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

Poland

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# Executive summary

This report covers four technologies: rooftop PV, ground-mounted PV, onshore and offshore wind.

There are two main barriers to the permitting procedures in Poland that are common to all wind energy installations. First, too long time to obtain a Local Spatial Development Plan (LSDP). This is partly due to public opposition. When the administrative procedure is completed, despite the right to express their views and concerns during the public consultation, the opponents of renewable energy projects tend to continue their opposition in court. This is not applicable for all renewable energy technologies as the adaptation of LSDP is mandatory only for the onshore wind technology (it is not obligatory for PV or biogas/biomass investments and offshore wind developments are intended to get permissions granted when in line with the Spatial Plan of Polish Marine Areas, expected to be adapted soon). Second, the physical implementation of the connection to the grid (after the stage of obtaining administrative permits) takes too long. Although there are legal deadlines for issuing conditions for the grid connection, there are insufficient legal instruments when the physical implementation of the grid connection is chronically delayed.

For onshore wind, the so-called 10H rule is the main obstacle highlighted by the national experts interviewed for this report and which significantly impedes further development of this technology. In line with this rule, the minimum distance between a wind farm and any residential buildings must be at least 10 times the height of the entire turbine.

No significant barriers were identified for solar power. In the case of small systems, too few fire safety experts can represent a potential problem.

In Poland, the transposition of the provisions of the RED II Directive into national law is currently being analysed. The Ministry of Climate and Environment is working on solutions to simplify administrative procedures for renewable energy technologies. The first results of their work should be available for internal discussions in the first quarter of 2021.

Table 1 contains a traffic light assessment of the relevant process steps for the installation of solar power (rooftop and ground-mounted PV) as well as onshore and offshore wind in Poland.

*Table 1: Traffic light assessment of the relevant process steps*

| Process step | Site selection | Electricity production license | Application preparation process | Administrative authorisation | Grid connection permit | Corporate legal-fiscal | Other |
|---|---|---|---|---|---|---|---|
| PV ground-mounted | | | | | | | |
| PV rooftop | | | | | | | |
| Onshore wind | | | | | | | |
| Offshore wind[1] | | | | | | | |

No barriers identified
Moderate barriers identified
Minor barriers identified
Not relevant for target country
Severe barriers identified
No projects implemented

[1] So far, no offshore wind power plants have been installed in Poland. Offshore wind farm projects are at different levels of progress. Only several projects have obtained location decisions, environmental decisions and signed grid connection agreements.

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# 1. National RES targets and relevant RES technologies

According to the Polish NECP, photovoltaics, onshore and offshore wind energy will be the most important technologies to reach national renewable energy targets set for 2030 (NECP Poland, 2019).

Poland plans to increase the overall share of renewable energy sources (RES) in gross final energy consumption to 21-23% by 2030 (NECP Poland, 2019). For comparison, the RES share in gross final energy consumption reached 12.16% in 2019 (Statistics Poland, 2020).

If we look at the electricity sector, Poland declares that at least 32% of its electricity and 28% of heating will be produced from renewable energy sources in 2030 (PEP2040, 2021). In 2019, the RES share in the electricity sector was 14.35%, and in heating 9.5% (11% in cogeneration) (Statistics Poland, 2020; ERO, 2020).

The renewable energy technologies selected for the mapping of administrative procedures in Poland (photovoltaics, onshore and offshore wind energy) demonstrate the greatest growth potential towards 2030 and 2040. The total installed capacity of PV installations is expected to increase to approx. 7.3 GW in 2030 and approx. 16 GW in 2040. The total installed PV capacity as of 1 January 2021 was around 3.9 GW (PSE, 2021). The installed capacity of offshore wind is expected to reach around 3.8 GW in 2030 and around 8 GW in 2040. With regard to onshore wind, it is expected that the total installed capacity of this technology will increase to approx. 9.6 GW in 2030 and maintain this volume until 2040 (NECP Poland, 2019). In 2019, the installed capacity of onshore wind energy installations was 5.9 GW[2] (ERO, 2020).

Figure 1 displays the annual deployment of solar PV and onshore wind between 2010 and 2019. It can be observed that there was a constant deployment of onshore wind in the recent years, however, with a downward trend since 2015. With an upward trend since 2014, solar PV peaked in 2019.

[2] There are currently no completed offshore wind farms in Poland.

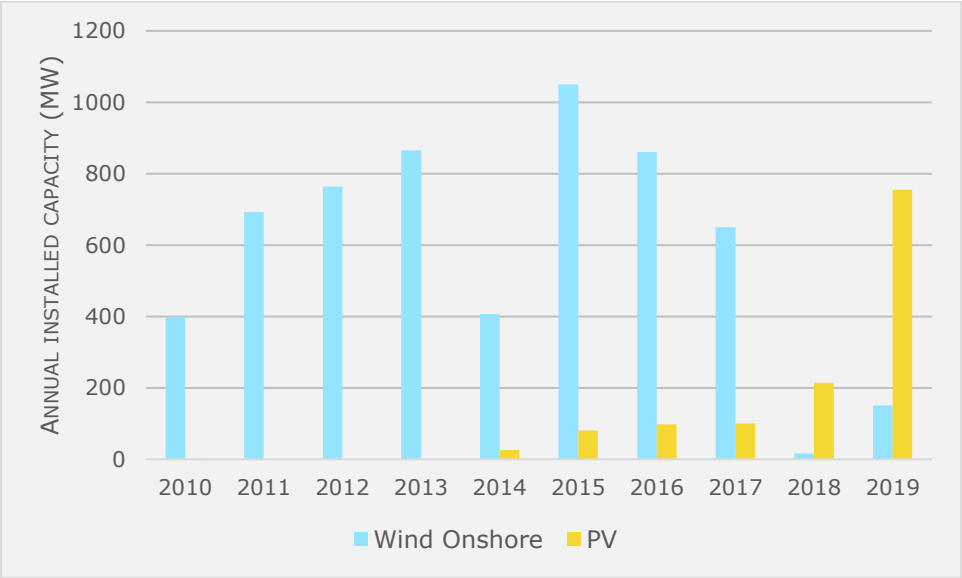


*Figure 1: Annual installed capacity of PV and Wind onshore 2010-2019 (source: EurObserv'ER)*

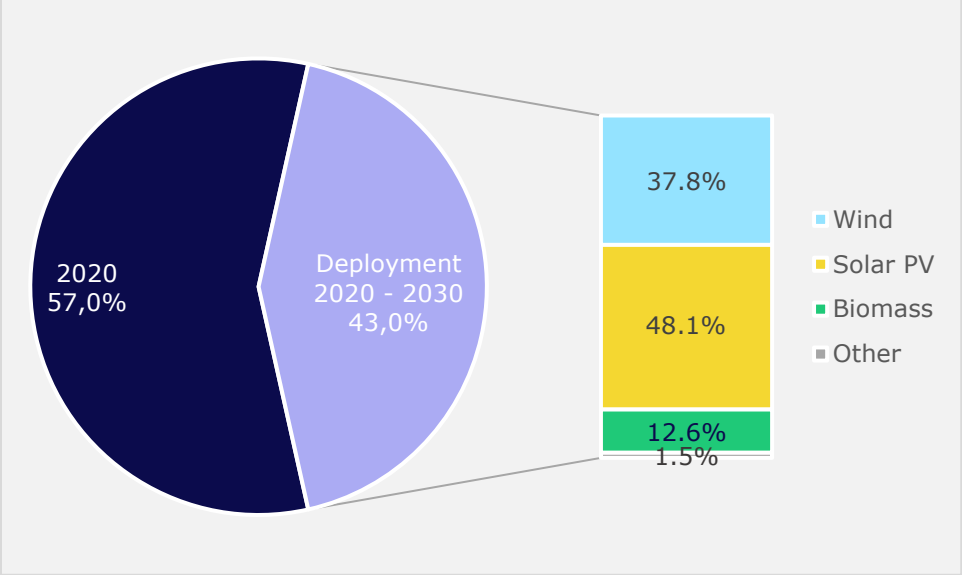


*Figure 2: Planned deployment of RES-E 2020-2030 in relation to past deployment (source: NECP)*

# 2. Administrative and grid connection procedure

## 2.1. Relevant process steps

The first stage in the project implementation is finding a suitable location for the planned renewable energy installation. At this stage, the administrative requirements and the possibilities of implementing a project in a given area are checked, taking into account the size of the planned installation. The site selection includes a detailed analysis of the selected location, including, for example, the conditions and directions of spatial development (Local Spatial Development Plans), the possibility of public purpose investment, the project development conditions, the need for environmental conditions for the selected technology, etc. In the site selection phase, the proximity of the

electricity network is also analysed, taking into account the technical parameters of the planned installation.

Before starting with the administrative authorisation process step, developers of renewable energy sources of installed capacity exceeding 500kW need to apply for a concession for the production of electricity from renewable energy sources (does not apply to biogas and micro-installation and conventional, i.e., non-RES sources up to 50 MW). Concession is obligatory for all businesses operating in the field of renewable electricity generation, with the exception of micro and small systems. The concession is granted by the Energy Regulatory Office (ERO).

The administrative authorisation process step includes the location decision (spatial planning procedure), the decision on environmental conditions (including an approval of environmental impact assessment), as well as the issue of a construction permit. For offshore wind, some additional technology specific permits need to be obtained, such as permit to erect and exploit artificial islands, constructions and equipment in Polish maritime areas (also called 'location permit') and permit for the laying and use of cables in internal sea waters and territorial sea.

Once all the necessary permits in the administrative authorisation process step have been obtained, the project developer will proceed with the connection of the installation to the electricity grid.

It has to be noted that the complexity of application preparation varies depending on the project implementation process step and the approval(s) to be obtained. For example, an application file for the adoption or amendment of a Local Spatial Development Plan (LSDP) consists of only three documents: an application, a registration map, and a basic map. However, since the existing regulations do not provide for any procedures or deadlines for its examination, the whole process can take up to several years. On the other hand, an application for a licence to produce electricity from renewable energy sources (concession) consists even of 47 documents. However, the decision must be taken by the authority within one month or maximum two. Some of the legally binding deadlines for approvals, also at the environmental permitting stage, are sometimes exceeded. Environmental permit for renewable energy technologies is granted by the local administration of the municipality (most cases) or for investments on closed areas and all wind energy investments – the Regional Directorates of Environmental Protection (RDEPs). RDEPs are facing the problem of insufficient staffing in recent years and it can be expected, that additional obligations resulting from the so-called Distance Act from May 2016 may result in unintentional delay in issuing decisions when this process will be restarted (RES industry representative, 2021).

### 2.1.1. Site selection

#### Process flow

The site selection is the first step in the implementation of a renewable energy project and begins with the search for a suitable location with adequate wind or sun conditions, the examination of spatial development conditions, and possibilities of connecting the generating unit to the national electricity grid.

When looking for a suitable location, the project developer must first familiarise himself with the Local Spatial Development Plan (LSDP) – if it is locally adopted, the Studies of

Spatial Development Conditions and Direction (SSDCD) in the respective municipality and/or the possibility of obtaining development conditions (in certain cases). It has to be noted LSDPs have been adopted for only around 30% of area of Poland so far (NIK report, 2017).

The LSDPs are adopted by the municipal councils and determine the land use in the municipal territory. If the LSDP has been adopted in the respective municipality, the project developer should plan his project in line with the provisions of the plan (Biznes.gov.pl, LSDP). The LSDPs must be adopted for all wind power plants and ground-mounted PV installations in case the LSDP is already adopted and does not allow investments in PV (LSDP - procedure, 2021; based on art. 15 Act on Spatial Planning). However, only a few municipalities in Poland have defined areas for renewable energy in their LSDPs so far. Therefore, when implementing a renewable energy project either the existing LSDP needs to be amended or a new one adopted for most of the projects (for more information on LSDP see section 2.1.3. of this report). The process of adopting a LSDP involves several rounds of public consultation and at least one public hearing (art. 17 Act on Spatial Planning).

There are some municipalities in Poland that provide locations for wind farms in their SSDCD and are looking for investors, for example, through industry organisations. Nevertheless, these are quite sporadic cases so far (Gajewska, 2020). According to the Act on Spatial Planning, municipalities which plan to designate areas for renewable energy sources have to specify these areas in SSDCD, but only for the renewable energy technologies with a capacity exceeding 100 kW (art. 10 (2a) Act on Spatial Planning).

When selecting a location for an onshore wind project, the project developer needs to keep the 10H rule in mind. According to this rule, the minimum distance between a wind farm and any residential buildings and also some chosen forms of nature protection, defined in the Act (national parks, landscape parks, nature reserves, Natura 2000 sites) and chosen forms of forests - promotional forest complexes must be at least 10 times the height of the entire turbine (art. 4 Act on Windfarms). The government is currently planning to ease the 10H rule (for more information see section 2.1.3. of this report).

Offshore wind farms can only be built in the maritime exclusive economic zone. The decision on location is taken by the Minister in charge of maritime economy or the director of the maritime office. Currently, a Maritime Spatial Plan of Polish Sea Areas is in the final adoption procedure. The publication of this plan is expected in the second quarter of 2021 (drafting ongoing since 2016) (Maritime Office in Gdynia, 2020).

The most common form of securing a plot of land for onshore wind power, but also a ground-mounted PV installation (with the exception of micro and small installations) is to lease it from the landowner or a municipality (different for offshore wind). If the investor owns the property with adequate wind or solar conditions, that meets the grid connection requirements, then he can contact the local government for further processes.

*Micro-installations (up to 50 kW)*

When selecting a location for the construction of micro-generating renewable energy systems, project developers may contact the local distribution system operator (DSO) to make sure that the planned renewable energy system complies with the network requirements. In addition, developers may contact the municipality for a confirmation that the system can be installed in a specific location. However, there is no legal obligation to do so.

## Deadlines

As a general rule, the deadlines for the responses of the competent authorities to the inquiries received depend on each case. According to the Code of Administrative Procedure (art. 35 § 1), the public administration bodies are obliged to deal with the matters without *undue delay*. According to art. 35 of the Code of Administrative Procedure, if the authority can process the application on the basis of information provided by the applicant or information that is generally known to the authority or that can be determined from the data available to that authority, the *undue delay* usually means an immediate response. If an investigation procedure is required to process the application, the response must be given within one month; in a particularly difficult case within two months, after previously noticing the applicant. In the case of a complaint, the authority must respond within one month of receiving the complaint.

These deadlines do not include, among other things, the time periods for completing the application, for suspending the proceedings, the duration of mediation or delays caused by the applicant or other delays beyond the control of the authority (art. 35 Code of Administrative Procedure).

In terms of a LSDP, Polish law does not set the deadline for its adoption. Depending on the complexity of the plan and the size of the area covered by the plan, it can take several months to several years for the plan to be adopted (Biznes.gov.pl, LSDP). For procedural deadlines related to the public consultation in the LSDP adoption procedure see section 2.1.3. of this report.

## Detected barriers

**10H rule.** The 10H rule is by far the most significant barrier highlighted in expert interviews. It has been described as an administrative blockade of onshore wind energy in Poland (Industry journalist, 2021). The 10H rule resulted from political incentive to support the opposition of local communities against wind farms, who were allegedly dissatisfied with the social cooperation with investors. This dissatisfaction has been taken over by the political level to the detriment of the development of wind energy in Poland.

The 10H rule limits the potential increase in the share of onshore wind power in the national energy mix as it has a negative impact on the availability of sites for wind energy projects as it is nearly impossible to find sites meeting the 10H rule. As the available space for wind and other renewable energy developments will decrease in the future with development of the RES sector in Poland it is highly recommended to avoid such rigid limitations in future legislation.

The stakeholders therefore suggest that the distance between wind farms and residential buildings should be determined at the local level (Interviewed experts, 2020).

The government is currently working on the amendments leading to the easement of the 10H rule. If planned amendments are implemented, the municipality could set a different minimum distance between the wind power plant and the residential building within the framework of the LSDP. The minimum distance would be based on the results of the Strategic Environmental Assessment for LSDP but should be not less than 500 metres (for further information see section 2.1.3. of this report).

### Identified good practice

**Proactive municipalities.** In Poland, some proactive municipalities or heads of the municipalities (*wójt*[3]) take their own initiative when it comes to renewable energy projects. These municipalities have usually adopted a LSDP for wind energy and are actively looking for appropriate investments themselves, for example through industry organisations. In the opinion of stakeholders interviewed, the municipalities should be more motivated and stimulated by the national regulations for renewable energy (Gajewska, 2020; Wiszniewska, 2020).

**Code of Good Practice.** The Code of Good Practice is a result of cooperation of Polish Wind Energy Association with Polish Bank Association, DNB Bank, Association of Renewable Energy Friendly Municipalities and Association of Rural Municipalities of the Republic of Poland. It describes the rules of conduct applied by the industry during the execution of wind power projects, the observance of which makes the investment safe for the community and the environment. The investor following the rules set forth in the Code voluntarily imposes on himself certain restrictions and obligations aimed at protection of valuable goods and values. Additional actions resulting from adherence to good practices are self-rewarding in the long run and are in the interest of both society and investors themselves (Klera-Nowopolska, 2021).

## 2.1.2. Electricity production licence

### Process flow

Entities operating in the field of renewable electricity generation are required to have a concession for the production of electricity from renewable energy sources (hereinafter: concession). Exempt from this requirement is electricity production in a micro and small electricity generating systems (art. 32 Energy Law). However, small-scale systems (with a total installed capacity of more than 50 kW and less than 500 kW) must be entered in the register of regulated activities (art. 7 RES Act). Owners of micro-installations (installation with a total installed capacity of 50 kW or less) have to notify the distribution system operator (DSO) of the installed micro-installation and submit a notification to the grid operator to connect the micro-installation to the electricity grid. The operator has to be notified no later than 30 days before the day on which the micro-installation is to be connected to the grid (art. 5 RES Act; Tauron Mikroinstalacja, n.d.).

The concession is granted by the Energy Regulatory Office (ERO), but the opinion of the board of the voivodeship[4] is also necessary (the ERO requests the opinion of the board) (Koncesja na OZE, 2020).

In a first step, anyone who intends to produce energy may apply to ERO for a promise to grant a concession or amend an existing one. The promise is issued by the President of the ERO by way of an administrative decision. The validity of the promise cannot be shorter than 6 months. Despite the fact that the legislator has not set an upper limit for the validity of the promise, in practice it is issued for the expected duration of the project. During the period of validity of the promise, the granting of a concession for the activity specified in the promise may not be refused unless the factual or legal conditions

[3] Wójt is a senior civil administrative officer and the highest representative of the government of a rural gmina (comprising only villages).

[4] Voivodeship is the highest administrative division in Poland. It corresponds to a 'province' in other countries.

specified in the application for the issue of the promise have changed (art. 43 Energy Law).

A company applying for a concession must meet the conditions specified in article 33(1) of the Energy Law. The application file to the ERO must include a document confirming the legal title to the installation, a decision on the location of a public purpose investment (if applicable), a construction permit, an occupancy permit, information on compliance with the LSDP, decision on grid connection conditions, grid connection agreement, and other technical and financial documents. The application consists of a total of 47 documents.

Before thoroughly examining the application, ERO will check if the concession can in principle be granted and request the voivodship board an opinion on the possibility of granting the concession. In the case of a positive opinion, the ERO will then examine the application submitted. The ERO can make the granting of the concession conditional on the submission of additional guarantees. If the submitted application meets the regulatory requirements, the ERO will grant the concession and the applicant will receive a respective decision. Thereafter, the ERO will enter the company that has received a concession in the register of companies holding the concession (WEE, 2019; Pakiet ERO, 2020). The register is kept by the ERO.

A concession is granted for a fixed period of time that is not shorter than 10 years and not longer than 50 years, unless the entrepreneur applies for a shorter period (art. 36 Energy Law). The application to extend the validity of the concession should be submitted by the entrepreneur no later than 18 months before its expiry (art. 39 Energy Law). If the project developer fails to apply for the extension of the validity of the concession within 18 months and his intention is to continue with the electricity generation, he should submit an application for a new concession (Pakiet ERO, 2020).

In spite of the expiry of the concession, the ERO President may order an energy company to continue the activity covered by the concession for a period of no more than 2 years if the 'public interest' so requires. If the activity causes a loss, the State Treasury shall cover the loss in an amount limited to the justified cost of the activity specified in the concession. The cost has to be approved by the ERO President (art. 40 Energy Law).

The circumstances that prevent the granting of a concession are set out in article 33(3) of the Energy Law. The application for a concession can be rejected if the applicant is in bankruptcy or liquidation proceedings or if his concession has been revoked or removed from the register of regulated activities within the last 3 years due to the reasons specified in the Energy Law.

When submitting an application for a concession, a stamp duty of PLN 616 (EUR 135.54[5]) is levied (Koncesja na OZE, 2020; WEE, 2019). In addition, an annual concession fee must be paid if concession is granted. The fee has to be paid by 15 April each year. Operator of renewable energy installation with a total installed capacity not exceeding 5 MW is exempt from paying a concession fee (Koncesja na OZE, 2020; WEE, 2019).

## Deadlines

If a concession application does not contain all the information or documents required under the Energy Law, the ERO President will ask the applicant to complete the

[5] Exchange rate from 15.01.2021: EUR 1 = ~ PLN 4.53 (www.oanda.com).

application within a specified period of no more than 30 days from the date of request (art. 35 Sec. 2a Energy Law). The deadline starts running from the beginning with the submission of additional documents or data. Thus, the concession granting procedure is only initiated if the application is complete. The ERO will take a decision within 1-2 months (art. 35 CAP).

If the applicant has not processed the request for completion of the application within the set deadline, the ERO will no longer examine the application. However, the applicant can submit a new application for a concession or a promise to grant a concession or to amend an existing one (art. 35 (2b) Energy Law).

If the submitted application is complete or has been completed at the ERO's request and the voivodeship board issues a positive opinion or issues no opinion within the statutory deadline (14 days, no answer from the voivodeship within this period means a positive opinion), the application will be examined within the time limit stipulated in the Code of Administrative Procedure (for more information see section 2.1.1. 'Deadlines') (Koncesja na OZE, 2020).

### Detected barriers

No barriers related to this process step were identified.

### Identified good practice

No good practice related to this process step was identified.

## 2.1.3. Administrative authorisation

### Process flow

The key permits in the administrative authorisation process step for onshore wind and ground-mounted PV projects include the decision on environmental conditions, the location decision (spatial planning procedure) and the construction permit.

For offshore wind projects, some additional technology specific permits such as permit to erect and exploit artificial islands, constructions and equipment in Polish maritime areas (also called 'location permit') or permit for the laying and use of cables in internal sea waters and territorial sea need to be obtained.

To some extent, simplified procedures apply to small-scale and micro-generating renewable energy systems (mainly rooftop PV systems). More details on the key required permits are provided below.

**Decision on environmental conditions**

Certain renewable energy projects in Poland require a decision on environmental conditions (environmental permit). The decision shall be issued prior to obtaining the decision on land development conditions and/or the decision on the construction permit (art. 72 PIE Act).

Projects that require a decision on environmental conditions can be divided into two main groups (It. 1839 Regulation of 10 September 2019):

1. projects that can potentially have a significant impact on the environment

a) Installations using wind power for electricity generation
   - located in the nature conservation areas, which are listed in the Act on Environmental Protection (with the exception of installations designed exclusively to power road or rail signs, traffic or rail traffic control, billboards and advertising panels, etc.).
   - with a total height exceeding 30 meters

b) photovoltaic systems with a construction area exceeding:
   - 0.5 ha in the nature conservation areas that are listed in the Act on Environmental Protection, or in the buffer zones of the nature conservation areas that are listed in the Act on Environmental Protection
   - 1 ha in areas other than those referred to above

2. projects that can always have a significant impact on the environment
   a) installations using wind power for electricity generation
      - with a total nominal power of 100 MW or more
      - located in the maritime areas of the Republic of Poland.

The decision on environmental conditions is issued by regional environmental protection directorates for wind power (for offshore projects and for onshore since adoption of the Distance Act in 2016) and by the city or municipality office for other projects. If the applicant is a local authority or its subsidiaries, the application shall be submitted to the regional environmental protection directorate. If the project is carried out in a maritime area, the competent authority to give an opinion is also the director of the locally competent marine office (art. 75. 1. Act on Environmental Protection).

After submitting the application (consisting of 15 documents), the competent authority checks whether the application is complete. If it is incomplete, it requests the applicant to complete the application file. If the application is complete, the authority notifies the parties to the proceedings about the commencement of the proceedings (DŚU, 2020).

For projects which always significantly affect the environment, an environmental decision can only be obtained after an environmental impact assessment (EIA) has been carried out (art. 63 Act on Environmental Protection; Wojtala, 2020). The project developer can either prepare the EIA report before submitting the application for the decision on environmental conditions or first apply to the competent authority and request to determine the scope of the EIA report (a project information sheet has to be attached to the application). After receiving a request to determine the scope of the EIA report, the competent authority will suspend the proceedings on the issue of the decision on environmental conditions until the EIA report of the project is submitted (DŚU, 2020).

In the case of projects that may have a significant impact on the environment, the competent authority will decide on the need for an EIA (art. 63 Act on Environmental Protection; Wojtala, 2020). The authority shall issue the decision within 30 days, counting from the day the proceedings for issuing a decision on environmental conditions were initiated (art. 65 Act on Environmental Protection).

If the competent authority decides that it is necessary to conduct an environmental impact assessment of the project, it will notify this decision to the investor. It is noteworthy that for onshore wind investments it is a common practice to decide that EIA is needed even for projects included in the first group mentioned above (projects that can potentially have a significant impact on the environment). The vast majority of wind

projects conduct an EIA procedure even though it is not explicitly required by law (Klera-Nowopolska, 2021). The decision stating the obligation to conduct an environmental impact assessment will also indicate the scope of the EIA report to be prepared by the investor (DŚU, 2020). The decision may be appealed (art. 65 Act on Environmental Protection). If the authority decides that an environmental impact assessment is not necessary, it will not inform the investor of this fact in a separate letter (DŚU, 2020).

If the authority decides that an EIA is necessary, it suspends the proceedings and the developer has 3 years to provide the EIA. If within 3 years from the date of suspension of the proceedings, the party fails to submit the EIA report, the application for a decision on environmental conditions shall be deemed withdrawn. The investor cannot complain about the decision to suspend the proceedings (art. 63 (5)/(5a)/(6) Act on Environmental Protection). The Regional Directorate for Environmental Protection (RDEP) can sustain the procedure when it decides that additions or corrections are needed. The bottleneck of the process is that authority can at this stage ask for the additions (even if it was not primarily listed in the requested scope of EIA) or corrections unlimited number of times as this is not regulated. Keeping that in mind, the procedure for chosen RES investments can turn out very time-consuming. For wind power plants, both onshore and offshore a lengthy (1-2 years, sometimes longer for offshore facilities) pre-construction monitoring is needed as a part of the requirements for the EIA report, especially for bird and bat monitoring (sea mammals for offshore) (RES industry representative, 2021).

After receiving the EIA, if needed, the competent authority agrees the project implementation conditions with other authorities concerned and consults the National Sanitary Inspectorate. All approvals/disapprovals from other authorities concerned can only be challenged in the appeal against the decision on environmental conditions (DŚU, 2020).

If the application meets all requirements, the competent authority will issue a decision on environmental conditions. If the EIA of the project indicates that the implementation of the project is not possible in the way proposed by the investor, the competent authority, with the consent of the investor, will indicate an alternative variant of project implementation in the decision. If it is not possible to realise the project in line with the Polish law, or if the investor disagrees with the alternative project implementation variant proposed by the competent authority, the authority will refuse the realisation of the project (DŚU, 2020).

In addition, as part of the decision on the environmental conditions, the distance between a new wind power plant and residential buildings, as well as other location-related conditions are examined and determined by the Regional Director of Environmental Protection. This decision is taken on the basis of an EIA report for the project in question (Zyska, 2020). The decision takes also the previously mentioned 10H rule into account (see section 2.1.1. of this report). According to this rule, the minimum distance between a wind farm and any residential buildings must be at least 10 times the height of the entire turbine (art. 4 Act on Windfarms).

It is important to note that the amendments to the 10H rule are currently planned. The key proposals envisage a minimum distance of the wind turbine from residential buildings of 500 m. The distance decision is to be based on the results of SEA prognosis supporting SDLP and the environmental decision. The draft amendments are at the stage of preparing for public consultation. The Ministry of Economic Development, Labour and Technology expects that the amendments to the Act on Windfarms will enter into force in the second quarter of 2021 (Kornecka, 2020).

*Public consultation*

Before issuing or amending a decision on environmental conditions, the competent authority publishes information on the EIA of the project. The public should be informed about the authority issuing the decision and other authorities concerned, about the possibility to familiarise themselves with the project documentation and to submit comments and proposals, etc. In addition, the public should be informed of the 30-day deadline for their submissions, the body competent to consider their submissions, and the date and place of the public hearing (if applicable). Comments and proposals may be submitted in writing, orally for the record or by electronic communication means without the need for a qualified electronic signature (art. 33, 34 PIE Act).

The authority conducting the proceedings examines the comments and suggestions and, in the reasoning for the decision, provides information on the public participation as well as how and to what extent the comments and suggestions submitted in the public consultation have been taken into account (art. 37 PIE Act).

Environmental organisations shall participate as a party in public consultation procedures if they have been carrying out statutory activities in the field of environmental protection or nature conservation for a minimum of 12 months before the date of initiation of those procedures (art. 44 PIE Act).

All above provisions are expected to become more challenging for RES soon after the planned adoption of the amendment od the EIA Act implementing the EU Directive 2011/92/UE) and declared amendment of the Distance Act as the government side declares to widen the consultation process in planning procedure for onshore wind farms (RES industry representative, 2021).

### *Spatial planning (location decision)*

The first activity to be taken by the investor when planning an onshore wind or ground-mounted PV project is to check whether the Local Spatial Development Plan (LSDP) has been adopted by the respective municipality and, if yes, whether the plan provides for the implementation of the project at the intended location (see also sections 2.1. and 2.1.1. of this report).

The LSDPs are adopted by the municipal councils and determine the land use in the municipal territory. If the LSDP has been adopted in the respective municipality, the project developer should plan his project in line with the provisions of the plan. The project developer can request an extract of the LSDP or a map from the municipality. The request can be submitted in paper directly at the office, by mail or using an online system (Biznes.gov.pl, LSDP). The place of submission of documents is the municipality, city offices or offices of cities with county rights.

For the extract of the LSDP a stamp duty is levied. It depends on the number of pages and ranges from PLN 30 (EUR 6.6[6]) for up to 5 pages to PLN 50 (EUR 11) for more than 5 pages. The stamp duty for a map extract amounts to PLN 20 (EUR 4.4) for each page (A4 page), up to a maximum of PLN 200 (EUR 44). The total fee for an extract and a map extract cannot exceed PLN 250 (EUR 55).

Since only in a few LSDPs in Poland areas for renewable energy are defined, either the existing LSDP needs to be amended or a new one adopted for most of the onshore wind

[6] Exchange rate from 15.01.2021: EUR 1 = ~ PLN 4.53 (www.oanda.com).

or ground-mounted PV projects (LSDP - procedure, 2020; based on art. 15 Act on Spatial Planning).

Amending or adopting a LSDP is a long process and involves a lot of preparatory work. This requires contacting and long-term cooperation with the municipality. The public is also involved in the development of the LDSP and anyone can make comments in the several rounds of public consultation (An interviewee from an industry organisation, 2020).

The process of amending or adopting a LSDP is as follows. First, municipality announces the display of the LSDP draft for public inspection. The announcement should be made at least 7 days prior to the display. The draft plan together with the environmental impact assessment will be displayed for public inspection for at least 21 days. During this period, the municipality organises at least one public hearing. The deadline for submitting comments on the draft plan is indicated in the municipality's announcement. Comments can be submitted by natural and legal persons as well as organisational units without legal personality. The deadline for submitting comments should not be shorter than 14 days from the date when the display of the plan ends. After the expiry of the deadline for comment submission, municipality has 21 days to consider comments, after the second round of public consultation (art. 17 Act on Spatial Planning).

The draft plan is then submitted to the municipal council. If the council finds it necessary to make changes to the draft local plan, the process of amending or adopting the plan is repeated as described above. If the municipal council agrees with the draft plan and the plan is in line with the provisions of the SSDCD, the council approves the draft plan (Biznes.gov.pl, LSDP - procedure; art. 19, 20 Act on Spatial Planning).

According to a stakeholder from an industry organisation (2020), adopting or amending the LSDP is such a complicated process - both in terms of cost and time, so that it will be more profitable to find another location for the project. The above rule does not concern onshore wind (mandatory adoption of the LSDP) and offshore wind (developments possible only on the offshore wind farms designated areas in marine spatial development plan located within Polish exclusive economic zone). In general, the cost of preparing the LSDP and SSDCD are borne by the municipality. However, for the part of the plan that has been prepared or amended at the request of the investor in relation to the planned investment, the costs shall be borne by the investor realising the public purpose investment (art. 13, 21 Act on Spatial Planning). At the time of report finalisation, the act on spatial planning does not explicitly provide for measures of supporting the costs of local planning by the developer, however this issue is discussed and possible to be addressed in upcoming legislation. If there is no LSDP and a change in land use is required for the planned investment, it is better to use other options available. For example, to apply for a location decision issued by the highest representative of the local government (respectively: *wójt*, town mayor/president) (An interviewee from an industry organisation, 2020).

The Act on Spatial Planning and Development provides two types of location decisions, which make it possible to determine the purpose of the land in such a situation: (1) the decision on the location of public purpose investment and (2) the decision on the development conditions. The first one is issued for investments pursuing public objectives listed in the Act on Real Estate Management (art. 6). It requires the decision of the local authority (municipality or city office) to consider the project a 'public purpose investment'.

In practice, the municipalities seldom view the renewable energy project as 'public purpose investment'. Therefore, the investor should use the second option and apply for a decision on the development conditions issued by the *wójt*, major or town president (Andrzejewski, 2020). For wind power plants, however, the decision on the development conditions is not applicable. Wind power plants need to be located based on the LSDP pursuant to article 3 of the Act on Windfarms, i.e., there should always be a LSDP for wind power plant. Anyone can apply for the development conditions. There is no need to be the owner of the property or have any other title to the property to which the application relates. An application for development conditions (consisting of 9 documents) is submitted to the municipality or city office.

*Public consultation*

The head of the municipality (*wójt*), mayor or town president announces the adoption of a resolution commencing the preparation of a SSDCD or LSDP. In the announcement, the form, the place and the deadline for the submission of comments concerning the SSDCD or LSDP must be specified. The deadline should be at least 21 days from the date of the announcement. Subsequently, the competent authority draws up a draft SSDCD or LSDP, while taking the comments sent by the public into account (art. 11, 17 Act on Spatial Planning) and then again announces that the draft study is exposed for public insight for a period of at least 21 days and organises during that time at least one public discussion on the solutions adopted in the draft study. The body sets also a time limit within which legal and natural persons, as well as organisational units without legal personality, may submit comments on the draft study. This time may not be shorter than 21 days for the SSDCD and 14 days for the LSDP, counting from the date when the period of study exposition ended. Finally, the draft SSDCD or LSDP is presented to the municipal council for adoption together with a list of the comments that have not been taken into account (art. 11, 17 Act on Spatial Planning). The government announced that they are planning to multiply number of consultations and prolong above defined deadlines in planned amendment of the Distance Act.

### *Construction permit*

**Onshore wind and PV installations**

In the case of onshore wind farms, the application for the construction permit is submitted to the voivodeship office. In the case of PV installations, the application is submitted to the county (*powiat*) office or the office of the city with county rights (Pozwolenie na budowę, 2021).

The construction permit application package includes, among other documents, a decision on environmental conditions (for PV installations, this applies to installations covering an area of more than 0,5 h in areas covered by forms of environmental protection or in the buffer zones of forms of environmental protection and more than 1 h in other cases), a statement on the right to dispose of the real estate for construction purposes, a construction design and a construction permit application (ibid.; art. 3 Regulation of 10 September 2019).

**Offshore wind**

Offshore wind farms can only be built in the maritime exclusive economic zone. The construction and use of offshore wind farms in internal waters and territorial sea is prohibited (art. 23 Act of Maritime Areas).

For an offshore wind project, over a dozen of agreements, opinions and decisions need to be obtained, besides a decision on environmental conditions described above (Foundation for Sustainable Energy, 2018). These among other things include:

- permit to erect and exploit artificial islands, constructions and equipment in Polish maritime areas (also called 'location permit')
- permit for the laying and use of cables in internal sea waters and territorial sea
- decision of the Minister in charge of maritime economy on the laying of cables in the maritime economic area
- construction permit

The above-mentioned 'location permit', the permit for the laying and use of cables in the territorial sea, and the Minister decision on the laying of cables in the maritime economic area, including decision on environmental conditions, are elements of the application package for the construction permit to build an offshore wind farm and lay cables (Pozwolenie na budowę, 2021).

The construction permit for an offshore wind farm and for the laying of cables in maritime areas may only be issued if the application is made during the period of validity of the 'location permit', the permit for the laying of cables in the territorial sea and the decision on the laying of cables in the maritime economic area (art. 32 (4)(1a) Construction Law).

The 'location permit' for an offshore wind power plant is issued by the Minister in charge of maritime economy - currently the Ministry for Climate and Environment (art. 22, 23 Act of Maritime Areas).

The Minister issues the permit following opinions on the application for this permit from the ministers responsible for state assets, energy, economy, climate, culture and protection of national heritage, fisheries, environment, geology, internal affairs and the Minister of National Defence, and by the Head of the Internal Security Agency (ABW). These entities have 90 days from receipt of the request to issue an opinion; No reply within 90 days is considered an approval (art. 23 (2-2a) Act of Maritime Areas).

The 'location permit' and permit for the laying of cables in internal sea waters and territorial sea shall inter alia specify the type, location and technical parameters of the project and is issued for a maximum of 35 years, with the possibility of extension for 20 years (art. 23 (6), art. 26 (5) Act of Maritime Areas).

For territorial sea the permit for the laying and use of cables is issued by the territorially competent director of the maritime office (after the competent authorities have given their opinion on the application). For cables in the exclusive economic zone, the decision (after the authorities concerned have given their opinion on the application) is issued by the minister in charge of maritime economy, currently the Ministry for Climate and Environment. For the cable placement onshore (part of the offshore wind energy project), the issue of the permit is also consulted with the head of municipality - *wójt*, or mayor or president of the city (art. 26, art. 27 Act of Maritime Areas).

In the case of issuing permits for offshore wind farms, public participation is minimal. According to article 25 of the Act of Maritime Areas, the only obligation is to disclose to the public information on the construction (as well as decommissioning) of artificial islands and the setting up of structures and equipment for offshore wind farms and the establishment of safety zones around them. Information is provided in official publications of the Hydrographic Office of the Polish Navy. These issues are widely

discussed within Working group No. 6, being a part of the Polish Offshore Wind Sector Deal lead by the Ministry of Climate and Environment. The group deals with all stakeholder issues and it is expected that provisions on cooperation with state defence, supporting local communities, managing cumulative environmental impacts and supporting the shipping and fishing activities will be included in final version of the sectoral agreement (Klera-Nowopolska, 2021).

**Small-scale renewable energy systems**

In connection with article 29 (4)(3)(c) of the Construction Law, small-scale renewable energy systems (systems with the total installed capacity of more than 50 kW and less than 500 kW) always require a building permit. This applies to the rooftop and ground-mounted PV systems. Pursuant to the provisions of the Act on Spatial Planning, small-scale systems do not require a decision on the location or a decision on development conditions, if their construction does not cause any changes in the land development and use of the building and does not change its architectural form.

In addition, installation of small-scale renewable energy systems is not classified as a project requiring EIA procedure. However, as part of the project implementation process, it is recommended to apply to the municipality for a certificate confirming the approval of a given renewable energy system at the selected location. Such a certificate will be required by power system operators at the stage of obtaining grid connection conditions and then concluding the grid connection agreement. This requirement does not result from legal regulations, but from network operation and maintenance instructions issued by power system operators (Szwarc, 2019).

The production of energy in small installations is a regulated activity, therefore the producer must be entered in the Register of Small RES Installations kept by the ERO President (art. 7 RES Act).

**Micro-installations (up to 50 kW)**

For micro-generating renewable energy systems within the meaning of the RES Act (systems with installed capacity of 50 kW or less) no building permit is required under Construction Law. These microgenerators do not need to be specified in the LSDP. If the LSDP provides for the possibility to construct buildings, it also allows the installation of micro-installations (unless the LSDP prohibits such installations) (art. 15(4) Act on Spatial Planning).

Moreover, the generation of electricity in micro-installations does not require obtaining a concession or entry in the Register of Small RES Installations.

However, there are exceptions to the above rules. The implementation of the RES micro-installation (1) at a building entered in the monument register requires a construction permit, and (2) in an area entered in the monument register - a notification. What is more, the application for a construction permit or notification must be accompanied by an approval from the respective Voivodeship Conservator of Monuments (art. 29(7) Construction Law).

In general, the stakeholders believe that the number of responsible employees in the competent authorities is not sufficient. In the municipalities it is often just one person who also deals with other matters. Although the process itself is seen as transparent. The know-how of the staff is based on accumulated experience, not specialised trainings. As a result, in the municipalities without renewable energy projects, the know-how of the

responsible staff is lower than in municipalities in which the projects have already been implemented (Interviewed experts from industry associations, 2020).

## Deadlines

### *Local Spatial Development Plan (LSDP)*

An extract and map extract from the LSDP will be provided within 7 days to one month of the request. If there is no LSDP, the office will inform the investor that it cannot issue an extract. In such a case, the investor may apply for a refund of the stamp duty (Rejestr OZE, 2020).

### *Decision on development conditions*

A competent authority (*wójt*, mayor, town president) has one month (two months in particularly complex matters) to issue a decision on the development conditions (DWZ, 2020). This deadline is calculated from the date the application is submitted. In practice, however, the whole procedure usually takes 3 to 4 months (Interviewed experts from industry associations, 2020).

### *Environmental Impact Assessment (EIA)*

A statement of the competent authority on the obligation to carry out an environmental impact assessment for a planned project with a potential significant impact on the environment should be issued within 30 days of the initiation of the procedure for issuing a decision on the environmental conditions (for further EIA related deadlines please see 'Process flow' above) (art. 65 Act on Sharing Information).

### *Permit to erect and exploit artificial islands, constructions and equipment in Polish maritime areas ('location permit')*

If, within a period of 8 years from the date of the issue of the 'location permit', the project developer does not obtain a construction permit, the competent authority will declare the 'location permit' as expired. If the investor provides justifiable reasons for the delay, the period can be extended by a maximum of two years. If (1) within 3 years from the date on which the decision on the construction permit became final, the construction of the artificial island, structures and equipment is not commenced, or (2) within 5 years from the date on which the construction starts, the use of the artificial island, structures and equipment is not commenced, the authority shall terminate the 'location permit' (art. 23 (6a)(6b)(6c) Act of Maritime Areas).

## Detected barriers

**Local opposition to renewable energy projects.** The obligation to conduct public consultation results from the provisions of the legal acts and is foreseen in the stage of drawing up the Local Spatial Development Plan (LSDP) and issuing decision on environmental conditions. In the opinion of developers of renewable energy projects, public consultation limits the investment opportunities in renewable energy (Industry representative, 2020). One of the reasons is that renewable energy projects are mainly planned in non-urbanised areas where the level of information and know-how of administrative institutions about the benefits of renewable energy is rather low.

Local communities are afraid of the negative impacts of renewable energy installations on health and the environment, but also on the land prices around wind and PV installations (decrease of property value). Even after public consultations have been completed, building permits granted and renewable energy auctions won, there are still

demonstrations against the realisation of the projects (Interviewed experts from industry associations, 2020).

In addition, resistance to renewable energy installations exists among some local public administration bodies, at the level of municipalities (*gmin*) and county districts (*starostw powiatowych*) (Representative of an industry association, 2020). These are sometimes reflected at the level of voivodship or even central level (RES industry representative, 2021).

It is worth adding, however, that the opposition of some people to the renewable energy projects (especially onshore wind energy) is declared due to the low transparency of the handling of the comments submitted in the public consultation phase by the authorities and lack of understanding the procedure itself. Decisions are made during municipality council sessions by the councillors. Although the inspected municipalities allowed their inhabitants to express their opinions at each stage of the procedure of locating wind farms, the arguments and concerns of the opponents were usually not shared and taken into account during the decision-making process (NIK, 2014).

**The number of fire security experts.** The installation of PV systems with an electrical power of 50 kW or less does not require a construction permit or notification to the architectural and building administration. In the case of PV systems with an installed capacity greater than 6.5 kW, however, there is an obligation to obtain confirmation from the fire security expert that the system complies with the fire security requirements (art. 29, 30 Construction Law).

The number of fire security experts is perceived to be insufficient in Poland (Industry representative, 2020). At present, there are 489 fire security experts (National Headquarters of the State Fire Service of Poland, 2020).

**Lack of sufficient staff in the relevant public administration bodies and lack of training.** The stakeholders interviewed highlighted that in view of the extent of the regulatory challenges and administrative matters, the number of officials in the competent authorities is insufficient. This applies to both local and central level. Due to the number of projects and the small number of officials, the processing of projects is rather slow. In some municipalities, for example, there is only one responsible person who, among other things, deals with investments in renewable energy.

The expertise of the staff in competent authorities is generally perceived as high, but with significant differences between municipalities, cities, and central offices. The know-how of the officials in the field of renewable energy in municipalities where no investments in renewable energy projects have been made yet is noticeably lower. In practice, this results in reluctance to make decisions and great uncertainty for project developers.

The competencies of the responsible staff depend on the number of successfully implemented renewable energy projects in the municipality, but also on the access to the training system. The training system for officials is rated very low by the stakeholders surveyed. They highlighted that municipalities are unlikely to improve the level of education and training of staff in the field of renewable energy unless there is a legal obligation to do so. On the other hand, the stakeholders highlighted the lack of programmes to improve the qualifications of civil servants handling renewable energy projects.

Finally, the stakeholders interviewed are of the opinion that the employees of the competent authorities sometimes do not know or understand the specifics of the commercial sector very well. (Wiszniewska, 2020; Pietruszko, 2010; Expert from the industry organisation, 2020)

**Too long time to obtain a Local Spatial Development Plan (LSDP).** In a very optimistic scenario, the adoption (including the consultation process) of a LSDP and the associated appeal procedures take at least one year, but usually 2-3 years or even longer.

A potential solution to speed up this process would be to adopt regional plans for renewable energy development. The obligation to identify areas designated for renewable energy projects could be set out in the Studies of Conditions and Directions of Spatial Development (SCDSP), which are prepared by local government units (Expert from the industry organisation, 2020). Even if this study is not local law, it would still support renewable energy investors by reducing the time needed to find a suitable location for their installations (art. 10 (2a) Act on Spatial Planning). Currently, if the municipality plans to designate areas for the development of renewable energy installations, the SCDSP will only determine locations for installations over 100 kW (art. 10 (2a) Act on Spatial Planning).

**Politicisation of decisions on offshore wind farms.** In the case of offshore wind farms, there are two aspects that could potentially constitute an administrative barrier for non-Polish companies in the future. The first one, is the requirement to keep records of the supply chain for materials and services used in the construction and operation of an offshore wind farm. This documentation is provided to the ERO, on a cyclical basis. The documentation should include a description of the share of investment outlays expected to be incurred for the benefit of entities having their registered office or branch in Poland; a description of anticipated initiatives, which the owner of installation intends to undertake in Poland in order to develop human resources within the scope of competence and professional qualifications improvement, necessary for the construction or exploitation of the offshore wind farm; a description and estimated number of workplaces, which the owner of installation intends to create in Poland. Hence, this requirement may increase the pressure on investors to choose Polish sub-suppliers and service recipients (based on art. 42 Offshore Wind Act).

The second aspect relates to the involvement of the Internal Security Agency (ABW) in the processes of obtaining permits, which may reduce the transparency of administrative decisions taken. The opinion of the ABW is needed when obtaining a ‘location permit’, a permit for the laying and use of cables in internal sea waters and territorial sea, or when determining the location of a strategic investment of the transmission network (art. 23(2) Act of Maritime Areas). The ‘location permit’ will be refused if granting would jeopardise the interests of the national economy, state defence and security (art. 23(3) Act of Maritime Areas).

The ABW's opinion and use of very general terms such as ‘state security', 'interest of the national economy' could potentially be an administrative barrier for investors from countries that the Polish government considers hostile. (Industry Expert, 2020)

**A complex process of adopting/amending a LSDP.** The process of adopting or amending a LSDP where a consent is needed for the use of agricultural land of Classes I-III or forest land for non-agricultural and non-forestry development (incl. renewable energy projects) is complex.

The use of agricultural land of Classes I-III as well as forest land for non-agricultural and non-forest purposes (e.g., purpose of installing renewable energy technology) requires the consent of the voivodship marshal[7] (*marszałek województwa*), which follows the opinion of the Chamber of Agriculture. Furthermore, the use of agricultural land of Classes I-III for non-agricultural purposes requires the consent of the Minister in charge of rural development, currently the Ministry of Agriculture and Rural Development (with certain exceptions provided in sec. 2a of the Act on the Protection of Agricultural and Forestry Land). Designation of forest land owned by the State Treasury for non-forest purposes requires the consent of the Minister responsible for forestry (currently, the Ministry of Climate and Environment) or a person authorised by him.

In the first step, the project developer will therefore apply for a consent to use the agricultural land of Classes I-III as well as forest land for non-agricultural and non-forest purposes to the municipality and wait for the head of the local government (*wójt*, mayor, city president) to take action. The head of the local government will then request other authorities concerned for their opinion on the consent. The application with respect to forest land owned by the State Treasury shall be accompanied by the opinion of the Director of the Regional Directorate of State Forests (art. 7 Act on the Protection of Agricultural and Forestry Land).

The voivodship marshal, the Minister responsible for rural development, and the Minister responsible for forestry (or a person authorised by him) may require that the project developer submits several alternative applications presenting different directions of the spatial planning for the intended development (art. 7(5) Act on the Protection of Agricultural and Forestry Land).

### Identified good practice

**Register of Small RES Installations - submission of documents to the municipality or city office.** As a rule, applications for the entry into the Register of Small RES Installations are submitted to the appropriate local branch of the ERO, in whose area of operation the company is based. However, an application for entry in the register may also be submitted to the municipal or city office. In the application, the President of the ERO must be indicated as the authority keeping the register (Rejestr OZE, 2020; Industry expert, 2020).

## 2.1.4. Grid connection permit

### Process flow

An electricity transmission or distribution company is obliged to conclude a grid connection agreement with parties applying for grid connection on an equal basis and to connect, as a priority, renewable energy source installations. If the energy company refuses to enter into a grid connection agreement or to first connect a renewable energy source installation, it is obliged to immediately notify the President of the Energy Regulatory Office and the interested entity of its refusal in writing, stating the reasons for the refusal (art. 7(1) Energy Law).

[7] The head of the provincial-level government for each of the sixteen Poland's voivodeships.

In order to carry out the grid connection, a grid connection contract is concluded between the electricity transmission or distribution companies and the investor (art. 7(2) Energy Law). The grid connection agreement contains among other things information on the date of the connection, the amount of the connection fee, the scope of the necessary grid connection works, the liability of the parties for failure to comply with the terms and conditions of the agreement, and in particular for any delay in the completion of the agreed grid connection works, as well as the duration of the agreement and the conditions for its termination (art. 7(2) Energy Law).

In the case of an offshore wind farm, the deadline for the first delivery of the produced electricity to the electricity grid cannot be longer than 120 months from the conclusion of the contract, and in the case of other renewable energy installations, no longer than 48 months (art. 7(2a) Energy Law).

To connect the installation to the electricity grid, the project developer must in the first step determine the grid connection conditions. For this purpose, the developer files an application for the definition of the connection conditions with one of the DSOs or with the transmission system operator (TSO) (art. 7(3a) Energy Law).

The grid connection procedure depends on the type of connection. If the installation is connected to a network with a voltage above 1 kV, an extract from the LSDP or, in the absence of such a plan, the decision on the location of a 'public purpose investment' and the decision on the development conditions need to be attached to the grid connection application, if required under the rules for planning and spatial development. In the case of offshore wind, the 'location permit' shall be attached to the grid connection application (art. 7 (8d)(1)-(3) Energy Law).

For the connection of renewable energy installations with a capacity exceeding 2 MW to a power grid with a nominal voltage of more than 110 kV, an impact assessment of the installation to be connected on the National Power System (KSE) must be attached to the grid connection application. The assessment report is prepared by the operator of the distribution or transmission network (art. 7(8e), 8(8ea) Energy Law).

After submission of the application to the grid operator, the application is verified by the grid operator. If the application is complete and meets the requirements of the specific installation, grid connection conditions and a grid connection agreement are prepared. After the contract is signed, the realisation of the grid connection begins (Przyłączanie wytwórcy energii, n.d.).

The grid connection fee is charged based on the actual expenditures incurred. Exceptions apply to:

- The renewable energy installations with an installed capacity not exceeding 5 MW. They pay 50% of the grid connection fee based on the actual expenditures.
- The micro-installations. Their connection to the electricity grid is free of charge.

The entity applying for the connection to the grid with a voltage higher than 1 kV must pay an advance payment in the amount of PLN 30/kW (EUR 6.70/kW), but no more than the amount of the expected grid connection fee and no more than PLN 3,000,000 (EUR 670,110) (art. 7 Energy Law).

**Micro-installations (up to 50 kW)**

If final energy consumer (company) applies for the connection of a micro-installation to the grid and the installed capacity of the micro-installation (systems with installed

capacity of 50 kW or less) does not exceed the capacity specified in the grid connection terms and conditions issued by the grid operator, the grid connection takes place based on the grid connection application submitted to the grid operator. Otherwise, the micro-installation is connected to the grid pursuant to a grid connection agreement (art. 7(8d[4]) Energy Law).

## Deadlines

### *Advance payment*

The advance payment shall be made within 14 days after submitting the application to determine the grid connection conditions, otherwise the application will not be considered (art. 7 Energy Law).

### *The grid connection conditions*

The electricity transmission or distribution company is obliged to issue the grid connection conditions within (art. 7(8g) Energy Law):

1) 21 days from the day of submitting the application when connecting an installation with the capacity of no more than 40 kW to a network with voltage not exceeding 1 kV
2) 30 days from the day of submitting the application, when connecting an installation with the capacity of more than 40 kW to a network with voltage not exceeding 1 kV
3) 120 days from the day of submitting the application, when connecting a facility to the grid with voltage higher than 1 kV, but less than 110 kV
4) 150 days from the date of submission of an application, when connecting a facility to the network with a voltage of or higher than 110 kV.

In particularly justified cases, the transmission or distribution grid operator can extend the deadlines by up to half of specified deadlines (art. 7(8g) Energy Law).

The conditions for grid connection shall be valid for two years from the date of their issue (art. 7(8i) Energy Law).

### *The grid connection*

The transmission or distribution grid operator specifies the planned schedule for the connection of the renewable energy installation to the electricity grid in the grid connection conditions. The schedule takes the planned work and the individual grid development stages into account (PGE Procedura dla Wytwórców, n.d.).

### *First delivery of electricity to the grid*

Deadline for the first delivery of the electricity produced by the renewable energy installation into the electricity grid may not be longer than 48 months, and in the case of offshore wind - 120 months from the date of conclusion of the grid connection agreement. Failure to deliver within the deadline indicated in the grid connection agreement is the basis for the termination of the agreement (art. 7, 2a Energy Law).

**Micro-installations (up to 50 kW)**

In the case of the connection of a micro-installation to the distribution network, the DSO is obliged to connect the installation to the electricity grid within 30 days of receiving notification, provided that the installed capacity of the micro-installation does not exceed the capacity specified in the issued terms and conditions for the grid connection (art. 7, 8d Energy Law).

## Detected barriers

**Too long waiting times for the grid connection conditions and too long physical implementation of the grid connection**. The connection of renewable energy installations to the distribution and transmission network constitutes a barrier in view of the length of the procedure. The problem is that although there are statutory deadlines for issuing grid connection conditions, there is a lack of legal solutions to deal with the non-compliance with those deadlines. This barrier is exacerbated by the fact that the operators of the grid systems have monopolies in the regions of Poland in which they operate.

As a result, developers of renewable energy projects have no choice but to wait. In the case of micro-installations (up to 50 kW), the lead time is up to 5 months if there is no need for grid connection conditions and up to 14 months if the grid connection conditions are required (Podłączenie źródła w trybie wniosku, n.d.).

In addition, there is a lack of effective legal instruments if the grid operator exceeds the deadlines for the realisation of the grid connection. In Poland, there are no official maximum deadlines for the practical implementation of the grid connection. If the deadline is exceeded, there are insufficient legal tools to enforce the connection to the electricity grid (Experts from industry associations, 2020)

In the context of this barrier, the great inactivity of public administrations and operators is highlighted. (Industry representative, 2020)

**The destabilisation of the network due to the micro-installations.** Unofficial reason for delays in physical implementation of grid connection by the grid operators stems from the concerns about the destabilisation of the network due to the renewable energy microgeneration systems (Industry organisation representative, 2020). The number of prosumers in Poland has increased enormously in the past five years: 4,050 prosumers in 2015 and 457,443 in 2020 (Zyska, 2021).

In this context, the argument arises that the operators should have the right to disconnect the system from the grid if too much energy is produced (Industry expert, 2020).

**Too much discretion for ERO in the context of the 'near site direct wire' PPA.** The 'near site direct wire' type of the Power Purchase Agreement (PPA) provides for a possibility to transmit energy without using the public grid. A direct power line connects an isolated electricity generation unit to the facilities of the customer or connects the electricity generation unit of a company with the equipment belonging to that company or installations belonging to its subsidiaries.

A significant advantage of this type of PPA is that the parties to the agreement are not obliged to pay transmission fees. It should be noted that the construction of a direct line requires, prior to the issuance of the construction permit, the consent of the President of the Energy Regulatory Office (ERO) (art. 7a Energy Law).

The previous investment practice shows that ERO is reserved towards the construction of direct lines. Its position is to connect generation facilities to the public grid, if such a possibility exists. This approach by ERO directs producers towards classic off-site PPAs (Mrowiec, 2019).

There are two problems related to this type of cooperation. The first is the already mentioned H10 rule that is set in the Act on Windfarms. In the case of the 'near site

direct wire', the renewable energy installation should be located in the nearby vicinity of the recipient, and electricity is sent via a dedicated distribution grid. The 10H rule makes it impossible to construct a wind energy installation close to, for example, an industrial plant.

The second problem concerns the obligation to obtain the consent of the President of the ERO for the construction of a direct line (art. 7q Energy Law). According to one interviewee, it is theoretically possible under the current law to use a direct line. In practice, however, the ERO has not allowed anyone to use a direct line in the last 15 years (Industry organisation representative, 2020).

### Identified good practice

**Out-of-court dispute settlement.** In Poland, there is a Coordinator for negotiations to the President of the ERO, which is responsible for conducting out-of-court dispute settlement procedures between the renewable energy prosumers and energy companies (e.g., grid operator in the area where the micro-installation is located).

Among other things, the Coordinator deals with the questions related to the grid connection of micro-installations and provision of electricity transmission or distribution services. The key role of the Coordinator is to help the parties to resolve the dispute. His key tasks are therefore to bring the parties' positions closer together and to propose a solution to them (art. 31a Energy Law).

## 2.1.5. Corporate legal fiscal

### Process flow

In Poland, the following real estate is subject to the property tax (art. 2(1) Local Tax Act):

- land
- buildings or parts thereof
- structures or parts thereof connected with the performance of business activities.

It is common practice to apply to local government units (e.g., municipalities) for an individual tax interpretation for renewable energy installation. However, as a general rule can be concluded that, the real estate tax is relevant for both onshore wind power plants and PV installations.

According to the Local Tax Act, the property tax payer is the owner of the property (art. 3(1)(1) Local Tax Act).

Besides the property tax on land, in the case of onshore wind power plants, this tax concerns also the construction elements of the power plant (i.e., the foundation and the tower). The technical equipment of the power plant which is responsible for generating electricity is exempt from this tax. The exemption resulted from the amendments to the RES Act, the Act on Windfarms and the Construction Law (Amendment Act), which entered into force on 29 August 2019 (TaylorWessing, 2019; KPMG, 2020, art. 2(1), art. 3(1) Amendment Act).

Each municipality can set its own rate of the property tax. However, it cannot exceed 2% (KPMG, 2020).

In addition, companies operating wind power plants and ground-mounted PV installations, which are established and operating as limited liability companies or joint-stock companies are subject to corporate income tax. The current rate of the corporate income tax in Poland is set at 19% (ibid.).

Offshore wind farms are not subject to property tax, which is mandatory for renewable energy technologies developed onshore. Therefore, it was considered reasonable to impose a separate tax on producers generating electricity from wind energy at sea (Justification - Offshore Act, 2020).

Consequently, a concession fee for offshore wind companies was introduced under the Act on the Promotion of Electricity Generation in Offshore Wind Farms of 17 December 2020. The amount of the concession fee for offshore wind companies is a sum of two elements (art. 34(2a) Energy Law): (1) the product of the revenues of a company from the sales within the scope of the licensed activity and certain ratio (art. 34(2) Energy Law) and (2) the product of the installed capacity of the offshore wind farm and certain ratio (art. 34(2a)(2) Energy Law). The ratio for the first element may not be less than PLN 1,000 (EUR 220[8]) and more than PLN 2,500,000 (EUR 551,008) (art. 34(3) Energy Law). The ratio for the second element cannot be greater than PLN 23,000 (EUR 5,069) (art. 34(3a) Energy Law). The above-mentioned ratios are determined by the Council of Ministers of Poland by means of a regulation (art. 34(6) Energy Law; KPMG, 2021).

## Deadlines

### *Property tax*

In general, obligation to pay property tax arises from the first day of the month following the month in which the circumstances giving rise to the obligation to pay tax arise (art. 6(1-2) Local Tax Act). Some exemptions are set in art. 6(1-2) Local Tax Act. The deadlines to pay the monthly tax rate is 15$^{th}$ day of the month for every month except January (where the rule of 31$^{st}$ of January applies, followed by declarations for property tax for a given tax year). The mentioned deadlines apply for legal entities – art. 6 (9) and does not concern private individuals (regulated in art. 6 (6)).

### *Corporate income tax*

By the end of the first quarter of the next year legal persons subject to the corporate income tax must submit an annual tax return for the previous year and pay the tax due (Intertax, n.d.; art. 27 (1) CIT Act).

### *Concession fee*

The concession fee for the offshore wind farms is paid to the state budget annually (art. 34(1) Energy Law).

## Detected barriers

**Uncertainties in interpretation of the Property Tax Law for PV projects.** Tax legislation is complex and changes frequently. There is also an inconsistency as the tax authorities often interpret the law differently than the administrative courts on certain issues. In the case of property tax, it is a challenge for taxpayers to understand which elements of the PV installation are to be classified as buildings and which as structures, which is of fundamental importance when calculating the property tax. In practice, each element that is part of a functioning photovoltaic farm (e.g., transformer station,

[8] Exchange rate from 12.04.2021: EUR 1 = ~ PLN 4.52 (www.oanda.com)

transformers, photovoltaic panels, steel supporting structure elements driven into the ground) should be analysed separately in order to make correct property tax calculations (Guerri, 2020).

Most interpretation disputes in the field of property tax relate to the fact that a taxpayer classified a given element as a building (and paid a lower tax) and the municipal authority challenged this fact and reclassified it as a structure (which entails a significantly higher tax to be paid). In the case of a structure, the basis for calculating the property tax is its market value, and in the case of a building, the surface area covered by the building (ibid.)

### Identified good practice

**Property tax exemptions for investors in PV projects.** According to the Resolution No. XIII/316/19 of the City Council of Wrocław of 5 September 2019, buildings (except agriculture and/or fisheries and buildings related to large-scale commercial activities) that are connected to a PV installation can be exempted from property tax for a period of 5 years (art. 2(2), 3(2), 6(1) Resolution No. XIII/316/19).

Applications for this exemption could be submitted no later than 31 December 2020. The conditions to be eligible for the exemption were as follows: (1) expenditure of at least PLN 15,000 gross (EUR 3,306); (2) connection of a PV installation to the building during the entire period of use of the exemption; (3) submission of an application for exemption; (4) entrance of the investment in the Low Carbon Economy Plan of Wrocław. The amount of the exemption may not exceed 100% of the costs incurred (art. 4(1-4), art. 5(4), art. 6(3) Resolution no. XIII/316/19).

## 3. Use of IT systems

The traditional form of dealing with administrative matters (mail or visits to the competent authority) is dominant in Poland. Mainly, there are word/pdf application forms available for download on the websites of the competent authorities and on government portal biznes.gov.pl, which have to be filled in and submitted by mail or in person. However, for some processes the level of IT systems used is higher (see below).

#### *Spatial planning*

The extract and map extract from the Local Spatial Development Plan (LSDP) can be obtained by submitting an application in person at the office, by post or online (a trusted profile or a qualified signature will be needed). Online applications can be made through the information and services website for entrepreneurs (biznes.gov.pl). Templates of documents to be filled in can be downloaded from the same website.

A request to adopt or amend a LSDP can also be submitted online through the biznes.gov.pl website.

In the same way as for the LSDP, an extract and map extract from the Study on the Spatial Development Conditions and Directions (SSDCD) can be obtained.

In the case of planning an investment on agricultural land of Classes I to III, the redesignation of agricultural land to non-agricultural land can also be carried out online, including through the biznes.gov.pl website.

#### *Grid connection*

The level of use of IT systems varies between the distribution system operators.

The DSO Tauron, for example, has an online service[9] that can be used to submit the following applications: (1) for grid connection conditions and grid connection agreement, (2) for the conclusion of a grid connection agreement, (3) for the amendment of grid connection agreement (Tauron IT).

Innogy Stoen Operator (former RWE Stoen Operator) also has a similar online service[10] (RWE/Innogy Stoen Operator IT).

In the case of micro-installations, an application may be submitted using the application form on the website of the DSO Energa-Operator (Energa-Operator IT).

# 4. Complaint procedure

In general, the party who does not agree with the decision of an administrative body or with orders in administrative proceedings can lodge a complaint after the out-of-court dispute settlement measures have been exhausted (art. 50(1); art. 52 LPBAC). The complaint must be submitted to the competent provincial (voivodeship) administrative court (Biznes.gov.pl, Odwołanie - sąd administracyjny).

The decision can be contested by anyone having legal interest in the matter. Unless otherwise provided by law, an appeal against the decision needs to be submitted to the competent authority whose decision is contested within 30 days of reiving the decision or from the date on which the applicant became aware of the act (art. 53 LPBAC). The appeal is lodged through the authority whose decision is subject of the appeal. The competent authority is then obliged to forward the appeal together with the reply to the appeal to the competent court - a Provincial Administrative Court - within 30 days of receipt (art. 54 LPBAC). A judgment of the provincial administrative court may be appealed to the Supreme Administrative Court (art. 15(1) LPBAC).

In addition to the general administrative court procedure described above, there are some specific rules for complaint procedure for certain permits, decisions of the competent authorities in the field of renewable energy. It has to be noted that while spatial planning and environmental permitting processes entail wide public rights to complain about the decisions made (meaning that this right can be exercised by the applicant and any other natural or legal person, even without a direct impact by the project), construction permitting only ensures this right to those directly impacted by the potential building and construction works.

More detailed descriptions of these permit or decision specific complaint procedures are provided below.

### *Local Spatial Development Plan (LSDP)*

It is not possible to appeal against a LSDP. However, it is possible to challenge the decision of the competent authority in an administrative court after the municipal council has been requested to remedy the legal violation identified by the investor (LSDP - procedure, 2020).

[9] https://logowanie.tauron-dystrybucja.pl/login?service=https://przylaczenia.tauron-dystrybucja.pl/

[10] https://przylacza.innogystoenoperator.pl/skladanie-wniosku?issue_kind=connection_object&issue_type=connecting_production_installation

### *Decision on the location of a public purpose investment*

When deciding on the location of a public purpose investment, both positive and negative decisions of the competent authority can be appealed. The complaint must be submitted to the local Self-Government Boards of Appeal through the town or municipality office that issued the decision. The deadline for filing the appeal is 14 days, counting from the day of receiving the decision or its public announcement. If the decision was issued by a provincial office, the appeal must be submitted to the Minister of Funds and Regional Policy (through the provincial office) (Cel publiczny, 2021).

Moreover, applicant can appeal against the approvals or disapprovals (made in a form of a decision) of other authorities concerned in the decision-making process on the location of a public purpose investment project. If applicant disagrees with the decision, he can file a complaint against it via the office which issued the decision (approval or disapproval). The deadline for filing the complaint is 7 days of receiving the decision. The complaint procedure is carried out by a higher-level authority specified in the decision (ibid.).

### *Decision on the development conditions*

It is possible to appeal against the competent authority's decision to grant or refuse to grant the development conditions. The appeal must be lodged with the local Self-Government Boards of Appeal through the town or municipality office that issued the decision. The deadline for the appeal is 14 days from receiving the decision. If the decision was issued by a voivodeship office, the appeal should be submitted to the Ministry of Development, Labour and Technology (through the voivodeship office) (DWZ, 2021).

In the decision-making process, the competent authority may request advise from other authorities concerned. Other authorities concerned provide their consent or disapproval in the form of a decision. If the project developer does not agree with the decision, he can file a complaint. The complaint has to be submitted through the office handling the application. The deadline for filing the complaint is 7 days of receiving the decision. The complaint procedure is carried out by a higher-level authority specified in the decision (ibid.).

### *Decision on environmental conditions*

The decision on environmental conditions can be appealed within 14 days of receiving the decision. If the number of parties to the procedure exceeds 10, the parties can be notified about the decision by a public announcement (art. 74 (3) PIE Act).

The decision may be appealed by the applicant, other natural or legal persons affected by the project (art. 74 (3a) PIE Act), and environmental organisations, if this is justified by the statutory objectives of that organisation (art. 44 (2) PIE Act). In addition, the regional director for environmental protection can challenge the decision on environmental conditions in the event of irregularities when issuing a decision. In such a case he could, for example, require the annulment of the decision (art. 76 (1) PIE Act).

The appeal must be submitted through the competent authority which issued the decision.

### *Environmental Impact Assessment (EIA)*

The decision of the *wójt*, the mayor or the town president to carry out an environmental impact assessment can be objected by the party (art. 65 (2) PIE Act). The complaint shall be lodged with a higher-level authority. In the case of a decision made by

municipality/city, this is the local government appeals board, unless otherwise provided by special laws (art. 17(1) CAP). According to article 65(2) of the PIE Act, the legislator restricts the possibility of submitting a complaint only with regard to decisions obliging to carry out the environmental impact assessment. This means that in those situations where a decision has been made that there is no need to carry out an environmental impact assessment, the correctness of the decision can only be assessed at the appeal stage against the decision ending the procedure (II SA/Gl 286/19, 2019).

If the competent authority decides that the EIA report is necessary, it will suspend the procedure for the decision on environmental conditions until the submission of the EIA report. There is no right to appeal against this decision (art. 69 (4), (5) PIE Act).

***A concession for the production of electricity from renewable energy sources***

ERO's decision on the concession can be appealed within 2 weeks of receiving the decision. The appeal is filed through the ERO and handled by the District Court in Warsaw - the Court of Competition and Consumer Protection. The cost of the appeal (court fee) is a PLN 1,000 (EUR 220[11]). The appeal is considered in accordance with the provisions of the Civil Procedure Code.

If the ERO considers the appeal well-founded, it may - without transmission the file to court - annul or amend the decision in whole or in part. The ERO sends a new decision to the applicant and the applicant can appeal the new decision again (Biznes.gov.pl, Koncesja na OZE).

***Grid connection***

The disputes concerning the grid connection shall be resolved by the President of the ERO (art. 8 Energy Law). The disputes include for example:

- the refusal to conclude a grid connection agreement or to increase the grid connection capacity
- the refusal to connect a renewable energy installation with a priority
- the refusal to connect a micro-installation or failure to connect a micro-installation within the deadline of 30 days from the submission of the notification (art. 7 par. 8d7 item 2 Energy Law)
- unjustified limitation of operation or disconnection of the micro-installation from the grid, etc.

The decision of the President of ERO can be appealed to the District Court in Warsaw - the Court of Competition and Consumer Protection - within 2 weeks of receiving the decision (art. 30(2) Energy Law).

Decisions of the ERO can be appealed to the District Court in Warsaw - the Court of Competition and Consumer Protection - within 7 days of receiving the decision (art. 30(4) Energy Law; art. $479^{46}$(2) CCP).

# 5. Specific features to ease administrative procedure

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

[11] Exchange rate from 15.01.2021: EUR 1 = ~ PLN 4.53 (www.oanda.com).

*Table 2: Specific features to ease administrative procedures*

| Specific feature | Existing | Short description |
|---|---|---|
| Simultaneous procedures | no | |
| National contact points and one-stop-shops | no | |
| Application of 2+1 and 1+1 rules | no | |
| Simple notification procedure | yes | Simple notification is used for micro-installations (up to 50 kW) in the building permitting and grid connection procedure:<br>Building permit<br>• If it is erected in an area entered in the monument register<br>• If it is installed on the roof and is no more than 3 meters high<br>• Present for all grid investments<br>Grid connection<br>• If it is connected to the distribution network |
| Pre-planning | no | |
| Pre-application consultation | no | |
| Project acceptance measures | no | |
| Measures to streamline litigation by third parties | no | |
| Other | yes | The installation of PV systems of 50 kW or less does not require a building permit or notification to the architectural and building administration. For PV systems exceeding 6.5 kW there is only an obligation to obtain confirmation from the fire security expert that the system complies with the fire security requirements (art. 29, 30 Construction Law). Other facilitations also for the small (not - micro) PV installation are being discussed but still not implemented (RES industry representative, 2021). |

# 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 Poland.

*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 | The grid connection conditions have to be issued within the following deadlines: |

| | |
|---|---|
| | • 21 days from the day of submitting the application when connecting an installation with the capacity of no more than 40 kW to a network with voltage not exceeding 1 kV<br>• 30 days from the day of submitting the application, when connecting an installation with the capacity of more than 40 kW to a network with voltage not exceeding 1 kV<br>• 120 days from the day of submitting the application, when connecting a facility to the grid with voltage higher than 1 kV, but less than 110 kV<br>• 150 days from the date of submission of an application, when connecting a facility to the network with a voltage of 110 kV or higher than 110 kV. (Art. 7(8g) Energy Law; Art. 3 Ordinance of electricity system)<br><br>These deadlines for settling a case do not include, inter alia, the time spent on carrying out specific actions, deadlines for supplementing the application, and delays caused by applicant or for reasons beyond the control of the grid operator.<br><br>In justified cases, these deadlines can be extended by 50% (art. 7 par. 8g Energy Law).<br><br>According to the majority of interviewees, the grid operators generally keep the above given deadlines (Wiszniewska, 2020; Gajewska, 2020; Pietruszko, 2020). One interviewee from a state-controlled company indicated that grid operators respond more quickly (Jampolska, 2020/2021). |
| Process duration | According to the Forum Energii, the average process duration for offshore wind is 12-14 years (Forum Energii, 2018).<br><br>The average process duration for onshore wind projects is up to 10-11 years (EDPR, 2020).<br><br>The duration of the grid connection by the distribution system operator is difficult to assess due to the varying scope of work involved. |
| Project approval rates | N.A. |
| Costs of administrative processes | The administrative costs vary per process step and even per permit. For example, an extract of the *Local Spatial Development Plan* (LSDP) is free of charge.<br><br>Free of charge is also the *decision on construction conditions* for certain applicants including owners, public benefit organisations or local government units. Other applicants pay PLN 598 (EUR 131,5).<br><br>In the case of offshore wind farms, the applicant shall pay a fee of PLN 1,500 (EUR 333) for the issue of the *permits to erect structures at sea, to lay and maintain cables*, and a separate *permit to lay and maintain cables in the exclusive economic zone*. The applicant shall pay an additional fee amounting to 1% of the value of the planned project (payment in instalments) if the permit issued for the erection and use of artificial islands and structures relates to the exclusive economic zone (art. 27b Offshore Wind Act).<br><br>Stamp duty for issuing *a decision on environmental conditions* is PLN 205 (EUR 45).<br><br>Stamp duty for *concession* for the production of electricity from renewable energy sources is PLN 616 (EUR 135,5). |

| | |
|---|---|
| | Stamp duty for the *decision on the location of public purpose investment* is PLN 107 (EUR 23,5).<br>Costs of the *grid connection* vary depending on the type of installation. The grid connection fee is charged based on the actual expenditures incurred for the connection work, but in the case of renewable energy installations with an installed capacity of no more than 5 MW, 50% of the grid connection fee based on the actual expenditures is charged. The connection of micro-installations to the grid is free of charge. The entity applying for the connection to the grid with a voltage higher than 1 kV must pay an advance payment in the amount of PLN 30/kW (EUR 6.70/kW), but no more than the amount of the expected grid connection fee and no more than PLN 3,000,000 (EUR 670,110) (art. 7 Energy Law). |
| Share of permits that are legally challenged | No precise data available, but no less than 50-60% of projects are legally challenged (WindEurope workshop, 2020). |
| Share of legal challenges that are overruled | N.A. |
| Stakeholder interests | Most permitting processes in Poland include compulsory stakeholder hearings. The most extensive form of consultation takes place in the case of obtaining environmental permits, and also in preparing a LSDP. The obligation of public consultation results from the PIE Act. Municipal authorities (*gminy*) inform local communities (anyone can participate in the consultation, including organisations) about each stage of administrative procedure concerning the issue of the decisions described above by publishing respective notice, among others, on the website of the Public Information Bulletin, on the notice boards of the competent authorities etc. The stakeholders may also exercise their right of appeal against a decision taken in the administrative procedure (see section 4). |

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