

## Zooming in on...

# Capping market revenues – fair or fatal for the expansion of renewable energies in Europe?

12.01.2023

### Background

The energy price crisis continues, leaving Europeans struggling to pay their skyrocketing energy bills. The resulting situation for energy businesses is ambivalent. While some of these companies are facing bankruptcy due to unexpectedly skyrocketing purchase prices, others are achieving record profits. It is these profits that have led to substantial public pressure, demanding to lower the financial burden of EU citizens. As a reaction, EU Member States agreed to “skim off” revenues and profits from energy producers. But what specifically did they decide on? How will Member States implement this so-called “EU emergency regulation”? And most importantly: do these plans endanger the much-needed rapid expansion of renewables as envisioned in the [REPowerEU](#) plan?

### Do renewable energy producers also profit from the energy crisis?

Faced by tremendous public pressure, on 30 September 2022 the EU Member States struck a deal on an “[emergency regulation](#)” to skim off so-called “windfall profits” in the energy market and thereby profits that are “[large, unexpected gains resulting from lucky circumstances](#)”. What does that mean, specifically? While operational costs of energy production did not increase for many electricity producers, their profits skyrocketed due to the EU’s energy market design that lets the highest cost of electricity production (currently gas) set the price for all other producers. Many citizens associate high energy prices with Europe’s still heavy dependence on fossil fuels and extraordinary profits of fossil energy companies. But while “about 60 [per cent] of the total installed renewable energy capacity in the EU derives its revenues from fixed-rate contracts agreed well before the energy crisis” according to [Rystad Energy](#), 40 per cent of European renewable energy producers also belong to the crisis winners and make an unexpected fortune.

---

## What did the EU Member States agree on?

After weeks of challenging negotiations, the [agreement](#) was twofold.

First, Member States decided to “cap the market revenues at 180 euros/MWh [megawatt hour] for electricity generators, (...) such as renewables, nuclear and lignite” from 1 December until 30 June 2023. Despite this, Member States still have the freedom to further limit market revenues below 180 euros/MWh and differentiate between technologies. Subsequently, 90 per cent of the revenue exceeding the fixed price is then to be skimmed off.

With the funds collected, Member States should [relieve citizens](#) from the high prices by “finance[ing] measures such as income transfers, rebates on bills, compensating suppliers for supplying below cost, as well investments that would lead to a structural reduction of consumption, in particular from electricity produced from fossil fuel sources”.

Speaking of investments, it is emphasised that “[t]he level of the cap is designed to preserve the profitability of the operators and avoid hindering investments in renewable energies”. Furthermore, “[a] **uniform cap on market revenues across the Union is best suited** to preserve the functioning of the internal electricity market, as it maintains price-based competition between electricity producers based on different technologies, in particular for renewables” ([Council: 10](#)). Lastly, the cap “should apply to realised market revenues only” ([Council: 12](#)).

Secondly, Member States agreed to impose a temporary “[Solidarity contribution](#)” on the windfall profits of fossil energy companies – **in addition to the cap on market revenues for all electricity producers**. As a matter of fact, it is this solidarity contribution with a rate of at least 33 per cent that can actually be called “windfall tax” (terminology that has been used frequently, but often incorrectly, in the public discourse) in contrast to the cap on market revenues which technically is not a tax.

**These decisions have led to heated discussions throughout Europe.** Shortly after the agreement had become public, WindEurope, voice of the European wind industry, [made it clear](#) that “Europe needs big investments in home-grown renewables. Everyone agrees that – and that it’s the route out of the crisis. But as it stands, the emergency Regulation will put many renewables investments on hold”. In particular, there was heavy [criticism](#) that the “adopted Regulation does nothing to stop national Governments from introducing additional taxes and taking uncoordinated measures on different types of power generation.” It was further pointed out that “[s]ome national Governments are already planning new taxes that would come on top of the emergency EU measures. And these additional measures include taxes on electricity

---

producers' total revenue, rather than their profits. This will stop renewables investments”.

In a similar spirit, SolarPower Europe, representing over 280 organisations across the entire solar sector, [announced](#) that it was “deeply concerned about patchwork implementation throughout EU countries and their governments”.

But how are Member States planning to implement the cap on revenues, and more concretely for renewables? Are the fears voiced by WindEurope and SolarPower Europe confirmed by actual national policies?

## How is the EU emergency regulation being implemented in Member States?

### Germany

If one needed one word to describe Germany's implementation of the EU emergency regulation, it would be “complex”.

To determine the amount of revenues from the electricity generation of individual power plants (hard coal plants are fully exempt from the mechanism), energy producers (starting at 1 MW) can [choose](#) between two billing methods. Either they disclose the contracts for their individual power plants and assert the actual quantities and prices, **or** their revenues are calculated on the basis of average prices on the [spot and forward futures market](#).

Then, for each form of energy, individual caps are set. For example, the proposed revenue cap for wind power generation offshore is set at 130 euros/MWh. In general, the caps for renewables vary additionally because they are priced and marketed differently under the German Renewable Energy Act. Also, safety margins of a few cents/kWh (kilowatt hour) on the calculated revenues are to take into account the uncertainties of production/price data and secure investments (e.g. in renewables).

The government's plans have faced harsh criticism throughout the last few weeks. The director of the German Solar Energy Association (BSW), Carsten Körnig, [pointed out](#) that “[e]very euro that is siphoned off of the solar industry is one euro less that could be invested in new solar projects. A solar booster is needed, not a solar brake”. Also, Körnig stressed that the costs of investments in new solar parks have risen by around 60 to 65 per cent compared to 2020 (e.g. interest rates, rising labour, grid connection and component costs). According to BSW, **three quarters of its member businesses recently [said](#) they would reduce or postpone new investments in the event of a cap on revenues**. In the same spirit, Simone Lange, president of the German Association for Renewable Energies, [affirmed](#) that “[t]he energy turnaround is being slowed down once again – a fatal signal for the location and the climate”.

Nonetheless, Lars Jerrentrup, the author of a recent study published by Aurora Energy Research, [made it clear](#) that “[e]ven with the skimming of profits over the next seven

---

months, the plants are generating higher lifetime returns than ever before and would be profitable even without subsidies".

Also, in the final parliamentary procedure, concerns regarding higher costs due to inflation were given special attention. In order to improve the investment conditions for the expansion of renewables, the Federal Network Agency is now given the leeway to **raise the maximum rates for wind and solar tenders by up to 25 per cent.**

While revenues will be skimmed off from 1 December until 30 June 2023, the federal government leaves itself a way open to extend the capping until 30 April 2024. In this regard, the massive campaign by the renewables industry has had an effect: contrary to initial plans, **revenues will not be capped retroactively to March 2022.**

### France

On 24 November, the French Senate [agreed](#) on a cap on market revenues as part of the fiscal law for 2023. Interestingly – due to a last-minute amendment by the French government and in contradiction to [previous plans](#) that included a consistent cap of 180 euros/MWh – energy producers will now not only be charged differently but also more heavily. For example, the cap for both nuclear and renewable energy will be set at 100 euros/MWh.

### Poland

According to [Aurora Energy Research](#), “[t]he Polish government has introduced stricter revenue caps and for a longer period of time than those foreseen by the EU”. Being applied from 1 December 2022 to 31 December 2023, energy forms will be affected differently while power plants under 1 MW and all hydro plants under 2.5 MW are excluded. In general, revenue caps for renewables are set at 355 PLN/MWh for solar (roughly 76 euros), 295 PLN/MWh for wind onshore (63 euros) and 270 PLN/MWh for hydro energy (56 euros). Additional rules are put in place to take into account different marketing and price schemes of renewables. In general, the capping will have significant **short-term effects** on renewables’ revenues, as highlighted by Aurora Energy Research: “Solar revenues decrease by 67% under the revenue caps for Dec 1st 2022 to Dec 31st 2023, while onshore revenues decrease by 74%”. In addition to that, the **long-term profitability** of renewables running in 2022 and 2023 is also impacted strongly, leading to a 3 to 4 per cent reduction of the “internal rate of return” for investors. As the assessment concludes, this “will likely lead to a delay in many new investments until 2024”.

### Austria

In Austria, the revenue of both fossil and renewable energy producers will be [capped](#) at 140 euros/MWh from 1 December until 31 December 2023. There will be no differences in the cap regarding different forms of energy production. An exemption from the mechanism is granted for biomethane. Interestingly, the maximum revenue

---

being allowed **is raised to 180 euros/MWh if investments in renewable energies in the years 2022 and 2023 can be proven**. The government thereby wants to set a strong incentive to boost renewables and thus shift towards a sustainable electricity production.

### Slovakia

As reported by [Euractiv](#), in Slovakia “[t]he levy will be paid by domestic and foreign producers with an installed capacity of over 0.9 megawatts, as well as by energy suppliers. In addition to small energy sources, the energy produced in hydropower plants or from biomethane will also be exempt from paying the levy”. Slovakia thereby further cuts down the 1 MW exemption scheme for small production sites as defined by the EU emergency regulation, thus including more and smaller facilities. In addition to that, rather than generally capping revenues at 180 euros/MWh, the government will set different levels depending on the source of electricity, ranging from 50 Euros to 250 euros. The cap will apply from 1 December 2022 until 31 December 2024. **Crucially, it was also decided to apply the solidarity contribution for fossil companies on the whole electricity market, thereby impacting renewable energy producers**. The proposal was heavily criticised by the director of The Slovak Association of the Photovoltaic Industry and RES (SAPI), Ján Karaba, [stating](#) that it would “abuse” the EU regulation to harm renewables, with potentially “liquidating consequences” for some businesses.

### Czech Republic

The Czech government will also cap market revenues based on the form of energy production. While the ceiling for nuclear energy will be set at 70 euros, windfall revenues of large lignite plants will start from 230 euros/MWh. In between, a ceiling of 180 euros for renewable energies will be applied ([Reuters](#)). [Applicability](#) is set retroactively from 1 December 2018 to 31 December 2023.

### More countries, even more plans

The **Dutch government** has [announced](#) different caps for different forms of energy: for solar and wind power generation it will be set at 130 euros/MWh, to be in place from 1 December 2022 to 30 June 2023. For the same time frame, **Italy** will [introduce](#) a uniform cap of 180 euros/MWh. In **Romania** as well, electricity producers who have long-term contracts and do not profit from current high prices are subject to a [tax on their revenues](#). **Spain** will also [apply](#) the fossil solidarity contribution to renewable electricity producers, thereby taxing their income and not their profit.



## The way forward

As the above examples have shown and WindEurope and SolarPower Europe have feared, approaches in the EU differ significantly in how much or how long they skim off revenues and how complex they are designed. But apart from the discussion about the impact of revenue caps on the profitability of investments in renewable energies, **it must already be noted that these different rules across EU Member States do not help the cause of rolling out renewables as fast as possible.**

Kristian Lande, senior director of European analytics for LevelTen Energy, found clear words for the current situation when [stating](#) that “[d]ifferent price setting mechanisms across the continent will have an unintended ripple effect on neighbo[u]ring markets”. Also, “[w]ithout consensus among 27 countries on the timing and price level, there will be greater uncertainty, which will likely lead to less investment across the board.”

Additionally, some EU countries’ plans to also apply the solidarity contribution to renewable electricity producers or to force businesses to pay for revenues they did not even realise, raise questions in terms of the policies’ conformity with the emergency regulation.

**This is especially unfortunate as it is in Member States’ and their citizens’ own overriding interest to boost the rollout of renewables and reach independency from expensive fossil fuels as fast as possible.**

Here, **in terms of providing a stable investment climate**, the Austrian mechanism seems to be the most appropriate as it is designed with limited complexity, does not differentiate between energy forms, and provides strong incentives to invest in renewables.

Nevertheless, policy makers should also not lose sight of the main reasons for the still too slow expansion of renewables in the EU, namely – as highlighted by [LevelTen Energy](#) – “securing land, permits, interconnection rights, and rising development costs due to inflation and supply chain disruptions”.

Maximilian Herzog

Competence Center for Climate and Social Justice

[maximilian.herzog@fes.de](mailto:maximilian.herzog@fes.de)