

Important notice: this report has been submitted in the language of the Member State, which is the sole authentic version. Translation into the English language is being provided for information purposes only. The European Commission does not guarantee the accuracy of the data or information provided in the translation, nor does it accept responsibility for any use made thereof.

1. Remarks on measures taken to transpose Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market (OJ EC L 283 of 27.10.2001, p. 33) into Austrian national legislation

All measures to transpose the Directive into Austrian national law have already been taken. The Directive was transposed by the Green Electricity Act (*Ökostromgesetz*), Fed. OJ I-149/2002), the regulations and formally approved General Conditions based on the Green Electricity Act, the Electricity Industry and Organisation Act (Fed. OJ I-143/1998 as amended in I-121/2000 and Fed. OJ I-149/2002), and the Energy Regulatory Authorities Act (Fed. OJ I-121/2002 as amended in Fed. OJ I-148/2002).

For a detailed overview, please see the annexes:

1. Sources of law
2. Table indicating the national provisions corresponding to the provisions of the Directive

By letter of 24 October 2002 (ref. 4.14.0/27/02) from the Permanent Representation of Austria to the EU, the Green Electricity Act (*Ökostromgesetz*) was notified as the transposition of Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market (OJ EC L 283 of 27.10.2001, p. 33).

Important notice: this report has been submitted in the language of the Member State, which is the sole authentic version. Translation into the English language is being provided for information purposes only. The European Commission does not guarantee the accuracy of the data or information provided in the translation, nor does it accept responsibility for any use made thereof.

ANNEX 1

SOURCES OF LAW

1. Federal Act laying down new provisions in the field of electricity generation from renewable energy sources and in the field of combined heat and power generation (Green Electricity Act / *Ökostromgesetz*), Fed. OJ I-149-2002.

Regulations based on the above:

- Regulation of the Federal Minister for Economic Affairs and Labour laying down compensatory payments for extra expenditure of undertakings responsible for ecological balance, Fed. OJ II-507/2002.
- Regulation of the Federal Minister for Economic Affairs and Labour laying down charges for energy generated by green electricity plants, Fed. OJ II-508/2002.
- General conditions of the corporations responsible for ecological balance, Austrian Power Grid AG, Trioler Regelzone AG and VKW-Übertragungsnetz AG, approved by Energie-Control GmbH on 27 November 2002 and on 2 December 2002 in accordance with Article 18 of the Green Electricity Act, Fed. OJ I-149/2002, published at www.apg.at, www.tirag.at and www.vkw-grid.at.

2. Federal Act reorganising the electricity industry (EIWOG), Fed. OJ I-143/1998 as amended in Fed. OJ I-121/2002 and Fed. OJ I-149/2002.

- General operating conditions of the transmission network operator approved by the Energy Control Commission in accordance with Article 24 of the Electricity Industry and Organisation Act published at www.e-control.at and general operating conditions of the distribution network operator approved by the Energy Control Commission in accordance with Article 31 of the Electricity Industry and Organisation Act, published at www.e-control.at.

3. Federal Act on the responsibilities of the regulatory authorities in the electricity and natural gas sector and the setting up of Energie-Control GmbH and the Energy-Control Commission (Energy Regulatory Authorities Act - E-RBG), Fed. OJ I-121/2002 as amended in Fed. OJ I-148/2002.

Important notice: this report has been submitted in the language of the Member State, which is the sole authentic version. Translation into the English language is being provided for information purposes only. The European Commission does not guarantee the accuracy of the data or information provided in the translation, nor does it accept responsibility for any use made thereof.

ANNEX 2

TABLE INDICATING THE NATIONAL PROVISIONS CORRESPONDING TO THE PROVISIONS OF THE DIRECTIVE

Text of the Directive	Transposition into national legislation
<p>Article 1</p> <p>Purpose</p> <p>The purpose of this Directive is to promote an increase in the contribution of renewable energy sources to electricity production in the internal market for electricity and to create a basis for a future Community framework thereof.</p>	<p>Art. 2 and 4 of the <i>Ökostromgesetz</i> [Green Electricity Act]</p> <p>("General objectives")</p>
<p>Article 2</p> <p>Definitions</p> <p>For the purposes of this Directive, the following definitions shall apply:</p> <p>(a) "renewable energy sources" shall mean renewable non-fossil energy sources (wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases);</p> <p>(b) "biomass" shall mean the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste;</p> <p>(c) "electricity produced from renewable energy sources" shall mean electricity produced by plants using only renewable energy sources, as well as the proportion of electricity produced from renewable energy sources in hybrid plants also using conventional energy sources and including renewable electricity used for filling storage systems, and excluding electricity produced as a result of storage systems;</p> <p>(d) "consumption of electricity" shall mean national electricity production, including</p>	<p>Art. 5 of the <i>Ökostromgesetz</i></p> <p>("Definitions")</p>

Important notice: this report has been submitted in the language of the Member State, which is the sole authentic version. Translation into the English language is being provided for information purposes only. The European Commission does not guarantee the accuracy of the data or information provided in the translation, nor does it accept responsibility for any use made thereof.

<p>autoproduction, plus imports, minus exports (gross national electricity consumption).</p> <p>In addition, the definitions in Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market of electricity shall apply.</p>	
<p>Article 3</p> <p>National indicative targets</p> <p>(1) Member States shall take appropriate steps to encourage greater consumption of electricity produced from renewable energy sources in conformity with the national indicative targets referred to in paragraph.2. These steps must be in proportion to the objective to be attained.</p> <p>(2) Not later than 27 October 2002 and every five years thereafter, Member States shall adopt and publish a report setting national indicative targets for future consumption of electricity produced from renewable energy sources in terms of a percentage of electricity consumption for the next 10 years. The report shall also outline the measures taken or planned, at national level, to achieve these national indicative targets. To set these targets until the year 2010, the Member States shall:</p> <ul style="list-style-type: none"> - take account of the reference values in the Annex, - ensure that the targets are compatible with any national commitments accepted in the context of the climate change commitments accepted by the Community pursuant to the Kyoto Protocol to the United Nations Framework Convention on Climate Change. <p>(3) Member States shall publish, for the first time not later than 27 October 2003 and thereafter every two years, a report which includes an analysis of success in meeting the national indicative targets taking account, in particular, of climatic factors likely to affect the achievement of</p>	<p>Overall structure of the <i>Ökostromgesetz</i>, in particular its Articles 10, 11, 22 and 23, and the Orders of the Federal Minister for Economic Affairs and Labour, Fed. OJ II-507/2002 (<i>Förderbeitragsverordnung</i>), Fed. OJ II-508/2002 (<i>Einspeisetarife-Verordnung</i>), Fed. OJ II-509/2002 (<i>KWK-Zuschlagsverordnung</i>)</p> <p>Communication from the Federal Ministry of Economic Affairs and Labour, published at www.gmwa.gv.at</p> <p>Art. 25 of the <i>Ökostromgesetz</i></p>

Important notice: this report has been submitted in the language of the Member State, which is the sole authentic version. Translation into the English language is being provided for information purposes only. The European Commission does not guarantee the accuracy of the data or information provided in the translation, nor does it accept responsibility for any use made thereof.

<p>those targets and which indicates to what extent the measures taken are consistent with the national climate change commitment.</p> <p>(4) On the basis of the Member States' reports referred to in paragraphs 2 and 3, the Commission shall assess to what extent:</p> <ul style="list-style-type: none"> - Member States have made progress towards achieving their national indicative targets, - the national indicative targets are consistent with the global indicative target of 12 % of gross national energy consumption by 2010 and in particular with the 22,1 % indicative share of electricity produced from renewable energy sources in total Community electricity consumption by 2010. <p>The Commission shall publish its conclusions in a report, for the first time not later than 27 October 2004 and thereafter every two years. This report shall be accompanied, as appropriate, by proposals to the European Parliament and to the Council.</p> <p>If the report referred to in the second subparagraph concludes that the national indicative targets are likely to be inconsistent, for reasons that are unjustified and/or do not relate to new scientific evidence, with the global indicative target, these proposals shall address national targets, including possible mandatory targets, in the appropriate form.</p>	
<p>Article 4</p> <p>Support schemes</p> <p>(1) Without prejudice to Articles 87 and 88 of the Treaty, the Commission shall evaluate the application of mechanisms used in Member States according to which a producer of electricity, on the basis of regulations issued by the public authorities, receives direct or indirect support, and which could have the effect of restricting trade, on the basis that these contribute to</p>	

Important notice: this report has been submitted in the language of the Member State, which is the sole authentic version. Translation into the English language is being provided for information purposes only. The European Commission does not guarantee the accuracy of the data or information provided in the translation, nor does it accept responsibility for any use made thereof.

<p>the objectives set out in Articles 6 and 174 of the Treaty.</p> <p>(2) The Commission shall, not later than 27 October 2005, present a well-documented report on experience gained with the application and coexistence of the different mechanisms referred to in paragraph 1. The report shall assess the success, including cost-effectiveness, of the support systems referred to in paragraph 1 in promoting the consumption of electricity produced from renewable energy sources in conformity with the national indicative targets referred to in Article 3(2). This report shall, if necessary, be accompanied by a proposal for a Community framework with regard to support schemes for electricity produced from renewable energy sources.</p> <p>Any proposal for a framework should:</p> <ul style="list-style-type: none"> (a) contribute to the achievement of the national indicative targets; (b) be compatible with the principles of the internal electricity market; (c) take into account the characteristics of different sources of renewable energy, together with the different technologies, and geographical differences; (d) promote the use of renewable energy sources in an effective way, and be simple and, at the same time, as efficient as possible, particularly in terms of cost; (e) include sufficient transitional periods for national support systems of at least seven years and maintain investor confidence. 	
<p>Article 5</p> <p>Guarantee of origin of electricity produced from renewable energy sources</p> <p>(1) Member States shall, not later than 27 October 2003, ensure that the origin of electricity produced from renewable energy sources can be guaranteed as such within the meaning of this Directive according to objective, transparent and non-discriminatory criteria laid down by each</p>	<p>Art. 7 and 8 of the <i>Ökostromgesetz</i>, Art. 45 and Art. 45a of the <i>Elektrizitätswirtschafts- und-organisationsgesetz</i> [Electricity Management and Organisation Act]</p>

Important notice: this report has been submitted in the language of the Member State, which is the sole authentic version. Translation into the English language is being provided for information purposes only. The European Commission does not guarantee the accuracy of the data or information provided in the translation, nor does it accept responsibility for any use made thereof.

<p>Member State. They shall ensure that a guarantee of origin is issued to this effect in response to a request.</p> <p>(2) Member States may designate one or more competent bodies, independent of generation and distribution activities, to supervise the issue of such guarantees of origin.</p> <p>(3) A guarantee of origin shall:</p> <ul style="list-style-type: none">- specify the energy source from which the electricity was produced, specifying the dates and places of production, and in the case of hydroelectric installations, indicate the capacity;- serve to enable producers of electricity from renewable energy sources to demonstrate that the electricity they sell is produced from renewable energy sources within the meaning of this Directive. <p>(4) Such guarantees of origin, issued according to paragraph 2, should be mutually recognised by the Member States, exclusively as proof of the elements referred to in paragraph 3. Any refusal to recognise a guarantee of origin as such proof, in particular for reasons relating to the prevention of fraud, must be based on objective, transparent and non-discriminatory criteria. In the event of refusal to recognise a guarantee of origin, the Commission may compel the refusing party to recognise it, particularly with regard to objective, transparent and non-discriminatory criteria on which such recognition is based.</p> <p>(5) Member States or the competent bodies shall put in place appropriate mechanisms to ensure that guarantees of origin are both accurate and reliable and they shall outline in the report referred to in Article 3(3) the measures taken to ensure the reliability of the guarantee system.</p>	<p>Art. 8(3) of the <i>Ökostromgesetz</i></p> <p>Art. 8(2) of the <i>Ökostromgesetz</i></p> <p>Art. 8(1) of the <i>Ökostromgesetz</i></p> <p>Art. 9(1) of the <i>Ökostromgesetz</i></p> <p>Art. 7 and 8(2) and (3) of the <i>Ökostromgesetz</i> and Art. 45 and 45a of the <i>Elektrizitätswirtschafts- und -organisationsgesetz</i> [Electricity Industry and Organisation Act] and the General Conditions of the corporation responsible for ecobalance, Austrian Power Grid AG, Tiroler Regelzone AG und VKW-Übertragungsnetz AG, approved by Energie-Control GmbH on 27 November 2002 and on 2 December 2002 in accordance with Art. 18 of the</p>
---	--

Important notice: this report has been submitted in the language of the Member State, which is the sole authentic version. Translation into the English language is being provided for information purposes only. The European Commission does not guarantee the accuracy of the data or information provided in the translation, nor does it accept responsibility for any use made thereof.

<p>(6) After having consulted the Member States, the Commission shall, in the report referred to in Article 8, consider the form and methods that Member States could follow in order to guarantee the origin of electricity produced from renewable energy sources. If necessary, the Commission shall propose to the European Parliament and the Council the adoption of common rules in this respect.</p>	<p><i>Ökostromgesetz</i>, Fed. OJ I-149/2002, published at www.apg.at, www.tirag.at and www.vkw.grid.at</p>
<p>Article 6</p> <p>Administrative procedures</p> <p>(1) Member States or the competent bodies appointed by the Member States shall evaluate the existing legislative and regulatory framework with regard to authorisation procedures or the other procedures laid down in Article 4 of Directive 96/92/EC, which are applicable to production plants for electricity produced from renewable energy sources, with a view to:</p> <ul style="list-style-type: none"> - reducing the regulatory and non-regulatory barriers to the increase in electricity production from renewable energy sources, - streamlining and expediting procedures at the appropriate administrative level, and - ensuring that the rules are objective, transparent and non-discriminatory, and take fully into account the particularities of the various renewable energy source technologies. <p>(2). Member States shall publish, not later than 27 October 2003, a report on the evaluation referred to in paragraph 1, indicating, where appropriate, the actions taken. The purpose of this report is to provide, where this is appropriate in the context of national legislation, an</p>	<p>Art. 25 of the <i>Ökostromgesetz</i></p>

Important notice: this report has been submitted in the language of the Member State, which is the sole authentic version. Translation into the English language is being provided for information purposes only. The European Commission does not guarantee the accuracy of the data or information provided in the translation, nor does it accept responsibility for any use made thereof.

<p>indication of the stage reached specifically in:</p> <ul style="list-style-type: none"> - coordination between the different administrative bodies as regards deadlines, reception and treatment of applications for authorisations, - drawing up possible guidelines for the activities referred to in paragraph 1, and the feasibility of a fast-track planning procedure for producers of electricity from renewable energy sources, and - the designation of authorities to act as mediators in disputes between authorities responsible for issuing authorisations and applicants for authorisations. <p>(3) The Commission shall, in the report referred to in Article 8 and on the basis of the Member States' reports referred to in paragraph 2 of this Article, assess best practices with a view to achieving the objectives referred to in paragraph 1.</p>	
<p>Article 7</p> <p>Grid system issues</p> <p>(1) Without prejudice to the maintenance of the reliability and safety of the grid, Member States shall take the necessary measures to ensure that transmission system operators and distribution system operators in their territory guarantee the transmission and distribution of electricity produced from renewable energy sources. They may also provide for priority access to the grid system of electricity produced from renewable energy sources. When dispatching generating installations, transmission system operators shall give priority to generating installations using renewable energy sources insofar as the operation of the national electricity system permits.</p> <p>(2) Member States shall put into place a legal framework or require transmission system operators and distribution system operators to set up and publish their</p>	<p>Overall structure of the <i>Ökostromgesetz</i>, in particular its Art. 10(1) and the General Conditions of the corporation responsible for ecobalance, Austrian Power Grid AG, Tiroler Regelzone AG und VKW-Übertragungsnetz AG, genehmigt durch die Energie-Control GmbH on 27 November 2002 and on 2 December 2002 in accordance with Art. 18 of the <i>Ökostromgesetz</i>, Fed. OJ I-149/2002, published at www.apg.at, www.tirag.at and www.vkw-grid.at</p> <p>Art.Art. 19(2) and 20(1)(4) of the <i>Elektrizitätswirtschafts- und organisationsgesetz</i> [Electricity Industry and Organisation Act]</p> <p>General operating conditions of the transmission network operator approved by the Energy Control Commission in accordance with Art. 24 of the Electricity</p>

Important notice: this report has been submitted in the language of the Member State, which is the sole authentic version. Translation into the English language is being provided for information purposes only. The European Commission does not guarantee the accuracy of the data or information provided in the translation, nor does it accept responsibility for any use made thereof.

<p>standard rules relating to the bearing of costs of technical adaptations, such as grid connections and grid reinforcements, which are necessary in order to integrate new producers feeding electricity produced from renewable energy sources into the interconnected grid.</p> <p>These rules shall be based on objective, transparent and non-discriminatory criteria taking particular account of all the costs and benefits associated with the connection of these producers to the grid. The rules may provide for different types of connection.</p> <p>(3) Where appropriate, Member States may require transmission system operators and distribution system operators to bear, in full or in part, the costs referred to in paragraph 2.</p> <p>(4) Transmission system operators and distribution system operators shall be required to provide any new producer wishing to be connected with a comprehensive and detailed estimate of the costs associated with the connection. Member States may allow producers of electricity from renewable energy sources wishing to be connected to the grid to issue a call for tender for the connection work.</p> <p>(5) Member States shall put into place a legal framework or require transmission system operators and distribution system operators to set up and publish their standard rules relating to the sharing of costs of system installations, such as grid connections and reinforcements, between all producers benefiting from them. The sharing shall be enforced by a mechanism based on objective, transparent and non-discriminatory criteria taking into account the benefits which initially and subsequently connected producers as well as transmission system operators and distribution system operators derive from the connections.</p> <p>(6) Member States shall ensure that the</p>	<p>Industry and Organisation Act, published at www.e-control.at and the general operating conditions of the distribution network operator approved by the Energy Control Commission in accordance with Art. 31 of the Electricity Industry and Organisation Act, published at www.e-control.at</p> <p>Art. 1170a of the General Civil Code, Art. 5 of the Consumer Protection Act</p> <p>See explanations concerning Art. 7(2)</p> <p>Art. 6 of the <i>Ökostromgesetz</i> (Green</p>
---	--

Important notice: this report has been submitted in the language of the Member State, which is the sole authentic version. Translation into the English language is being provided for information purposes only. The European Commission does not guarantee the accuracy of the data or information provided in the translation, nor does it accept responsibility for any use made thereof.

<p>charging of transmission and distribution fees does not discriminate against electricity from renewable energy sources, including in particular electricity from renewable energy sources produced in peripheral regions, such as island regions and regions of low population density. Where appropriate, Member States shall put in place a legal framework or require transmission system operators and distribution system operators to ensure that fees charged for the transmission and distribution of electricity from plants using renewable energy sources reflect realisable cost benefits resulting from the plant's connection to the network. Such cost benefits could arise from the direct use of the low-voltage grid.</p> <p>(7) Member States shall, in the report referred to in Article 6(2), also consider the measures to be taken to facilitate access to the grid system of electricity produced from renewable energy sources. That report shall examine, inter alia, the feasibility of introducing two-way metering.</p>	<p>Electricity Act)</p>
<p>Article 8</p> <p>Summary report</p> <p>On the basis of the reports by Member States pursuant to Article 3(3) and Article 6(2), the Commission shall present to the European Parliament and the Council, no later than 31 December 2005 and thereafter every five years, a summary report on the implementation of this Directive.</p> <p>This report shall:</p> <ul style="list-style-type: none"> - consider the progress made in reflecting the external costs of electricity produced from non-renewable energy sources and the impact of public support granted to electricity production, - take into account the possibility for Member States to meet the national indicative targets established in Article 3(2), the global indicative target referred to in Article 3(4) and the existence of 	

Important notice: this report has been submitted in the language of the Member State, which is the sole authentic version. Translation into the English language is being provided for information purposes only. The European Commission does not guarantee the accuracy of the data or information provided in the translation, nor does it accept responsibility for any use made thereof.

<p>discrimination between different energy sources.</p> <p>If appropriate, the Commission shall submit with the report further proposals to the European Parliament and the Council.</p>	
<p>Article 9</p> <p>Transposition</p> <p>Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 27 October 2003. They shall forthwith inform the Commission thereof.</p> <p>When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.</p>	<p>Transposed by the <i>Ökostromgesetz</i> (Green Electricity Act), Fed. OJ I-149/2002, the Electricity Industry and Organisation Act, Fed. OJ I-143/1998 as amended in Fed. OJ I-121/2000 and I-149/2002 and the Energy Regulatory Authorities Act, Fed. OJ I-121/2002 as amended in Fed. OJ I-148/2002</p>