

Manual of European Environmental Policy

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The Manual was published by Earthscan/Routledge from 2010 to 2012. It was designed as an on-line interactive reference work and annual printed versions were also produced.

This section is the text of the Manual as published in 2012. It is therefore important to note the following:

- The contents have not been updated since 2012 and no guarantee is given of the accuracy of the contents given potential subsequent developments.
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Promotion of electricity from renewable sources

Formal reference 2001/77/EC (OJ L283 27.10.2001)	Directive on the promotion of electricity from renewable energy sources in the internal electricity market
proposed 10.5.2000 – COM(2000)279	
amended 28.12.2000 – COM(2000)884	
Legal base	Article 192 TFEU (originally Article 175 TEC)
Binding dates	
Formal compliance	27 October 2003
Member States report on targets	27 October 2002 and every 5 years
Member States report on framework	27 October 2003
Member States report on progress	27 October 2003 and every 2 years
Commission conclusions on progress	27 October 2004 and every 2 years
Commission summary report	31 December 2005 and every 5 years

Note: Articles 2, Article 3(2), and Articles 4, 5, 6, 7 and 8 of Directive 2001/77/EC are repealed by the Renewable Energy Directive [2009/28/EC](#) on 1 April 2010 and the remainder of the Directive on 1 January 2012.

Purpose of the Directive

This Directive aims to promote an increase in the renewable share of electricity production within the internal market and to create a basis for a future Community framework.

Summary of the Directive

The Directive sets indicative targets for the future share of renewables in each Member State's electricity supply mix. Although these individual targets are not mandatory, the aim, nonetheless, is to contribute to an increase in the renewable share of total energy consumption across the Community from 6 to 12 per cent by 2010, by increasing the renewable share of electricity generation to 22.1 per cent. Furthermore, if these indicative objectives are not met, the Commission may propose binding targets in the future. The indicative targets (set out in an Annex to the Directive) are shown in Table 1 below.

Table 1. Indicative renewable electricity targets for 2010

Renewable electricity as percentage		
Member State	Reported in 1997	Target for 2010
Belgium	1.1	6.0
Denmark	8.7	29.0
Germany	4.5	12.5
Greece	8.6	20.1
Spain	19.9	29.4
France	15.0	21.0
Ireland	3.6	13.2
Italy	16.0	25.0
Luxembourg	2.1	5.7
Netherlands	3.5	9.0
Austria	70.0	78.1
Portugal	38.5	39.0
Finland	24.7	31.5
Sweden	49.1	60.0
United Kingdom	1.7	10.0

Within two years of the entry into force of the Directive, Member State governments must introduce certification systems for renewable energy. This in itself is intended to stimulate the growth of a European market for green electricity by improving the quality of information to consumers. Member States must also ensure non-discriminatory access conditions for new renewable producers to connect to electricity grids, and they are encouraged to reduce regulatory or other barriers to greater renewable electricity production.

There is a complex set of initial and recurring reporting requirements to monitor progress. Member States have one year to publish their own indicative targets for renewables, and a further year to establish and report on their systems for verifying the origin of renewable electricity. By the same date they also have to report on their regulatory framework, with a view to breaking down unnecessary administrative burdens and ensuring that renewables have transparent and non-discriminatory access to electricity grids. This is also the date of the first progress report for Member States to demonstrate their progress towards meeting their indicative targets. The Commission will evaluate and summarise these various reports and can propose additional measures on the basis of these reports and the progress made.

The incineration of biodegradable municipal and industrial waste is included in the definition of renewables. However, this form of incineration will only be eligible for financial support as a renewable if it does not undermine the EU's waste hierarchy (see Section on the [Waste Framework Directive](#))

Development of the Directive

This Directive was agreed unusually quickly (in 16 months from the date of its formal proposal) in spite of some substantial differences of opinion between the Community institutions. Prior to the appearance of the proposal, however, ideas of a new Directive had a long and rather tortuous history. As early as December 1996, a Green Paper on renewables ([COM\(96\)576](#)) recognized that there was a limit to what could be achieved through funding alone, and argued that market imperfections were more important as a barrier to renewables than were technological limitations. The same paper also proposed the target of increasing the renewables share of the total energy balance to 12 per cent by 2010.

However, first attempts at a Directive were shelved early in 1999 after elements of the proposal met with resistance from several Member States. Nonetheless, the Energy Council then called for a 'framework' proposal from the Commission at its meeting in May 1999. This in turn led to a new proposal for a Directive the following year.

The Parliament, in its first reading in November 2000, highlighted a number of areas in which it wished to strengthen the proposal. First amongst these was a demand for binding targets on the Member States rather than indicative ones. A second key disagreement, and one which was to prove the hardest to resolve, was over the Commission's proposal to include waste incineration within the definition of renewables. The Parliament argued throughout that including waste as a renewable would militate against the Community's waste hierarchy ([see Section on the Waste Framework Directive](#)) by encouraging incineration of unsorted wastes.

The Council's common position of March 2001 adopted around one-third of the amendments proposed by the Parliament, but was nonetheless at variance with it on a number of key issues. These included the rejection of binding targets, and of the removal of waste incineration from the definition of renewables.

In view of the quite fundamental nature of these differences, it was surprising that informal negotiations involving all three institutions were eventually able to agree a compromise position on all the main points of disagreement quite quickly in June 2001. This resulted in a settlement in advance of the Parliament's second reading, and so the conciliation procedure was avoided. The issue of targets was resolved by agreeing that the targets would initially be indicative, as the Council wanted, but that if the Member States failed to make adequate progress in meeting them, the Commission could propose mandatory ones instead at a later date. The Council refused to compromise on the inclusion of waste incineration within the scope of the Directive, but it was agreed that only biodegradable waste would be included, and that it would only be eligible for financial support as a renewable if it did not undermine the EU's waste hierarchy. The latter provision was a rather awkward compromise, which placed the onus on the Commission to adjudicate whether this condition has been met on a case-by-case basis, and hence raised the prospect of legal challenges to any Member States' financial support for incineration.

Implementation of the Directive

Information on the measures taken by the Member States to transpose Directive 2001/77/EC can be found in their national [execution measures](#).

Under Article 3(4) of the Directive, the Commission was required to report on progress bi-annually from 2004 onwards. The most recent report was mainly based on data from 2004 to 2006, and was published in April 2009. It reported on progress under Directive 2001/77/EC, but also on the Biofuels Directive and on the Biomass Action Plan ([COM\(2009\)192](#)).

In its progress report ([COM\(2006\)849](#)) the Commission highlighted that whilst good progress had been made, the EU was expected to reach a renewable electricity share of 19 per cent by 2010 rather than the 21 per cent target. This target is not to be confused with the 2020 target established by the Directive on renewable energy, which is for a 20 per cent share of all energy (not just electricity). Commission estimates suggest that this overall 20 per cent share in 2020 will require around a 33 per cent share of renewable energy in the electricity sector (COM(2009)192).

The progress report found that so far the bulk of growth had come from wind power in a limited number of Member States. The 2009 report showed that since the last progress report, growth rates of renewable electricity have increased. Based on Eurostat data, the share of renewable electricity had grown from 14.5 per cent in 2004, to 15.7 per cent for the EU in 2006. However, Commission analysis still suggested the 2010, 21 per cent target would not be reached without significant additional effort. Member States showed the full breadth of performance: Germany and Hungary had already reached their target, whereas several Member States still had to make significant efforts. With six Member States increasing their shares of renewable energy by over two per cent over the previous two years, the EU share of renewable electricity had increased by almost 1.5 percentage points (14.4–15.7 per cent). However, this disguised the poor efforts of seven Member States whose shares had stagnated or actually declined. The range of technologies used was limited.

Enforcement and court cases

In its progress report cited above, the Commission noted that it had been necessary to initiate infringement proceedings against some Member States. With respect to Directive 2001/777/EC, the Commission remarked that since 2004, 61 legal proceedings against Member States for non-compliance with the Directive has been started. Italy had the most cases with 13, followed by Spain with 6, Austria with 4 and the Czech Republic, France, Latvia and Poland with 3 each. Of these 61 cases, 16 have not yet been resolved. Even so, no cases relating to this legislation has been concluded in the European Court of Justice.

Further developments

Directive [2009/28/EC](#) on the promotion of the use of energy from renewable sources repeals Directive 2001/77/EC. All of Articles 2 and 5, relating to definitions and the scope of the Directive, are repealed with effect from 1 April 2010. Certain paragraphs under Article 3, relating to national indicative targets, are also repealed. In particular, the requirements to publish five yearly reports on targets, measures and progress made in relation to electricity from renewable sources. Also repealed with effect from 1 April 2010 is Article 4, relating to support schemes, Article 5, relating to guarantees of origin, Article 6, relating to administrative procedures, Article 7, relating to the grid system, and Article 8, relating to the Commission summary report.

Related legislation

There are a number of other EU Directives that have a strong interaction with Directive 2001/77/EC. These include:

- Directive [2009/28/EC](#)
- Directive [2003/30/EC](#) on biofuels in transport