revision and amendment of the national maritime strategy as well as the maritime spatial frameworks. As a rule, the approval of the latter is subject to a strategic environmental assessment and public consultation. The new law stipulates that they are to have a minimum duration of five years. However, as discussed above, they may be amended by way of exception even before that period lapses, following the amendment of a special spatial framework.

With regard to the drafting and issuance of the initial national maritime strategy and maritime spatial frameworks, the provisions of the onshore spatial plans will be considered and special provisions will apply if the latter conflict with the objectives of EU Directive 2014/89.

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