



EUROPEAN COMMISSION

Brussels, 24.11.2021
C(2021) 8651 final

<p>In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...].</p>		<p style="text-align: center;">PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p>
--	--	--

**Subject: State aid SA.60064 (2021/N) – Greece
Greek RES and heCHP scheme 2021-2025**

Excellency,

1. PROCEDURE

- (1) Following pre-notification contacts, on 20 August 2021, Greece notified a support scheme (the “scheme” or the “notified measure”) for electricity generation from renewable energy sources (“RES”) and high efficiency combined heat and power (“heCHP”), pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (“TFEU”).
- (2) On 11 October 2021, the Commission requested that Greece provides additional information, which Greece submitted on 13 October 2021.
- (3) On 30 September 2021, Greece agreed to waive its rights deriving from Article 342 TFEU in conjunction with Article 3 of Regulation (EEC) No 1/1958¹ and to have this decision notified and adopted in English.

¹ Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

Κύριος Νικόλαος ΔΕΝΔΙΑΣ
Υπουργός Εξωτερικών
Βασιλίσσης Σοφίας 5
Ελλάδα - 10671 Αθήνα

Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111

2. DETAILED DESCRIPTION OF THE MEASURE

2.1. Background

- (4) On 16 November 2016, the Commission adopted a no objection decision in case SA.44666 – New operating aid scheme for the production of electricity from RES and CHP (the “2016 decision”)². The 2016 decision approved aid in the form of a feed-in premium and a feed-in tariff for the period 2016-2025, granted without a tendering procedure (except for photovoltaic (PV) installations with a capacity above 500 kW where the aid was granted through a tendering procedure³).
- (5) On 4 January 2018, the Commission adopted a decision in case SA.48143 (2017/N) – Tenders for the production of electricity from renewable energy sources and highly efficient combined heat and power installations (the “2018 tender decision”)⁴. The 2018 tender decision, adopted pursuant to recital (75) of the 2016 decision, put in place the framework for granting aid to RES installations through calls for tenders in Greece between 2018 and 2020. Under the 2018 tender decision, Greece organised technology specific call for tenders for PV and onshore wind, as well as joint technology call for tenders for PV and wind⁵ (“joint PV and wind call for tenders”), as pilot auctions to test the market. Other technologies (small hydropower, biomass and biogas, landfill gas and biogas projects from municipal waste, geothermal projects, concentrated solar power (“CSP”) and heCHP) were exempted from the obligation to participate in a tender.
- (6) Between the beginning of 2018 and July 2020, Greece organised a total of 13 RES auction rounds. Almost 2,705 MW of RES projects have been awarded in those auctions (see Table 1).

² OJ C 83, 17.3.2017, p. 1.

³ Pilot auction for PV installations organised at the end of 2016.

⁴ OJ C 198, 8.6.2018, p. 5.

⁵ When referring to wind technology, the present decision refers to “onshore” wind technology. The framework for developing offshore wind in Greece is currently under development and is not covered by the past decisions or the notified measure.

Table 1 - Results of the PV, wind and joint PV and wind tenders in 2018-2020

Period	Technology	Mean price (EUR/MWh)	Awarded Capacity (MW)
2018 July	PV(<1MW)	78.50	53.08
	PV(>1MW)	63.81	52.91
	Wind	69.53	170.92
2018 December	PV(<1MW)	66.60	61.93
	Wind	58.58	159.65
2019 April	Joint	57.03	437.78
2019 July	PV	62.77	142.8
	Wind	67.31	179.55
2019 December	PV	59.98	105.89
	Wind	57.74	224
2020 April	Joint	51.59	502.94
2020 July	PV	49.80	141.9
	Wind	55.67	471.8

Source: Notification from Greek authorities.

- (7) In line with the commitment undertaken in recital (23) of the 2018 tender decision, the Ministry of Environment and Energy (“MEE”) carried out an evaluation⁶ of the joint PV and wind call for tenders as well as the technology specific PV and wind call for tenders, in order to notify the Commission of the design of the tendering for 2021-2025.
- (8) The results of the tendering procedures show that the implementation of the RES auction scheme in Greece has achieved a significant level of cost efficiency. The yearly reduction of the mean prices for the joint and PV specific auctions reached 11.4% from 2018 to 2019 and 19.1% from 2019 to 2020, while for the wind auctions, the reduction was 3.5% and 10.2%, respectively. The technology specific auctions for the period 2018-2020 under the 2018 tender decision achieved a very high convergence of prices, between those technologies, with a marginal deviation of only 1.4%. The results of the two joint PV and wind calls for tenders showed that PV projects were more competitive than the wind projects, since wind projects managed to secure only 23% of the auctioned capacity.

2.2. Objective of the notified measure

- (9) The notified measure is the successor to the scheme approved by the 2018 tender decision. The notified measure intends to incentivise electricity production from RES in order to contribute to the achievement of the targets set by Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources (the “RED II”)⁷ and

⁶ A study carried out in November 2020 by the German Organization for International Cooperation GmbH on behalf of the MEE assessed the performance of the Greek RES auctions scheme in the period 2018-2020. The study was elaborated in the context of activity 2.4 “Technical support on the legal and regulatory framework for clean energy technologies” of the project “Technical Support for Clean Energy Investments in Greece” (TARES4). The Greek Regulatory Authority for Energy also published in October 2020 a report on the performance of the scheme in the period 2018-2020 (https://www.rae.gr/wp-content/uploads/2021/03/Οι_ανταγωνιστικές_διαδικασίες_εργων_ΑΠΕ_στην_Ελλάδα_v27.pdf).

⁷ 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.

Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action (the “Governance Regulation”)⁸.

- (10) Greece’s final integrated national energy and climate plan (the “Greek NECP”)⁹ has set its national contribution to the Union 2030 target of renewable energy at 35%, which, according to Greece, is more ambitious than the result of the formula in Annex II of the Governance Regulation. This minimum RES share of 35% in gross final energy consumption to be achieved by 2030 translates to almost 65% RES in domestic power generation in Greece. The trajectory towards reaching that contribution needs to be compatible with Article 4 of the Governance Regulation.
- (11) The scheme will also contribute to achieving the common Union target of at least 32% share of RES in energy consumption in 2030 set by RED II. It will also help to meet the goals set by the Commission in the European Green Deal, in particular, the supply of clean, affordable and secure energy.¹⁰
- (12) The notified measure will therefore significantly contribute to the achievement of the national target for RES share of gross final energy consumption by 2030 and overall to the relevant Union 2030 energy and climate targets. In particular, according to the Greek authorities, it will provide investment security, access to finance for the commissioning of those projects, resulting ultimately in the installation of a volume of new RES plants for electricity production that could not be realised without the existence of this scheme.
- (13) The Greek authorities confirmed that a residual market failure still exists in the production of electricity from RES and heCHP in Greece. In particular, they argue that during the transition to a cost effective delivery through market based mechanisms and while expecting RES technologies to become competitive, the market alone cannot bring about efficient results in terms of incentivising investments, addressing access to finance and attaining the Union environmental targets overall.
- (14) According to Greece, the notified measure provides a safety net, without which RES and heCHP operations would not be economically viable in Greece. The aid has an effect of incentivising the beneficiaries to change their behaviour, i.e. to invest in RES and heCHP plants. Greece submits that RES and heCHP technologies will not be deployed at the required scale and pace in the absence of the aid granted under the scheme. Similarly, the scheme offers the necessary incentives for the promotion of heCHP, according to Directive (EU) 2012/27¹¹ on energy efficiency (“Energy

⁸ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council, OJ L 328, 21.12.2018, p. 1

⁹ https://ec.europa.eu/energy/sites/ener/files/el_final_necp_main_en.pdf.

¹⁰ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions from 11 December 2019 (COM/2019/640).

¹¹ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC Text with EEA relevance, OJ L 315, 14.11.2012, p. 1.

Efficiency Directive”), to promote primary energy savings from cogeneration, based on useful heat demand.

- (15) The scheme’s design incorporates the opinions, recommendations and suggestions provided to the MEE by the Greek Regulatory Authority for Energy (the “RAE”), by the German Organization for International Cooperation GmbH (“GIZ”) and findings from the consultation process with local stakeholders. In September 2020, the MEE presented to all the major RES associations and companies in Greece: (i) the main results and findings of the study concerning the assessment of the RES auctions in the period 2018-2020, and (ii) its main proposals for the post-2020 RES auction scheme¹². Subsequently, the participants were invited to submit comments and suggestions concerning the RES auctions scheme for the period after 2020.
- (16) The Greek authorities estimated an average yearly CO₂ reduction due to the scheme amounted to around 4.88 mtCO₂. For the whole duration of 20 years reflecting the contracts concluded under the scheme, Greece estimated that the total reduction will come to 97.51 mtCO₂¹³.

2.3. National legal basis

- (17) The national legal basis for the notified measure is Law 4414/2016 on a new support scheme for renewable energy sources and high efficiency combined heat and power installations published on 9 August 2016 (“Law 4414/2016”).
- (18) The ministerial decisions issued pursuant to Law 4414/2016, implementing the scheme will be adopted once Greece is notified of the Commission’s decision approving the scheme.

2.4. RES scheme for the period 2021-2025

- (19) Based on the experience gained during the 2018-2020 auction period, the measure notified by Greece for the period 2021-2025 includes a number of changes to the design of the RES scheme compared to the 2018 tender scheme. Those changes aim at further increasing the level of competition, avoiding collusive behaviour and strategic bidding in the tendering procedures, while ensuring transparency for all participants.
- (20) For the capacity limits in the eligible RES technologies in the call for tenders (PV and wind), Greece intends to become gradually more ambitious with regard to the integration of PV and wind in the auction process. By 1 January 2023¹⁴ (see Table 2), Greece will introduce lower capacity thresholds for PV and wind, lower than the ones foreseen in point 127 of the Guidelines on State aid for environmental protection and energy 2014-2020¹⁵ (“EEAG”), that trigger the obligation to participate in a tendering

¹² The press release of the event and the relevant presentation are available online here: <https://ypen.gov.gr/kostis-chatzidakis-nai-stis-ape-nai-kai-stis-chamiloteris-times/>
https://ypen.gov.gr/wp-content/uploads/legacy/Files/ypourgeio/Grafeio%20Typou/20200921_GIZ_RES%20auctions_assessment.pdf.

¹³ The Greek authorities considered a mean national conversion factor of 0.6kgCO₂/kWh.

¹⁴ The selection of a transition period (by the end of 2022) is foreseen in order not to create market unrest and distortion in the number of projects that are currently under development and have not yet signed an operating aid contract with the relevant official body (i.e. DAPEEP).

¹⁵ OJ C 200, 28.6.2014, p. 1.

procedure. Greece thus aims to attain the growing market interest and competition under a more cost-efficient scheme.

Table 2 - Technologies that are obliged to participate in or exempted from the RES tendering procedures in the period 2021-2025

	RES projects with an obligation to participate in tendering procedures	RES/heCHP projects that are exempted from tendering procedures, if certain market relevant criteria continue to apply
By end of 2022	PV>1MW Wind>6MW	All the remaining RES/heCHP technologies
From 1.1.2023 until 31.12.2025	All PV, except for PV projects of less than 6-10kW under the special programme for PV on households' building roofs/ unstructured parts of the plot, as well as self-consumers up to 1MW of installed capacity	
	All wind> 60kW	

Source: Notification from the Greek authorities.

- (21) In respect of the RES technologies exempted from RES auctions under the 2018 tender scheme, Greece plans to continue with that exemption, based on data from the market analysis of the period 2018-2020 (see section 2.4.5).
- (22) As regards technology specific versus joint technology auctions for PV and wind, based on the evaluation of the 2018-2020 tenders and having a strong policy commitment to drive towards even more cost-efficient RES projects, Greece considers that the scheme should be based on joint PV and wind tendering procedures as the core design of the scheme (see section 2.4.2). However, the organisation of the tendering procedures will ensure the partial selection of different technologies for the necessary technology diversification in the electricity mix (see section 2.4.1.2) as well as the growth of small-scale RES capacities (see section 2.4.4).
- (23) Greece has notified the following types of support under the scheme, broken down as follows:
1. Support granted through tendering procedures:
 - i. Support granted in joint PV and wind calls for tenders;
 - ii. Support granted in dedicated joint calls for tenders:
 - a. Dedicated joint calls for tenders for PV and wind with storage capacity;
 - b. Dedicated joint calls for tenders for PV and wind in the islands of Crete, Euboea and Cyclades;
 - c. Dedicated joint calls for tenders for PV and wind for foreign projects located outside of Greece;
 - iii. Technology specific calls for tenders for small PV and wind;
 2. Support granted to technologies exempted from tendering procedures.

- (24) In total, Greece aims to support at least an estimated 4,145 MW of capacity in Greece by 2025 (see Table 3). From this capacity, it is estimated that more than 100 MW will be open for the support of foreign projects outside of Greece (see section 2.4.3.3).

Table 3: Estimated total new capacity in Greece under the scheme by 2025

Technology	Estimated total new RES under the scheme that will be in operation by 2025 (MW)
Wind parks >60kW	900
PV >1MW	2100
PV >10kW and <1MW	250
Islands of Crete, Euboea and Cyclades	500
PV/Wind plus storage	200
Biomass >1MW	30
Biogas >1MW	40
Small Hydropower >1MW	75
heCHP >1MW	25
Landfill & sewage >1MW	25
Total	4145

Source: Notification from the Greek authorities.

2.4.1. Support granted through tendering procedures

2.4.1.1. Description of the tendering procedure

- (25) The competitive bidding process is based on a pay-as-bid procedure. Installations will be eligible for support only if they make a successful bid.
- (26) The responsibility for setting the parameters and organising the auctions is split between the MEE and the appointed official body, decided by the MEE and laid down by law and the ministerial decision that will describe the RES auction framework for the period after 31 December 2020. The MEE issues a decision on the capacity to be tendered out by technology or category of plants, the minimum number of calls for tenders per year, as well as the ceiling prices for the bidding process. Furthermore, the appointed body responsible for conducting the RES auctions can set detailed rules in each tendering procedure regarding the conditions of the call for tenders, the accompanying documentation (including financial guarantees and the criteria for their forfeiture), the time limits for the construction of each project, as well as any exceptions (force majeure, litigation, delay of administrative authorities etc.) and other relevant details.
- (27) As regards the auction format, Greece would like to have the option to follow a different auction design for the 2021-2025 period. Specifically, the option is to follow a more typical single-step static auction versus the current two-step continuous bidding (see Table 4). Greece clarifies that both design formats would allow the application of the capped capacity participation for foreign projects outside Greece¹⁶ (see section 2.4.3.3) and the implementation of the “last project rule” (see recital (32)), as well as the application of the different ceiling prices per technology for the joint PV and wind tenders.

¹⁶ When foreign projects outside Greece will be included in the national joint PV and wind auction, the foreseen maximum capacity that could be awarded to them if they are cost-efficient can be more easily monitored under the single step static auction format.

Table 4 - Options for the auction design format

	Current auction conduction format	Single step- static auction
Participation & awarding	In two phases: a) submission of relevant documentation and guarantees after 1-2 month period final list of participants (codified names) with total participating capacity b) Conduct of a descending continuous electronic bidding process (30 min), where the participants can change their bids to lower prices.	Single phase. Simultaneously electronic submission of relevant documents and of the unique economic bid per proposal in encrypted format.

Source: Notification from the Greek authorities.

2.4.1.2. Technology quota

- (28) All joint calls for tenders for PV and wind, except for the dedicated call for tenders for PV and wind for foreign projects outside Greece, will include a technology quota to ensure a level-playing field for all the participants and types of projects and to provide for the needed technology and generation mix diversification foreseen under the Greek NECP. The Greek authorities have set the technology quota at 30%.
- (29) This quota was established based on the analysis presented in the Greek NECP. The Greek NECP highlights the importance of achieving RES technological diversification in the power generation mix for system flexibility and stability purposes. Especially for the variable technologies (i.e. PV and wind), Greece submits that various studies have revealed the system's sensitivity in terms of stability and adequacy if one technology prevails over the other, which translates to an increased overall cost for the operation of the electricity market. The results of the joint PV and wind call for tenders in 2018-2020, where PV projects have secured 70-90% of the available capacity, also militate in favour of such a technological quota.

2.4.1.3. Tendering rules to increase competition and avoid collusive behaviour and strategic bidding

- (30) In order to increase competition and avoid collusive behaviour and strategic bidding, Greece intends to introduce the following tendering rules in the RES auctions. Those tendering rules apply to all joint PV and wind calls for tenders.

A. Oversubscription rule

- (31) An oversubscription rule means the decrease of the auctioned volume according to the capacity volumes of the eligible projects participating in the tendering procedure. The oversubscription rule concerns the final calculation of the auctioned capacity¹⁷. Greece will calculate the percentage used for the application of the oversubscription rule based on the results of the previous auctions and the level of competition achieved. In any case, Greece has set the minimum percentage at 40%. Greece explained that the oversubscription rule was also applied in the RES auctions organised between 2018-2020 and was set to 40%, 75% and 100% in the various auction rounds in order to avoid collusive behaviour and strategic bidding.

¹⁷ For example, if for an auction of 350 MW only 220 MW of projects subscribe, if an indicative 40% oversubscription rule is foreseen, the auctioned capacity will be reduced so that available capacity (220 MW) oversubscribes it by 40% (i.e. $220/1,4=157$ MW will be auctioned).

B. *Last project rule*

- (32) Greece will introduce a rule for the last project accepted exceeding the cumulative auctioned capacity (in a range between 10-15%) to enable the selection of cost optimal projects. According to Greece, if a RES producer submits a bid, it can only be selected if it cumulatively fulfils the two following requirements: (a) it is the project with the next lowest bid in line that remains eligible and (b) the project's capacity, added to the total capacity of all selected projects with even lower bids does not exceed the total cumulative auctioned capacity plus a range between 10-15%. According to Greece, this rule will reduce the aid provided per MWh generated and facilitate the cost-effective achievement of the national RES targets. This "last project rule" allows a marginal over-allocation beyond the auctioned capacity leading to the selection of lower bids instead of higher bids. This effectively results in more cost-efficient projects prevailing over less cost-efficient ones.

C. *Different ceiling prices per technology for the joint PV and-wind auctions*

- (33) This mechanism will allow increased market competition for all the participating projects under the joint PV and wind auctions, while safeguarding a technological level-playing field and forestalling collusive behaviour and strategic bidding stemming from the implementation of the technology quota. In particular, since it is clear from the most recent PV and wind auctions held in Greece that there is an evident gap between the mean bid prices between the two technologies (see Table 1), Greece intends to use different ceiling prices for the PV and wind technologies participating in the joint auctions. In addition, Greece intends to use a lower ceiling price especially for the PV projects (that would be more than 15% lower than the ceiling price for the wind projects) in order to efficiently address and remove any incentives for strategic bidding and sub-optimal results.

D. *Establish an anti-concentration rule for the participants in the RES auctions*

- (34) Greece will implement an anti-concentration rule in order to restrict strategic bidding and collusive behaviour. To apply that rule, Greece will calculate the capacity volume of the same legal entity (including its subsidiaries and affiliated companies) and, if needed, it will limit the auctioned capacity per legal entity (including its subsidiaries and affiliated companies), to no more than 30-40% of the final auctioned capacity. Greece could also apply the anti-concentration rule for assessing the maximum participating capacity per entity (as described above) when applying the oversubscription rule¹⁸.

2.4.1.4. Form and calculation of the aid

- (35) In respect of operating aid awarded pursuant to a tendering procedure, support will be granted pursuant to a contract-for-difference ('CfD') model, specifically a two-way CfD. The CfD will be based on a sliding premium, i.e. the difference between the reference value ("RV"), which equals the bidder's winning bid, and the reference market price.

¹⁸ For example, if the anti-concentration rule is set at 30% and the auctioned capacity is set at 500 MW then the application of the rule results to maximum 150 MW in terms of awarded capacity per entity. This capped awarded capacity (150 MW) could also be considered in terms of the allowing participating capacity per entity (under the oversubscription rule).

- (36) In line with the principles of a two-way CfD, a winning bidder will receive its sliding premium on top of the reference market price in the months when the RV exceeds the reference market price. By contrast, in the months when the reference market price exceeds the bidder's RV, each winning bidder will pay an amount equivalent to the sliding premium to the State-owned Renewable Energy Sources Operator & Guarantees of Origin S.A. ('DAPEEP')¹⁹. This surplus will be deposited in the in a new RES sub-account (see recitals (103) to (105)).
- (37) The reference market price is determined every month by dividing the monthly value of the respective technology (e.g. PV, wind, other technologies exempted from tenders) as calculated by the sum of the hourly value in the Day Ahead Market (DAM) of the Metered Quantity (MQ) of the generation of that technology ($\sum \text{DAM}_{\text{Hi}} * \text{MQ}_{\text{Hi, tech}}$), by the total monthly metered quantity of the generation of that technology ($\sum \text{MQ}_{\text{Hi, tech}}$).
- (38) The RV should not exceed a ceiling price that will be published annually by the MEE and/or the national RES committee of Article 12 of Law 4414/2016 (for more details, see also section 2.4.1.2 of the 2016 decision). The ceiling price will be established based on the international and national specific evolution of the levelised costs of producing energy ('LCOE')²⁰ for the respective RES technologies and categories, and by integrating the results of the last relevant RES auction. For consecutive auction rounds with very short time intervals (up to six months) a correction factor of the ceiling price (indicatively up to 15 %) could be applied. In any case, the ceiling prices²¹ cannot exceed the mean awarded RVs for the specific RES technology or type of projects that resulted in the 2016-2020 RES auction scheme. The 2021 ceiling price for the joint technology auctions foreseen for the period after 31 December 2020 is set at EUR [30-80]/MWh for wind projects and at EUR [30-80]/MWh for PV projects.
- (39) Greece will not pay any support to the beneficiaries of the scheme, which directly participate in the electricity market for intervals when zero and/or negative prices occur in more than two consecutive hours.

2.4.1.5. Monitoring of the scheme

- (40) The MEE and the appointed official body for conducting the auctions will systematically monitor the implementation of the auctions, including compliance of the applicants with their commitments. The MEE will review the results of the tendering process, the effects of the exemptions from the tendering procedures as well as the overall impact on the process towards meeting the desired cost-efficient increase of the RES share in Greece.
- (41) In addition, an annual assessment of the performance of the scheme takes place under the national technical committee established under Article 12 of Law 4414/2016. The findings and recommendations of that committee are submitted to the MEE in order to

¹⁹ DAPEEP is the wholly State owned Greek National Managing body for RES and Guarantees of Origin. It serves as the contractual counterparty in the RES aid contracts and it is the entity responsible for the management of the RES account.

²⁰ The calculations are based on data from MEE, the national RES committee, RAE and from the results of European studies conducted in the context of the technical assistance from the EU to the Greek government (TARES and TARES+).

²¹ Upon increased international supply costs for the RES generation equipment, the ceiling prices could be adjusted accordingly.

be considered in the relevant ministerial decisions for the amendment of the various parameters of the scheme going forward.

2.4.2. *Support granted in joint PV and wind calls for tenders*

- (42) By 31 December 2025, Greece plans to organise at least eight rounds of auctions, with a minimum cumulative auctioned capacity of around 3 GW.

2.4.3. *Support granted in dedicated joint calls for tenders*

2.4.3.1. Dedicated joint calls for tenders for PV and wind with storage capacity

- (43) The Greek authorities intend to test the RES competitive market with dispatchable installations to provide balancing services by granting support through joint calls for tenders to PV and wind with storage capacity. The terms and functioning of the auction will be similar to the terms of the general joint PV and wind calls for tenders (see section 2.4.1). Operating aid will be granted solely for the renewable power injected into the grid by the plant and not for the storage part. According to Greece, these plants aim at minimising imbalances in the market, for the cost benefit of all the market. Arbitrage will be more a secondary mode for these specific plants.
- (44) The storage facility will not be able to store electricity absorbed from the grid, but only from the renewable installation. Therefore, the PV and wind installations with storage capacity together form a RES power plant, which can only inject renewable electricity to the grid and never to absorb, with a single grid connection point and entity participation in the electricity market. In other words, there will not be a separate wind/PV installation connected to a nearby storage facility but rather an integrated RES unit, with specific technical characteristics.
- (45) According to Greece, the LCOE for those integrated projects is higher than the one assumed for PV/onshore wind projects without storage, since both their CAPEX & OPEX are higher, while also a part of the RES generation will be lost due to the round-trip efficiency of the integrated storage facility.
- (46) Greece plans to tender a maximum of 200 MW for this type of projects by 2025. The installations included in this tender will have a minimum capacity of 10 MW. The goal for those projects is to have a minimum 20%²² storage capacity in terms of maximum hourly generation of PV or wind. The ceiling prices²³ used in the calls for tenders will be different for each technology. Greece has estimated the maximum ceiling prices at EUR [30-80]/MWh for PV plants with storage and EUR [30-80]/MWh for wind plants with storage and could even be lower, depending on the timeframe for carrying out this pilot auction.

2.4.3.2. Dedicated joint calls for tenders for PV and wind in the islands of Crete, Euboea and Cyclades

- (47) Greece intends to carry out dedicated joint calls for tenders for PV and wind in the islands of Crete, Euboea and Cyclades islands. The calls for tenders will be organised

²² These plants have limited storage capacity, as they are not targeting to tackle capacity adequacy or security of supply issues.

²³ Upon increased international supply costs for the RES / storage generation equipment the ceiling prices could be adjusted accordingly.

for each island. Those calls for tenders are designed to facilitate and accelerate the maturity process of RES projects on these islands, given their limited interconnection to the mainland (except for Euboea, which is already interconnected). Those calls for tenders are targeted at immature projects in areas where no concrete investment plans exist for the moment or are mapped out. With the announcement of such calls for tenders, project developers can express their interest. The projects that will be selected from the auction will be allowed more time compared to the mature projects on the mainland, to obtain the necessary licensing and to be commissioned, namely from 2 to 4 years.

- (48) The proposed auctions will allow competition among the applicants at a very early licensing stage, not only on price, but also on connection terms to the new RES capacity, avoiding also further delays in the deployment of new RES installations in islands with high RES potential²⁴.
- (49) The Greek authorities clarified that this is an additional measure towards ensuring the development of RES envisaged in the Greek NECP.
- (50) As regards the island of Euboea, the Greek authorities clarified that this represents a particular case. It relates to a specific grid capacity that is connected through a dedicated interconnection (Polypotamos - NeaMakri interconnector) to the mainland. The interconnector has been built by Independent Power Transmission Operator (the Transmission System Operator for the Greek Electricity Transmission System) and the costs for its construction are proportionally allocated in terms of RES capacity to all the new RES plants that are connected to this grid line.
- (51) Out of this dedicated Polypotamos – NeaMakri capacity, more than 400 MW of projects have already secured capacity (and most of them are already connected) and have already signed operating aid contracts before December 2016. All these RES projects have paid this extra grid connection depending on the exact connection point.
- (52) According to Greece, it is estimated that around 200 MW of RES projects (the remaining capacity of the specific grid connection) can be still connected to this interconnector. Any additional RES capacity to be connected will have to pay for that grid connection to forestall those costs being borne by the end consumers.
- (53) Therefore, in order to ensure a level playing field, the Greek authorities explain that the auction in the island of Euboea should be exclusively targeted at new immature RES project applications which will be obliged to pay the nominal extra connection cost per MW, that ranges from 144,000 EUR/MW up to 199,000 EUR/MW depending on the exact connection point and certified after a TSO detailed assessment per connecting plant. Because of that additional extra connection costs, those projects would not be able to compete with the mature projects in the joint PV and wind call for tenders.
- (54) For the dedicated auctions in those islands, the technology quota (see section 2.4.1.2) and the other tendering rules (see section 2.4.1.3) will apply.

²⁴ Since the auctions will be in the early licensing phase only the awarded projects will enter in the further licensing steps (connection offer, etc.), thus easing the administrative process for their licensing (in comparison to mature auctions where all the applicants have to secure connection offer, etc. before).

2.4.3.3. Dedicated joint calls for tenders for PV and wind for foreign projects located outside Greece

- (55) In the 2016 decision, Greece had committed to open up each year the RES and heCHP competitive bidding process for producers established in other countries in the European Economic Area (EEA) or in countries with which the European Union has concluded trade agreements (see recital (76) of the 2016 decision). In the 2018 tender decision, Greece committed to increase the share of capacity reserved for foreign RES and heCHP installations located outside Greece in the calls for tenders organised as of 2018 in the framework of the scheme approved in that decision (see recital (24) of the 2018 tender decision).
- (56) Greece informed the Commission that the commitment to open up the RES and heCHP was contingent on reciprocity for the participation of Greek projects in similar auctions in neighbouring countries. According to the Greek authorities, despite their best efforts in the last years to set such a reciprocity agreement with a neighbouring country, no concrete progress was achieved and no agreement was reached. Accordingly, Greece was not in a position to open up the RES and heCHP competitive bidding process to foreign projects.
- (57) For the notified measure, Greece commits to open the competitive bidding process to RES and heCHP producers established in other EEA States and organise a joint call for tenders for PV and wind for foreign projects located outside Greece. Greece plans to launch the first such auction no later than the end of 2022. That auction process will be initially carried out separately from the general joint PV and wind tender, under two different auctions rounds and under the same conditions and ceiling prices as the joint PV and wind tender. The estimated total capacity for those two first auctions will be higher than 100 MW²⁵. The estimated capacity is defined by applying the methodology provided in the 2016 decision on the final official energy balance data of Greece and its electricity exchanging countries based on the most recent available data (see section 2.6.1.1 of the 2016 decision).
- (58) As regards their balancing responsibilities, Greece confirms that for the projects located outside Greece, those RES generators will have full balancing obligations in their country of origin, since the Regulation (EU) 943/2019²⁶ on the internal market for electricity is applicable also in other EEA neighbouring countries.
- (59) As regards the measures put in place to ensure that RES generators outside Greece have no incentive to generate electricity under negative prices, Greece will apply the same rules applied to domestically operated RES plants and will not pay any support to the beneficiaries of the scheme when zero and/or negative prices occur in more than two consecutive hours.

2.4.4. *Technology specific tendering procedure for small PV and wind*

- (60) As provided in section 2.4.1.2, the technology quota for the joint PV and wind call for tenders is set at 30%. However, if a minimum technology diversification is not attained

²⁵ Out of this capacity, Greece calculated that an amount of 94.5 MW should have been open to non-domestic RES producers in the period 2015-2019, according to the methodology provided in section 2.6.1.1 of the 2016 decision.

²⁶ Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity, (OJ L 158, 14.6.2019, p. 54.)

out of the joint technology auctions, Greece reserves the possibility to launch relevant technology-specific auctions to address the technology shortfall.

- (61) PV installations with a capacity below 1 MW and wind installations below 6 MW will be initially exempted from the obligation to participate in the auctions and could receive support under the 2016 decision. However, from 2023, that exemption will be lifted and all wind and PV projects will have to participate in an auction in order to sign an operating aid contract, with the exception of PV projects up to 6 or 10kW installed on building roofs/premises and wind projects up to 60kW as well as self-consumers with an annual injected generation higher than the nominal annual generation of a 1 MW installed capacity and wind projects up to 60kW. However, even before 1 January 2023, Greece reserves the possibility to launch dedicated specific PV auctions for projects with a capacity up to 1 MW (except for PVs up to 6 or 10kW installed on building roofs/premises). The annual auctioned capacity will not be higher than around 10% of the annual auctioned capacity for the joint PV and wind tender.
- (62) Greece also reserves the possibility to launch technology specific auctions for wind installations between 60 kW and 6 MW.

2.4.5. *Support granted to technologies exempted from tendering procedures*

2.4.5.1. Evolution of technologies exempted from tendering procedures in the period 2018-2020

- (63) In the 2018 tender decision, the Commission concluded that technology specific auctions for small hydropower, biomass and biogas, landfill gas and biogas projects from municipal waste, geothermal projects, CSP and heCHP would not be competitive, because of the main features of the individual markets for each of those technologies²⁷ (see recitals (69) to (70) of the 2018 tender decision). Therefore, the Commission accepted that those technologies were exempted from the obligation to participate in a tendering procedure. At the same time, Greece acknowledged that those technologies could further develop in the coming years and introduced both annual and cumulative thresholds for a period of four years for each of those technologies (see Table 5). Should those capacity thresholds be exceeded for a specific technology, Greece committed to grant aid on the basis of a competitive bidding process as of the following year (see recital (38) of the 2018 tender decision).

Table 5 – Annual and cumulative thresholds for technologies exempted from tenders introduced in the 2018 tender decision

Technology	Annual thresholds in MW of cumulative capacity of new projects that sign an operating aid contract*	Threshold in MW of cumulative capacity of projects that enter in operation in the 2017-2020 period**
Biomass installations > 1MW	20	40
Biogas installations > 1MW	20	40
Small Hydro Plants > 1MW	20	40
heCHP installations > 1MW	20	40
Geothermal > 1MW	20	40
CSP > 1MW	20	40

* the capacity thresholds will apply only if at least 3 individual projects per category are concerned.

²⁷ In particular, due to the low number of potential beneficiaries with an installed capacity above 1 MW and, in case of geothermal projects, also due to the concentrated nature of the market.

** the capacity thresholds will apply only if at least 6 individual projects per category are concerned.

Source: Table 3 of the 2018 tender decision.

- (64) Based on the investment interest expressed during the period 2018-2020 for those technologies, Greece concludes that in terms of both absolute project numbers and projects' capacity, the market growth of those technologies remains rather limited. Specifically, it is clear that the market data on contracted and operating capacity is below the limits pre-defined in the 2018 tender decision (see Table 5). Therefore, no tenders were organised for those technologies. This market data is presented in Table 6 and recitals (65) to (74).

Table 6 - Market data of various RES and heCHP projects above 1 MW during the 2018-2020 period

Projects - period 2018-2020	>1MW
heCHP	
Number of new projects with operating aid contract	3
-Number of new projects in operation	3 out of 3
Capacity of new projects with operating aid contract (MW)	13,06
-Capacity of projects in operation (MW)	13,06 (100% signed capacity)
Biogas	
Number of new projects with operating aid contract	4
-Number of new projects in operation	4 out of 4
Capacity of new projects with operating aid contract (MW)	10,87
-Capacity of projects in operation (MW)	10,87 (100% signed capacity)
Biomass	
Number of new projects with operating aid contract	1
-Number of new projects in operation	1 out of 1
Capacity of new projects with operating aid contract (MW)	1,00
-Capacity of projects in operation (MW)	1 (100% signed capacity)
Small hydro-power	
Number of new projects with operating aid contract	14
-Number of new projects in operation	11 out of 14
Capacity of new projects with operating aid contract (MW)	32,2
-Capacity of projects in operation (MW)	24,05
Landfill	
Number of new projects with operating aid contract	2
-Number of new projects in operation	2 out of 2
Capacity of new projects with operating aid contract (MW)	5,08
-Capacity of projects in operation (MW)	5,08 (100% signed capacity)

Source: Notification from the Greek authorities.

I. Small hydropower

- (65) The Greek authorities have submitted that the growth of the Greek small hydropower market is substantially less dynamic in comparison to the market for PV and wind energy. Most of the potential capacity has already been exploited.²⁸ Only 11 new installations of a total capacity of 24 MW have become operational since 2018.
- (66) The information submitted by Greece shows that there are only few additional sites that would be suitable for the construction of additional installations with capacity exceeding 1 MW.²⁹ The number of planned small hydropower plants is therefore very limited and projected to be commissioned in a wide time horizon.

II. Biomass and biogas plants

- (67) The data provided by Greece shows that there are only five relevant projects with a capacity exceeding 1 MW with signed operating aid contract offer includes and with a total capacity of 12 MW³⁰ during the 2018-2020 period. All those projects are currently in operation.

²⁸ The total installed capacity amounts to 224 MW.

²⁹ Only 19 projects with 40 MW of total capacity have binding connection terms, while only two projects with 3.5MW of total capacity have an installation license. Of those 19 projects, 14 projects of total capacity of 36MW are between 1MW and 2MW and only five projects are above 2MW.

³⁰ Overall, there are five projects for biogas with a capacity of 11.7 MW and three projects for biomass with the capacity of 15 MW.

- (68) Furthermore, the study of the biomass market conducted by Greece shows that the expected size of most installations is likely to be below 1 MW. The size of the biomass and biogas projects depends on the local potential, which is not very high in Greece, as the geographically dispersed characteristics of its territory does not allow the development of a high number of large capacity projects. Moreover, the Greek authorities submit that the use of forest biomass or crops residues is not well developed either. Lastly, most of the farms concerned are medium-sized without any potential for constructing biogas units above 1MW.

III. Landfill gas and biogas projects from municipal waste

- (69) In order to comply with the Directive 2008/98/EC³¹ (the ‘Waste Framework Directive’) (see recital (102)) Greece has set at 100 MW the cap for the overall installed capacity of installations burning landfill gas stemming from biodegradable waste disposed of in landfill sites. According to Greece, the installed capacity of the existing installations has reached 45 MW. During the 2018-2020 period only two installations in total have signed an operating aid contract with a total capacity of 5 MW and were both put into operation.

IV. Geothermal projects

- (70) The geothermal sector in Greece is largely underdeveloped. According to Greek law, a developer can advance a geothermal project only if it has participated in a tendering procedure to obtain the right to carry out research and development of a geothermal field. There are currently eight locations in Greece where the development of a geothermal energy project would be feasible. The exploitation rights to four of those fields have been granted in the form of a concession to one market player and none of the four has been developed so far. For the other four fields, there was a public call for tenders but it was unsuccessful. In addition, exploration costs and a lack of local expertise are considered factors hindering the exploitation of the local geothermal potential.
- (71) The development of this technology would be nevertheless beneficial in terms of diversification of the generation mix and reduction of system ancillary costs. This would apply in particular to the autonomous power systems on the various non-interconnected islands for which geothermal projects could represent an important source of dispatchable electricity, which would balance an increasing share of fluctuating RES (wind, PV) in their electricity system in the coming years. In the medium to long term, those projects could, at least to some extent, replace the conventional generation on those islands. Greece therefore envisages the possibility to organise a tendering procedure for this technology in the future which will be subject to the same tendering procedure rules set out in section 2.4.1 above.

V. CSP

- (72) CSP projects raise specific requirements as to the geomorphology of the suitable sites, combining high direct solar irradiation, minimum slope of the land and availability of water supply locally. A study conducted by Greece shows that there are only few areas suitable for such projects. Moreover, although a number of generation licenses have

³¹ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives(OJ L 312, 22.11.2008, p. 3).

been granted for projects in those areas, there are only three projects developed at the moment³². Furthermore, a number of technical and practical issues have not been addressed before in Greece and the implementation of the technology is therefore considered to be still under development.

- (73) The construction of those plants could be beneficial for the autonomous power systems on the various non-interconnected islands since they represent a potential source of dispatchable electricity. The Greek government adopted an overall 100 MW³³ cap for the CSP technology and, in case of the non-interconnected islands, a cap of 10% of the installed thermal capacity on each island.³⁴

VI. *heCHP*

- (74) The heCHP market in Greece is immature and underdeveloped. The number of operating plants is therefore very small and the projects are limited in terms of capacity. The majority of the existing heCHP units have not been in operation for several years due to the closures of the related industrial facilities. During the period 2018-2020, only three new heCHP units above 1 MW with a cumulative capacity of 13 MW have signed an operating aid contract and all of them were put in operation.

2.4.5.2. Continuation of the exemption from tendering procedure in the 2021-2025 period

- (75) The Greek authorities submit that putting technologies like small hydropower, biomass and biogas, landfill gas and biogas projects from municipal waste, geothermal projects, CSP, heCHP or other RES technologies currently not developed in Greece in competition with each other would lead to suboptimal results, for the following reasons:
- i. differing LCOE levels for each type of technology (all of them, except for heCHP plants, have much higher LCOE than wind and PV) (see Table 7),
 - ii. generally a very low market potential of those technologies given the geographic/natural conditions in Greece (this is in particular the case for small hydropower, biomass and biogas, landfill gas and biogas projects from municipal waste), and
 - iii. the technologies are completely underdeveloped in Greece (this is in particular the case for geothermal projects, CSP and heCHP).
- (76) As regards the level of the LCOE for the technologies exempted from tendering procedures, this is determined separately for each category of RES and heCHP project and technology based on a baseline/typical project, taking into account the cost of project development as well as the supply and installation of the equipment (CAPEX), the fixed and variable operational expenditure (OPEX), the expected electricity production and all other technical and accounting parameters that determine the cost

³² Two of the three projects are developed under the framework of EU's NER 300 programme.

³³ Greece has explained that the cap of 100 MW was set in order to control and monitor the impact of supporting this technology on the RES account. If this cap is reached, then a new capacity cap could be set considering the impact assessment of these plants on the aid budget.

³⁴ Projects supported under EU research and demonstration programmes (like NER300 and Horizon 2020) would not however be included in the calculation of the cap.

and revenue of the RES units under consideration (e.g. fees for local authorities, deterioration of equipment efficiency, residual project value, depreciation, etc.), as well as a discount rate, which will actually reflect the return on capital for the specific reference project. The discount rate is equal to the project IRR. Greece has calculated the IRR for each technology considering different parameters and indexes. That IRR ranges from 7.4%, 8% and up to 9%³⁵ for the technologies supported under the scheme. The administratively set RV for each RES/heCHP technology exempted from the tendering procedure will be set equal to the LCOE for each respective technology.

- (77) The first administratively set RV for a particular project will be the one in force on the date the plant is put into operation and will result from the ministerial decision to be issued during the first trimester of the year (n) when the plant starts operating. That ministerial decision will determine the RVs for the n + 2 calendar year (for CSP this is set to n+3 due to the complexity of the projects and longer times for construction). Greece clarifies that using the RV applicable at the date of operation instead of the RV applicable at the date of granting the aid allows the integration of any potential technological cost reductions in the RV and therefore reduces any potential overcompensation that might occur. In this way, that provision aims at ensuring that the aid is only given to the extent needed.
- (78) For plants that have already started operating under the scheme, Greece confirms that it will review the LCOE levels for all RES and heCHP technologies at least on an annual basis and the results will determine the administratively set RVs for new projects for each technology and project category for the next year.
- (79) Greece submitted the recently updated administratively set RVs, based on estimations of the LCOE per different technology and type of project (see Table 7). Those updated RVs show an average reduction of 7% from the ones approved under the 2018 tender decision (see recital (13) of the 2018 tender decision). However, those updated RVs show that the LCOE levels remain significantly different between those technologies and are well above the current mean prices resulting from the PV and wind auctions. Therefore, the participation of those installations in joint auctions with PV and wind would result in a negligible development of their (already low) potential.

Table 7 – LCOE based reference values for RES and heCHP technologies exempted from tenders (updated in March 2020)

RES technology	RVs for categories of projects > 1MW (EUR/MWh) ³⁶
Small hydro-power plants	87 - 90
Biomass plants	133 -153
Biogas plants	192 - 209
Landfill and sewage gas plants	99 - 123
Geothermal power plants	104 - 134
CSP plants	248 - 268
heCHP plants	(58 to 78) + Coefficient on the basis of natural gas price

Source: Notification from the Greek authorities.

³⁵ It should be noted that the 9% IRR only stands for geothermal and CSP projects, where no new market interest or project development has been observed in Greece.

³⁶ Different values indicate the different categories in terms of capacity per technology that exist for the determination of a RV. RVs have been updated in March 2020 and become active for RES projects that enter in operation after December 2021 (extended to March 2022 due to the COVID-19 impact).

- (80) As concluded in recital (64), the market growth for those technologies continues to be rather limited in Greece.
- (81) Furthermore, Greece submits that the organisation of specific auctions for each technology would also lead to suboptimal results.
- (82) According to Greece, the abovementioned technologies should be exempted from tendering procedures pursuant to point 126 of the EEAG on the following grounds:

I. Risk of limited number of projects or sites

- (83) Aside from PV and wind projects, all remaining RES and heCHP technologies show a very limited market growth, both in terms of absolute number of projects as well as of the projects' capacity. The documented market data for projects above 1 MW from those RES and heCHP technologies, reveal that there is still limited competition per technology and that the possible introduction of a mandatory auction obligation could lead to suboptimal results and to even lower new annual capacities from those technologies. Moreover, in Greece, certain RES technologies such as geothermal energy and CSP are considered region- and site-specific. Geothermal energy projects in Greece are restricted to a limited number of sites that are related to fields with sufficient geothermal potential. CSP projects are also restricted to sites that combine minimum slope and high direct solar irradiation levels and are therefore extremely limited in terms of potential sites. Similarly, landfill and sewage power generation plants (as well as biogas municipal solid waste plants) can be located only at specific sites, with more or less predefined capacities. As regards geothermal and CSP plants, there are no operating projects for those technologies in Greece.

II. Risk of low project realisation rates

- (84) For certain RES projects, in particular for small hydropower projects, CSP and geothermal, the lengthy and complex licensing process for the development of those projects renders them less suitable for a tendering process since the adoption of such a process (even at a mature licensing step such as the connection offer) could result in low project realisation rates (i.e. of the ones selected during the auction process). According to Greece, many problems could arise during the construction period and either delay or even cancel the whole project, which would result in low project realisation rates. Those problems relate mainly to unforeseen barriers, for instance linked to the grid construction in remote areas, land permission issues as well as construction permits and works.

III. Risk of higher support levels

- (85) For the remaining RES technologies, apart from PV and onshore wind, the market in Greece is still very small and the number of projects that have been installed or are under development is rather low. Greece submits that in the case of auctions for those RES technologies, the level of competition would be generally low, leading to higher levels of support in terms of State aid and corresponding higher costs for Greek electricity consumers. Moreover, Greece explains that those RES projects involve significant development costs from the initiation up to the grid connection offer licensing step, therefore there is a risk of strategic bidding conditions from large developers and companies that could outcompete projects from small developers (that cannot afford to sustain those significant development costs). This could possibly lead to even higher support levels.

- (86) However, Greece acknowledges that the level of market development of technologies exempted from tendering processes can increase in the coming years more than expected. In order to ensure that the exemption from tendering procedures is provided on a non-discriminatory basis and does not provide a false incentive to the domestic market, Greece aims to continue with the same safeguards introduced in the 2018 tender decision, i.e. by continuing to apply the same annual and cumulative capacity thresholds until the end of 2025 (see Table 5). If the two capacity thresholds³⁷ are exceeded, those technologies and categories of projects will only be able to receive operating aid after successful participation in a technology specific auction, which will be subject to the same tendering procedure rules set out in section 2.4.1 above. This rule shall apply from the year following the one during which the threshold was exceeded. As far as CSP plants and landfill/sewage gas plants, the new plants under those categories will receive operating aid only if the cumulative capacity thresholds set by the Greek government (100 MW) are not exceeded.

2.4.5.3. Calculation of the aid for the technologies exempted from tendering procedures

- (87) The aid will be paid in form of a sliding feed-in premium in addition to the price at which producers of electricity from those technologies sell their electricity on the wholesale market. The feed-in premium will be calculated as the difference between the administratively set RV and the reference market price. The reference market price is calculated in the same way as for the technologies subject to calls for tenders (see recital (37)).
- (88) As regards heCHP installations, as presented in Table 7, the administratively set RV, which is equal to the LCOE, shows that the costs for heCHP exceed the market price for electricity. Greece clarified that the administratively set RV calculated for heCHP deducts any cost savings/gains in terms of heat production. Greece therefore considers that the support for heCHP complies with the provisions of point 151 of the EEAG.

2.5. Beneficiaries

- (89) The beneficiaries of the scheme will be RES and heCHP installations, who sign a contract for operating aid with the State-owned DAPEEP after 31 December 2020. Specifically, the technologies and relevant categories in terms of operating capacity³⁸ that will be eligible for support (and thus entitled to sign an operating aid contract with the DAPEEP) under the notified measure are the following:
- i. Onshore wind >6 MW until 31 December 2022 and >60kW from 1 January 2023
 - ii. PV>1 MW until 31 December 2022 and all PVs from 1 January 2023 with the exception of PVs on building's roofs up to 6-10 kW and PVs for self-consumers with nominal annual generation of more than 1 MW of installed capacity
 - iii. Small hydropower> 1MW
 - iv. CSP>1MW
 - v. heCHP>1MW
 - vi. Geothermal>1MW

³⁷ In the calculation of those capacity thresholds, the capacity of repowered plants is not included, as well as the capacity of the single project with the larger one.

³⁸ RES and heCHP projects below those capacity limits and all other RES technologies will be subject to the provisions of the 2016 decision until 2025. This also stands for demonstration projects that are eligible for receiving aid under the 2016 decision.

vii. Biomass/Biogas/Landfill gas>1MW

(90) In terms of maturity of the projects, Greece allows the participation in call for tenders and granting the aid to two types of projects:

- i. Mature projects (for all call for tenders, except the dedicated joint calls for tenders for PV and wind in the islands of Crete, Euboea and Cyclades): projects that have already obtained all the required licences and authorisations that allows them to start the procedures for the construction and installation, i.e. production licence/registration certificate, environmental permit and binding grid connection contract. In addition to the environmental permit, for all hydropower projects, project developers need to include also an approval by the competent river basin authority that the hydropower plants have been developed in accordance with Article 4(7) of the Directive 2000/60/EC³⁹ (the Water Framework Directive).
- ii. Immature projects (for the dedicated joint calls for tenders for PV and wind in the islands of Crete, Euboea and Cyclades): projects that are either in the first steps of the licensing procedure, i.e. production licence/registration certificate or just a proposal/application and project developers have not obtained all the required and essential licenses and authorisations so as to be able to proceed to the implementation and installation of the project. A project needs 2-4 years to receive all the necessary licences and to be commissioned (see recital (47)).

(91) The RES and heCHP beneficiaries will sell their electricity directly or through aggregators on the electricity market.

(92) Support will be open to both new and repowered installations. According to Greece, repowered RES and heCHP installations are deemed new installations and therefore have to participate in auctions, where applicable, in order to be selected.

(93) Specifically, according to Greek law⁴⁰, for an onshore wind and PV plant to be characterised as a repowered plant the existing production equipment should be decommissioned and replaced as follows:

- i. for onshore wind, the replacement at least of all the wind turbines with new ones, and
- ii. for a PV plant, the replacement of at least all the PV panels and all the inverters.

(94) Since existing production equipment is decommissioned and replaced, Greece confirms that only the site will be used for repowered PV and onshore wind installations. The new project developer will have to obtain again all the necessary permits and authorisations. However, in many cases or licenses (e.g. connection contract) this could just refer to an update/revision of the terms, not a new contract. Therefore, Greece confirms that those repowered installations will compete on equal footing with the new installations.

³⁹ Directive 2000/60/EC of the European Parliament and the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

⁴⁰ MDs OG B' 4716/22.10.18 and OG B' 5291/01.12.2020.

- (95) PV and wind projects owned by energy communities will not receive any exemption from the provisions of the notified measure, meaning that the applicable capacity limits for auction participation, market participation obligations and types of operating aid contract are applied to those projects under the same conditions.
- (96) Self-consumers with an annual injected generation higher than the nominal annual generation of a 1 MW installed capacity will participate in the tenders under the same conditions as all other RES installations if they want to receive aid under the scheme.
- (97) Greece confirmed that beneficiaries will have to state that works on the projects have not begun before those beneficiaries have submitted an aid application.
- (98) As concerns balancing responsibilities, Greece clarified that the current market structure in Greece does not include a liquid intra-day market and consequently, RES and heCHP installations are not currently subject to standard balancing responsibilities, in line with point 124(b) of the EEAG. Greece commits that the beneficiaries of the scheme will be subject to full balancing responsibilities after the activation of a continuous intra-day market in Greece (foreseen in 2022), without waiting to achieve a liquid intra-day market. This is in line with the requirements of the Regulation (EU) 943/2019 on the internal market for electricity that requires, subject to specific market conditions, all new RES installations above 400 kW to be subject to full balancing obligations. However, in order to incentivise RES and heCHP producers to better adapt to market signals, Greece will implement a gradual exposure to balancing responsibilities. Therefore, a stepwise charge will be imposed based on the divergence of the production forecasts of RES and heCHP producers that will be differentiated per technology. Tolerance limits will be defined by DAPEEP on the basis of the current forecasts and statistical divergence between forecasts and actual production. Within those limits, no charge for the wrong forecasting of electricity production will be imposed. The objective of the mechanism is to incentivise the optimal forecasting according to the technical capabilities and the rules of market participation of each technology. Greece clarifies that the mechanism will have only a preparatory function until the full implementation of the continuous intraday market.
- (99) The realisation of the awarded projects after the auctions within predefined maximum time periods will be a prerequisite for the beneficiaries receiving operating aid. In the interest of maximising the rate of project implementation, a contractual penalty will apply in the event of non-completion or delayed completion of a project. The penalty will be provided in the form of the partial or full retention of a guarantee by the successful beneficiary prior to it signing an operating aid contract.
- (100) Greece has confirmed that aid under the notified measure will be granted in compliance with the RED II.
- (101) Greece has confirmed that when granting aid to small hydropower installations, it will fully respect the provisions of the Water Framework Directive.
- (102) With regard to support provided under the notified measure to plants using waste, Greece has confirmed that the waste hierarchy, as set out in the Waste Framework Directive, will be respected. To that end, Greece will also set at 100 MW the cap for the overall installed capacity of installations burning landfill gas stemming from biodegradable waste disposed of in landfill sites. The cap includes existing installations. Once that cap is reached, no additional aid will be granted to new

installations of that type. Greece has set that cap in accordance with the targets of the Council Directive 1999/31/EC⁴¹.

- (103) Regarding biomass and biogas, Greece indicated that only biomass and biogas that fulfil conditions of greenhouse gas emissions savings criteria under the RED II will be eligible to support under the scheme. Greece has confirmed that no aid will be granted to food-based biofuels in accordance with point (112) and (113) of the EEAG and that eligible projects will comply with the sustainability criteria of the RED II. No aid will be provided to the production or use of biofuels⁴².

2.6. Financing of the scheme

- (104) Greece will introduce a new RES sub-account, which will provide the operating aid for all RES and heCHP plants commissioned after 1 January 2021, which includes all RES and heCHP installations financed under the scheme. This new RES sub-account is a successor to the existing mechanism for financing RES and heCHP, which will stay in effect but will be focused on paying support only for existing RES and heCHP plants that concluded contracts until 31 December 2020.
- (105) The new RES sub-account will be financed fully and exclusively through a new levy, the Dynamic Renewable Charge (“DRC”). DAPEEP will oversee the balancing and management of the new RES sub-account. It will also be responsible for calculating and collecting the DRC from suppliers.
- (106) The new RES sub-account will be balanced from its first day of operation and it will always remain in balance. According to Greece, no further revenue streams are needed to finance the new RES account and the State will not intervene to cover the shortfalls through the State budget in case of deficit of the new RES sub-account. The total amount of the levy will be dynamically calculated. The DRC will correspond to the amount of operating aid actually remaining to be paid after the reference market price is deducted from the RV. In case of a surplus or deficit, the DRC is adjusted accordingly. If surplus still exists then it remains in the account for future payments allowing smaller DRC in the future. The levy is periodically paid (weekly/monthly) and fully cleared at the end of each year. The DRC will be fully transparent, appearing as a separate line item in the customer’s electricity bill. The DRC will be fully passed on to final consumers. Once calculated, the total DRC will be paid by electricity suppliers. The levy will be imposed on electricity suppliers who will pay it according to their market share/load representation. Then, the electricity suppliers will mandatorily charge it fully to consumers, by including it in the electricity bill.

2.7. Cumulation

- (107) The Greek authorities have confirmed that the beneficiaries of the scheme could also be eligible for investment aid under national financing instruments (e.g. national investment law).
- (108) Under the scheme, any investment aid will be deducted from operating aid. In particular, in cases where investment aid has been granted (either as a grant or in any other equivalent form), the aid granted under the scheme will be recalculated at project

⁴¹ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1).

⁴² Biofuels are defined as liquid fuel for transport produced from biomass in accordance with the RED II.

level, in line with the provisions of point 129 of the EEAG, in order to avoid overcompensation.

2.8. Duration of the scheme

- (109) The scheme will be put into effect following the notification of the Commission's decision approving the scheme and the aid under the scheme will be granted until 31 December 2025.
- (110) The premium will be paid for a maximum of 20 years from the time of the connection of the RES and heCHP installation to the electricity grid, provided that all conditions for receiving the aid are fulfilled.
- (111) Greece has explained that generally accepted accounting rules, national taxation rules and the technical lifetime of RES and heCHP installations provide for a depreciation period of 20 years.

2.9. Budget of the scheme

- (112) The Greek authorities estimate the budget of the scheme for the 20 years duration of the contracts based on the estimated total capacity of 4,145 MW (see Table 3) approximately to EUR 2 271 million.

2.10. Transparency

- (113) The Greek authorities will ensure compliance with the transparency requirements laid down in points 104 to 106 of the EEAG. The relevant data of the notified measure will be published on a national website⁴³ that will link to the Commission's transparency register.

2.11. Undertakings in difficulty or subject to an outstanding recovery order

- (114) The Greek authorities have confirmed that no aid can be granted to undertakings in difficulty or to undertakings subject to an outstanding recovery order following a previous Commission decision declaring aid illegal and incompatible with the internal market. Participants in the auctions have to submit such a declaration as a precondition to participate in the auction. For the projects exempted from auctions, that declaration has to be submitted when they sign operating aid contracts with DAPEEP.
- (115) Greece submits that undertakings that were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021, will be able to participate in the scheme, in line with the amended EEAG⁴⁴.

3. ASSESSMENT OF THE MEASURE

3.1. Presence of State Aid

- (116) Under Article 107(1) TFEU, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by

⁴³ www.ypen.gov.gr

⁴⁴ In point (16) of the amended EEAG, the following sentence has been added: '*These Guidelines shall, however, apply to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021.*'

favouring certain undertakings or the production of certain goods, in so far as it affects trade between Member States, is incompatible with the internal market.

- (117) In determining whether a measure constitutes State aid within the meaning of Article 107(1) TFEU, the Commission has to apply the following criteria: (i) the measure must confer an advantage on certain undertakings or certain sectors (selective advantage); (ii) it must be imputable to the State and involve State resources; (iii) it must distort or threaten to distort competition; and (iv) it must be liable to affect trade between Member States.

3.1.1. Existence of State resources and imputability

- (118) The Commission notes that the support for the production of electricity from RES and heCHP is imputable to the State, as the support has been established by Law 4414/2016.
- (119) According to settled case law, only advantages that are granted directly or indirectly through State resources are to be regarded as aid within the meaning of Article 107(1) TFEU. The distinction between aid granted by the State and aid granted through State resources serves to bring within the definition of aid not only aid granted directly by the State, but also aid granted by public or private bodies designated or established by the State.⁴⁵ Thus, resources do not need to transit through the State budget to be considered as State resources. It is sufficient that they remain under public control.⁴⁶
- (120) Indeed, as the Court of Justice has held that funds financed through compulsory charges imposed by the legislation of the Member State, managed and apportioned in accordance with the provisions of that legislation, may be regarded as State resources within the meaning of Article 107(1) TFEU even if they are managed by entities separate from the public authorities⁴⁷.
- (121) In the present case, the Commission notes that, as described in section 2.6, the DRC is imposed by law on final consumers, and the proceeds are transferred to the RES sub-account managed by the DAPEEP, a 100% State owned company, in accordance with that law.
- (122) It is true that the new RES sub-account will be balanced from its first day of operation and will always remain in balance, since the DRC will be dynamic, variable and calculated (or cleared) ex post, according to the amount of operating aid actually remaining to be paid after the market price is deducted from the reference value. However, by law, the DRC will be fully passed onto the final consumer and thus it can be assimilated to a charge unilaterally imposed by law, which the consumers are required to pay.
- (123) As in the *Vent De Colère* case, the DRC should be deemed State resources within the meaning of Article 107(1) TFEU. Although the DAPEEP is separate from the public

⁴⁵ See Commission decision of 19 December 2017 in case SA.46526 – Germany, Reductions on EEG surcharges for self-consumption, recital 96.

⁴⁶ See judgment of 16 May 2002, *France v Commission*, C-482/99, EU:C:2002:294, paragraph 37, and the case-law cited in the EEG 2012 Decision, paragraph 83.

⁴⁷ Judgments of 2 July 1974, *Italy v Commission*, 173/73, EU:C:1974:71, paragraph 35, and of 19 December 2013, *Association Vent De Colère! and Others*, C-262/12, EU:C:2013:851, paragraph 25. See also judgment of 21 September 2019, *FVE Holýšov I s. r. o. and Others v Commission*, C-850/19 P, EU:C:2021:740, paragraph 46.

authorities, the new account is financed through compulsory charges imposed by legislation, managed and apportioned in accordance with the provisions of that legislation (see recital (105)). Furthermore, the DAPEEP acts under mandate from Greece, centralises the sums collected before paying them out to the operators concerned, thereby acting as an intermediary in the management of those funds, while the charges are paid by the final consumers of electricity (see recitals (105) and (106)). In those circumstances, the sums thus managed must be regarded as remaining under public control.

- (124) Therefore, in line with the above case law, the resources are deemed under State control and qualify as State resources.

3.1.2. Selective advantage in favour of certain undertakings or certain sectors

- (125) An advantage, within the meaning of Article 107(1) TFEU, is any economic benefit, which an undertaking would not have obtained under normal market conditions, that is to say in the absence of State intervention.⁴⁸ Article 107(1) TFEU also requires that a measure, in order to constitute State aid, is selective in the sense that it favours “certain undertakings or the production of certain goods”.
- (126) Under the notified measure, beneficiaries receive an advantage because they obtain additional support in the form of a premium on top of the market price. Those payments guarantee producers of electricity from the supported RES technologies and heCHP technologies higher revenues than what they would obtain on the market.
- (127) Furthermore, the measure is selective because it favours only specific electricity generators and the aid is not accessible to other electricity producers that are in a comparable legal and factual situation in that they produce electricity and sell it on the market. Furthermore, the notified measure favours certain types of investments, which reduce greenhouse gas emissions and are more common in specific sectors, such as the energy sector.
- (128) It follows that the support under the measure confers therefore a selective advantage within the meaning of Article 107(1) TFEU.

3.1.3. Distortion of competition and trade

- (129) In accordance with settled case law⁴⁹, for a measure to impact competition and trade it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition.
- (130) The electricity market has been liberalised and electricity producers engage in trade between Member States. The electricity generated by the beneficiaries of the measure is generally sold on the spot market where it enters in competition with electricity from different sources (such as electricity from other RES and conventional sources). Moreover, the Greek spot market is interconnected to other markets, for example the Italian and Bulgarian day ahead markets.

⁴⁸ Judgments of 11 July 1996, *SFEI and Others*, C-39/94, EU:C:1996:285, paragraph 60; and of 29 April 1999, *Spain v Commission*, C-342/96, EU:C:1999:210, paragraph 41.

⁴⁹ Judgment of 30 April 1998, *Het Vlaamse Gewest v Commission*, T-214/95, EU:T:1998:77.

- (131) Therefore, the advantage granted to the beneficiaries of the scheme is likely to distort competition and affect trade between Member States.

3.1.4. Conclusion on the existence of State aid

- (132) Based on the above-mentioned elements, the Commission considers that the measure constitutes State aid within the meaning of Article 107(1) TFEU.

3.2. Legality of aid

- (133) The measure was notified to the Commission by Greece on 20 August 2021. The Commission notes that Greece will only adopt the ministerial decisions pursuant to Law 4414/2016 implementing the scheme after Greece is notified of the Commission's decision approving the scheme (see recital (18)). Greece accordingly has fulfilled the notification and standstill obligation of Article 108(3) TFEU.

3.3. Compatibility of aid

- (134) Article 107(3)(c) TFEU provides that the Commission may declare compatible "*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*". Therefore, compatible aid under that provision must contribute to the development of certain economic activity. Furthermore, the aid should not distort competition in a way contrary to the common interest.
- (135) Moreover, the EEAG set out specific compatibility conditions for aid for energy from renewable sources.
- (136) On 2 July 2020, the Commission adopted a communication prolonging the validity of certain State aid rules, including the EEAG, until 31 December 2021⁵⁰.
- (137) The Commission notes that the notified measure aims at promoting the generation of electricity from specific RES technologies and the promotion of energy efficiency. Consequently, the Commission has assessed the notified aid measure on the basis of the general compatibility provisions of the EEAG with its subsequent amendments and prolongation⁵¹ (set out in its section 3.2. of the EEAG) and the specific compatibility criteria for operating aid granted for electricity from RES (sections 3.3.1, 3.3.2.1 and 3.4 of the EEAG).

⁵⁰ Communication from the Commission concerning the prolongation and the amendments of the Guidelines on Regional State Aid for 2014-2020, Guidelines on State Aid to Promote Risk Finance Investments, Guidelines on State Aid for Environmental Protection and Energy 2014-2020, Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, Communication on the Criteria for the Analysis of the Compatibility with the Internal Market of State Aid to Promote the Execution of Important Projects of Common European Interest, Communication from the Commission – Framework for State aid for research and development and innovation and Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance 2020/C 224/02, C/2020/4355 (OJ C 224, 8.7.2020, p. 2).

⁵¹ OJ C 290, 10.08.2016, p.11. and OJ C 224, 8.7.2020, p. 2.

3.3.1. *Positive condition: the aid must facilitate the development of an economic activity*

3.3.1.1. Contribution to the development of an economic activity

- (138) Under Article 107(3)(c) TFEU, the measure must contribute to the development of a certain economic activity⁵².
- (139) The scheme supports the generation of electricity from new RES installations and repowered RES installations (see section 2.5) from the following technologies: solar, wind, geothermal, biomass, landfill gas, biogases and concentrated solar power, all of which meet the definition of renewable energy sources laid down in point 19(5) of the EEAG.
- (140) The scheme also supports the development of cogeneration of heat and electricity in high-efficiency installations, which satisfy the definition of high efficiency cogeneration pursuant to Annex II of the Energy Efficiency Directive (see section 2.2), in line with point (138) of the EEAG. The economic activity supported by the measure is therefore electricity and heat generation.
- (141) In view of the above, the Commission considers that the notified measure facilitates the development of certain economic activities, as required by Article 107(3)(c) TFEU.

3.3.1.2. Compliance with other provisions of Union law

- (142) State aid that contravenes provisions or general principles of Union law cannot be declared compatible⁵³.
- (143) As set out in recitals (90) and (101), Greece will fully respect the provisions of the Water Framework Directive, as required by point (117) of the EEAG.
- (144) As set out in recital (100), the Commission notes that the aid under the notified measure will be granted in compliance with the RED II. For biomass and biogas, the Commission notes that biomass and biogas installations eligible to receive aid under the scheme have to fulfil the conditions of GHG emissions savings criteria and the sustainability criteria under the RED II (see recital (103)).
- (145) As set out in recital (102), Greece has confirmed that the waste hierarchy, as set out in the Waste Framework Directive, will be respected.
- (146) Moreover, if the supported activity or aid measure or the conditions attached to it, including its financing method when it forms an integral part of it, entail a violation of relevant Union law, the aid cannot be declared compatible with the internal market⁵⁴. For example, in the field of energy, any levy that has the aim of financing a State aid

⁵² Judgment of 22 September 2020, *Austria v Commission*, C-594/18 P, EU:C:2020:742, paragraphs 20 and 24.

⁵³ Judgment of 22 September 2020, *Austria v Commission*, C-594/18 P, EU:C:2020:742, paragraph 44.

⁵⁴ Judgment of 22 September 2020, *Austria v Commission*, C-594/18 P, EU:C:2020:742, paragraph 44.

measure and forms an integral part of that measure needs to comply in particular with Articles 30 and 110 TFEU⁵⁵.

- (147) According to settled case law, for a levy to be regarded as forming an integral part of an aid measure, it must be hypothecated to the aid under the relevant national rules, in the sense that the revenue from the charge is necessarily allocated for the financing of the aid and has a direct impact on the amount of the aid and, consequently, on the assessment of the compatibility of that aid with the common market⁵⁶. In particular, the charge at issue must be levied specifically and solely for the purpose of financing the aid at issue⁵⁷.
- (148) In the present case, the scheme is financed fully and exclusively through a new levy, the DRC, imposed on electricity consumption, including both electricity domestically produced and imported electricity (see recitals (104) to (106)).
- (149) The total amount of the levy will be dynamically calculated and it will correspond to the amount of operating aid actually remaining to be paid after the reference market price is deducted from the RV. The levy is periodically paid either on the weekly or monthly basis and fully cleared at the end of each year. In other words, where the RES sub-account runs a surplus or a deficit, the levy will be adjusted accordingly. In case of a surplus, the Commission notes that this amount remains in the account for future payments enabling the DRC to be adjusted downwards subsequently. In case of a deficit, the Commission notes that the State will not intervene to cover the shortfalls through the State budget and, therefore, no other sources of financing are foreseen, except for the DRC.
- (150) The Commission cannot exclude the existence of hypothecation between the DRC and the aid awarded. Therefore, the Commission will assess the compatibility of the DRC with Articles 30 and 110 TFEU.
- (151) According to the case-law⁵⁸, a charge, which is imposed on domestic and imported products according to the same criteria may nevertheless be prohibited by the Treaty if the revenue from such a charge is used to support activities which specifically benefit the taxed domestic products. Such a charge would include a levy if the advantages which those products enjoy wholly offset the burden imposed on them, the effects of that charge are apparent only with regard to imported products and that charge constitutes a charge having equivalent effect to custom duties, contrary to Article 30 TFEU. If, on the other hand, those advantages only partly offset the burden borne by domestic products, the charge in question constitutes discriminatory taxation for the

⁵⁵ Judgment of 17 July 2008, *Essent Netwerk Noord and Others*, C-206/06, EU:C:2008:413, paragraphs 40 to 59. For the application of Articles 30 and 110 TFEU to tradable certificates schemes, see Commission Decision C(2009)7085 of 17.9.2009, State aid N 437/2009 — Aid scheme for the promotion of cogeneration in Romania (OJ C 31, 9.2.2010, p. 8), recitals 63 to 65.

⁵⁶ See judgment of 22 December 2008, *Régie Networks v Rhone Alpes Bourgogne*, C-333/07, EU:C:2008:764, paragraph 99 and case law cited.

⁵⁷ See judgment of 22 December 2008, *Régie Networks v Rhone Alpes Bourgogne*, C-333/07, EU:C:2008:764, paragraphs 100 and 104.

⁵⁸ Judgments of 11 March 1992, *Compagnie Commerciale de l'Ouest and Others*, C-78/90 to C-83/90, EU:C:1992:118, paragraph 27, and of 27 October 1993, *Scharbatke*, C-72/92, EU:C:1993:858, paragraph 10; see also, to that effect, judgment of 17 July 2008, *Essent Netwerk Noord and Others*, C-206/06, EU:C:2008:413, paragraphs 40 to 57.

purposes of Article 110 TFEU and will be contrary to this provision as regards the proportion used to offset the burden borne by the domestic products.

- (152) If domestic electricity production is supported by aid that is financed through a charge on all electricity consumption (including consumption of imported electricity), then the method of financing, which imposes a burden on imported electricity not benefitting from this financing, risks having a discriminatory effect on imported electricity from RES and heCHP installations and thereby may violate Articles 30 or 110 TFEU.
- (153) As set out in section 2.4.3.3, Greece commits to open the competitive bidding process to RES and heCHP producers established in other EEA States by organising a joint call for tenders for PV and wind for foreign projects located outside Greece. Greece plans to launch the first such auction no later than the end of 2022. That auction process will be initially carried out separately from the general joint PV and wind calls for tenders, under two different auctions rounds and under the same conditions and ceiling prices as the joint PV and wind calls for tenders. The estimated total capacity for these two first auctions is going to be higher than 100 MW (recital (57)).
- (154) The Commission considers this partial opening of the competitive bidding process to remedy any potential discrimination against RES and heCHP producers in other Member States, under Articles 30 and 110 TFEU. In light of the above, the Commission considers that the notified aid measure does not infringe relevant Union law.

3.3.2. *Negative condition: the aid measure cannot unduly affect trading conditions to an extent contrary to the common interest*

3.3.2.1. The market affected by the aid

- (155) The market affected by the aid is the market for electricity production in Greece and in other EEA countries (in this case for the foreign projects awarded under the dedicated joint calls for tenders for PV and wind located outside Greece, see recital (57)).

3.3.2.2. The positive effects of the aid measure

- (156) As indicated in section 3.3.1.1, the measure contributes to the development of certain economic activity, i.e. the generation of electricity from RES and heCHP installations. The promotion of the development of renewable energy is one of the aims of the Union's policy on energy. The measure is also in full consistency with the Greece's NECP and the Union's RES and emissions targets.

3.3.2.3. The negative effects of the aid measure on the internal market: the aid measure minimizes the distortions on competition and trade

I. Need for State intervention

- (157) According to subsection 3.2.2 of the EEAG, the Member State needs to demonstrate that there is a need for the State intervention and, in particular, that the aid is necessary to remedy a residual market failure that otherwise would remain unaddressed. In the case of the support for the production of electricity from renewable sources, the Commission presumes that a residual market failure remains, which can be addressed through aid for renewable energy, for the reasons set out in point 115 of the EEAG. In

the case of heCHP, the Commission presumes that energy efficiency measures target negative externalities by creating individual incentives to attain environmental targets for energy efficiency and for the reduction of greenhouse gas emissions (see points 35 and 142 of the EEAG). The information provided by Greece shows that a residual market failure remains in line with points 115 and 142 of the EEAG and that heCHP installations still require State intervention in the form of subsidies to be economically viable in Greece (see recital (14)). Greece has provided evidence that the LCOEs of the heCHP installations are still higher than the market price of electricity in Greece (see recital (88)). This market failure can be addressed through aid to promote energy efficiency.

- (158) Based on the information submitted by the Greek authorities (see recital (14)), the Commission notes that onshore wind, solar, small hydropower, CSP, heCHP, geothermal, biomass, biogas and landfill gas are technologies that still require State intervention in the form of subsidies to be financially viable in Greece. The aid will contribute towards the achieving of the goal of the green transition based on market terms.
- (159) Therefore, based on the assessment carried out by the Greek authorities, it is unlikely that, absent the aid, the development of electricity production from renewable energy sources and thus the development of those participating RES technologies would occur, or that it would occur to the same extent or at the required pace to achieve the targets set out in the Greek NECP, in accordance with the Governance Regulation (see recitals (9) and (10)) or the target of at least 32% share of renewable energy sources on the energy consumption in 2030 set by RED II or the European Green Deal goals.
- (160) The Commission therefore concludes that the measure is a necessary instrument to contribute to the development of certain economic activities.

II. Appropriateness

- (161) According to point 40 of the EEAG, the proposed measure must be an appropriate instrument to address the policy objective concerned. According to point 116 of the EEAG, the Commission presumes the appropriateness and limited distortive effects of the aid provided that all other compatibility conditions are met. As will be shown in the sections below, the compatibility conditions are met. For heCHP installations, State aid may be considered an appropriate instrument to finance energy efficiency measures, independently of the form in which it is granted, in line with point 145 of the EEAG. A feed-in premium on top of market price (see recital (87)) is an appropriate aid instruments to compensate heCHP installations for the higher production costs of electricity from highly efficient cogeneration, as they target the additional cost element that is not covered by the market price.
- (162) Therefore, the Commission considers the aid to be appropriate.

III. Incentive effect

- (163) In line with point 49 of the EEAG, an aid measure has an incentive effect if it incentivises the beneficiary to change its behaviour towards the development of a certain economic activity pursued by the aid measure and if the change in behaviour

would not occur without the aid⁵⁹. Furthermore, point 50 of the EEAG stipulates that aid does not present an incentive effect in all cases where works on the project started prior to the aid application.

- (164) As stated in recital (13), a residual market failure still exists in the production of electricity from RES and heCHP in Greece. In the absence of aid, the Commission notes that renewable energy technologies and heCHP installations will not be deployed at the required scale and pace.
- (165) Furthermore, as stated in recital (14), the Commission notes that the notified measure provides for a safety net, without which the RES and heCHP operation would not be economically viable in Greece. The aid has an effect of incentivising the beneficiaries to change their behaviour, i.e. to invest in RES and heCHP plants. Similarly, the scheme offers the necessary incentives for the promotion of heCHP, according to the Energy Efficiency Directive and point 143 of the EEAG, to promote primary energy savings from cogeneration, based on useful heat demand.
- (166) As stated in recital (97), Greece confirmed, in line with point 50 of the EEAG, that beneficiaries will have to state that works on the projects have not begun before those beneficiaries have submitted an aid application.
- (167) As explained in recital (92), repowered RES and heCHP installations are deemed new installations. For an onshore wind and PV plant to be characterised as a repowered plant, the existing production equipment should be decommissioned in order to be allowed to participate in the scheme (see recitals (93) and (94)). Accordingly, beneficiaries operating repowered RES and heCHP plants will be subject to the same incentive effect as new installations.
- (168) The Commission therefore concludes that the aid has an incentive effect, as the measures induce the beneficiaries to change their behaviour and invest in RES and heCHP installations, which they would not undertake without the aid.

IV. Proportionality

- (169) Point 27(e) of the EEAG stipulates that for aid to be proportionate it should be limited to the minimum amount necessary to achieve the objective of development of certain economic activities.
- (170) According to point 69 of the EEAG, environmental aid is considered to be proportionate, if the aid amount per beneficiary is limited to the minimum needed to induce the additional investments or activity by the beneficiary.
- (171) Furthermore, point 87 of the EEAG provides that in case of operating aid granted by way of a competitive bidding process, the proportionality of individual aid is presumed to be met if the general conditions are fulfilled.

A. *Assessment of compliance with point 124 of the EEAG*

⁵⁹ See, to that effect, points 49 and 144 of the EEAG, as well as judgment of 22 September 2020, *Austria v Commission*, C-594/18 P, EU:C:2020:742,.

- (172) According to point 124(a) of the EEAG, operating aid granted to energy from renewable sources must be granted as a premium in addition to the market price whereby the generators sell their electricity directly to the market.
- (173) As described in sections 2.4.1.4 and 2.4.5.3, the Commission notes that operating aid under the scheme will be granted in the form of a sliding premium that will work as a two-way contract. This sliding premium equals the difference between the RV of a project (determined either in the tendering procedure where it equals the bidder's winning bid or outside the tendering procedure when it reflects the respective technology's LCOE) and the reference market price.
- (174) As explained in recital (37), the reference market price is determined monthly by dividing the sum of the hourly value of the actual generation of a technology by the total monthly actual generation of that technology.
- (175) As stated in recital (91), the Commission also notes that the RES and heCHP beneficiaries will sell their electricity directly or through aggregators on the electricity market.
- (176) The Commission therefore concludes that the scheme complies with point 124(a) of the EEAG.
- (177) According to paragraph 124(b) of the EEAG, beneficiaries of operating aid granted are subject to standard balancing responsibilities, unless no liquid intra-day markets exist.
- (178) As described in recital (98), the current market structure in Greece does not include a liquid intra-day market and consequently, the Commission notes that RES and heCHP installations are not currently subject to standard balancing responsibilities, in line with point (124)(b) of the EEAG. The Commission welcomes the commitment by Greece that the beneficiaries of this scheme will be subject to full balancing responsibilities once the activation of a continuous intra-day market in Greece takes place (foreseen for 2022), without waiting to achieve a liquid intra-day market. This is in line with the requirements of Regulation (EU) 2019/943⁶⁰ that requires upon specific market conditions all new RES installations above 400 kW to be subject to full balancing obligations. The Commission also takes note that, in order to incentivise RES and heCHP producers to better adapt to market signals, Greece will implement a gradual exposure to balancing responsibilities through the mechanism described in recital (98). The Commission also notes that this mechanism will have only a preparatory function until the full implementation of the continuous intraday market. For the projects located outside Greece, the Commission notes that those projects will have full balancing responsibilities in their country of origin (see recital (58)).
- (179) The Commission therefore concludes that the scheme complies with point 124(b) of the EEAG.
- (180) As provided in recitals (39) and (59), the Commission notes that Greece has confirmed that there will be no premium payment for the producers of electricity that directly participate in the electricity market, for intervals when zero and/or negative prices occur in more than 2 consecutive hours.

⁶⁰ Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (OJ L 158, 14.6.2019, p. 54).

- (181) Therefore, the Commission concludes that the scheme complies with point 124(c) of the EEAG.
- (182) In conclusion, the notified measure complies with point 124 of the EEAG.

B. Competitive auctions for operating aid for electricity from renewable energy sources

- (183) The Commission notes that the proportionality of the aid under this measure is ensured by granting the aid through a competitive tendering procedure on the basis of clear, transparent and non-discriminatory criteria in line with point 80 of the EEAG.
- (184) According to point 126 of the EEAG, operating aid for electricity from renewable energy sources has to be granted in a competitive bidding process on the basis of clear, transparent and non-discriminatory criteria.
- (185) The bidding process can be limited to specific technologies where a process open to all generators would lead to a suboptimal result which cannot be addressed in the process design in view of, inter alia, the need to achieve diversification.
- (186) The Commission notes, as set out in recital (32), that the competitive tendering procedure ensures the aid granted to the beneficiaries to be limited to the minimum needed to achieve the operation of the installations, since the projects are awarded operating aid contracts on the basis of a sole award criterion, namely the lowest price. Greece has also put in place a technology quota (see recitals (28) and (29)). The tendering procedure is also subject to the tendering rules set out in section 2.4.1.3, namely the oversubscription rule, the last project rule, the different ceiling price rule and the anti-concentration rule.
- (187) In line with point 126 of the EEAG, the Commission considers that the competitive tendering process is based on clear, transparent and non-discriminatory criteria given that (a) potential bidders are in a position to understand in advance of any tendering procedure how such a procedure will take shape and how to tailor their bid to that effect, and (b) all potential bidders are provided with the same information in advance and are placed on an equal footing before the tendering procedure commences; no advantage is awarded based on other criteria such as size or incumbency. Accordingly, the Commission concludes that operating aid granted thereunder is proportionate.
- (188) The competitive bidding process under the scheme is described in section 2.4.1.1 and is based on a pay-as-bid procedure. The setting out of the parameters and organisation of the auctions split between the MEE and the official body.
- (189) As set out in recitals (92) to (94), Greece will allow repowered installations to be eligible for support. Only the site will be used for repowered PV and onshore wind installations. The new project developer will have to obtain, renew or update all the necessary permits and authorisations. Accordingly, the Commission concludes that repowered installations will compete on an equal footing with new installations since both installations will face similar costs.⁶¹

⁶¹ See recital (91) of the Commission decision of 4 May 2021 in the State aid case SA.56831 Denmark - Multi-technology RES tenders 2021-2024, OJ C 214, 4.6.2021, p. 1 and recital (79) of the Commission

- (190) Greece will limit the scope of RES technologies participating in the tendering procedure, organising various technology specific auctions in various formats, namely:
- i. Support granted in joint PV and wind calls for tenders;
 - ii. Support granted in dedicated joint calls for tenders:
 - a. Dedicated joint calls for tenders for PV and wind with storage capacity;
 - b. Dedicated joint calls for tenders for PV and wind in the islands of Crete, Euboea and Cyclades;
 - c. Dedicated joint calls for tenders for PV and wind for foreign projects outside of Greece;
 - iii. Technology specific calls for tenders for small PV and wind;
- (191) All other technologies will not be subject to competitive bidding except in the circumstances set out in recital (86).
- (192) Accordingly, none of the bidding processes can be considered as technology neutral for the purposes of the point 126, fourth sentence of the EEAG. However, the Commission considers that Greece has shown that the type of technology specific bidding process is needed in order to to achieve diversification.
- (193) First, as set out in section 2.4.1.2, all PV and wind tendering procedures (except for the dedicated calls for tenders for PV and wind for foreign projects located outside of Greece) are subject to a technology quota of 30% for the reasons set out in recital (28), namely system technological diversification. Greece has set this technological quota at 30%, but reserves the possibility to launch technological specific auctions where the objective is not attained.
- (194) To prevent overcompensation, as set out in section 2.4.1.3, Greece intends to introduce a number of rules in the tendering procedure to increase competition and prevent collusive behaviour and strategic bidding, namely an oversubscription rule, the last project rule, differing ceiling pricing between PV and wind and an anti-concentration rule.
- (195) In respect to support granted in joint PV and wind call for tenders (see recitals (6) to (8)), the Commission notes that according to the result of the pilot auctions, the most competitive auctions were the joint PV and wind ones as compared to the standalone PV and wind auctions. The Commission accordingly considers that Greece has shown that the type of specific bidding process can be limited to dedicated joint calls for tenders for PV and wind given that a process open to all generators would lead to a suboptimal result which cannot be addressed in the process design in view of the need to achieve diversification and that there are sufficient safeguards to prevent overcompensation.

decision of 17 August 2018 in the State aid case SA.49918 Denmark - Multi-technology tender 2018-2019, OJ C 406, 9.11.2018, p. 5.

- (196) In addition, Greece intends to test the competitive RES market with dispatchable installations to provide balancing by granting support through joint calls for tenders for PV and wind with storage capacity (see recital (43)).
- (197) The Commission notes that operating aid will only be paid out for renewable electricity generation and not for the electricity injected from storage. The PV and wind installation will not offtake electricity from the grid for storage but will solely inject it (see recital (44)).
- (198) The LCOE for those projects is higher for the joint PV and wind tendering procedures without storage and Greece only intends to put out for tender a maximum of 200 MW over the scheme's duration and has estimated ceiling prices of EUR [30-80]/MWh for PV plants and EUR [30-80]/MWh for wind plants. Those ceilings may be adjusted downwards depending on the outcome of the auctions (see recital (46)).
- (199) The Commission considers that Greece has shown that the type of specific bidding process can be limited to dedicated joint calls for tenders for PV and wind with storage capacity given that a process open to all generators would lead to a suboptimal result which cannot be addressed in the process design in view of the need to achieve diversification and that there are sufficient safeguards to prevent overcompensation.
- (200) Next, as indicated in section 2.4.3.2, Greece intends to carry out dedicated joint calls for tenders for PV and wind in the islands of Crete, Euboea and Cyclades islands to facilitate and accelerate the maturity of RES projects on those island given their lack of interconnection to the mainland (except for Euboea).
- (201) In respect of Euboea, in order to ensure a level playing field, Greece explained that the auction in the island of Euboea should be exclusively targeted at new immature RES project applications concerning potentially 200 MW of capacity which will be obliged to pay the nominal extra connection cost per MW, which would prevent such RES projects competing in the general joint PV and wind tendering procedures (see recitals (50) to (52)).
- (202) In this respect, the Commission considers that Greece has adduced sufficient evidence that in the absence of a specific auction for Euboea, RES development could remain underexploited. The extra connection costs stemming from the Polypotamos - Nea Makri interconnector to the mainland mean that joint PV and wind projects are unable to compete on a level playing field with similar projects situated on mainland Greece.
- (203) In respect of Crete and the Cyclades islands, the Commission notes that those islands are not currently connected to the mainland. Despite the RES potential of these islands, they currently lag behind RES development in the mainland (see recital (47)).
- (204) The Commission considers that Greece has shown that the type of specific bidding process can be limited to specific joint calls for tenders for PV and wind in Crete, Euboea and Cyclades islands given that a process open to all generators would lead to a suboptimal result which cannot be addressed in the process design in view of the need to develop RES in these islands to achieve diversification and that there are sufficient safeguards to prevent overcompensation. However, the Commission consider that dedicated auctions for PV and wind for Euboea are permissible only for as long as those extra connection costs remain.

- (205) Next, in respect of dedicated joint calls for tenders for PV and wind for foreign projects located outside Greece, the Commission notes Greece's lack of success in opening up RES and heCHP competitive bidding process for foreign producers, as Greece committed in the 2016 decision and 2018 tender decision. The Commission concludes that the dedicated joint calls for tenders for PV and wind for foreign projects outside Greece will allow Greece to rectify this shortcoming. Accordingly, the Commission considers dedicated joint call for tenders for PV and wind for foreign projects outside Greece are needed to facilitate the participation of those projects in the scheme and that there are sufficient safeguards to prevent overcompensation.
- (206) If the minimum technology diversification is not attained out of the joint PV and wind technology auctions, Greece reserves the possibility to hold technology specific tendering for small PV and wind (see recitals (60) to (62)). The Commission considers that, where such technological diversification is not attained, such specific auctions are the most proportional manner to address such an outcome.

C. Exemption from competitive auctions for operating aid for electricity from renewable energy sources

- (207) Point 128 of the EEAG provides that in the absence of a competitive bidding process, the conditions provided in point 124 and 131 of the EEAG need to be complied with.
- (208) The Commission has already concluded in recital (182) that the conditions provided in point 124 of the EEAG are complied with, including for installations exempted from tendering procedures.
- (209) As regards the conditions provided in point 131 of the EEAG, the Commission first notes that the aid per unit of energy does not exceed the difference between LCOE for each technology exempted from a competitive tendering procedure and the market price of the form of energy concerned. As stated in recital (76), the LCOE for the exempted technologies from the tendering procedure is determined separately for each category of RES and heCHP project and technology based on a baseline/typical project, taking into account the cost of project development and CAPEX, OPEX, the expected electricity production and all other technical and accounting parameters that determine the cost and revenue of the RES units under consideration. These LCOE represents the administratively set RV for each RES/heCHP technology exempted from the tendering procedure. As stated in recital (87), the sliding premium will be calculated as the difference between the administratively set RV and the reference market price.
- (210) Second, the LCOE includes a discount rate, which will reflect the return on capital for the specific reference project. The discount rate is equal to the project IRR. Greece has calculated the IRR for each technology, ranging from 7.4% to 9%, on the basis of different parameters and indexes (see recital (76)). The Commission considers this range to be a reasonable return on capital for each technology. Furthermore, as set out in recital (108), investment aid will be deducted from operating aid.
- (211) Third, the Commission notes that the LCOE will be updated on a regular basis (see recital (78)).
- (212) Finally, the Commission notes that the aid will be granted for a period of 20 years, which is the normal depreciation period in Greece for this kind of installations.

- (213) The Commission concludes that the scheme complies with the conditions provided in point 131 of the EEAG.
- (214) In addition, according to point 151 of the EEAG, operating aid for high-efficiency cogeneration plants may be granted on the basis of the conditions applying to operating aid for electricity from renewable energy sources when the costs for producing a unit of energy in cogeneration plants is higher than its market price.
- (215) In that respect, the Commission notes, as presented in Table 7, that the administratively set RV which is equal to the LCOE shows that the costs for heCHP exceed the market price for electricity. Greece clarified that the administratively set RV calculated for heCHP deducts any cost savings/gains in terms of heat production. Accordingly, the support for heCHP complies with the provisions of point 151 of the EEAG.
- (216) According to point 126 of the EEAG, operating aid for electricity from renewable energy sources is granted in a competitive bidding process on the basis of clear, transparent and non-discriminatory criteria, unless: (a) Member States demonstrate that only one or a very limited number of projects or sites could be eligible; or (b) Member States demonstrate that a competitive bidding process would lead to higher support levels (for example to avoid strategic bidding); or (c) Member States demonstrate that a competitive bidding process would result in low project realisation rates (avoid underbidding).
- (217) The Commission notes that, aside from PV and wind projects, all remaining RES and heCHP technologies show a very limited market growth in Greece, both in terms of absolute number of projects as well as of project's capacity (see recitals (65) to (74)).
- (218) Furthermore, the Commission acknowledges that, for certain RES projects, in particular for small hydropower projects, CSP and geothermal, the lengthy and complex licensing process for the development of those projects renders them less amenable to a tendering process since the adoption of such a process could result in low project realisation rates.
- (219) Moreover, the Commission accepts that given the underdevelopment of RES technologies aside from PV and wind, subjecting those technologies to the tendering procedure would result in low levels of competition, leading to higher levels of the State support.
- (220) More specifically, first, in respect of small hydropower, as set out in recitals (65) and (66), the Commission accepts that the growth of the Greek small hydropower market is substantially less dynamic in comparison to the market for PV and wind energy. Further, most of the potential capacity has been already exploited. Furthermore, given the limited potential and the complex licensing process, there is a substantial risk that the remaining small hydropower potential may not be developed. Indeed, according to Table 3, the amount of potential small hydropower capacity that could be developed by 2025 is 75 MW, compared with the capacity of new small hydropower projects above 1 MW awarded an operating aid contract over the 2018-2020 period of 32.2 MW, set out in Table 6.
- (221) Second, in respect of biomass and biogas, the Commission notes, as explained in recital (67) and (68), that the size of the biomass and biogas projects depends on the local potential, which is not very high in Greece, as the geographically dispersed characteristic of its territory does not allow the development of a high number of large

capacity projects. Indeed, according to Table 3, Greece estimates that under the scheme only 30 MW and 40 MW respectively of biomass and biogas capacity will be in operation by 2025. During the 2018-2020 period, according to Table 6 only 10.87 MW capacity and 1 MW capacity respectively of new biogas and biomass project above 1 MW were awarded operating aid. Moreover, the use of forest biomass or crops residues is not well developed either. Lastly, most of the farms are medium sized without any potential for constructing biogas units above 1 MW.

- (222) Third, in respect of geothermal and CSP, the Commission notes that, as set out in recitals (70) and (72) geothermal and CSP are underdeveloped with a limited number of the feasible locations where they could be deployed. The Commission notes that this technology would be nevertheless beneficial in terms of diversification of the generation mix and reduction of system ancillary costs, in particular on the non-interconnected islands.
- (223) Fourth, in respect of landfill gas and biogas projects from municipal waste, the Commission notes that, as set out in recital (69), the growth of this sector has been limited and is similar to the growth in to biomass and biomass plants. Furthermore, the Commission acknowledges growth potential is constrained.
- (224) Fifth, as regards heCHP, as explained in recital (74) the market is immature and underdeveloped, with few new heCHP units above 1 MW between 2018 and 2020 signing operating aid contracts. Given the evolution of the market, the Commission concludes that there are only a limited amount potential projects which could be eligible.
- (225) Therefore, based on the information submitted by Greece, the Commission considers the exclusion of biomass and biogas, small hydropower, landfill gas, geothermal, CSP and heCHP from the tendering procedure to be justified in line with point 126 of the EEAG.
- (226) As set out in recital (108), any investment aid previously received must be deducted from the operating aid. Accordingly, the scheme complies with point 129 of the EEAG.
- (227) As set out in recital (109), the aid under the scheme will be granted until 31 December 2025, less than 5 years. Accordingly, the Commission concludes that the scheme complies with point 121 of the EEAG, which provides that schemes can be authorised for a maximum period of 10 years.
- (228) In light of the above, the Commission considers the aid to be proportionate and in line with the relevant EEAG sections.

3.3.3. Weighing up the positive effects of the aid with the negative effect on the internal market

- (229) The negative effects of the measure on competition and trade must be sufficiently limited, so that the overall balance of the measure is positive. The Court of Justice has clarified that in order to assess whether a measure adversely affects trading conditions to an extent contrary to the common interest, the Commission must weigh up the positive effect of the planned aid for the development of the activities that aid is

intended to support and the negative effects that the aid may have on the internal market⁶².

- (230) On the positive side of the balance, the Commission notes that the measure will facilitate the development of RES and heCHP in Greece from a variety of technologies. Moreover, the aid should induce positive indirect effects in terms of environmental gains.
- (231) In this regard, the Commission notes that promotion of the development of renewable energy is one of the aims of the Union's policy on energy pursuant to Article 194 TFEU. Moreover, point 30 of the EEAG recognises that an increased level of environmental protection may be attained through a shift to a low carbon economy with a significant share of variable energy from RES.
- (232) Therefore, the Commission welcomes the fact that, as explained in section 2.2, the notified measure supports the new EU⁶³ and national targets (climate neutrality by 2050 and increased use of renewable energy sources). It is also consistent with the Greek NECP aiming at increasing the share of renewables in the national energy mix at low cost for the electricity consumer and the increased need for energy efficiency.
- (233) The Commission notes that the notified measure will contribute to meeting Greece's national target of 35% of its energy consumption from RES by 2030. In addition, the measure will contribute to achieving the Union target of at least 32% share of RES on the energy consumption in 2030 set by the RED II. The Commission notes that the notified measure is also in line with the Green Deal Communication⁶⁴.
- (234) As explained in recitals (13) and (14), a residual market failure still exists in the production of electricity from RES and heCHP in Greece and that the market alone cannot incentivise sufficient investments to deploy RES and heCHP at the scale and pace necessary to attain the national and Union emissions targets without the support provided by the scheme.
- (235) On the negative side of the balance, the Commission notes that the measure provides an advantage to selected beneficiaries, to the exclusion of other electricity producers. However, the Commission notes that operating aid will mainly be allocated through a competitive bidding process. All operating aid will, in any event, be allocated on through a two-way sliding premium based on a reference price calculated monthly, which is paid out in addition to the market price where the reference price exceeds the market price. However, where the market price exceeds the reference price the beneficiary will have to pay the difference back to DAPEEP. Greece will also introduce the rules set out in section 2.4.1.3, namely the oversubscription rule, the last project rule, the differentiated price ceiling per technology and an anti-concentration rule. This will ensure that the risk of overcompensation is limited.

⁶² Judgment of 22 September 2020, *Austria v Commission*, C-594/18 P, EU:C:2020:742, para 101.

⁶³ Directive (EU) 2018/2001 establishes a binding renewable energy target for the EU for 2030 of 32% (RED II) and Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), OJ L 243, 9.7.2021, p. 1

⁶⁴ Section 2.1.1. Increasing the EU's climate ambition for 2030 and 2050 of the Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: The European Green Deal, COM/2019/640 final.

- (236) Therefore, the measure is designed to limit distortions of competition.
- (237) Point 116 of the EEAG establishes a presumption that aid to energy from renewable sources have limited distortive effects provided all other compatibility conditions are met. As it is explained under sections 3.3.1, 3.3.2, 3.3.3 above and section 3.3.4 below, those conditions are met. The Commission therefore considers that the design of the notified measure ensures that distortions of competition and trade are kept to the minimum.
- (238) In light of the above, the Commission concludes that the notified measure has significant positive effects in terms of facilitating an economic activity and of environmental protection while not leading to undue distortions of competition and trade. It follows that the positive effects of the aid outweigh its negative effects on competition and trade. Therefore, the aid at issue facilitates the development of certain economic activities while not adversely affecting trading conditions to an extent contrary to the common interest, as required by Article 107(3)(c) TFEU.

3.3.4. Transparency of the aid and firms in difficulty or subject to an outstanding recovery order

- (239) According to points 104 and 106 of the EEAG, Member States have the obligation to ensure transparency of the aid granted by publishing certain information on a comprehensive State aid website. The Commission takes note that, as explained in recital (113), the Greek authorities comply with that transparency requirement by publishing the relevant data for the notified measure on a national website that will link to the Commission's transparency register.
- (240) As explained in section 2.11, the Commission notes that no aid will be granted to undertakings in difficulty and all firms that intend to participate in the call for tenders will have to provide a declaration that they are not an “undertaking in difficulty”. Also, for the projects exempted from auctions, that declaration has to be submitted when the beneficiaries sign operating aid contracts with DAPEEP. The Commission notes that Greece intends to allow undertakings that were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021 to participate in the scheme, in line with the amended EEAG. The Commission therefore considers that the notified measure is in line with point 16 of the EEAG. The Greek authorities also confirm that no aid can be granted to undertakings subject to an outstanding recovery order following a previous Commission decision declaring aid illegal and incompatible with the internal market. The Commission therefore considers that the notified measure is in line with point 17 of the EEAG.

3.3.5. Conclusion with regard to the compatibility of the measure

- (241) In light of the above, the Commission considers that the scheme facilitates the development of an economic activity in a necessary and proportionate way without unduly affecting competition and trade, and that the aid is therefore compatible with the internal market on the basis of the EEAG.

4. CONCLUSION

- (242) In light of the above assessment, the Commission decided not to raise any objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) TFEU.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully
For the Commission

Margrethe VESTAGER
Executive Vice-President