

Reduction of administrative procedures to speed up expansion of electricity distribution grids

Summary of: *Maria Deutinger/Dr. Frank Sailer*, Ertüchtigung des bestehenden 110-kV-Verteilernetzes, Würzburger Studien zum Umweltenergierecht Nr. 51 vom 30.09.2026

I. Reduction of administrative procedures to accelerate distribution grid expansion

Achieving climate protection targets requires an accelerated expansion of renewable energy sources¹ and, in parallel, of distribution grids². However, progress on the expansion of distribution grids is slow, inter alia due to lengthy and complex permitting procedures³. Those again are partly attributable to requirements under EU-law⁴.

Much of the expansion of the electricity distribution grids will likely have to come from upgrades of existing infrastructure, may that be through replacement, modification, or expansion. Reducing administrative procedures, even up to a complete exemption, could save time and resources currently spent on administrative review procedures. It may therefore help accelerate distribution grid expansion.

However, a mere waiver of the administrative review process would not absolve

project developers of the obligation to comply with the substantive legal requirements of EU environmental law. Rather, developers would have to assess and ensure compliance with those rules themselves. The risk of non-compliance would thus shift to them, including the risk of enforcement action by authorities and liability claims under environmental tort law. To mitigate that risk, exemptions from the administrative procedures could be complemented by comprehensive substantive legal provisions. Compliance with those rules could – similar to the permit after a review process – protect the project developer from (some) legal actions. Under EU environmental law, however, Member States currently have limited room to define and implement such rules. Both the recently proposed Grids Package and the Environment Omnibus offer opportunities to adopt regulations that either specify substantive rules for project developers to comply with or give room for the Member States to do so.

¹ According to Art. 3 (1) of the Renewable Energy Directive, “Member States shall collectively ensure that the share of energy from renewable sources in the Union’s gross final consumption of energy in 2030 is at least 42,5 %”. 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, OJ L 328 21.12.2018, p. 82, consolidated text available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02018L2001-20240716>.

² The German regulator identified a need for investments in the range for 207 Mio. EUR until 2045. See *BNetzA*, Update: Verteilernetze bis 2045 – Zustand und Ausbau 2024, 31.03.2025, <https://www.smard.de/page/home/topic-article/444/215544>

³ As the European Commission itself recognized, inter alia in their recent proposals to speed up the process.

See *European Commission*, Proposal for a Directive of the European Parliament and of the Council amending Directives (EU) 2018/2001, (EU) 2019/944, (EU) 2024/1788 as regards acceleration of permit-granting procedures, COM (2025) 1007 final of 10.12.2025, p. 1 ff, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52025PC1007>; also, by the German industry, *BWE/VKU*, Gemeinsamer Vorschlag von BWE und VKU: Beschleunigter Verteilernetzausbau durch Regulierungsänderungen, 13.02.2026, <https://www.lobbyregister.bundestag.de/media/50/c7/712123/Stellungnahme-Gutachten-SG2603250053.pdf>.

⁴ *European Commission*, Proposal for a Directive of the European Parliament and of the Council amending Directives (EU) 2018/2001, (EU) 2019/944, (EU) 2024/1788 as regards acceleration of permit-granting procedures, COM (2025) 1007 final of 10.12.2025, p. 8.

II. Full exemption from administrative procedures prohibited by EU-law

Under current EU-law, full exemption from administrative procedures for upgrades of the existing distribution network is not permissible. Rather, the law obliges the Member States to implement administrative procedures; in certain cases, (individual) permitting procedures have to be conducted. On the one hand, projects falling within the scope of the Environmental Impact Assessment Directive (EIA Directive)⁵ not only need such an environmental impact assessment but have to go through a permitting procedure as well (Art. 2(1) of the EIA Directive). On the other hand, many substantive rules of EU environmental law (regarding the protection of habitats, species, and water bodies, as well as nature restoration) require administrative reviews and decisions.

III. Proposals from the Grids Package and the Environmental Omnibus

In December 2025, the European Commission proposed numerous legislative

amendments aimed at, inter alia, accelerating permitting procedures for transmission and distribution grids.

1. No full exemption under the Grids Package and Environmental Omnibus proposals

The proposal for a Directive as regards Acceleration of Permit-Granting Procedures (proposed Acceleration of Permit Granting Procedures Directive: proposed APGP-Directive)⁶, which is part of the European Commission's Grids Package, would create a special regime for permitting electricity distribution networks. If adopted, it would amend the respective provisions of the Internal Electricity Market Directive (IEM Directive). To complement this, the European Commission has submitted a Proposal for a Regulation on Speeding-Up Environmental Assessments (proposed Speeding-Up Regulation, proposed SU-Regulation)⁷, as part of the so-called Environmental Omnibus. That proposal aims to expedite environmental assessments required under the Water Framework Directive⁸, the Environmental Planning Directive⁹, the EIA Directive, the Habitats Directive¹⁰, and the Birds Directive¹¹.

⁵ 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, OJ L 26, 28.1.2012, pp. 1–21. Consolidated version available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0092-20140515>.

⁶ European Commission, Proposal for a Directive of the European Parliament and of the Council amending Directives (EU) 2018/2001, (EU) 2019/944, (EU) 2024/1788 as regards acceleration of permit-granting procedures, COM (2025) 1007 final of 10.12.2025.

⁷ European Commission, Proposal for a Regulation of the European Parliament and of the Council on speeding-up environmental assessments, COM (2025) 984 final of 10.12.2025, https://eur-lex.europa.eu/resource.html?uri=cellar:de67c08f-d67e-11f0-8da2-01aa75ed71a1.0001.02/DOC_1&format=PDF.

⁸ 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, OJ L 327, 22.12.2000, pp. 1–73 consolidated version available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02000L0060-20260510>.

⁹ 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, OJ L 197, 21.7.2001, pp. 30–37; available at: <https://eur-lex.europa.eu/eli/dir/2001/42/oj/eng>.

¹⁰ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, OJ L 206, 22.7.1992, pp. 7–50, consolidated version available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01992L0043-20250714>.

¹¹ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, OJ L 20, 26.1.2010, pp. 7–25; consolidated version available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01992L0043-20250714>.

Specifically, the European Commission has proposed:

- ▶ An exemption of review requirements for the refurbishment, modernisation, or repowering of existing distribution grids (amended Art. 8(9) under the proposed APGP-Directive); and
- ▶ The facilitation of changes and extensions to distribution grid projects (Art. 5 proposed SU-Regulation).

However, there are numerous legal uncertainties, questions regarding application and interpretation, and even regulatory gaps concerning the scope, the specific constituent elements, and the legal consequences of both proposals (discussed in detail below). Consequently, whether the rules will achieve their purpose and allow for the reduction of administrative red tape cannot yet be determined. Furthermore, it is unclear whether the proposals entail or will be accompanied by substantive legal provisions on a project's compatibility with EU law. Such would however seem essential to protect the developers against the abovementioned shift in the risk that comes with the elimination of administrative review procedures.

According to the amended Art. 8(12) under the proposed APGP-Directive the environmental impact assessment for "a project for the extension, refurbishment, modernisation or repowering of existing transmission or distribution system infrastructure, shall be limited to evaluating the potential impact arising from the changes or extensions compared to the original transmission or distribution system infrastructure". The provision thus does not allow for complete elimination of all administrative procedures but limits the scope of the administrative review to a comparative analysis.

This approach could still simplify and thus accelerate permitting procedures. In order to do so, it would need to be applied across all environmental assessments, particularly regarding compliance with species protection, water protection, and nature restoration laws. Otherwise, such a limited assessment runs the risk of divergence between the assessment criteria for environmental impact assessments and the underlying substantive rules of EU environmental law. Moreover, the proposal does not specify whether the limited assessment suffices as to ensure compatibility with those substantive rules.

2. Potential for improvement through the amended Art. 8(9) under the proposed APGP-Directive and Art. 5 SU-Regulation

If the EU legislator intends to completely remove the barriers under Union law preventing full exemption from administrative procedures for projects to upgrade existing distribution grids several adjustments to the proposals seem necessary.

a) Exemption from assessment for the refurbishment, modernisation, or repowering of existing distribution networks

According to the amended Art. 8(9) under the proposed APGP-Directive, "Member States shall ensure that the competent authority may, under justified circumstances, including the need to accelerate the deployment of the electricity system infrastructure to achieve climate neutrality and renewable energy targets, exempt the refurbishment, modernisation, or repowering of existing transmission and distribution system infrastructure, provided it does not entail the use of additional space and complies with the applicable

environmental mitigation measures established for the original installation, from:

- a) the environmental impact assessment pursuant to Article 2(1) of Directive 2011/92/EU;
- b) an assessment of their implications for Natura 2000 sites pursuant to Article 6(3) of Directive 92/43/EEC;
- c) the assessment of their implications on species protection pursuant to Article 12(1) of Directive 92/43/EEC and to Article 5 of Directive 2009/147/EC;
- d) the screening pursuant to Article 5 of Regulation [xxxxx] of the European Parliament and of the Council¹².

First, looking at the wording of the proposed provision, there are questions as regards the definition of “refurbishment, modernisation, or repowering”. This is even more so in relation to Art. 5 proposed SU-Regulation which covers “changes or extensions of projects”. If the intention is to cover all scenarios other than new construction, this should be clearly expressed to increase legal certainty.

Second, the practical application of the proposed rule is likely to be limited. Projects to increase capacity of distribution grids generally entail additional land use due to larger towers and foundations¹³. In addition to that, and simply due to their age, many existing installations have never undergone environmental

assessment or permitting procedures, even though modern environmental standards apply to them as well. Modern environmental legislation has only existed since the 1970s¹⁴. The EIA Directive was first adopted in 1985; hence the majority of these installations likely have not undergone an environmental impact assessment. Recital 25 proposed APGP-Directive suggests that the European Commission when proposing the rule considered that “refurbishment, modernisation or repowering projects are routinely of limited size and affect only part of existing assets for which environmental impacts have been previously assessed”. That may, however, not meet the reality at least of parts of the existing distribution grid. For those, it is unclear whether and what assessment requirements apply and which environmental protection measures are being referred to.

Third, the proposal lacks clarity as to whether the exemption can only be applied through a project-specific, case-by-case decision by the competent authority, or whether the legislature is permitted to enact an abstract-general rule that applies to a multitude of cases and thus has a larger potential to accelerate distribution grid expansion.

Regarding legal consequences, the European Commission’s proposal would not result in complete exemption, as a reference to the requirements and prohibitions concerning water protection in the Water Framework Directive is missing. While the European Parliament¹⁵ and the Council¹⁶ do mention water protection law in their proposed

¹² Probably referring to the proposed Speeding-Up Regulation, i.e. *European Commission, Proposal for a Regulation of the European Parliament and of the Council on speeding-up environmental assessments*, COM (2025) 984 final of 10.12.2025.

¹³ Accordingly, the European Parliament and the Council have already criticized the European Commission’s proposal with regard to the clause on additional space.

¹⁴ A. Epiney, *Umweltrecht der Europäischen Union*, 4. Aufl. 2019, 2. Kapitel Rn. 1.

¹⁵ *European Parliament, Committee on Industry, Research and Energy*, Report, A10-0195/2026 of 03.07.2026, p. 54 f.

¹⁶ *Council of the European Union, General Approach*, 2025/0400(COD) v. 23.06.2026, S. 63.

amendments, the scope of these proposals varies¹⁷. Moreover, the requirements and prohibitions arising from the Nature Restoration Regulation¹⁸ are not currently covered by the proposed provision. Therefore, projects to expand the distribution grid would still be subject to administrative procedures to get approval for compliance with nature restoration law and potentially water protection law.

Finally, it is open whether the proposed rule would go beyond exempting projects from administrative procedures. That way, the project developer is left with the risk of (non-)compliance. If the European legislator intends to protect against that risk and provide legal certainty, an explicit provision could be included. For example, it could be clarified that the modification, modernisation, or repowering of existing distribution grid infrastructure complies with the requirements of the legal acts covered by the exemption, provided that the environmental protection measures applicable to the original facility are maintained¹⁹.

b) Facilitations for changes or expansions

Under Art. 5 of the proposed Speeding-Up Regulation, project modifications or expansions are subject to a “screening” by the competent authorities to determine whether they are likely to have significant environmental impacts. A full environmental assessment is only required if they involve “major works” that “represent risks that are similar to or greater than, in terms of their effects on the environment, to those posed by the original project”.

However, the formulation of the proposal does not clearly which works fall under the category of “project modifications and expansions”. Uncertainty pertains in particular with regard to terms “reconstruction”, “modernization”, and “repowering” which are used the proposed changes to Art. 8(9) of the IEM Directive. What is more, the concept of “screening” itself remains elusive: Does it refer exclusively to assessments already prescribed by other legal acts, such as the EIA screening under Art. 4(2) of the EIA Directive and the Habitats Directive screening under Art. 6(3), sentence 1, of the Habitats Directive? Or does the proposal introduce an entirely new assessment that comes in addition to the procedures already foreseen by EU environmental law? According to its scope, the proposed Speeding-Up Regulation would not apply to the Nature Restoration Regulation; hence it cannot provide an exemption from assessments required within that framework. It is also unclear which works are to be considered “major” and “represent risks that are similar to or greater than, in terms of their effects on the environment, to those posed by the original project”. In particular, the proposed rule is silent on the reference point for such a comparison, i.e. whether one needs to look at the authorized impacts of the original project or its actual impacts. There are also currently no rules on how to net different environmental impacts against one another (i.e., whether such has to be done only for impacts on habitat, species, and water protection or whether all environmental impacts need to be aggregated).

¹⁷ The Council, for example, would limit the proposal to new grid infrastructure, so that the upgrade of existing electricity distribution grids would not be covered.

¹⁸ Regulation (EU) 2024/1991 of the European Parliament and of the Council of 24 June 2024 on nature restoration and amending Regulation (EU) 2022/869,

OJ L, 2024/1991, 29.7.2024, available at: <https://eur-lex.europa.eu/eli/reg/2024/1991/oj/eng>.

¹⁹ For example, see Art. 15e(2) 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, OJ L 328 21.12.2018.

Regarding its legal consequences, the proposed provision does in principle allow for an exemption from administrative procedures required by the legislation within its scope. However, the screening requirement would in itself constitute an administrative procedure, albeit a simplified one. The exemption is thus not absolute.

It is questionable what the screening would mean with regard to the project's compliance with the substantive provisions EU environmental law. In cases where the screening indicates no likely significant environmental impacts, the spirit and purpose of the rule suggest that the negative screening result also establishes compliance with those legal requirements. After all, the risk of significant impacts on the protected assets defined in habitat, species, and water protection laws constitutes the decisive benchmark under Art. 5 of the proposed Speeding-Up Regulation. Still, this is not clear from the formulation of the proposed rule. Even greater legal uncertainty exists in cases where the preliminary screening does indicate likely significant environmental impacts, yet the changes or extensions do not involve major works that would entail environmental risks comparable to those of the original project. This could mean that the European Commission, who proposed the rule, considers no environmental assessments necessary in such cases, even though the administrative screening has demonstrably identified likely significant environmental impacts. Possibly, they see no violation of substantive legal requirements either when the environmental impacts of the works are not comparable. However, the text of Art. 5 of the proposed Speeding-Up Regulation leaves this open. Accordingly, the substantive legal effects of the proposal are highly uncertain.

Key findings

- ▶ Achieving the EU's renewable energy and climate targets necessitate an accelerated expansion of electricity distribution grids. A reduction of administrative procedures could serve as a key factor in speeding up the process as it would eliminate the need for time-consuming and resource-intensive regulatory reviews. This applies in particular to upgrades of existing distribution grid infrastructure.
- ▶ However, simply waiving the review process would not exempt operators from compliance with substantive legal requirements. The risk of non-compliance and potential liability would only shift to the project developer. Exemptions from administrative procedures could protect against this risk by clearly setting out their substantive legal consequences.
- ▶ While the European Commission has made certain proposals to reduce administrative procedures, they appear insufficiently clear as regards both their scope and effects.