



REPORT IN ACCORDANCE WITH ARTICLES 6(3) AND 10(2) OF DIRECTIVE 2004/8/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE PROMOTION OF COGENERATION BASED ON A USEFUL HEAT DEMAND IN THE INTERNAL ENERGY MARKET AND AMENDING DIRECTIVE 92/42/EEC

1. Transposition/implementation of the legal text of Directive 2004/8/EC

Q1. What is the level of transposition of the Directive in your country? What is the timeline for the remaining parts of the transposition of the Directive, if any?

Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market, and amending Directive 92/42/EEC, was transposed into Portuguese law by one Law, namely Decree Law No 23/2010 of 25 March 2010, which has in the meantime been amended by Law No 19/2010 of 23 August 2010.

Q2. What is the timeline for implementing measures based on the Commission Decision of 19 November 2008 establishing detailed guidelines? Please indicate how this has taken place (revision of a general energy law, a specific law, decree, regulation,...).

The transposition of the Directive by means of Decree Law No 23/2010 provides for the application of Annex II to the Directive relating to the guidelines for the calculation of electricity from cogeneration. Given that this Law entered into force in April 2010, all cogeneration producers who have received an establishment licence since this date are subject to the guidelines provided for in the Decision.

Q3. To what extent do you consider your country to have already significantly implemented the Directive?

The transposition into Portuguese law has been completed. We are awaiting the approval and publication of the additional legislation provided for in Decree Law No 23/2010, namely the Order relating to the reference tariff and to the premiums for efficiency, renewable energy and market participation.



Q4. Is your country using the alternative calculation method according to Article 12(2)?

In accordance with Decree Law No 23/2010, Portugal opted for the combined application of both alternatives, by considering the calculation of the Primary Energy Savings (PES) as being the application of the formula in paragraph b) of Annex III to the Directive, and replacing 'CHP E_{η} ' with ' E_{η} '. In other words, the total amount of energy produced is counted (not only energy produced by cogeneration, as provided for in Annex II), and only the useful heat is counted (not the total amount of heat produced).

Q5. Is there any need for your country to review in accordance with Article 13 the threshold values used for calculation of electricity from cogeneration and/or the threshold values used for calculation of efficiency of cogeneration production and primary energy savings?

At the moment, this need has not been considered, since the view is that there has not been sufficient technical progress to justify such a review.

2. National potential to increase the share of high-efficiency cogeneration

Q6. Can your country already show progress in high-efficiency cogeneration since the last report on national potential which can be ascribed to either EU or national legislation and support schemes?

The economic and financial crisis which has been affecting Portugal, together with the recent establishment of the current Government, has been reflected – in the specific case of cogeneration – in the need to review the existing proposals relating to Orders and support schemes, in particular the reference tariff and premiums and other procedures contained in Decree Law No 23/2010 of 25 March 2010. This crisis has also been reflected in industry, particular in the demand for useful heat, which has contributed to decreasing the potential of high-efficiency cogeneration initially identified.

In addition to this situation, the assessment which results from the measures provided for in Portugal's Memorandum of Understanding on Specific Economic Policy Conditionality involves reviewing and reformulating, across the board, many of the measures which are in force and planned.



Thus, it is not possible at the moment to correlate the data between the legislation and the production of high-efficiency cogeneration, and the previous rules which existed before the current law remain in force, namely the allocation of the subsidised tariff.

Q7. What is your evaluation of the progress towards increasing the share of high-efficiency cogeneration in your country? Your assessment should be based on the specific figures to be included in the attached spreadsheet (Excel file) designed to facilitate the submission of your data.

The Excel file submitted with this report contains the statistical data available at the moment. It is not possible to reconcile this data with the new rules resulting from the transposition of the Directive since, in practice, they are not yet being applied.

3. Barriers to high-efficiency cogeneration

Q8. Please give your views on the current barriers to high-efficiency cogeneration in your country:

- **Barriers in relation to administrative procedures (authorization, coordination among competent authorities, streamlined simplified procedures, etc);**
- **Barriers in relation to electricity grid system and tariff issues (including specific measures for small scale and micro cogeneration units);**
- **Other barriers (internalisation of external costs, energy prices, financial & technical barriers, etc) in accordance with Articles 9 and 6 of the cogeneration Directive 2004/8/EC.**

Indicate the measures to overcome them.

Administrative procedures

To some extent, the new law mitigates the majority of the barriers identified. This law has simplified and streamlined procedures. To this end, the following measures have been adopted:

- providing cogeneration producers with access to networks in a non-discriminatory and transparent way;
- the manager of the National Electricity Transmission Network (RNT) giving priority to dispatching electricity from cogeneration facilities which do not



participate in organised markets, in order to ensure the transmission and distribution of the electricity with regard to access to networks;

- providing dedicated websites in order to streamline the licensing procedures as well as to simplify the interface between cogeneration producers and both the body responsible for issuing guarantees of origin (EEGO) and the Directorate-General for Energy and Geology.

These measures mean a major simplification of the whole procedure relating to cogeneration, from awarding the production licence to starting operations and selling electricity to the network or to third parties.

Tariff issues

With the publication of Law No 19/2010, some issues were changed relating to the methods of the remuneration regime for cogeneration production, which could possibly cause barriers to the implementation of high-efficiency cogeneration. In particular, the reference tariff will now comply with the following requirements:

- it must not favour some fuels over others;
- it must be indexed to the international development of fuel prices, to the development of the consumer price index and to exchange rate developments;
- it must reflect the environmental benefits, the losses avoided on the transmission and distribution networks.

Other barriers

This new Law fixes a transitional remuneration regime for facilities which are already operating, and allows producers to choose the previous remuneration regime, or to transfer to the new regime within a period laid down by law and keep the validity of the operating licences which they have been given.



4. Guarantees of origin and support schemes

Q9. Article 5 of the Directive requires Member States to ensure that accurate and reliable guarantees of origin are issued according to objective, transparent and non-discriminatory criteria. Please indicate what is the situation concerning the implementation of this measure in your country (information on primary energy savings, type of registration system)?

Pursuant to Decree-Law No 23/2010, the Portuguese State entrusted the procedure for issuing Guarantees of Origin to the National Electricity Network (REN), the concession holder of the National Transmission Network (RNT).

The REN is a member of the Association of Issuing Bodies (AIB), an international organisation which promotes the use of a standard certification system based on a harmonisation of structural concepts and procedures, the aim of which is to ensure the correct operation of the international system of energy certificates. With the support of the European Commission, the scope of the certificate systems was extended to include the requirements resulting from Directive 2004/08/EC, developing an approach which includes the Guarantees of Origin (GO) indicated in Article 5 of the Directive.

With these structural changes, the members had to adapt their operating procedures and the REN approved its version of the RESC Domain Protocol for Portugal and of the Standard Terms and Conditions, thereby meeting all the conditions for carrying out this procedure in accordance with the objective, transparent and non-discriminatory criteria required.

Under Decree Law No 23/2010, EEGO will be responsible for issuing GO on application by electricity producers with high-efficiency cogeneration plants.

It is the responsibility of the EEGO to carry out audits, based on the specifications for awarding GO, to check that these classifications are being maintained.

In order to ensure better control of its activity, the EEGO is subject to audits carried out by the DGEG, which will publish the annual summary report of these audits on its website.

On presentation of a GO, incentives are provided for based essentially on three criteria: reducing the consumption of primary energy and the subsequent reduction of CO₂ emissions compared with the separate production of electric and thermal energy, promoting cogeneration which uses renewable resources and promoting the participation of cogeneration producers in the electricity market.



However, as mentioned in the answer to question 6, this mechanism is also dependant on the assessment resulting from the measures provided for in Portugal's Memorandum of Understanding on Specific Economic Policy Conditionality.

Q10. Does your country have support schemes for cogeneration/CHP based on Directive 2004/8/EC (operational and/or investment aid)? What kind of support is provided (feed-in tariffs, certificates and quota, priority access to the grid,...)? Are they designed to provide stable long-term investment conditions? Which sectors will be targeted (agricultural and/or industrial and/or heating cogeneration)?

According to Decree Law No 23/2010, as amended by Law No 19/2010 of 23 August 2010, support for cogeneration is given by means of a reference tariff, efficiency premiums and renewable energy premiums.

With regard to access to networks by cogeneration producers, this depends on the method of remuneration regime chosen. In the case of cogeneration produced under the special method, access is given under the terms of Decree Law No 312/2001 of 10 December 2001, as amended by Decree Law No 33-A/2005 of 16 February 2005, whilst under the general method, access is given on similar terms to those laid down for the ordinary regime for electricity production.

The actual licensing of cogeneration producers complies with rules which are common to both remuneration methods, and is based on the system which applies to the production of electricity under the ordinary regime, *mutatis mutandis*, in particular those resulting from simplifying and streamlining procedures.

With regard to the sectors covered by the support schemes, there are no plans to make any distinctions in terms of its allocation.

Q11. How much money on a yearly basis has been provided in this way in the past years to the promotion of high-efficiency cogeneration in particular? And how much money is expected to be made available on a yearly basis to the promotion of high-efficiency cogeneration in the coming years?

See answer to question 7.