Pandora's box

Renewable energy permitting and biodiversity in Romania and Croatia

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For more information

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1. Introduction

Given the undoubted need to speed up decarbonisation of Europe's economy, and particularly since Russia's full-scale invasion of Ukraine, the EU has in recent years taken several steps to speed up the deployment of renewable energy, particularly solar and wind.

Even as the revision of the 2018 Renewable Energy Directive[1] was already ongoing, in December 2022 the Council of the European Union approved an emergency regulation to accelerate renewables permitting.[2] Initially in force for 18 months, it was later extended to the end of June 2025.

[1] European Parliament and Council of the European Union, Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, *Eur-Lex*, 21 December 2018, also known as 'RED II'.

[2] Council of the European Union, Council Regulation (EU) 2022/2577 of 22 December 2022 laying down a framework to accelerate the deployment of renewable energy, *Eur-Lex*, 29 December 2022.

This was followed by major amendments to the Renewable Energy Directive in late 2023 – known as RED III – including on spatial planning, permitting and bioenergy sustainability criteria.[3]

While both the Regulation and RED III include valuable provisions to speed up small-scale solar and heat pumps, many environmental groups – including Bankwatch – have raised concerns about their permitting provisions.[4,5] These entail changes to EU environmental safeguards built up and refined over decades, and were approved without impact assessments being undertaken.

This briefing was originally planned to examine, two years after the adoption of RED III, how implementation of its permitting provisions is going on the ground in selected central and eastern European EU countries and whether our concerns on environmental safeguards have proven justified. However, as detailed below, transposition is going slower than planned, so it is not yet possible to link specific permitting processes to RED III in the central and eastern EU Member States where Bankwatch works.[6]

Moreover, in December 2025, as part of its European Grids Package,[7] the European Commission published a draft Directive on acceleration of permit-granting procedures of infrastructure projects (renewable energy, batteries and grids),[8] that would among others entail re-opening RED III again.[9] It also published a proposal for changes in the so-called TEN-E Regulation[10] that include provisions on permitting. Its Environmental Omnibus, published on the same day, also includes a draft new Regulation on speeding up environmental impact assessments.[11]

Due to this dynamic context, this briefing uses existing examples from renewables permitting, primarily in Romania and Croatia, to examine the risks and opportunities of specific permitting provisions from RED III and the proposed changes under the Grids Package. It warns that although overall renewable energy

[3] European Parliament and Council of the European Union, Directive (EU) 2023/2413 of the European Parliament and of the Council of 18 October 2023 amending Directive (EU) 2018/2001, Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652, *Eur-Lex*, 31 October 2023. A consolidated version of the Renewable Energy Directive is available here.

[4] Pippa Gallop, Renewables boost much needed but weakening of environmental safeguards inexcusable, *CEE Bankwatch Network*, 12 September 2023.

[5] CEE Bankwatch Network, Environmental groups challenge backdoor dismantling of EU nature safeguards, *CEE Bankwatch Network*, 9 March 2023.

[6] Even for the earlier emergency regulation, many countries did not make specific changes in their legislation to accommodate it.

[7] European Commission, Commission proposes upgrade of the EU's energy infrastructure to lower bills and boost independence, *European Commission*, 10 December 2025.

[8] Directorate-General for Energy, Proposal for revised Directive to accelerate permit-granting procedures of infrastructure projects - Energy, *European Commission*, 10 December 2025.

[9] This would amend:
- the Renewable Energy Directive ((EU) 2018/2001);
- the Electricity Market Directive ((EU) 2019/944);
- the Directive on gas markets and hydrogen ((EU) 2024/1788) and
- the Energy Performance in Buildings Directive ((EU) 2024/1275).

[10] Directorate-General for Energy, Proposal for revised Trans-European Network for Energy (TEN-E) Regulation - Energy, *European Commission*, 10 December 2025.

[11] Directorate-General for Environment, Proposal for a Regulation on speeding up environmental assessments and Annex, *European Commission*, 10 December 2025.

development is much-needed, individual projects still require strong environmental scrutiny and cannot be presumed to be low-impact.

It provides recommendations on applying RED III in practice, but cautions that re-opening it is premature. It also finds that the new Grids Package proposals present a higher risk of environmental damage, as well as increasing complexity and duplication of provisions across legislation. Thus, in our view the goal of simplification without compromising environmental protection is not achieved by the proposals and they should be reconsidered.

2. Background

2.1. RED III transposition not going as planned

Although most of the permitting-related RED III provisions were to be transposed by 1 July 2024 and the overall deadline was 21 May 2025, by July 2025 only Denmark had fully transposed it. The Commission started infringement procedures against the other 26 Member States.[12]

An analysis by SolarPower Europe, also published in July 2025, found that average transposition rates of the permitting provisions from RED III among 20 Member States were around 50%.[13] And even this was generous, as it included provisions which had begun to be transposed, rather than those which had been formally adopted.

Thus, it put Romania – along with Italy and Slovenia – among the frontrunners, even though its updated law on renewable energy was only adopted in November.[14] In contrast to these countries, which were assessed to have transposed or begun transposing 78% of the measures assessed in the report,[15] Latvia had transposed just 13%, with France, Croatia, the Netherlands, and Slovakia following at 22%.[16]

In December 2025, the European Commission reported that it had sent Reasoned Opinions to eight countries regarding failure to transpose RED III.[17] The governments now have two months to take the necessary measures, otherwise the Commission may refer the cases to the Court of Justice of the European Union.[18]

[12] Directorate-General for Energy, Commission takes action to ensure complete and timely transposition of EU directives - key decisions on energy, *European Commission*, 24 July 2025.

[13] SolarPower Europe, New Report: Average EU Member State transposition of permitting rules for renewables falls short at just under 50%, *SolarPower Europe*, 16 July 2025.

[14] Government of Romania, Emergency ordinance No. 59 of November 6, 2025 for amending and supplementing some regulatory acts in the field of energy, *Official Gazette no. 1035*, 7 November, 2025.

[15] Still, as SolarPower Europe noted, the high transposition rates seen in some Member States do not necessarily translate into effective implementation on the ground.

[16] SolarPower Europe, New Report: Average EU Member State transposition of permitting rules for renewables falls short at just under 50%.

[17] Greece, France, Italy, Cyprus and Portugal for failing to notify transposition measures and Hungary, Malta and Poland for failing to provide sufficiently precise information on how their transposition corresponds to each of the Directive's provisions.

[18] European Commission, December infringements package: key decisions, *European Commission*, 11 December 2025.

2.2. Solar and wind growth was strongest in 2021 to 2023

Paradoxically, the EU's strongest growth in solar in recent years took place in 2021 to 2023 and in wind in 2021 to 2022 – both before the emergency regulation and RED III started to kick in.

Solar installations tripled from around 20 gigawatts (GW) in 2020 to more than 60 GW in 2023.[19] Since then, they have remained high but stagnated. SolarPower Europe's mid-year market analysis for EU solar even forecasts that 2025 will be solar's first year of negative market growth since 2015.[20] It links the slight downturn to a declining residential rooftop market as energy crisis-related support schemes are phased out, including in Austria, Belgium, Czechia, Hungary, Italy, and the Netherlands. As a result, utility-scale facilities are expected to cover half of installed solar capacity in 2025 in the EU – more than any time in the last five years – with industry/commercial and residential units making up the remainder.[21]

In the wind sector, installations rose from around 12 GW in 2021 to around 16 GW in 2022. They remained steady in 2023, but dipped in 2024.[22] Projections for 2025 show an increase compared to 2024, but with installations still lower than 2022 to 2023. According to Wind Europe, permitting delays and grids are still challenging, and low electricity prices and the slower-than-expected rate of electrification across Europe is weakening the business case for wind.[23]

3. EU environmental permitting legislation

The main legislation governing environmental permitting in the EU has been refined over several decades, including through an increasing body of case law. The main Directives relevant to renewable energy are outlined below, though other legislation such as the Industrial Emissions Directive is also relevant for combustion technologies, as well as the TEN-E Regulation for cross-border transmission grids.

EU environmental permitting legislation most relevant to renewable energy

The **Strategic Environmental Assessment (SEA) Directive**[24] governs the assessments of plans and programmes whose implementation may entail significant impacts on the environment and stipulating the need for public consultations on SEA reports. The results of the assessment are to be taken into account when further planning the developments laid out by the plan or programme. It corresponds to Article 7 of the Aarhus Convention.[25]

[19] SolarPower Europe, New analysis reveals that EU solar stalls, 2025 projected to mark first year of market decline in a decade, *SolarPower Europe*, 24 July 2025.

[20] Ibid.

[21] Ibid.

[22] Wind Europe, Latest wind energy data for Europe, *Wind Europe*, September 2025.

[23] Ibid.

[24] European Parliament and Council of the European Union, Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment, *Eur-Lex*, 21 July 2001.

[25] United Nations Economic Commission for Europe (UNECE), UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, *UNECE*, 25 June 1998.

- The **Environmental Impact Assessment (EIA) Directive**[26] governs the assessment process for projects which may entail significant impacts on the environment. It provides criteria for deciding which projects need in-depth assessments, stipulates what needs to be included in the EIA studies and minimum requirements for public consultations, and specifies the need for access to justice in permitting procedures. The results of the process must be taken into account during the issuance of the development consent for the project in question. It corresponds to Article 6 and Article 9(2) and (4) of the Aarhus Convention.

- The **Habitats Directive**[27] stipulates the protection of certain habitats and species but also the assessment of plans or projects likely to have a significant effect on Natura 2000 sites, including those designated under the **Birds Directive**.[28] Such plans or projects are subject to a case by case 'appropriate assessment' of their impacts on the site in view of the site's conservation objectives and can only be permitted if they will not adversely affect the integrity of the site concerned or result in the deliberate killing or disturbance of protected species.

  Derogations exist, with criteria defined in Article 6(4) of the Habitats Directive[29] and Article 9(1) of the Birds Directive.[30] In both cases, an absence of alternatives must be demonstrated. The results of this assessment are binding. Public participation is only vaguely stipulated in the Directive but the Court of Justice of the EU has confirmed that Article 6 of the Aarhus Convention applies to the Appropriate Assessment process.[31]

[26] European Parliament and Council of the European Union, Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (consolidated version, including amendments from Directive 2014/52/EU), *Eur-Lex*, 15 May 2014.

[27] Council of the European Union, Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, consolidated version, *Eur-Lex*, 14 July 2025.

[28] European Parliament and Council of the European Union, Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, consolidated version, *Eur-Lex*, 26 June 2019.

[29] '*If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.*

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.'

[30] 'where there is no other satisfactory solution, for the following reasons:
(a) - in the interests of public health and safety,
- in the interests of air safety,
- to prevent serious damage to crops, livestock, forests, fisheries and water,
- for the protection of flora and fauna;
(b) for the purposes of research and teaching, of re-population, of re-introduction and for the breeding necessary for these purposes;
(c) to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.'

[31] Court of Justice of the European Union, Judgment of the Court (Grand Chamber) of 8 November 2016, Lesoochranárske zoskupenie VLK v Obvodný úrad Trenčín, Request for a preliminary ruling from the Najvyšší súd Slovenskej republiky, *InfoCuria*, 8 November 2016.

- The **Water Framework Directive** [32] (WFD) requires EU Member States to use River Basin Management Plans and Programmes of Measures to protect and, where necessary, restore water bodies in order to reach good chemical and ecological status at the latest by 2027, and to prevent deterioration. Under Article 4(7), a case by case examination must be undertaken in cases where new modifications or alterations are planned which may negatively impact the achievement of these goals.

  Such modifications may only go ahead if they fulfil several criteria, including that the reasons for them are of overriding public interest and/or that their benefits to human health, safety or sustainable development outweigh the benefits of achieving the Directive's objectives, and that the beneficial objectives of the modification cannot – due to technical feasibility or disproportionate cost – be achieved by other means that are significantly better for the environment.

Already in 2018, under RED II, the permit-granting process for renewables installations was limited to two years, or three years where duly justified by extraordinary circumstances. [33] Yet according to the Commission, permitting for renewable energy projects can still take up to nine years in some EU countries, depending on the technology. [34] RED III's extensive permitting provisions imply that environmental permitting is a major reason for such delays, and in some countries this is true. But this does not mean EU environmental law itself is at fault:

- EU safeguards are already flexible: Harmless projects are not subject to complex assessments. Only projects likely to have significant impacts are subject to full EIAs and assessments under the Habitats, Birds and Water Framework Directives.
- The 2014 EIA Directive already mandated the coordination or joining of the EIA and Appropriate Assessment procedures and RED III now requires it.[35]
- For potentially damaging projects, biodiversity baseline data collection must be done during all seasons. But other preparatory activities can be carried out in parallel.
- A provision 'presuming' renewables to be of 'overriding public interest' for the purposes of assessments under the Habitats, Birds and Water Framework Directives was included in the 2022 emergency regulation and RED III. Only the most damaging projects – those likely to adversely affect the integrity of Natura 2000 sites – require such a designation in order to be permitted.
- Many major barriers to renewables development have nothing to do with environmental permitting, but rather with delays related to grid connections. For example in Croatia, the development of new

[32] European Parliament and Council of the European Union, Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, consolidated version, *Eur-Lex*, 20 November 2014.

[33] For installations below 150 kilowatts, permit-granting was limited to one year, or two years where duly justified.

[34] Directorate-General for Energy, Proposal for revised Directive to accelerate permit-granting procedures of infrastructure projects - Energy, *European Commission*, 10 December 2025.

[35] Article 16b (2). It remains ambiguous whether the Article 4(7) assessment must be included in cases where it is relevant.

projects larger than 10 megawatts has been frozen since 2022 because HERA (the Croatian Energy Regulatory Agency) has not adopted a unit price for connection to the transmission grid.[36]

- Where environmental permitting delays *are* a problem, they are usually caused by a lack of staff in the relevant authorities or by inefficiencies due to lack of digitalisation or inter-institutional coordination, not by the EU legislative provisions themselves
- EU environmental law guarantees a certain level of evidence-based public participation – an important precondition for public acceptance of renewables.
- Such safeguards provide a clear and predictable legal framework that is also necessary for investors.

The EIA Directive was updated in 2014 as a result of previous experience in implementation, and in 2016, the Commission published the results of a 'fitness check' of the EU Habitats and Birds Directives. The overall conclusion was that the two directives remained highly relevant and fit for purpose, however, substantial improvement was needed in their implementation.[37] Although the fitness check was carried out nearly a decade ago, it has not been repeated. In December 2019, a fitness check of the WFD also concluded that it is broadly fit for purpose, with room for improvement related to investments and implementation.[38]

However, in recent years, with increasing pressure to ramp up renewables installation and reduce the EU's reliance on critical raw materials from abroad, these lessons have been sidelined.

4. RED III

RED III expands on some provisions already included in RED II such as digitalisation and deadlines, as well as introducing several new ones on renewables accelerated areas, the associated permitting procedures, and overriding public interest. Its main features on permitting are summarised in the text box below.

Overview of RED III permitting provisions

2. **Mapping**: Article 15b mandated coordinated mapping of sea, inland water and land areas needed to meet national and EU renewables targets by 21 May 2025.
3. **Acceleration areas**: Article 15c requires Member States to define renewable acceleration areas in low-impact zones such as artificial structures by 21 February 2026.[39] Such plans must be subject to SEAs and public consultations. In these areas, permitting procedures must not exceed twelve

[36] OIE Hrvatska, Industry without cheaper energy, local communities without revenues, renewables without a future, *OIE Hrvatska*, 17 September 2025. As of 11 December 2025, a draft methodology has been published for consultation but not yet adopted.

[37] European Commission, Commission Staff Working Document - Fitness check of the EU Nature Legislation (Birds and Habitats Directives) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds and Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, *European Commission*, 16 December 2016.

[38] European Commission, Fitness check of the Water Framework Directive and the Floods Directive, *European Commission*, 2 April 2020.

[39] They must exclude Natura 2000 sites and national protected natural areas, major bird and marine mammal migratory routes and other areas identified on the basis of sensitivity maps, except for artificial surfaces such as rooftops, parking areas or transport infrastructure within the areas.

months, with a possible extension of up to six months, and specific rules on mitigation measures need to be adopted.

4. **Single contact point**: Under Article 15c, Member States need to designate single contact points for the permitting process.

5. **Digitalisation**: Also in Article 15c, full digitalisation of all permitting procedures was to be achieved by 21 November 2025.

6. **Staffing**: Article 16 stipulates that Member States must provide adequate resources to ensure qualified staff, upskilling and reskilling of their competent authorities.

7. **Exemptions from EIAs in acceleration areas**:[40] Article 16a states that where acceleration area plans are subject to an SEA, renewable projects within such areas are in most cases exempted from an EIA if they comply with the mitigation measures defined for the area.[41] Exceptions exist if the competent authority identifies significant harmful impacts from the planned project, and/or if it could have a transboundary impact.

8. **Deadlines for the permitting process**: Under Articles 16 and 16b, Member States have to ensure that the permit-granting process for new installations does not exceed two years, one year for installations below 150kW, repowering and co-located energy storage, or three years for offshore wind. All these deadlines can be extended by six months if justified.

9. **Compensation measures**: Under Article 16a, where wind and solar projects in acceleration areas are exempted from EIAs, the operator has to adopt proportionate mitigation measures or, where not available, compensatory measures. If other such measures are not available, these may be monetary. Where adverse effects have an impact on species protection, the operator has to pay monetary compensation over the lifetime of the plant for protection programmes of the species affected.

10. **Deliberate killing**: According to Article 16b, where a renewable energy project has adopted necessary mitigation measures, any killing or disturbance of the species protected under Article 12(1) of Directive 92/43/EEC and Article 5 of Directive 2009/147/EC shall not be considered to be deliberate.

11. **Repowering**: Articles 16b and 16c stipulate a deadline of twelve months for completing the permitting process for repowering outside of acceleration areas or six months inside, including the grid connection and, where relevant, the EIA. If the repowering increases the renewable capacity by less than 15%, grid connections should be authorised within three months. If a repowered renewable project or grid infrastructure necessary for its integration needs an EIA, it can only consider the changes to the original project.

[40] Projects in acceleration areas should in principle not have major impacts on Natura 2000 sites if the acceleration areas are properly chosen. But if they do, they are also exempt from undertaking appropriate assessments.

[41] Under Article 15c(1), point (b).

12. **Accelerated procedures on artificial structures**: Article 16d mandates a three-month permit timeline for solar photovoltaics on buildings or located on an artificial structure.

13. **'Presumption' of overriding public interest**: Article 16f includes a rebuttable presumption that renewable projects (including grid infrastructure and storage) serve an overriding public interest for the purposes of deciding on potential derogations under Article 6(4) of the Habitats Directive, Article 9(1) of the Birds Directive and Article 4(7) of the WFD. Member States may impose limited geographical or technological exemptions.

14. **Heat pumps and small-scale solar projects: one-month deadline:** Article 16d introduces a one-month deadline for solar photovoltaics below 100 kW[42] and heat pumps below 50 MW, except ground-source ones which may take up to three months. It also introduces tacit approval for small-scale solar, if the relevant authority does not reply within a month.[43]

4.2 Risks connected with the RED III permitting provisions

Several of the RED III permitting provisions reflect a common-sense approach which should have been pursued by any Member State serious about increasing its renewables share, such as single contact points, digitalisation, staffing and quick approval for small solar installations and heat pumps.

But some provisions risk encouraging sub-standard environmental permitting processes and a lack of public participation. This may ultimately harm the environment and further decrease public acceptance of renewables.

- Mapping and the creation of **acceleration areas** are logical in order to improve spatial planning of renewable energy. And the process of doing so, including carrying out an SEA and public consultation, can help to create societal consensus on which low-impact areas should be prioritised. However, coupling them with an **EIA exemption for many projects** in acceleration areas is risky.

  The fact that acceleration areas have to be '*commensurate with the estimated trajectories and total planned installed capacity by renewable energy technology set out in their national energy and climate plans*' means that some countries may struggle to find sufficient areas with low impacts, or may designate data-deficient areas instead of taking a precautionary approach.

  How harmful this exemption will be in practice depends on the type and size of projects included by Member States in such areas, and by the location of the areas themselves. Countries may – but do not have to – exclude hydropower and biomass combustion from such areas, and these are likely to have high impacts almost anywhere.

  The competent authorities may request an EIA for specific projects but RED III puts the burden of proof on them to demonstrate likely harm – within a tight deadline – rather than on the investor to demonstrate its absence.

[42] Member States can reduce the threshold to 10.8 kW at the lowest.

[43] Article 16a also refers to tacit approval for projects in acceleration areas, however this, rightly, does not apply to final decisions – which must be published – or for projects requiring environmental impact assessments. It also does not apply where administrative tacit approval does not exist in the Member State's national legal system. It is therefore not clear what it actually will apply to, as screening decisions must implicitly be published also when an EIA is not needed – because they constitute a 'final decision', and because access to justice must be ensured.

SEAs for acceleration areas are unlikely to serve as adequate substitutes for EIA processes for individual projects as they are rarely very detailed, and the SEA Directive is not as clear about what SEA studies need to contain or how the results need to be used.

SolarPower Europe's overview of 20 EU countries from July 2025 shows that acceleration areas are among the least transposed permitting aspects of the Directive, with only three countries having partly transposed it and none fully,[44] so as yet there is not a great amount of experience to draw on from across the EU.

- The rebuttable **'presumption' of overriding public interest** for renewables, as mentioned above, is only relevant for projects which undergo an 'appropriate assessment' or Article 4(7) assessment under the WFD *and* are found likely to adversely affect the integrity of Natura 2000 sites and/or to negatively impact on the achievement of the WFD's objectives. It puts the burden of proof on members of the public to prove that the project is not of overriding public interest, instead of on the investor to demonstrate that it is. It also causes significant confusion due to the ambiguity of the word 'presume'. This means that the assumption that the project is of overriding public interest is not absolute and can be argued against, but this is a nuance which is not clear to many, as discussed below.

- The fact that any EIA screening or EIA processes for repowering are limited to the potential impact arising from the change or extension of the project seems to contradict the EIA Directive's requirement to examine 'the whole project'[45] and to examine cumulative impacts.[46,47]

- RED III provides very short deadlines for permitting projects in acceleration areas – 12 months, with a maximum 6-month extension. Although the idea of acceleration areas is to avoid EIAs altogether, in reality there are likely to be cases where an EIA is needed. Yet this deadline increases the risk they will be waived or done poorly to meet the deadline.

- This deadline seems to include the time needed to write the EIA study. It is not clear how this can be done satisfactorily and all the permitting processes completed within a year. And even then, baseline data must have been collected before the screening application is submitted, as this alone usually takes a year due to the need for all-seasons surveys.

- The provision on deliberate killing may increase legal certainty for developers in some countries, but it relies heavily on the competent authorities having set appropriate mitigation measures for the acceleration area in question. If this is not the case, and adjustments are needed later on, there

[44] SolarPower Europe, New Report: Average EU Member State transposition of permitting rules for renewables falls short at just under 50%, *SolarPower Europe*, 16 July 2025.

[45] Annex III, paragraph 1(a); Annex IV, paragraph 1(b).

[46] Annex III, paragraph 1(b); Annex IV, paragraph 5.

[47] Also the abolition of EIA screening for repowering solar projects that do not use additional space and comply with the applicable environmental mitigation measures established for the original installation raises the question how this will be established and confirmed to the project developer, if not through the screening process. It seems to imply the need for some kind of unique administrative procedure, running counter to the goal of simplification.

is a risk that developers will be reluctant to adapt their mitigation measures, knowing that they are protected by law.

6. Focus on Romania

6.1 Romania's power sector

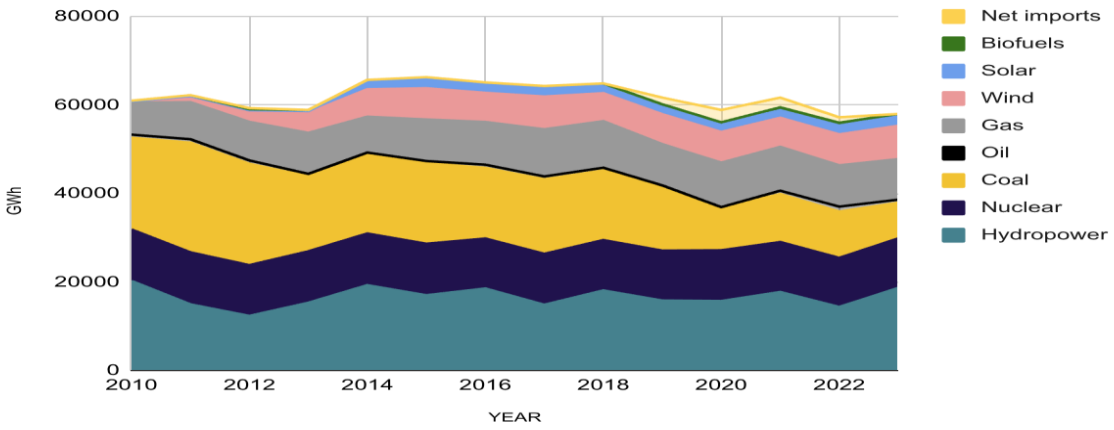
Romania, which has around 19 million inhabitants, has a diverse electricity mix, and in 2023 hydropower made up the largest share of generation, with 32%, followed by nuclear with 19%, fossil gas with almost 16%, coal with 15% and wind with 14%. Despite significant growth, solar made up less than 4% of generation.[48]

Between 2011 and 2023, use of coal in electricity generation decreased by two thirds,[49] and in 2022 Romania passed legislation to fulfil the commitment in its National Recovery and Resilience Plan to eliminate coal from the electricity mix by the end of 2032.

Most investments in wind farms took place between 2008 and 2013, but received a heavy blow due to a change in the subsidy scheme which reduced the number of green certificates awarded. As of mid-2025, Romania has 3,150 MW of wind turbines installed,[50] of which almost all were built by 2014. Construction only resumed in 2023, but looks set to speed up again.

Investments in solar photovoltaics have been going faster, and by mid-2025, Romania had close to 6 GW installed.[51] Prosumer and storage capacity has increased considerably in recent years, reaching 3.1 GW and 486 MW respectively by 1 October 2025.[52]

Figure 1. Electricity generation in Romania 2010 to 2023. Source: IEA.[53]



[48] International Energy Agency (IEA), Energy Statistics Data Browser, *IEA*, last updated 10 June 2025.

[49] International Energy Agency (IEA), Energy Statistics Data Browser, *IEA*, last updated 10 June 2025.

[50] Wind Europe, Latest wind energy data for Europe, *Wind Europe*, September 2025.

[51] Patrick Jowett, Romania adds over 900 MW of solar in H1, *PV Magazine*, 28 July 2025.

[52] Transelectrica, Prosumatori, *Transelectrica*, 1 October 2025.

[53] International Energy Agency (IEA), Energy Statistics Data Browser, *IEA*, last updated 10 June 2025.

6.2 Hydropower development in Natura 2000 sites

Romania is home to rich biodiversity, but has a history of inadequately protecting it. It is the most biogeographically diverse country of the EU, and its forest ecosystems host the full range of European forest fauna, including brown bears, wolves and lynx. Natural and semi-natural ecosystems cover approximately 47% of Romania's territory,[54] but many are under threat from logging and hydropower, among others.

Among others, in 2023, the Commission continued a long-running infringement case by sending the government an additional letter of formal notice for failure to correctly implement the Water Framework Directive and the Habitats Directive when authorising and constructing small hydropower plants.[55]

In June 2025, the Commission also sent a reasoned opinion to Romania for failing to comply with the Habitats Directive. Despite some progress in recent years, the country has still failed to designate 169 of the previously identified sites as Special Areas of Conservation. In addition, 16 existing sites do not have site-specific conservation objectives defined, and 208 sites have incomplete objectives. The conservation measures for 10 sites are also too general to ensure adequate protection of the relevant habitats and species.[56]

Against this background, for several decades already, Hidroelectrica, an electricity utility majority-owned by the Romanian state, has been attempting to build a series of hydropower plants. Most of the projects date from the Ceausescu period, with construction starting in the early 2000s based on earlier permits issued in the 1990s. Construction was subsequently halted due to Hydroelectrica's financial difficulties.

After Romania's accession to the EU in 2007, Natura 2000 sites were designated in some of the areas where these projects had been initiated. In the last decade or so, Hidroelectrica has attempted to continue construction, with environmental groups successfully challenging several outdated or substandard permits in court.

Attempts to revive the projects precede Russia's full-scale invasion of Ukraine. In December 2021, several Romanian environmental NGOs – Bankwatch Romania, Agent Green, Declic, Neuer Weg and Eco-civica – were summoned to a hearing in front of a parliamentary inquiry committee in an attempt to shift the blame for increasing electricity and gas prices onto civil society organisations.

The organisations are well known for their efforts to protect nature from environmentally damaging energy projects, such as the Jiu Gorge and Rastolita hydropower plants. Representatives of Hidroelectrica, the National Environmental Protection Agency and the National Agency for Protected Areas appeared committee and made no secret of the fact that they were seeking ways to legalise the Jiu Gorge and Rastolita hydropower projects, which are more than half built, and that environmental watchdogs were making this harder for them.

[54] Convention on Biological Diversity, Romania - Country Profile, *Convention on Biological Diversity*, accessed 12 December 2025.

[55] European Commission, November infringement package: key decisions, *European Commission*, 16 November 2023.

[56] European Commission, June infringements package: key decisions, *European Commission,* 18 June 2025.

The Jiu Gorge hydropower project (Bumbesti-Livezeni) in Defileul Jiului National Park would have an installed capacity of 65 MW and according to Hidroelectrica, would generate 259 GWh annually,[57] or 0.49% of Romania's 2022 annual electricity production.[58] It would harm numerous protected species including otters and stone crayfish.

The Rastolita project is smaller, at 35 MW, but would irreversibly destroy a breeding ground for the protected Danube salmon (*Hucho hucho*) in Romania, which is the very reason that the ROSCI0019 Natura 2000 site was designated. Other fish species expected to disappear from this site if the hydropower project was finalised are *Cottus gobio, Barbus meridionalis,* and *Eudontomyzon danfordi*.[59]

In February 2022, citing the consequences of the war in Ukraine and the need to gain energy independence from Russian fuel sources, the Romanian Parliament adopted a controversial law (no. 117/ 2022) to change the boundaries of protected areas. It also allowed the completion, by the end of 2025 at the latest, of hydropower plants that were more than 60 per cent built at the time the law was adopted and that were considered projects of overriding public interest and national security. The law also stated that such projects are considered 'exceptional situations' regarding environmental impact assessment, meaning they are exempted from undergoing full studies and public consultations.

Since these criteria could only be seen as applying to the Jiu Gorge and Rastolita plants,[60] this was an obvious attempt to legalise them. However the label of 'overriding public interest' was awarded at the national level for political reasons, not as a result of assessments under the Habitats and Water Framework Directives.

The Law was challenged by the Union to Save Romania party, and in November 2022, the Constitutional Court declared the Law unconstitutional on procedural grounds.[61]

Shortly before the Court ruling, on 25 October 2022, the Supreme Council of National Defense (CSAT) issued Decision no. 169 on '*improving Romania's energy resilience to ensure security in the field through operational adaptation and the development of new energy production capacities, in the context of the war on Ukraine'* and ordered the adoption of the necessary measures for its implementation.[62] Among the actions identified by CSAT, is the development of hydroelectric production capacities to be financed through the REPowerEU chapter of Romania's national recovery and resilience plan. The list of projects contains nine hydropower projects:

[57] Hidroelectrica, Lucrarile de punere in siguranta a amenajarilor pe sectorul Bumbesti-Livezeni al Raului Jiu, prioritate zero pentru Hidroelectrica si autoritati, *Hidroelectrica*, 12 January 2018.

[58] Energy-Charts.info, Public net electricity generation in Romania in 2022 - Original data ENTSO-E, *Energy-Charts.info*, last updated 24 June 2025.

[59] Bankwatch Romania, Agent Green, WWF, Analiza L117/2022 şi a proiectelor de amenajări hidroelectrice în arii naturale protejate - Defileul Jiului şi Răstoliţa, *Bankwatch Romania*, March 2022.

[60] Bankwatch Romania, Agent Green, WWF, Analiza L117/2022 şi a proiectelor de amenajări hidroelectrice în arii naturale protejate - Defileul Jiului şi Răstoliţa, *Bankwatch Romania*, March 2022.

[61] Radu Eremia, CCR: Legea care permite construcţia de hidrocentrale mici în ariile protejate, neconstituţională, *Adevărul*, 2 November 2022.

[62] Adi Mosoianu, DOCUMENT CSAT a declarat 10 proiecte ale Hidroelectrica drept vitale pentru securitatea naţională. Scutire de la evaluarea de mediu şi de la interdicţia de reducere a fondului forestier, *Profit*, 23 November 2023.

The hydropower development of the Jiu River on the Livezeni-Bumbeşti sector
The hydropower development of the Olt river gorge on the Cornetu-Avrig sector
Paşcani hydropower development on the Siret river
Răstolița hydropower development
Surduc-Siriu hydropower development
The hydropower development of the Siret River on the Cosmeşti-Movileni sector
The hydrotechnical and energy complex Cerna-Motru-Tismana, stage II
The hydropower development of the Olt River on the Izbiceni - Danube sector. Islaz hydroelectric plant
Cerna Belareca hydropower development

Shortly after the Constitutional Court's decision, on 14 December 2022, the Romanian government adopted Emergency Ordinance no. 175, which was published in the official gazette the same day.[63]

Article 1 states the following (informal translation):

'*The investment objectives set out in the annex that is an integral part of this emergency ordinance, declared to be projects of major public interest that use renewable energy, are considered exceptional situations, within the meaning of the provisions of Art. 5 para.(2) of Law no. 292/2018 regarding the assessment of the impact of certain public and private projects on the environment, and are projects of national interest/importance/national security, for the realisation of which land may be removed from agricultural usage under the terms of the Land Fund Law no.18/1991, republished, with subsequent amendments and additions, and, as the case may be, the definitive removal of lands from the national forest fund under the conditions of Art. 36 of Law no. 46/2008 - Forestry Code, republished, with subsequent amendments and additions.*'

The annex to the emergency ordinance lists the same nine hydropower projects as above, together with 'Capitalizing on the solar energy potential in the Sadova-Dăbuleni area, Dolj - UAT Sadova' and a new 430 MW combined cycle gas turbine investment at the Iernut power plant. The preamble of the ordinance makes it clear that the main reason for taking emergency measures is the deadlines set for the use of EU recovery funds.

In addition, on 28 March 2023, the Ministry exempted six of the nine hydropower plants from requiring a screening process for the EIA process but required EIAs to be carried out.[64] Although the emergency ordinance was later confirmed by the Romanian parliament, the Government presumably realised that they

[63] Government of Romania, Ordonanță de urgență nr. 175 din 14 decembrie 2022 pentru stabilirea unor măsuri privind obiectivele de investiții pentru realizarea de amenajări hidroenergetice în curs de execuţie, precum şi a altor proiecte de interes public major care utilizează energie regenerabilă, precum şi pentru modificarea şi completarea unor acte normative, *Monitorul Oficial nr. 1203*, 14 December 2022.

[64] Information about this is no longer on the Ministry of Environment, Waters and Forests' website, but information on the plants' EIA procedures can be found here.

breached the EIA Directive by failing to establish exemptions on a case-by-case basis, as it initiated EIA procedures for some of the plants, including Rastolita and Livezeni-Bumbesti. The environmental permits have been issued for these plants but are being challenged in court.

Although the EIA exemption from Government Emergency Ordinance 175/2022 has not been used in reality, its unfounded and evidence-free claim that the nine hydropower projects are of 'overriding public interest' was cited in the appropriate assessment studies for Rastolita and Livezeni-Bumbesti. Thus, the Ordinance continues to be used to push forward these plants and needs to be repealed. Bankwatch Romania has obtained favourable court rulings temporarily suspending permits for the Rastolita plant until the final court decisions, and a court challenge on the Jiu valley project's environmental permit is also underway, but the Government and Parliament have escalated their efforts to legalise the projects.

In 2025, the Supreme Council for National Defence designated the GEO 175/2022 projects as national-security assets, and more recently, in October 2025, the Parliament adopted a law[65] removing protected area status in the immediate vicinity of several hydropower projects. It exempted from the EIA procedure not only projects or parts of projects that have as their sole objective national defence and security or response to emergency situations – as allowed by the EIA Directive – but also '*projects that contribute to the achievement of these objectives, from the point of view of national security, designated as such by decisions of the Supreme Council for National Defence*', as well as existing electricity production or transport capacities located in protected areas, on which maintenance, re-engineering or modernization works are carried out. It also exempted these projects from carrying out appropriate assessments under Article 6.3 of the Habitats Directive.

Natura 2000 sites must be defined according to the procedure set out in Article 3 of the Habitats Directive and cannot be changed arbitrarily. Any change to the boundaries of Natura 2000 sites must be properly assessed and agreed to by the European Commission, but the law approved by the Parliament allows for derogation without assessment and without consulting the Commission. In addition, any plan or project not directly connected with or necessary to the management of a Natura 2000 site but likely to have a significant effect on it must be subject to an appropriate assessment of its implications for the site in view of the site's conservation objectives. This applies whether or not the project would be physically within the site, or outside but with an impact on it. It is not possible to exempt whole categories of projects from undertaking appropriate assessments.

Exceptions to the need for an EIA must be interpreted restrictively and on a case-by-case basis, but the text introduces new wide-ranging exceptions ('energy security'). Article 1(3) of the EIA Directive does not allow the exemption of whole categories of projects from the EIA assessment, and hydropower plants certainly do not have either defence or response to civil emergencies as their sole purpose. Neither would applying the EIA Directive have an adverse effect on the purpose of defence because EIA studies have already been done for both the Rastolita and Livenezi-Bumbesti hydropower plants.

[65] Lege pentru completarea art. 56[1] din Ordonanța de urgență a Guvernului nr. 57/2007 privind regimul ariilor naturale protejate, conservarea habitatelor naturale, a florei și faunei sălbatice, precum și pentru modificarea art. 5 alin. (1) din Legea nr. 292/2018 privind evaluarea impactului anumitor proiecte publice și private asupra mediului.

This law was referred to the Constitutional Court by Romania's President[66] but is expected to reappear in revised form. It currently represents a clear breach of the Environmental Impact Assessment Directive and the Habitats Directive.

The zeal with which some members of the Romanian Parliament are pushing forward these hydropower projects cannot be seen as an honest attempt to increase the country's energy resilience, as the level of debate has crossed the line on many occasions. Senator Zamfir, who proposed the law, has made some appalling statements against those who dared to raise concerns. He declared 'war' on Environment Minister Diana Buzoianu, calling her an 'NGO minister' and accusing her of coordinating with what he termed 'eco-terrorists' engaged in 'public jihad'. He even called her a 'saboteur minister'.[67] The Ministry of Environment, according to the law approved by the Parliament, has 60 days to remove 'protected area' status from sites affected by hydropower projects, something the environment minister called 'a disgrace'.[68]

6.3 Romania's RED III transposition

Against this background, legislation transposing RED III was also adopted in November 2025.[69] While its provisions are relatively mild compared to the so-called 'Zamfir law' adopted in October, it reflects the same concerns expressed above regarding RED III in general. Despite missing the transposition deadlines, it also gives the impression of having been written in a hurry, with some aspects not being developed enough to be operationalised.

For example, the new Article 15.3 states that in acceleration areas, biomass combustion plants and hydropower plants 'may be' excluded. This is close to what is written in RED III but in the national context it makes little sense to leave this question open – it should be this legislation which defines whether they are included or not.

And the new 15.5 states that '*(12) If it is not possible to apply such mitigation measures, the Ministry of Environment, Waters and Forests shall apply to the entity developing the project appropriate compensatory measures to counteract the respective effects, which, if other proportionate compensatory measures are not available, may take the form of financial compensation for species protection programs, with the aim of ensuring or improving the conservation status of those affected.*'

Again, this is roughly in line with the RED III provision which we have expressed reservations about above, but without further details and criteria, it cannot be operationalised. The law does not suggest that any further implementing acts are planned on this. In the best case this means it cannot be put into practice,

[66] President of Romania, Sesizare de neconstituţionalitate asupra Legii pentru completarea art. 56(1) din Ordonanţa de urgenţă a Guvernului nr. 57/2007 privind regimul ariilor naturale protejate, conservarea habitatelor naturale, a florei şi faunei sălbatice, precum şi pentru modificarea art. 5 alin. (1) din Legea nr. 292/2018 privind evaluarea impactului anumitor proiecte publice şi private asupra mediului, *President of Romania*, 11 November 2025.

[67] Realitatea, Război total în Coaliție. Liderul senatorilor PSD o desființează pe ministra rezist de la Mediu: "Nu mă las intimidat de disperare", Realitatea, 16 October 2025.

[68] Valentina Postelnicu, Proiectul care permite scoaterea din ariile protejate a construcţiilor începute înainte de 2007, adoptată de deputaţi. Zamfir (PSD), atac la ministrul USR Diana Buzoianu: Gata cu baletul politic / Ministrul Mediului: Votul de azi, o ruşine!, *News.ro*, 15 October 2025.

[69] Government of Romania, Ordonanţă de urgenţă nr. 59 din 6 noiembrie 2025 pentru modificarea şi completarea unor acte normative în domeniul energiei monitorul oficial nr. 1035, 7 November 2025.

but in the worst case it may mean that this remains unregulated and developers can decide for themselves how much financial compensation to give and for which programmes, irrespective of their effectiveness.

One mistransposition appears which may result in further legal battles regarding the designation of renewable energy projects as being of 'overriding public interest'.

Article 16.6 now states that:

'(1) Starting from 1 January 2026 until climate neutrality is achieved, within the meaning of the provisions of art. 28 paragraph (7) and art. 38 paragraph (1) letter c) of Government Emergency Ordinance no. 57/2007, approved with amendments and completions by Law no. 49/2011, with subsequent amendments and completions, and Water Law no. 107/1996, as subsequently amended and supplemented, the competent authorities with powers in the authorization of energy production projects, within the authorization granting procedure, the planning, construction and operation of renewable energy power plants, the connection of such structures to the grid, the related grid itself and the storage units ***consider*** *that such projects, in individual cases, have the status of national importance in the field of electricity and that they are for the purpose of achieving national security, public health and safety, when balancing legal interests.'*

Although it uses the term '*au statut de importanță națională în domeniul energiei electrice*', i.e. 'status of national importance', and not 'overriding public interest', its reference to the provisions of Romania's nature and water protection legislation that corresponds to articles 6.4 of the Habitats Directive and 4.7 of the Water Framework Directive make it clear that the concept corresponds to 'overriding public interest' – to allow the permitting of projects with significant impacts on Natura 2000 sites in specific cases.

However, this goes further than Article 16f of Directive (EU) 2023/2413, which states that '*the planning, construction and operation of renewable energy plants, the connection of such plants to the grid, the related grid itself, and storage assets are* ***presumed*** *as being in the overriding public interest and serving public health and safety when balancing legal interests in individual cases...*'.

The English word 'presume' is not the same as 'consider'. To 'presume' that something is the case is not automatic or absolute, and it does not apply if the installation has significant adverse effects on the environment which cannot be mitigated or compensated for.

Directive (EU) 2023/2413 is partly based on Regulation 2577/2022, which stated that:

'(8) One of the temporary measures consists of the introduction of a ***rebuttable presumption*** *that renewable energy projects are of overriding public interest and serving public health and safety for the purposes of the relevant Union environmental legislation,* ***except where there is clear evidence that those projects have major adverse effects on the environment which cannot be mitigated or compensated for****.'*

The Preamble of Directive 2018/2001 amended by Directive 2023/2413 is not quite as clear but still shows that there are exceptions to the 'presumption' and it is not absolute:

(*44) For the purposes of the relevant Union environmental law, in the necessary case-by-case assessments to ascertain whether a renewable energy plant, the connection of that plant to the grid, the related grid itself or storage assets are of overriding public interest in a particular case, Member States should presume those renewable energy plants and their related infrastructure to be of overriding public interest and serving public health and safety, except where there is clear evidence that those projects have significant adverse effects on the environment which cannot be mitigated or compensated for, or where Member States decide to restrict*

the application of that presumption in duly justified and specific circumstances, such as reasons related to national defence.

However, not only has the Romanian government mis-transposed this provision, but it appears there is a translation error in the official Romanian version of Directive 2023/2413[70] – '*statele membre ar trebui să **considere**'* as this wrongly implies that renewable energy projects, grids and storage are automatically **considered** to be of overriding public interest, which is not the case.

As mentioned above, even before RED III was transposed, the provisions from Regulation 2577/2022 were misused in the environmental permitting processes for the Rastolita and Jiu Gorge plants to claim that they are considered to be of overriding public interest because the Government Ordinance 175/2022 proclaimed them to be so. Such misrepresentation of EU legislation further narrows the already small chances for access to justice by environmental defenders in Romania, and this mis-transposition needs to be corrected.

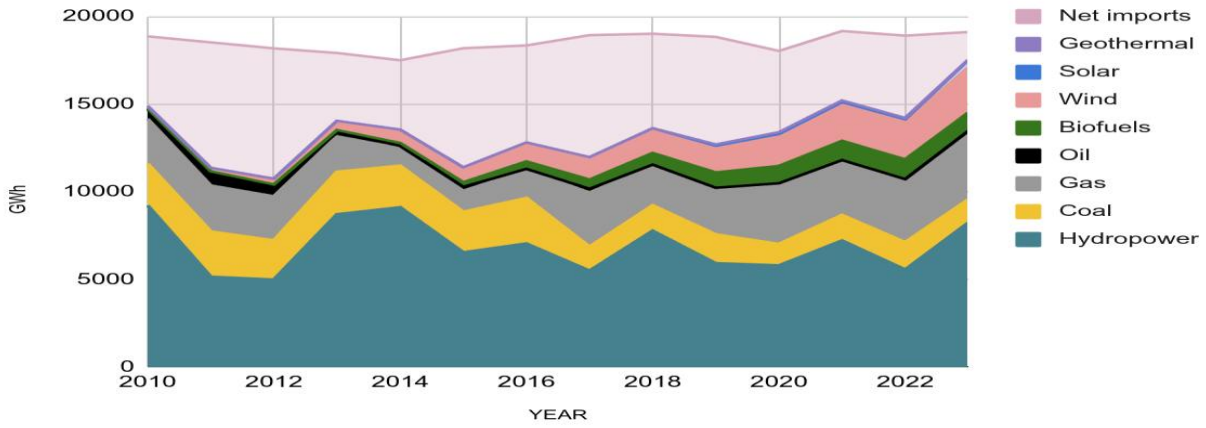
7. Focus on Croatia

7.1 Croatia's power sector

Croatia has around 3.9 million inhabitants and rich potential for renewable energy and energy efficiency. It is somewhat dependent on electricity imports, depending on hydrological conditions. However this is partly because the Krško nuclear power plant in Slovenia, half-owned by Croatian state-owned utility Hrvatska Elektroprivreda (HEP), also contributes to Croatia's electricity supply but is counted under imports in the statistics.

In 2023, due to favourable hydrological conditions, Croatia's domestic electricity generation met almost all of its demand, with the remainder easily able to be met by Krško. 43% of Croatia's total electricity came from hydropower, 20% from gas, 13% from wind, 7% from coal, 5.5% from biomass and 2.2 per cent from solar. Geothermal and oil each made up less than one per cent.[71]

Figure 2. Electricity generation in Croatia 2010 to 2023. Source: IEA.[72]



[70] Directiva (ue) 2023/2413 a Parlamentului European şi a Consiliului din 18 octombrie 2023 de modificare a Directivei (UE) 2018/2001, a Regulamentului (UE) 2018/1999 şi a Directivei 98/70/CE în ceea ce privește promovarea energiei din surse regenerabile şi de abrogare a Directivei (UE) 2015/652 a Consiliului, *Eur-Lex*, 31 October 2023.

[71] International Energy Agency (IEA), Energy Statistics Data Browser, *IEA*, last updated 10 June 2025.

[72] International Energy Agency (IEA), Energy Statistics Data Browser, *IEA*, last updated 10 June 2025.

Wind development in Croatia has been sporadic, with various stops and starts due to issues with incentives schemes and, as mentioned above, grid connections. But the situation with solar is much worse, and for a country known for its sun, Croatia is seriously underperforming. Still, in the last two to three years, installation has picked up somewhat. As of mid-2025, Croatia has 1,264 MW of wind turbines installed,[73] and 1,099 MW in solar photovoltaics.[74]

7.2 Renewables development and impacts on Natura 2000

Like Romania, Croatia is known for its biodiversity and rich range of habitats, including marine areas, karst fields and rivers, mountain chains and limestone plateaus. Forests cover 44% of the country's land surface, while the karst area covers 54% and runs along the entire Adriatic coast.[75] Nevertheless, this diversity is threatened by a range of factors including urbanisation due to tourism, pollution, fishing and abandonment of traditional farming practices.

Croatia has traditionally relied heavily on hydropower for electricity, with most of its capacity built during the Yugoslav period. Hydropower construction has also continued since then, despite its increasing climate vulnerability.

As with other countries in southeast Europe, Croatia used its feed-in tariff incentive system primarily to back small hydropower plants, and to some extent wind, but solar for a long time remained undeveloped. As a result, wind generation increased the country's already high renewable energy share, while small hydropower has made a negligible contribution.

Still, wind development has been harmful in some locations. In 2020, the European Commission issued a letter of formal notice to Croatia for failing to correctly apply the Habitats Directive when authorising changes to certain wind farm projects.[76] It had allowed some projects to go ahead despite a lack of evidence that they could operate without significantly impacting Natura 2000 sites. In January 2023, this was followed by a reasoned opinion, since despite some progress, the Croatian authorities had not fully addressed all grievances and had refused to take measures to remedy the problems identified.[77]

As well as specific issues with wind farms, environmental permitting in general is sub-standard in Croatia. In March 2019, the Commission sent a reasoned opinion to Croatia for failing to correctly transpose the EIA Directive, which was followed by a reasoned opinion in December 2025. The Croatian legislation still includes neither the screening criteria for determining whether a project requires an EIA, nor an obligation for the development consent decision to include environmental conditions, project features, or measures designed to avoid, prevent, reduce, or offset significant adverse effects. Additionally, requirements to

[73] Wind Europe, Latest wind energy data for Europe, *Wind Europe*, September 2025.

[74] Patrick Jowett, Croatia's solar capacity reaches 1.1 GW, *PV Magazine*, 1 August 2025.

[75] Convention on Biological Diversity, Croatia - Country Profile, *Convention on Biological Diversity*, accessed 12 December 2025.

[76] European Commission, May infringements package: key decisions, *European Commission*, 14 May 2020.

[77] European Commission, January Infringements package: key decisions, 26 January, 2023.

implement mitigation or compensation measures and establish procedures for monitoring significant adverse effects are missing.[78]

The Krš-Pađene wind farm is a particularly well-known example of bad practice, in terms of both the environment and corruption.[79] The wind farm was originally designed with an installed capacity of 110 MW. It is sited between two stunning rivers that form the Krka National Park and Zrmanja river canyon. Most of the area is part of the Natura 2000 network and is home to wolves, short-toed snake eagles, golden eagles, hen harriers and honey buzzards, among others. In 2007, the project underwent an EIA procedure and the authorities approved it. Two years later, C.E.M.P. applied to install 16 more wind turbines at the site and the ministry ruled the planned enlargement would not require any additional EIA.

In 2017, C.E.M.P. planned to replace the old wind turbines, reducing the number but increasing the height by almost 40 metres, and changing the position of the access roads. In March of that year, the Environment Ministry decided that since the original research had been done long ago and to lower standards, and no specific research had been done for bats or wolves, an appropriate assessment on the wind farm's acceptability for the Natura 2000 network must be carried out.[80]

C.E.M.P. immediately submitted a request for the renewal of the procedure to the ministry, filed a lawsuit with the administrative court in Split, and even requested legal protection from the state attorney. That same report stated that over the following two months, representatives of the Environment Ministry began consultations with the state attorney's office. It ultimately decided to revoke the decision from March, stating that no further evaluation was needed. Environmental defenders filed a lawsuit against the decision, but it was rejected by both the Administrative Court in Split and High Administrative Court.[81]

Nevertheless, due to the European Commission's infringement procedure,[82] a new appropriate assessment was carried out for Krš Pađene in 2024.[83] This resulted in strong operating conditions, including 'shut-on-demand' measures. The project developer has now reportedly submitted a lawsuit against the relevant ministry.[84]

Krš Pađene is not an isolated case. The Senj and Vratarusa II, both located in Natura 2000 sites near the Croatian coast have also seen similar backtracking by the ministry. In the Senj case, in 2018, the Chinese company Norinco International Cooperation bought a majority share in the project and planned to replace the wind turbines with larger ones. The environment ministry first decided that an environmental assessment was needed, but then changed its mind two months later. Moreover, it obstructed access to

[78] European Commission, December infringements package: key decisions, *European Commission*, 11 December 2025.

[79] In 2020, the Croatian Office for the Suppression of Corruption and Organised Crime (USKOK) brought charges against the state secretary of the Ministry of Justice and Public Administration, Josipa Rimac, and several other state employees. Among others, they are accused of unduly favourable treatment towards the investors of Krš-Pađene, the Croatian company C.E.M.P. d.o.o., by waiving fees and approving a higher than normal feed-in tariff. The case is pending.

[80] Vedrana Simičević, Flawed impact assessments: How Croatia favours investors over the environment, *Balkan Insight*, 8 July 2024.

[81] Ibid.

[82] Gordana Grgas, Za VE Krš-Pađene tek nakon pritiska iz EU izrađena studija utjecaja na ekološku mrežu, *Forbes Hrvatska*, 16 September 2024.

[83] Šibensko-Kninska Županija, Objavljena Javna rasprava u postupku ocjene prihvatljivosti zahvata za ekološku mrežu za vjetroelektranu Krš-Pađene, *Šibensko-Kninska Županija,* 9 September 2024.

[84] Mateja Šobak, Ulagači u Krš-Pađene tužili Ministarstvo, *Večernji List*, 12 May 2025.

justice by issuing the second decision in a non-standard format, so when NGOs BIOM, Zelena akcija and Sunce submitted a joint lawsuit against the decision, it was rejected by the High Administrative Court because decisions in this format were not among those that could be challenged by civil society organisations.[85]

In addition to its wind power scandals, Croatia has continued developing large hydropower projects, albeit slowly. The controversial Lešće plant on the river Dobra was completed by state-owned utility *Hrvatska elektroprivreda* (HEP) in 2010, in the middle of a planned Natura 2000 site and contrary to a recommendation by the Bern Convention.[86] After the plant was built, due to peaking operations the maximum water flow in Dobra increased dramatically, damaging the riverbed and local roads, and endangering the lives of those who swim or cross downstream.

Since then, no other major hydropower projects have been completed, but the massive Kosinj-Senj 2 complex has been planned for decades – also by HEP. It would extend the existing Senj hydropower complex, built in the 1960s in the Lika region. Although it would add 412 MW in installed capacity, it would mostly operate in peaking mode and generate 273 to 320 gigawatt hours (GWh) annually.

Three dams are planned, as well as tunnels and canals to divert the Bakovac stream to the Lika river. This requires over six kilometres of 'injection curtains', which involves pumping over 75,000 tonnes of cement into sensitive underground ecosystems in order to ensure that the reservoir actually holds water in this porous, karst terrain. The project area partly overlaps with the Natura 2000 network.

The construction of the 1,155-hectare reservoir will completely submerge the settlements of Gornji Kosinj and Mlakva, and their population will be displaced. Some people have already left, but the project is opposed by the remaining local residents who have been severely restricted by it for 40 years. During this time they have not been able to carry out any long-term planning or obtain building permits for building/expanding houses or rebuilding infrastructure.[87]

The EIA procedures for Kosinj/Senj 2 were carried out separately, playing down the impacts. Both were completed within just a few months. No proper assessment was carried out under Article 4.7 of the Water Framework Directive. An administrative court challenge on the narrow scope of the EIAs by *Zelena akcija* was dismissed. But despite the studies having been approved in 2018,[88] only preparatory works are underway today and to the best of our knowledge, no financing has been obtained for the actual construction.

These examples show a relatively chaotic approach to renewable energy permitting in Croatia. State-owned companies have traditionally been required to carry out EIAs where legally required, but are not subject to intense scrutiny by the competent authority concerning their quality. But for private investors, the situation is less predictable and raises several red flags regarding preferential treatment for individual investors.

[85] Ibid.

[86] Bern Convention Standing Committee, Recommendation No.129 (2007) of the Standing Committee on the construction of a dam and hydro-electric power station in Lesce on the Dobra River, *Bern Convention*, November 2007.

[87] For more information on the project, see Pippa Gallop, Andrey Ralev, Why hydropower in southeast Europe is a risky investment, *CEE Bankwatch Network, EuroNatur, RiverWatch, WWF*, July 2022.

[88] Ministarstvo zaštite okoliša i zelene tranzicije (MZOZT), PUO postupci 2017., *MZOZT,* accessed 12 December 2025.

Ministry staff following the regular assessment procedures in highly environmentally sensitive locations have several times been overruled by irregular high-level decisions, to the detriment of both nature and the rule of law.

Such irregularities also have strong implications for public participation as EIA procedures are one of the very few opportunities the Croatian public has to comment on individual projects. Spatial planning is often done non-transparently, with public comments not taken into account, and projects carried forward across plans for decades even if not realised. Thus the RED III provision allowing derogation from EIAs for most projects in acceleration areas risks depriving the public of their only opportunity for an informed public debate on renewables projects.

7.3 Croatia's RED III transposition

Croatia has still to transpose most of the RED III permitting provisions, including on renewable acceleration areas, but some issues have already arisen with recent legal changes.

Amendments to the Law on Spatial Planning in 2023[89] defined fish ponds as suitable locations for building solar photovoltaics. This was controversial considering that most such locations in Croatia are rather lakes, not ponds, and are havens for birds and other wildlife, protected as part of the Natura 2000 network. Since Renewable Acceleration Areas have not yet been identified in Croatia, it is not clear whether the definition from the Law on Spatial Planning that includes fish ponds will be included in these.

What this could mean in practice is shown by a solar project planned by a former Assistant Minister for Trade in the Ministry of Economy on a fish pond near Daruvar that is part of the Natura 2000 network.[90] The project would be no less than 400 MW in capacity, resulting in significant impacts. RED III in principle excludes locations in Natura 2000 sites from becoming acceleration areas, but includes 'artificial inland water bodies, lakes or reservoirs'. Allowing such valuable sites to host large solar installations is already problematic, but allowing it without EIAs would be a death knell.

The overriding public interest provision from RED III has not been transposed yet, but as the examples above illustrate, many appropriate assessments never even get to this stage as assessments are either avoided altogether or impacts are played down to appear insignificant. Nevertheless, it should be highlighted that the Croatian translation in the Official Journal suffers from the same lack of nuancing as the Romanian one, as it states that Member States shall 'consider' renewables and associated infrastructure to be of overriding interest and serving public health and safety, ('*smatraju od prevladavajućeg javnog interesa te da služe javnom zdravlju i sigurnosti*'),[91] rather than prescribing a rebuttable presumption.

[89] Hrvatski Sabor, Zakon o izmjenama i dopunama Zakona o prostornom uređenju, *NN 67/2023*, 21 June 2023.

[90] Gordana Grgas, Kuje se plan o gigantskoj plutajućoj elektrani na ribnjaku Končanica u ekološki zaštićenom području, *Forbes Hrvatska*, 22 April 2024.

[91] Direktiva (EU) 2023/2413 Europskog parlamenta i Vijeća od 18. listopada 2023. o izmjeni Direktive (EU) 2018/2001, Uredbe (EU) 2018/1999 i Direktive 98/70/EZ u pogledu promicanja energije iz obnovljivih izvora te o stavljanju izvan snage Direktive Vijeća (EU) 2015/652, *Eur-Lex*, 31 October 2023.

8. Discussion

It is still too early to understand the precise effects of RED III in Croatia and Romania. However in both countries, the changes come in a context which was already wrought with breaches of existing legislation, resulting in significant actual or expected damage to nature.

In both cases, although significant delays have occurred in certain renewable energy projects, these are not as a result of environmental permitting. In fact, these projects should not be allowed to go ahead at all, but have received permits anyway.

The issues around wind farms in Croatia show that repowering, although it appears benign, can involve significant changes to the impacts of projects which need to be properly taken into account. It is unclear whether this is possible within the timelines set by RED III.

Both Croatia and Romania show that although renewable energy must be consistently and efficiently increased, the sector is no less prone to irregularities than others. It cannot be assumed that all attempts to speed up renewables permitting are positive and well-intentioned.

As a result of recent legislative changes, certain provisions in Romania's legislative framework in particular go much further than the provisions of RED III or fail to transpose the Directive in a way which can be successfully operationalised. This is likely to lead to more projects being permitted which cause significant harm.

9. New Commission proposals: The Grids Package

The draft EU Grids Package published on 10 December includes a Communication; a draft Directive on acceleration of permit-granting procedures for renewable energy, batteries and grid infrastructure,[92] and a draft Regulation on guidelines for trans-European energy infrastructure (TEN-E).[93]

The decision to re-open the Renewable Energy Directive is surprising as it was changed in 2023, and already significantly loosened permitting conditions for renewables and grids. Although the 2023 Directive raises concerns, explored above, the rationale for re-opening it half way through transposition is unclear. Even industry has called for more stability: Eurelectric, Wind Europe and SolarPower Europe have all asked the Commission to maintain stability by avoiding the reopening of existing EU laws like RED III and the Birds &

[92] This would amend:
- the Renewable Energy Directive ((EU) 2018/2001);
- the Electricity Market Directive ((EU) 2019/944);
- the Directive on gas markets and hydrogen ((EU) 2024/1788) and
- the Energy Performance in Buildings Directive ((EU) 2024/1275).

[93] This would amend:
- Regulation (EU) 2019/942, establishing a European Union Agency for the Cooperation of Energy Regulators;
- the Electricity Market Regulation (EU) 2019/943;
- the gas markets and hydrogen Regulation (EU) 2024/1789
- and would repeal the current Regulation on guidelines for trans-European energy infrastructure ((EU) 2022/869) on guidelines for trans-European energy infrastructure.

Habitats Directives, which risks undermining investor confidence and public acceptance at a time when the sector needs stability.[94]

Among several provisions which raise concerns in the Commission's proposed amendments to RED III are:

- A new paragraph that is aimed at preventing no-go zones for renewables but risks undermining the whole concept of protected natural areas. Member States are to '*endeavour not to designate large areas where the installation of renewable energy plants and their related infrastructure is legally or de facto restricted due to environmental reasons (...)*'.[95] But protected areas *must* restrict certain types of activities: why would hydropower plants be allowed in National Parks or wind parks in old-growth forests? This draft provision also raises concerns regarding the principle that Member States may introduce stricter environmental protection measures than EU law requires.[96]

- The existing presumption[97] that renewables and grids are of overriding public interest for when carrying out assessments under the Habitats, Birds and Water Framework Directives is set to be widened. The new proposal would stop Member States being able to restrict the application of this provision in certain parts of their territory and would widen the assumption of overriding public interest to enable land expropriation and other areas of law, except cultural heritage.

- If satisfactory alternative solutions exist, projects with severe impacts on protected natural areas are – appropriately – currently not allowed to proceed. But the new proposals would restrict the examination of alternatives to the same energy technology as the proposed project. This undermines the goal of environmental protection, as it would mean a high-impact technology like hydropower or biomass would not have to be compared to a lower-impact one like solar.

- The draft TEN-E allows many cross-border electricity transmission projects and storage facilities to be exempted from EIAs and appropriate assessments under the Habitats Directive if they are part of National Development Plans that have been subject to SEAs. Similar provisions are already in place for renewable projects but SEAs are less detailed than EIAs and are unlikely to be an adequate substitute. Among others, this deprives the public of a major consultation opportunity during project development.

We noted with interest the new proposal for Member States to designate and finance an independent facilitator to promote dialogue between the project developer and the general public. This may be a useful complement to other consultation processes, especially where concerns are not necessarily environmentally-related. However, such mediation cannot replace structured and science-based processes like the EIA and appropriate assessments, so it should be additional, not instead of them.

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[94] Eurelectric, Wind Europe, SolarPower Europe, Renewables permitting is still too slow. Good rules are in place – it's time to finally deliver, 10 June 2025.

[95] '*(...), unless they can demonstrate that those types of plants and their related infrastructure would result in irreversible damage in the area which cannot be mitigated or compensated for during the environmental assessment pursuant to Directive 2011/92/EU and, where relevant, the appropriate assessment pursuant to Article 6(3) of Directive 92/43/EEC*'.

[96] Article 193 of the Treaty on the Functioning of the EU.

[97] 'rebuttable presumption' i.e. it is presumed, but can be disproved during the assessment process. However, the burden of proof is on the public to prove likely harm instead of on the project promoter to prove a lack of harm.

10. Conclusions

The EU-level drive to speed up renewable energy development is unevenly reflected on the ground in Croatia and Romania.

While Romania has to a large extent transposed RED III, it did so late. But this is not reflective of the extreme zeal shown by certain government and parliamentary representatives regarding hydropower development, which has resulted in several legislative initiatives that are in breach of the EU EIA and Habitats Directives, as well as the approval of individual projects breaching both Romanian and EU law. These new laws and ordinances are most likely inspired by the 2022 EU emergency ordinance and RED III, but go far beyond what they allow.

In Croatia, on the other hand, the government may seem unsupportive of renewables development based on its slow transposition of RED III and extreme delays with grid connections, but in specific cases it has unduly privileged investors by exempting them from undertaking appropriate assessments or EIAs, even after they had previously taken opposite decisions. This has led to a relatively chaotic situation with legal challenges both from investors and public interest organisations.

Against an already problematic background, RED III risks exacerbating some existing issues, particularly due to mistransposition of the overriding public interest provisions by Romania, as well as disputes regarding the scope of assessments on repowering in Croatia. As spatial planning is often done non-transparently, with public comments not taken into account, and projects carried forward across plans for decades even if not realised, EIA and appropriate assessment procedures are one of the few opportunities the public has to comment on individual projects. Thus the RED III provision allowing derogation from EIAs for most projects in acceleration areas risks depriving the public of their only opportunity for an informed public debate on renewables projects.

The December 2025 proposal by the Commission to re-open RED III for changes again risks adding another layer of complexity to an already dynamic situation. Moreover, provisions encouraging countries not to restrict renewable energy development in certain areas risks encouraging initiatives like those in Romania to move the borders of Natura 2000 areas to allow hydropower construction. Rather than bringing Croatia and Romania towards compliance with EU law, RED III and the proposed new provisions may bring the rest of the EU closer to these countries.

For these reasons, we recommend not re-opening RED III again for now, but rather taking the time to ensure that its more high-risk provisions are mitigated through transposition, while carefully monitoring implementation.

11. Recommendations

For the Romanian government

- Repeal the so-called Zamfir Law
- Repeal Government Emergency Ordinance 175/2022

- Adjust the transposition of RED III to exclude hydropower and biomass from acceleration areas; rephrase the presumption of overriding public interest to make clear it is rebuttable; and remove or operationalise the provision on monetary compensation.
- Substantially improve spatial planning and SEAs, particularly with regard to cumulative impacts and public participation.
- Cultivate an atmosphere of healthy debate, not threats and exaggerated claims on the need for specific hydropower plants

For the Croatian government

- When designating acceleration areas, exclude fish ponds. Remove them from the Law on Spatial Planning as suitable sites for solar.
- When transposing RED III, include in acceleration areas only truly low-impact sites and technologies, to minimise clashes with the requirements of the EIA and Habitats Directives. Exclude hydropower and biomass.
- When transposing RED III, ensure the phrasing on presumption of overriding public interest makes clear it is rebuttable.
- Substantially improve spatial planning and SEAs, particularly with regard to cumulative impacts and public participation.

For the European Commission

- Reconsider plans to re-open RED III.
- Reconsider other 'simplification' proposals for environmental acquis which risk complicating an already complex situation further.
- Continue following up on existing infringement procedures and open new ones where needed.
- Provide guidance on the overriding public interest provisions of RED III and carefully monitor implementation for clashes with the Habitats and Water Framework Directives.
- Provide particularly tailored guidance to Member States like Romania and Croatia with pre-existing permitting issues. Take care to send clear messages on the importance of nature protection.

For the European Parliament and Council

- Reconsider plans to re-open RED III and take a more considered approach regarding potential complications stemming from overly frequent changes in environmental legislation.

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