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Spanish Report
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Legal issues related to the promotion and regulation of renewable energy

1. Share of renewable energies and other general matters

1.1. Renewable energies. According to the Action Plan on Renewable Energies 2011-2020 (PANER) submitted to the Commission by the Spanish Government, in 2009, reference year for the drafting of this Plan, renewable energies covered 9,4% of total supply of primary energy sources. The distribution was as follows:

a) Hydraulic: 1,7%
b) Wind: 2,4%
c) Biomass and waste: 3,9%
d) Geothermic: 0,01%
e) Solar: 0,5%

It is expected a share of 22,7% by 2020%, that is 2,7% more than forecasted. The progression would be as follows:[1]

Energy consumption (Ktep)	**2008**	**2012**	**2016**	**2020**
Total Energy consumption	101.918	93.321	95.826	98.677 %
Renewables	10.5%	15.5%	18.8%	22.7%

However, those estimates are based on the two main arguably optimistic assumptions (a) GDP for 2011 will be 1,8%, whilst according to several other studies growth may be 1% less than predicted by the Spanish government (0,8%-0,9%; IMF: 0,7%); and (b) sustained growths of 2,7% per year until 2020. As regards the production of electricity derived from renewable sources, the distribution among the different sources was as follows in 2009:
Renewables: 24,7%
- Hydraulic: 9,0%
- Wind: 12,4%
- Biomass: 0,8%
- Urban waste: 0,3%
- Biogas: 0,2%
- Solar (photovoltaic): 2,0%
- Solar (thermoelectric): 0,0,3%

In 2010, renewable sources represented 13,2% of final energy consumption. In the electrical sector, renewables amounted to 32,3% (wind 14,6%; hydroelectric: 11,9%). CO_2 derived from electricity represented minus 19,3%.

[1] www.idae.es/index.php/mod.documentos/mem.descarga?file=/documentos_20091228_Informe_prevision_Directiva_Renovables_2009_28_CE_2__044f7c9a.pdf

As regards "bio" fuels, the Spanish Government has approved an increase from 5,8% to 7% in diesel. There are already 48 plants with an output of approximately 4 million tones.

2. Describe the key national legislation to promote renewable energies.

2.1. The setup of a legal framework in Spain for renewable energies began at a late stage with Law 82/1980, a still in force piece of legislation with broad provisions either largely ignored or not fully implemented. Law 54/1997, on electricity, distinguishes between two types of production. On the one hand, a common regimen, mainly based on a free market approach and, on the other hand, so-called special regime, referred to renewable energy (solar, wind), including biomass, cogeneration and waste. The first serious attempt to regulate renewables was set out in Royal Decree 2818/1998. This regulation established a payment mechanisms based on a feed-in tariff. A more elaborated mechanism was set out in Royal Decree 436/2004. Under this regulation, there was a choice between a feed-in tariff; or a market price plus a premium plus (in some cases) an incentive. The current system is enshrined in Royal Decree 661/2007, regulating the production of electricity based on the special regime (repealing Royal Decree 436/2004).[2] Royal Decree 661/2007, applies, among others, to solar installations, wind power, geothermic, tidal energy, marine currents, hydroelectric installations between the range of 10 MW-50 MW, installations using biomass from farming, biofuels, or other wastes. To benefit from the regulation set out in the Royal Decree all special installations must be included in a public registry of the Ministry for Industry. According to the Royal Decree, a double system is allowed: (a) to cede the electricity through the distribution grid; in this case, a single fee-in-tariff is granted (cents of euro/KWh); (b) to sell the electricity in the market; in this particular case, the price is the result of offer and demand albeit it may be supplemented by a premium (cents of euro/KWh). The holder of an installation subject to a special regime must conclude a contract with the distributor even if no electricity is generated. The former is granted the right to sell all or part of his production and transfer it to the grid through the distributor, provided the grid may absorb it. Nevertheless, priority access is also guaranteed. The Royal Decree also enumerates a series of obligations to be complied with by producers. Among others, they must avoid any disturbances to the grid when ceding or receiving energy. Installations with a total output of more than 10 MW (or installations in combination with others and summing up more than 10 MW) must be subject to a generating control centre acting as their agent with the distributor. Overall, the system guarantees payments during the lifespan of the installations. However, reductions are also foreseen as long as the installations reach a certain number of years 20 (wind) or 25 (solar).[3] The application of the Royal Decree led to the installation of many solar and wind plants based on its favourable conditions.

In 2008, the Spanish government adopted Royal Decree 1578/2008 regarding a new economic mechanism applied to electricity produced by photovoltaic solar panels. It covers to photovoltaic facilities registered after September 29th 2008. The reason

[2] Royal Decree 661/2007 has been subject to several amendments.
[3] Now 28 years.

for this deadline is as follows.[4] According to Royal Decree 661/2007, a target of 371 MW was set out for photovoltaic solar installations. Once 85% of that threshold was reached a deadline had to be set up and all installations already registered benefited from the tariff established in Royal Decree 661/2007. The new ones had to be listed in a so-called pre-allocation register, this list being a requisite to benefit from purchase tariffs under Royal Decree 1578/2008. This regulation also sets out the maximum payment level for electricity produced by each type of installation and modifications over the coming years. Royal Decree 1578/2008 draws a distinction between (a) installations located on roofs or façades of immovable, closed constructions, used for residential, service, commercial or industrial purposes, and also including agricultural uses; and (b) the other installations. The installations affected by the Royal Decree cover those with a capacity less than or equal to 20 KW; and also those with a capacity exceeding 20 KW. Registered installations are subject to a call for the setting of the corresponding tariff.

Royal Decree 1565/2010 concerning the amendment of certain aspects related to the activity of energy production under the special regime set out in Royal Decree 661/2007, regulates the technical integration of renewable energies and cogeneration facilities, and tried to simplify administrative procedures.

However, the scenario changes in 2010. Royal Decree 1614/2010 modified certain aspects regarding wind energy and solar power. It included a 35% reduction of the renewable premium applicable to wind capacity (installations of more than 50 MW and those under Royal Decree 661/2007). This is valid from 1 January 2011 until 31 December 2012. Solar thermoelectric installations are compelled to be under the tariff retribution system during their first 12 months after being granted a definitive onset certificate. For both technologies a limitation on the number of hours of operation entitled to obtain a premium was set out. By Royal Decree Law 14/2010, of 23 December, establishing urgent measures to correct the tariff deficit in the electricity sector, the Spanish government adopted several measures affecting photovoltaic plants, i.e., by a feed in tariff cut of around 30%. The cut is applicable to power plants which had obtained their authorizations before the date of the cut. According to the Royal Decree Law, a maximum number of hours of energy derived from photovoltaic plants and having access to a feed-in-tariff is reduced and those installations are also subject to a toll of 0,5 euros MW/h in order to access to transport and distribution networks. Restrictions on the production of electricity depend on the technology used and range from 1.250 hours equivalent to 1.707 hours per year. However, the period for which photovoltaic solar installations may enjoy the tariff is extended from 25 (previously set out in Royal Decree 661/2007) to 28 years. These measures have been criticised since they have retrospective effect. Approximately 50.000 producers would be affected but also the financial sector that granted generous loans. The Commission (DG Energy) has issued a letter of 22 February 2011 criticising this approach.
Those affected by that change in the legislation will appeal the decision before the London Court of International Arbitration demanding 400 million euros.

[4] In April 2011, the National Energy Commission (*Comisión Nacional de la Energía*) has suspended the payment of feed-in-tariffs to 304 solar installations that had not guaranteed production of energy before 30 September 2008. In March 2011, the Commission took a similar decision in respect of 347 installations.

2.2. Recently approved Law 2/2011, of 4 March, on Sustainable Economy, has included several (fairly vague) provisions concerning a sustainable energy framework. Article 78 sets out a list of national objectives on energy efficiency and renewable energies. The latter would represent 20% of overall energy consumption by the year 2020 (22,7% according to Government's own forecasts, as seen above). The law also indicates that that objective is to orientate the drafting of public policies an also of public incentives for the development of different energy sources. In broad terms, that Article declares that the Spanish government will adopt plans for renewable energies comprising rules guiding and supporting energy offer and demand. In three months' time from the Law's entry into force (6 March 2011) the government must submit a plan encouraging the participation of renewable energies within overall energy production. Public incentives are also foreseen albeit in blurred terms. According to the Law, future laws will regulate incentives aiming at increasing technological changes in the case of renewable sources and guaranteeing sustained flows of energy derived from those sources. Encouragement of research and development is also contemplated in the Law but it is doubtful whether the Law provides new grounds for those activities bearing in mind current budget constraints. Again, the wording it employs is rather imprecise. Public authorities are to promote research activities in the field of renewable energies and also of those that may reduce climate change gases. Administrative requirements supporting renewable energies are to be simplified. The Law also provides that the government will approve plans and programmes to encourage the development of smart grids. Overall, the provisions of Law 2/2011 remain fairly loose. In fact, it should be observed that Spain has not yet transposed Directive 2006/32, on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC. The Spanish government has indicated that a bill will soon be submitted to Parliament.

2.3. Electricity deficits. One the most intractable problems in Spain is still the difference between real energy production costs and regulated prices set out by the central government. Benefits derived from transport and distribution have traditionally been insufficient to cover the costs. Successive governments have tried to reduce this deficit without at first increasing the price the final consumer had to pay for the consumption of electricity. As long as the deficit increased the government was forced to raise final consumption prices. As of 1 January 2011, electricity prices have been increased by 9,8%. According to the Ministry for Industry the deficit amounts to 16 billion €. In addition, the Government created by Royal Decree Law 6/2009 a fund for the repayment of the deficit (*Fondo de Titulación del Déficit del Sistema Eléctrico*). Rights to recover the deficit are transferred to a structured fund. The fund issues debt with the support of the State. The first issuance of bonds (January 2011) has covered 2.000 million euros of the total deficit of approximately 22.000 million euros.

2.4. Current legislation foresees subsidies and tax benefits for the carrying out of renewable energy projects. The following are examples of the approach adopted:

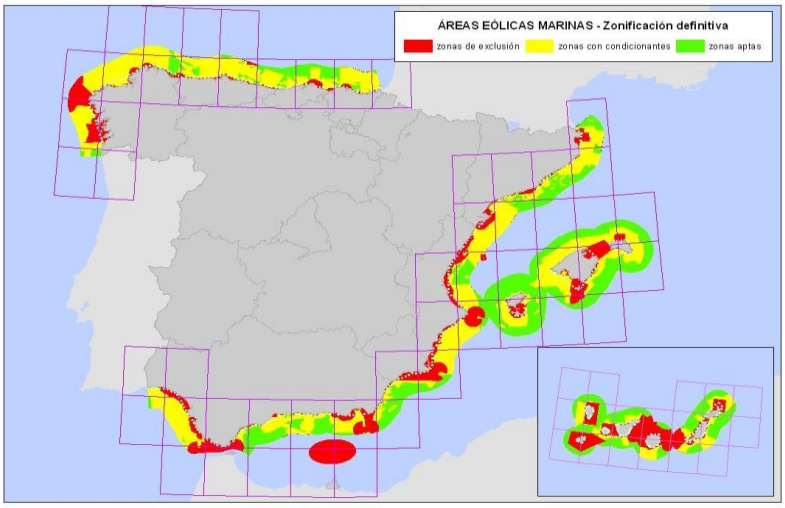
a) Corporate tax Law (Royal Legislative Decree 4/2004) provides a tax deduction of 8% applicable to the costs of environmental investments (Article 39). This provision is the result of the application of the recently approved Sustainable Economy Law 2/2011.

b) The Law on local authorities' public finances (Royal Legislative Decree 2/2002). Deductions are available in the case of buildings installing solar energy mechanisms (Article 74) or for those who use or produce energy derived from renewable energies (Article 88, 50% deduction). Further deductions are available in the case of constructions installing solar energy equipment (Article 103).

c) The Autonomous Communities may also grant public aids for energy projects and in general energy efficiency.

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

3.1. Authorisation procedures depend on the general distribution of powers between the State and the Autonomous Communities in the field of energy. The State is empowered to set out the bases of energy law (Article 149.1.25 of the Constitution). Those rules must be constrained. The Autonomous Communities are mainly empowered to develop those basic rules (theoretically to develop their own policies) including the installations for the production, distribution and transport of energy provided they are circumscribed to the territory of the Autonomous Community (in particular the transport of energy). In the light of the foregoing, the State has adopted basic rules on the authorisation of renewable energy installations (within the reach of its powers, Royal Decree 661/2007)) and the Autonomous Communities have also approved their own rules, e.g., energy efficiency, wind farms and the like. Apart from that, the State remains competent in territorial sea matters. The main regulation was approved by Royal Decree 1028/2007, on the procedure for the authorisation of installations of electricity in the territorial sea. So far, there are no marine wind farms in Spain. The Ministry for the environment published in April 2009 the first map for the future location of those farms.



Green: areas able to have wind farms.
Yellow: areas subject to limitations
Red: areas where wind farms cannot be carried out

3.2. The Spanish courts are dealing with an increasing number of appeals against decisions authorising renewable energy plants, particularly windmills. The following are examples of cases considered by the courts in the last years (in chronological order); a reference is also made to other issues.

- Judgment of the Supreme Court of 13 October 2003. This case concerned the authorisation for a wind farm in an area not designated as SPA but hosting species included in Annex I of Directive 79/409 (as it was then). The Supreme Court declared that the plaintiffs had not proved that the area deserved designation under the Directive. It also rejected a further allegation that rules on country planning had been breached.

- Judgment of the Supreme Court of 27 October 2004. The plaintiffs challenged a Decree for the authorisation of wind farms in the Autonomous Community of Cantabria. Among other things, they questioned the existence of a management plan not foreseen in the electricity laws of the State and of the Autonomous Community. The Court dismissed this allegation by holding that those pieces of legislation empowered the public authorities to adopt such plans.

- Judgment of the High Court of Castilla y León of 21 January 2005. This case also concerned whether a simplified environmental assessment procedure was enough to consider the environmental effects of a wind mill. However, in this case the Court came to the conclusion that there was no need to carry out the ordinary assessment procedure since the affected area was not subject to a particular protection regime.

- Judgment of the High Court of the Autonomous Community of Castilla y León of 29 April 2005. This case concerned an environmental assessment carried out by the government of the Autonomous Community. The Court observed that it has followed a simplified procedure instead of the ordinary one. Therefore, it quashed the decision rejecting the application for the construction of a wind farm.

- Judgment of the Supreme Court of 30 April 2008. The subject matter of this case was the appeal against the grant of an authorisation for the construction of a wind farm due to its likely effects on fauna and flora. The plaintiff unsuccessfully argued that the authorisation could not be granted by the department of industry of the Autonomous Community but by those in charge of the protection of the environment. However, the Supreme Court concluded that the unconditional pre-eminence of the environment department over those empowered to authorise the project, as argued by the plaintiffs, had not legal base. The Court also recalled a previous judgment (of 11 October 2006) that had examined the compatibility between the production of renewable energy and the protection of fauna and flora. According to the Court, any conflicts should be resolved in favour of the prevalent interest, as stated in the applicable laws, provided no compatibility could be attained. Renewable energies contributed to reduce the consumption of oil and also of CO_2 emissions. The execution of a wind farm had to minimise the effects on species, particularly birds. The existence of a Natura 2000 site could also justify the turning down of renewable energy projects.

- Judgment of the High Court of the Autonomous Community of Madrid of 10 November 2009. The Court came to the conclusion that the public authorities had rightly rejected the application for the construction of a solar installation due to the existence of a SPA. The Court observed, however, that the public authorities had previously granted subsidies for those installations.

- Judgment of the Supreme Court of 30 November 2009. The Supreme Court quashed a provision included in Royal Decree 661/2007 requesting the submission of a guarantee for accessing and connecting the installations to the grid. The Court held that that requirement should have been enshrined in a law and not in an ancillary regulation.

- Judgment of the High Court of Castilla y León of 10 May 2010. This case concerned the construction of three wind farms. The Court held *inter alia* that the assessment of environmental effects had contemplated different specifications from those finally approved. A new environmental assessment was also needed to examine synergic effects on Natura 2000 sites.

- Judgments of the High Court of the Autonomous Community of Valencia of 13 and 29 April 2010 and 8 October 2010. The Court quashed the extension of a wind farm due to the illegal fragmentation of a single project into three different wind farms. The court held *inter alia* that the Spanish government was empowered to authorise the project since it exceeded the threshold of 50 MW set out in Law 54/1997. The Autonomous Community had thus divided the project into three different ones in order to avoid being deprived from those authorisation powers.

- Judgment of the Supreme Court of 14 May 2010. The subject matter of this case was whether wind farms required an authorisation to be granted by municipal authorities for the carrying out of the works (apart from others based on environmental considerations). The Court held that bearing in mind that wind firms consisted of permanent installations they required the municipal authorisation, and that they were subject to a tax on the carrying out of works, installations and other workings (ICIO).

- Judgment of the High Court of Castilla-La Mancha of 6 September 2010. The plaintiffs claimed (*inter alia*) that the electricity lines should have been buried. By contrast, the Court held that that option was less environmentally friendly since it was going to affect a long surface of the territory.

- Judgment of the High Court of the Autonomous Community of Andalucía. The Court ruled that solar plants must have been producing power before September 29, 2008, to receive the highest price available for electricity generation.

- Judgment of the High Court of the Autonomous Community of Galicia of 19 October 2010. Among other things, the plaintiffs challenged the expiry date of a wind farm plan. Initially, the plaintiff had been granted 443 MW. 80 MW were additionally granted at a later stage. Finally, the plaintiff requested three times the existing capacity. He argued before the court that the absence of an express

decision on the part of the public authorities meant that that extra capacity had been granted. However, the court observed that the applicable legislation made it clear that no capacity could be granted by an implied decision.

- Judgment of the High Court of the Autonomous Community of Murcia of 5 November 2010. This case concerned the construction of a wind farm next to a previous one. The owner of this latter farm challenged the authorisation arguing that the new one could affect the production of his own farm. The Court dismissed the challenge by holding that the plaintiff had not properly sustained his allegations.

- Judgment of the High Court of the Autonomous Community of the Basque Country of 18 February 2011. The court declared that the government of the Basque Country had not properly justified why a project for the construction of a wind farm embraced unacceptable impacts on a site of Community importance. The Court also declared that the environmental assessment had incorrectly rejected compensation measures proposed by the developer and previously requested by the authorities.

- Judgment of the High Court of Cataluña of 24 of February 2011. The Court granted interim measures by imposing the halting of a government decision (of 1 June 2010) on priority sites for the construction of wind farms, due to the lack of previous strategic environmental assessment.

Overall, the Spanish courts are becoming more active in quashing authorisations due to the lack of proper assessment of environmental effects, procedural deficiencies, or lack of motivation of the decisions adopted.

4. Debate on renewable energy.

4.1. Arguably, there is no reasonable energy framework in Spain. In the last years different governments have tried to organise it with piecemeal approaches depending on variable conditions. The legal framework has been subject to many changes by resorting to urgent laws. The latest example has been the feed-in-tariff cut applicable to renewables, a matter that has caused concerns in Brussels due to its retrospective effect. As indicated above, renewable energy received ample support from the public authorities but arguably they have realised that subsidising them has been very expensive and the results have not met prior expectations, save perhaps in the case of wind farms. Overall, sustained production largely depends on atmospheric conditions and Spain has been subject to droughts but also to high winds. According to statistics provided by *Red Eléctrica de España* (2010), one of the most notable events was the breaking of the trend in dry years which had been registered since 2004. Abundant rainfall registered throughout the majority of 2010 placed producible hydroelectric at 36.568 GWh, the highest since 1997. That value was 30 % higher than the historical average value and 65 % above the 2009 figure.[5] The position of nuclear power stations should also be considered. The Spanish government has decided to extent the existing authorisations but the debate still remains as to whether they will continue operating in the next years bearing in mind

[5] www.ree.es/ingles/sistema_electrico/pdf/infosis/Avance_REE_2010_ingles.pdf.

that some of them are already 40 years old (e.g., Garoña nuclear plant; there are six plants encompassing eight reactors altogether). Law 2/2011, on sustainable economy, refers to nuclear energy by indicating that the government will determine its participation with other energy sources bearing in mind the existing nuclear power installations and the extension of current authorisations. Nevertheless, new authorisations are not foreseen.

4.2. Solar energy has also caused concerns due to the construction of multiple installations. Nevertheless, in this particular case the debate has been focused on the subsidies granted for a still expensive method of production and reported fraud cases.

4.3. Electricity companies and other manufacturers of wind farms have criticised the changing scenario. One of the leading manufacturers (*Gamesa*) declared that it had been unable to sell a single turbine in Spain since March 2009. In 2010, 100% of its production was sold abroad.[6]

4.4. Two Autonomous Community (Galicia, Law 8/2009) and Castilla-La Mancha have approved a tax on wind farms. This tax charges the producers of electricity based on this technology and depending on the number of turbines. In essence, the taxable event is the visual or environmental impact on the territory caused by the execution of a wind farm. According to Law 8/2009, the distribution of the tax per number of wind turbines is as follows:

Wind turbines	**Tax (€)/per turbine**
1-3	0
4-7	2.300
8-15	4.100
More than 15	5.900

Monies levied are transferred to a fund for environmental compensation. They are to be invested in municipalities affected by wind farms. The activities covered by the fund are biodiversity protection, the promotion of energy efficiency, and sustainable use of renewable energies.

The Autonomous Community of Castilla-La Mancha has recently approved (21 March 2011) a similar Law 9/2011. In this case, the distribution of the tax is as follows:

Wind turbines	**Tax (€)/per turbine**
Up to 2	0
3-7	489
8-15	871
More than 15	a) number of turbines less than or equal to the energy installed (MW): 1.233 euros. b) number of turbines more than the energy installed (MW): 1.275

[6] www.expansion.com/2011/02/01/empresas/energia/1296557625.html.

Monies levied are to be applied to renewable energy projects, development of public energy policies, and technology transfer.

The tax has led to criticism in certain quarters. First, it is disputed whether these installations are to be charged while others remain exempted, e.g., aerials. Likewise, it is argued that it is a contradiction to encourage the use of wind farms (with its corresponding feed-in-tariff) whilst imposing a tax on the same activity but due to their external (territorial and environmental) repercussions. Finally, the amount of revenues may not be important bearing in mind likely appeals and unavoidable administrative costs to levy the tax. However, as of January 2010, the Autonomous Community of Galicia had already levied € 22,3 million (99% of wind farms had paid, 125 out of 129) and Castilla-La Mancha expects revenues of approximately € 15 million.

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

5.1. Unlike nuclear power stations (subject to a moratorium) the public at large seem not to question renewable energy projects. Nowadays, the main concern has been the speed limit of 110 km/h imposed by central government until July 2011 aiming at reducing the consumption of oil, and the announcement of the Ministry for Industry that subsidies were going to be approved for the replacement of existing tyres by more environmentally friendly ones.

5.2. The public authorities have aired the positive side effects of renewable energies. For instance, favourable atmospheric conditions helped on 9 November 2010 to achieve a historic record concerning wind power production with 14.962 MW covering roughly 54% of energy demand. By contrast, on 26 June 2010, it hardly covered 1 %. There are also other factors that should not be neglected. Two Spanish firms, *Iberdrola Renovables* and *Gamesa*, are leading companies in wind energy. The former installed 39 wind farms worldwide in 2010. The latter is the leading constructor of wind turbines. However, in the last years there has also been a growing movement against these infrastructures due to their impacts on the territory, landscape and also on species (notably birds). Even though it is often argued that those installations may be easy dismantled allowing the soil to recover its pre-existing characteristics, the carrying out of installation works has been neglected. In mountain regions the rationale behind wind farms but also solar energy projects have been put into question since they occupy large portions of space and affect migration routes for birds and the summits of mountains chains. It should be added that the majority of legal challenges have been brought by NGOs. Plans for the future development of wind farms have been questioned before the courts (as seen above). Likewise, regional authorities have been forced to modify previous assumptions regarding the construction of several sites due to the existence of Natura 2000 areas not previously (or insufficiently) considered. In the case of solar energy installations the cost of each MW has also provoked debates as to whether the provide value for (public) money. Fraud has also been highlighted by the media. This forced the ministry for industry to request the National Energy Commission (*Comisión Nacional de la Energía*) to open an enquiry in 2010 on night production (!) of solar energy in certain Autonomous Communities. Between

November and January 2009-2010, amid snow blizzards and heavy rain, around 4.500 MW/hour were supposedly produced between 00:00 hours and 07:00 hours and another 1.500 MW/hours between 19:00 and 23:00 hours. Those extra 6.000 MW represented 2,6 million euros in subsidies (436 euros/MW). Energy distribution companies rejected those allegations by indicating that the data previously considered by the Ministry were not real and that the total energy production derived from solar installations (at least in one of the Autonomous Communities concerned) was just 0,03% during that controversial period.

5.3. As regards marine installations, there has been so far limited debate in Spain. As in other cases, main concerns are focused on habitats and species protection.

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?

6.1. Strategic environmental assessment and environmental assessment of projects contemplate the carrying out of renewables. Law 9/2006, on strategic environmental assessment, reproduces the wording of Article 3(2)(a) of Directive 2001/42. The autonomous Communities have also transposed the said provision in their own laws. In the case of projects, Annex I of Royal Legislative Decree 1/2008 requires assessments of:

- Group 3.i) (energy projects): wind farms with 50 or more wind turbines, or located at less than 2 kms., from another wind farm.
- Group 9. Other projects (executed in Natura 2000 sites or wetlands of international importance): Wind farms with more than 10 wind turbines; installations for the production of hydraulic electricity.

Annex II of the same provision

- Group 4.c): Installations for the production of hydroelectricity.
- Group 4.h): Wind farms (not included in Annex I).

The Autonomous Communities have also adopted similar rules.

6.2. As indicated above, one of the main concerns is the protection of Natura 2000 sites (which roughly affect 2% of Spain). The Spanish courts seem to be aware of the implications for those sites of the carrying out of projects affecting either the territory or species and habitats. In addition, they have considered illegal fragmentation of single projects.

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?

Spain has not yet transposed Directive 2009/28.

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?

8.1. Spain has implemented the basic EU rules on climate change (Law 13/2010 incorporates latest EU requirements. However, it has not yet incorporated Directive 2006/32, previously cited and there is not a general Law on this issue. However, two Autonomous Communities have approved laws on energy efficiency and renewable energy:

- Law 10/2006, of 21 December (Autonomous Community of Murcia).
- Law 1/2007, of 15 February (Autonomous Community of Castilla-La Mancha)
- Law 2/2007, of 27 March (Autonomous Community of Andalucía).

8.2. The three laws are mainly based on the drafting of plans of energy efficiency and renewable energy. However, the relationship among the different plans is not entirely clear. The binding effect of the plans is to be specified at a later stage. Incentives for renewables are merely enlisted. However, the Autonomous Community of Castilla-La Mancha refers to the grant of credits for energy projects.

8.3. Other Autonomous Communities have adopted rules on climate change.

8.4. Law 2/2011, on Sustainable Economy has included some provisions concerning climate change. First, activities related to the fight against climate change are declared of special interest for international commercial policy. As regards the reduction of emissions the Law provides that the Spanish government will promote the necessary measures to comply with compromises for the reduction of emissions of gases causing climate change. Public authorities will adopt measures to encourage the participation of the public and private sectors and of forestry operators to increase the absorption of CO_2. In particular, public authorities are to encourage sinks linked to forestry. Companies or private individuals may compensate for their CO_2 emissions through investments in forestry or agriculture programmes aiming at reducing of CO2. The criteria for compensation are to be set out by the Ministry for the Environment. This type of compensation is not valid for the fulfillment of Kyoto Protocol obligations. A fund is also created to encourage activities related to a low CO_2 emissions economy. The fund is devoted to purchase carbon credits, particularly those derived from Kyoto Protocol mechanisms.