

# Public consultation on the revised Climate, Energy and Environmental Aid Guidelines (CEEAG) - APREN's contribution

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The Portuguese Renewable Energy Association (APREN) is a non-profit association, with the mission of coordination, representation and defence of the common interests of our Members. APREN represents mainly company owners of renewable powerplants as ordinary members, though any stakeholder or organism with interest in the deployment of renewable electricity can become an active member, as an extraordinary member. Currently, APREN represents more than 90% of all installed capacity of renewable electricity sources in Portugal.

APREN welcomes and congratulates the revision of the Climate, Energy and Environmental Aid Guidelines (CEEAG). State aid measures are fundamental to ensure the development needed in order to achieve the ambitious decarbonisation targets, especially now, considering the greenhouse gases (GHG) reduction target of 55 % by 2030, rather than 40 %. The “Fit for 55” legislative package brought an even more ambitious target for renewable energy, by setting a new renewable incorporation level of 40 %, instead of the previous 32 %, in final energy consumption.

Therefore, APREN believes that the aid to be designed for renewable energy should meet the importance that this sector represents to achieve climate neutrality. The category of aid 4.1. regarding “aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy” is too comprehensive. To include renewable energy in the decarbonisation field lessens the importance of the power sector, in particular the renewable sector, compared to the other 13 categories of aid. The approach on renewable energy should be presented as a subcategory of the reduction and removal of GHG emissions, among the other 13 categories which all have direct and indirect impacts on decarbonisation.

In addition to the importance of a single renewable energy category of aid, APREN's position on low-carbon technologies is to instigate the uptake of renewable energy sources (RES), giving first priority to direct electrification and, for hard to abate sectors where this isn't a cost-effective option, to promote the use of renewable gases, such as renewable hydrogen, thus excluding the low-carbon fuels as a possible alternative, as they still contribute with GHG emissions, hence, not helping to the achievement of the targets above mentioned.

## *Bidding process*

Considering the scarcity of available grid injection points in the electricity network and opposing to the modalities normally applied in other Member States, where the companies are only bidding for a stability mechanism to minimize risk investment, the Portuguese bidding process for renewable energy sources (RES) consists in bidding for an injection point of a certain capacity through three different remuneration modalities, linked to the market regime, which are:

- Variable Premium for Differences (CfD);
- Fixed Compensation;
- Fixed Premium for Flexibility (with storage).

The current Portuguese bidding process cannot be regarded as a measure of financial aid or a support scheme to producers, as the ultimate goal is to attribute a grid injection through a competitive process designed to assure a surplus to the electric system, which then led to the record low bid prices verified in previous solar auctions (2019 and 2020) where Portugal set the world's record alongside Abu Dhabi and Qatar. Even though, this scheme must be considered as aid since is trying to respond to a market failure situation: lack of grid availability. By pushing efforts to lower the price, without any other criteria being applied, some stakeholders considered that this scheme incentives offers below marginal cost and moreover, is pushing aside projects with high potential added value, as such lower prices cannot afford any national content in the value chain.

### ***Non-price selection criteria***

Point 49 mentions that *“In a few exceptional cases it may be appropriate to include other non-price selection criteria (for instance additional environmental, technological or social criteria). In such cases, such other criteria must account for no more than 25 % of the weighting of all the selection criteria.”*

APREN strongly believes that the inclusion of other non-price selection criteria should be mandatory instead of only allowed in a few exceptional cases, and should be at least 25% to promote more competitive and valuable projects in terms of sustainability and local content incorporation and development.

However, considering the risk associated with including non-price qualitative criteria, all non-price selection criteria must be measurable in order to create a fully quantitative process, instead of a qualitative one which promotes lack of transparency. The value chain, environmental impact, carbon footprint, sustainability, and energy performance, among others, could be considered as non-price measurable criteria for projects of renewable power plants.

### ***Claw-back***

In point 53 it is mentioned the possibility of introducing claw-back or cost monitoring mechanisms for projects under market regime. It is important that claw-back introduction is carefully considered, taking into account all market factors involved and ensuring its fully transparency, while also guaranteeing a non-

retroactive implementation. If claw-back mechanisms should be adapted, the methodologies for its evaluation must be known from the award of the support mechanism or state aid.

For example, Portugal has in place a mechanism called wholesale market competitive equilibrium regime that intends to ensure the balance of market competition caused by external events, this is the taxes incorporated by Spain in the Law 15/2012. This mechanism determines an annual value paid by market producers, given the windfall profits that they may have from the market due to the impact of taxes and levies in the market behaviour, which creates high instability and lack of predictability since every year a new value is defined by the National Regulator. Moreover, the mechanism has design failures undermining the competitiveness of RES power plant operating in Portugal. It is based in the balance between external and internal events mainly taxes and levies impact on the market prices, but then it does not take into consideration the fact that internal market rules are not fully harmonized between Spain and Portugal, such as deviations or redispatch. So, the implementation of claw-back or cost monitoring mechanism needs to be carefully analysed and designed to guarantee that competition between markets is not weakened and does not create uncertainties for investments.

### ***Competition distortion***

APREN fully supports point 66, it is extremely important that new and weaker competitors (small and medium enterprises) are not discouraged by strong players, which could be mitigated by including non-price selection criteria (above mentioned). It is also important to prevent the risk of a player succeeding in most bids in emerging markets, by increasing the monitoring and control process to ensure that a strong player cannot suppress all other competitors. In Portugal, this is being done, by setting a capacity limit to the auctions, whereby a company cannot win the equivalent of 50% of the overall capacity under the bidding process. The last auction in Portugal showed the importance of this rule since half of the capacity was won by one player, which even raises the question if the share should be less than 50 %.

In order to create a fair competition environment, support mechanism or state aid must be designed in a way that the best projects are supported and not the strongest balance sheets get advantage. To avoid the creation of oligopolies Project Finance must be one of the preferred finance structures and for that to happen and to generate a level playing field support mechanisms are crucial.

### ***Technology-specific auctions***

As mentioned in point 83 (e), the need for diversification in the installed capacity will not unduly distort competition. This should be better emphasised considering the importance of technology-specific auctions to achieve a balanced and diversified energy mix. Each renewable technology is in different development stages and have different levels of productivity according to the hour of the day, therefore, they must be managed separately to avoid the tendency for the bidding process to be taken over by a single technology. Besides that, countries have handled the energy transition with different approaches, for instance, in Portugal, the major renewable energy development, so far, has been seen in hydro and wind technologies, therefore, a targeted development for solar is needed to diversify the mix. Given this,

and with path being traced with a high focus on solar and wind technologies, solar will grow based on new power plants, while wind will require a different approach to incentive repowering and hybridization.

Therefore, it should be included a new point after point (f) advising Members States of which technologies may be considered, including projects for solar PV, wind, energy storage and hybrid projects. A truly balanced electrical system must support itself on a portfolio of electricity generation technologies with adequate storage systems.

### ***Project feasibility***

APREN underlines the utmost importance of point 101. It is highly relevant that Member States can ensure the projects' feasibility from development to market, excluding projects that might jeopardize the accomplishment of the proposed targets.

### ***Curtailement***

It is essential that, when considering curtailment in point 102, the Regulation (EU) 2019/943 is mentioned regarding compensatory rules for curtailment, to ensure market stability and fewer risks for promoters, and a full alignment with existent European legislation.

### ***Aid for decarbonisation***

In order to ensure that the aid applied to operation costs is properly applied, as mentioned in point 103, it is necessary to evaluate not only if the operation decisions are environmentally friendly, but also if the project is viable. Defining environmentally friendly as a criterion is not specific enough and excludes other important aspects that must be considered, as pre-selection criteria, before supporting operation costs.

Regarding the introduction of Carbon Contracts for Difference (CCfDs) APREN defends that it should be done under specific conditions, so it could well align the EU Emissions Trading System (EU ETS). It is necessary to create a mechanism that prevents distortions by CCfD beneficiaries in parallel with pressure to the EU ETS price reduction to receive more funding.

### ***Small scale production, self-consumption, and renewable energy communities***

The limitation of aid mentioned in point 92 (b) (i) includes small projects for electricity generation or storage and sets the threshold according to Article 5 of Regulation (EU) 2019/943. However, the referred article only applies to power-generating facilities, therefore a specific limit for storage projects is needed in purpose of this exemption.

Exempting projects from the bidding process by setting the threshold at 400 kW (and 200 kW from 2026 onwards) might be a discouragement for small projects of some specific characteristics, such as renewable energy communities (REC), which are very important to ensure the targets for decentralised production and the new "Fit for 55" threshold of 40 % for electricity from RES in buildings. For an individual self-consumption project, a capacity of up to 400 kW might be sufficient, in contrast to an industrial self-consumption project or a renewable energy community, which should be able to be exempt from an

obligation to go through competitive bidding processes until 3 MW, otherwise, it could undermine investments that intends to pursue new business cases.

### *Storage*

In the description of the scope and supported activities of the category of aid for the reduction and removal of GHG emissions including through support for renewable energy (point 74), besides aid to produce renewable energy and demand response, aid for storage should also be included. It is critical to correlate renewable energy with energy storage and other flexibility and balancing options that complement its deployment, preventing the current need for dispatchable fossil fuel generation and supporting the cost-effective system integration of variable renewables.

### *Biomass*

Biomass and cogeneration based on non-renewable sources cannot be treated equally, as they are currently in point 107. This point should only refer to non-sustainable and inefficient use of biomass, in accordance with the criteria established in the Renewable Energy Directive.

### *Recharging or refuelling infrastructure*

APREN welcomes the inclusion of aid for the projects mentioned in point 170. The development of the infrastructure needed for charging zero-emission fuel vehicles from renewable sources is a key element to decarbonise the transport sector.

### *Energy infrastructure*

As mentioned above, the scarcity of available grid capacity in the electricity network is one of the main barriers for the development of renewable energy projects in Portugal alongside with permitting. Therefore, point 329 is of the utmost importance to ensure the necessary development of the Portuguese energy infrastructure, mainly the transmission and distribution grid.

### *Electricity levies for energy-intensive users*

APREN fully supports the reductions from levies financing support to renewable sources or to combined heat and power and levies financing social tariffs or energy prices in isolated regions, but defends that hydrogen from renewable sources, energy storage and renewable energy communities should also be included in point 354.

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