

# Serbia: Project financing and wind projects - a legal advisor's view

**Categories :** [News Serbia Energy](#)

**Date :** January 8, 2020

Serbia has made significant progress in implementing a number of renewable energy projects, especially after the long-awaited Power Purchase Agreement (PPA) was finally adopted in 2016, in accordance with the 2014 Energy Act. In this way, a consistent and comprehensive framework has been put in place to support the achievement of the renewable energy targets set in the relevant national strategies.

Attracting investors and securing funding sources can still be challenging. Recently, however, financiers have shown increasing interest in financing renewable energy projects - in addition to commercial banks, leading players in this segment are international financial institutions such as the European Bank for Reconstruction and Development and the International Finance Corporation.

## PPA package

When introduced in mid-2016, the PPA package brought significant improvements and stability to the market compared to the previous period. However, there are some drawbacks that are relevant to both lenders and developers: 1) the PPA model is non-negotiable but can only be amended by amending the PPA Regulation. PPA can be concluded at an early stage of project development and it covers the commissioning period and the 12-year period from the commencement of commercial operation; 2) the PPA model provides for an advanced mechanism with regard to the force majeure clause, however, in the case of political force majeure, there is no adequate and effective mechanism for withdrawal from the PPA and compensation for damages; 3) one of the major disadvantages of the new PPA model is that the transferee can only provide bills of exchange as a guarantee to meet the obligations arising from the PPA. Given the specific and limited role of the bill as a pledge to Serbian law, this means that the producer is not adequately secured.

## Project finalization deadlines

To sell electricity under the feed-in tariff regime (FIT), the producer must obtain privileged power producer status (3P status), within three years of obtaining the status of a preliminary privileged power producer (4P status). 3P status is only available after the renewable energy project becomes fully operational, secured with all necessary permits and licenses - including a power generation license and a grid connection permit. The deadline for obtaining 3P may be extended by (I) an additional year if the manufacturer finalizes construction within an

initially established three year period, and (II) in case of unforeseen circumstances.

### **Grid connection agreements**

The agreements governing the development and construction of the transmission connection infrastructure are concluded under the model prepared by the Transmission System Operator (TSO). The overall impression is that the position of the TSO is in some respects more favourable than that of the producer. The models are not specifically tailored to the creditor's entry into the agreement. Entry rights are agreed in practice on the basis of the concept of direct agreement. This type of arrangement has not been sufficiently tested in local practice. It could also be ineffective in the case of foreign creditors because of restrictions on the allocation/transfer of local claims/debts to non-residents.