

Hungary
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Questionnaire for the Avosetta meeting in Oslo, April 1-2, 2011:

Legal issues related to the promotion and regulation of renewable energy

The increased use of renewable energies is one of the essential building blocks of climate-protection-policy of the European Union and its Member States.¹ It also forms part of the strategy of energy security and competitive energy supply. These objectives are pursued by various legal instruments of European Union and national law promoting the use of renewable energies. The Union has with Article 194 TFEU a new and potentially far-reaching competence to develop its own energy policy. Directive 2009/28/EC sets ambitious targets for the development of renewable energies in the Member States. The choice of instruments is to a large extent left to the Member States.

This legally based promotion of renewables will however have problematic side-effects on other environmental assets than the climate. For instance, biodiversity will be endangered by biomass monocultures both within the EU and – by way of imports – in third countries. In some countries the development of wind farms and new hydro power plants is contested by the local communities and environmental groups. A new “internal” conflict between conflicting environmental goods appears to be emerging.

The goal of the Avosetta meeting shall be to first summarize EU and national legal strategies of fostering renewables and on that basis explore the said conflict discussing actual or potential legal instruments mitigating unwanted environmental side-effects. Such instruments include the general environmental law framework (as e.g. abatement of noise pollution, protection of species and habitats, land-use planning, etc.) and environmental protection clauses imbedded in the very law that fosters renewables (as e.g. the sustainability criteria of Art. 17 Directive 2009/28/EC).

As the legal area to be studied is broad and complex the national reports may focus on just one or a few renewable energy sources and/or one strategy of promotion and/or one environmental protection issue that is of high importance for the given member state and at the same time instructive also from other Member States’ perspectives.

¹ For the purpose of this questionnaire, ‘energy from renewable sources’ means energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases (definition of art. 2 lit. a) of 2009/28/EC). Feel free to limit your answers to major sources but in any case deal with biofuels.

Questions:

1. What is the share of renewable energies in overall final energy consumption in your country? From what sources is this renewable energy? How will / should the proportion and composition of renewable energy develop in your country? Can the requirements of the Directive 2009/28/EC be met or exceeded?

The current share (2010) of the renewable energies in overall final energy consumption is 7,4 %. The large majority of renewable energy in the electricity and heating-cooling sector is based on biomass (83%) followed by geothermal (9%) and wind (5%). The hydropower, sun and biogas have together only 3 % share. The Directive 2009/28/EC set the 13 % renewable energy target for Hungary, which the nowadays adopted National Renewable Energy Action Plan wants to exceed by 14,65 % by 2020. The new Hungarian government has a strong commitment for the extended development of renewable energy.

2. Describe the key national legislation to promote renewable energies.
 - a. Subsidies and other financial support?
 - b. Purchase guarantees? (example: feed-in tariffs?)
 - c. Quota system? (example: “green certificates”?)
 - d. A special legal framework for the installation of facilities for the production of renewable energy sources? (short description)
 - e. Sustainability requirements for biomass / biofuels production? (art. 17-19 of 2009/28/EC)

A. The renewable energy production is promoted in three different ways in Hungary. The main support mechanism is the obligatory feed-in tariffs system for renewable electricity. The other important way is the subsidising the renewable investments from EU and national funding resources. The third promotion tool is the positive discrimination of renewable energy production i.e. by securing network connection.

B. The feed in tariffs system has been operating since 2004 and this system is securing by some regenerative energy resources an investment friendly supporting scheme. Mainly the big (over 20 MW) biomass (wood) fired power plants benefits from the system and other producers like wind farms and

biogas plants can also be profitable due to the legally quoted tariffs which are increasing by the inflation rate annually. (The subsidizing of cogeneration is also part of the feed in system, called KÁT system.) Although there are binding maximal construction capacities for wind energy – currently only 310 MW – and the tariffs for example for photovoltaic are set so low (15 cent /KWh) that no investment has been realised yet. The EU funding resources are not available for all of the renewable energy investors, so the wind energy or biofuel production can not be subsidised.

C. There are no green certificates in Hungary.

D. Generally there is no special positive legal framework for the installation of renewable facilities. The licensing procedure of energy production capacities is currently very difficult and mainly not investor friendly. For example for a geothermal power plant with district heating capacity is more then 6 different main licensing procedure is needed, which contains more then 45 (!) different authority licenses and could take about 2-3 years! The Ministry of National Development – which has the competence for energy issues – wants to review the whole licensing procedure for renewable resources this year, so the recent development is very interesting.

E. The sustainability requirements for biomass / biofuels production of the Directive 2009/28/EC have been implemented at the very end of 2010 by the Act CXVII from 2010 about biofuels but the concrete measures of the new regulation is not known yet.

3. Describe mayor legal instruments, arguments, and court decisions concerning environmental protection issues of renewables.

The slow increasing of renewable energy share has not been linked to environmental protection issues, out and away the financing and licensing problems of renewable projects are in foreground. No serious court decisions are known, where a renewable projects would stop because of environmental protection consideration.

4. Is there a national debate about the sense and nonsense of renewable energies, and if so, has this lead to changes or corrections of the regulatory framework?

There is currently a strong debate between the fraction leader of the government's party and the Ministry of National Development about the role of massive wood co-firing in big biomass thermal power plants and the subsidizing of cogeneration. There is a law amendment before the Parliament in which the government fraction leader wants to prohibit the use of wood log as biomass fuel for thermal power plants. Their main argument is forest protection and the fear about over cutting the Hungarian woodstock. Similarly the amendment wants to cut back by 35 % of the current feed in tariff of electricity production from any renewable sources. These changes would lead the collapse of Hungarian renewable electricity production and the stopping of biomass based district heating in major Hungarian cities. The final decision is waited about the end of February.

5. How well do the public accept renewable energy proposals (eg new on- shore and off- shore windfarms, biomass plants etc.)?

The public generally accept very well the renewable energy proposals, but there are two types of renewable sources which have been disqualified at the past few years. The most "hated" is hydropower, its reputation has completely diminished during the construction of the big Danube dam by Bős/Nagymaros. This dam was a symbol of the environmental devastating of the socialist regime at the end of the 1980's and the construction was stopped by the first civil (and environmental) protection movement during the socialist regime. Thanks to these events for more then 20 years the extension of hydropower generation – and also water pump plant - becomes a tabu before the public view.

Another unaccepted issue is the construction of big straw fired biomass plants. A native investment group wanted to build one of the world biggest straw fired biomass plant (50 MW) in Szerencs, just few kilometres from the UNESCO world heritage site the Tokaj wine region. The heavy and well organised local protest stopped the investment.

6. How does Strategic Environmental Assessment and Environmental Assessment apply to renewables in your country? Have any particular legal/procedural issues emerged? How does Natura 2000 influence the promotion of renewables?

Both Assessments are also applicable for renewable projects. The Hungarian Environmental Protection Authority has a strong status, and all new

commercial construction projects of renewable energy production are starting with the environmental assessment. This kind of licensing has a relatively stable status during the project management procedure so the legal/procedural problems are linked rather to the other aspects of the licensing procedure. About 21 % of the Hungarian territory belongs to Natura 2000 and of course the general EU environmental protective restrictions are in these areas applicable for renewable projects too.

7. Do the existing or planned national legal instruments promoting renewables already comply with EU law or are important adaptations required?
What is the status of adoption of the new pieces of legislation necessary to transpose into domestic law the new provisions of Directive 2009/28/EC?
Were there already court decisions or infringement procedures taken by the Commission concerning this question?

The Directive 2009/28/EC has not been completely implemented yet. Although the major part of the Directive is already part of the Hungarian law since the end of 2010, but there are fields of the legislation which are not in compliance with the paragraphs of the Directive. This refers especially to the easy licensing and promoting obligation of the state. See further Answer 2.D.

The Commission started the infringement procedure against Hungary at the end of January 2011.

8. Is there anything like a general framework act on climate change issues, and if so, what is its main content? If no, is such an act being considered?

There was a climate change framework act proposal at the beginning of 2010, but at the end the act was not accepted by the Parliament. The government is actually in the phase of rethinking this kind of legislation, but before 2012 no new act proposal is waited.