

CEER Feedback to the European Commission on the Review of the Directive 2018/2001/EU on the Promotion of the Use of Energy from Renewable Sources

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1 Introduction

This is a response to the European Commission's request for feedback¹ on a proposal for the revision of Directive 2018/2001/EU on the promotion of the use of energy from renewable sources, which was published on 14 July 2021. CEER welcomes the European Commission's proposal. The response builds on and further develops CEER's responses² to the public consultation run by the European Commission (EC) from 17 November 2020 to 9 February 2021.

The revision of the Renewable Energy Directive (RED II) aims at ensuring that renewable energy contributes to the achievement of the increased greenhouse gas (GHG) emissions reduction target set in the Climate Target Plan for 2030, as well as to implement the measures proposed in the Energy System Integration and Hydrogen strategies, the Renovation Wave initiative³, and other initiatives adopted under the European Green Deal.

2 Remarks and comments

The Climate Target Plan for 2030 is a challenge for all stakeholders in the EU. The Renewable Energy Directive needs to be more ambitious as result of the higher climate ambition in the European Green Deal and Climate Target Plan. While the specific challenges are diverse across Member States (MS) and there should be sufficient freedom for targeted strategies at the national level, it is also necessary and urgent to undertake coordinated efforts for entering a more ambitious decarbonisation path, particularly in hard-to-abate sectors (such as heavy-duty transport and energy intensive industry). Hydrogen may be a vector for such sectors and the EU hydrogen strategy⁴ underlines the relevance of "various options for incentives at EU level, including the possibility of minimum shares or quotas of renewable hydrogen or its derivatives in specific end-use sectors (for instance certain industries as the chemical sector, or transport applications), allowing demand to be driven in a targeted way." Against this background, it appears that a higher level of prescriptiveness could have merit.

CEER explicitly welcomes EC amendment

- of Article 2 of REDII by modifying the **definition of renewable fuels** of non-biological origin and default value, and adding new definitions of quality roundwood, renewable fuels, bidding zone, smart metering system, recharging point, market participant, electricity market, domestic battery, electric vehicle battery, industrial battery, state of health, state of charge, power set point, smart charging, regulatory authority,

¹ See https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12553-EU-renewable-energy-rules-review_en

² See "CEER response to the European Commission's public consultation on the review of the EU renewable energy rules", C21-EWG-GWG-159-03, 12 February 2021.

³ See https://ec.europa.eu/energy/topics/energy-efficiency/energy-efficient-buildings/renovation-wave_en

⁴ See https://ec.europa.eu/energy/topics/energy-system-integration/hydrogen_en#eu-hydrogen-strategy

- bidirectional charging, normal power recharging point, industry, non-energy purposes, plantation forest and planted forest.
- of Article 3(1) of REDII with the **updated 2030 EU target of at least a 40% share of energy from renewable sources** in the Union's gross final consumption of energy in 2030. It also modifies Article 3(3) to strengthen the obligation to minimise the risks of unnecessary market distortions resulting from support schemes and to avoid supporting certain raw materials for energy production in line with the cascading principle. It also introduces the obligation to phase out, with some exceptions, support for electricity production from biomass from 2026. Furthermore, Article 1(2) adds a new paragraph on electrification, to help MS reach their national contributions.
 - of Article 7 of REDII with the **updated calculation method of the share of energy from renewable energy sources** so that (i) energy from renewable fuels of non-biological origin must be accounted in the sector in which it is consumed (electricity, heating and cooling or transport), and (ii) the renewable electricity used to produce renewable fuels of non-biological origin is not included in the calculation of the gross final consumption of electricity from renewable sources in the MS.
 - of Article 2 amending Regulation (EU) 2018/1999 **in order to change the Union-level binding target of at least 32% for the share of renewable energy** consumed in the Union in 2030 therein to 'the Union's binding target for renewable energy in 2030 as referred to in Article 3 of Directive (EU) 2018/2001'. It does not amend other key elements of Regulation (EU) 2018/1999 such as the 15% electricity interconnection target which remains crucial for renewables integration.

Nevertheless, concerning the new article 20a on *Facilitating system integration of renewable electricity*, this article must be read in conjunction with the provisions of the Regulation on the deployment of alternative fuels infrastructure (AFIR proposal for a Regulation concerning the deployment of alternative fuel infrastructure, repealing Directive 2014/94/EU). Paragraph 3 of this article states that: "In addition to the requirements in (AFIR), Member States shall ensure that non–publicly accessible normal power recharging points installed in their territory from [the transposition deadline of this amending Directive] can support smart charging functionalities and, where appropriate based on assessment by the regulatory authority, bidirectional charging functionalities". Consequently, Article 20a must be coherent with Article 14 of AFIR (Reporting).⁵

⁵ AFIR Article 14 "Reporting" states:

3. The regulatory authority of a Member States shall assess, at the latest by 30 June 2024 and periodically every three years thereafter, how the deployment and operation of recharging points could enable electric vehicles to further contribute to the flexibility of the energy system, including their participation in the balancing market, and to the further absorption of renewable electricity. That assessment shall take into account all types of recharging points, whether public or private, and provide recommendations in terms of type, supporting technology and geographical distribution in order to facilitate the ability of users to integrate their electric vehicles in the system. It shall be made publicly available. On the basis of the results of the assessment, Member States shall, if necessary, take the appropriate measures for the deployment of additional recharging points and include them in their progress report referred to in paragraph 1. The assessment and measures shall be taken into account by the system operators in the network development plans referred to in Article 32(3) and Article 51 of Directive (EU) 2019/944.
4. On the basis of input from transmission system operators and distribution system operators, the regulatory authority of a Member States shall assess, at the latest by 30 June 2024 and periodically every three years thereafter, the potential contribution of bidirectional charging to the penetration of renewable electricity into the electricity system. That assessment shall be made publicly available. On the basis of the results of the assessment, Member States shall take, if necessary, the appropriate measures to adjust the availability and geographical distribution of bidirectional recharging points, in both public and private areas and include them in their progress report referred to in paragraph 1.

Third party access for district heating and cooling:

CEER welcomes the increasing integration of the heating and cooling sector into the common renewable framework. Generally, third-party access to district heating networks should be strengthened. Nonetheless, in certain circumstances, exceptions should be possible, e.g. in case third-party access could affect the business case of a vertically integrated entity. If regulation for district heating networks accounts for this risk, and therefore, access for third parties is negotiated, a decision not to allow access to a third party should be well substantiated, transparent and open to appeal. As the market rules of this sector are less developed compared to those of electricity and gas, it seems prudent to introduce third-party access under certain conditions and thresholds as suggested in Article 24.

The application of new market rules implies the need of further development of a stable regulatory framework, taking into account the heterogeneous structure of heating and cooling markets within EU MS.

The proper regulatory framework for third-party access for heating and cooling should also be explicitly anchored in the Directive. Article 24 (9) states that “Member States shall ensure that the rights of consumers and the rules for operating district heating and cooling systems in accordance with this Article are clearly defined, publicly available and enforced by the competent authority.” This is in line with the “CEER Feedback to the European Commission on the Proposal for an EU Directive on Energy Efficiency”. Concerning the competent authority for the enforcement of consumer protection for heating, cooling and domestic hot water, and the rules for operating district heating and cooling systems, such an authority should act independently from any market interest, and should be equipped with the necessary powers to ensure that consumer protection measures is effective and enforced.

Open questions:

From the perspective of NRAs, some amendments need more guidance and clarifications to be transposed into practice/national law:

- a new Article 15a on mainstreaming renewable energy and enabling measures to mainstream heating & cooling in buildings. This new Article includes a new indicative Union target of renewables in buildings by 2030 of 49% and a reference to the new definition of ‘efficient district heating and cooling’ that will be added to the recast Energy Efficiency Directive, which is one of the ways the minimum level of RES in new buildings and buildings undergoing major renovation can be satisfied. It adjusts the text of the paragraphs on buildings of Article 15 REDII to link them to the achievement of the indicative RES targets and to promote the switch from fossil fuel heating systems to RES, as well as to be coherent with the Energy Performance of Buildings Directive.
- Article 18(3) of REDII with adjusted paragraphs on the qualification and certification requirements of installers to deal with the fact that there is a shortage of installers of renewable heating systems, which is a ‘brake’ on phasing out fossil fuel systems. It also deletes list of specific types of renewable heating technologies and replaces it by a generic reference to RES heating systems. It amends Article 18(4) REDII by obliging MS to put in place measures to support participation in training programmes. The previous possibility for MS to make the list of qualified installers public becomes a requirement.
- of Article 19(2) and (8) of REDII to remove MS’ ability not to issue guarantees of origin to a producer that receives financial support, linking to the changes related to power purchase agreements in Article 15.

- Article 20(3) of REDII with a new and additional paragraph to enhance energy system integration between DHC systems and other energy networks, by requiring Member States, where relevant, to develop efficient DHC to promote heating and cooling from RES.
- of new Article 20a in REDII facilitating system integration of renewable electricity by the following measures:
 - TSO and DSOs are required to make available information on the share of RES and the GHG content of the electricity they supply, in order to increase transparency and give more information to electricity market players, aggregators, consumers and end-users;
 - Battery manufacturers must enable access to information on battery capacity, state of health, state of charge and power set point, to battery owners as well as third parties acting on their behalf;
 - Member States shall ensure smart charging capability for non-publicly accessible normal power recharging points, due to their relevance to energy system integration;
 - Member States shall ensure that regulatory provisions concerning the use of storage and balancing assets do not discriminate against participation of small and/or mobile storage systems in the flexibility, balancing and storage services market.
- Article 23(1) of REDII so that the 1.1 pp annual increase in heating and cooling becomes a binding baseline and adds an additional paragraph obliging the MS to carry out an assessment of their potential of energy from renewable sources and of the use of waste heat and cold in the heating and cooling sector. It also amends Article 23(4) of REDII with an extended menu of measures to help them implement the heating and cooling target. It also strengthens this paragraph so that MS must ensure, rather than aim to ensure, the accessibility of measures to all consumers, in particular those in low-income or vulnerable households, who would not otherwise possess sufficient up-front capital to benefit.
- amends Article 24(1) of REDII with an updated paragraph on information on the renewable energy share in district heating and cooling systems.
- Article 24(4) of REDII with an updated paragraph on increased target share, from 1 pp to 2.1 pp of energy from renewable sources and from waste heat and cold in district heating and cooling and a new paragraph is added expanding third-party access to apply to district heating or cooling systems above 25 MW(Th) where this makes sense.
- Article 24(5) of REDII with an updated paragraph adding a reference to the new definition of efficient district heating (to be added to the recast Energy Efficiency Directive) and requiring MS to put in place a mechanism to deal with unjustified refusals of third-party access.
- Article 24(9) of RED II which ensure that the rights of consumers and the rules for operating district heating and cooling systems in accordance with this Article are clearly defined and enforced by the competent authority.

3 About CEER

The Council of European Energy Regulators (CEER) is the voice of Europe's national energy regulators. CEER's members and observers comprise 39 national energy regulatory authorities (NRAs) from across Europe.

CEER is legally established as a not-for-profit association under Belgian law, with a small Secretariat based in Brussels to assist the organisation.

CEER supports its NRA members/observers in their responsibilities, sharing experience and developing regulatory capacity and best practices. It does so by facilitating expert working group meetings, hosting workshops and events, supporting the development and publication of regulatory papers, and through an in-house Training Academy. Through CEER, European NRAs cooperate and develop common position papers, advice and forward-thinking recommendations to improve the electricity and gas markets for the benefit of consumers and businesses.

In terms of policy, CEER actively promotes an investment friendly, harmonised regulatory environment and the consistent application of existing EU legislation. A key objective of CEER is to facilitate the creation of a single, competitive, efficient and sustainable Internal Energy Market in Europe that works in the consumer interest.

Specifically, CEER deals with a range of energy regulatory issues including wholesale and retail markets; consumer issues; distribution networks; smart grids; flexibility; sustainability; and international cooperation.

More information is available at www.ceer.eu.

4 Relevant CEER Publications

CEER Feedback to the European Commission on the Proposal for an EU Directive on Energy Efficiency (recast) COM (2021) 558 (to be published November 2021)

[CEER 2nd Paper on Unsupported RES](#), October 2021, Ref: C21-RES-75-05.

[CEER response to the European Commission's public consultation on the process for a review of the EU renewable energy rules](#), February 2021, Ref: C21-EWG-GWG-159-03.

[Status Review of Renewable Support Schemes in Europe for 2018 and 2019](#), June 2021, Ref: C20-RES-69-04.

[Key support elements of RES in Europe: moving towards market integration](#), January 2016, Ref: C15-SDE-49-03.