



The emergency measures approved by the Portuguese Government, at this point, do not protect properly the ongoing implementation of solar projects.

Portuguese Covid-19 contra measures are contemplating the roll-out of solar projects?

The Covid-19 pandemic will affect drastically the solar promoters in Portugal as it will make harder for them to comply with their permitting obligations in due time. These are some examples of how Portuguese promoters are subject to a tight schedule:

- a. promoters with production license obtained prior to the approval of the Decree-law 76/2019 have two years after its issuing to obtain the operation license (extendable to 3 years);
- b. promoters awarded on the first Portuguese solar actions in June 2019, have 6 months to obtain the land rights required for the plant construction; and, depending if the project requires environmental impact assessment or not, 12 or 18 months to obtain the production license, 18 or 24 months to obtain the construction license and 30 or 36 months to obtain the operation license;
- c. promoters seeking an agreement with the Grid Operator to increase the grid capacity have 20 business days, counting from 11 March 2020, to provide documental support in order to be attended before other promoters, which have 120 business days to gather such documents;

The Covid-19 pandemic driven emergency measures contained in Decree law 10-A/2020, enacted on 13 March by the Portuguese Government, do not contemplate yet cases such as these. It suspends all tacit approval deadlines but the above deadlines do not benefit of tacit approval, and therefore are not suspended. Suspension will only occur in case the competent authorities close due to the Covid-19 pandemic, but this did not happen so far with DGEG (the Portuguese energy authority), with APA (the Portuguese environmental authority) or with the Municipalities, which are expected to continue working online. Arguably, a general force majeure principle may apply if, for instance, an operation license's requirements are delayed because a construction permit issuance is delayed due to a Municipality's service restrictions imposed during the Covid-19 pandemic.

Needless is to say that If promoters fail to comply with their licensing schedules, financial penalties, including performance bonds, may be enforced and, in some cases, licenses could be terminated. So, these are times to stay at home, yes, but working harder than ever. That's the only way everyone's projects can reach COD successfully.

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