

Energy Efficiency

The Neglected 20% Target

Position Paper

Justice and Environment 2011

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During the year 2011 J&E analyzed whether certain member states took effective legal measures in order to comply as to the 2020 targets. The following conclusions are based on national reports from Austria, Hungary and Romania. The reports are available for download here: <http://justiceandenvironment.org/publications/climate-change>

EU Approach

The European Commission introduced its new Energy Roadmap 2050 on 15 December 2011¹. Therein it found that the primary focus in achieving the EU's energy targets, both regarding its **Energy 2020** strategy, as well as beyond, must be laid on energy efficiency. In particular, proposals regarding the new energy efficiency directive need to be adopted swiftly. In light of the estimates that the 20% target regarding energy savings will **only be half reached**, the debate surrounding the new proposal therefore focuses on the debate **whether to include binding targets** to achieve the set goals.

Energy Efficiency Act – National Approaches

Until a proposal has been adopted, though, the national energy efficiency approaches remain the only efforts to be evaluated. In this regard, it seems striking, that from the three states assessed (Austria, Hungary, Romania), so far only Romania has adopted an **overarching Energy Efficiency Act**², whereas Hungary and Austria have not adopted any overarching legislation yet. However, the reasons in Austria therefore so far are primarily based on the division of competences to regulate a matter between the Laender and the Federation. Hence, Austria has concluded a state treaty with the Laender containing provisions of coordination and harmonization of measures relating to energy efficiency³ as well as supplemented legislative acts related to the matter (*e.g.*, General Act on Electricity, Federal Eco Power Act, Federal Procurement Law...). Moreover, despite the fact that in Austria there is a jurisdictional conflict between the Laender and the Federation regarding the issue of energy efficiency and energy savings, the adoption of an overarching Energy Efficiency Act is on the agenda for 2012. In Hungary no information is available whether coordinated action regarding energy efficiency is taking place. Certain acts of legislation have implemented provisions of the Directive (Act on Natural Gas Supply, Decree on procurement of energy efficient road transport vehicles), and in general, energy efficiency is a subject of political commitments (Program of National Cooperation, National Energy Strategy) as well as in specific programs which specify energy efficiency targets. No further information regarding any further legislative acts or amendments in Romania are available.

¹ **Energy Roadmap 2050**, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2011) 885/2, 15 Dec. 2011.

² Emergency Governmental Ordinance No. 22/2008.

³ Fed. Law Gazette I No. 5/2011.

In the abovementioned state treaty, Austria has determined that its **national savings target** is 80,4 PJ until the end of 2016, thus 9% of the average annual amount. Likewise, Hungary has adhered to this minimum savings target of 1%/annum as provided for in the Directive. Romania established a 40% target in its Energy Efficiency Strategy (Dec. No. 163/2004) until 2015.

End-Use Efficiency and Energy Services

Directive 2006/32/EC on energy end-use efficiency and energy services in Art. 4 stipulates that member states shall adopt and aim to achieve an overall **national indicative energy savings target of 9%** by 2016. Initially, Romania set its energy savings target to 13,5% (1st NEEAP). Hungary adopted its 1st NEEAP in 2008 outlining the existing and planned measures amounting to 9%, this has been confirmed by its 2nd NEEAP since then. Austria has, as elaborated, also set its national energy savings target to 9%.

Each state has selected a **monitoring body**. While the competences in Austria are shared between the federal authorities (Federal Ministry of Economic Affairs) and the provincial governments, the **Austrian Energy Agency**⁴ has been entrusted as an independent body. In Romania, the originally entrusted Minister of Economy and Finance and the Agency for Energy Conservation were replaced by an autonomous body, *i.e.* the **Romanian Energy Regulatory Authority**⁵. In Hungary the responsible Ministry of National Development has tasked the **Energy Centre**⁶ (background institution of the Ministry) with its monitoring activities.

According to Art. 14 of the Directive, the **2nd NEEAP** was to be submitted by the member states by 30 June 2011. While Romania so far has not submitted its 2nd NEEAP (a draft is available on the webpage of the Romanian Ministry of Economy, Commerce and Environmental Affairs, but it was not adopted by a governmental decision to date), Austria and Hungary both have submitted their NEEAPs.⁷ Both NEEAPs seem to largely adhere to the **criteria set forth by Art. 14**. But at the same time, one major point of criticism in both states remains the partly missing coordinated nation-wide approach. For example, regarding capacities concerning introducing energy efficient measures in transport-related issues, no estimates or evaluation methods seem to have been introduced so far. Nevertheless, both NEEAP address previous suggestions made by the Commission, as well as present themselves in a more clearly structures, project-based manner.

The Directive also lays emphasis on incorporating energy efficiency into public procurement, which so far often remains focused on price competition. Hence, Art. 5 in connection with Annex VI of the Directive contains requirements regarding **energy efficient public procurement**. Romania has incorporated measures regarding energy audits and to purchase or rent energy efficient buildings or parts thereof however has not introduced any guidelines on energy efficiency and energy savings as a

⁴ www.monitoringstelle.at.

⁵ www.anre.ro.

⁶ www.energycentre.hu.

⁷ They are available at ec.europa.eu/energy/efficiency/end-use_en.htm; unfortunately so far the Hungarian government has not issued an English version of their NEEAP.

possible criterion in competitive tendering for public contracts. In comparison, Austria as well as Hungary have introduced new legislation regarding public procurement.⁸ Austria's complex procurement legislation even contains a fallback provision stipulating that procurement must take the environmental compatibility, *i.a.* energy efficiency, into consideration. Hungary's new Public Procurement Act (which will enter into force 1 January 2012) also contains sustainability (*i.a.* energy efficiency) as one of the constituent facts to be taken into consideration in the public procurement process. While all states have introduced stringent requirements in particular regarding road vehicles (also an implementation of **Dir. 2009/33/EC**⁹), so far only Austria has issued a **national action plan for sustainable public procurement** containing **guidelines** for environmental friendly product and service procurement, and largely adhering to the EU Toolkit.¹⁰

The Directive also envisions including **energy distributors, distribution system operators and retail sellers** in the network of duty bearers. Hence, according to Art. 6 of the Directive, they should compile aggregated statistical information, and provide this information to the authorities upon request to properly design and implement energy efficiency improvement programs. Moreover, such institutions shall *i.a.* make energy services and audits available to their customers. In incorporation thereof, Romania has issued, as mentioned above Emergency Governmental Ordinance No 22/2008 and introduced independent energy audits as well as funds and financial mechanisms (no further information available). Hungary has implemented the requirements via Governmental Decree 273/2007 which bestows upon the Hungarian Energy Office the authority to further oblige the private sector. Austria has concluded voluntary agreements with interest groups of the energy industry, which contain specific savings targets, but leave the implementation of measures to obtain this target up to the individual addressed institutions. In this connection, it has also established a nation-wide Climate and Energy Fund (www.klimafonds.gv.at) aimed at energy efficiency, co-financed by the aforementioned enterprises.

In order to further integrate the private sector, Art. 12 of the Directive foresees the introduction of **energy audit schemes** for enterprises to identify ways to reduce energy consumption. In comparison, Austria has issued the most wide-spanning energy audit scheme regime. While the energy audits remain non-mandatory, they are funded to a large degree by the Climate and Energy Fund (see above) on a federal level, as well as by the various Laender, for example by the issuance of "energy efficiency vouchers". By subsidizing the voluntary energy audits, a large number of enterprises are reached. While Hungary has issued Governmental Decrees on the matter (273/2007, 176/2008 and 19/2009) which *i.a.* introduce compulsory energy certificates for buildings as of 1 January 2012, and electricity and gas traders are obliged to disclose lists of energy audits on their webpages and mention it in their customer services, from the information available it is not discernible whether these energy audits are in any way funded by the state. Romania has so far only issued a law on the auditing of the energy efficiency of buildings (Law 372/13).

⁸ Austria: Federal Procurement Law (Fed. Law Gazette I No. 86/2007); Hungary: Act CVIII on Public Procurement (2011).

⁹ See also the national execution measures at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:72009L0033:EN:NOT>.

¹⁰ www.nachhaltigebeschaffung.at/.

Finally, in order to achieve optimal energy efficiency, member states have undertaken a wide range of **further measures and legislation**. For example, Austria has introduced “**klima:aktiv**”¹¹, a climate protection initiative which combines a wide range of measures, but especially is geared on information dissemination. It comprises more than 20 programs on energy efficiency and more than 40 industrial enterprises participate in the program. In addition, existing legislation has been amended, *e.g.* the General Act on Electricity (ElWOG) to introduce further requirements of the Directive, for example “**smart meters**” and **informative billing**. Similar, Hungary has focused on the integration of non-governmental organization in cooperation with the Hungarian Energy Office to provide the public with the necessary information. However, this program by far does not seem as far-reaching as Austria’s klima:aktiv program, which has even been listed as an example of good practice regarding the provision of basic information. Romania, as mentioned also in lack of a 2nd NEEAP, has currently issued only minimal legislation with regard to energy efficiency, the few legislative acts focusing on buildings’ energy performance.

Energy Consumption Labelling

Directive 2010/30/EU¹² on **energy labeling**, which was to be implemented by the member states by 20 June 2011, requires suppliers to provide end-user information *i.a.* on the consumption of energy. Romania has so far not implemented the Directive and infringement procedures started in July 2011. Austria and Hungary have amended and supplemented their legislation to incorporate the obligation arising out of the Directive.¹³

Conclusion

Energy efficiency constitutes one of the three pillars in the EU’s 2020 strategy. Nevertheless, as mentioned above, the policy so far remains framed by **non-binding targets**, aimed at the reduction of the amount of energy consumed by building, machines and appliances to perform a given service. However, total consumption has continued to grow.¹⁴ While energy efficiency in itself is essential for reaching the aspired goals, energy savings (*i.e.* also the reduction of production numbers) constitutes an indispensable element in achieving an effective climate protection.

¹¹ www.klimaaktiv.at.

¹² Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products.

¹³ While Austria has issued the “Product Consumption Information Ordinance” (Fed. Law Gazette II No. 232/2011), Hungary has passed Governmental Decree No. 193/2011.

¹⁴ For example, despite the measures taken by Austria described above, in 2010 a new record regarding energy consumption in Austria was set:

http://www.statistik.at/web_de/statistiken/energie_und_umwelt/energie/energiebilanzen/index.html.

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