

**THE NEW REGULATORY REGIME FOR THE PRODUCTION OF GASES OF RENEWABLE  
ORIGIN  
(HYDROGEN)**

The Decree-Law 62/2020 of August 28 was published, establishing the organization and functioning of the National Gas System and its legal regime.

Among other innovative aspects, it entails the new regulatory regime for the production of gases of renewable origin, including hydrogen.

The decarbonization of the gas sector is achieved by guaranteeing, at each moment, the incorporation of gases of renewable origin and low carbon gases in the system, respecting the technical and physical constraints of the National Gas System (SNG). Biomethane and hydrogen, generated from renewable energy sources such as biomass or water electrolysis and incorporated into the circulating fuel in the public gas network, thus ensure the continuity of gas supply and the progressive decarbonization of the sector.

Gases of renewable origin have the potential to complete the inversion of the Portuguese importing energy paradigm. In fact, the production of gases of renewable origin, in particular hydrogen, has a clear export potential, given the external demand for these gases in the intensely industrialized countries of Central and Northern Europe. The challenge those countries face - the lack of endogenous resources, in quantity and quality, that can be affected to the production of gases of renewable origin - are precisely the abundant production factors in Portugal, presenting very favorable conditions for the creation of an industrial cluster, focused on the production of gases of renewable origin. The growing recognition of renewable gases, particularly hydrogen, as an opportunity and modern, clean and versatile energy vector, promotes an energy

transition that focuses on national economic development, combining competitiveness and sustainability.

This regime foresees that the activity of production of gases of renewable origin is subject to prior registration. The previous registration for the production of gases of renewable origin can only be granted to legal persons that demonstrate adequate technical, financial and management capacity.

The previous registration is made through the electronic one-stop shop. After validation of the registration, when the project involves connection to the network, the transmission system operator, or the distribution system operator, as the case may be, who is registered on the same platform, shall declare, respecting the sequential order of requests, the existence of technical conditions for connection to the network and compliance with applicable regulations, setting forth the technical conditions for the proposed connection. The Directorate General of Energy and Geology accepts or refuses prior registration.

The prior registration may be refused within 30 days when the legal and regulatory requirements for the exercise of the activity or the absence of technical conditions are not met. After this period has elapsed without the registration having been refused, the producer may pay the fees due - to be defined in a later regulation - and may initiate the necessary procedures for the installation of the plant producing gases of renewable origin.

The elements of the application for prior registration for the exercise of the activity of production of gases of renewable origin are included in the annex and consist of a detailed description of the project and a set of elements relating to it and its management, as well as compliance with environmental and town planning requirements.

The plant must be operational within two years. This period may be extended once only for one year, when its insufficiency is due to reasons that are not attributable to the holder of the registration and cannot be avoided.

Holders of prior registration for the production of gases of renewable origin may set aside their production:

- To the injection, in whole or in part, into the national network;
- To self-consumption, individual or collective, namely in the area of transport and industry;
- Export, namely by land or sea.

The holders of prior registration for the production of gases of renewable origin may sell all or part of the renewable gas produced:

- To the wholesaler of last resort;
- By bilateral contracts;
- In organized markets.

Production support and specific purchase schemes for certain gases of renewable origin or low carbon gases will be defined by an ordinance of the Government member responsible for the energy area.

The member of the Government responsible for the area of energy may also establish by ordinance other support mechanisms for the production of gases of renewable origin or low carbon gases, aimed at achieving cost parity between these gases and natural gas or between these gases and fossil fuels.