

## Opposition to energy projects

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Many new energy projects are supported and incentivised by national and regional governments, but meet with considerable opposition from the public due to safety, planning and environmental concerns. From fracking to wind farms, stakeholders must consider how best to secure buy-in from local communities to ensure that resistance does not delay crucial projects – or even scupper them altogether.

### What types of energy project prove most contentious in your jurisdiction and why?

In the past years, the most contentious energy projects in Greece have centred on:

- the extraction of lignite and hydrocarbons;
- the installation of renewable resource (RES) power plants; and
- the development of the electricity grid (ie, installation of transmission lines and electricity substations).

On the one hand, the extraction of hydrocarbons has mainly raised questions about the environmental effects of this activity and the consequences of oil extraction in territories with frequent seismic activities. That said, public opposition has not delayed the implementation of these projects. On the other hand, these projects have significant support from local communities, since they promise sizeable increases in employment.

As regards the extraction of lignite, there is more local opposition in areas with no previous industrial experience compared with those areas where industrial activity is already intensive. Further, in relation to RES projects, Greece is in line with the EU Guidelines on State Aid for Environmental Protection and Energy 2014-2020 and has almost fulfilled its targets in this regard. Thus, public opposition against such projects has notably decreased. Resistance is mainly seen in relation to wind parks and is most often due to a lack of sufficient information.

### Have any energy projects been delayed or frustrated in your jurisdiction following successful public opposition? If so, what lessons can be learned for future projects?

The installations of wind parks, wind turbines and hydroelectric power stations have, in some cases, been delayed by successful public opposition, including the initiation of civil and administrative court actions. During the development of the electricity grid, some local communities and environmental organisations opposed the construction of transmission lines in certain areas, claiming that many environmental issues had to be considered, including the potential harm to the cultural development of areas which fell under the protective provisions of the Natura 2000 programme.

The lessons learned and activities successfully undertaken include the following:

- Developers and the authorities should undertake public consultations, seek public opinions and establish public awareness campaigns before initiating a project or at an early state in order to reduce general opposition (this is particularly important in cases of hydrocarbons and RES projects).
- The main environmental concerns should be addressed in timely manner, providing comfort

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to the local community and environmental organisations that the project will be properly monitored and implemented.

- Regulatory amendments may sometimes be necessary in relation to authorisations from local authorities for projects of regional or state interest.

### **Who should have standing to oppose new energy projects? Only parties that are directly affected, such as local communities, or also parties that are indirectly affected, such as environmental organisations?**

With regard to initiating court proceedings, legitimate interest must be direct, present and personal. However, as environmental damages affect public goods (*res communis*) this leads to the expansion of legitimate interest. Environmental preservation concerns, if not the whole community, then a wide range of people who have a more specific connection to the environmental violation.

#### ***Legitimate interest of individuals***

The highest administrative court in Greece applies the concept of 'ecological neighbourhoods' and the status of 'neighbour'. Legitimate interest is normally recognised in relation to an individual who has a legitimate relationship with the area in which the environmental damage occurred (given that the adverse consequences of an environmental damage are not exclusively restricted to the area in which the damage initially occurred). The expansion of legitimate interest is usually restricted to the municipality in which the environmental damage was caused and where the applicant is resident.

#### ***Legitimate interest of communities***

The basic criterion for the foundation of legitimate interest is that the protected goods must be located inside the administrative boundaries of the municipality. Expansion is granted in cases where environmental consequences affect neighbouring municipalities.

#### ***Legitimate interest of legal persons***

In accordance with case law, it is sufficient for environmental protection to be included in a legal person's statute in order to establish the legitimate interest of such legal person to suspend the execution of an energy project. A legitimate interest is recognised regardless of the seat of the legal person or the area or the territorial relationship with the area in which the environmental violation occurred.

Thus, the Greek courts will expand legitimate interest in environmental matters, particularly in regard to legal persons whose scope of activities includes the protection of the respective common good or interest. However, such extension may not be characterised as being *actio popularis*.

### **What steps can government and stakeholders in your jurisdiction take to overturn successful public opposition to new energy projects?**

The government and other stakeholders, including energy entities, have taken different steps in order to address public opposition to new energy projects. In many cases, these efforts have been successful and include the following:

- Stakeholders have sought to ensure that their procedures are transparent by providing proper and timely information to local communities and the general public regarding projects' details, effects and monitoring. One of the most recent examples is transposition of EU Directive 2013/30 on safety of offshore oil and gas operations of June 12 2013 by Law 4409/2016 concerning the conditions that should be met in order to license companies dealing with the extraction and use of hydrocarbons. According to the law, the public must be consulted on the possible consequences of projects in an effective manner at a primary stage. If the public has not been consulted, it should be informed – at length – about the location of the project and the right to be a part of the decision-making process by providing remarks and opinions.
- Some energy entities have provided voluntary support and compensation to local communities, including the construction of new facilities which may improve residents' quality of life or other benefits such as employing a local workforce in the plant.
- Direct financial benefits have also been provided to local communities – for example:
  - Article 8 of Law 2289/1995 on the research, exploration and exploitation of hydrocarbons provides that the managing company, among others, must pay regional

tax equal to 5% of its income, which will be used in the area in which the project takes place; and

- according to a recent joint ministerial decision,<sup>(1)</sup> 1% of the pre-value added tax purchase price paid to RES electricity producers is to be withheld from the special RES account by the Electricity Market Operator and attributed to the electricity suppliers so that they can in turn credit it through electricity bills to the residential consumers of the municipalities where RES stations operate.

- Finally, energy stakeholders have sought to negotiate and settle disputes through mediation and communication with various stakeholders before the issues are submitted to courts.

### **What strategies can governments and stakeholders adopt to promote local support, improve community engagement and better inform local communities of the potential benefits of new projects?**

Other than the strategies which are already applied in practice, providing proper information to local communities may be supported by informative campaigns which address the scope of the energy project, the benefits of the work and possible environmental consequences. To that end, in certain fields, such as RES, cooperation with environmental groups could be effective. Residents should also be informed about the outcomes of environmental reports and studies. The government and energy entities should respond to public enquiries and concerns providing additional information (if necessary) – for example, on the protection measures undertaken or clean methodology used.

Further, proper and strict monitoring of energy projects by the respective authorities and immediate reactions to any irregularities and breaches by the energy entities establishes confidence in local communities and the general public that their common goods and interests are sufficiently protected.

Moreover, unification of administrative and court practice in dealing with applications from residents and legal entities is necessary to reduce unrealistic expectations. In this context, the relevant authorities and courts must ensure that decisions are made quickly.

Finally, new laws and regulations, harmonised with the EU laws which provide increased protection to communities and the environment, are sometimes delayed; thus, the regulatory framework for a specific energy activity may not be complete at the time it is undertaken.

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### **Endnotes**

(1) APEHL/oik 181851 of August 9 2016

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