

Romania passes new law regarding Urbanism Requirements for Renewable Energy Projects

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1 Legal Background

Recognizing the pressing need to rectify certain conflicting provisions within the existing legal framework applicable to the permitting process of renewable energy projects (as previously reported in the Wolf Theiss Client Alert dated January 12th, 2023 available [here](#)), Romanian lawmakers have been working since early 2023 to introduce legislative amendments to Urbanism Law 350/2001 and Construction Law 50/1991.

A law recently adopted by the Romanian Parliament was promulgated by Presidential Decree on 31 May 2023, thus becoming Law 166/2023 (the "**Law 166/2023**"). The law was published in the Official Gazette on June 7th, 2023 and will enter into force on 10 June 10th, 2023. By correcting certain legislative discrepancies, Law 166/2023 aims to simplify and accelerate the process of obtaining the necessary authorizations for renewable energy projects in Romania.

2 Amendments Introduced by Law 166/2023

Law 166/2023 introduces an exception to the general provisions of both Urbanism Law 350/2001 and Construction Law 50/1991, which require the prior existence of territory planning documents and/or urbanism documentation as a condition for the issuance of a building permit.

Once Law 166/2023 enters into force, building permits for renewable energy projects may be validly issued even in the absence of a General Urbanism Plan (PUG) or of a Zoning Urbanism Plan (PUZ), regulating the urbanism requirements applicable to the project lands. This exception to the general rule will be applicable regardless of whether the renewable energy projects will be developed on *intra muros* or on *extra muros* land surface areas.

We would note however that Law 166/2023 must be read in conjunction with art. 92 paragraph (2) letter j) of Land Law 18/1991, which addresses the exception to the restriction to build renewable energy projects on *extra muros* land (*i.e.* agricultural lands, pastures, vineyards, orchards, as well as land benefitting from improvements) that has soil fertility quality classes III, IV and V, **provided that the projects fit within a maximum surface area of 50 hectares.**

In practice, developers and investors in the industry are facing the current interpretation at the level of the Ministry of Agriculture whereby the construction of renewable energy projects on *extra muros* land surface areas of more than 50 hectares is forbidden, even if the investor/developer has carried out the zoning procedure of changing the land from *extra muros* into *intra muros*. Unfortunately, Law 166/2023 does not bring any arguments to contradict

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this (in our view, flawed) interpretation, and the exception under Land Law 18/1991 remains under debate among legal practitioners until further legislative clarity is provided.

Another amendment brought by Law 166/2023 is to allow investors to obtain separate building permits for multiple investments on a larger plot of land, based on a single urbanism certificate, provided that the constructions are clearly delimited in the building permit technical documentation.

Nevertheless, this amendment does not address the regime of prior endorsements and approvals to be obtained within the permitting process, *i.e.* whether they should follow a similar regime to the urbanism certificate or if separate endorsements and approvals must be obtained for each building permit. It remains to be seen how this new amendment will be interpreted and applied in practice by the Romanian authorities.

3 Conclusion

These provisions aim to further streamline and clarify the procedure for obtaining building permits for renewable energy investments. In conjunction with the previous legislative amendments implemented in July 2022, Romania seeks to establish a legal framework that facilitates a straightforward permitting process for renewable energy projects. These efforts align with Romania's ambitious targets to significantly increase renewable energy production by 2030.

Nonetheless, there are still many questions to be answered regarding practical problems in developing renewable energy projects (such as the interpretation on the 50 hectares exception for projects located *extra muros*). However, we note that certain legal aspects which have arisen the path to adopting a legal framework in this area, have begun to be clarified.

Should you have any questions concerning the new regulation or on the legal framework for renewable energy investments in general, please do not hesitate to contact us. We are happy to help.

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