

Ministry of Economic Affairs  
Republic of Latvia

**Report of the Republic of Latvia on the implementation of 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/EC**

**Rīga, 2009**

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## **Introduction**

On 27 June 2006, the Cabinet of Ministers (hereinafter referred to as the CM) approved the policy planning document elaborated by the Ministry of Economic Affairs *Guidelines for the Development of Energy in 2007-2016* (hereinafter referred to as the Guidelines), determining the basic principles, objectives and course of action of Latvian energy policy for the next ten years and marking the course of long-term development of the energy sector.

One of the objectives of Latvian national energy policy defined in the Guidelines is increasing the amount of energy production by cogeneration.

### **1. Legislative and regulatory framework**

Cogeneration is regulated in Latvia by special laws and regulations: "Energy Law", "Electricity Market Law" and Cabinet of Ministers Regulation No 221 "Regulations Regarding Electricity Production by Cogeneration and Price Fixing Thereof" issued in conformity with the "Electricity Market Law", as well as the law "On Regulators of Public Utilities" and the regulations of the Cabinet of Ministers issued in conformity with it.

General legislation regulating trade and transactions in a general way, for example, the Commercial Law, the Civil Law, the Labour Law, tax legislation regarding environmental protection and construction, apply to cogeneration, too.

#### **1.1 Electricity Market Law**

The Electricity Market Law was adopted on 5 May 2005 and it includes legal provisions based on the following EU directives:

- 1) 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;
- 2) Directive 2003/54/EC of the European Parliament and of the Council of 26 July 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC;
- 3) 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.

The Law provides that a producer who generates electricity in the process of cogeneration may acquire the right to sell the produced electricity within the framework of mandatory procurement (Section 28, Paragraph 1).

According to Section 28, Paragraph 2, the Cabinet of Ministers prescribes the following criteria regarding cogeneration:

- the criteria for the qualification of cogeneration power units for acquiring the right to sell the produced electricity within the framework of mandatory procurement;

- the procedures for mandatory procurement and the supervision thereof;
- the procedures for fixing the electricity price depending on the electric capacity of a cogeneration unit and the fuel used;
- The procedures for covering the mandatory procurement expenses and the procedures for waiving the right to sell the produced electricity within the framework of mandatory procurement.

If the producer wishes to utilise the right to sell the produced electricity within the framework of mandatory procurement and the cogeneration power plant thereof conforms to the criteria specified by the Cabinet, all surplus of the produced electricity, which is left after using the electricity for the producer's own needs, shall be procured by a public trader for a price fixed in accordance with the procedures specified by the Cabinet.

The public trader shall calculate separately the amount and expenses of the electricity procured in accordance with the procedures specified by the Cabinet. The expenses of such procurement shall be covered by all electricity end users in Latvia in proportion to their electricity consumption by purchasing from the public trader a definite proportion of the electricity produced in cogeneration power units or by compensating the expenses of the procurement thereof. The Cabinet shall specify the procedures for the coverage of the procurement expenses, but the Regulator – the methodology for the calculation of cost allocation (Section 28, Paragraph 5).

Cogeneration power plants which conform to the prescribed criteria may receive a guarantee of origin of the produced electricity in accordance with the procedures specified by the Cabinet. An institution authorised by the Cabinet shall issue the guarantee of origin (Section 28, Paragraph 7).

## **1.2 Law on Regulators of Public Utilities**

The Law "On Regulators of Public Utilities" defines the energy sector including heat supply, in the production process of which electricity is generated, and consequently cogeneration, as a sector regulated by the State.

On 3 July 2001, the Cabinet of Ministers issued Regulation No 297 "Regulations on Types of Regulated Public Utilities", based on the Law " On Regulators of Public Utilities", providing that in the heat energy supply sector where in the production process electricity is produced, it shall be necessary to regulate concurrent production of thermal energy and electricity generated in installations the peak load of which is more than one megawatt.

The Public Utilities Commission (hereinafter referred to as the PUC) shall licence the production of heat and electricity in cogeneration units, determine tariffs and the methodology for calculating the tariffs.

The decisions adopted within the powers conferred on the PUC by the laws and regulations shall be binding administrative provisions regarding cogeneration.

Within the scope of its competence, the PUC prescribes laws regulating electricity supply and provides their explanation.

### **1.3 Cabinet of Ministers Regulation No 221 "Regulations Regarding Electricity Production in Cogeneration and Price Fixing Thereof"**

On 10 March 2009, in accordance with the Electricity Market Law, the Cabinet of Ministers issued Regulation No 221 "Regulations Regarding Electricity Production by Cogeneration and Price Fixing Thereof" (hereinafter referred to as CM Regulation No 221) regulating mandatory fixed price procurement of electricity produced in a cogeneration process as well as the right to receive a guaranteed payment for the electrical capacity set at the cogeneration unit.

CM Regulation No 921 includes legal provisions based on 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.

CM Regulation No 221 replaces CM Regulation No 921 "Regulations Regarding Electricity Production by Cogeneration" issued on 6 November 2006. It establishes:

- the criteria by which cogeneration units shall be qualified to obtain the right to sell electricity produced within the framework of mandatory procurement or to receive a guaranteed payment for the electrical capacity set at the cogeneration unit;
- the procedures for mandatory procurement of electricity produced in a cogeneration unit and for supervision thereof;
- the procedures for covering the costs of mandatory procurement;
- the procedures for fixing the price for electricity produced in a cogeneration unit depending on its electrical capacity and the fuel used;
- the procedures by which the trader may waive the right to sell electricity produced within the framework of mandatory procurement;
- the procedures by which the trader who has obtained the right to sell electricity produced within the framework of mandatory procurement, may receive a guarantee of origin;
- the procedures for fixing the price for electricity produced in a cogeneration unit depending on the production technology, the fuel used and the electrical capacity set at the cogeneration unit as well as the payment procedures;
- the procedures by which the trader may waive the right to receive a guaranteed payment for the electrical capacity set at the cogeneration unit.

These qualification criteria comply with the requirements of Directive 2004/8/EC.

## **2. Report in accordance with Article 5(3) of Directive 2004/8/EC on the guarantee of origin of electricity produced by high-efficiency cogeneration**

In accordance with Article 5 of Directive 2004/8/EC, the producer of energy in Latvia shall have the possibility to prove that the electricity he or she sells has been produced in the regime of high-efficiency cogeneration.

The guarantee system for the origin of electricity produced by cogeneration has been laid down in Part V of CM Regulation No 221.

The trader may receive a guarantee of origin, testifying to the fact that the electricity produced in the cogeneration unit in his or her ownership complies with the specified efficiency requirements and has been consequently recognised as high-efficiency electricity produced by cogeneration. The guarantee of origin shall be issued by the Ministry of Economic Affairs.

The guarantee of origin shall be issued for the amount of electricity produced in a cogeneration unit which complies with the efficiency criteria specified (if the primary energy savings are more than 1 % for small scale cogeneration units and not less than 10 % for other cogeneration units) and is calculated according to the procedures laid down in this Regulation.

If the trader wants to receive a guarantee of origin for electricity produced within a year, he or she shall submit a report to the Ministry of Economic Affairs regarding the operation of each cogeneration unit in his or her ownership indicating that he or she wants to receive a guarantee of origin.

The Ministry of Economic Affairs shall issue the guarantee of origin or give a reasoned refusal within 30 days after the receipt of the annual report or the required application and information.

The guarantee system for the origin of electricity produced by high-efficiency cogeneration shall be evaluated as a system complying with the requirements of Directive 2004/8/EC. The Ministry of Economic Affairs who issues the guarantee of origin is a competent authority independent of electricity generation and distribution.

The procedure of receiving the guarantee of origin is simple and the time-limit is comparatively short. In order to receive the guarantee of origin, one has to apply only to one authority – the Ministry of Economic Affairs.

The guarantee of origin shall be considered accurate and reliable as in order to receive it the trader has to submit a report to the Ministry of Economic Affairs regarding the operation of each cogeneration unit in his or her ownership according to a report form s which shall contain the following information:

- general information about the cogeneration unit (the location, the licence number, the registration number of the trader, the system operator, the electric and thermal capacities set, the cogeneration technology and the types of fuel used, the number of employees, the user of useful thermal energy);

- information regarding the operation of the cogeneration unit within a year broken down by months (the amount of the fuel consumed, the produced and sold thermal energy and its price, the amount of electricity produced and transferred to the electricity grid, the actual efficiency coefficient of the cogeneration installation, the electricity produced by the cogeneration process, the price of electricity produced by cogeneration).

The submitted data shall be confirmed by the responsible official of the system operator which the cogeneration unit is connected to, and it enhances the reliability of the information provided.

The report shall be submitted also in case the trader wants to sell electricity produced in the cogeneration process within the framework of mandatory procurement. That is why we may consider that in order to receive a guarantee of origin, we do not have to undergo any unnecessary bureaucratic procedures.

### **3. Report in accordance with Article 6 (1) and (3) of Directive 2004/8/EC on the analysis of the national potential for the application of high-efficiency cogeneration and the availability of resources and the evaluation of progress towards increasing the share of high-efficiency cogeneration**

The electricity and thermal energy produced in cogeneration units, as well as the amount of fuel used in the period of 2003-2005

Since 2000, high-efficiency cogeneration has been rapidly spreading in the Latvian energy sector.

From 2000 to 2007, the ratio of cogeneration in the centralised heat supply and consumption increased by 18.1 percentage points and currently constitutes 55.5 % of the total centralised heat supplies. The ratio of electricity produced by cogeneration has also significantly increased; in 2006 compared to 2000, it increased by 171.4 %.

The main type of fuel used in Latvian cogeneration units is natural gas. A small amount of heavy fuel oil and biofuels (woodchips and biogas) are also used.

The following cogeneration technologies are basically used in Latvia:

- steam turbine;
- internal combustion engine;
- gas turbine;
- combined cycle.

There are a number of cogeneration units in Latvia whose set capacity is <1 MW. A licence is not needed for the operation of these units, and they sell the produced electricity by coming to terms with the transmission system operator, and thermal energy is sold by coming to terms with the local heating company.

In accordance with the Guidelines, the undeveloped average heat load potential of the heat supply systems during the heating period amounts to approximately 550 MW<sub>th</sub> which is distributed in the following way:

In Rīga – approximately 50 MW<sub>th</sub><sup>1</sup>;

In the largest cities of Latvia – 250 MW<sub>th</sub> (In Daugavpils – 100 MW<sub>th</sub>, in Liepāja – 80 MW<sub>th</sub>, in Ventspils – 40 MW<sub>th</sub>, in Rēzekne – 30 MW<sub>th</sub>);

In other towns (with a population of at least 4000 people) – 250 MW<sub>th</sub>.

For maximum development of the relevant cogeneration potential, it shall be essential to maintain and develop the current district heating which ensures the necessary constant heat load and, in order to gain maximum effect, allows choosing cogeneration capacities suitable for the current heat load.

There is significant cogeneration potential in local and individual heating. The development of this potential does not influence the cogeneration loads of district heating).

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<sup>1</sup> The development of this potential does not influence the mode of operation of cogeneration units, since their heat supply areas are not interconnected.

The Guidelines establish that in order to support the cogeneration technologies, it is necessary to simplify the technical and administrative procedures ensuring the access of cogeneration units to the electric power supply grid, especially of small scale cogeneration plants (up to 4 MW). Special attention should be paid to the development of cogeneration technologies utilising renewable energy sources: the main source in Latvia is firewood.

One of the priority measures of enhancing the share of electricity generated from renewable energy sources<sup>1</sup> is support to effective use of biomass not only for heat but also for electricity production. The total planned capacity of cogeneration plants fuelled by biomass and biogas is 70-80 MW<sub>el</sub>; in 2016, high-efficiency cogeneration using biomass has to constitute at least 8 % of the total amount of electric power generated from renewable energy sources.

In accordance with the Guidelines, in the period up to 2016, it is necessary to develop the cogeneration potential in the largest cities of Latvia (including Rīga) to the total heat load of approximately 300 MW<sub>th</sub>. The other towns in Latvia must have the cogeneration potential of the total heat load of approximately 100 MW<sub>th</sub>.

Promoting the development of cogeneration units and energy generation from renewable energy sources, the electricity generation capacity should be enhanced both in the transmission system and the distribution system.

Three support instruments have been chosen for this purpose:

1. Mandatory fixed price procurement;
2. Guaranteed payment for the electrical capacity set;
3. Earmarked subsidies for investments promoting the construction of cogeneration plants using renewable energy sources and the financing of the European Union structural funds.

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<sup>1</sup> By 2010, the ratio of electricity generated from renewable energy sources (RES-E) should reach 49.3 % of the total electricity consumption in the country.

#### **4. Report in accordance with Article 9 (1) and (2) of Directive 2004/8/EC on the evaluation of the existing legislative and regulatory framework with regard to the procedures of issuing authorisations and other procedures applicable to high-efficiency cogeneration units, as well as the analysis of the barriers thereof**

There are non-regulatory and regulatory barriers to the development of cogeneration. The following barriers can be regarded as non-regulatory:

- technical;
- financial (investments);
- operational problems;
- access to raw materials and the necessary infrastructure;
- attitude of society.

On the whole, we may conclude that there are no essential non-regulatory barriers to the development of high-efficiency cogeneration potential.

Among the most serious barriers we can mention the high costs of investments and problems of raising the necessary funds. However, the mandatory procurement and the guaranteed payment provided for by the legislation in force lend substantial support to the promotion of cogeneration.

Regulatory barriers are various authorisations and permits (certificates, licences, etc.), standards, prescribed by the current legislation for market access, as well as the long and complicated procedures in order to obtain them and the unequal conditions for market players.

In order to start the production of energy from cogeneration in Latvia, it is necessary to obtain the following authorisations:

- a licence issued by the PUC;
- a permit for the increase or implementation of new electricity generation capacities, issued by the Ministry of Economic Affairs;
- authorisation by the system operator for the connection of the power station to the electrical power grid;
- the decision of the Environment State Bureau on environment impact assessment or technical regulations issued by the Regional Environmental Board of the State Environmental Service;
- a permit regarding polluting activities issued by the Regional Environmental Board of the State Environmental Service;
- a permit regarding the emission of greenhouse gas issued by the Regional Environmental Board;
- a decision on the qualifications for mandatory procurement or for granting the right to receive a guaranteed payment for the electric capacity set, issued by the Ministry of Economic Affairs;
- thermal energy and electricity tariffs approved by the PUC.

The following time-limits have been set for receiving and processing the permit applications by various administrative authorities:

Type of permit	Competent authority	Time necessary for taking a decision in days
Issuing a licence	PUC	30
Authorisation to connect to the grid	System operator	60
Permit for the implementation of new capacities	Ministry of Economic Affairs	30
EIA	Environment State Bureau	60
Technical regulations	Regional Environmental Board of the State Environmental Service	20
Permit regarding polluting activities	Regional Environmental Board of the State Environmental Service	Activity A – 180 Activity B – 90 Activity C – 30
Permit regarding the emission of greenhouse gas	Regional Environmental Board of the State Environmental Service	90
Decision on the qualifications for mandatory procurement/ for granting the right to receive a guaranteed payment for the electric capacity set	Ministry of Economic Affairs	30
Thermal energy and/or electricity tariffs	PUC	90

Analysing the administrative procedures, we may conclude that there are no special barriers to the development of cogeneration in Latvia; however, it would be advisable to shorten the time-limits of some administrative procedures.

Analysing the time-limits for issuing permits, we may conclude that in view of the amount of the documents to be processed and the assessment procedures, they are mainly well-grounded. Decisions on permits regarding polluting activities have the longest deadlines, but we may take into account the fact that decisions on these issues require public discussions and harmonisation by various authorities.

To promote the implementation of cogeneration capacities, it would be advisable to review the time-limits of issuing licences, grid connection and tariff calculation procedures and shorten them if possible.

The regulatory provisions regarding cogeneration may be considered objective and non-discriminating, as the right to qualify for mandatory procurement is granted to all cogeneration technologies or their combinations if by using them it is possible to produce concurrently electricity and useful heat.

The following administrative authorities are involved in administering the cogeneration process:

1. the Ministry of Economic Affairs;
2. the Public Utilities Commission;
3. the Ministry of Environment (the Environment State Bureau and the regional environmental boards of the State Environmental Service);

Only the court can declare the decisions and the legislative and regulatory provisions issued by the Public Utilities Commission unlawful and repeal them. The Public Utilities Commission has to operate within the confines of law. The losses caused by the unlawful decisions or unlawful regulations of the Public Utilities Commission shall be compensated according to the procedures provided for by laws and regulations.

The trader may appeal the decision of the Ministry of Economic Affairs not to grant him or her the right to sell the electricity produced in the relevant cogeneration unit within the framework of mandatory procurement, according to a procedure laid down in the Administrative Procedure Law.

The decisions taken by the Regional Environmental Board of the State Environmental Service can be contested by applying to the Environment State Bureau within a month. The application receipt date shall be the day on which the final decision on what information is to be considered restricted access information comes into force.

The decisions of the Environment State Bureau can be appealed at court in a procedure laid down in the Administrative Procedure Law.

Minister of Economics

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