

What Member States should know when designing support schemes for energy communities: the example of Ireland

The Commission's 2014 Guidelines on State Aid for Environmental Protection and Energy (EEAG) allow Member States (MS) to support the production of electricity from renewable energy sources (RES), subject to certain conditions. These rules aim to help MS meet the EU's ambitious energy and climate targets at the least possible cost for taxpayers and without undue distortions of competition in the single market. The recast Renewable Energy Directive (RED II) established an EU-wide binding renewable energy target of 32% by 2030 and acknowledged the potential for renewable energy communities (RECs) to support the achievement of ambitious renewable energy targets.

In particular, the RED II requires MS to develop enabling frameworks in order to promote the development of RECs at national level.¹ These enabling frameworks must include, inter alia, measures to ensure that the participation in the RECs is accessible to all consumers and make sure that tools to facilitate access to finance and information are available.² Moreover, MS are required to take into account specificities of RECs when designing support schemes in order to allow them to compete for support on an equal footing with other market participants.³ While some measures included in MS' enabling frameworks may implicate State aid, in most cases support schemes for RECs will need to get State aid clearance under the EEAG.

While some national renewables support schemes have taken smaller projects and RECs into account (e.g. Greece and Germany), there is very little experience in designing dedicated support schemes for RECs. Nevertheless, recently in Ireland the first support scheme tailored towards RECs was approved under the State aid guidelines by DG Competition. The Irish scheme serves as a great example of how MS can design a support

¹ Article 22(4) of the RED II.

² Article 22(4)(f) and (g) of the RED II.

³ Article 22(7) of the RED II.

scheme with specific measures for RECs that is in line with the current EEAG and is accepted by the European Commission.⁴

The following analysis will identify the measures for RECs that were included under Ireland's Renewable Energy Support Scheme (RESS),⁵ highlight factors that DG Competition took into account in positively assessing the scheme under the EEAG and provide some insights that MS can take into account in designing national support schemes for RECs in furtherance of their legal obligations under the RED II.

Specific measures in RESS for Renewable Energy Communities

Aim and policy rationale for providing support to RECs under RESS

The RESS aims to provide support for new renewable energy projects in Ireland covering a number of technologies, as a way to help it deliver its contribution towards the 2030 EU renewable energy target. Among many other elements, it involves three features that directly support 'community projects' (i.e. electricity generation facilities owned by a community). Ireland has explained that these features and measures are expected to have various benefits, in particular increased **public acceptance** of renewable energy and thereby building support among the population for achieving more ambitious renewables targets. Ireland defines community projects according to its own adopted definition, which is in line with the RED II.

Direct support for community projects:

1) Community Preference Category for 'community-led projects'

The RESS allows applicants for support to apply under a specific Community Preference Category. To be eligible, the project seeking support must qualify as a 'community-led project', meaning that the project must be at least 51% owned by a 'Renewable Energy Community', which is defined under the scheme in accordance with the REC definition under the RED II. Furthermore, 51% of the profits from the project must, at all times, be returned to the REC.

2) Simplified requirements for community projects

The RESS specifies that qualifying RECs will benefit from:

- a. no requirement to post bid bonds in the auctions (for projects that compete only in the community preference category);
- b. no requirement to submit performance security if successful in the auctions (for projects that compete only in the community preference category); and

⁴ The European Commission approved the Irish support scheme (RESS) under EU State aid rules with the Case SA.54683 (2020/N). From now on this case will be mentioned as 'Case on Ireland'. You can find the case here: https://ec.europa.eu/competition/state_aid/cases1/202032/286233_2178932_128_2.pdf.

⁵ The current estimated budget for the RESS is between 7.2 and 12.5 billion EUR over 5 years.

- c. no requirement to offer the investment opportunity in the 'Renewable Electricity Participation Scheme'.⁶

3) Grants and soft loans for community projects

Community projects will benefit from:

- a. grants of up to EUR 25 000 per project for feasibility studies;
- b. development loans of up to EUR 150 000 per project; and
- c. grants for the cost of professional advice covering all aspects of project delivery (legal, financial and technical).

Community projects must demonstrate that the support is used solely to pay for these listed activities.

4) Safeguards and quality control

As this scheme is the first of its kind, it incorporates a number of measures intended to contain its overall impact on the RESS scheme, and to ensure learning can be obtained for the design of future support measures.

First, the scheme contains several caps. Specifically, the RESS sets a **maximum size limit for community projects of 5 MW installed capacity**. Furthermore, the overall scheme is capped at 30 GWh / year (subject to achieving sufficient competition in the auction) of community projects, which is 1% of the potential maximum renewable energy that will be supported in the first auction. This could be met, for example, by a 6 x 5 MW solar farm.

Second, in order to qualify as a community-led project, a project must submit a declaration to the TSO stating that it meets the criteria of being a REC. In turn, the TSO's handling of qualification for RESS is monitored by an Auction Monitor, which is overseen by the Commission for the Regulation of Utilities, the National Energy Regulator for Ireland.

Lastly, the RESS scheme, together with specific measures for RECs and community projects, will be evaluated after 5 years according to an evaluation plan.⁷ The evaluation will include questions and indicators in order to assess the overall impact and effects of the RESS scheme, including specific elements such as the community preference category in the auctions. The central focus of the evaluation will be on assessing what would have happened in the absence of the RESS.⁸

5) Other community-related elements of RESS

The RESS scheme also contains elements intended to support community buy-in for local RES projects generally. It provides for a 'Community Benefit Fund' whereby a 2 EUR/MWh surcharge is applied to all beneficiaries of the RESS (who can therefore be expected to reflect this in their bids for subsidy in the competitive process). These funds can then be used to fund payments for certain technologies and 'sustainable goals' including **education**,

⁶ See Section 2.6.2.2 of the Case on Ireland.

⁷ See section 2.7. of the Case on Ireland.

⁸ Paragraph 64 of the Case on Ireland.

energy efficiency, sustainable energy and climate action initiatives in the area surrounding the projects benefitting from RESS support.⁹

Furthermore, in future auctions under RESS, non-community projects benefitting from the RESS will be required to offer local citizens, non-profit communities and clubs the opportunity to invest in a certain percentage of the project (communicated in terms of capital expenditure or equity share of investment).

Assessment of the support measures for energy communities - Acceptance by the European Commission

In section 3.1.4. of DG Competition's Decision approving RESS, it evaluated the RESS measures that are dedicated to community projects. The following are important aspects that DG Competition assessed in reaching its decision.

1) The Community preference category

DG Competition decided that the preference category for RECs could be considered **compatible with the requirements of EEAG point 126**, and the other features for RECs could be considered **proportionate**, as Ireland had proposed controls to limit the size of the benefitting projects.¹⁰ It is important to note that the threshold of 5 MW in RESS is lower than the threshold set by the existing EEAG, meaning that other MS could design REC support schemes with an even higher threshold.

2) Policy Rationale

Ireland explained that the support under RESS for RECs was expected to increase public acceptance of renewable energy and thereby build support among the population for achieving increasingly ambitious renewables targets.¹¹ According to DG Competition, Ireland had also justified the preference category and additional features for RECs on the basis of the **longer term potential** of these projects.¹² EEAG point 126 allows competitive bidding processes to be limited to particular technologies under certain conditions, including where the selected technologies have longer term potential, where there is a need to achieve diversification, and linked to system costs.

3) Provision of financial and technical assistance

The provision of grants and soft loans for community projects analyzed above was accepted by the Commission and was considered proportionate, as it was provided that this funding would only be paid where the beneficiary can demonstrate the level of costs that were incurred solely for the listed activities.

4) Safeguards

⁹ Paragraph 52 of the Case on Ireland.

¹⁰ Paragraph 129 of the Case on Ireland.

¹¹ Paragraph 126 of the Case on Ireland.

DG Competition also concluded that the Irish evaluation plan, as well as other safeguards with regards to the support provided to the RECs were in line with the EEAG.¹³ Given the various novel features and measures for REC projects, Ireland has proposed that:

(a) its evaluation plan identify the full costs and benefits of each of the various different features for supporting community projects (as well as the measures for supporting communities hosting RESS projects);

(b) the size of the preference category for community projects will be limited in the same way as the preference category for solar energy (see Section 3.3.5.1);

(c) a maximum of 1.5 % of the total RESS budget will be dedicated to features for community projects, unless and until evaluation demonstrates quantitatively that higher limits are justified; and

(d) community projects will be limited to projects of no more than 5 MW installed capacity for the duration of the RESS.¹⁴

5) Overall Assessment

The above show that the approach of Ireland to anticipate limited measures for RECs at the beginning and provide for an evaluation of these measures after some time was assessed positively by DG Competition.

In view of the above, the Commission acknowledged Ireland's policy rationale and accepted the RESS support scheme. They also accepted the limitations that Ireland agreed to implement in order to ensure that the RESS will not cause undue distortions on competition and trade.¹⁵ Thus the Commission found that the aid is necessary and provides adequate incentives to the development of RES projects, as electricity prices do not fully cover the costs of generating electricity from renewable energy sources and only renewable technologies that need public support to be a viable investment will be eligible for support under the RESS.

Therefore, the Commission concluded that the Irish RESS is in line with EU State aid rules, as it promotes the generation of electricity from renewable sources, **in line with the European Green Deal**, without unduly distorting competition.

What the Member States need to take away from the Case on Ireland

Taking the above analysis into consideration, a renewables support scheme with specific measures for RECs is possible under the 2014 EEAG. The example of Ireland shows that although not explicitly mentioned in the EEAG, supportive measures such as exemptions from tenders and other tailored bidding procedures for RECs will be positively assessed by

¹³ Paragraph 173 of the Case on Ireland.

¹⁴ Paragraph 128 of the Case on Ireland.

¹⁵ Ibid 150

DG Competition under the EEAG, as they are considered in line with the requirements of the Clean Energy Package, namely the RED II.

In order to ensure a positive assessment in the future, MS need to ensure that they establish a good rationale (necessity) for any proposed REC measures. Furthermore, such eligibility should be limited according to size of production installations, and be limited to a certain percentage of overall support being granted under the scheme. Moreover, such schemes should be accompanied with proper safeguards to ensure against abuse, and to ensure learning around costs and benefits of such measures, including their impact on competition and the ability for RECs to access support.

Looking forward - the revision of the 2014 EEAG

The current 2014 EEAG are currently being revised by DG Competition. A draft of the new guidelines was recently released, which is currently under consultation.¹⁶ We recommend that the new guidelines provide more legal clarity for Member States, so they are able to design their own renewables support schemes for RECs.

In addition to incorporating precedent established by its decision on RESS, the revised State aid guidelines should include:

- Specific provisions acknowledging RECs and the need to alleviate challenges they face in participating in competitive bidding procedures due to their specific legal and factual characteristics;
- Increased thresholds that exempt RECs, or at least small renewables production installations, from having to participate in competitive bidding procedures (at least 10 MW Installed capacity for all technologies, except for wind, which should be set at 6 MW installed capacity per turbine, with a maximum of 6 wind turbines);
- Provisions that integrate social criteria into competitive bidding for onshore renewables production projects that are likely to result in social impacts.

¹⁶ See https://ec.europa.eu/competition-policy/public-consultations/2021-ceeag_en.