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# New renewable energy regulatory framework

## Partial transposition of RED III Directive promoting the use of energy from renewable sources and decarbonization

### Portugal - Legal Flash

December 6, 2024



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### Key aspects

Decree-Law 99/2024, published on December 3, introduces notable changes to Portugal's renewable energy regulatory framework by:

- > simplifying **licensing** procedures and making it easier to connect production plants to the grid;
- > streamlining **decentralized** energy **production** and expanding the **hybridization concept** to include **storage**;
- > introducing new rules for **compensating municipalities**, increasing the compensation to be made considering the connection power;
- > simplifying the rules for using areas in the **national agricultural reserve (RAN)** and for registering small-scale renewable energy production units; and
- > adjusting the status of **electro-intensive consumers** to better align with European Union law, benefiting eligible productive sectors.



[Decree-Law 99/2024](#), published in the Official Gazette of the Republic of Portugal on December 3, amends the country's renewable energy regulatory framework and **enters into force on December 18, 2024**.

Decree-Law 99/2024 introduces several significant changes, including measures to:

- simplify licensing procedures and make it easier to connect production plants to the grid;
  - facilitate decentralized energy production;
  - broaden the hybridization concept to include storage;
  - enhance the competitiveness of the industrial sector by adjusting the status of electro-intensive consumers;
  - revise the mechanisms for compensating municipalities for installing power plants; and
  - improve and simplify the bilateral energy contracting process.
- **Background:** Decree-Law 99/2024 partially transposes [Directive \(EU\) 2023/2413](#) (RED III), which in turn amends Directive (EU) 2018/2001, on the promotion of the use of energy from renewable sources—for more information, see our post [Publication of the new directive on renewable energies or “RED III Directive.”](#) Recall that the draft of this decree-law was open for public consultation back in September—see our post [Public consultation: renewable energies](#).

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## Simplifying and streamlining licensing of renewable energy projects

Decree-Law 99/2024 introduces several measures to simplify and streamline the licensing process for renewable energy projects. We summarize the main changes below:

➤ **Reduced timeframes for issuing production and operation licenses**

The timeframes for procedures for issuing production and operation licenses cannot exceed a total of:

- a) two years for renewable energy projects; and
- b) three years for offshore renewable energy projects.

These periods may be extended by up to six months by the director-general of the Directorate-General for Energy and Geology (“DGEG”) if extraordinary circumstances related to the projects arise, particularly those affecting the safety and reliability of the Public Service Electricity Grid (“RESP”).



However, these timeframes do not include the periods for:

- a) the construction of renewable energy power plants, including their grid connections and related infrastructure, to guarantee the RESP's stability, reliability and security;
- b) the administrative procedures for significant network upgrades to guarantee its stability, reliability and security; or
- c) procedures involving administrative or judicial challenges to decisions, actions or omissions in compliance with Decree-Law 15/2022.

## > **Prior registration procedures**

Prior registration procedures must not exceed:

- a) one month for solar production units with an installed capacity of up to 100 kW;
- b) three months for other solar power generation and energy storage units, including those integrated into buildings and artificial structures, excluding artificial water bodies; and
- c) two years for repowering offshore renewable energy projects, which the DGEG's director-general may extend by up to three months if extraordinary circumstances related to the projects are verified.

If a decision is not issued within the specified timeframe for the prior registration procedure, tacit approval is considered granted, provided the installed capacity does not exceed the existing capacity for connection to the distribution network.

## > **Electronic platform**

To streamline the process and enhance its transparency, licensing procedures will be carried out through an electronic platform.

## > **Proposal for defining the scope of environmental impact assessments**

It is now mandatory to submit a proposal defining the scope of an environmental impact assessment (“EIA”) before initiating the actual EIA procedure for renewable energy power plants and related infrastructure.

## > **Exemptions from EIAs**

Power plants primarily using solar energy and their associated storage facilities, installed in buildings or artificial structures, are exempt from EIAs. However, this exemption does not apply to power plants installed (i) on artificial water bodies; (ii) in areas or buildings that are classified or are in the process of being classified, along with their respective protection zones; or (iii) in areas or structures important to safeguarding national defense or security



interests.

## > **Storage**

The scope of prior control for co-located electricity storage now follows the same terms previously applicable to stand-alone storage projects. Also, storage is subject to the procedure for prior verification of charging capacity through the RESP by the competent network operator and the overall national electricity system (SEN) manager, from which the licensing entity requests an opinion to determine the maximum apparent power value for charging from the RESP.

## > **Security deposit reduction**

In procedures for acquiring reserve capacity through an agreement between the promoter and the grid operator, the security bond has been reduced to €10,000 per MVA. The security bond must have a minimum validity of 30 months, with an obligation to maintain the security bond until the electricity production plant becomes operational. It has also been clarified that these bonds will be returned when the agreement is not concluded due to reasons attributable to the grid operator.

## > **Public interest presumption**

Planning, constructing and operating renewable power plants and storage facilities, including their grid connections, are activities that are presumed to serve the public interest in terms of health and safety. This presumption applies when seeking environmental licenses, particularly for assessment of impacts on natural habitats or priority species, or for exemptions from environmental goals for bodies of water.

## > **Additional energy**

All wind farms are now allowed to inject additional energy, as the requirement for them to be operational when Decree-Law 15/2022 enters into force has been dropped.

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## **Promoting decentralized energy production**

Decree-Law 99/2024 promotes decentralized energy production through the following measures:

- > **Self-consumption:** Facilitating the creation of renewable energy and collective self-consumption communities, particularly in low-density territories, by increasing the permitted distances for installing production units.



- **Process simplification:** Introducing mechanisms to streamline the registration of small-scale production units, thereby strengthening oversight without delaying the start of project operations.

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## Broadened hybridization concept

- **Hybridization definition:** Hybridization now includes not only the combination of different renewable energy sources but also the inclusion of storage units. With storage being part of the hybridization context, legal ownership can now be separate, as established in article 75 of Decree-Law 15/2022.

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## Repowering

- **New definition:** The term “implementation polygon” is replaced by “implementation area” in the new legal definition of repowering. This change addresses a pressing issue with the previous repowering regime, as the term “polygon” was unsuitable for wind farms and created obstacles to applying this concept to these projects.
- **Timeframe:** The prior control procedure for repowering renewable energy power plants and energy storage facilities, including connecting them to their respective infrastructure, must not exceed one year from the application date. The director-general of the DGEG can extend this period by up to three months.
- **Simplified procedures:** Requests to amend production licenses for repowering power plants that do not increase installed capacity by more than 20% must be approved within three months. However, this does not apply to cases with justified reservations about safety or technical incompatibilities, nor does it exempt compliance with environmental impact assessment legislation.
- **EIA exemption:** The EIA exemption now applies to repowering solar and wind power plants, with the previous requirement for a reduction in the number of towers to be repowered no longer applying in the case of power plants.



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## Compensation granted to municipalities

Decree-Law 99/2024 introduces new rules for compensating municipalities that install power plants, removing the previous distinction between projects with a connection capacity above 50 MVA and those between 1 MVA and 50 MVA:

- **Transfer:** A provision is now made for the transfer of a self-consumption production unit (UPAC) with a capacity equivalent to 1% of the connection capacity (previously 0.3%). This unit must be installed in municipal buildings or collective-use facilities. Alternatively, it can be installed in areas designated by the municipality, such as communities near the electricity production plant or storage facility. As another option, it can be provided as electric vehicle charging stations—with equivalent capacity—located in public spaces and intended for public use.
- **Compensation:** Municipalities can choose to receive a one-time cash compensation of €1,500 per MVA of allocated connection capacity.

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## Use of areas in the national agricultural reserve

The rules for using areas within the national agricultural reserve (“**RAN**”) have been simplified as follows:

- **Use of RAN:** Areas within the RAN can be used for renewable energy production, provided they constitute less than 10% of the total contracted area and are smaller than 1 hectare.
- **Supports and lines:** Compliance with legal requirements is presumed for using areas within the RAN to place supports and pass internal and connection lines from power plants to the RESP, provided the RESP does not impose restrictions from the establishment of the line easement that would harm the dominant crop in the affected area.

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## Registration of small-scale renewable energy production units

Decree-Law 99/2024 simplifies the registration process for small-scale renewable energy production units, while also boosting oversight:

- **Registration procedure:** Prior registration is carried out through an electronic platform, with certain deadlines reduced by half.



- **Oversight:** Enhanced oversight ensures compliance of the installation without delaying the start of project operations.
- **Operation certificate:** The operation certificate is automatically issued if there is no rejection within 10 days of submitting the inspection report.

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## Electro-intensive consumer status

The electro-intensive consumer (“ECE”) status has been adjusted to align it with European Union law:

- **Grid connection:** Any type of connection to the grid—including low voltage—is now admissible for eligibility, removing the previous requirement for connections in EHV, HV or MV.
- **Changes in reduction of General Economic Interest Costs (“CIEGs”):** ECEs will now benefit from a fixed reduction of 75% or 85% in charges corresponding to CIEGs.
- **Type of eligible sectors:** The range of eligible sectors and production processes has slightly modified. Specifically, sectors listed in annex 1 to European Commission Communication 2022/C 80/01 are now eligible.

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## Bilateral contracting

Decree-Law 99/2024 establishes the framework for the registration and bilateral contracting of energy:

- **Principles:** The registration and bilateral contracting of energy must adhere to the principles of transparency, non-discrimination, impartiality, promotion of competition, and economic efficiency.
- **Regulations:** The terms and conditions for energy registration and bilateral contracting will be approved by an ordinance from the Secretary of State for Energy.
- **Integration:** The management of registration and bilateral contracting falls within the scope of Regulation (EU) 2024/1747.



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