

Energy transition

Austria

Country Report

Justice and Environment 2013

Energy transition

Country Report

Austria

Country Report on Energy Transition AUSTRIA

The status report is aimed at presenting how the aspects of energy transition appear in the national legislation and policies in the areas of renewable energy production and of decreasing in energy consumption (including energy efficiency).

I. Promotion of the use of energy from renewable sources

1. Does the national legislation contain binding or indicative targets of increasing the share of energy from renewable energy sources?

According to Annex I Directive 2009/28/EG on the promotion of the use of energy from renewable sources Austria is obliged to increase the share of energy produced by renewable energy sources in gross final consumption of energy to 34% by the year 2020.

On a political level the Austrian Government Program 2008 - 2013¹ concedes considerable importance to the production of energy from renewable sources. Nevertheless no binding or indicative targets of increasing the share of energy from renewable energy sources have been established in the program.

Directive 2009/28/EC on the promotion of the use of energy from renewable sources was mainly transposed by the Austrian Green Electricity Act (Ökostromgesetz 2012 – ÖSG 2012)² The Act itself contains binding targets of increasing the share of energy from renewable energy sources. The determination of expansion targets for the individual green power technologies for the period up to 2020 is organized in Art 4 par 4:

- Water capacity: 1.000 MW (equivalent to an annual production of approximately 4 TWh of green electricity)
- Wind Power: 2.000 MW (equivalent to an annual production of green electricity from 4 TWh)
- Biomass and biogas: 200 MW (equivalent to an annual production of approximately 1,3 TWh of green electricity)
- Photovoltaics: 1.200 MW (equivalent to an annual production of approximately 1,2 TWh of green electricity)

¹ Regierungsprogramm für die XXIV Gesetzgebungsperiode: <http://www.austria.gv.at/DocView.axd?CobId=32965>.

² Federal Law Gazette I Nr. 75/2011.

2. **Has a National Renewable Energy Action Plan (NREAP) been adopted in your country? Does the NREAP cover all the details required by the Art 4 par (1) of the Directive 2009/28/EC (hereinafter: Directive)? Which are main measures to achieve the national targets for the share of energy from renewable sources set out in the NREAP?**

Directive 2009/28/EC requires the notification of national renewable energy action plans to the Commission by 30 June 2010. The Austrian Minister of Economy notified the National Renewable Energy Action Plan for Austria³ (NREAP-AT) on July 1st 2010. The NREAP-AT contains renewable energy targets and trajectories on international, national and sectorial level (electricity, transport, heating and cooling). It proposes concrete measures for achieving the mentioned targets in different areas. These targets and trajectories include an overview of policies and measures, specific measures as prescribed by Art 13ff Directive 2009/28/EC, specific measures for the promotion of the use of energy from biomass etc.

The main horizontal measures to achieve the national targets set out in the NREAP-AT are as follows:

1. The implementation of the Austrian Energy Strategy which is based on three main goals, namely:
 - increase energy efficiency
 - expand renewable energy
 - ensure long-term energy supply
2. Promotion and acceleration of the use of renewable energies by the Austrian climate protection initiative (klima:aktiv), a finance and promotion campaign.
3. The Climate and Energy Fund (KLI.EN FondsG⁴) promoting renewable energy systems and climate policies. The aim of this fund is to support achievement of a sustainable energy supply (increased energy efficiency, increased share of renewable energy) and a reduction of greenhouse gas emissions. The fund is supposed to support research and development regarding sustainable energy technology and climate in general, projects regarding public transport and environmentally sound goods transport and projects aimed at a promotion of sustainable energy technology on the market.
4. Austria's Environmental Aid Act (UFG⁵): This act provides for the possibility of funding, amongst others, for the protection of the environment by avoiding or reducing air pollutants and pollutants relevant for climate change. Funding is also possible for activities abroad.
5. Federal Agreement on Measures regarding buildings in order to reduce greenhouse gas emissions⁶; (Vereinbarung gemäß Art. 15a. B-VG zwischen dem Bund und den Ländern über Maßnahmen im Gebäudesektor zum Zweck der Reduktion des Ausstoßes an Treibhausgasen). The federal state and the Laender⁷ agree on the setting of quality standards for the promotion of the construction and redevelopment of buildings to reduce greenhouse gas emissions produced in

³ http://ec.europa.eu/energy/renewables/action_plan_en.htm

⁴ Federal Law Gazette I No. 40/2007.

⁵ Federal Law Gazette I No. 185/1993.

⁶ Federal Law Gazette II No. 251/2009.

⁷ In the following the term „Laender“ is used for the Austrian regions having legislative and executive powers within the federal system of the Austrian state.

connection with space heating. Establishing funding models for eco-friendly construction technics.

6. Climate Change Act⁸ (Klimaschutzgesetz – KSG) establishing binding climate targets and responsibilities.
7. Environmental Tax Reform which should increase taxation of resources and of energy consumption (still not implemented)
8. Integration of targets and measures for energy and climate protection into spatial planning.
9. Energy Efficiency Act – statutory regulations to increase energy efficiency.

Further measures:

- Promotion of renewable energy systems in the building sector;
- Tax relief for biogenic fuels⁹, Acceleration of biogas as a fuel; Increase in the share of renewable energy in private transport, Promotion of vehicles with low – emission and energy-efficient fleets;
- Regulation of the network access for biogas¹⁰, Promotion of renewable energy systems;
- Medium and long-term creation of a demand-orientated network infrastructure, development and protection of storage units for the integration of renewable energies;

3. Has the existing national regulation been amended or has new regulation been introduced into the national procedural legislation in order to fulfill Art 13 par 1¹¹ of the Directive?

Basically there is no separate regulation or law concerning authorization, certification and licensing procedures applied to the production of energy from renewable energy sources. As there is a huge amount of different types of power plants (wind, photovoltaic, biomass, water etc.), a broad variety of sectorial laws is to be applied in the different permitting procedures. The general legal basis for the construction and operation of premises for renewable energy forms is the Trade, Commerce and Industry Regulation Act¹² (Gewerbeordnung – GewO). Furthermore the federal nature of the Austrian state causes that legislative and executive competences are divided between the federal state and the Laender. The Austrian Constitution¹³ assigns matters of commerce and industry to the federal state in legislation and execution (cp. Art 10 par 8 Constitutional Law) whereas in energy issues competences are fragmented: In general electricity matters the federal state has legislative competences to set the basic principles and the Laender have the legislative competence to set the details and they have the executive competences. Basically that's why the permitting procedures for premises according to the Trade, Commerce and Industry

⁸ Federal Law Gazette I No. 106/2011.

⁹ Mineralölsteuergesetz; Federal Law Gazette I No. 630/1994.

¹⁰ Gaswirtschaftsgesetz (GWG): Federal Law Gazette No. 107/2011.

¹¹ Art 13. par 1 of the Directive Member States shall ensure that any national rules concerning the authorisation, certification and licensing procedures that are applied to plants and associated transmission and distribution network infrastructures for the production of electricity, heating or cooling from renewable energy sources, and to the process of transformation of biomass into biofuels or other energy products, are proportionate and necessary

¹² Federal Law Gazette I No. 194/1994.

¹³ Federal Law Gazette I No. 1/1930.

Regulation Act are not applicable to specific premises for renewable energy. Due to their importance we will highlight some energy-management legislation in the following:

The basic provisions for operation of electricity generation plants are set by the Federal Electricity Act 2010¹⁴ (Elektrizitätswirtschafts- und -organisationsgesetz 2010 – ElWOG 2010). Based on this Act the Laender enact their own Regional Electricity Act further elaborating these principles. In order to fulfill the requirements of Art 13 par 1 Directive 2009/28/EC Art 12 par 2 Federal Electricity Act states: „(framework provision) The implementing legislation may provide that distributed generation plants, stations that generate electricity from renewable energy sources or waste, and cogeneration plants **be submitted to a simplified procedure or notification requirement, provided that their capacity does not exceed a certain threshold**. Plants which are subject to a licence or notification pursuant to the provisions of the Gewerbeordnung (Industrial Code) 1994 shall in any case be exempt from the obligation to obtain an additional licence.”

This provision should guarantee that no high barriers are set and no complex proceedings are to be carried out with respect to electricity generation plants from renewable energy sources – However this could cope with the meaning of proportionate and necessary proceedings in the meaning of Art 13 Directive 2009/28/EC.

In fact most of the Laender’s Electricity Acts do not comply with the instructions of Art 12 Federal Electricity Act. The former cited acts rather provide for simplified procedures or a mere notification procedure (in contrast to a permitting procedure) for all production installations not exceeding certain power thresholds. This is to be seen very critically if we assume that the Federal Electricity Act is based on a general permitting provision on production installation – because then such an exemption clause can’t be handled that generously. Art 12 Federal Electricity Act does not define the criteria for applying simplified procedures or mere notification procedures in the permission of production installations – so the Laender decided freely between both alternatives.¹⁵

4. Have any technical specifications - which must be met by renewable energy equipment and systems in order to benefit from support schemes – been clearly defined in the national legislation¹⁶?

Technologies for the use of renewable energy sources in Austria have to meet certain quality standards in order to be able to be entitled to promotion. These quality criteria are established by the Austrian Standards Institute in the form of so called Austrian standards (Ö-Normen). Some of the most important Austrian standards, which are relevant for the use of renewable energy sources¹⁷, are listed in the section below:

¹⁴ Federal Law Gazette I No. 110/2010.

¹⁵ Cp. Hauenschild, Energieerzeugungsanlagen. In: Raschauer/Wessely, Handbuch Umweltrecht (2010²): p.437.

¹⁶ Art 13 par 2 of the Directive

¹⁷ Cp. NREAP-AT, p. 31.

machine safety

directives of the Austrian association of gas and water (ÖVGW) in terms of the latest technology, the current version of the harmonized standards for the safety of machines must be observed. The list of standards and directives to be applied is indicated in the technical basis for the assessment of biogas plants

- Austrian Standard 12828 Heating installations in buildings – the planning of heating installations
- Austrian Standard 14336 Heating Installations in buildings – installation and approval of water heating installations

electrical engineering and energy management

- ÖVE (Austrian Electrotechnical Association) rules and SNT-Vorschriften (electrotechnical safety regulations on standardisation and typification) are legally binding

noise restriction

- Austrian Standard S 5004 – noise emission measurement.
- Austrian Standard S 5021-1 – sonic principles for the local and supra-local spatial planning and development
- ÖAL (Austrian Society for Noise Abatement) Directive No 3, Assessment of noise emissions, noise disturbance in the neighbouring area

air quality management

- technical basis for the assessment of emissions from stationary engines Special field: fermentation/waste disposal technology
- Implementing directive the proper use of biogas wet manure and fermentation residue in farmland and grassland

Water management

- Austrian Standard B 2506-1: rain water drainage systems for the flow from roof areas and hard usable surfaces, hydraulic design, construction and operation¹⁸

5. **Do any policy document and/or legislative measure recommend to local and regional administrative bodies to ensure equipment and systems are installed for the use of electricity, heating and cooling from renewable energy sources and for district heating and cooling when planning, designing, building and renovating industrial or residential areas?**

The Federal Agreement on Measures regarding buildings in order to reduce greenhouse gas emissions¹⁹ (Vereinbarung gemäß Art. 15a. B-VG zwischen dem Bund und den Ländern über Maßnahmen im Gebäudesektor zum Zweck der Reduktion des Ausstoßes an Treibhausgasen) is a treaty concluded between the federal state and the Länder in implementation of the Kyoto Protocol and the Austrian climate strategy²⁰.

¹⁸ Cp. NREAP-AT: http://ec.europa.eu/energy/renewables/action_plan_en.htm.

¹⁹ Federal Law Gazette II No. 251/2009.

²⁰ <http://www.accc.gv.at/strategie.htm>

The federal state and the Laender agree on the setting of quality standards for the promotion of the construction and redevelopment of buildings to reduce greenhouse gas emissions produced in connection with space heating. The agreement includes the establishment of funding models for eco-friendly construction technics, and promotes the use of renewable energies in heating and cooling. Furthermore new quality standards are set for the construction and redevelopment of public buildings.

6. Does the national legislation encourage local and regional administrative bodies to include heating and cooling from renewable energy sources in the planning of city infrastructure?

Due to the federal structure of Austria spatial planning is a horizontal issue. Certain matters are dealt with the federal state, certain matters with the individual Laender and certain matters are dealt with the municipalities. The competent authorities for general spatial planning are the individual federal states. So as general spatial planning falls within the competence of the Laender it is regulated by each Land in an appropriate spatial planning act. Spatial planning for high-voltage lines is with the competence of the federal state. The spot, on which the plant will be built, must have an adequate land allocation. The intended use of the area is shown in the zoning plan. Land allocation falls within the competence of the municipality.²¹ Already the Austrian energy strategy recommends the enshrinement of energy and climate protection goals into Austrian spatial planning on a normative level. The main aim is that modern and integrated energy concepts in spatial planning shall be used for decision making in land use, investment in infrastructure, and the allocation of subsidies. Thus the use of energy in the realization of plans and projects is to be considerably influenced. Aims and measures shall be fixed within spatial concepts, plans and programs and above all the Austrian Spatial Development Concept 2011 (ÖREK 2011)²² is elaborated by the Federal State, the Laender and the municipalities. It projects a common vision and an action program on state level for spatially relevant planning and respective measures. Subsequently on regulatory level Austrian Spatial Planning Acts refer to these goals – exemplarily the Salzburg Spatial Planning Act²³ declares that the efficient use of energy and the use of regional/local renewable energy sources is one of its basic principles.

The Climate and Energy Fund promotes projects with respect to the potentials of renewable energies and their added-value for spatial planning on regional and local level.²⁴ Also in the frame of "Smart Cities" projects the Climate and Energy Fund promotes the implementation of a "Smart City" or a "smart urban region", ie of a neighborhood, a village or an urban region in Austria, turning to a "Zero Emission City" or "Zero Emission Urban Region" through the use of intelligent green technology.²⁵

²¹ Cp. also NREAP-AT

²² ÖREK 2011 (English version): [http://www.oerok.gv.at/fileadmin/Bilder/2.Reiter-Raum u. Region/1.OEREK/OEREK_2011/Dokumente_OEREK_2011/OEREK_2011_EN_Downloadversion.pdf](http://www.oerok.gv.at/fileadmin/Bilder/2.Reiter-Raum_u_Region/1.OEREK/OEREK_2011/Dokumente_OEREK_2011/OEREK_2011_EN_Downloadversion.pdf)

²³ Regional Law Gazette No. 30/2009.

²⁴ Cp. REGIO Energy project: <http://www.oir.at/de/node/397>.

²⁵ Cp. Smart Cities FIT for SET: <http://www.smartcities.at/foerderung-2/smart-cities-fit-for-set-3-call/>

Furthermore the Austrian Heating and Cooling Network Expansion Act (Wärme- und Kälteleitungsbaugesetz - WKLG²⁶) promotes the use of renewable energy systems. Beneath others (energy efficiency, CO₂ reduction etc.), declared aim of this act is the integration of renewable energy sources in achievement of expanding small-scale regional heat supply in rural areas by granting of investment subsidies (cp. Art 1 WKLG). Support may only be granted for investments, of which the implementation was initiated after 1 January 2008. Outside the scope of this federal act are:

“1. district heating and cooling systems and grids, insofar as they are operated solely on the basis of renewable energy sources. This does not apply to:

a) infrastructure lines and

b) systems and grids which are operated on the basis of animal meal, waste liquid or sludge;”
(cp. Art 2 WKLG).

The Federal Agreement on Measures regarding buildings in order to reduce greenhouse gas emissions (see above) includes provisions on subsidies for the renovation of heating systems in residential buildings (cp. Art 8). Subsidies shall only be granted if the innovative climate relevant heating systems will be installed (which are to be mainly understood as systems based on renewable energy cooling and heating sources). Consequently the Austrian building regulations indicate that for new buildings, extensions and conversions innovative climate relevant heating and cooling systems are to be used (cp. Art 118 Viennese Building Code).

7. Have legislative measures been introduced in the national building regulations and codes in order to increase the share of energy from renewable sources in the building sector²⁷?

Only the Laender have the competence with respect to building regulations, thus every Land disposes of a separate Building Code – 9 Building Codes in total. To ensure uniform development of measures and incentives set for the use of renewable energies in the building sector the already twice mentioned Federal Agreement on Measures regarding buildings in order to reduce greenhouse gas emissions (see above) was concluded. Implementation measures on regional level and further measures in the building sector will be exemplified in the following:

The Viennese Building Code²⁸ prescribes that for new constructions, considerable alterations, modifications and repairs high-efficiency alternative systems must be used as far as they are technically, environmentally and economically feasible. The law understands as high-efficiency alternative systems, beneath others:

²⁶ Federal Law Gazette I No. 113/2008.

²⁷ Regarding to the questions No. 5-7. see: Art 13 par 3 of the Directive

²⁸ 05/11/2012 LGBl. Nr. 64/2012.

“decentral energy supply systems from renewable energy sources, the use of combined heat power, district heating or cooling systems, especially if they are based wholly or partly on renewable energy sources or derived from highly efficient combined heat and power plants [...]” (cp. Art 118 par 3 Viennese Building Code) Momentarily an amendment of the Viennese Building Code is under discussion further promoting renewable energy and energy efficiency targets in the building sector.²⁹

The Salzburg Construction Engineering Act (Sbg. Bautechnikgesetz)³⁰ states that when new buildings with a surface area of over 1,000 m² are constructed alternative systems (= decentralized energy supply systems based on renewable energy sources, combined heat and power plants, district heating and cooling, effective heat pumps) have to be assessed and used, if this is technically, environmentally and economically feasible (cp. Art 4a Construction Engineering Act). An equal provision can be found in the Styrian Building Code³¹ (cp. Art 80) with the extension that for the construction of new residential buildings smaller than indicated above, the use of solar energy for hot water and/or district heating from renewable energy sources or high-efficiency combined heat and power plants is to give priority over other techniques.

8. In case of biomass, which national legislation or policy documents promote the conversion technologies that achieve a conversion efficiency of at least 85 % for residential and commercial applications and at least 70 % for industrial applications³²?

The supporting scheme *“Heat from renewable sources”* is part of the Austrian Energy Strategy and promotes measures supporting thermal energy, heat pumps and biomass heating systems in residential and commercial applications. Funding shall be exclusively granted to conversion technologies, with a conversion efficiency of at least 85 percent.³³

In 2012 the Green Electricity Act was amended and beneath others for the promotion of electricity systems based on geothermal, biomass or biogas only an obligation was introduced. Those technologies can only be promoted under this act if they meet certain energy efficiency criteria (conversion efficiency of at least 60 per cent – cp. Art 12 par 2 lit. 4 Green Electricity Act). The Laender get technology funding assigned, are used both for the promotion of new green energy technologies and energy efficiency programs.

²⁹ <http://www.wien.gv.at/bauen-wohnen/bauen/bauordnungs-novelle.html>

³⁰ Regional Law Gazette No. 75/1976.

³¹ Regional Law Gazette No. 59/1995.

³² Art 13. par 6 subpar 2 of the Directive

³³ Cp. Austrian Energy Strategy 2010, p. 59.

9. Does the national legislation provide that information on support measures³⁴ as well as on the net benefits, cost and energy efficiency of equipment and systems for the use of heating, cooling and electricity from renewable energy sources³⁵ are made available?

The only legislative document granting the disclosure of information to the civil society in environmental matters are the Environmental Information Acts (Umweltinformationsgesetz - UIG)³⁶. Due to the federal nature of the Austrian state we have one Environmental Information Act on Federal level and nine on regional level. The Environmental Information Act does not only confer the right to the citizens to require environmental information from the authorities or other information holders, but obliges the respective bodies to actively promote the publication and disclosure of relevant environmental information. The concept of environmental information implies the following areas: policy measures, acts, plans, programs and activities which affect the environment or imply its protection. In addition, cost-benefit analyses and other economic analyses and assumptions on the above-mentioned measures should be published (cp. Art 2 Environmental Information Act). According to Directive 2009/28/EC and the Environmental Information Acts Austria is obliged to ensure that information on support measures is made available.

Several information - on support schemes and funding programs - have been made available via the internet. On the governmental webpage HELP.gv an overview on Funding opportunities in supporting climate protection can be found.³⁷ Funding information is provided with respect to different funding entities (Federal state, Laender, EU). The funding measures and support schemes are passed through legislative act, available electronically in the Austrian legal information system (RIS)³⁸. Besides, the Laender provide information on funding schemes and a variety of measures (e.g. Vienna³⁹, Salzburg⁴⁰).

Nevertheless the information on support measures, net benefits, cost and energy efficiency of equipment and systems for the use of heating, cooling and electricity from renewable energy sources has not been concentrated with one responsible body on one specific website, so the search for information can be a bit confusing for those searching the net. The MoE does not dispose of a page bundling all the relevant information although it has main competences in issues regarding renewable energy.

10. How were the certification schemes laid down in Art 14 par 3 of the Directive made available by 31 December 2012?

A WIFI⁴¹ Certificate - internationally accredited according to EN ISO / IEC 17024 – for the profession of an "ÖKO-Energietechniker/in" ("Ecological Energy Engineer") has been created.

³⁴ Art 14 par 1 of the Directive

³⁵ Art 14 par 2 of the Directive

³⁶ Federal Law Gazette I No. 495/1993.

³⁷ <https://www.help.gv.at/Portal.Node/hlpd/public/content/100/Seite.1000400.html>

³⁸ www.ris.bka.gv.at

³⁹ Vienna: <http://www.wien.gv.at/stadtentwicklung/energieplanung/foerderungen/>

⁴⁰ Salzburg: <http://www.salzburg.gv.at/themen/ve/energie/erneuerbar.htm>

⁴¹ The WIFI – Certification Office has been set up as a certification body of the Austrian Chamber of Commerce.

The certification is possible for individual modules as

- ÖKO-Energietechniker/in for biomass"
- ÖKO-Energietechniker/in for heat pumps"
- ÖKO-Energietechniker/in for solarpower and photovoltaics"

Target group: Participants of one of the before mentioned modules or persons with similar training or equivalent knowledge (proof required) with apprenticeship and practice in energy technology and installation technology.

11. Where and when have guidelines⁴² - helping to consider the optimal combination of renewable energy sources, of high-efficiency technologies and of district heating and cooling - been published?

The **klima:aktiv** initiative of the Ministry of Agriculture, Forestry, Environment and Water Management, aims at the information of several target groups are about the opportunity to use renewable energies.⁴³ Besides, the presentation of existing technologies, the news in the field of construction and renovation, energy-efficient equipment, training and advanced training are presented. Suitable programs in the field of sustainable energy can be found on the klima:aktiv website for the following target groups: architects and master builders, building industry, service industry, financial service providers, small craft industries and trade, tourism, hotel industry and transport.

The magazine "**renewable energy - magazine for a sustainable energy future**" is edited by the Federation of the Task Force "Renewable Energy" (Arbeitsgemeinschaft Erneuerbare Energie Dachverband – AEE). It provides information mainly to architects, planners and other professionals about the possibilities of the use of sustainable energy technologies.

12. Have any policy documents or legislative action been taken in order to develop guidance or training programs informing citizens of the benefits and practicalities of developing and using energy from renewable sources⁴⁴?

The Austrian Energy Strategy considers awareness raising, education and the development of human capital as one of its overriding measures on the way towards energy transition. The specific measures to be carried out range from information campaigns to the introduction of energy efficiency and climate change in curricula or technical training programs.⁴⁵

Several projects and information campaigns have been launched during the last years: The largest solar campaign in Austria "*Schlaue heizen mit der Sonne*" (Smart people use solar energy) was launched in 2010. Interested citizens were informed of the advantages of solar energy for hot water and backup heating. In addition, a hotline offers personal advice by experienced solar experts.⁴⁶

⁴² Art 14 par 5 of the Directive

⁴³ <http://www.klimaaktiv.at/>

⁴⁴ Art 14 par 6 of the Directive

⁴⁵ Austrian Energy Strategy, p. 50.

⁴⁶ http://www.oekonews.at/index.php?mdoc_id=1048036

The Climate and Energy Fund launched a project: Awareness raising on renewable energy, energy saving and energy efficiency. The project's objective is to raise awareness among school children and to influence their actions geared to sustainability. The significance of energy and the consequences of mobility, consumption and household energy consumption should be related to their personal actions. The program is carried out in cooperation with schools in Austrian climate and energy model regions.⁴⁷

In the same way the above mentioned klima:aktiv initiative conducts information campaigns on the use of renewable energy sources.

The Austrian Climate Alliance (Klimabündnis) carried and still carries out various projects and initiatives informing and raising awareness on climate friendly technologies and the importance and use of renewable energy sources.⁴⁸

13. Does the national legislation ensure that a guarantee of origin will be issued in response to a request from a producer of electricity from renewable energy sources⁴⁹?

The Austrian Electricity Act obliges electricity traders or other retailers supplying consumers in Austria to show on, or on annexes to, consumers' electricity bills (annual statements), as well as on relevant information materials their supplier mix, taking into account the total amount of electricity supplied to consumers by them. This information shall be based on the total electricity sold by a supplier to consumers (supplier mix). (Cp. Art 78 Electricity Act) This energy labeling *"shall be broken down by percentages of primary energy sources into solid and liquid biomass, biogas, landfill and sewage gas, geothermal energy, wind and solar power, hydropower, natural gas, oil and its products, coal, nuclear energy and others (Cp. Art 79 Electricity Act)."* The Ordinance on electricity labeling⁵⁰ specifies the labeling requirements for primary energy sources and further determines the requirements established under the Electricity Act. The Austrian Energy Regulation Authority (E-Control) is competent to review the correctness of the energy labeling.

The obligation of energy labeling in the meaning of Directive 2009/28/EC is ensured by the provisions of the Green Electricity Act. It states that network operators with recognized renewable electricity power plants connected to their networks are obliged to issue guarantees of origins on the amounts of green electricity upon request of the producer of electricity from renewable energy sources (cp. Art 10 Green Electricity Act). So plants that have been recognized as green-electricity plants by the regional governor (Landeshauptmann) are covered. The only exception is electricity produced by photovoltaic systems: Here a guarantee of origin may be issued even in the absence of a recognition order from the governor if the system does not produce more electricity than 5 kW peak (cp. Art 10 Abs 13 Green Electricity Act). The issuance takes place via the database of the E-

⁴⁷ <http://www.klimafonds.gv.at/foerderungen/aktuelle-foerderungen/2013/bewusstseinsbildung-erneuerbare-energien-energieeinsparung-and-energieeffizienz/>

⁴⁸ <http://www.klimabuendnis.at/default.asp>

⁴⁹ Art 15 par 2 of the Directive

⁵⁰ Verordnung der E-Control über die Regelungen zur Stromkennzeichnung und zur Ausweisung der Herkunft nach Primärenergieträgern (Stromkennzeichnungsverordnung), Federal Law Gazette II No. 310/2011 in its current version.

Control (see above). E-Control is responsible for the surveillance of issuance, the transmission and validation of guarantees of origin.

14. Are the guarantees of origin to be issued in case of heating and cooling from renewable energy sources as well⁵¹?

In Austria, the guarantee of origin for both electricity and heating and cooling is governed by Articles 10 and 11 of the Green Electricity Act.

15. Does the national legislation provide that no support be granted to a producer when that producer receives a guarantee of origin for the same production of energy from renewable sources?

According to Art 10 Green Electricity Act certain officially recognized renewable energy power plants are entitled to receive a guarantee of origin. And some of those plants are subsidized and subject to a purchase obligation to special feed in tariffs or investment subsidies according to the Green Electricity Act. The Clearing and Settlement Agency (Ökostromabwicklungsstelle) has the obligation to purchase electricity to feed in tariffs from certain green electricity producers enumerated in Art 12 Green Electricity Act and to distribute it to the electricity sellers etc. Only plants with an official recognition of the regional governor are subject to a guarantee of origin (with the exemption of certain photovoltaics systems – see above). They can be divided in subsidized plants (as explained above) and non-subsidized plants. Non-subsidized plants are those using renewable energy sources but which are not subsidized through the Green Electricity Act. As a result they do not have a contract with the Clearing and Settlement Agency. Such plants are mainly large-scale hydro plants or plants that have already left the subsidy scheme because the funding period has elapsed.⁵² So the Austrian legislation allows for the issuance of guarantees of origin also for non-subsidized renewable power plants.

16. Which authority has been designated for supervising the issuance, transfer and cancellation of guarantees of origin?

According to Art 10 par 1 Green Electricity Act the Energie Control Austria has been designated for the supervision of issuance, the transfer and cancellation of guarantees of origin. The Energie-Control Austria (E-Control) has been established in 2001. In 2011 the E-Control was transformed into a public authority. Its tasks and duties are laid down in the E-Control Act (E-Control-Gesetz). The E-Control does not have overlapping geographical responsibilities and is independent of production, trade and supply activities.

⁵¹ Art 15 par 2 of the Directive

⁵² Cp. Also NREAP – Austria: Progress Report 2011.

17. Which legislation has guaranteed the transmission and distribution of electricity produced from renewable energy sources? The electricity produced from renewable energy sources has priority access or guaranteed access to the grid-system⁵³?

Transmission of electricity:

The Federal Electricity Act provides the current legal foundation concerning energy networks. One of the overall objectives of the Act is “[...] to support the evolution of electricity generation from renewable energy sources and to ensure access to the electricity system for such electricity;” (cp. Art 5 Federal Electricity Act). The Act requires that the implementing legislation shall oblige system operators to grant system access to parties entitled to system access under approved general terms and conditions and at fixed system charges (cp. Art 15 Federal Electricity Act). Furthermore the Austrian Green Electricity Act states in its Art 6 that each facility (according to this act) has the right to grid connection within the concession area. Within the framework of its competition authority duties, E-Control shall ensure in particular that the grid operator treats all connection applicants in the same, transparent way. To this end, it can ask the grid operator to disclose its procedures for enquiries and requests submitted by connection applicants, for instance about how and within what timescales enquiries and requests were fulfilled, what criteria were used for competing grid access requests and what measures were taken in order to ensure the equal treatment of connection applicants (cp. Art 6 par 2 Green Electricity Act).

If the connection of another energy production plant causes grid reinforcement costs, these are paid by the grid operator. In this case, no distinction is made between conventional and green electricity plants (e-control, 2011). The relevant provisions for grid connection costs are established in the Use of Systems Charges Order (SNT-VO 2010) – with particular references to grid access and grid provision charges. At the moment, both infeed suppliers and off-takers have to pay grid access charges, which correspond to the costs directly linked to access creation. Moreover, off-takers must pay a grid provision charge. Pursuant to Section 2 of the SNT-VO, the one-off grid connection charges payable by the grid user compensate grid operators for all relevant expenses, calculated on the basis of generally accepted market prices, that are directly linked to the initial creation of a grid access or to the modification of an existing access due to the increased connected load of a grid user. Section 3 of the SNT-VO establishes that the grid provision charges payable by a grid customer correspond to an amount for performance-dependent grid use payable to compensate indirect upstream grid expenses. Thanks to investments implemented in the grid in this way, grid customers can therefore use the grid at correspondingly lower prices.⁵⁴

So producers of electricity from renewable energy sources are charged grid costs just as other producers of electric energy. In practice – due to low network and transmission capacities – quite high network connection fees are negotiated with electricity producers from renewable energy sources. (e.g. wind energy).

⁵³ Art 16 par 2 of the Directive

⁵⁴ Cp. Also NREAP – Austria: Progress Report 2011.

The electricity produced from renewable energy sources has priority access in Austria. In its Article 20 (framework provision) the Federal Electricity Act states, that *“in the event that the existing line capacity is insufficient to accept all applications for utilization of a system, the implementing legislation shall provide – notwithstanding the obligation to comply with the provisions of Regulation (EC) No 714/2009, as well as with the guidelines issued under this Regulation – **that transports to supply customers with electricity from renewable energy sources and CHP plants be given priority.**”*

Art 23 Federal Electricity Act states that control area managers are obliged to take measures with a view to preventing, removing and overcoming congestions in transmission systems, and also maintaining security of supply. If the removal of system congestions so requires, the control area managers shall, in agreement with the affected distribution system operators, conclude contracts with producers under which the latter are obliged to provide services (increase or reduce their output, change availability of their power plants) in return for compensation for the economic drawbacks and for expenses caused by these services; in this context power plants that use renewable energy sources shall be given priority and any instructions given to operators of CHP plants may not jeopardize the security of district heat supply. The system charges shall cover the expenses incurred by control area managers in the performance of these obligations;

18. With regard to the previous point, how does the national legislation define “priority access” or “guaranteed access”? Under which conditions might be the priority access refused?

See above point 19. De facto the priority access of electricity produced from renewable energy can be avoided by low transmission system capacities. Network operators can only feed-in the amount of electricity the network is capable to bear. Due to little network capacities the access for renewable energy producers can be undermined.

19. Which national legislation has ensured that the charging of transmission and distribution tariffs does not discriminate against electricity/gas from renewable energy sources?

The Green Electricity Act basically regulates the conditions for the promotion of electricity from renewable energy sources. Recognized green electricity power plants get their energy purchased based on fixed tariffs. The so called *“Oekostromabwicklungsstelle”* (Clearing and Settlement Agency) is obliged to purchase electricity from explicitly listed electricity producers from renewable energy sources in accordance with the available funds, for a certain period of time and to certain feed-in-tariffs (cp. Art 12 Green Electricity Act). In the following this electricity is sold by the *“Oekostromabwicklungsstelle”* according to market prices.

Energy efficiency and decreasing in energy consumption

20. Have been produced political documents or an overarching legislation covering the issue of energy efficiency and/or decreasing energy demand?

The current governmental program⁵⁵ sees the increase of energy efficiency as a very important target and proposes the elaboration of an overall “Masterplan – Energy Efficiency”. In lack of a Masterplan on energy efficiency, the Austrian Energy strategy might be considered as such an overall political instrument. The three columns of the Austrian Energy Strategy are

- the increase of energy efficiency, and energy savings
- safeguard of long-term energy supply, and
- the promotion of renewable energies

Thereby energy efficiency shall be considerably increased in the building sector, in primary energy consumption, with respect to energy consumption in households and businesses and efficient mobility shall be promoted.

In 2013 the draft of an overall Energy Efficiency Act was proposed by the government and assessed by the parliament. The new legislative initiative would have created a competence for the federal state with respect to the area of energy efficiency, including obligatory energy efficiency targets, a monitoring body on national level etc. In the end the necessary parliamentary majorities could not be assured for this legislative project and it had to be dropped in spring 2013.

21. Does your country have any specific legislation on energy efficiency/decreasing energy demand?

So in Austria there is still no overall competence to regulate matters of energy efficiency. According to Art. 15 Federal Constitutional Law, insofar as a matter is not expressly assigned by the Constitution to the Federation for legislation or also execution (Arts. 10 – 14 Federal Constitutional Law), it remains within the Laender’s autonomous sphere of competence. Consequently, as energy efficiency and energy saving is not an explicit competence of the Federal state, and as long as it is not associated with any other competence assigned to the federal state such as e.g. traffic systems, it remains for the Laender to provide for the framework in this matter.

However, according to Art. 15a Federal Constitutional Law, agreements (state treaty) may be concluded between the Federation and the Laender, and the Austrian Federal Ministry of Economic Affairs has negotiated a draft of such with the Laender, which was adopted on 9 July 2010 by the national parliament⁵⁶, containing provisions of coordination and harmonization of measures relating to energy efficiency, in transposition of Direction 2006/32/EC. In particular, the state treaty contained provisions regarding the national energy savings target, the framework for a joint compilation of information regarding the

⁵⁵ Austrian Governmental Programme, p. 34: <http://www.bka.gv.at/DocView.axd?CobId=32966>

⁵⁶ Federal Law Gazette I No. 5/2011, Vereinbarung zwischen Bund und Ländern gemäß Art. 15a B-VG zur Umsetzung der Richtlinie 2006/32/EG über Endenergieeffizienz

national energy efficiency action plans, the inclusion of voluntary commitments concluded between the Federal Ministry of Economic Affairs and energy suppliers, distributors and trading associations, and the provision that the federal authorities as well as the Laender shall pass such legislation as is required to reach the energy savings target.

In addition to the abovementioned state treaty, the national parliament has passed/supplemented/alterd following legislation in transposition of Directive 2006/32/EC:

- Federal Electricity Act⁵⁷ und Energy Control Act⁵⁸
- Green Electricity Act⁵⁹
- Public Procurement Act⁶⁰
- Federal Act on the Promotion of the Installation of District Heating and Cooling Pipelines⁶¹
- Federal Act on the Establishment of a Climate and Energy Fund⁶²
- State Treaty between the Federation and the Laender according to Art 15a Federal Constitutional Law regarding measures in the building sector with the aim of reducing greenhouse gases⁶³

Other acts of legislation:

- Intelligent Meter Standards Ordinance (Federal Law Gazette II No. 339/2011, Verordnung der E-Control, mit der die Anforderungen an intelligente Messgeräte bestimmt werden (Intelligente Messgeräte-AnforderungsVO 2011 – IMA-VO 2011)
- ‘Product Consumption Information Ordinance’ (Federal Law Gazette II No 232/2011, Verordnung des Bundesministers für Wirtschaft, Familie und Jugend über Grundsätze der Verbrauchsangaben bei energieverbrauchsrelevanten Produkten mittels einheitlicher Etiketten und Produktinformationen (Produkte-Verbrauchsangabenverordnung 2011 - PVV 2011))

⁵⁷ Federal Law Gazette I No. 110/2010.

⁵⁸ Federal Law Gazette I 110/2010.

⁵⁹ Federal Law Gazette I No 75/2011.

⁶⁰ Federal Law Gazette I No. 17/2007.

⁶¹ Federal Law Gazette I No 113/2008, Bundesgesetz, mit dem die Errichtung von Leitungen zum Transport von Nah- und Fernwärme sowie Nah- und Fernkälte gefördert wird (Wärme- und Kälteleitungsausbaugesetz)

⁶² Federal Law Gazette I No 37/2009, Bundesgesetz über die Errichtung des Klima- und Energiefonds – Klima- und Energiefondsgesetz (KLI.EN-FondsG)

⁶³ Federal Law Gazette II No 251/2009, Vereinbarung gemäß Art. 15a. B-VG zwischen dem Bund und den Ländern über Maßnahmen im Gebäudesektor zum Zweck der Reduktion des Ausstoßes an Treibhausgasen)

22. Does existing and/or planned legislation contain a binding or indicative energy efficiency target?

The abovementioned state treaty (Federal Law Gazette I No. 5/2011) in Article 2 contains the determination that the Austrian national savings target shall be 80,4 PJ until the end of 2016 (9 % of the annual average amount). An intermediate target for the end of 2010 was determined with 17,9 PJ (2 % of the annual average amount).

23. Has a second National Energy Efficiency Action Plan been adopted in your country? If yes, does it contain the information necessary according to Art 14 par 2⁶⁴ of Directive 2006/32/EC on energy end-use efficiency and energy services?

The second National Energy Efficiency Action Plan⁶⁵ has been adopted. In general, the information according to Article 14 para 2 of the Directive is given. While the first NEEAP is touched upon only briefly, previous measures are addressed and evaluated. Estimates and charts regarding achieved savings and estimated savings targets until 2016 are provided for as well. The methods of measurement of energy savings employed by the monitoring office are in conformity with the directive. The criticism received by the European Commission regarding the first NEEAP has been responded to by a more clearly structured presentation of measures, including thorough description of the contents of the measure, the authorities executing it, the financial and budgetary resources employed/estimated, and the expected outcome regarding energy savings. Moreover, where available, websites referring to further information has been included.

Energy efficient public procurement

24. Have at least two energy efficient public procurement measures⁶⁶ been incorporated into national public procurement legislation?

Austria's procurement legislation is one of the most complex in the EU, containing very detailed provisions. The Federal Procurement Law (Federal Law Gazette I No. 86/2007, Bundesvergabegesetz) was revised in 2007 to incorporate the obligations arising from Directive 2006/32/EC. This included especially Art 19 par 5, stating that procurement must take into consideration the environmental compatibility of the service, especially ecological aspects, i.e. energy efficiency. Furthermore, the Federal Procurement Law contains provisions regarding environmental management (Art 77), contents of the tendering (Art 79 par 2), strong legal conditions regarding road vehicles (transposition of Directive 2009/33/EC), in particular with regard to energy consumption, carbon dioxide and nitrogen

⁶⁴ According to this Article the second and third EEAPs shall:

- include a thorough analysis and evaluation of the preceding EEAP;
- include the final results with regard to the fulfilment of the energy savings targets set out in Article 4(1) and (2);
- include plans for — and information on the anticipated effects of — additional measures which address any existing or expected shortfall vis-à-vis the target;
- in accordance with Article 15(4), use and gradually increase the use of harmonised efficiency indicators and benchmarks, both for the evaluation of past measures and estimated effects of planned future measures;
- be based on available data, supplemented with estimates.

Please check if these requirements are fulfilled and possibly provide a short assessment of the quality of information.

⁶⁵ http://ec.europa.eu/energy/efficiency/end-use_en.htm

⁶⁶ Art 5 and Annex VI of Directive 2006/32/EC.

oxide. Moreover Art 68 par 1 stipulates that in case of verifiably and severely violated environmental law, that as a legal consequence the tenderer is eliminated from the bidding process by the contracting authority. According to a report prepared by the Joint Research Centre of the European Commission on Energy Efficiency in Public Procurement (2010), Austria has chosen measures under Annex VI (a), (b), and (c), i.e., use of financial instruments to deliver energy savings, purchase of energy-efficient equipment and vehicles, purchase of equipment with efficient energy consumption in all modes.

25. Have guidelines on energy efficiency and energy savings as a possible assessment criterion in competitive tendering for public contracts⁶⁷ been published?

In 2010, Austria adopted a new action plan for sustainable public procurement⁶⁸ serving as guideline for procurement of environmentally friendly products and services. This is binding for Ministries and other direct civil service institutions and consequently applies with regard to the procurement of supplies to the federal offices, state offices and local authorities. The federal action plan defines core criteria, including energy efficiency, to be taken into consideration during the procurement process, specified according to sectors. So far, core criteria for 16 product groups have been defined (from paper, textiles etc., to construction, green events...), based on the criteria of the EU Toolkit (under the green public procurement communication). On a state level, there have been similar measures (see, e.g., www.oekokauf.wien.at (for Vienna: doku.cac.at/oekoleitfaden.pdf (for Upper Austria), www.umweltverband.at/index.php?id=384 (for Vorarlberg)).

Energy distributors, distribution system operators and retail sellers

26. Are regulations in place, which ensure that energy distributors, distribution system operators and retail sellers are ready to provide the information defined in Art 6 par 1 a of Directive 2006/32/EC?

As part of the transposition of the Directive, Austria (via the Federal Ministry of Economic Affairs) has opted to conclude voluntary agreements with interests groups of the energy industry, i.e., energy distributors, distribution system operators and retail sellers. The agreements provide for specific savings targets, however the measures to achieve these savings targets can be freely selected. Three agreements have been concluded with the following savings targets: Professional association of gas and heat supplying enterprises: 1.800 TJ; Association of Austrian energy utilities ('Österreichs Energie'): 1.512 TJ; Professional association of the petroleum industry and professional association of the energy trading industry (a voluntary agreement in which both associations participate): 7.560 TJ. In total this amounts to 10.872 TJ by 2016⁶⁹

As with regard to the general compliance with the Directive, the Austrian Energy Agency(www.monitoringstelle.at) is responsible for monitoring the voluntary agreements as well. Experience has shown that in particular the assessment of final energy savings has

⁶⁷ Art 5 of Directive 2006/32/EC.

⁶⁸ www.nachhaltigebeschaffung.at/

⁶⁹ the voluntary agreements are available at www.monitoringstelle.at/Freiwillige-Vereinbarungen.596.0.html

proven difficult, as certain overlaps of measures conducted by the industry as well as by public authorities might result in counting measures double.⁷⁰

27. Has one of the requirements referred to in Art 6 par 2 a of Directive 2006/32/EC been implemented?

According to Article 6 (2)(a) of the Directive, energy distributors, distribution system operators and retail sellers must ensure and promote energy services (i), and energy audits (ii) with competitive pricing, as well as contribute to the funds and funding mechanisms referred to in Article 11 of the Directive. Each of the three voluntary agreements Austria has concluded (see also above questions) provide for these requirements (in Art 5). Moreover, according to Austria's 2nd NEEAP, monitoring shows that these have been implemented as well. Between 2005 and 2012 about 800 000 energy advice services have been conducted, and more than 300 energy audits at enterprises were reported. In 2007, Austria established the climate and energy fund (Federal Act on the Establishment of a Climate and Energy Fund one primary aim being energy efficiency. While the fund is primarily funded by federal funds, § 5 of the respective 7 voluntary agreements includes the requirement to co-finance investments regarding energy efficiency. However, the NEEAP does not mention how far this requirement has been put into operation.

28. Are energy audit schemes in place as foreseen in Art 12 of Directive 2006/32/EC?

Austria has introduced (non-mandatory) energy audits schemes for large, medium-sized and small enterprises. They are conducted by various institutions, i.a., by the environmental promotion programme (Umweltförderung Inland, UFI), but especially for small and medium-sized enterprises audits are also conducted by the Energy Institute of the Austrian Economy (Energieinstitut der Wirtschaft), and with funds of the Climate and Energy Fund. The Laender offer several promotion programmes conducting energy audits as well. In order to support these energy audits, enterprises can apply for up to two 'energy efficiency vouchers' a year – one for an initial advisory service, one for a follow-up regarding the implementation of the advice given. According to the 2nd NEEAP, Austria estimates that these measures will result in energy savings of 1.544 TJ.

Energy Consumption Labelling

29. Has legislation been put in place, which obliges suppliers to provide technical information as well as labels and fiches (standard table of information relating to the product) in accordance with Art 5 of Directive 2010/30/EU⁷¹?

In transposition of the Energy Labelling Directive, the Austrian Minister of Economic Affairs has passed the 'Product Consumption Information Ordinance' (Federal Law Gazette II No 232/2011, Verordnung des Bundesministers für Wirtschaft, Familie und Jugend über Grundsätze der Verbrauchsangaben bei energieverbrauchsrelevanten Produkten mittels einheitlicher Etiketten und Produktinformationen (Produkte-Verbrauchsangabenverordnung 2011 - PVV 2011)), ensuring coherence with the standards of the Directive by the end of

⁷⁰ <http://www.monitoringstelle.at/Energieeffizienz-in-OEsterreich.602.0.html>

⁷¹ 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

2011. §§ 4-6 of the 'Product Consumption Information Ordinance' contain the obligations referred to in the Directive, applicable to dealers and suppliers.

30. Has legislation been put in place which ensures that dealers (retailers) display labels properly and provide for fiches in accordance with Art 6 of Directive 2010/30/EU?

See question 29 above.

Contact information:

name: Birgit Schmidhuber
organization: J&E
address: Volksgartenstraße 1, A-1010 Wien
tel/fax: 43 1 5249377/fax DW 20
e-mail: info@justiceandenvironment.org
web: www.justiceandenvironment.org

The Work Plan of J&E has received funding from the European Union through its LIFE+ funding scheme. The sole responsibility for the present document lies with the author and the European Commission is not responsible for any use that may be made of the information contained therein.

