



**BUNDESMINISTERIUM für  
WIRTSCHAFT und ARBEIT**

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**Progress report according to Article 6(3) of Directive 2004/8/EG**  
**Combined Heat and Power**  
**Austria**

**I. Transposition of the legal text of Directive 2004/8/EC**

**1. Has your country already sent in Notifications of transposition to the Commission?**  
Please indicate which document you sent on which date, and which Article was transposed in this way, and where it can be found in the document.

(background: there are Member States which transpose (parts of) Articles in a general energy law of many pages, making it hardly possible to do a check or specific translation)

Ad I.1.

The transposition of the CHP directive was notified to the Commission in July 2006, the state aid scheme of Austria for existing and new CHP plants were approved by the Commission with document C(2006) 2964 from July 4, 2006

In the case of Austria, the Directive 2004/8/EC has been transposed into two national laws: Elektrizitätswirtschafts- und organisationsgesetz EIWOG BGBl. I Nr. 106/2006 (Electricity Act) and Ökostromgesetz BGBl. I Nr. 106/2006 (Green Electricity Act).

For practical reasons these two laws will be in the following referred to as "EIWOG" and "Ökostromgesetz".

<b>Directive 2004/8/EC</b>	<b>Transposition in national law/comments</b>
Article 1	n/a
Article 2	n/a
Article 3	§ 7 EIWOG and § 5 Ökostromgesetz
Article 4	n/a
Article 5	§§ 42a, 42b, 42c and 42d (2) in combination with Annex II, III and IV EIWOG
Article 6	§ 42 d (1) and Annex V EIWOG
Article 7	§§ 12 and 13 Ökostromgesetz
Article 8	Paragraph 1: transposed in § 6 Ökostromgesetz; Paragraph 2 : The Austrian electricity market has been full liberalized in October 2001; Paragraph 3: n/a
Article 9	n/a
Article 10	See reply to section III. "Reporting Obligation"
Article 11	n/a
Article 12	n/a
Article 13	n/a
Article 14	n/a
Article 15	n/a

Article 16	n/a
Article 17	n/a
Article 18	n/a

**2.** What is the timeline for the remaining parts of the transposition of the Directive? Please indicate how this will take place (revision of a general energy law, a specific law, decree, regulation, ....), at what stage in the legislative process your country is for this part, what the expected reasonable timeline until adoption will be, and what the obstacles are, if any.

Ad I.2.

All relevant parts of the Directive 2004/8/EC have been transposed into national law. See above.

**3.** Will your country use any option that is described in Article 12? If so, which one?

It is not intended to use other calculation methods as described in the directive. (For the state aid scheme there are much stricter criteria for high efficiency as the 10% described in Annex III).

**4.** Will (parts of) the transposition be done by regions? If so, which parts? And by which regions?

Ad I.4.

All paragraphs of the national ElWOG regarding CHP (§§ 7, 42a, 42b, 42, c and 42d) have to be further transposed into regional legislation (provincial law) of the nine Austrian provinces (Burgenland, Vienna, Lower Austria, Upper Austria, Carinthia, Salzburg, Vorarlberg, Tyrol, Styria). The paragraphs for the Ökostromgesetz (§§ 5, 12 and 13) do not have to be transposed into provincial law. Up to date none of the nine Austrian provinces have transposed relevant legislation into provincial law.

## **II. Transposition of Commission Decision 2007/74/EC on harmonised efficiency reference values and related issues**

**1.** What is the timeline for the transposition of the Commission Decision of 21.12.06? Please indicate how this will take place (revision of a general energy law, a specific law, decree, regulation, ....).

Ad II.1.

According § 42 a ElWOG the Commission Decision 2007/74/EC on harmonised efficiency reference values has to be transposed by decree in each of the nine Austrian provinces. Up to date these decrees have not been enacted yet.

**2.** *Article 5 requires Member States to ensure that accurate and reliable guarantees of origin can be issued according to objective, transparent and non-discriminatory criteria not later than 6 months after the adoption of the harmonised efficiency reference values.*

Please indicate how your country is making progress towards meeting this deadline. Can you already indicate which will be the "one or more competent bodies" mentioned in Article 5.2?

Ad II.2.

E-Control, the Regulator for the Electricity and Gas Market in Austria has been operating a national, electronic registry for administration of Guarantees of Origin (according to EC Directive 2001/77/EC) and other certificates (e.g. RECS certificates) since 2003. E-Control is also the Austrian Issuing Body of the European Energy Certificate System (EECS) of the European Association of Issuing Bodies (AIB).

Currently E-Control is adapting its national registry to support Guarantees of Origin from high-efficiency cogeneration. It can therefore be expected that full implementation of Article 5 (GuOs from high efficient CHP) will be completed by the deadline in August 2007. The national registry of E-Control can be accessed on the internet: [www.stromnachweis.at](http://www.stromnachweis.at)

**3.** Is it already known if your country will adopt the model developed by the Commission and the European Association of Issuing Bodies?

If not:

-Is the national scheme similar enough to allow a transition to this model in the coming years?

-Can you indicate how the national scheme is matching the safeguards of fraud-resistance, accuracy and reliability that are provided by the Commission model?

Ad II.3

Yes, Austria will adopt the CHP chapter developed by the AIB. See also reply to point II.2.

**4.** Will (parts of) the transposition be done by regions? If so, which parts? And by which regions?

Ad II.4

According to § 42b ElWOG the nine provincial governments have to regularly monitor regularly the issuing of GuOs within their provinces. According to § 42 c provincial governments have to decide in case of doubt regarding a GuO from another EU or EEA country

### **III. Reporting obligations**

*Article 10 of Directive 2004/8/EC requires Member States to submit various reports. Article 10.1 suggests that there could be one big overall report. Due to the developments in the CHP Committee it could be argued that there might be a reason to have a delay in the report mentioned in Article 5.3 but this can not be a justification for a delay in the analysis and evaluations carried out in accordance with Article 9 and hardly for the one in accordance with Article 6.1*

**1.** *Article 9.1 requires an evaluation on the existing legislative and regulatory framework with regard to authorisation and other procedures, applicable to high efficiency cogeneration units. Article 9.2 requires Member States to provide*

*indications on the stage reached in coordination between administrative bodies, on guidelines for reduced and/or simplified authorisation procedures and the reduction of barriers, as well as the designation of authorities able to mediate in disputes between applicants for cogeneration authorisation with issuing authorities.*

This report was due on 21.02.2006 and has no relation with the CHP Committee procedure. How far is your country with this report? When can the Commission expect it?

Ad III.1

The raised questions are included in the report according to Article 6 on the national CHP potential that has been finalised in November 2005 and both the German version and the English executive summary have been transmitted to the Commission on December 2005.

*2. Article 6.1 and 6.2 requires Member States to establish an analysis of the national potential for the application of high-efficiency cogeneration, including high-efficiency micro-cogeneration. This has to be based on well-documented scientific data. It has to identify all potential for useful heating and cooling demands as well as fuels and other energy resources, including waste heat. It also has to include a separate analysis of barriers, in particular relating to prices and costs of and access to fuels, grid system issues, administrative procedures, internalisation of external costs.*

Has your country already submitted this report? If so, when? If not, when can it be expected? Will the final report have taken into account the harmonised efficiency reference values as endorsed by the CHP Committee in August 2006 and officially adopted by the Commission on 21.12.2006? Will the report include an analysis of the heat demand suitable for CHP and the waste heat potential?

Ad III.2

The required report according to Article 6 on the national CHP potential has been finalised in November 2005 and both the German version and the English executive summary have been transmitted to the Commission on December 2005.

As the Austrian report was finalized before the Commission has adopted the harmonized efficiency values in December 2006, national values have been used. However the analysis of the report shows that existing typical CHP plants in Austria do in general fulfill criteria of Annex III (a) of the Directive.

3. When can the report referred to in Article 5.3 and 10.1 and related to Chapter II of this template be expected?

Ad III.3

See replies above to point II.2, III.2 and III.1.

4. Will (parts of) the reporting obligations be fulfilled by regions? If so, which parts? And by which regions?

Ad III.4

Reporting to the Commission will be fulfilled by the Federal Ministry of Economics and Labour, however some of the reports will be based on data provided by the provinces.

#### IV. Support schemes

*Article 7 of Directive 2004/8/EC deals with support schemes for high efficiency cogeneration.*

1. Does your country already have support schemes for CHP (operational and/or investment aid)? Have these schemes been notified to and approved by the Commission (DG COMP)? If so, please give references. Until when are these schemes running? What kind of support is provided (feed-in tariffs, certificates and quota, priority access to the grid, ...)? How much money on a yearly basis has been provided in this way in the past years to the promotion of cogeneration in general and to the promotion of high efficiency cogeneration in particular?

##### Ad IV.1

The support schemes for existing and new CHP plants have been notified to and approved by the Commission (DG COMP) with document C (2006) 2964 and C (2007) 1729. In January 2003 the Federal Austrian Green Energy Act (Ökostromgesetz) came into effect. Prior to this date renewable and cogeneration support schemes were administered by provincial laws. This federal law was again altered in October 2006 and March 2007. The following description and matrix reflects the contents of the current version of the Green Energy Act in respect of support for CHP:

	Existing CHP plants	Modernised CHP plants	New CHP plants
Definition	CHP plants having obtained the permits necessary for construction prior to 1 January 2003;	CHP plants which began operation after 1 October 2001, provided that the cost of renewal amounts to 50% or more of the cost of new investment for the entire installation (less building);	CHP plants which construction began after 1. July 2006, provided that the cost of renewal amounts to 50% or more of the cost of new investment for the entire installation (including building)
Support ends by	2008	2010	2012
Type of support	Support tariff based on additional expenses (balance between revenue and costs) for maintaining	Support tariff based on additional expenses (balance between revenue and costs) for maintaining	Investment support

	operation of CHP plant ((costs for an adequate return on capital employed shall <b>not</b> be taken into account).	operation of CHP plant (costs for an adequate return on capital employed shall be taken into account).	
Total support	2007: max. € 54,5 Mio (incl € 10 for new CHP estimated*) 2008: max. € 54,5 Mio (incl € 10 for new CHP estimated*)  2009: max. € 28,0 Mio (incl € 10 for new CHP estimated*) 2010: max. € 28,0 Mio (incl € 10 for new CHP estimated*) 2011: max. € 10 (only for new CHP*) 2012: max. € 10 (only for new CHP*)  *2006-2012: Total support for new CHP plants max € 60 Mio		
Elegibility criteria	1. Plant's operation serves public district heating supply 2. Efficiency criteria is met $2/3 \cdot W/B + E/B > 0.6$ (primary energy saving) 3. Proof of additional expenses for maintaining operation  For details see §§ 12 and 13 Ökostromgesetz	1. Plant's operation serves public district heating supply 2. Efficiency criteria is met $2/3 \cdot W/B + E/B > 0.6$ (primary energy saving) 3. Proof of additional expenses for maintaining operation  For details see §§ 12 and 13 Ökostromgesetz	1. minimum 2MW electrical output 2. Plant's operation serves district heating and or process heat supply 3. Efficiency criteria is met $2/3 \cdot W/B + E/B > 0.6$ (primary energy saving) and primary energy savings according to Article 4 of the CHP Directive

The following total annual amounts have been levied for promotion of cogeneration support prior to 2007. To this date only parts of these amounts have been provided to CHP plant operators due to ongoing legal disputes:

2003: € 75,7  
 2004: € 77,8  
 2005: € 68,5  
 2006: € 33,8 (status January 2007)

**2. Is your country in the process of developing or introducing new support schemes to promote cogeneration? Will these be reserved for high efficiency cogeneration**

units based on Directive 2004/8/EC and Commission Decision 2007/74/EC? What kind of support is planned? Which sectors will be targeted (agricultural and/or industrial and/or heating cogeneration)? Will these measures be general or based on certain principles or criteria? If so, which? Have they been based on an assessment, including cost-effectiveness, of earlier support schemes in your country or elsewhere, and if so, which ones? Are they designed to provide stable long-term investment conditions? At which stage in the legislative process are these new schemes? When are these new schemes expected to be notified to the Commission? How much money is expected to be made available on a yearly basis to the promotion of high efficiency cogeneration in the coming years?

Ad IV.2

No, there are currently no plans to introduce new support schemes to promote cogeneration

**3.** Will there be regional support schemes? If so, please answer these questions for each of them.

Ad IV.3

No, there are currently no plans to introduce new regional support schemes for cogeneration.

## **V. Statistics**

*Under Article 10.3 of Directive 2004/8/EC Member States shall submit statistics on national electricity and heat production from cogeneration, in accordance with Annex II, as well as annual statistics on cogeneration capacity and fuels used for cogeneration. Most Member States seem to be able to comply with this obligation, even without detailed guidelines being in place.*

Do you have any comments regarding this requirement? Does your country also submit statistics on primary energy savings achieved by cogeneration in accordance with Annex III, or does it plan to do so in the future? If so, when?

Ad V

National statistics on electricity and heat production from cogeneration, in accordance with Annex III have been submitted regularly to EUROSTAT.

## **VI. Concrete progress**

Can your country already show progress in high efficiency cogeneration since the publication of the Directive on 21.02.2004 which can be ascribed to either EU or national legislation and support schemes? If so, please inform the Commission of the details (success factors, problems, risks, ....). If regions are responsible for (part of the) legislation and support schemes please specify your answer at the level of these regions as well.

Ad VI

From October 2006, the Green Electricity Act (Ökostromgesetz) also provides a support scheme for new cogeneration plants. Till October 2006 national CHP



legislation was exclusively aiming at existing or modernised CHP plants. It is therefore too early to evaluate the effects of national legislation on any new developments of cogeneration plants in Austria.