

## **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.<sup>1</sup> 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.

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<sup>1</sup> 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?
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)
3. Describe major legal instruments, arguments, and court decisions concerning environmental protection issues of renewables.
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?
5. How well do the public accept renewable energy proposals (eg new on- shore and off- shore windfarms, biomass plants etc.)?
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?
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?
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?

