

LEGAL ALERT

REPOWERING – DISMISSAL OF NATIONAL REGULATORY AUTHORITY’S CONSULTATION

[Ministerial Order no. 43/2019](#) was published on 31 January 2019, amending [Ministerial Order no. 102/2015, of 7 April](#), which regulates [Decree-Law no. 94/2014, of 24 June](#), establishing the procedures to authorize the injection of additional electric energy into the grid and the repowering of wind farms, as well as the criteria to dismiss the individualized telemetering of electric energy generated as a consequence of the repowering.

The procedure to authorize wind farms’ repowering entailed the consultation, by the Directorate General for Energy and Geology (DGEG), of the relevant network operator, to confirm the existence of the necessary technical conditions to connect to said network.

Pursuant to [Dispatch no. 7087/2017, of 14 August](#), of the Secretary of State for Energy affairs, the national regulatory authority *Entidade Reguladora dos Serviços Energéticos* (ERSE) should also be heard by the DGEG on the repowering tariff’s impacts. The authorization to repower should only be granted if the applicable feed-in tariff did not impact the National Electric System negatively. This consultation was later included on Ministerial Order no. 102/2015, of 7 April through the enactment of [Ministerial Order no. 246/2018, of 3 September](#).

Ministerial Order no. 43/2019, of 31 January has now determined that ERSE’s consultation shall be dismissed if the applicant explicitly accepts that the feed-in tariff applicable to the energy generated in connection with the wind farm repowering is € 45/MWh (instead of € 60/MWh, as established by Decree-Law no. 94/2014, of 24 June). This feed-in tariff shall be guaranteed for a period of 15 years,

after which the energy is remunerated under the general market regime and cannot be covered by the additional period and remuneration scheme approved by [Decree-Law no. 35/2013, of 28 February](#)¹.

Under the terms of Ministerial Order no. 43/2019, of 31 January, which entered into force on 1 February, this procedure shall apply to authorization requests that, on that date, await the DGEG's decision. It further establishes that the requests that were rejected in the past may be submitted again under the terms described above.

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¹ Decree-Law no. 35/2013, of 28 February, establishes an alternative and optional remuneration scheme for wind farms subject to Appendix II of [Decree-Law no. 189/88, of 27 May](#), which shall apply for a period of five or seven years after the feed-in tariff determined under said appendix comes to an end. This alternative scheme entails the payment of a compensation to the National Electric System.