

Energy transition

Spain

Country Report

Justice and Environment 2013

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Country Report on Energy Transition SPAIN

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).

As regards the present report, it is important to highlight that the Council of Ministers hold on 12 July 2013 approved a package of energy reforms which includes Royal Law-Decree 9/2013, adopting urgent measures to ensure the financial stability of the electricity system and a Bill on the Electricity Sector. The main aim is to balance the so-called tariff deficit due to the increase of production costs which are not covered with income from electricity bills since 2005. On renewables this reform withdraws all public aid establishing a new framework whereby renewables are directly sold in the market. The European Commission has stated that they will monitor these amendments to check whether they will influence the achievement of the 20% target on renewable energies by 2020¹

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?

Yes, they are found at article 78.1 of Law 2/2011, of 4 of March, on Sustainable Economy Law and reaffirm at the second Renewable Energy Plan (REP 2011-2020).

Law 2/2011 is one of the cornerstones of the Spanish Government's strategy to define a sustainable growth model for the Spanish economy. The Sustainable Economy Law, article 78.1 sets national targets for 2020 in accordance with the EU renewable energy target: a 20% share of renewable sources in gross final energy consumption, including at least 10% of renewable sources in the transport sector.

The REP 2011-2020 establishes the Spanish targets and suggests the measures to be implemented in order to reach the 20% goal in 2020. Additionally, the plan includes the Spanish vision on the evolution of the renewable energy sector regarding each of the types of renewable energy available in the coming years.

¹ economia.elpais.com/economia/2013/07/15/actualidad/1373884504_452759.html

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?

As mentioned above, Spain counts with a second Renewable Energy Plan (REP 2011-2020). This plan was approved by Agreement of the Council of Minister on November 11, 2011. It aims to be the main tool for fulfilling and going beyond the objectives set up by the European Union of reaching 20% of the total energy consumption covered by renewable sources by 2020.

The second REP guides actions on renewable energy of bodies of the Spanish State General Administration but in principle it does not bind bodies of the Autonomous Communities or local administrations.

The REP 2011-2020 is the result of two Spanish legislature measures. Royal Decree 661/2007, of May 25 which regulates the electricity production subject to the special regime² and Law on Sustainable Economy. However, Royal Decree 661/2007 has been derogated by Royal Law-Decree 9/2013. This derogation affects in a negative manner the renewables.

Taking into consideration the contents of the second REP 2011-2020, we can affirm that it complies with Article 4 of Directive 2009/28/EC. However, before going into detail, it should be noted that within the context of the economic crisis, some of the actions taken by the Spanish government have affected the PER 2011-2020 measures for achieving the national targets. Thus, since 2012, the Spanish Government has adopted measures to reduce the tariff deficit with an impact estimated at 6 billion euros savings per year- including the freezing of new renewable energy investment. Despite the undertaken measures, the tariff deficit was not solved. On July 12th 2013, the Council of Minister approved a reform of the Electric System, and a Royal Decree Law with urgent measures.

Having clarified this point, the PER 2011- 2020 contains 87 measures³ to be implemented in order to achieve the 20% target in 2020.

- **Supporting schemes:**

Feed-in tariffs for electricity production based on renewable energy.
ICAREN, frame for the retribution of thermal energy production based on renewable energy.
Net-metering system, by which renewable energy production will be connected with the power grid.

- **Economic proposals:**

Public incentives for investments and activities.
Programmed financing incentives.

² Royal Decree 661/2007, de 25 de mayo, which regulates electricity production activities under the special regime . BOE num. 126, of 26of May 2007

³ "Summary of the Spanish National Renewable Energy Plan 2011-2020". The information is available at: <http://www.investinspain.org/icex/cma/contentTypes/common/records/mostrarDocumento/?doc=4558560>

- **Regulations:**

New regulations and legal reforms in order to simplify administrative procedures and authorizations.

- **Changes in energy related infrastructures:**

Technical interventions with the aim of facilitating the integration of renewable energy installations in the general Spanish energy system.

- **Activities for planning, promotion, information and training:**

The REP 2011-2020 makes special relevance on the introduction of energy crops for biomass generation and the commercial exploitation of the different biomass sources. According to the plan, an important increase in the thermal uses in buildings and industries is expected over the next few years. The thermal biomass will equally be divided between the domestic and industrial sector.

Apart from the national plans, it is important to highlight the role of Governments of the Autonomous Communities which have competencies for territorial planning, energy and mining schemes and environmental issues within their territorial scope. In this sense, Autonomous Communities can adopt Regional Renewable Energy Plans which are key for coordination of sector specific policies concerning energy infrastructures and for supporting renewable energies objectives.

The Spanish Regional Renewable Energy Plans⁴ are the following:

- 2007-2013 Energy sustainability plan of Andalusia
- 2005-2012 Energy Plan of Aragon
- Horizon 2010 Energy Strategy of the Principality of Asturias
- 2015 Energy Sector Management Plan of the Balearic Islands
- 2015 Energy Plan of the Canary Islands
- 2006-2011 Energy Plan of Aragon
- Horizon 2012 Energy development framework strategy of Castile-La Mancha
- 2009-2014 Regional sustainable development strategy of Castile-Leon
- 2009 Review of the 2006-2015 Energy Plan of Catalonia
- 2010-2020 Strategic infrastructure plan of Valencia
- Agreement for sustainable energy development in Extremadura
- 2010-2015 Strategic energy plan of Galicia
- 2004-2012 Energy Plan of the Community of Madrid
- 2003-2012 Energy plan of the Region of Murcia
- 2005-2010 Energy Plan of Navarre
- 2010 Energy Strategy of Euskadi
- General energy strategy of the Government of la Rioja

⁴ These regional plans can be found at the Spanish National Renewable Energy Action Plan 2011-2020:
http://pvtr.in.eu/assets/media/PDF/EU_POLICIES/National%20Renewable%20Energy%20Action%20Plan/202.pdf

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 1⁵ of the Directive?

Article 84.2 of Law on Sustainable Economy establishes that the Ministry of Industry, Energy and Tourism (MINETUR), shall seek to simplify administrative procedures by adopting a catalogue on administrative procedures to follow for the establishment of facilities using renewable energies and high efficiency energy from cogeneration with the aim of serving as guidelines to competent public administrations when establishing those procedures as well as of guiding developers of this type of facilities. However, this catalogue has not been produced yet.

In addition, paragraph 3 of that article provides that administrative procedures and requirements shall be adequate to different technologies, sizes and uses and shall take into consideration brief timelines for response and shall be subject to reduced and uniform tariffs and taxes.

It is important to mention that the PER 2011-2020 did considered the need to develop a brief procedure but it did not define the horizon dates as shows the table below.

Name and reference of the measure	Type of measure	Expected result	Targeted group and/or activity	Existing or planned	Start and end dates of the measure
Develop a simplified regulated procedure whereby to secure administrative authorisation for renewable energy projects for thermal applications	Regulatory	Expedite the issuing of administrative authorisation	Public administrations	Planned	Not defined

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 legislation⁶?

The technical specifications of renewable energy systems are the quality standards which must be met by plants as a whole. Compliance with these technical specifications is mandatory since their quality standards have been transposed into Spanish law.

As the Spanish National Renewable Energy Action Plan 2011-2020 contains⁷, technical specifications applicable to renewable energy systems have been classified in four groups:

⁵ 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

⁶ Art 13 par 2 of the Directive

Technical specifications applicable to civil works

- Royal Decree 314/2006 of 17 March 2006, Technical Building Code.
- Royal Decree 1027/2007 of 20 July 2007, Regulation on Thermal Installations in Buildings.
- Royal Decree 235/2013, of 5 April, Basic Procedure for the certification of energy efficiency of buildings.

Technical specifications applicable to electricity and control installations

- Royal Decree 842/2002, of 2 August 2002, Electro-technical Regulation for Low Voltage and its Technical Specifications. This for example applies to wind energy facilities of small size.
- Royal Decree 223/2008, of 15 February 2008, establishing the Regulation laying down technical conditions and safety guarantees for high-voltage electrical lines and supplementary technical instruction ITC-LAT 01 to 09.
- Royal Decree 3275/1982, of 12 November 1982 of the Ministry of Industry and Energy. establishing the regulation on technical conditions and safety guarantees for electrical power plants and processing facilities

Technical specifications applicable to mechanical installations

- Royal Decree 2060/2008 of 12 December 2008 establishing the Regulation on pressure equipment and supplementary technical instructions
- Royal Decree 379/2001 of 6 April 2001 establishing the Regulation on storage of chemical products and supplementary technical instructions MIE-APQ-1, MIE-APQ-2, MIE-APQ-3, MIE-APQ-4, MIE-APQ-5, MIE-APQ-6 and MIE-APQ-7
- Royal Decree 2267/2004 of 3 December 2004 establishing the Regulation on fire safety at industrial premises

Technical specifications applicable to ATEX standards (explosive atmosphere)

- Royal Decree 681/2003 (1999/92/EC) - ATEX 137: on the safety and health protection of workers at risk from explosive atmospheres in the workplace.
- Royal Decree 400/1996 (94/9/EC) - ATEX 100: on protection devices and systems for use in explosive atmospheres

The second REP provided the need to modify and approve new technical specifications for renewables. However, many of these measures have not been adopted yet.

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?**

According to Spanish Constitution⁸ article 148.1 9^a, not only the central government but also regional administrations may enact laws in the field of environment. Thus, Autonomous Communities have competencies on energy efficiency and renewable energies in the building sector in cases where these competences have been devolved. Under this structure,

⁷More information concerning technical specifications can be found at the Spanish National Renewable Energy Action Plan 2011-2020:

http://pvtr.in.eu/assets/media/PDF/EU_POLICIES/National%20Renewable%20Energy%20Action%20Plan/202.pdf

⁸Spanish Constitution at: <http://www.congreso.es/consti/constitucion/indice/titulos/articulos.jsp?ini=143&fin=158&tipo=2>

it is incumbent upon the Spanish Government to enact the basic legislation regarding the environment and upon the Autonomous Communities to enact the basic implementing legislation in this field.

At national level, one of the most relevant legislation is the Thermal Plant Regulation⁹ (RITE) requires the use of renewable energies, meaning that thermal installations must use available renewable energies in order to cover a part of the building's needs.

At regional level, Catalonia has enacted legislation in the field of renewable energies in the building sector, establishing minimum levels and climate zones within their geographical area¹⁰. Another example is Law 1/2001, of 21 May, on construction of buildings prepared to use solar energy which requires that all buildings for living must be built and projected in such a way that when they are going to be occupied can be connected to solar facilities¹¹. Some municipalities have adopted ordenances on energy efficiency and the use of renewable energies in buildings and their facilities for example Zaragoza¹²

Article 85 of the Law on Sustainable Economy is entitled “energy saving by public administrations“. Paragraph 1 of this article provides that all public administrations, when exercising their respective competences, shall incorporate the principles on energy efficiency and saving and of use of renewables in the general principles which subject their activities and in public procurement procedures. Paragraph 2 provides that the General Administration of the State and its public bodies, including public foundations, shall establish specific programmes for energy efficiency and saving and of use of renewable sources which allows the compliance with the 2020 energy targets in such a manner that in accordance with the REP the 20% target on energy saving is achieved in 2016.

Given that the Central government cannot regulate the administrations of autonomous communities, we cannot search for legislation in the 17 Autonomous Communities to see whether they have adopted these recommendations. However, in 2007 the Autonomous Community of Andalusia passed Law 2/2007 on the promotion of renewable energies and on energy efficiency and saving of Andalusia¹³. This Law includes an article on the use of renewable energies in buildings and facilities of public use and service (Art. 14)

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?

First of all, it is important to highlight that in the distribution of competences between the Spanish general administration of the State and the Autonomous Communities land planning

⁹ Royal Decree 1027/2007 of 20 July 2007 establishing the Regulation governing thermal installations in buildings. Please note that Royal Decree 238/2013, de 5 of April, modifies some articles of the Royal Decree 1027/2007 of 20 July 2007.

¹⁰ Decree 21/2006 of 14 February 2006 regulating the adoption of environmental and eco-efficiency criteria in buildings

¹¹ BOIC núm. 67, of 30 05.2001.

¹² Ordenanza de ecoeficiencia energética y utilización de energías renovables en los edificios y sus instalaciones. BOPZ núm. 193 of 24.08.2009.

¹³ BOJA, núm. 70, of 10.04.2007.

is an exclusive competence of autonomous communities. Therefore, national legislation must be cautious on encouraging anything to Autonomous Communities whose powers are absolute in this field.

Having said this, we found a provision in Royal Decree 2/2008, of 20 June, approving the Consolidated Law on Land¹⁴ which in a sense encourages this. Thus, its article 2 entitled “principle on sustainable territorial and urban development” provides the obligation to follow the principle of sustainable development in public policies on regulation, planning, transformation and use of land. To this end it provides that public authorities shall facilitate the achievement of an urban environment with enough equipment and where the land is occupied efficiently and in particular the efficient use of resources and energy, mainly by own generation as well as the introduction of renewable energies is guaranteed¹⁵, among others. The achievement of those aims shall adapt to the specific characteristics of the territorial model adopted by the competent public authorities in the field of land and urban planning.

Law 2/2007 of Andalusia contains specific articles on renewables and land planning as well as on the use of renewables in city planning infrastructure¹⁶

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 sector¹⁷?

At national level, the Ministry of Public Works has competence in the building sector and the MINETUR in the field of energy. The most relevant national building regulations to increase the share of energy from renewable sources are the following:

- Royal Decree 314/2006 of 17 March 2006 approving the Technical Building Code.
- Royal Decree 1027/2007 of 20 July 2007 approving the Regulation on Thermal Installations in Buildings.

The Technical Building Code introduced minimum contribution of renewables for supplying hot water and electricity.

Royal Decree 233/2013, of 5 April, regulating the State Plan to promote house renting, building rehabilitation and urban regeneration and renovation (2013-2016)¹⁸ includes subsidies to install energy generation equipments from renewables such as the solar, biomass and geothermal sources to reduce the consumption of conventional energy (thermal or electricity) in the building(Art. 20.2.b)).

¹⁴ BOE núm. 154, of 24.06.2008.

¹⁵ Article 2.3.c)

¹⁶ Articles 11 and 12.

¹⁷ *Regarding the questions No. 5-7. see: Art 13 par 3 of the Directive*

¹⁸ BOE núm. 86, of 10.04.2013.

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 applications¹⁹?

Spain has implemented biomass support measures via 2005-2010 Spanish Renewable Energies Plan, 2008-2012 Action Plan (PAE4+) and the 2011-2020 Plan Energy Renewable in order to promote the conversion technology.

The PER 2005-2010 has a target of increase of the use of biomass in the generation of electricity from 1.695 MW to 2.039 in 2010. To achieve this aim three measures were adopted: a programme on co-combustion, an increase on the retribution to electricity generated from biomass and studies by the Interministerial Commission on Biomass. However, in 2011 the installed power of biomass only reached a 41% of the target in PER 2005-2010.

The PER 2011-2010 includes a battery of measures (legislative, subsidies, financing, feed-in tariffs, education, information, planning, studies) to promote the conversion technologies that achieve a conversion efficiency of at least 85 % for residential and commercial applications and at least 70 % for industrial applications. However, the current political context has put a break to many of these measures.

9. Does the national legislation provide that information on support measures²⁰ 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 sources²¹ are made available?

The Directive does not require including obligations in the national legislation to provide information on support measures but to ensure that this happens. It is an implementation measure which does not need transposition. Information is available through internet and the support measures provided in Royal Decree 233/2013 have been published in the Spanish Official Journal.

On the information on net benefits and costs, Art 83 of the Law on Sustainable Economy entitled “transparency and information to consumers” provides the following:

- 1.** The government shall establish the necessary instruments to ensure that information on cost of the energy supply model, its composition, origin and environmental impact is available to users.
- 2.** Equally, Public Administrations shall ensure that complete, clear and understandable information is available to consumers on the consumption of energy, the environmental impact of products and equipment using energy they acquire in such a manner that they can incorporate these elements to their consumption decisions.

¹⁹ Art 13. par 6 subpar 2 of the Directive

²⁰ Art 14 par 1 of the Directive

²¹ Art 14 par 2 of the Directive

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

Article 4.2.b) of Law 32/2006, of 18 October, on subcontract in the construction sector²² establishes that the companies which want to be contracted or subcontracted for construction works must be registered in Verified Companies Register. Registration will take place automatically by the competent labour authority on the basis of the statement of responsibility of the employer .

This requirement is justified, as the Law states in Article 1, by reasons of protection of workers' health and security. We assume this reason to be attributed to public health justifications.

This requirement is clarified by First Additional Provision of Royal Decree 1109/2007, of 24 August, implementing Law 32/2006²³, which establishes that cross-border providers must be registered in the Register under the labour authority in whose territory they are going to carry out their first provision of services in Spain. However, this registration has not been necessary when the duration of the cross-border service does not exceed 8 days (First Additional Provision of Royal Decree 1109/2007).

Article 5 of Law 38/1999, of 5 November, on building planning²⁴, establishes that the construction of buildings, the workers in buildings and their occupation shall be subject to licenses and administrative authorizations. These licenses and administrative authorizations are required at the municipal level.

Royal Decree 1967/2008, of 28 November, establishes four professional certificates for the professional family related to energy and water²⁵. This RD regulates among others the certificate necessary to install solar energy and wind energy equipment. Another RD 623/2011 also regulates professions in that field and includes renewables.

Finally, it should be mentioned that Article 148(1) 3) of the Spanish Constitution provides that the self-governing Autonomous Communities "may assume competences over this field. Therefore, regulation in this connection is performed by the respective Autonomous.

Given the number of Autonomous Communities in Spain, the scope of this report is limited to the abovementioned national legislation.

22 Ley 32/2006, de 18 de octubre, reguladora de la subcontratación en el sector de la construcción (BOE num. 250, of 10.10.2006). http://noticias.juridicas.com/base_datos/Laboral/l32-2006.html

23 Real Decreto 1109/2007, de 24 de agosto, por el que se desarrolla la Ley 32/2006, de 18 de octubre, reguladora de la subcontratación en el sector de la construcción (BOE num. 204, of 25.08.2007). <http://www.boe.es/boe/dias/2007/08/25/pdfs/A35747-35764.pdf>

24 Ley 38/1999, de 5 de noviembre, de ordenación de la edificación (BOE num. 266, of 06.11.1999).

25 BOE núm. 13, of 15.01.2008.

11. Where and when have guidelines²⁶ - helping to consider the optimal combination of renewable energy sources, of high-efficiency technologies and of district heating and cooling - been published?

We have found guidelines on energy efficiency but we have not been able to identify the existence of such guidance as required by Art. 14.5 of the Directive.

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 sources²⁷?

At national level, the main provisions are found at the 2005-2010 Renewable Energy Plan, the 2008-2012 Energy Savings and Efficiency Action Plan and at the Renewable Energy Plan 2011-2020. These plans promote the use of renewable energy and furnish information on a whole series of public assistance and awareness measures for citizens as energy consumers.

Particularly important is the activity carry out by the Institute for Energy Diversification and Savings (IDAE) together with the Autonomous Communities, is responsible for managing measures and for running training and awareness-raising campaigns to help promote renewable energy model.

Finally, but not the least important, the role of sectoral associations and energy agencies, among whose responsibilities we would highlight their activities in disseminating knowledge and raising awareness concerning the use of renewable energy.

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 sources²⁸?

The purpose of Ministerial Order ITC/2914/2011²⁹ is to transpose Article 15 of Directive 2009/28/EC. This Ministerial Order amended Ministerial Order ITC/1522/2007, of 24 March, establishing the regulation of the guarantee of origin of electricity from renewables and from high efficiency cogeneration. Article 8 establishes a mechanism for monitoring the origin of the energy, through a book-entry system at the website of the Spanish National Energy Commission. Renewable energy producers or high efficiency cogeneration producers may voluntary apply for the guarantees of origin that may correspond them.

²⁶ Art 14 par 5 of the Directive

²⁷ Art 14 par 6 of the Directive

²⁸ Art 15 par 2 of the Directive

²⁹ Orden ITC/2914/2011, de 27 de octubre, por la que se modifica la Orden ITC/1522/2007, de 24 de mayo, por la que se establece la regulación de la garantía del origen de la electricidad procedente de fuentes de energía renovables y de cogeneración de alta eficiencia («B.O.E.» 31 octubre)

As the National Energy Commission states through a system of guarantee of origin is possible to ensure and guarantee the origin of electricity produced from renewable energy. Circular 6/2012, of 27 September, of the National Energy Commission, regulates the management of the guarantee of origin system of electricity from renewables and from high efficiency cogeneration³⁰

14. Are the guarantees of origin to be issued in case of heating and cooling from renewable energy sources as well³¹?

We understand that Ministerial Order ITC/1522/2007³² applies also to heating and cooling from renewable energy sources although there is no specification on this.

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?

Only on this issue Circular 6/2012 of the National Energy Commission provides that the producer of energy under the special regime or under the ordinary regime with a superior power of 50MW which might be recipient of feed-in tariffs for their production or overproduction when requesting guarantees of origin for exportation shall have to renounce to the economic amount representing the feed-in tariffs for each exported guarantee of origin.

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

The entity responsible for issuing, managing, transferring and cancelling the guarantees of origin is the Spanish National Energy Commission, which complies with the requirements of Art 15 par. 5-6 Directive 2009/28.

According to Ministerial Order ITC/2914/2011 par.5 which modifies Ministerial Order ITC/1522/2007 article 5 par.1, states that the Spanish National Energy Commission is responsible for issuing the guarantee origin of electricity produced from renewable energy and high efficiency cogeneration. In this regard, National Energy Commission also shall be competent in the management of the guarantee of origin. These tasks could be done either directly or via a third party with prior permission of the Secretary of State for Energy of the MINETUR.

Circular 6/2012, 27 September, National Energy Commission³³, regulates specifically the National Energy Commission tasks on the functioning of the system of guarantees of origin for electricity from renewable energy.

³⁰ BOE núm. 262, of 31.10.2012.

³¹ Art 15 par 2 of the Directive

³² Orden ITC/1522/2007, de 24 de mayo, por la que se establece la regulación de la garantía del origen de la electricidad procedente de fuentes de energía renovables y de cogeneración de alta eficiencia.

³³ Circular 6/2012, de 27 de septiembre, de la Comisión Nacional de Energía, que regula la gestión del sistema de garantía de origen de la electricidad procedente de fuentes de energía renovables y de cogeneración de alta eficiencia

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-system³⁴?

RD 661/2007, of 25 May, regulating the activity on the production of electricity under the special regime and RD 1578/2008, of 26 September, on the retribution of the production of electricity from photovoltaic solar energy have been derogated by RDL 9/2013, of 12 July, adopting urgent measures to guarantee the financial stability of the electricity system withdrawing the feed-in tariffs provided in them. This represents the loss of the priority access that provided both RDs.

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 question 17.

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

RDL 9/2013 of 12 July has completely change the existing regime and still there are need of new regulations. Therefore, we cannot answer this question.

II. 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?

On 2003, Spain approved the Spanish Energy Saving and Efficiency Strategy 2004-2012 (E4)³⁵. The launch of the first Action Plan (PAE4 2005-2007), of the E4 set out priority measures to start a process applying pressure to all sectors, so as to reduce growth rates in consumption and in energy intensity indicators, and especially to signal a route to be followed in the plan.

The Action Plan for period 2008-2012 (PAE4+) was an extension in time of the one implemented between 2005 and 2007.

One of the main elements that supported the Energy Saving and Efficiency Strategy 2004-2012 (E4) and, consequently, the Action Plans 2005-2007 and 2008-2012, is to contribute to the sustainability of the Spanish development model.

³⁴ Art 15 par 2 of the Directive

³⁵The Cabinet Meeting approved the Action Plan for period 2008 – 2012 of the Energy Saving and Efficiency Strategy in Spain 2004-2012 on 20th July 2007, the plan can be found at:
http://www.idae.es/index.php/mod.documentos/mem.descarga?file=/documentos_Plan_de_Accion_2008-2012_19-07-07_con_TABLAS_PDF_ACC_2936ad7f.pdf

Law 2/2011, of 4 March, on Sustainable Economy provides for energy efficiency and energy saving.

In July 2011, the second Action Plan 2011-2020 was approved by Cabinet Meeting Agreement. This Plan is a continuation of the abovementioned plans within the framework of the Strategy (E4).

Royal Decree 187/2011, of 18 February, related to the establishment of ecological design requirements applicable to products related with energy³⁶ aims to contribute to increase energy efficiency.

Recently, it was passed Royal Decree 235/2013, of 5 April, approving the basic procedure for the certification on energy efficiency of buildings³⁷.

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

Spain has implemented several specific legislation on energy efficiency not only at national level, but also at regional and local level.

In the state framework, the most relevant legislation are the following:

- Energy efficiency for products and energy efficiency for buildings, both the building technical code (royal decree 314/2006)³⁸ and the new regulation on energy performance and certification of buildings (royal decree 235/2013)³⁹
- Regulation of thermal installations in buildings (royal decree 238/2013)

In the regional framework, almost all the autonomous communities of Spain have implemented strategies on energy efficiency in industry, institutional and domestic areas. However, only some of them have developed specific legislation since in Spain the autonomous communities are not allowed to regulate this field from a holistic approach.

In the local context, the local governments are the best tool in promoting the energy efficiency. Spanish Local governments have developed regulations and strategies to achieve the energy efficiency objectives. To encourage energy saving and efficiency, model ordinance for energy efficiency has been approved as a tool to foster efficient public lighting, energy optimisation plans in buildings and municipal installations. Local authorities have created energy agencies and offices have been created as well.

³⁶BOE núm. 53, of 3.03.2011.

³⁷ BOE núm. 89, of 13.04.2013.

³⁸ Royal Decree 314/2006, de 17 de marzo, por el que se aprueba el Código Técnico de la Edificación. BOE num. 74, 28 of March 2006

³⁹ Royal Decree 235/2013 of 5 April, approving the basic procedure for certification of energy efficiency of buildings. BOE num. 89, 13 of April 2013.

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

In principle, the NEEAP 2011-2020 fulfills the saving targets required by the Directive 2006/32/EC, regarding the improvement of EU energy efficiency by 20% in 2020.

The transposition of this target is found at Law on Sustainable Economy, Article 78 par 2, which establishes the objective of reducing its energy intensity by 20% by 2020.

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 2⁴⁰ of Directive 2006/32/EC on energy end-use efficiency and energy services?

Action Plan 2011-2020 is the second National Energy Efficiency Action Plan (NEEAP) on energy end-use efficiency and energy services. This Plan is a continuation of the formerly approved ones within the framework of the Strategy (E4).

The Spanish Energy Saving and Efficiency Strategy 2004-2012 (E4)¹, approved in November 2003, have been the object of analysis and evaluation, in compliance with article 14 par.2 Directive 2006/32/EC. These methods have been used to determine the new objectives within this Action Plan 2011-2020. The plan also provides an assessment of the savings achieved during 2004-2010, and the tools and measures developed in the plan. Finally, Action Plan 2011-2020 establishes the objectives put forward in this strategy with methodological criteria, measures and instruments proposed for the 2020 horizon.

Energy efficient public procurement

24. Have at least two energy efficient public procurement measures⁴¹ been incorporated into national public procurement legislation?

Article 85 par.2 Law on Sustainable Economy states that all public administrations shall integrate energy savings and energy efficiency principles in their public procurements.

⁴⁰ 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.

⁴¹ Art 5 and Annex VI of Directive 2006/32/EC.

The Council of Ministers, at its meeting in January 2008, adopted the government's Green Public Procurement Plan⁴². As an additional measure, a set of codes of practice⁴³ were drawn up concerning construction and management products, paper and publications, cleaning and office supplies.

In 2011, the Council of Ministers published the First general report⁴⁴ concerning the status of the Green Public Procurement Plan. According to the results, most of the public entities undertook the necessary measures for the implementation of the Green Public Procurement Plan. An example is the introduction of the energy start label. This report shows that 75% of computer equipment, of those reported, have energy start label.

25. Have guidelines on energy efficiency and energy savings as a possible assessment criterion in competitive tendering for public contracts⁴⁵ been published?

Some requirements for public tenders are established by the Spanish Energy Savings and Efficiency Action Plan. However, there are no clear guidelines for them.

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?

We have not been able to find a specific regulation for implementation of this specific article of the Directive. However, Article 45 j) of Law 54/2007 on the Electricity Sector among the obligations of the power trading companies provides to "make available to the Ministry of Industry, Energy and Tourism, the National Energy Commission, the National Commission for Competition and the European Commission for the fulfilment of their tasks, for at least five years, data on all transactions in electricity supply contracts and electricity derivatives related to agreements with wholesale customers, and the transportation system operators, according to what is provided by implementing regulations".

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

Regarding the funds to subsidize energy efficiency programs by the power distribution companies (Article 6.2 a, III of Directive 2006/32), the Plan for Energy Efficiency Savings 2011-2020, details the source of funds. Under the plan, the energy sector will contribute 77% of the funds, so it is demonstrated fulfilling one of the requirements of the directive

⁴² Spanish Green Public Procurement Plan at: http://www.magrama.gob.es/es/ministerio/planes-estrategias/plan-de-contratacion-publica-verde/09047122800c3849_tcm7-3224.pdf

⁴³ Green codes of practice at: <http://www.magrama.gob.es/es/ministerio/planes-estrategias/plan-de-contratacion-publica-verde/>

⁴⁴ First general report concerning the status of the Green Public Procurement Plan at: http://www.magrama.gob.es/es/ministerio/planes-estrategias/plan-de-contratacion-publica-verde/Contratación_Pública_Verde_en_la_AGE_tcm7-181224.pdf

⁴⁵ Art 5 of Directive 2006/32/EC.

("contribute to the funds and funding mechanisms for programs to improve energy efficiency" according to the articles 6.2 a and 11 of the Directive)

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

On the 5th of April 2013, the Royal Decree on Basic Procedure for the Certification of Building Energy Efficiency was approved.

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/EU⁴⁶?

Royal Decree 1390/2011 of 14.10.2011 transposed 2010/30 Directive into Spanish Law. This RD regulates the mandatory of indication of energy consumption and other resources by energy-related products by labelling and standard product information. Article 6 of this RD provides the obligations as per article 5 of the Directive.

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?

Article 7 of RD 1390/2011 transposes almost in a literal manner the requirements of Article 6 of that Directive.

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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.



⁴⁶ 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