Administrative Law Briefing: Special Edition

Landmark Decisions of the Council of State on Battery Energy Storage Systems (BESS): Key Takeaways for Investors and Developers

A. **The Court's Key Findings**
B. **What This Means for Market Participants**

The Greek Council of State (the **Court**) has recently issued its first Decisions[1] concerning environmental permitting of Battery Energy Storage Systems (**BESS**), specifically stand-alone electrochemical storage stations using lithium-ion batteries.

The Court upheld the contested environmental permits in full, confirming the lawfulness of the permitting framework applicable to BESS projects.

This is a landmark development for the Greek energy storage market, as it provides judicial certainty for developers and investors in BESS projects.

A. The Court's Key Findings

BESS, including stand-alone BESS, are integral to the renewable energy framework and functionally linked to Renewable Energy Storage (**RES**). Drawing on EU and national law, the Court found that:

1. BESS projects are an inseparable part of RES projects, since they are necessary for integrating RES generated electricity into the grid;
2. they serve the same overriding public interest as RES production facilities, namely energy security, price control and the achievement of climate and renewable energy targets; and
3. the Court's findings apply to all BESS facilities, including stand-alone, regardless of their physical connection to existing RES projects, since the relationship between the two is

[1] No. 34 and 35/2026.

primarily functional.

BESS fall under the same spatial planning framework as RES projects. Under current legislative provisions[2], battery storage stations may be installed wherever RES installations are permitted under the existing Special Spatial Planning Framework for RES. These provisions were not found to be unconstitutional. The Court characterized BESS as a sequential activity to RES production, that does not require a separate Strategic Environmental Assessment or spatial planning provisions.

Simplified environmental licensing (under Category B) for BESS of up to 100MW is lawful. The Court upheld the classification of BESS projects with a maximum injection capacity of up to 100MW in environmental Category B (local, non-significant environmental impacts). Category B projects do not require compliance with the strict permitting procedure required for Category A projects (including a full Environmental Impact Assessment (EIA), public consultation and obtaining opinions from relevant competent authorities). Instead, a simplified procedure is followed for compliance with Standard Environmental Commitments (PPD).

There is no need to wait for PPDs before licensing. Licensing under the transitional provisions of Law 4014/2011 is lawful. The Court ruled that, pending the adoption of PPD for BESS projects by the Greek State, BESS projects have been validly licensed under the transitional provisions of Law 4014/2011, using a simple Environmental Report procedure. Prohibiting the licensing of BESS projects until the Greek State adopts the relevant PPD would have contradicted the legislative purpose of enabling this new activity swiftly, in compliance with EU law on energy transition.

Installation in forest land is not excluded. The Court confirmed that BESS may be situated on forest land, as sequential installations to existing RES facilities in the broader area. Positive opinions of the competent forest authorities, the character and the extent of the forest area to be occupied, the distance of the projects from protected zones and imposition of relevant protective clauses are taken into consideration.

Cumulative impact assessment is not required at the BESS licensing stage. The Court held that assessment of cumulative effects with nearby RES projects can be properly conducted at the licensing stage of the RES production facilities themselves, since storage stations function in a supportive role to those facilities.

B. What This Means for Market Participants

These decisions provide the first judicial endorsement of the Greek BESS permitting framework, giving developers and investors strong legal certainty on several fronts.

The Council of State has recognized that RES and BESS projects serve the public interest,

[2] Laws 4951/2022 and 5037/2023.

contribute to the achievement of national and EU climate and renewable energy targets and support environmental protection.

BESS projects do not need to be physically co-located with a specific wind or solar farm; a functional connection to the grid and proximity to existing RES infrastructure is sufficient.

BESS projects (even stand-alone) with a maximum injection capacity of up to 100MW can be validly permitted under the simplified Category B environmental procedure, without a full EIA.

The situation of BESS follows existing RES siting rules and does not require additional spatial planning instruments or a separate Strategic Environmental Assessment. No amendment to the existing Special Spatial Planning Framework for RES is required before BESS projects can be approved.

BESS projects licensed under the transitional regime[3], before the adoption of the PPD by the Greek State in October 2024 remain valid.

The situation of BESS projects in forested areas is not excluded, especially if the relevant forest authorities issue positive opinions.

[3] Law 4014/2011.



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