

REvision2023

Session I: Energy Security and Renewable Energy Transition

## REpower EU and subsequent EU energy security policy

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# Prof. Dr. Dörte Fouquet



Prof. Dr. Dörte Fouquet specialises in EU law and international legal relations with a focus on competition, infrastructure, energy and environmental law. She advises mainly companies, financial institutions, associations and governmental agencies in Germany and other EU Member States as well as EU institutions and at international level.

- ▶ Studies of law in Marburg and Hamburg
- ▶ 1982 research assistant at the University of Hamburg
- ▶ 1988 Ministry for Environment and Energy, Hamburg
- ▶ 1991 Hamburg and Schleswig-Holstein Liaison Office to the European Union, Brussels (Belgium)
- ▶ 1993-2010 partner at the Brussels office of the law firm Kuhbier
- ▶ 2011-2020 partner at BBH Brussels, since 2021 partner of counsel
- ▶ Since 2022 Honorary Professor in law at Leuphana University Lüneburg/Germany

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# About the BBH group



The BBH group consists of the law firm Becker Büttner Held (BBH), the audit firm BBH AG Wirtschaftsprüfungsgesellschaft, the business consulting firm BBH Consulting (BBHC), the project developer for urban neighbourhoods BBH Immobilien and BBH Solutions.

What makes the BBH group special is our interdisciplinary advisory approach: lawyers, public auditors and tax advisors work hand in hand with engineers, business experts and IT professionals.

Together, we develop solutions tailored to suit your business needs in every situation.

- ▶ approx. 600 staff
- ▶ more than 4,000 clients

# About us



Becker Büttner Held has been operating since 1991. At BBH, lawyers, auditors and tax advisors work hand in hand with the engineers, consultants and other experts of our BBH Consulting AG. We provide advice to more than 4,000 clients and are the leading law firm for the energy and infrastructure industry.

BBH is known as “the” law firm of public utilities. But we are far more than that – in Germany and also in Europe. The decentralised utilities, the industry, transport companies, investors as well as political bodies, like the European Commission, the Federal Government, the Federal States and public corporations appreciate BBH’s work.

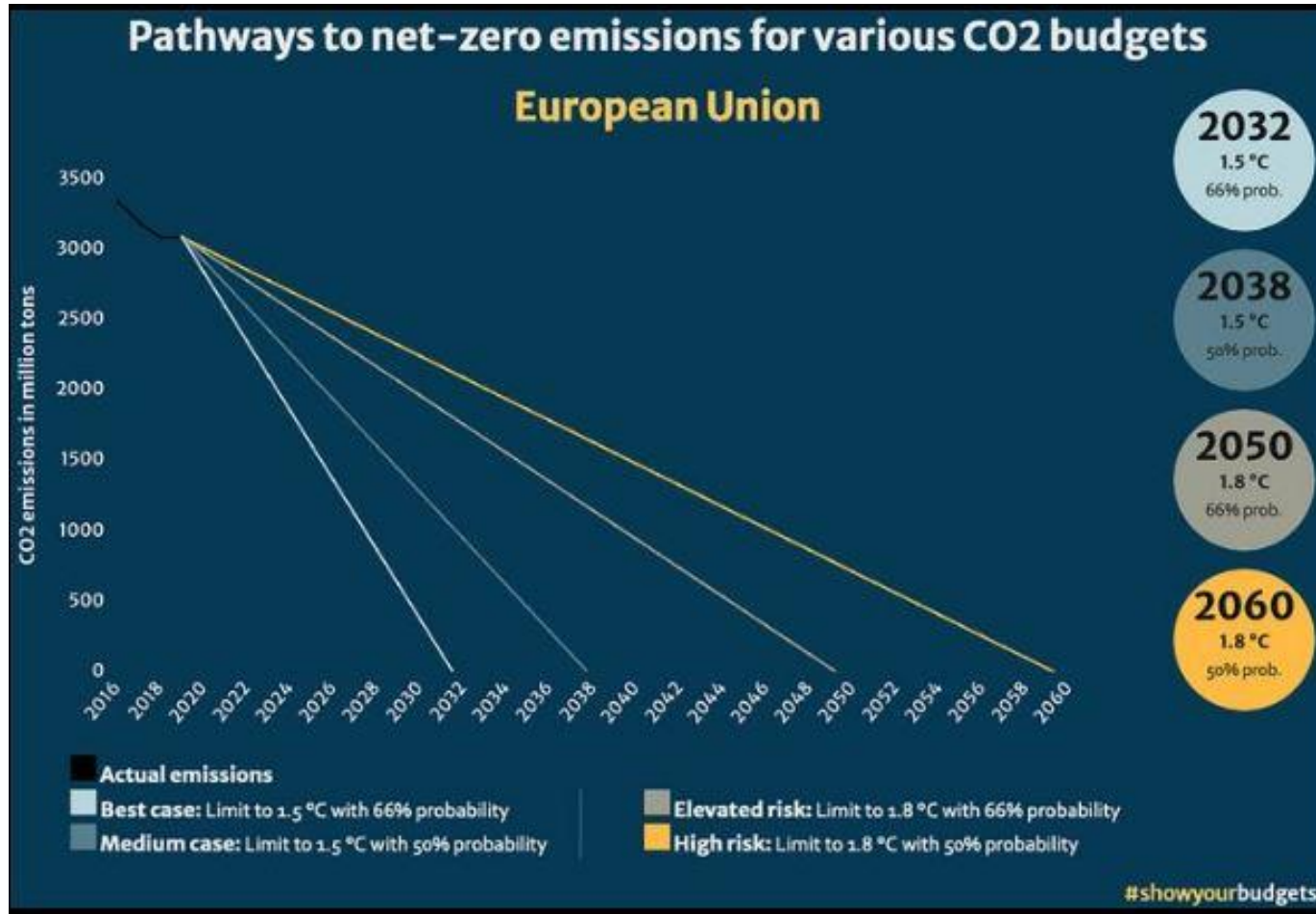
- ▶ Accredited professionals: ca. 250; in Berlin, Munich, Cologne, Hamburg, Stuttgart, Erfurt & Brussels
- ▶ Registered representative of special interests – lobbying register at the German Bundestag – R000790

# EU key decisions for an accelerated decarbonisation



- ▶ 2015: UNFCCC COP 21, Paris, international commitment for an energy system transition
- ▶ 2019: EU Clean energy for all Europeans package
- ▶ 2019: European Green Deal
- ▶ 2021: Accelerated implementation of the Green Deal as an economic measure against the effects of the COVID epidemic
- ▶ 2022: REPowerEU package as response to high energy prices and threatened energy security due to war in Ukraine
- ▶ 2022: Council regulation to accelerate the deployment of renewable energy

# EU climate target



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# REPowerEU

- ▶ Overall aims
  - Reduction of dependence on Russian fossil fuels
  - Containment of energy prices
  
- ▶ Mixture of short, mid- and long-term measures
  - Energy prices
  - Diversification of gas supplies
  - Renewable energy and energy efficiency

# REPowerEU

## Energy prices & gas

- ▶ Keeping retail energy prices in check
- ▶ Guidance on temporary tax measures on windfall profits and use of emissions trading revenues, so governments can ease the pressure on household consumers
- ▶ State Aid measures
- ▶ Market actions assessing options to improve the electricity market design
- ▶ Gas storage (legislation, coordinated gas refilling, etc.)
- ▶ Diversification of gas supplies (LNG terminals, new partners)



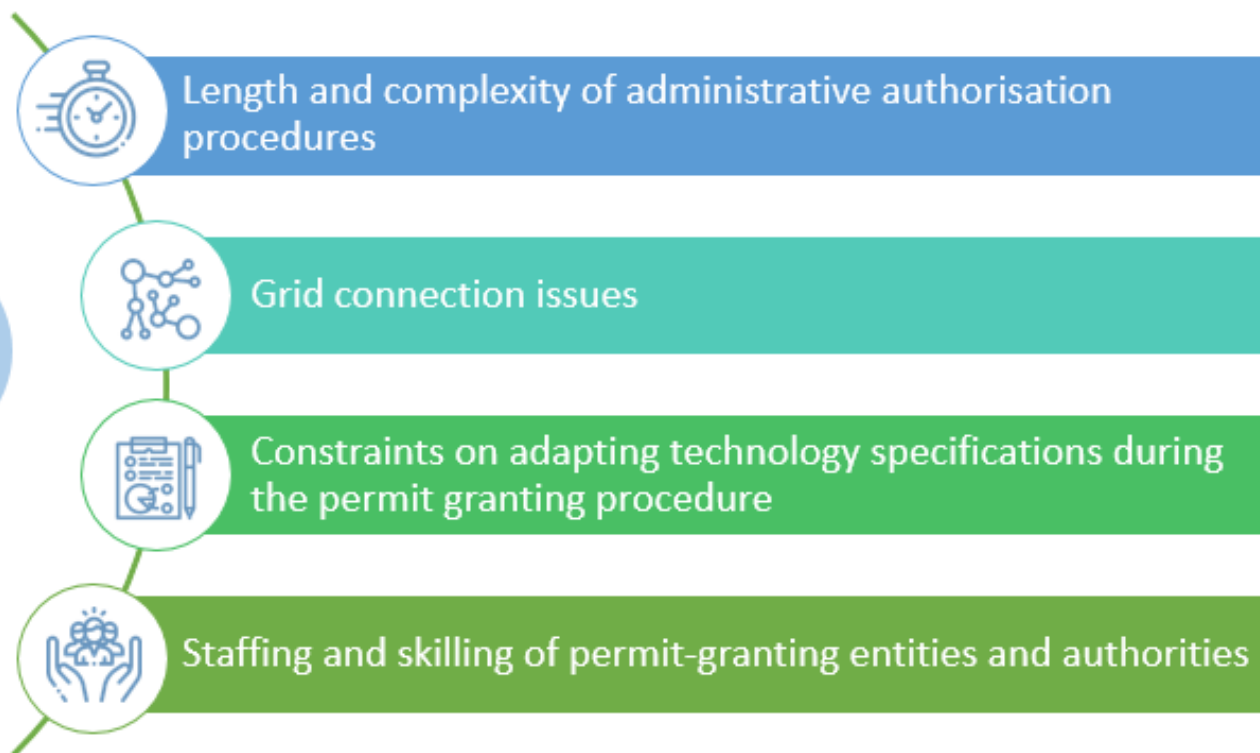
# REPowerEU

## Faster uptake of renewable energy

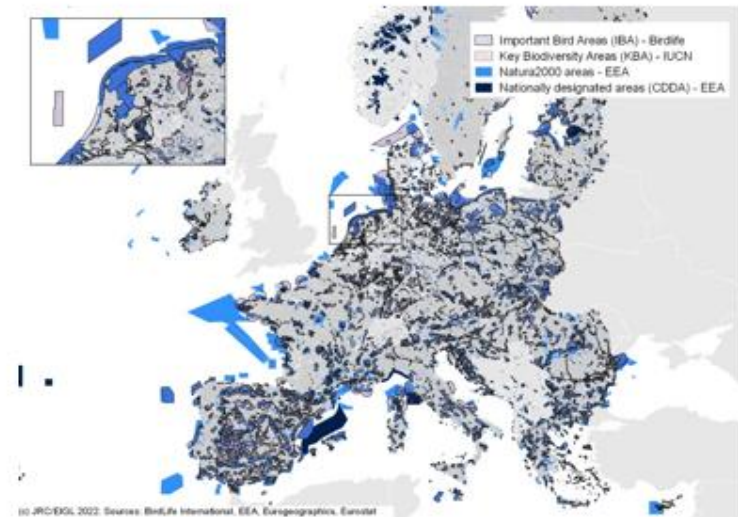
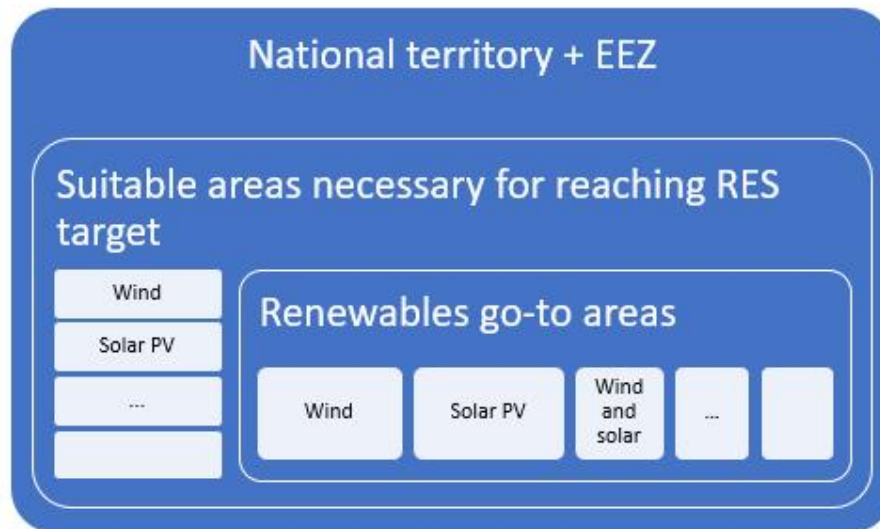
- ▶ More rooftop solar panels, heat pumps and energy savings
- ▶ Speeding up renewables permitting to minimise the time for roll-out of renewable projects and grid infrastructure improvements
- ▶ Decarbonisation of the industry  
(faster switch to electrification and renewable hydrogen, increased low-carbon manufacturing capabilities)
- ▶ Doubling the EU ambition for biomethane to produce 35 bcm per year by 2030, especially from agricultural waste and residues
- ▶ A Hydrogen Accelerator to develop infrastructure, storage facilities and ports for imported renewable hydrogen from diverse sources and additional 5 mt of domestic renewable hydrogen

# REPowerEU – enhanced permitting of renewables

## Issues to address



## Spatial planning and RES go-to-areas



## Spatial planning and RES go-to-areas

### Go-to areas

Completeness check: 14 days

Total duration: **max 1 year** (+3 months in extraordinary circumstances), 6 months for small-scale projects and repowering (+3 months)

Positive administrative silence

No EIA required as a rule unless significant unforeseen adverse effects identified in quick screening (30 days / 15 days)

### Outside go-to areas

Completeness check: 1 month

Total duration: **max 2 years** (+3 months in extraordinary circumstances), 1 year (+3 months) for repowering and small-scale projects <150kW – including EIA, if any

Single procedure for EIAs, with mandatory scoping upfront

Solar equipment in artificial structures: 3 months; no EIA

- OPI presumption for RES projects, unless clear evidence of major adverse effects on the environment which cannot be mitigated or compensated

# Council regulation to accelerate the deployment of renewable energy



- ▶ Acceleration of the deployment of renewable energies
- ▶ Overriding public interest in the Emergency-Regulation
- ▶ Solar Energy installations
- ▶ Repowering renewable plants
- ▶ Heat pumps

# The importance of the implementation of the principle of overriding public interest

- ▶ Art. 3 (1) suggests that renewable energy plants and installations are of an overriding public interest and serving public health and safety, therefore they are eligible for a simplified assessment during the permit-granting procedures
- ▶ Derogations from EU environmental legislation possible, if appropriate species conservation measures are ensured
- ▶ EU Member states may restrict application of these provisions to
  - Certain Parts of their territories
  - Types of technologies
  - Projects with certain technical characteristics

## More work ahead

- ▶ Fit for 55 Package
- ▶ Revision of the electricity market design
- ▶ Revision of the gas market package
- ▶ Investment accelerator under new EU industry policy
- ▶ Alleviated state aid scrutiny for investment, e.g. in renewables with public support and with instruments to curb energy prices
- ▶ Continued draught may lead again to failure of French nuclear plants and thus severely affect EU electricity prices and Germany CO<sub>2</sub> balance (increased electricity export to France thus using more coal)

Thank you very much  
for your attention.

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# Backup.