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MINISTRY OF THE ECONOMY

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The Report of the Republic of Slovenia to the European Commission pursuant to Article 10(1) of Directive 2004/8/EC on administrative procedures, Articles 9(1) and 9(2), to encourage the design of high-efficiency electricity and heat cogeneration units.

Ljubljana, January 2008

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1.0 Introductory explanation to the report

Directive 2004/8/EC on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC, hereinafter the Directive, provides in Article 9 that 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 6 of Directive 2003/54/EC¹ which are applicable to high-efficiency cogeneration units.

Such evaluation should be performed for the purpose of determining whether these procedures:

- encourage the design of cogeneration units;
- reduce the regulatory and non-regulatory barriers to an increase in the proportion of cogeneration;
- are implemented rationally and with sufficient speed on the appropriate administrative level;
- whether the rules are objective, transparent and non-discriminatory for all types of cogeneration technology.

Furthermore Member States should check and ensure – where this is appropriate in the context of national legislation – whether an appropriate level has been attained for:

- coordination between the different administrative bodies as regards deadlines, reception and treatment of applications for energy authorisations;
- the drawing up of possible guidelines for accelerating planning procedures for cogeneration; and
- the designation of authorities to act as mediators in disputes between authorities responsible for issuing authorisations and applicants for authorisation.

Article 10(1) of the Directive provides that Member States should, no later than 21 February 2006, publish a report with the results of the above analyses and evaluations. A part of the results and responses to the above requirements was included in the Report of the Republic of Slovenia on progress in increasing cogeneration, pursuant to Article 6 (3) of Directive 2004/8/EC in February 2007. Since despite the aforementioned report a special report needs to be drawn up, Slovenia has produced such a report and submitted it to the Commission.

¹ Article 6 of this directive deals with the authorisation procedure for new capacities. It provides that for construction of new generating capacity, Member States must adopt an authorisation procedure, which should be conducted in accordance with predetermined, transparent and non-discriminatory criteria. The criteria can entail: the safety and reliability of the electricity system, installations and associated equipment, health and safety of people, environmental protection, use of land and siting, energy efficiency and other criteria. Procedures for issuing energy permits and criteria are public. Appeal procedures must be made available to applicants for energy permits that have been refused.

2.0 Review of regulations governing the area of cogeneration of heat and electricity (CHP) in Slovenia

2.1 Regulations governing the status of CHP on the electricity market

The Energy Act

The Energy Act (official consolidated text, EZ-UP2, UL RS, No. 27/2006)

<http://www.uradni-list.si/pdf/2007/Ur/u2007027.pdf>

- definition of cogeneration of heat and electricity (CHP), qualified production and qualified producer (QP)
- local energy concepts and CHP
- status of QP for CHP
- guarantee of origin for CHP
- operator of transmission network / operator of distribution network is responsible for purchasing all electricity from QPs connected to the network
- separate auctions for QP in balancing discrepancies
- price for using electricity networks from QP less than 1 MW: items that are not justified as minimal costs cannot be taken into account
- Government lays down the conditions for QP status by decree
- position of QP on the market, rules for purchasing electricity from QP, price of purchase and premium for electricity sold by QPs independently are set by Government by decree
- guarantees of origin for QP
- enables households to buy electricity directly from QPs smaller than 1 MW

Decree on the conditions for obtaining the status of qualified producer of electricity

(UL RS, No. 71/2007)

- defines overall efficiency as the relationship between the sum of electricity generation and useful heat and fuel consumption, where the lower calorific values are taken into account;
- qualified power stations may not be owned by transmission or distribution network operator companies, tariff consumer supply establishments or market organisers;
- equates the status of renewable energy source (RES) and CHP power stations;
- categorises power stations: micro-cogeneration less than 50 kW; small up to 1 MW, just as in the Directive, with the additional classes of: medium from 1 to 10 MW and large above 10 MW.
- Sets conditions:
- biomass generation, if the proportion of biomass is over 90%;
- fossil fuel CHP must achieve efficiencies in accordance with Directive 2004/8/EC.
- In calculating primary energy savings (PES) the equations from the Directive are applied. Reference values are taken from Commission Decision 2004/74/EC. For micro and small CHP the PES must be greater than 0.
- required adequate gauges – in the energy authorisation;

- applications for the status of QP are decided by the minister competent for energy - appeal possible at the administrative court;
- application and appendices defined;
- register of QPs;
- validity of status 1 to 10 years.

Decree on the rules for determining prices and purchasing electricity from qualified electricity producers (UL RS, No 25/2002)

<http://www.uradni-list.si/l/objava.jsp?urlid=200225&stevilka=1107>

- purchase price, premium for independent sale, 30% premium for consumption within the company
- contracts made for 10 years
- provides how prices and premiums change
- for which power stations there are special prices
- price/premium level depends on the voltage level (-5% VN), age of the power station (-5% 5 years, -10% 10 years), non-returnable state subsidies received are taken into account in reducing purchase prices or premiums (-5% for each 10% share of assistance in investment)
- possibility of twin-tariff accounting and factors for periods (compulsory for industrial heating stations)
- QPs up to 1 MW do not make up timetables QPs do not pay for variances
- possibility of accounting at the highest tariff for QPs that are also tariff consumers.

Resolution on prices and premiums for the purchase of electricity from qualified electricity producers (UL RS, No 8/2004, 2002)

<http://www.uradni-list.si/l/objava.jsp?urlid=200225&stevilka=1108>

<http://www.uradni-list.si/l/objava.jsp?urlid=20048&stevilka=403>

Decree on the issuing of guarantees of origin of electricity

(UL RS, No 121/2005) The decree was presented in the Report of the Republic of Slovenia to the European Commission pursuant to Article 10(1) of Directive 2004/8/EC regarding the establishing of appropriate mechanisms whereby Member States can ensure that guarantees of origin are both accurate and reliable, and an indication of measures adopted to ensure the reliability of the system of guarantees of origin (January 2008).

Rules on the operation of the electricity market

(UL RS, No 30/2001, 118/2003)

<http://www.uradni-list.si/l/objava.jsp?urlid=200130&stevilka=1846>

<http://www.uradni-list.si/l/objava.jsp?urlid=2003118&stevilka=5152>

- in balancing supply, priority to QPs
- QPs are not bound to pay for variances
- QPs are included in the balance sheet group of transmission network operators
- large QPs may obtain special rights only if so determined by the Slovenian Government These rights must be limited in time and harmonised with the rules on state aid

- purchase price from medium industrial heating stations is agreed by the QP and transmission network operator and may not be lower than the price on the organised market.

Decree on the general conditions for supply and consumption of electricity

(UL RS, No 117/2002 (21/2003 - revised))

- CHP over 10 MW ranked as cogeneration in infrastructure
- power units over 10 MVA are generally connected to the high-voltage network (110 kV, 220 kV and 400 kV), may be connected to the distribution network if this rationally meets the requirements that must be fulfilled upon connection to the transmission network.

2.2 Regulations governing environmental impacts from CHP

Environmental Protection Act /ZVO/

- classes as a task for the Slovenian Ecology Fund tenders for fund financing to promote cogeneration and national budget funds for CHP Funds received are taken into account in the compulsory purchase conditions.

Decree on environmental tax for pollution of the air with emissions of carbon dioxide

(UL RS, Nos 43/2005, 58/2005, 87/2005, 20/2006)

- CHP facility operators are entitled to a refund of CO₂ taxes; for determining quantities of fuel for which the liable person is entitled to a refund
- the following is used: 0.4 kg CO₂/kWh placed on the transmission network and 0.44 kg CO₂/kWh placed on the distribution network;
- liable persons are entitled to a refund of CO₂ taxes if they undertake by implementing the prescribed measures to achieve emission reductions of 2.8% of specific emissions (these are defined in the contract, as is the list of measures, CHP is one of the measures for all listed categories of user).

Decree on the limit values for emissions of substances into the air from large combustion plants

(UL RS, No 73/2005)

- in the construction of new large combustion plants the operator must ensure that the construction incorporates cogeneration, where the study performed as part of the procedure of environmental impact assessment shows that this is economically and technically feasible;
- LCP Directive 2001/80/EC requires that Member States ensure checks for the possibility of cogeneration and its implementation. The LCP Directive permits different limit emission values for NO_x for high-efficiency CHP plants.

Ordinance on the national plan for the allocation of emission coupons for 2008-2012

(UL RS, Nos 42/2007, 70/2007) <http://www.uradni-list.si/pdf/2007/Ur/u2007042.pdf>

The Ordinance implements the national allocation plan for CO₂ emission coupons for the period 2008-2012.

2.2 Regulations governing the placing of CHP in the physical environment

Spatial Planning Act /ZPNa•rt/, (U L RS, No 33/2007 (pursuant to Article 12(4)))

<http://zakonodaja.gov.si/rDSi/r05/predpis ZAK04675.html>

is the Decree on types of spatial planning of national significance (UL RS, No 95/2007)

<http://www.uradni-list.si/l/objava.jsp?urlid=200795&stevilka=4739>

Spatial planning of national significance in the area of energy infrastructure for the supply of electricity comprises:

- power stations with nominal electrical power of 10 MW and more,
- thermal power stations with nominal electrical power of 16 MW and more,
- electricity transmission lines with nominal voltage of 110 kV or more with pertaining functional structures, and
- gas pipelines if the operating pressure is greater than 16 bars with pertaining functional structures.

On the basis of the above delineations, competence for placement in the physical environment for decentralised energy facilities (primarily power stations running on renewable energy sources) and energy facilities with cogeneration of heat and electricity lies at the local administrative level.

Construction Act (official consolidated text) /ZGO-1-UPB1/ (UL RS, Nos 102/2004, (14/2005 - amendments), 120/2006 Constitutional Court Decision: U-I-286/04-46) with the latest amendments published as the Act Amending the Construction Act /ZGO-1B/ (UL RS, No 126/2007), link:

<http://www.uradni-list.si/l/objava.jsp?urlid=2007126&stevilka=6414>

And stemming from this the Rules on the categories of demanding, less demanding and simple construction works, on conditions for the building of simple construction works without a construction licence and on the categories of work on construction works and the attached land (UL RS, Nos 114/2003, 130/2004, 100/2005).

- Article 2 of the act provides that energy facilities with heating power of less than 10 MW and electrical power below 5 MW are not ranked as demanding structures. With this definition, the conditions for construction and start of use of a facility (licence for use) are somewhat relaxed.

2.4 Regulations governing energy authorisations

The Energy Act /EZ/

(UL RS, Nos 79/1999 (8/2000 - revised), 110/2002-ZGO1, 50/2003 Constitutional Court Decision: U-I-250/00-14, 51/2004, 118/2006 (9/2007 - revised))

Energy authorisations are dealt with in Articles 49 to 52 of the Energy Act

- prior to beginning preparations on the location plan, the investor must obtain an energy permit, in addition to other energy structures, for facilities for the production of electricity with a nominal electrical power greater than 1 MW that are connected to the public electricity grid and for facilities for the production of heat over 1 MW for district heating or for subsequent sale
- energy permits must also be obtained for any reconstruction of the aforementioned facilities that changes the energy parameters of such facilities
- in addition to energy permits, for the construction of a facility a construction permit must be obtained, and all the remaining requirements defined by construction regulations must be fulfilled
- energy permits are issued in an administrative procedure by the minister competent for energy
- energy permits determine: the location, type of facility, fuel, method and conditions for performing energy activities in connection with the facility or plant, and obligations upon ceasing operation of the facility
- the minister competent for energy prescribes through rules the conditions and content of applications for energy permits
- the minister responsible for energy issues energy permits and keeps a register of energy permits information in the register is public

- appeals can be lodged against decisions on energy permits disputes are resolved by administrative court

- if on the basis of issued permits it is found that the construction of sufficient production facilities is not planned and reliability of electricity supply in the country is threatened, the government may order a tender for new production capacities²

- public tenders may also be held to secure reductions in negative environmental impact and the promotion of new, commercially unexploited technologies such public tenders must also be published in the Official Journal of the European Union.

Rules on issuing energy permits (UL RS, No 5/2007)

<http://www.uradni-list.si/l/objava.jspurlid=20075&stevilka=171>

- the Rules on issuing energy permits provide detailed instructions for the content and form of the application to obtain an energy permit
- in line with the Energy Act, energy permits are not required by micro and small CHP production facilities, which require simply the consent of the network operator for physical connection
- in the procedure for issuing energy permits for thermal energy facilities, applicants are

² The basis for this is Article 7 of Directive 2003/54/EC.

given the guideline to conceptualise facilities with the possibility of using biomass or the possibility of cogeneration of heat and electricity³. Applicants who submit a request for an energy permit or for a heat production plant must provide a written report justifying why at the facility for which they are requesting an energy permit it is not possible to provide cogeneration or the use of biomass instead of fossil fuels

- where applications are complete, the ministry is bound to issue an energy permit within 30 days, while in more complex cases the deadline for issuing an energy permit is 60 days.

3.0 Assessment of the legislative framework for promoting cogeneration of heat and electricity

In Slovenia the following authorisations are required for the setting up of any kind of energy facility:

The first thing is the “authorisation” or energy permit. This permit means that the facility can enter into the national energy system. This permit is followed by a spatial planning permit and a construction permit. Finally an environmental permit for operation is also required.

The above clearly shows that the procedure for obtaining an energy permit (authorisation) supports the option of establishing power stations with cogeneration of electricity and heat.

Support for cogeneration is also provided by Article 68 of the Energy Act, which requires that for new constructions with a surface area greater than 1 000 m² or for the reconstruction of buildings where energy supply systems are being exchanged and which are greater than 1 000 m², in addition to heating or cooling by means of renewable energy sources, priority is given to supply through cogeneration.

The process of placement in the physical environment for cogeneration plants with a nominal power of less than 16 MW has, in line with the Decree on spatial planning of national significance (UL RS 54/2003 and 68/2005), been made simpler, since the procedure for approval of the location is conducted at the local level.

For cogeneration plants with electrical power greater than 16 MW the procedure is conducted on the state level, on the basis of national spatial plans, by the ministry competent for spatial planning. If the power station accords with the national energy policy and has an energy permit, the ministry competent for energy proposes an initiative to the ministry competent for spatial planning for the drafting of a national spatial plan. This eases to a certain extent the access of investors to sites for some larger facilities, since the national location plan takes precedence over location documents of a lower level and local interests.

Certain simplifications are also envisaged in environmental impact assessments. In accordance with Article 3 of the Decree on types of environmental encroachment for which environmental impact assessments are required (UL RS 78/06), such assessments

³ Point 7 of Annexes I and II of the Rules.

are not required for power stations – in other words not for cogeneration plants – with a thermal input power of less than 300 MW.

Support for cogeneration is also provided through an allocation plan for distributing emission coupons for 2008-2007, which envisages a certain quantity of coupons for “new entries” in the area of cogeneration.

4.0 Assessment of the coordination of administrative authorities in performing administrative activities necessary for the realisation of CHP projects

To date, in the performance of administrative activities necessary for the realisation of CHP projects no difficulties or major problems have been encountered which might delay the construction of such energy generation facilities. Of course these facilities must fulfil all the requirements for construction under the national regulations in that field.

More detailed instructions for obtaining the status of qualified producer, which also covers high-efficiency cogeneration, are given on the website of the Energy Directorate at the Ministry of the Economy:

http://www.mg.gov.si/si/delovna_podrocja/energetika/sektor_za_energetsko_planiranje_in_razvoj_energetike/kvalificirani_proizvajalci_elektri•ne_energije/

Slovenia will be drafting shortly some more extensive amendments to its regulations in the area of electricity production from renewable energy sources and from high-efficiency cogeneration. Amendments will relate primarily to support for cogeneration, and this support will be harmonised fully with the guidelines for state aid, as well as to privileges in connecting to the network, which is already using the “shallow” approach•.

The establishing of a coordination body to mediate in disputes between the authorities and permit applicants, as mentioned by point C of Article 9(2) of the Directive, is not currently necessary, and in any event this would require extensive amendments to national legislation.

- High-efficiency cogeneration plants cover just the costs of their own connection, and not any potential costs of strengthening the network.