



# Technical support for RES policy development and implementation – Simplification of permission and administrative procedures for RES installations (RES Simplify)



Spain

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## Executive summary

The sections of the report present a detailed description of the main administrative steps to be taken in order to implement onshore wind as well as ground-mounted and rooftop PV projects in Spain.

Spain has already great experience in RE development in the last decades and its National Energy and Climate Plan foresees ambitious and still realistic renewable energy expansion. Through the research conducted, it can be concluded that the cornerstone of the Spanish system is the access and connection permits to the grid. These permits are to be obtained first: without them, the project developer cannot even start other administrative steps.

This process step has been characterised by barriers that hinder and impede a more rapid, transparent, and efficient development of renewable energy projects. As learnt through the interviews with Spanish stakeholders, the country has experienced stop-and-go deployment cycles as a consequence of regulatory sudden (retroactive) changes. Recently, a new boom in the renewable energy sector caused a major collapse in the access and connection requests, which only worsened other existing barriers. The renewable energy sector, including the associations, have pushed for necessary changes and the national authority, the Ministry for the Ecologic Transition and Demographic Change, has also introduced and implemented important and long-awaited regulations. Besides, there is a major barrier across all process steps: the lack of harmonisation in the regulation and requirements. This is a reflect of the Spanish constitutional design, under which not only the National or Central government has competences on administrative, environmental and energy matters, but also the Autonomous Communities and their municipalities have shared competences. Even within a single Autonomous Community, each municipality can present different requisites, which only adds more uncertainty for project developers. Therefore, the report also provides insights into the procedures at both governmental levels (including municipalities). Delays experienced in several process steps call for more and better digitalisation in the public administration, for greater regulatory coordination between the three levels of government, and for more civil servants in the processing of administrative authorisations. As it is highlighted in the report, there are already positive initiatives from the public administration side (such as new regulations) and from the private-civil society side, with capacity building, awareness creation and pushing for a faster and more efficient energy transition.

Table 1 contains a traffic light assessment of the relevant process steps for onshore wind and ground-mounted PV and rooftop PV projects in Spain.

Table 1: Traffic light assessment of the relevant process steps

Process step	Site selection	Electricity production license	Application preparation process	Administrative authorization	Grid connection permit	Corporate legal-fiscal	Other
Wind Onshore	Minor barriers identified	No barriers identified	Not relevant for target country	Minor barriers identified	Moderate barriers identified	No barriers identified	Not relevant for target country
PV ground-mounted	Minor barriers identified	No barriers identified	Not relevant for target country	Minor barriers identified	Moderate barriers identified	No barriers identified	Not relevant for target country
PV rooftop	No barriers identified	No barriers identified	Not relevant for target country	Minor barriers identified	Not relevant for target country	No barriers identified	Not relevant for target country

<span style="color: green;">■</span> No barriers identified	<span style="color: red;">■</span> Moderate barriers identified
<span style="color: yellow;">■</span> Minor barriers identified	<span style="color: gray;">■</span> Not relevant for target country
<span style="color: magenta;">■</span> Severe barriers identified	<span style="color: black;">■</span> No projects implemented

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## 1. National RES targets and relevant RES technologies

Spain has a great potential for further renewable energy (RE) expansion, especially in the electricity sector. The National Energy and Climate Plan (NECP) foresees that by 2030 42% of final energy consumption will be covered with RE sources (electricity, heating & cooling, and transport sectors). In the electricity generation sector, the NECP contemplates the increase of many RE technologies, but foresees a great impulse for onshore wind and solar photovoltaics (PV).

Figure 1 displays the annual deployment of PV and onshore wind between 2010 and 2019. The figures for both technologies decreased dramatically between 2013 and 2018 and were deployed to a large extent in 2019.

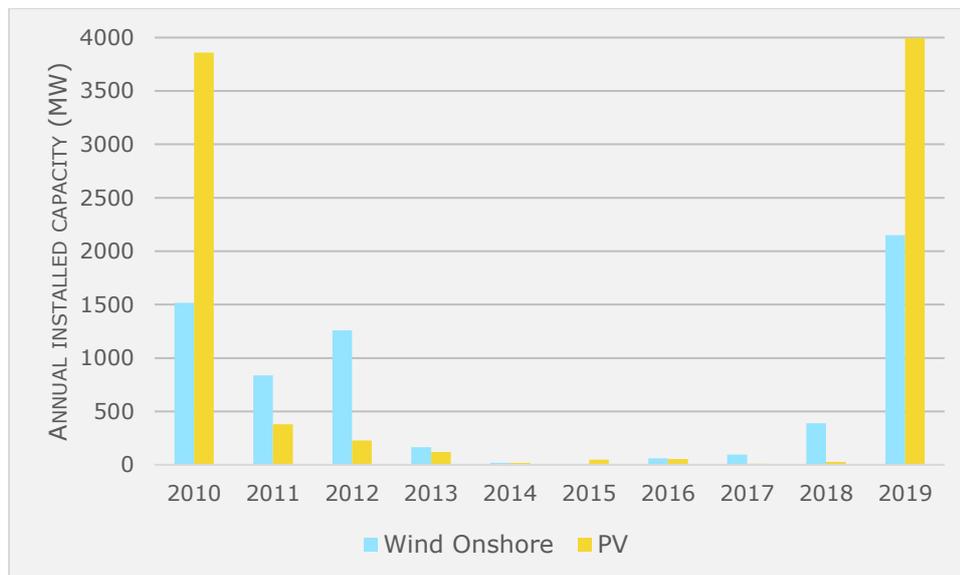


Figure 1: Annual installed capacity of PV and Wind onshore 2010-2019 (source: EurObserv'ER)

Wind onshore is expected to grow from 28,033 MW by 2020 to 50,333 MW of installed capacity, under a scenario with additional policy measures. In relation to solar PV, it is expected to go from 9,071 MW in 2020 to 39,181MW by 2030 (NECP, 2020). Spain is developing not only ground-mounted PV installations, but also rooftop PV for self-consumption is gaining momentum thanks to new regulations passed.

Based on the NECP forecasts, this report will describe the administrative procedures for onshore wind and solar power, both ground-mounted PV and rooftop PV for self-consumption. To mirror the special constitutional design, the report addresses the national level and also three Autonomous Communities cases: Castilla y León (onshore wind), Castilla-La Mancha (ground-mounted PV), and Andalucía (rooftop PV).

The three Autonomous Communities selected represent the regions with the largest installed capacities of the respective technology, as reported by the (single) Transmission System Operator Red Eléctrica de España (Red Eléctrica de España, 2019).

Other renewable energy sources, such as hydropower, is also relevant in the Spanish energy mix. However, the NECP plans a rather small growth of this technology. Starting with 14,109 MW of installed capacities in 2020 it will grow to 14,609 MW by 2030 (under a scenario with additional measures).

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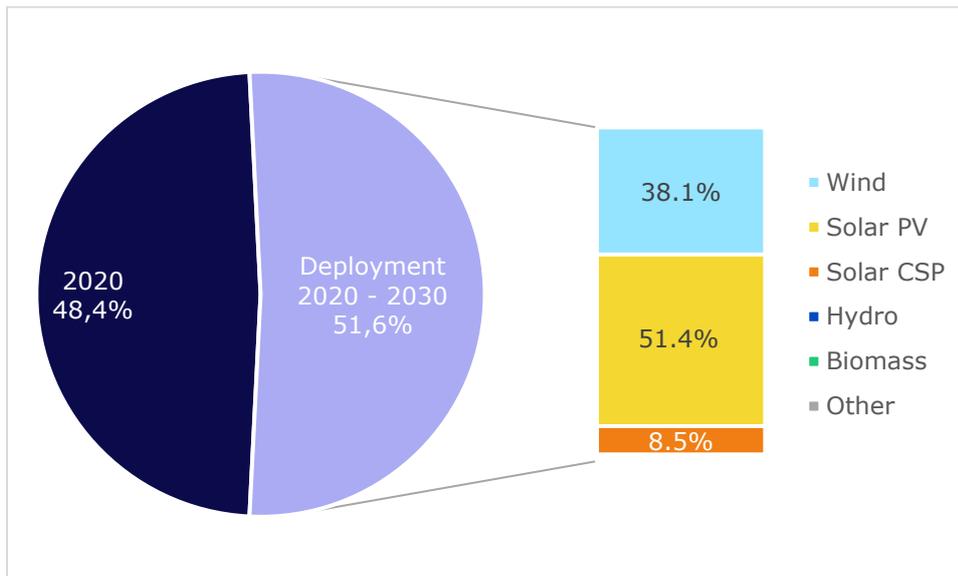


Figure 2: Planned deployment of RES-E 2020-2030 in relation to past deployment (source: NECP)

## 2. Administrative and grid connection procedure

### 2.1. Relevant process steps

The regulatory regime of renewable energies in Spanish law is complex and fragmented (Mora Ruiz, 2014). This fragmentation responds to the constitutional design of the distribution of competences between the National State and the Autonomous Communities. Although the National State plays a structural role in the sector (it establishes the bases of the mining and energy regime), the Autonomous Communities (there are 17 of them in Spain) have a wide margin of action and influence in the legal and administrative regime of renewable energies (Mora Ruiz, 2014). For example, the Autonomous Communities have competence in energy matters and environmental management, which means that they have the power to grant the environmental authorisations or permits that are necessary for renewable energy projects. Municipalities within each Autonomous Communities also play a key role in the processing and can request for different requisites, which adds more complexity to the system.

This complex constitutional design results in a lack of regulatory unity and harmonisation when it comes to processing authorisations of renewable energy projects, since national regulations are not identical to regional regulations, and there is also no regulatory unity between the Autonomous Communities. This means that the project developer must adapt according to the region where she wants to build her project.

The main criterion to determine which authority (National or Autonomous Community) is competent in the authorisation of a project is the size of the renewable energy installation (for all technologies). If its power is larger than 50 MW, the administrative permits are requested at the National level (Ministry for Ecological Transition and Demographic Challenge) (art. 3.13 Law 24/2013 of the Electric Sector). Renewable energy projects with power equal to or lower than 50 MW must request the permits through the Regional Governments, i.e., the 17 Autonomous Communities (for example, Andalucía, Castilla y Leon, Castilla-La Mancha, among others) (art. 3.13 Law 24/2013 of the Electric Sector). However, the administrative procedures are intertwined, as it is

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noted along the report. Besides, self-consumption is mainly processed by the local authorities.

The main relevant steps (both at the national and regional level) for onshore wind and ground-mounted PV are as follows:

- First, the project developer shall request the access and connection permits from the grid operator to whose grid the installation will be connected. It can be either the Transmission System Operator (TSO; Red Eléctrica de España) or the respective Distribution System Operator (DSO).
- Afterwards, the project developer shall analyse and negotiate land contracts.
- Once the project developer obtained the access and connection permits, the administrative authorisation process can start<sup>1</sup>. There are mainly three authorisations to apply for:
  - Prior Administrative Authorisation (PAA)
  - Administrative Authorisation for Construction (AAC)
  - Local permits, such as a building permit
- To be granted with the abovementioned authorisations, the project will need to undergo an Environmental Impact Assessment (EIA) and obtain a favourable Environmental Impact Declaration (EID). The EIA can be an ordinary or a simplified process, depending on the regulation.
- With a favourable EID the relevant authority will issue the administrative authorisations (PAA, AAC, local permits).
- In some cases, the project may require to implement easements and expropriation of property. The applicant shall request a Declaration of Public Utility (DPU) to proceed with the easements and expropriations.
- Once the previous steps are completed, the project developer can start with constructions. To get the plant running, an exploitation license (commissioning certificate) is needed.
- The installation shall be registered in the Administrative Register of Electricity Production Facilities. The registration is a precondition for the operation in the electricity market

Despite the described sequential order, certain requests can be submitted together, in particular, the EID, PAA, AAC, and DUP. However, the first steps will be to request the access and connection permits, as well as going through the EIA and obtaining the corresponding EID.

The rooftop PV units for self-consumption follow a shorter procedure, since these units do not need to obtain an EID, PAA, AAC, and DPU. In some municipalities, as in the Autonomous Community of Andalucía, a building permit is also not required. In some other Autonomous Communities, however, these units face more administrative burden since they need to obtain building permits and other local licenses.

Regarding deadlines, there are general rules that define how to calculate them (Law 39/2015; Second additional provision, Royal Decree 1183/2020) that applies to all process steps described in this report (and to all administrative procedures in Spain and its Autonomous Communities). In general:

- When the time periods are indicated by days, it is understood that these are working days.

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<sup>1</sup> It was reported that in some regions project developers may start the administrative process before the access and connection permits are awarded, but it is not common practice.

- The time period expressed in days shall be counted from the day following that on which the notification takes place, or from the day following that on which said notification, act or pronouncement should have taken place.
- If the period is fixed in months or years, they shall be calculated from the day following that on which the notification takes place, or from the day following that on which the notification should have taken place.

### **2.1.1. Site selection**

#### **Process flow**

##### **National level and Autonomous Communities**

There are no formal administrative procedures related to site selection. Each project developer will be responsible of doing the negotiations needed to find the appropriate land. After the project developer obtains the access and connection permits, she shall decide and make the arrangements for the projected land. This includes, among others, the detection of the land, its analysis, visits, negotiations and contracts (Rucián Castellanos, 2019). Besides, if expropriations are needed, then a Declaration of Public Utility process may be requested together with the Environmental Impact Declaration, the Prior Administrative Authorization and the Administrative Authorization for Construction (as explained in the respective section).

The interviewed stakeholders did not refer to specific efficiency, effectiveness and/ or transparency issues regarding this process step.

#### **Deadlines**

As there are no formal administrative procedures for site selection, there are also no formal deadlines. However, when submitting an access and connection request, the applicant must include the location of the plant (Circular 1/2021 CNMC). Besides, from the interpretation of Royal Decree-Law 23/2020 and Royal Decree 1183/2020, after the project developer obtains the access permits, she shall comply with certain administrative milestones, in particular the developer has to present the PAA request within six months of having obtained the access and connection permits (art. 1 Royal Decree Law 23/2020). When the PAA request is submitted, the application shall also contain, among other pieces of information, the location of the installation (art. 123 Royal Decree 1955/2000). Therefore, site selection should begin before access and connection permits are granted and also the project developer would have 6 months to decide on the final location since the access permit was granted and the PAA request submitted.

#### **Detected barriers**

**Issues with negotiating land contracts due to the access and connection permits procedure.** The lack of transparency of the access and connection permits procedure can generate issues and uncertainty when negotiating land contracts, as reported by the interviewed legal expert Bassas Pérez (2020). In particular, and before the new regulation was approved (Royal Decree-Law 23/2020 and Royal Decree 1183/2020), the developer had to consult the information about available capacity on nodes and apply for a specific connection point accordingly. However, that information was not always accurate or updated, which in addition to the delays and lack of transparency of the process, sometimes implied that the request was rejected or it was offered in a different location. If project developer already had negotiated land contracts, it may be difficult and expensive

to re-negotiate them or to cancel them. However, with the new regulations (Royal Decree 1183/2020 and Circular 1/2021) the situation could improve (for more details see section 2.1.4. 'Grid Connection Permit'). In particular, the Circular 1/2021 sets the conditions and methodology for access and connection permits to the grid for electricity producers, a regulation much awaited. As it was approved recently (20 January 2021) a thorough assessment is yet not possible. However, it has generated expectations in the RE sector because it could bring agility and transparency to the processing of access and connection permits (Bassas Pérez, 2020).

### **Identified good practice**

Given the ambitious goals of the Spanish NECP, especially regarding solar PV and wind power, the Ministry for the Ecologic Transition and the Demographic Challenge has recently created a tool to help in strategic decision-making on the location of large solar and wind installations (not self-consumption and rooftop) because they involve significant use of land and can generate significant environmental impacts. The tool consists in a zoning of the environmental sensitivity of the territory. Hence, it identifies the areas of the national territory that present the greatest environmental conditioning factors for the implementation of renewable energy projects (Ministerio para la Transición Ecológica y el Reto Demográfico, 2021b). The tool includes two maps showing the territory classified into 5 environmental sensitivity classes for each type of project analysed (maximum, very high, high, moderate and low).

Besides, the Autonomous Community of Castilla-La Mancha has an application on the website called INES (Information system on Sensitive Spaces in Environmental Impact Assessments), which allows to analyse the environmental effects of plans, programmes and projects. It groups together the cartographic information on protected natural spaces, sensitive areas, public forests and livestock trails (Consejería de Agricultura Castilla-La Mancha, 2021).

The layers of the INES map allow the user to view and consult: Protected Natural Spaces, Peripheral Protection Areas, Sites of Community Interest, Areas of Special Importance for Birds, Protected Areas in Process, Fauna Refuges, Fishing Refuges, Geomorphology Wetlands, Linear Geomorphology, among others (Consejería de Agricultura Castilla-La Mancha, 2021). Besides, the Autonomous Community offers two additional sources (online maps) to observe in greater detail Protected Areas and livestock trails and public forests.

It should be noted that these tools do not exempt from the relevant Environmental Impact Assessment process, they are rather a guidance to ascertain the environmental conditioning factors associated with the locations of the installation from the early stage, which can be very useful.

## **2.1.2. Electricity production licence**

### **Process flow**

In Spain, renewable energy installations shall obtain an exploitation license before they can start operating. Once the project has been executed, the applicant will submit a request to obtain the commissioning certificate to the Industry and Energy Area of the respective Government Delegation that processed the administrative file (National or Autonomous Community). This license will be granted once the project has been executed (art. 53 Law 24/2013).

## **National level**

The project developer shall accompany her application with a certificate of completion of the work, signed by a competent technician, stating that the installation has been carried out in accordance with the specifications contained in the approved execution project and with all technical regulations. The authority has a period of one month to issue the commissioning certificate (art. 132 Royal Decree 1955/2000).

The exploitation license (or commissioning certificate) will be issued by the provincial delegation, after any technical verifications deemed appropriate (Ministerio para la Transición Ecológica y el Reto Demográfico, 2021a).

## **Castilla y León (onshore wind)**

The Directorate General for Energy and Mines (Regional Ministry of Economy and Finance) is the competent authority to grant the commissioning certificate, after an inspection of the installation (Decree 189/1997). Similar to the national system, the applicant will submit the request with a certificate of completion of work. Within one month of the request being submitted, the substantive body will decide on the exploitation license.

## **Castilla-La Mancha (ground-mounted PV)**

The competent authority to issue the commissioning certificate is the Directorate General of Energy Transition (Regional Ministry of Sustainable Development) (Decree 80/2007). With the request, the applicant shall accompany a works management certificate signed by a competent technician and endorsed by the Official Association, stating that the installation has been carried out in accordance with the specifications contained in the approved execution project. The authority shall issue the certificate within one month of the request being submitted.

## **Andalucía (rooftop PV)**

There is no proper exploitation license for self-consumption units. However, for units with a power larger than 25 kW an Authorized Control Body (*Organismo de Control Autorizado*)<sup>2</sup> will carry out an initial inspection of the PV installation (Governing Board of Andalucía, 2019).

For self-consumption units with power up to 100 kW, the installer of the unit will issue a certificate stating that the self-consumption installation complied with the Electrotechnical Regulations. Afterwards, the self-consumer notifies the commissioning of the installation with the referred certificate (Union Española Fotovoltaica, 2019). In the case of Andalucía, the installer can directly submit the certificate digitally through a platform called PUES and the unit will be registered as a generation installation automatically.

## **Deadlines**

As stated above, in the National level as well as in the regional level, the authority has one month to issue the certificate.

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<sup>2</sup> The Authorized Control Bodies (OCAs) are public or private entities, whose purpose is to verify compliance of a mandatory nature with the safety conditions of industrial products and installations by means of certification, testing, inspection or audits (Asociación de Organismos de Control de Andalucía, 2021).

## Detected barriers

No barriers related to this process were identified.

## Identified good practice

No good practice related to this process was identified.

### 2.1.3. Administrative authorisation

Independently if the project is larger or smaller than 50 MW, project developers need to request and obtain different environmental and administrative authorisations before the renewable energy installation can start to operate. After getting the access and connection permits, the project developer shall apply for and obtain:

- Environmental Impact Assessment, which can be ordinary or simplified. In the first case, the developer shall obtain a favourable Environmental Impact Declaration (EID). In the latter, the outcome shall be a favourable Environmental Impact Report (EIR) (Law 21/2013).
- Prior Administrative Authorisation (PAA) (art. 53 Law 24/2013)
- Administrative Authorisation for Construction (AAC) (art. 53 Law 24/2013)
- Declaration of Public Utility (DPU) (art. 54 Law 24/2013)
- Local permits (such as building permits, depend on each Municipality)

The project developer can submit the request for the EID (or EIR), the PAA, the AAC, and the DPU jointly. In this request, the applicant will submit an execution projects of the installation, an Environmental Impact Study and a Public Participation Report (Secretaría de Estado de Energía, 2018). After the request is submitted, the first process is the Environmental Impact Assessment (ordinary or simplified) that will be correspondingly conducted by the competent National or Regional authority. Once the Environmental Impact Assessment process is conducted, the competent environmental authority will elaborate the respective EID (or EIR) that will define under which conditions the project can be developed. With a favourable EID (or EIR), the authority will continue with the process and will resolve the PAA, AAC and DUP. Afterwards, the project developer shall obtain the local permits (such as a building permit). When the project developer obtains all the mentioned permits and once the installation is built, she shall request the exploitation authorisation (see respective section).

The competent authorities to process and decide on the administrative authorisations are:

#### National level

- The Directorate General for Energy Policy and Mines (part of the Ministry for Ecologic Transition and Demographic Challenge) is the competent authority to decide on the administrative authorisations, i.e., the substantive body. However, the processing of the administrative authorisations will be carried out by the Industry and Energy Departments of the National Government Delegations or Sub delegation in the provinces where the installation is located.
- The Directorate-General for Environmental Quality and Assessment (also part of the Ministry of Ecological Transition and Demographic Challenge) is the competent environmental body to intervene in the EIA.

#### Autonomous Communities

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*Castilla y León*

- Substantive body: Directorate General for Energy and Mines (part of the Regional Ministry of Economy and Finance).
- Environmental body: Directorate General for Environmental Quality and Sustainability (part of the Regional Ministry of Development and Environment).

*Castilla-La Mancha*

- Substantive body: Directorate General of Energy Transition (part of the Regional Ministry of Sustainable Development).
- Environmental body: Department of Sustainable Development. Vice-Ministry for the Environment.

*Andalusia*

- Substantive body: Directorate General for Industry, Energy and Mines and its territorial delegations (part of the Regional Ministry of Finance and European Funding).
- Environmental body: Directorate General for Environmental Prevention and Quality (part of the Regional Ministry for the Environment and Territorial Planning).

This section is divided in each of the abovementioned authorisations, differentiating between the National and Regional levels.

## **Environmental Impact Assessment**

### **Process flow**

As stated above, the project developer can jointly submit the requests for the authorisations, including the EIA and the corresponding Environmental Impact Declaration (EID). The EID (or EIR) is a prerequisite to obtain the AAP and AAC, hence, it will be processed first.

Depending on the size of the installation, the project developer shall request the EIA at the National level or at the Regional level (Autonomous Community). However, even when the EIA process is carried out by the National government, the environmental body of the Autonomous Community affected by the RE project must be consulted (art. 3 Law 21/2013).

In general, it has been reported during the interviews that the competent authorities have considerable discretion in decision-making in relation to this process, since the criteria used to assess the project is not always transparent or disclosed. This could generate uncertainty in the processing of the EIA.

#### *National level (onshore wind and ground-mounted PV)*

The Law 21/2013 of Environmental Assessment sets the rules for all Environmental Impact Assessments (EIA) in Spain. However, Autonomous Communities have the constitutional competence to set additional protection rules through their own EIA laws and regulate deadlines, as it is described below. The EIA takes place before the administrative authorisations, because the Authority needs to consider and assess the probable environmental impacts before deciding on the authorisation of the project.

The EIA process is conducted by two authorities, as defined by Law 21/2013:

- **Substantive body:** competent body of the public administration to authorise a project, unless the project consists of different activities whose competence is held

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by different administrative bodies. In this case, the substantive body shall be considered to be that which holds the powers over the activity whose purpose the project is aimed at, with priority over the bodies that hold powers over instrumental or complementary activities with respect to that activity.

- **Environmental body:** the body of the public administration that carries out the technical analysis of the environmental assessment files and formulates the EIDs and the EIRs.

There are two types of EIA process: ordinary and simplified. The Law 21/2013 has two Annexes indicating which projects should undergo the ordinary, longer EIA process (Annex I), and which projects should undergo the simplified, shorter EIA process (Annex II).

Regarding renewable energy technologies, the **ordinary** EIA is applied to (Annex I, Law 21/2013):

- Wind power installations that have 50 or more wind turbines, or that have more than 30 MW or that are located less than 2 km from another operating wind farm (in operation, under construction, with administrative authorisation or with EID).
- Installations for the production of electricity from solar energy, intended for sale to the grid, which are not located on roofs of buildings and which occupy more than 100 ha of surface area.

The **simplified** EIA process is applied to (Annex II, Law 21/2013):

- Wind power installations not included in Annex I, except self-consumption installations not larger than 100 kW of installed capacity.
- Installations for the production of electricity from solar energy, intended for sale to the grid, not included in Annex I and which are not located in rooftops or urban soil and occupying an area greater than 10 ha.

The **ordinary** procedure has different phases. First, the project developer elaborates the Environmental Impact Study of her project, which will be subject to public consultation and public information with interested public and private parties. Afterwards, the environmental body conducts the technical analysis of the request and formulates the Environmental Impact Declaration (EID), which determines whether or not to proceed with the project. The EID may also establish the environmental conditions under which the project can be developed and decommissioned, the corrective measures for negative environmental effects and, if appropriate, the compensatory measures for these negative environmental effects. Finally, the content of the EID is integrated in the authorisation of the project by the substantive body.

In more detail, the **ordinary** EIA is structured as follows (articles 33 to 44, Law 21/2013):

- The project developer must elaborate an Environmental Impact Study, which accompanies the project and identifies and analyses the likely significant environmental effects arising or likely to arise from the project. It also determines the measures necessary to prevent and compensate for adverse effects on the environment (art. 5, Law 21/2013).
- The developer will submit the project and the Environmental Impact Study to the substantive body, which will submit them to public information for a period of no less than 30 working days (through the Official State Gazette and in its electronic site). At the same time, the substantive body will consult the affected public administrations

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divisions<sup>3</sup> and interested parties<sup>4</sup> on the possible effects of the project on the environment. For instance, the administrative body dealing with environmental protection issues of the respective Autonomous Community must be consulted. In the event that the project affects areas declared to be of interest to National Defence, the Ministry of Defence must also be consulted and it will elaborate a report with binding effects. All consultations shall be conducted by electronic means.

The Public Administration Divisions and the interested parties have a maximum period of 30 working days from receipt of the notification to issue the reports and formulate the allegations they deem appropriate.

- After the developer considered the allegations resulted from the public consultation period, the substantive body forwards the EIA request to the environmental body with all the documents. The environmental body conducts the technical analysis of the environmental impact file and then formulates the Environmental Impact Declaration (EID). The technical analysis and the EID shall be carried out within 4 months of receipt of the complete environmental impact file. However, as a general rule, the silence of the administration regarding the EID can never be understood as a favourable decision (art. 10 Law 21/2013).

Besides, the environmental body can, within 20 days of receiving the EIA request, decide the inadmissibility of the request based on the following three reasons: a) if it deems that the project is manifestly unfeasible for environmental reasons; b) if it deems that the environmental impact study does not meet sufficient quality conditions; or c) if it had already rejected or had already issued an unfavourable EID on a substantially similar project. Prior to the inadmissibility resolution there will be a hearing with the project developer. The decision may be challenged in administrative and, where appropriate, in judicial proceedings.

- The environmental body will first perform a formal analysis of the documents and then a technical analysis. If during the technical analysis it appears that any of the mandatory reports (such as to the Ministry of Defence) are not sufficient to carry out the EIA, a period of 2 months will be opened for the corresponding authority to submit the information needed to complete the report.

The environmental body may require the project developer to provide further information regarding the Environmental Impact Study or if the project developer has not taken due account of the allegations received in the public consultations, she should complete the information submitted. The developer will have 3 months to submit the required information. If it fails to do so, the environmental body will terminate the EIA. The environmental body may also require reports from scientific or academic bodies, which will have 30 working days to respond.

- Once the environmental body finalizes the technical analysis, it will formulate the Environmental Impact Declaration (EID), which will decide on the possibility of the project to advance or not. It may also include conditions under which the project should be developed in order to protect the environment. Although the EIA can be negative and frustrates the project, in most cases the EIA for onshore wind projects is resolved by applying corrective or mitigation measures (Schmid & Barrios, 2020).
- The substantive body integrates the content of the EID into the authorisation of the project. The decision to refuse an authorisation shall state the main reasons for the refusal. The substantive body will publish the resolution in the Official Gazette within 15 days after the decision was taken.

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<sup>3</sup> Public Administrations Divisions that have competence on population, health, biodiversity, water, air, noise, landscape, etc. (Law 21/2013).

<sup>4</sup> Interested parties are for instance non-profit legal entities, which have among the purposes accredited in their statutes, the protection of the environment (Law 21/2013).

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- The EID will lose its validity if, once published in the 'Official Gazette of the State' (*Boletín Oficial del Estado*), the execution of the project has not begun within 4 years. In such cases, the developer will have to initiate the EIA of the project again. However, the project developer may request the extension of the validity for 2 more years.
- The EID itself is not subject to administrative or judicial appeal, without prejudice to any administrative or judicial appeals against the act authorising the project. In the event that a judicial proceeding affects, directly or indirectly, the execution of a project that has an EID, the term of the EID will be suspended from its beginning until the proceeding has a final court decision.

The **simplified** EIA is structured in the following way (articles 45 to 48, Law 21/2013):

- The Environmental Impact Study is not required. The project developer shall, however, submit information regarding the project, such as its characteristics concerning the construction, operation and dismantling of the project, the location of the installation, which environmental aspects could be affected, among others.
- If the substantive body considers that the request does not include all the mandatory documents and information, it will ask the project developer to submit the missing documents within 10 working days. Otherwise, the request will be considered as withdrawn. After collecting the necessary documents, the substantive body will forward the petition to the environmental body.
- Within 20 working days of receiving the petition, the environmental body can decide that the request is not admissible: a) if it deems that the project is manifestly unfeasible for environmental reasons; b) if it deems that the environmental documents submitted by the solicitor do not meet sufficient quality conditions. Prior to the inadmissibility resolution there will be a hearing with the project developer. The decision may be challenged in administrative and, where appropriate, in judicial proceedings.
- The environmental body will consult the affected public administrations and interested parties on the possible effects of the project on the environment. The consulted parties will have a maximum term of 20 working days to answer.
- The environmental body will formulate the Environmental Impact Report (EIR) within 3 months since it received the petition and the necessary documents. The EIR will decide whether the project shall undergo an ordinary EIA process, or that the project does not have significant negative impacts on the environment, or that it is not possible to decide on the environmental impacts of the project. The report will be published in the Official Gazette within 10 working day. The EIR will lose its validity if, once published in the Official Gazette, the project has not been authorised within a maximum period of 4 years. However, the developer can also request for an extension up to 2 years.
- For the authorisation, the substantive body will consider the Environmental Impact Assessment's results and the consultations conducted. If the authorisation is denied, the main reasons shall be provided.

#### Autonomous Communities

As stated above, National Law 21/2013 applies to all projects in Spain (i.e., developed in all the Autonomous Communities), however, the Autonomous governments can set their own more protective rules. Regarding renewable energy projects equal to or lower than 50 MW, the Administration bodies of the Autonomous Communities will conduct and decide the EIA process.

#### *Castilla y León (onshore wind)*

The EIA processes for onshore wind projects in the Autonomous Community of Castilla y León follow the National Law 21/2013 described above. Therefore, an ordinary EIA or a

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simplified EIA shall be conducted, depending on whether the wind project falls into Annex I or II of Law 21/2013. The same process flow and deadlines described above applies in the autonomic process. The relevant regional law is Decree Law 1/2015.

The competent environmental bodies for the EIA are:

- The Regional Ministry of Development and Environment intervenes in the EID (ordinary EIA) and the EIR (simplified EIA) when the location of the project affects more than one province of the Autonomous Community.
- The Heads of the Territorial Delegations of the Governing Board of Castilla y León intervene to issue the EIR (simplified EIA) when the location of the project does not affect more than one province within the Autonomous Community. There are 9 Territorial Delegations within the territory of Castilla y León.

Regarding *repowering* of projects, the Decree Law 1/2015 of Castile and León states that a simplified EIA should be carried out when the modification to the project may have significant adverse effects on the environment. It is assumed that modifications may have these effect when, taking as a reference the documents and information of the project, the modification implies: an increase of more than 50% in emissions into the atmosphere; an increase of more than 50% in discharges into public watercourses; an increase of more than 50% in the generation of waste; an increase of more than 50% in the use of natural resources; an impact on Protected Areas; a significant impact on cultural heritage.

*Castilla-La Mancha (ground-mounted PV)*

In Castilla La Mancha, the administrative EIA procedure also follows the National Law 21/2013, but different deadlines apply, according to the regional Law 4/2007 and Decree 178/2002.

Besides, unlike the national system, in Castilla-La Mancha the installations for the use of solar energy located on rural land when they have a thermal power equal to or greater than 1 MW, or an occupied area greater than 5 hectares, must undergo a simplified EIA. In the national system, the obligation of simplified EIA was for solar projects with an area greater than 10 hectares. The autonomous regulation is more stringent than the national one for this technology.

Regarding the **ordinary** EIA, the following steps and deadlines apply (Law 4/2007 of Castilla-La Mancha):

- The project developer submits the request to initiate the EIA with an Environmental Impact Study and the information required to the substantive body. If the information is not complete, the missing information must be submitted.
- Once the substantive body receives the complete request, it will conduct the public information and public consultation process with the interested parties and public administration divisions that may be affected. The deadline is 30 days.
- The substantive body sends the collected observations that resulted from the public consultation and the developer has 30 days to address them.
- Afterwards, the substantive body sends the file to the environmental body, which can decide on the inadmissibility of the project within 20 days of having received the file (previous hearing with the developer).
- The environmental body will conduct the technical analysis of the file. If the information is complete it will issue the EID and will forward it to the substantive body. The deadline is one month.
- The substantive body will then authorise or refuse the project.

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- Unlike the National system of Law 21/2013, in Castilla-La Mancha the EID will be valid for 3 years since the authorisation is published in the Official Gazette. If the execution of the project did not start in 3 years, the developer must initiate the EIA procedure again. Under National Law 21/2013, the validity is of 4 years. However, the developer may request a 2-year extension of the term to the environmental body. The deadline for its resolution will be of 2 months from the receipt of the request. Request for extension is considered to be approved if the environmental body does not issue a resolution within the 2-months deadline (positive administrative silence).

The **simplified** EIA is structures as follows:

- The project developer submits the request of EIA and the environmental and technical documents of the project to the substantive body. If there is missing information, the developer has 10 days to complete the request. Afterwards, the substantive body forwards the file to the environmental body.
- The environmental body has 20 days to declare the inadmissibility of the project (previous hearing with the project developer). The environmental body reviews the documentation and if it is incomplete, the developer has 10 days to submit the missing information.
- There is a term of 20 days to consult with public administration divisions and third parties that may be affected.
- Afterwards, the environmental body will decide whether an ordinary EIA is needed or not. If it is needed, the developer shall conduct the ordinary EIA process as described above. If it is not needed, within one month since the public consultation ended, the environmental body shall issue the EIR, which will be valid for 3 years, non-extendible. This is also different from the National system, where the validity after a simplified EIA is 4 years with a possible extension of 2 extra years.
- The EIR is forwarded to the substantive body who will decide on the authorisation of the project.

Andalucía (rooftop PV)

An EIA is not required for self-consumption units. However, an expert from the environmental NGO Ecologistas en Acción (Andalucía) was interviewed to gain a better understanding of how the EIA process work at the local level (López Marijuán, 2020).

According to his experience, the main highlights are:

- There is no mandatory public hearing in Spain. All the public participation and consultation takes place by submitting written observations digitally. However, López Marijuán (2020) shared that in some few cases the project developer can propose and organize a public hearing with local stakeholders, such as NGOs, neighbours, among other relevant players.
- The NGO tries to participate in most of the cases by analysing the information that the Authority makes available in each EIA process (consultation phase). However, due to the increased number of projects, it is not always possible for the NGO to participate in all requests.
- In Andalucía, the public information is made available in digital platforms, freely accessible. Nevertheless, certain detailed information is not always available and a further research is needed.
- In most cases, the Authority grants the EID but with corrections or observations, so that the project adapts to environmental requirements.

## **Deadlines**

*National level and Castilla y León*

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Regarding the **ordinary** EIA:

- The project will be subject to public consultation and information for at least 30 days, and the interested parties and public administration delegations will have 30 days to submit allegations.
- Afterwards, the substantive body forwards the file to the environmental body, which shall resolve the EID within 4 months since the file was received.
- The environmental body can request further information: to interested parties (up to 2 months); academic reports (30 working days); and further information to the project developer (up to 3 months).

The **simplified** EIA:

- After submitting the request, the substantive body forwards the file to the environmental body, which will consult interested parties for 20 working days. Afterwards, it will resolve the EID within 3 months since receiving the file.

### Castilla-La Mancha

In Castilla-La Mancha, most deadlines are similar to the national level, however there are some slight differences, as highlighted in the previous process flow section, mainly:

- The environmental body has one month to resolve the EID (both ordinary and simplified procedures). However, the deadline can be extended if the Authority requests further information.
- The EID validity is shorter (3 years), compared to the 4-year-validity at the national level.

## **Prior Administrative Authorisation and Administrative Authorisation for Construction**

### **Process flow**

#### National level (onshore wind and ground-mounted PV)

The Prior Administrative Authorisation (PAA) is the permit that grants the authorised project developer the right to develop a specific installation under certain conditions (art. 53 Law 24/2013). The PAA will be processed with the preliminary project of the renewable energy installation as a technical document and it can also be processed in conjunction with the Environmental Impact Assessment.

The Administrative Authorisation for Construction (AAC) allows the project developer to construct the renewable energy installation in compliance with the technical requirements. When applying for the AAC, the developer shall submit an execution project together with a declaration of compliance with the applicable regulations (art. 53 Law 24/2013).

The processing and resolution of PAA and AAC authorisations may be carried out consecutively, simultaneously or jointly. Besides, all new installations, modifications, lifetime extension and decommissioning of installations shall obtain these administrative authorisations (art. 53 Law 24/2013).

The process to obtain the administrative authorisations of art. 53 of Law 24/2013 is regulated in more detail by Royal Decrees 1955/2000 and 23/2020. According to these regulations, once the EIA process is conducted and the environmental body elaborated the EID (or EIR), the Directorate General for Energy Policy and Mines will resolve the PAA. The resolution is notified to the applicant and published in the Official Gazette. The

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Directorate General shall resolve the request within 3 months of the request being submitted (art. 128 Royal Decree 1955/2000). The silence of the administration will be understood as a rejection. The applicant can, nevertheless, lodge an administrative appeal.

The AAC follows a similar procedure, where the Industry and Energy Unit of the National government Delegations receive the request for AAC and send it to the affected Administrations so that they can set appropriate technical conditions. The affected Administrations, such as public services companies, will have 30 days to answer. Their silence will be understood as agreement with the technical conditions of the project of the installation. Once this procedure has been completed, the file is sent to the Directorate General for Energy Policy and Mines, who will decide on the AAC (Ministerio para la Transición Ecológica y el Reto Demográfico, 2021a). The Directorate General shall also resolve the AAC request within 3 months of the request being submitted (art. 131 Royal Decree 1955/2000). The silence of the administration will be understood as a rejection. The applicant can, nevertheless, lodge and administrative appeal.

### Autonomous Communities

#### *Castilla y León (onshore wind)*

When the installation affects more than one province within the Autonomous Community, the authority to decide on the PAA and the AAC is the Directorate General for Energy and Mines (Regional Ministry of Economy and Finance). Otherwise, the Territorial Services of the Regional Ministry of Economy and Finance will intervene (Decree 189/1997 Castilla y León).

The Autonomous Community has its own regulation for the administrative authorisations, however, the process and requisites are similar to the national level (Decree 127/2003 Castilla y León). First, the applicant can submit a request that includes the PAA, AAC and DUP, if needed. It should be accompanied by the description of the project, the plans of the installation, the budget, among others. Afterwards, all the submitted documentation will be subject to Public Information and consultation for 30 days. The substantive body will inform and consult other Dependencies of the Administration, or public services which may be affected by the project. They will have 20 days to provide consent or opposition (plus 10 days as reminder). Their silence will be understood as consent to the project and the procedure continues. After the previous steps, the substantive body will resolve the PAA.

The substantive body shall resolve and notify the resolution of the PAA within 6 months from the presentation of the request (art. 12 Decree 127/2003). If the authority does not take an express decision on the application, it will be understood as a rejection of the request. Where appropriate, the applicant may lodge an administrative appeal with the hierarchical superior body.

Regarding the AAC, the request shall contain an execution project formulated by a competent technician. The substantive body will forward the information of the project to the affected Administration Dependencies and public services for public information for 30 days. The substantive body has 3 months since the submission of the request to resolve it and notify the resolution. The silence of the administration will be considered as a rejection, with the possibility to lodge and administrative appeal.

In relation to modifications to the projects that already have the administrative authorisations, the Decree 127/2003 states that a new procedure to obtain the

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authorisations will not be necessary when the modification complies with the following requirements:

- It is not required to conduct a new ordinary EIA process
- The alterations do not modify the basic configuration of the installation (number of transformer stations, circuits or positions and type of installation)
- The modifications do not increase the total power of the installation by more than 10%
- The modifications do not increase the voltage of the installation by more than 20%

*Castilla-La Mancha (ground-mounted solar power)*

Following the same logic as the national level, in Castilla-La Mancha renewable energy installations need to obtain the PAA, AAC and DUP, if necessary, for all new projects, substantial modifications and decommissioning. The competent substantive authority for the PAA, AAC and DUP is the Directorate General for Energy Transition (of the Regional Ministry of Sustainable Development) or the Provincial Delegations of the Regional Ministry when the installation exclusively affects the territory of one province (Decree 80/2007 Castilla-La Mancha).

The applicant can submit a request for the PAA and AAC together, which shall contain the basic project details, such as the location, objective of the installation, plans, budget, among others. Afterwards, the substantive body submits the project for public information and consultation (parallel with the EIA consultation process). The authority has 6 months to resolve the request since it was submitted. The silence of the administration will be understood as rejection.

For the AAC (that can be processed with the PAA), the project developer shall submit an execution project elaborated by a technician, indicating technical and environmental information. After the public information and consultation phase, the administration has 3 months to decide on the request (the silence is interpreted as rejection too).

In relation to modifications, when they are not substantial, there is no requirement to obtain new administrative authorisations. The following modifications are considered to be *not* substantial:

- Expansion consisting of replacing a transformer with another, larger transformer and without the need to modify spans, conductors or other elements and the extension was foreseen in the original project
- Modification affecting only the measuring, control, signalling or protection circuits or the corresponding apparatus
- Replacement of conductors
- The renewal of any of the elements of the installation, due to maintenance or breakdown, by replacing an old or obsolete element with another of similar characteristics in terms of design, power capacity and mechanical performance

*Andalucía (rooftop PV)*

Self-consumption units *without* surpluses are exempted from requesting administrative authorisations (Union Española Fotovoltaica, 2019). Self-consumption units *with* surpluses with an installed power lower than or equal to 100 kW and connected to a low-voltage network (lower than 1 kV) do not require PAA and AAC (Union Española Fotovoltaica, 2019).

## **Deadlines**

At the national level, the authority has 3 months to resolve the PAA request and also 3 months to resolve the AAC application. The maximum term for the authority to decide on and notify the PAA and AAC is one year. The expiry of the maximum period without notification of an explicit decision shall entitle the applicant to understand it to have been dismissed by administrative silence (art. 53 Law 24/2013).

In Castilla y León and Castilla-La Mancha, the authority has 6 months to resolve the PAA request and 3 months to decide on the AAC application.

## **Public Utility Declaration**

### **Process flow**

#### National level (onshore wind and ground-mounted PV)

In some cases, the renewable energy installation needs to obtain legal easements (such as a right of way) and the compulsory expropriation of property. Therefore, a Declaration of Public Utility (DPU) must be processed.

Although all generation installations are declared as public utility (art. 54 Law 24/2013), the project developer needs to submit a request for the *specific* recognition of the public utility of her installation. This procedure and the expropriation procedure are regulated by Royal Decree 1955/200 (art. 140-162). The project developer can submit her request jointly with the PAA and AAC, or can be done after she obtains the administrative authorisations. The application together with the technical documents of the renewable energy installation are subject to the public information procedure for 30 days. Given the case that the DPU is processed jointly with the administrative authorisations, the public information procedure will involve all permits at the same time. Once the Directorate General for Energy Policy and Mines issues the DPU, the expropriation shall be initiated.

#### Autonomous Communities

With regard to compulsory expropriation and easements, as this is a matter for which the National Government has exclusive legislative competence, the national regulations are fully applicable in the Autonomous Communities (pursuant to the provisions of art. 149.1.8 and 149.1.18 of the Constitution of Spain). The procedure will be conducted according to Royal Decree 1955/2000, but the authorities of the Autonomous Communities will be in charge of the processing of the requests (art. 25 Decree 127/2003).

## **Deadlines**

The authority has 6 months to resolve the DPU request since the moment it was submitted and received.

## **Local Permits**

### **Process Flow**

Each municipality will be in charge of granting the corresponding local permits, such as the building permit, to check the compatibility of the project with urban plans and regulations. Once the project developer obtained the EID, PAA, AAC and DPU, she shall apply to the municipality (Town Council) for the specific permits. There are more than

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8,000 municipalities in Spain and even within the same Autonomous Community the rules between municipalities (and technicians) may change.

Autonomous Communities

Castilla y León (onshore wind)

The onshore wind installations located in Castilla y León shall obtain the urban licence (Law 5/1999 Castilla y León). The competent authority is the municipality where the project is going to be installed. However, the Urban Planning Code of Castilla y León set general rules to follow by municipalities, such as:

- The application shall contain the necessary documents to assess them, such as a technical project signed by a professional
- If there are missing details or errors, the applicant will have 10 days to address them, otherwise the request will be rejected
- The technicians from the municipality will examine and report on the compatibility of the request with the urban planning of the municipality
- The municipality shall forward the file to Public Administration Dependencies if it is necessary to obtain authorisations or reports. The maximum deadline is 2 months. The silence of the affected Public Administration Dependencies will be interpreted as a favourable decision
- When the municipality also requires an activity license, it will be processed jointly with the urban license.

In the cases where the installation will be located in rural land (rustic land), an authorisation of exceptional uses on rural land is needed. The procedure will be a joint procedure and will be integrated in the urban license procedure already described (Law 5/1999 Castilla y León).

*Castilla-La Mancha (ground-mounted PV)*

The Urban Planning Code of Castilla-La Mancha states that ground-mounted PV installations need to obtain a municipal license. However, when the installation is to be installed on non-urban land (rustic land), a previous step is needed: to obtain the urban qualification. It will be granted by the municipality itself (when processing the municipal license). However, in some cases, for instance when the municipality has less than 10,000 inhabitants, the competent authority will be the administration of the Autonomous Community (Directorate General for Territorial Planning and Urban Development).

The urban qualification shall contain, among others: the specific characteristics of the installation considering the EID, the restoration plan of works to correct the effects derived from the activities, etc. The competent authority may deny the urban qualification, when it understands that the activity can generate an undesirable territorial impact or harm the conservation of the natural values of rural land (Urban Planning Code of Castilla-La Mancha). After the urban qualification was issued, the municipal license shall integrate the content.

The project developer shall submit the request for the urban qualification and the municipal license jointly. It will present the description of the activity and include all the already obtained environmental and administrative authorisations.

When the competent authority is the Administration of the Autonomous Community, after a positive urban qualification, the process to obtain the municipal license will continue in each municipality. The favourable urbanistic qualification will be binding for the Municipality, but it may refuse the licence or impose conditions or corrective measures for other legal causes of municipal competence or due to the refusal of applications for authorisations and mandatory concessions from other Public Administrations. On the other

hand, the refusal of the urban qualification may be appealed in judicial and administrative proceedings.

In relation to the building permit, each municipality can set its own procedure, however the Autonomous Community defined general rules to be followed by the municipalities (Decree-Law 1/2010 Castilla-La Mancha), for instance:

- the applicant shall submit a technical description of the project and the administrative authorisations required for the installation
- The rejection must provide reasons
- If the maximum period for a decision has elapsed since the submission of the application without notification of any decision, the silence will be understood *positively*, meaning that the interested party's licence will be granted. Each municipality can determine its own maximum deadline to resolve, but it cannot be longer than 2 months.
- If the municipality requests further information while processing the requirement, the maximum period referred above will be interrupted. The interruption is limited to only one time. For the projects that require the previous EIA and EID, the abovementioned deadline will be suspended until the applicant presents the favourable EID

#### *Andalucía*

The administrative procedures for the self-consumption units are carried out by each Autonomous Communities and its municipalities. In general, each municipality can request for different administrative authorisations, such as a building permit, which has created barriers and delays, as reported by UNEF and APPA Renovables (UNEF, 2020; APPA Renovables, 2020). However, the Autonomous Community Government can pass regulation to harmonise up to a certain extent the municipal requirements. For instance, the Autonomous Community of Andalucía decided that a building permit is not required for self-consumption units up to 10 kW (Decree Law 2/2020). Hence, although each municipality can require extra steps, a building permit shall not be requested.

In Andalucía, units with power up to 10 kW are only subject to a responsible declaration or prior notification (Decree-Law 2/2020 Andalucía). This declaration will be submitted to the specific Municipality in Andalucía.

### **Deadlines**

Each Autonomous Community can set its own procedures and deadlines. However, from the moment when the project developer obtains the PAA, AAC and DUP, it is estimated a period between 1 and 3 months to obtain the local permits (Rucián Castellanos, 2019). When an authorisation of exceptional uses on rural land is needed, the process can take longer than 1-3 months.

#### *Castilla y León*

In Castilla y León the urban license request shall be resolved and notified within 3 months since the application is submitted. This 3-month deadline will be interrupted when the municipality asks the applicant to submit more details or rectify errors; and in the public information process with affected Dependencies.

#### *Castilla-La Mancha*

Regarding the urban qualification, the Urban Planning Code sets certain guidelines. After receiving the application, the administration can request the applicant to provide more information or address errors. However, no deadline is indicated. Afterwards, the application will be subject to public information for 20 days. The decision on the urban development qualification must be reasoned and must be issued and notified within a

maximum period of 3 months from the receipt of the file, with silence having the effect of rejecting the application.

### *Andalucía*

As the responsible declaration or prior notification is not a proper procedure, there are no formal deadlines.

### **Further information on public consultation of renewable energy projects**

As stated above, the administrative authorisation system for renewable projects requires the involvement and consultation of all the authorities that may be affected by the project, for example, the State Aviation Safety Agency (AESA) or if a project is to cross a watercourse (river basin), the river basin confederation has to be consulted on watercourse easements. If any of the authorities concerned do not agree with the details of the project, they can make observations and set conditions for the project to be viable.

AESA was selected as an example to understand how the process work when a Dependency of the Public Administration is consulted regarding a renewable energy project. Two experts from AESA were interviewed (AESA, 2020). AESA is in charge of ensuring the correct compliance with the regulations related to aviation safety in Spain (Royal Decree 297/2013). According to these regulations, any construction or installation in areas affected by aeronautical easements or that exceeds 100 metres in height (even if it is located outside areas affected by aeronautical easements) requires authorisation from AESA (Garriga, 2016).

The deadline for this particular authorisation depends on the location of the renewable energy installation:

- If it is within an aeronautical easement, the deadline is 6 months
- If it is outside an aeronautical easement, the deadline is reduced to 3 months
- In both cases, the silence of the administration is understood as rejection (Garriga, 2016). Besides, when necessary, AESA will forward the request to the Ministry of Defence, which can delay the mentioned deadlines.

### **Detected barriers**

**Lack of harmonisation regarding administrative procedures.** The Spanish National government has passed acts that regulate the formal and administrative procedures to develop and build a renewable energy installation. However, as Spain is divided in Autonomous Communities with competences in the same matter (energy, environment), these regional governments also have adopted regulations for instance, regulating the EIA procedures and are also competent in urbanistic planning of the territory. Additionally, each municipality can decide on different local licenses and permits, such as a building permit. This barrier applies not only to projects under 50 MW (competence of the Autonomous Communities), but also to projects larger than 50 MW. In these last cases, although the main competent authority is the National Government, the applicant still needs to deal with local authorities at different points of the procedure.

The experts interviewed (APPA Renovables, 2020; AboWind España, 2020; UNEF, 2020; Castro, 2020) explained that this regulatory dispersion creates problems when it comes to processing projects, as each time a new project is undertaken, it is necessary to carefully check which requirements apply in that location. This lack of harmonisation creates delays and confusions. It was reported by an expert from APPA Renovables (2020) that some developers decide to directly contact (usually by phone) the competent

division of the municipality to ask which requirements they shall meet and whether there are other requisites or documents they shall prepare for the authorisations, which are not clearly stated in the regulations.

The cause of this regulatory dispersion is explained by the Spanish constitutional design; hence, there is no simple solution. Nevertheless, as described above, the Autonomous Communities establish certain common rules (requirements, deadlines, etc.) that must be followed by municipalities.

**Different timing based on the procedure (regional vs. national).** It has been reported that, generally, projects that are processed by the Autonomous Communities (equal to or lower than 50 MW) are processed faster than those processed at the National level (AboWind España, 2020; UNEF, 2020; Rucián Castellanos, 2019). The timing should be the same to provide better clarity and certainty in the project development.

As a result of this barrier, certain developers opt to split a large project in two (for example an 80 MW installation is divided in two 40 MW projects) in order to process the authorisations through the regional governments.

A reason behind the slower National process can be the lack of personnel and resources to cope with the increased demand of requests. The COVID-19 pandemic has also highlighted the need for further digitalisation (UNEF, 2020).

**Unclear and delays for repowering of renewable energy installations.** If the project developer decides to add more capacity to the renewable energy installation, she needs to go through the whole process again, including the access and connection permits. There is no a simplified way to do it (Rucián Castellanos, 2019; APPA Renovables, 2020).

The lack of a clear framework for repowering of installations creates uncertainty and may discourage repowering projects.

**Lack of coordination and harmonisation in municipal regulation for self-consumption (Andalucía - rooftop PV).** Although the Autonomous Community of Andalucía does not require a building permit, the expert interviewed from UNEF (2020) explained that each municipality (more than 8,000 municipalities in Spain) can have different requisites and procedures. For example, some demand that the self-consumer presents a report on the reflection from the PV panels, which does not seem to be reasonable since it slows down the process and makes it more expensive (Unión Española Fotovoltaica, 2019).

An interviewed expert from APPA Renovables (2020) commented that even within the same municipality the requisites can change with the technician in charge, which creates insecurity and slows down the process. According to a recent report from UNEF, the lack of coordination of criteria even within the same municipality, is causing delays between 8 and 10 months (UNEF, 2019).

It was pointed out by the expert interviewed at UNEF (2020) that many municipalities are aware of the problems and are willing to improve the procedures. For this, more training of technicians is required.

### **Identified good practice**

Regarding the processing of rooftop PV project:

- The interviewed expert of UNEF (2020) shared the experience of the so called 'self-consumption roundtables' organised by Autonomous Communities, which involve different stakeholders such as companies, associations, distributors and the Public Administrations. In those roundtables, stakeholders share doubts and conflicts in the application of regulation and try to resolve them and work on initiatives to facilitate the procedures for installing self-consumption.
- The Autonomous Community of Andalucía does not request a building permit for self-consumption units with power up to 10 kW. UNEF and SolarPower Europe conducted a study and reported that in many European countries (as Germany, the Netherlands, Italy, Sweden, among others) self-consumption units only require a prior notification to the municipality. Others, however, require a building permit, which is not reasonable and can delay the process up to 8 months (Unión Española Fotovoltaica, 2019).
- Some Autonomous Communities, such as Andalucía and Extremadura, published a guiding document explaining step by step how to install a renewable energy system for self-consumption (UNEF, 2020; Governing Board of Andalucía, 2019).

The interviewed experts (AESA, 2020) shared *best practices* adopted by AESA:

- There is an online map that includes the contours of the civil aeronautical easements in Spain, such as aerodrome and radioelectric easements. The map shows the areas where, prior to the execution of constructions, a prior favourable agreement from AESA is required. Obstacles located outside the contours of the map do not require prior agreement from AESA, unless it is higher than 100 meters (AESA, 2021).
- AESA has elaborated guidance material, such as support documentation for the processing of applications. Four form templates are available to assist users in the processing of authorisation applications, that can be used by wind power developers for instance (AESA, 2021).

## 2.1.4. Grid connection permit

### Process flow

#### ***Onshore wind and ground-mounted PV***

All new renewable energy installations, as well as the already connected installations that will be repowered, should first request and obtain the access permit *and* the connection permit. The access permission is defined as permission granted for the use of the network to which a generation, storage for subsequent injection into the grid, consumption, distribution or transmission installation is connected. The connection permission is understood as the permission to connect an electricity production, storage, distribution, transmission or consumption installation to a specific point in the transmission or, where applicable, distribution network (art. 33.1 Law 24/2013 and article 2 Royal Decree 1183/2020).

This is the very first process step for renewable energy projects in Spain. Without access to the network the project is not able to start with the administrative processing, which in practice means the stoppage of the project (Schmid & Barrios, 2020)<sup>5</sup>.

The process to request the access and connections permits to the TSO or DSO is the same for all renewable energy projects, regardless if the competent authority is the National Government or the Autonomous Communities (larger than 50 MW or lower than

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<sup>5</sup> However, it was also reported that permitting may start without access and connection permits in certain regions, but it is not a common practice. The access and connection permits must have been awarded before the PAA is granted, however.

or equal to 50 MW, respectively). However, if a specific difference exists, it will be noted accordingly.

It is important to remark that two new regulations have been approved recently, which changed the process steps. First, on 29 December 2020 a new Royal Decree that regulates the access and connection procedures was passed (Royal Decree 1183/2020). Second, on 20 January 2021 the Circular 1/2021 of the National Markets and Competition Commission (CNMC) was adopted, establishing the methodology and conditions for access and connection to the transmission and distribution grids of electricity production facilities<sup>6</sup>.

These new pieces of legislation introduce changes to the access and connection requests that are submitted since the publication of the Royal Decree, i.e., since 30 December 2020 and since the publication of the Circular 1/2021, i.e., since 20 January 2021 onwards. For all the ongoing requests (requests that were submitted before 30 December 2020) the previous procedure, rules, and deadlines apply. Hence, this section describes first the procedure before the new Royal Decree 1183/2020 and Circular 1/2021, and secondly it describes the introduced new changes.

#### Process flow: before Royal Decree 1183/2020

The procedure for the access and connection permits submitted before 30 December 2020 that are still ongoing (i.e., not yet resolved) can be summarized in three stages:

- First, the project developer needs to obtain the access permit. In this sub step, the authority (TSO or DSO) will assess the existence of sufficient capacity for the installation and whether it meets the necessary requirements that guarantee the safety and quality of the electricity supply (Red Eléctrica de España, 2020).
- Second, once the developer obtains the access permit, she needs to request the connection permit to the transmission or distribution grid, submitting an application form, the basic project and the programme for carrying out the installation. In this sub step, the authority will verify the technical and engineering viability of the renewable energy installation (ibid.).
- Finally, and after the installation obtained the commissioning certificate (exploitation license), the installation is ready to start the physical connection to the grid (ibid.).

The processing of this step is exclusively by electronic means through the telematic application 'Mi Acceso RED ELÉCTRICA DE ESPAÑA', which allows for an agile and efficient management, processing and follow-up of the requests (ibid.).

#### Access permit

The competent authority to grant the access permit will be the TSO (in Spain the only TSO is Red Eléctrica de España – REE) when the connection point is in the *transmission* grid. Otherwise, when the connection point is in the *distribution* grid, the competent authority to grant the access permission is the respective DSO (there are multiple DSOs in Spain).

The Electric Sector Act (Law 24/2013) sets the objective criteria that the authorities should follow when processing the access requests. According to article 33.2<sup>7</sup> of the Electric Sector Act, the granting of an access permit will be based on compliance with the

<sup>6</sup> The Circular applies only to the permits of electricity generation installations. For consumers and DSOs another Circular will be adopted in the future.

<sup>7</sup> It should be noted that the provisions of article 33 of Law 24/2013 were not strictly applicable prior to enter into force of Royal Decree 1183/2020.

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technical criteria of safety, regularity, quality of supply and sustainability and economic efficiency of the electricity system established by the National Government or the National Commission for Markets and Competition (CNMC), as appropriate. Access permission may only be refused on the grounds of lack of access capacity. Reasons must be given for such refusal, which must be based on the abovementioned objective criteria.

Given the case of dispute, the applicant can challenge the decision of access permission (refusals or any discrepancy). The applicant has 1 month since she becomes aware of the fact that motivates the dispute to present the conflict to the National Commission for Markets and Competition (CNMC). Afterwards, the CNMC has 2 months for the resolution and notification of this procedure. However, it may be extended to 2 additional months if additional information is required at the time of the application (art. 33.3 Law 24/2013).

Before formally requesting the access permit, the project developer shall deposit a guarantee of 40 EUR/kW of installed capacity (art. 59 bis. & 66 bis., Royal Decree 1955/2000, modified by Royal Decree Law 15/2018). For projects with an installed capacity above 50 MW the guarantee shall be deposited with the 'General Deposit Box' (Caja General de Depósitos). For projects up to 50 MW, the deposit shall be constituted with the Autonomous Community's Regional 'Deposit Box', who will then notify to the competent authority (DSO/TSO) about the constitution of the guarantee. In all cases, when the project developer obtains the commissioning certificate, the guarantee shall be cancelled.

### Connection permit

The connection permission will be granted by the TSO or by the DSO that owns the network where the connection point was requested. In order to grant a connection permit, the TSO or DSO must count with adequate physical space to locate the necessary installations. In any case, article 33.4 of Law 24/2013 establishes the reasons to refuse a connection permission as follows: due to technical impossibility, for reasons of personal safety, for lack of adequate physical space to locate the necessary installations, among others. This refusal must be reasoned and must be based on the described criteria. In the case of refusal, the TSO and DSO are obliged to provide alternative access points in areas nearby (art. 53 and 62 Royal Decree 1955/2000).

In the event of a dispute over the granting or refusal of the connection permit, the authority to resolve depends on the size of the project. If the project power is larger than 50 MW, the National Government has competence and the CNMC will intervene to resolve the dispute. If the project capacity is equal to or lower than 50 MW, the competent substantive body of the Autonomous Community will intervene (and the CNMC will submit a report on the case too). The applicant has 1 month since she becomes aware of the fact that motivates the dispute to present the conflict to the competent authority.

### Single Node Partner

Besides, there is a particularity in the Spanish system that should be remarked. According to the Annex XV of the Royal Decree 413/2014, in each connection point to the grid where there are multiple interested parties in accessing the grid, there will be a designated 'Single Node Partner' (*Interlocutor Único de Nudo*), who will act on behalf of all electricity generators (developers) and will be responsible for the joint and coordinated processing of the access and connection procedures before the TSO or DSO, as appropriate. As explained in the barriers section below, this constitute a polemical rule in the administrative system in Spain since the Single Node Partner is also a producer

(private company for example)<sup>8</sup> and is, therefore, interested in the outcome of the access and connection permits making the objectiveness of the process dubious.

This figure of the Single Node Partner has been eliminated by Royal Decree 1183/2020. However, it will remain valid for ongoing access and connection requests that were initiated before the entry into force of the new Royal Decree 1183/2020 (First transitional provision Royal Decree 1183/2020).

#### Process flow: after the new rules

On December 29 2020, the Spanish Government approved a new decree law, much awaited by the entire renewable energy sector, according to the experts interviewed. The purpose of the new Royal Decree 1183/2020 is to establish the principles and criteria regarding the application, processing and granting of permits for access and connection to the electricity transmission and distribution networks, which will apply to producers, consumers, storage facility owners and transmission and distribution network owners and operators. The objective is to provide legal certainty and security, to allow for the orderly deployment of renewable energy that is expected to have place in the next few years, in line with the NECP's goals. At the same time, the new decree also contributes to eliminating inefficiencies and speculative behaviour that endanger the achievement of energy policy objectives (see barriers below).

In addition, on 20 January 2021 the Circular 1/2021 of the CNMC was adopted. The main objectives of the Circular are to streamline the processing of access and connection permits, to provide greater transparency and access to information, to promote competition in the market, and to promote optimisation of the use of connection facilities. According to the Electricity Sector Act of 2013, the CNMC had to approve by Circular the methodology and conditions for access and connection, which include: the content of applications and permits, economic criteria, criteria for capacity assessment, grounds for refusal, minimum content of contracts and the obligation of publicity and transparency of information relevant to access and connection.

One of the main changes is that the processing of applications for access and connection permits will be carried out jointly in a *single procedure*. The operator of the network for which the permits are requested (DSO or TSO) will be the single point of contact for the applicant (art. 5 Royal Decree 1183/2020). Therefore, instead of two different processes as before (one for access and another for connection), now they are treated as a single procedure. In addition, the operator of the network will be the only contact point which means that the Single Node Partner figure is eliminated, as it is stated in the first transitional provision of Royal Decree 1183/2020.

The main stages are:

- Presentation of request for access and connection to the TSO or DSO.
- Upon admission of the submitted request, the authority will assess the existence of access capacity and of viable connection conditions.
- If the authority accepts the request, it will inform the project developer about the access capacity and technical conditions. If the project developer accepts them, the authority will grant the access and connection permits.

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<sup>8</sup> The process of designation of Single Node Partners is not developed in the regulation. According to REE (2020) it is the Autonomous Communities that determine the criteria or procedures for designating a developer (company) as the Single Node Partner and they inform REE of this. The Single Node Partner list is available in the REE website.

Further changes of the new Royal Decree 1183/2020 include:

- A general criterion is established to process the requests for access and connection: *temporary priority*. The date to be taken into account is the date and time of admission of the application to the competent authority<sup>9</sup>.
- The application for access and connection permits may only be rejected: a) if the application does not provide evidence of the deposit of the required financial guarantee; b) when the granting of access at the node is subject to the holding of auctions (for renewable energies); c) when the required information has not been provided or rectified at the time of submitting the permit application; d) when the application is submitted at nodes where the existing capacity of access that may be granted is zero.

### **Rooftop PV**

Self-consumption is regulated by national Law 24/2013, Royal Decree-Law 15/2018 and Royal Decree 244/2019. There are two modalities of self-consumption:

- Self-consumption *without surplus*: these units cannot inject electricity into the grid; hence, an anti-spill mechanism must be installed to prevent the injection.
- Self-consumption *with surpluses*: these production facilities may, in addition to supplying energy for self-consumption, inject surplus energy into the transport and distribution grids. In turn, this category is subdivided into:
  - modality subject to compensation: in these cases, the consumer and the producer voluntarily choose to benefit from a surplus compensation mechanism. This option will only be possible in cases where the unit meet certain conditions, such as: the primary energy source is of renewable origin, the total power of the associated production installations does not exceed 100 kW.
  - modality not covered by compensation: all cases of self-consumption with surpluses that do not comply with any of the conditions above.

Each Autonomous Community regulates in further detail the procedures and controls for the commissioning of a rooftop installation. The Autonomous Community of *Andalucía* published a Manual for the administrative processing of electricity generation facilities for self-consumption (Governing Board of Andalucía, 2019). Based on the Manual and the national regulation stated above, these are the particular rules for PV self-consumption units:

#### *Self-consumption without surpluses*

As a general point, self-consumers delegate all the administrative procedures to the company that install the units. Besides, the generation units under this modality do not require access and connection permits for generation, since the self-consumer already have these permits for her consumption (Union Española Fotovoltaica, 2019; art. 7 Royal Decree 244/2019).

#### *Self-consumption with surpluses*

Similar to the other modality, consumers generally delegate the administrative procedures to the installation company. The generation units under this modality with installed power equal to or lower than 15 kW *and* located in urban land are exempted from requesting access and connection permits (art. 7 Royal Decree 244/2019; art. 17 Royal Decree 1183/2020). In these cases, the only requisite is to submit a technical

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<sup>9</sup> If two or more installations have the same date and time of admission of the application, the temporary priority will be established by the date when the competent administration to authorize the installation received a copy of the receipt certifying that the economic guarantees (40 €/kW of installed capacity) have been properly deposited (Article 7 Royal Decree 1183/2020).

report to the distribution company, for those parts that affect the conditions of coupling and safety of the electricity supply (Governing Board of Andalucía, 2019).

Other self-consumption units *with* surpluses shall request a new access and connection permit to the DSO of the area (Union Española Fotovoltaica, 2019). These would be the self-consumption units with surpluses with a power greater than 15 kW (and units located in non-urban land). The self-consumer shall constitute the guarantee of 40 EUR/kW. For units with a power exceeding 15 kW and lower than 100 kW a simplified procedure is applied, regulated by article 4 of Royal Decree 1699/2011. The developer of the installation shall request the distribution company the access and connection rights to connect the system. The request will be submitted together with information, such as: personal information, concrete location of the installation, technology to be used, etc. The distribution company has 10 days since it received the application to request further information from the developer (Royal Decree 1699/2011). After the information is complete, the distribution company has 1 month to submit a proposal with the conditions for access and connection. The access request can be rejected due to safety of supply reasons. The developer of the self-consumption unit has 3 months to inform the acceptance of the proposal.

For the units larger than 100 kW the procedure already explained applies.

## **Deadlines**

### *Before new Royal Decree 1183/2020*

The deadlines vary according to whether the project developer applies to a connection point in the *transmission* grid or to a connection point in the *distribution* grid.

In the case of the *transmission* grid, once the project developer submits its access permission request, the TSO shall communicate within 1 month if there are inefficiencies in the submitted documents. The developer has 1 month to adjust her application (art. 53.4 Royal Decree 1955/2000). Once errors have been corrected, REE has a maximum period of two months to communicate the existence of sufficient transmission system capacity at the requested point (art. 53.5 Royal Decree 1955/2000). This means that the deadline of 2 months runs from the moment when the developer submits the addition information to correct errors. There is no legal limit for the authority to ask for documents, but the law states that the authority 'shall, upon receipt of the application, inform the applicant of any anomalies or errors so that they can be rectified within one month' (art. 53.4 Royal Decree 1955/2000).

Once the TSO communicates that there is sufficient access capacity in the transmission network and grants the access permission at the required connection point, the project developer has a maximum period of 6 months to request the connection permit to the *transmission* grid (art. 57 Royal Decree 1955/2000 and art. 1 of Royal Decree 23/2020). The applicant has to request *connection* from the owner of the access point, who shall produce a technical report and pass it to the TSO within 1 month. The TSO shall assess and finally accept the report within another month. When requesting the connection permit, the project developer will present the basic project of the installation and its execution programme (art. 57 Royal Decree 1955/2000).

After the favourable resolution of both the *access* and *connection* procedures, the developer shall negotiate and sign a contract for access to the network with the TSO (REE) within less than 1 month (art. 58 Royal Decree 1955/2000). Thereafter, the

connection works may start. The connection contract shall not be signed unless all administrative authorisations for the connection works have been obtained.

In the case of a renewable energy project to be connected to the *distribution* grid, the DSO of that area will intervene as the competent authority. Once the project developer submits the *access* request, the authority has 10 days, upon receipt of the application, to communicate the existence of any inefficiencies to be addressed by the project developer also within 10 days. After any errors have been corrected, the DSO shall communicate within a maximum period of 15 days on the existence of sufficient capacity in the distribution network at the requested connection point (art. 62.4 and 5 Royal Decree 1955/2000). Following the same logic as before, the deadline of 15 days runs from the moment when the developer submits the additional information to correct errors. There is no legal limit for the authority to ask for documents, but the law states that the authority 'shall, upon receipt of the application, inform the applicant within 10 days of any anomaly or error in the documents provided' so that they can be rectified within 10 days (art. 66.4 Royal Decree 1955/2000).

If the renewable energy installation constitutes a significant effect on the transmission grid and the operation of the system<sup>10</sup>, the DSO will request acceptability for access by the TSO. Upon receipt of this application and documentation, the TSO will have a period of 2 months to carry out this analysis by issuing an Access Feasibility Report, which will be sent to the DSO.

Once a favourable report has been obtained from the DSO regarding the existence of sufficient access capacity at the required point, the project developer may apply for *connection* permission to the *distribution* grid within 6 months. To do so, she shall submit to the relevant DSO the basic project of the installation and its implementation programme.

The DSO, in the case that the RE installation may affect the transmission grid or the operation of the system, shall inform the situation to the TSO within a maximum period of 1 month. The TSO will analyse whether there are any restrictions arising from this new information and within the deadline maximum of 1 month, will issue a report on the matter. The DSO shall then inform the applicant. In case of a positive response, the applicant may present the execution plan of the renewable energy plant to the distribution grid operator to proceed with the connection in the distribution grid.

For the connection of new installations (to transmission or distribution grid), the project developer can request *access* and *connection* permissions *simultaneously*. However, obtaining the access permit is an essential requirement to get the connection permit (art. 57 and 66 Royal Decree 1955/2000; Red Eléctrica de España, 2017).

#### Deadlines in the new Royal Decree 1183/2020

Unlike the previous procedure, from now on developers must submit a *single* application to the operator of the network to which they wish to connect (DSO or TSO), which includes the *access* and *connection* permits. In article 10 of Royal Decree 1183/2020, the procedure and deadlines are regulated. The authority will have 20 days from the receipt of the request to ask for rectification or to notify the rejection of the request. If the authority does not require correction of the application within 20 days, the application

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<sup>10</sup> For example, in the case of generators or groups of generators with an installed power greater than 50 MW or that the RE installation may constitute a significant increase in the energy flows in the nodes connecting the distribution network to the transmission grid or which may affect the safety and quality of the service (Article 63, Royal Decree 1955/2000).

shall be deemed to have been admitted for processing, unless the application has not submitted the financial guarantees or the node is subject to the holding of capacity auctions.

The new Decree 1183/2020 regulates in greater detail the request for rectification of the application, compared to the previous regime. It establishes that the authority must unequivocally specify all the deficiencies or errors found in the application and in no case will the provision of additional content not previously specified be required. It is important to note that there is now *a limit to the number of requests for rectification*: the authority may make a maximum of two requests for submission of the same application. The project developer will have 20 days from the date of notification of the request for rectification to submit the additional information. If she does not reply within this period or if she does not reply in the terms requested, the application will be considered as not admitted.

On the other hand, if the applicant responds to the requests for rectification in time and form, the authority will have a maximum of twenty days to notify the admission or non-admission of the application. Another important detail of the new regulation is that if the authority does not notify the admission or non-admission within the indicated period, the application will be considered to have been accepted for processing.

If the application is admitted, the authority will assess the existence of *access* capacity. For its part, the owner of the network for which the *connection* permit is being requested must assess the existence or non-existence of viable connection at the point requested.

After the authority has made the relevant assessment, it will inform the applicant of the acceptability or refusal of the request of access and connection. If the request for access and connection permits is accepted, the network operator (TSO or DSO) must inform the applicant of the 'pre-proposal'. This pre-proposal shall contain, among other elements, the proposed access capacity and the technical parameters of the connection point (voltage and location). The deadline for the network operator (DSO or TSO) to inform the applicant of the result of the assessment of its application (acceptance or refusal) and to present the pre-proposal is set at the latest:

- 15 days for installations with a connection point to the distribution network at a voltage of less than 1 kV, except for requests for supplies of up to 15 kW where no new network extension is required, where the deadline is 5 days.
- 30 days for installations having their connection point with the distribution network at a voltage equal to or higher than 1 kV and less than 36 kV.
- 40 days for installations with a connection point to the distribution network at a voltage equal to or greater than 36 kV.
- 60 days for installations having a connection point with the transmission grid.

The abovementioned time periods will be counted from the date on which the application is deemed admissible.

When the applicant receives the acceptance of her request and the pre-proposal of the connection point and technical conditions, she will have a maximum period of 30 days to inform the system operator of its acceptance or rejection. If the applicant does not notify its response within this period, it will be considered as rejected.

If the developer does not agree with the technical proposal, she may, within 30 days of receiving the proposal, request a review of specific issues by the network operator. The network operator will have 15 days to resolve the request for review. It may also request additional documentation, which must be submitted by the applicant within 10 days. In

this case, the 15-day period will start to run *after* the correction of the request for additional information.

After receiving the answer on the revision, the developer will have 30 days to communicate its acceptance or rejection. If the authority does not respond within this period, it will be considered as a non-acceptance of the proposed solution. On the other hand, if the applicant does not accept the proposed solution within the indicated time limits, it will mean the rejection of the application for access and connection permits.

Once the developer has accepted the connection point (and its technical conditions), the operator and the owner of the network must issue the corresponding access and connection permits respectively. These must be notified within a maximum of 20 days after the network operator has been notified of the applicant's acceptance.

#### Deadlines common to old a new regime

The new Royal Decree 1183/2020 regulates in its article 26 (in accordance with art. 33.8 of the Law 24/2013 and with art. 1 of Royal Decree Law 23/2020) that access and connection permits will expire:

- If within 5 years since the permits were granted the installation had not been granted with the exploitation authorisation (commissioning certificate). In the case of generation installations that obtained access permission in a date between 28 December 2013 and before the entry into force of Royal Decree-Law 23/2020, the 5-year deadline will be counted from the date of entry into force of the mentioned royal decree law (i.e., 23 June 2020).
- In the case of installations already in service when they cease the dispatch of electricity to the grid for a period of more than 3 years.

Access and connection permits will also expire if the developer does not comply with the administrative milestones defined in article 1 of Royal Decree-Law 23/2020, within the therein established deadlines (see barriers below).

#### Deadlines for the shortened procedure

The new decree introduces a *shortened procedure*. This fast-track procedure for granting access and connection permits will follow the same principles already explained but the time limits will be halved. Article 16 of Royal Decree 1183/2020 states that the parties eligible for the shortened procedure are: a) electricity producers with an installed power of not more than 15 kW; b) low-voltage consumers requesting a new connection point with a power of not more than 15 kW; c) low-voltage consumers requesting an extension of power over an existing supply with a final power of not more than 15 kW.

### **Detected barriers**

The majority of interviewed experts pointed out barriers with regard to the access and connection permissions to the transmission and distribution grids. Without this step, the project cannot be concretised. As a result of the barriers described below, the access and connection permits have become scarce goods and are very hard to obtain. To translate the problem into numbers, the preamble of Royal Decree-Law 23/2020 states that in the last 16 months there was a high volume of access and connection requests: more than 430,000 MW of new generation capacity with guarantees deposited. The rate of new applications has been increasing exponentially and as of June 2020 it was around 30,000 MW per month. To have a better idea of the meaning of these figures, the NECP foresees the installation of 'just' 60,000 MW by 2030.

**Speculation with access and connection permits.** In the last years, the high volume of access and connection permit requests have created a bottleneck which creates delays, confusion and hinders the fulfilment of the NECP's goals. One of the main reasons behind the high volume of requests is the speculative behaviour of some market actors that have been accruing permits without the real intention of developing a concrete renewable energy project. Although the new regulation sets expiry dates, under the previous regulation framework, permits did not have an expiration date, which facilitated the speculation. The direct consequence of this barrier is that project developers that really want to build and run a project, cannot get the necessary access and connection permits, which constitutes the very first project implementation step.

An interviewed expert from the wind power sector (2020) said that in the past, obtaining these permits was not complicated (compared to other countries) and such barrier did not exist. Besides, in their perspective, the price of the guarantee is still relatively accessible, which could be an additional explanation of why the speculation was possible.

The mentioned expert provided historic context to understand how did the barrier appeared. In 2013 the Spanish government introduced legislative changes that negatively affected the renewable energy development. Particularly, a moratorium was introduced. In addition, the polemical sun tax and other support schemes' reforms worn out the confidence of the developers. The sector was stagnant until 2016, when auctions for renewable energy technologies took place again. Then, in 2018 the current government (PSOE - Spanish Socialist Workers' Party) came into power and started to implement starker climate and renewable energy policies, including the ambitious NECP. The government announced that to meet the ambitious goals for 2030, auctions are going to be organised (an auction round took place in January 2021). The announcement generated huge expectations among market players who started to hoard access and connection permits for future projects, and the previously and relatively smooth process started to be under big pressures.

As stated above, according to the previous regulation, the access and connection permits did not have an expiration date. This resulted in many actors obtaining permits with the motivation of selling them later at a higher price. This speculation generated many problems and can still be considered a barrier for developers that cannot obtain the access and connection permits due to lack of capacity availability. In this regard, the preamble of Law 23/2020 states that in a large number of cases, once the access permit has been obtained, the holders of the permits do not apply for the connection permits, which in many cases is due to the non-existence of a real project (speculation) or a lack of maturity. The Law's preamble also states that of the approximately 110,000 MW with an access permit, more than 60% still do not have a connection permit (June 2020).

The barrier is fully acknowledged by the competent authority, the Ministry for the Ecologic Transition and the Demographic Challenge, as it can be read in different legislations that directly address the speculation problem. For instance, the preamble of Royal Decree 1183/2020 states that the purpose of the decree is to 'provide legal certainty and security to the energy regulation framework [...] while at the same time helping to eliminate inefficiencies and speculative behaviour that jeopardise the achievement of energy policy objectives'.

In particular, these are the main actions that the Government is implementing to solve the speculation problem:

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- The Royal Decree Law 23/2020 introduced expiration deadlines for access and connection permits. There are four groups, depending on when the permits were obtained:
  - Permits granted before Law 24/2013: permits will expire 5 years after they were obtained (Eight Transitional Provision, Law 24/2013).
  - Permits granted between the approval of Law 24/2013 and 31 December 2017: a maximum deadline of 5 years is envisaged, provided that developers fulfil the defined administrative milestones.
  - Permit granted from 01 January 2018 to the sanction of Royal Decree Law 23/2020: 5 years, provided that developers fulfil the defined administrative milestones.
  - Permits granted after Decree Law 23/2020: also, 5 years, provided that developers fulfil the defined administrative milestones.
- Article 1 of Royal Decree Law 23/2020 introduces administrative milestones to be fulfilled by the holders of permits, under penalty of automatic expiration and execution of the economic guarantees. They shall prove compliance to the corresponding grid operator. For instance, for permits obtained between 31 December 2017 and before the sanction of Decree Law 23/2020, the milestones are:
  - Application submitted and accepted for prior administrative authorisation: 6 months.
  - Obtaining the favourable environmental impact declaration: 22 months.
  - Obtaining prior administrative authorisation: 25 months
  - Obtaining administrative authorisation for construction: 28 months.
  - Obtaining the definitive administrative authorisation for exploitation: 5 years.

The deadlines for meeting the milestones will be calculated from the date of entry into force of the Royal Decree Law 23/2020, i.e., 25 June 2020. Failure to meet the administrative milestones will result in the automatic expiry of the permits and the immediate execution of the financial guarantees submitted for the processing of the applications. However, if, for reasons not attributable to the developer, a favourable environmental impact declaration is not issued, these guarantees will not be executed (art. 1 RDL 23/2020). The idea is to make more capacity available.
- Once the applicant obtains the access permit, she has 6 months to request the connection permit. Otherwise, the access permit will expire and the economic guarantees will be executed (art. 1 Royal Decree Law 23/2020).
- For all cases that obtained or requested the permits before 25 June 2020, the Royal Decree Law 23/2020 recognises the possibility of renouncing the permits and recovering the previously deposited guarantees in exchange. This resignation shall be submitted within 3 months since 25 June 2020. As of December 2020, as published by REE, 10 GW have been released.
- A moratorium on new access applications was established through Royal Decree Law 23/2020 and Royal Decree 1183/2020. In practice, this means that no new applications for access permits are accepted by the grid operators. The moratorium runs until the publication on the online platforms of the available capacity and the approval of the detailed specification that are necessary to develop the methodology and conditions of access and connection (RD 1183/2020).
- The Circular 1/2021 of the CNMC introduces the methodology and conditions for the granting of permits for electricity generators and tries to provide greater clarity and efficiency in the processing of the permits. For instance, it regulates the obligation of TSO and DSOs to publish online the available capacity, which will provide greater transparency to the system. It also regulates the minimum information that the requests should have, such as a detailed preliminary plan of the installation with

technical information, which can also reduce speculation by requiring concrete details of the future project.

The interviewed wind expert (2020) considers that the abovementioned actions are positive measures that have begun to solve the problem little by little. As the new regulations have only recently been passed, it will be necessary to wait until their full implementation to analyse and assess if the speculation behaviours are reduced and the bottlenecks relieved.

The legal expert from Osborne Clarke Spain (Castro, 2020) explained that although the milestones contribute to solving the problem of speculation, other bottlenecks could appear. For instance, if many developers try to get the same milestone completed, then a bottleneck around it could emerge, since the number of officials processing the request did not increase.

**Conflict of interests and possible abuse of a dominant position (Single Node Partner – Interlocutor *Único de Nudo*).**

*First*, according to the regime prior to the enactment of Royal Decree-Law 1183/2020, when more than one developer wants to connect to the same node of the network, the Single Node Partner, a private market player, is in charge of coordinating the access and connection requests of all the interested parties of that node. This Single Node Partner will be responsible for intermediating with the authority (REE or DSO) (Royal Decree 413/2014).

At the moment when the Government designed the Single Node Partner system, the electricity market was very different from today's. Some of these Single Node Partners are big companies such as Endesa, Iberdrola or Naturgy, which at the same time were the (almost only) large electricity generators. However, nowadays the market is more diversified and there are multiple companies that are also renewable energy generators. The problem is that those who are responsible for coordinating the processing of access and connection permits (the Single Node Partners) are also interested in obtaining permits for themselves or for companies in their business group.

This non-independent figure has brought lack of transparency in the administrative step of getting access and connection permit to the grid, which is a very important step because it is the first one (Barrero, 2020). It could also generate abuse of a dominant position.

Due to the claims of the renewable energy sector and the renewable energy associations (such as UNEF), the Ministry for Ecologic Transition and Demographic Challenge was already aware of the problem that this figure entails for the transparency of the system. Therefore, the Government echoed the discontent of the sector and on 29 December 2020 approved the Royal Decree 1183/2020 which eliminates the figure of the Single Node Partner (First Transitional Provision, RD 1183/2020). From now on, each developer will have a direct relationship with the network operator.

Although the introduced legislative changes should tend to mitigate or eliminate the barrier, for the procedures already initiated before the new decree came into force, the Single Node Partner will continue to exercise its function (RD 1183/2020).

The president of the CNMC expressed concern about the high number of conflicts that the CNMC has been receiving in relation to access and connection permit to the transmission network, in particular more than 180 per year, which could overflow its resources and its capacity to act or even paralyze the CNMC's capacity (El Español, 2021).

**Lack of information on real available capacity at the network nodes.** *Second,* there is lack of information regarding the real available capacity at the nodes of transmissions and distribution lines, which creates troubles and inconvenience for developers when planning their projects. TSO and DSOs were obligated to publish this information as indicated in Law 24/2013 (art. 33.9), however, the law stated 'on terms to be established by regulation'. This regulation only came into force on 20 January 2021 (Circular 1/2021, CNMC). Until then, only REE published some capacity data, but not fully accurate or up to date. The interviewed legal expert Bassas Pérez (2020) explained the problems that this situation implies for developers. They first check REE data and assume or estimate that in a certain node there should be enough capacity for their project. However, it can happen that after submitting the application, the DSO rejects the access permission because there is no available capacity for that specific location anymore. This could be due to the fact that the available capacity was assigned to other requests in the meanwhile.

Royal Decree-Law 1183/2020 and the Circular 1/2021 CNMC introduced some awaited changes and the system should become more transparent. For instance:

- The DSOs and TSO must have web platforms dedicated to the management of access and connection requests, where applicants can consult the status of their requests.
- The DSOs and TSO must have available on their website an application form for access and connection permits. The Circular establishes a minimum content of the form.
- The aforementioned web platforms will allow the existing access capacity of each node to be known. In particular, network operators (REE and DSOs) will be obliged to provide detailed information on their websites on the capacities available at the nodes of their networks with voltages above 1 kV. This information must be updated monthly (art. 12 Circular 1/2021 CNMC; art. 33.9 Law 24/2013; art. 5.4 RD 1183/2020). The Circular details what information must be provided by network operators regarding the substations they operate: a) identification name; b) georeferencing; c) voltage level; d) available access capacity, disaggregated by connection position; e) occupied access capacity, disaggregated by connection position; f) access capacity corresponding to requests for access and connection permits accepted and not yet resolved, disaggregated by technology and connection position. Failure to comply with this reporting obligation may be sanctioned.

### **Identified good practice**

No good practice related to this process was identified.

## **2.1.5. Corporate legal fiscal**

### **Process flow**

All new RE projects shall be compulsorily registered under the Administrative Register of Electricity Production Facilities (art. 37 Royal Decree 413/2014). The registration is a necessary condition for operating in the electricity market (Royal Decree 1955/2000). The competent authority is the Directorate General for Energy Policy and Mines (Ministry for Ecologic Transition and Demographic Challenge).

There are two steps:

- Pre-registration phase: after obtaining all the administrative licenses, the project developer shall apply for the registration of its facility in the register. If the project is equal to or lower than 50 MW, it will submit the request to the substantive body of the Autonomous Community (see previous section). Otherwise, when the National government intervenes, the request is submitted to the Directorate General for Energy Policy and Mines. The pre-registration allows the installation to operate to run tests.
- Definitive registration phase: after obtaining the commissioning certificate (exploitation license) the project developer shall request the definitive registration to the same authorities as indicated above.

For installations equal to or lower than 1 MW of installed capacity, there is only one registration phase with the same procedure and deadlines as the ones for the pre-registration phase (art. 169 Royal Decree 1955/2000).

### **Deadlines**

For both pre- and definitive registration phases, the authority has a maximum period of one month to resolve the request since it was presented.

### **Detected barriers**

No barriers related to this process step were identified.

### **Identified good practice**

No good practice related to this process step was identified.

## **3. Use of IT systems**

The majority of the described process steps can be done digitally, such as the access and connection permit, EIA process, AESA authorisations, among others. However, in the municipal level, it was reported that some municipalities are not fully digitalised and can present issues, such as some official portals have outdated information or that there are some electronic sites that are not prepared for one entity to represent another or an individual in procedures (Alianza por el autoconsumo, 2020).

In the Autonomous Communities there are digital portals<sup>11</sup> to submit applications and check the status of the PAA, AAC, EIA, etc. For example, citizens and project developers of Castilla-La Mancha can check the digital application NEVIA<sup>12</sup> to access information of projects being assessed by an EIA.

Besides, in Castilla y León, the information of projects subject to EIA is uploaded to the official website of the Autonomous Community and can be freely accessible by all interested parties.

No best practices related to use of IT systems were identified by the research and conducted interviews.

However, in terms of barriers, various interviewees pointed out the need for more digitalisation, especially considering the effects and constraints imposed by the

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<sup>11</sup> For example, in Castilla-La Mancha:  
<https://registrounicociudadanos.jccm.es/registrounicociudadanos/acceso.do?id=J9M>

<sup>12</sup>  
<https://www.castillalamancha.es/gobierno/desarrollosostenible/estructura/vicmedamb/actuaciones/procedimientos-administrativos-en-evaluacion-ambiental>

pandemic. Specifically, it was reported that not all the Autonomous Communities have online platforms to monitor the status of the permitting procedure. Besides, the online portals in place present certain issues in relation to the number or size of the files that can be uploaded (Stakeholder 1, 2021).

## 4. Complaint procedure

The Spanish law on Common Administrative Procedure of Public Administrations (Law 39/2015) regulates the administrative appeals that can be lodged in any procedure, including renewable energy projects. First, as a general principle, administrative acts can be challenged and reviewed in administrative proceedings. The interested parties may lodge administrative appeals against decisions and procedural acts, if the latter directly or indirectly decide on the merits of the case, determine the impossibility of continuing the procedure, cause defencelessness or irreparable damage to legitimate rights and interests.

Second, the main administrative appeals regulated in the Law 39/2015 are:

- Appeal (*recurso de alzada*):
  - Allows the contested decision to be referred to the hierarchical superior, who reviews and solves the appeal.
  - The interested party has one month to lodge the appeal and the hierarchical body has 3 months to resolve it. If no resolution is adopted in that period, the appeal is considered to be dismissed.
- Appeal for reconsideration (*recurso de reposición*):
  - When the administrative body that issued the administrative act does not have a hierarchical superior, the project developer can challenge it by means of an appeal for reconsideration. This appeal can also be lodged against the resolutions of the appeal (*recurso de alzada*).
  - The interested party has one month to submit this appeal and the authority has one month to resolve it. Against this resolution, a new appeal for reconsideration is not allowed. The administrative silence is also understood as dismissal.
- Extraordinary appeal for review (*recurso extraordinario de revisión*):
  - Can be filed against final administrative acts that were not challenged in due time. It must be based on one of the reasons provided by Law 39/2015, such as when the act was issued based on a factual error, or when the act had been decided considering false testimonies or documents. In the case of a factual error, the deadline to lodge the appeal is four years from the notification of the resolution of the act. In all other reasons, the deadline is 3 months from the moment when the interested party becomes aware of, for example, the false documents. The term to resolve it is 3 months and the administrative silence has derogatory effects.

When the administration has a criterion adopted it is difficult to change that criterion with an administrative proceeding (Castro, 2020). However, the rules and processes are clear and transparent.

Once the administrative proceedings have been exhausted, a judicial claim can be filed. In the Spanish judicial system, there is a specialised jurisdiction: the contentious-administrative jurisdiction, which deals with administrative matters. The legal expert considers that the rules and judicial procedures are also transparent, however, delays are larger in the judicial proceedings (Castro, 2020). These delays can be significant, especially if environmental issues are involved. The judicial proceedings can last more than a year and in the Supreme Court it can take several years. Nevertheless, it has

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been reported that it is unusual for project to be legally challenged once the permits have been issued.

## 5. Specific features to ease administrative procedure

Table 2 below provides information on the existing specific features to ease administrative procedures in Spain.

Table 2: Specific features to ease administrative procedures

Specific feature	Existing	Short description
Simultaneous procedures	yes	The requests for EID, PAA, AAC, and DPU can be submitted jointly. The authority shall resolve first the EID (through the respective EIA), and afterwards it will solve the other authorisations. Each of the abovementioned authorisations require public consultation and public information phases. These can be conducted simultaneously.
National contact points and one-stop-shops	no	
Application of 2+1 and 1+1 rules	no	
Simple notification procedure	no	No simple notification procedure on a national level. However, with regard to building permit, units with power up to 10 kW are only subject to a responsible declaration or prior notification in Andalucía (Decree-Law 2/2020 Andalucía). This declaration will be submitted to the specific Municipality in Andalucía (see section 2.1.3.).
Pre-planning	yes	The National government elaborated two maps for wind and solar power, which show the territory classified into 5 environmental sensitivity classes for each type of project analysed (maximum, very high, high, moderate and low). Castilla-La Mancha offers also cartographic information on protected natural spaces and sensitive areas.  However, these tools are only informative and do not replace the necessary administrative steps described, such as the EIA.
Pre-application consultation	yes	In the EIA process step, the project developer must elaborate first an Environmental Impact Study, which identifies and analyses the likely significant environmental effects arising or likely to arise from the project. It also determines the measures necessary to prevent and compensate for adverse effects on the environment (art. 5, Law 21/2013). Before presenting the Environmental Impact Study, project developers have the option to conduct a prior consultation to determine the scope of the Environmental Impact Study document they need to present when applying for the Environmental Impact Declaration (art. 34 Law 21/2013). The environmental body will consult the project with the affected parties (administrations and interested parties) and afterwards it will elaborate the document that defines the scope of the Environmental Impacts Study.

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		The maximum deadline to elaborate the document is two months since the project developer submitted the request. The document will be valid for two years.
Project acceptance measures	yes	Although not mandatory, some project developers decide to hold civic participation workshops (Schmid & Barrios, 2020). In some cases, it is mandatory to contract local workers for the operational and maintenance of wind farms (Schmid & Barrios, 2020). Besides, many municipalities charge projects with local taxes (e.g., Economic Activities or Real Estate taxes) which can become one of the main revenues of many local entities affected by wind farms (Schmid & Barrios, 2020).
Measures to streamline litigation by third parties	yes	As described above, the legislation establishes the deadlines to submit observations and to lodge appeals.
Other	no	

## 6. Indicators to measure the performance of the overall process

Table 3 below provides information on the indicators to measure the performance of the overall administrative and grid connection process in Spain.

Table 3: Performance indicators to assess administrative and grid connection processes

Performance indicator	Description
Average response time by the competent authorities and TSO/DSO for grid connection procedures	For grid access and connection procedures: <ul style="list-style-type: none"> <li>• TSO: Between 2 and 3 months</li> <li>• DSO: 3 months or more</li> </ul> For other process steps information is not available.
Process duration	Based on the interviews the whole process can last: <ul style="list-style-type: none"> <li>○ Ground-mounted PV: between 1 and 2 years</li> <li>○ Onshore wind: between 2,5 and 3 years</li> <li>○ Rooftop PV: depends on each Municipality, but in some cases as in Catalonia, in 1 month the process can be done.</li> </ul> Based on the document elaborated by Rucián Castellanos (2019), 'Overview of permitting processes in Spain', the whole process can last: <ul style="list-style-type: none"> <li>○ National level: between 35-62 months + 2-3 months to get grid permits</li> <li>○ Autonomous Community level: between 17-48 months + 2-3 months to get grid permits.</li> </ul> Also based on the mentioned document, considering the steps: <ul style="list-style-type: none"> <li>• Grid access: 2-3 months</li> <li>• From the grid permits until the developer submits the request for DIA, PAA, AAC and DPU: 12 months at national level; between 2-12 months at Autonomous Community level.</li> </ul>

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	<ul style="list-style-type: none"> <li>• After the request is submitted, the first step is the EID. From the moment the request was submitted until the EID is issued: 8-20 months at national level; 5-15 months at Autonomous Community level.</li> <li>• From the moment the EID is issued until the PAA, AAC and DPU are resolved: 7-15 months at national level; 2-6 months at Autonomous Community level.</li> <li>• From the resolution of the administrative authorisations until the local permits are obtained: 1-3 months (always Autonomous Communities level + municipalities).</li> <li>• From the local permits until the exploitation license (commissioning certificate): 7-12 months.</li> </ul> <p>It is unusual for projects to be legally challenged once the permits have been issued. In those rare cases, the court process can take from 1 to 3 years depending on whether the court decision is appealed.</p> <p>Based on feedback received, the duration can be (Stakeholder 1):</p> <ul style="list-style-type: none"> <li>• PV ground mounted: <ul style="list-style-type: none"> <li>◦ 6-8 months for preliminary site analysis and to obtain grid access and connection permits.</li> <li>◦ 22 months to obtain the EID</li> <li>◦ 6-12 months to obtain the rest of the administrative authorizations and permits</li> </ul> </li> <li>• Wind onshore: <ul style="list-style-type: none"> <li>◦ 8-12 months for preliminary site analysis and to obtain grid access and connection permits</li> <li>◦ 22 months to obtain the EID</li> <li>◦ 9-15 months to obtain the rest of the administrative authorizations and permits</li> </ul> </li> </ul>
Project approval rates	<p>Based on the interviews, the approval rate of projects is high, around 50% or more.</p> <p>Where most projects fail is: EIA and grid permits.</p> <p>Regarding grid permits, the Law 23/2020 states that:</p> <ul style="list-style-type: none"> <li>• In the third quarter of 2019, 39,000 MW of PV and wind plants were granted access permits and 21,000 MW were denied due to lack of capacity.</li> <li>• In the fourth quarter of 2019, 15,500 MW of PV and wind plants were granted access permits and 39,500 MW were denied for lack of capacity.</li> </ul> <p>The rejection rate reflects the collapse of this process step.</p>
Costs of administrative processes	<p>For all technologies:</p> <ul style="list-style-type: none"> <li>• The grid permits: 40 EUR/kW (it is a guarantee though).</li> </ul> <p>At the national level (Stakeholder 1):</p> <ul style="list-style-type: none"> <li>• For PAA and AAC the administrative fee is EUR 15.73 for a budget up to EUR 12,020.24. For each additional EUR 6,010.12 or fraction thereof of budget, a fee of EUR 3.54 will be added.</li> </ul> <p>As an example, data was collected for Castilla-La Mancha:</p> <ul style="list-style-type: none"> <li>• For EIA: the project developer shall pay an administrative fee of EUR 417.82.</li> <li>• For PAA: the amount is based on the budget of the project. Up to EUR 10,000 the fee is EUR 65.50. For each additional EUR 5,000 or fraction thereof of the budget, EUR 11.10 will be added, with a maximum limit of EUR 4,000 to be paid (Ley 7/2008 Castilla-La Mancha).</li> <li>• For AAC: same amounts as for PAA.</li> </ul>

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	<ul style="list-style-type: none"> <li>For DPU: the amount is based on the budget of the project. Up to EUR 10,000 the fee is EUR 98.27. For each additional EUR 5,000 or fraction thereof of the budget, EUR 16.66 will be added, with a maximum limit of EUR 7,000 to be paid (Ley 7/2008 Castilla-La Mancha).</li> </ul>
Share of permits that are legally challenged	Regarding the access and connection permits to the transmission lines, the president of the CNMC said that the institutions has been receiving 180 complaints per year (as of February 2021). Some of these conflicts are related to the Single Node Partner (see barriers).
Share of legal challenges that are overruled	N.A.
Stakeholder interests	<p>During the processing of administrative authorisations, the project is subject to public information and consultation (it is published in official sources, such as the Official Gazette). Stakeholders can, therefore, be informed and participate. For a closer look, please refer to the interview conducted with the environmental NGO Ecologistas en Acción, described above.</p> <p>The responsible for stakeholder engagement is the authority. However, project developers can propose public participation actions, such as a public hearing, but this is not mandatory. It is rather a good practice.</p>

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