



Renewable Energy 2025

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1 Overview of the Renewable Energy Sector

1.1 What is the basis of renewable energy policy and regulation in your jurisdiction and is there a statutory definition of 'renewable energy', 'clean energy' or equivalent terminology?

In Austria, both the legislative and the administrative authority over renewable energy is divided between the federation and the nine provinces. The fragmented responsibilities result from the Austrian federal constitution, which links legislative and administrative authority to specific subject matters. The complex and multi-layered field of renewable energy is linked to a wide variety of matters, resulting in some measures being regulated and administered at the federal level while others are regulated and administered at the provincial level. This division results in 10 different legislative bodies with often very different political compositions regulating the renewable energy sector. Given that Austria is a Member State of the European Union (EU), the Austrian legal landscape is – in addition – heavily influenced by legal acts of the Union.

Regarding the terminology on “renewable energy”, the most important legal definition of “renewable energy” is provided by the Renewable Energy Expansion Act (*Erneuerbaren-Ausbau-Gesetz, EAG*), which transposes the Renewable Energy Directive into Austrian law. Under this Act, “renewable energy”, “energy from renewable sources”, or “energy from renewable energy sources” is defined as energy from renewable, non-fossil energy sources, that is: wind, solar (solar thermal and photovoltaic), geothermal, ambient, tidal, wave, and other ocean energy, hydro-power, and energy from biomass, landfill gas, sewage treatment plant gas, biogas, and renewable gas. However, due to the already mentioned different legislative competences in the field of renewable energy, several deviating definitions of “renewable energy” can be found in Austrian federal and provincial laws.

1.2 Describe the main participants in the renewable energy sector and the roles which they each perform.

Market participants

The main participants in the renewable energy sectors for both gas and electricity in Austria are the utility companies (especially the utility companies of the provinces and *Verbund AG*) and their subsidiaries and private entities that operate renewable energy plants and infrastructure.

Policy and regulation

Austrian renewable energy policy and regulation is – as mentioned – characterised by the distribution of competences between the federation and the provinces.

Federal level

On the federal level, the legislative competence lies with the Austrian Parliament, while the administrative competence is divided between various ministries. The most important ministries in the context of renewable energy are:

- the Federal Ministry for Climate Action, Environment, Energy Mobility, Innovation and Technology (*Bundesministerium für Klimaschutz, Umwelt, Energie, Mobilität, Innovation und Technologie, BMK*); and
- the Federal Ministry of Agriculture, Forestry, Regions and Water Management (*Bundesministerium für Land- und Forstwirtschaft, Regionen und Wasserwirtschaft*).

Provincial level

On the provincial level, the legislative competence lies with the provincial parliaments. The highest administrative authorities are the provincial governments (*Landesregierungen*). The provinces have the legislative competence for environmental topics, such as nature protection laws, building codes or spatial planning laws. Their executive competence covers not only provincial legal acts but – for example – also federal laws such as the Environmental Impact Assessment Act (*Umweltverträglichkeitsprüfungsgesetz, UVP-G*).

The district administrative authorities enforce numerous federal and provincial legal acts. Finally, municipalities enforce certain aspects of planning law, such as land use and zoning plans, as well as building law.

Market regulator

The Austrian market regulator for both the electricity and the gas sector is *Energie-Control Austria für die Regulierung der Elektrizitäts- und Erdgaswirtschaft* (E-Control). Its task is to supervise the unbundling of the electricity and gas markets. To fulfil this task, E-Control has several executive rights, e.g., the remittal of ordinances on tariffs or the determination of non-discriminatory access to the grids.

1.3 Describe the government's role in the ownership and development of renewable energy and any policy commitments towards renewable energy, including applicable renewable energy targets.

The federal government has recognised the importance of promoting renewable energy and plays an important role in the

development of renewable energy. In the government agreement for the years 2020 to 2024, the federal government set the targets of net 100% renewable electricity in 2030 and net climate neutrality in 2040. To reach the target value for 2030, annual electricity generation from renewable sources should be increased by 27 terawatt hours (TWh) by 2030, starting from production in 2020. Thereof, 11 TWh are to be contributed by photovoltaics, 10 TWh by wind, 5 TWh by hydropower and 1 TWh by biomass. The contribution of photovoltaics should be achieved particularly through the goal of equipping one million roofs with photovoltaics. To achieve this goal, the government relies on a combination of legal requirements, financial support, and citizen participation.

The federal government holds ownership stakes in energy companies such as Verbund AG or OMV AG. The provinces also hold stakes in provincial utilities. The share of stakes varies; in some cases, the government(s) hold(s) up to 100%.

In addition to the previously mentioned EAG as the most important funding instrument of renewable energy projects, the government recently announced and partially implemented several other legislative acts. These include, for example, the implementation of the Renewable Heat Act (*Erneuerbare-Wärme-Gesetz, EWG*) and the amendment to the Energy Efficiency Act (*Energieeffizienzgesetz, EEffG*). Furthermore, the draft of the Renewable Gas Act (*Erneuerbare-Gase-Gesetz, EGG*) was adopted by the Council of Ministers on 21 February 2024 and forwarded to the Federal Parliament for further consideration.

There are further legislative plans in the field of renewable energies that are of great importance for meeting the climate goals (see question 9.1 below).

In Austria, there are various options for financial support for the expansion of renewable energies. Funding and investment subventions according to the EAG depend, among other things, on whether the plant is newly built or adapted and on the type of energy source (e.g., photovoltaic, biomass or wind power plants). In addition to the funding provided by the federal government, there is a wide range of funding provided by the provinces, which is in most cases also linked to the type of energy source.

The government also focuses on promoting the expansion of renewable energy in the private sector (e.g., subsidies for the expansion of PV systems on single-family homes), thus also pushing citizen participation. In addition, so-called renewable energy communities (EEG) and citizen energy communities (BEG) have been created (see question 3.4 below for more detail).

2 Renewable Energy Market

2.1 Describe the market for renewable energy in your jurisdiction. What are the main types of renewable energy deployed and what are the trends in terms of technology preference and size of facility?

Due to its geographical features, the main types of renewable energy in Austria are hydropower and wind power. Also, biomass plays an important role in the renewable energy market. Although demand for photovoltaic systems has increased enormously due to the recent increases of energy prices, the path to achieve a production of an additional 11 TWh until 2030 is still ambitious. Considering that electricity makes up only about one-third of Austria's total energy demand (the other two-thirds stemming almost exclusively from fossil fuels), an even more ambitious expansion of all forms of renewable energy would be required to achieve the goal of climate neutrality in 2040.

Finally, the Renewable Energy Expansion Act has also increased the focus on the use of renewable gas. The goal is to increase the share of nationally produced renewable gas in Austrian gas sales to 5 TWh by 2030. Details on the planned production and use of hydrogen are laid down in the Austrian hydrogen strategy.

2.2 What role does the energy transition have in the level of commitment to, and investment in, renewables? What are the main drivers for change?

Austria had a head start to the energy transition due to its geographical location and widely available hydropower resources. Additionally, the expansion of wind power plants started (especially in the Eastern provinces) as early as the 2000s.

Despite this head start, the production of renewable energy could not keep pace with the high energy demand during the last decades. While the commitment to and investments in renewables are consistently and substantially increasing, the extent of the measures necessary to achieve climate neutrality until 2040 (equal energy transition) appears to not yet have settled. The commitment and subsidising of an additional 27 TWh electrical energy production until 2030 are a good start. However, the decarbonisation of the electricity sector makes up for only one-third of the total energy consumption. Decarbonising the transport, heating and other energy-intensive industry sectors (e.g., steel and chemicals) will prove to be the real challenge and require an even stronger commitment and substantially larger investments in all forms of renewables.

2.3 What role, if any, has civil society played in the promotion of renewable energy?

Civil society and non-governmental organisations (NGOs) play a big and ambivalent role in Austria's energy policy:

- On the one hand, NGOs, movements like Fridays for Future or citizen's initiatives, but also non-organised members of the public are heavily engaged in the promotion of renewables on a policy level.
- On the other hand, there are hardly any renewable energy projects that are not opposed by one or more civil society groups or NGOs.

2.4 What is the legal and regulatory framework for the generation, transmission and distribution of renewable energy?

The renewable energy markets are regulated in the Austrian Electricity Act (*Elektrizitätswirtschafts- und -organisationsgesetz, ElWOG*), the Natural Gas Sector Act (*Gaswirtschaftsgesetz, GWG*) and the Pipeline Act (*Rohrleitungsgesetz*).

The permitting of renewable energy infrastructure is governed by various laws, depending on how and where energy is produced, transmitted and/or distributed. Central laws in this context include the UVP-G (Environmental Impact Assessment Act (*Umweltverträglichkeitsprüfungsgesetz, UVP-G*), Water Act (*Wasserrechtsgesetz, WRG*), High Voltage Current Lines Act (*Starkstromwegegesetz, StWG*), Forest Act (*Forstgesetz, ForstG*), Trade Act (*Gewerbeordnung, GewO*) or, at the provincial level, the respective Building Codes (*Bauordnungen, BauO*), Electricity Acts (*Elektrizitätswesengesetze, ElWG*), Nature Protection Laws (*Naturschutzgesetze, NSchG*) and Spatial Planning Laws (*Raumordnungsgesetze, ROG*).

2.5 What are the main challenges that limit investment in, and development of, renewable energy projects?

The main legal challenges for the investment in and development of renewable energy projects in Austria are the environmental regulations that are amongst the strictest in the world, extensive participation rights of numerous parties in permitting procedures and the resulting long procedures with sometimes hardly predictable results.

Further challenges arise from the slow expansion of network capacities (which to some extent may also be attributed to the strict environmental regulations), insufficient staffing of authorities and the lack of sufficient subsidies.

2.6 How are large utility-scale renewable power projects typically tendered?

In Austria, there are no tendering procedures for specific renewable energy sites. Thus, in many cases the “first come, first served” principle applies.

Regarding subsidies for renewable energy generation, the EAG stipulates tendering procedures for subsidies for various forms of renewable energy projects (but – as mentioned – no specific sites). Depending on the specific renewable energy technology, market premium models (aiming to compensate the difference between market price and production cost) and investment premium models (grants for the construction of renewable power projects) are in place.

Finally, some market participants (“sector contracting entities”, *Sektorenauftraggeber*) must tender services for renewable energy projects, e.g., supply or construction contracts, consultancy, building and other services.

2.7 To what extent is your jurisdiction’s energy demand met through domestic renewable power generation?

More than 87% of the Austrian electricity demand was covered by renewable energy in 2023 (compared to 78% in 2022). The growth in the last year can be traced back to the significant increase of photovoltaics. The photovoltaic share of electricity generation has more than doubled since 2022, rising from 0.98 TWh in 2022 to 2.35 TWh in 2023, meaning that photovoltaics now accounts for 4.4% of Austria’s electricity generation. The share of wind power rose from 7.19 TWh in 2022 to 8.26 TWh in 2023, meaning that wind power contributed more than 15% to Austria’s electricity generation for the first time.

The remaining energy demand is covered by fossil fuels (oil and natural gas), which is almost exclusively imported.

3 Sale of Renewable Energy and Financial Incentives

3.1 What is the legal and regulatory framework for the sale of utility-scale renewable power?

The legal bases for the Austrian energy markets are, as mentioned above, the ElWOG, GWG and the Pipeline Act. These laws, together with the market rules laid down by the regulator (E-Control), regulate the non-discriminatory generation, transmission, distribution, and supply of

energy. Furthermore, the EAG provides a framework for subsidies, market premiums, and other support mechanisms to encourage the development of renewable energy projects. The Green Electricity Act (*Ökostromgesetz*) establishes the support schemes for renewable energy, such as feed-in tariffs and investment grants.

All forms of renewable energy can be sold and purchased either on exchanges or directly between energy suppliers and consumers. Such contracts (power purchase agreements) are generally governed by civil law and are currently seeing a rise on the B2B level.

The EU Emissions Trading System (EU ETS) is another regulatory mechanism that indirectly affects the sale of renewable power by setting a price on carbon emissions and incentivising low-carbon energy production. The primary piece of legislation that implements the EU ETS in Austria is the Austrian Emission Certificate Act (*Emissionszertifikatengesetz, EZG*).

3.2 Are there financial or regulatory incentives available to promote investment in/sale of utility-scale renewable power?

The EAG is the main instrument for the funding of the expansion of renewable energy in Austria. To achieve the goal of a faster deployment of renewable energy, the EAG introduced sliding market premiums in operating subsidies. The market premium is aimed at compensating the difference between the production costs of electricity from renewable sources and the average market price for electricity. It is a subsidy on the electricity fed into the public grid. Depending on the type and size of the plant, market premiums are awarded either through a tendering process or upon application.

Furthermore, the EAG provides for investment subsidies for the construction, revitalisation, and expansion of renewable energy facilities like photovoltaic plants or plants for the conversion of electricity into hydrogen. Applications for investment subsidies must be submitted to the EAG subsidy processing office (*EAG-Förderabwicklungsstelle*) prior to the start of construction following a request for submission within a limited time window (subsidy call). Investment subsidies are granted and paid according to the time of receipt (e.g., in the case of small-scale PV systems) or according to the amount of the subsidy requirement stated in the application, subject to the availability of subsidies. No waiting lists are created.

Simultaneous support of plants by means of market premium and investment cost subsidy is excluded.

The EWG, which came into effect on 29 February 2024, aims to generally prohibit the installation of heat supply systems based on fossil-fuels for space heating and/or hot water in new buildings. There are no regulations made for fossil-fuel operated systems in existing buildings; however, the federal government is providing for the replacement of fossil-fuel based heating systems with climate-friendly alternatives a funding up to 75% of the eligible costs for the replacement in single-family homes. In multi-storey residential buildings, up to 75% of the costs are subsidised. Lump sums are awarded depending on the technology installed. Additionally, there are subsidies from the provinces. People with particularly low incomes can even get a subsidy in the form of a one-off, non-repayable investment cost subsidy in addition to the basic subsidy from the federal government and the respective province up to the respective technology-specific upper cost limit. This is already possible for single-family homes and is to be extended to multi-story residential buildings.

3.3 What are the main sources of financing for the development of utility-scale renewable power projects?

Besides the compensation for electricity generation and investment grants mentioned above in question 3.2, the main sources of financing for renewable energy projects are private funds.

In addition, there are various funding instruments that apply to the EU and Austria.

3.4 What is the legal and regulatory framework applicable to distributed/C&I renewable energy?

In principle, the same legal and regulatory framework applies to distributed/commercial and industrial (C&I) renewable energy projects as to utility-scale renewable electricity projects (see question 3.1 above).

It is worth mentioning that, with the EAG, the requirements from RED II have been implemented in Austria. Renewable Energy Communities (*Erneuerbare-Energie-Gemeinschaften, EEG*) and the Citizens' Energy Communities (*Bürgerenergiegemeinschaften, BEG*) were established as the new model for more decentralised generation and supply of energy. The aim is to produce more energy, especially electricity from renewable energy sources, where it is consumed.

3.5 Are there financial or regulatory incentives available to promote investment in distributed/C&I renewable energy facilities?

In the case of EEG and BEG, incentives apply, e.g., elimination of the renewable subsidy, exemption from the electricity levy for electricity from photovoltaics, and reduction of grid fees.

3.6 What are the main sources of financing for the development of distributed/C&I renewable energy facilities?

See question 3.3 above.

3.7 What is the legal and regulatory framework applicable to the development of green hydrogen projects?

The construction and operation of green hydrogen infrastructure usually requires a suitable zoning as well as one or more permits for construction and operation itself. If the project exceeds certain thresholds (e.g., production capacity, storage volume, pipeline length), green hydrogen projects a permit under the UVP-G may be required. If the UVP-G does not apply, the permitting requirements for green hydrogen projects depend on infrastructure category (e.g., pipeline, electrolyser and storage), size and location. Due to the Austrian distribution of competences, it is common that even smaller green hydrogen projects require three or more permits from different authorities.

3.8 Are there financial or regulatory incentives available to promote investment in green hydrogen projects?

As mentioned above (see question 3.2), the EAG provides for investment premiums for the production of hydrogen. In

addition, this act already provides for a "green gas promotion contribution" (which must be paid by all gas consumers) and the future implementation of a "green gas quota" (which may be imposed on gas suppliers in the future).

Furthermore, the draft of the EGG was adopted by the Council of Ministers on 21 February 2024 and forwarded to the National Council for further consideration. The EGG serves to implement Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources. The EGG promotes the expansion of domestic renewable gas production (such as biomethane or green hydrogen). A total of at least 7.5 terawatt hours of green gas will then be fed into the gas grid in Austria every year.

In addition, the draft of the Hydrogen Promotion Act (*Wasserstoffförderungsgesetz, WFöG*) was adopted by the Council of Ministers on 15 May 2024 and forwarded to the National Council. The WFöG promotes the production of renewable hydrogen. The construction and operation of facilities for converting electricity into renewable hydrogen of non-biogenic origin will be subsidised through a fixed premium. The fixed premium will be granted from the start of operations as a surcharge per unit of produced quantity for a period of 10 years. Existing facilities are not eligible for this funding. The fixed premiums will be awarded through competitive auctions held from 2024 to 2026. These auctions can also take place under the EU Innovation Fund's "auction as a service" model. The Federal Minister for Climate Action, Environment, Energy Mobility, Innovation and Technology will make the award decisions based on a ranking of bids determined through the auction process. The total funding volume is set at a maximum of 820 million euros and will be available for a funding period of 10 years.

3.9 What are the main sources of financing for the development of green hydrogen projects in your jurisdiction?

See question 3.3 above.

3.10 What is the legal and regulatory framework that applies for clean energy certificates/environmental attributes from renewable energy projects?

The legal basis for clean energy certificates/environmental attributes from renewable energy projects are "ÖSG", "ELWOG" and "EAG".

To prove the origin of energy, there are guarantees of origin (*Herkunftsnachweise*) that are generated by the grid operator based on the electricity generated and fed into the public grid by the green electricity operator. Based on the guarantees of origin, the proof of origin for the labelling – i.e., the electricity label (*Stromkennzeichnung*) – is created. The electricity supplier must disclose the electricity label on the invoice.

For green gas, the so-called green gas seal is in place. Green gas seals are used to prove that the green gas quota has been achieved. In addition, there are green certificates for gas that is not fed into the public grid.

3.11 Are there financial or regulatory incentives or mechanisms in place to promote the purchase of renewable energy by the private sector?

For private companies, two main advantages incentivise purchasing renewable energy. First, they may use the purchase of renewable energy as an advertising claim. Second, the

(EU-driven) non-financial reporting obligations are incentivising – *inter alia* – the use of renewable energy in order to facilitate financing of projects and companies.

Further advantages, also for households, may – for example – be obtained through participation in energy communities (e.g., reduction of energy tax).

3.12 Is there a mandatory (or a developed voluntary) carbon emissions trading market in your jurisdiction?

Austria, as a member of the European Union, is part of the EU ETS, which is a mandatory carbon emissions trading market for certain sectors.

On a national level, the EZG transposed the Directive on EU-internal emissions trading into Austrian law. The EZG aims to create a system for trading greenhouse gas emission allowances to reduce greenhouse gas emissions in a cost-effective and economically efficient manner. In line with EU legislation, the scope of the EZG includes facilities in which certain activities enumerated in the Annex to the EZG are performed and which emit certain greenhouse gases enumerated in the EZG (e.g., facilities in which paper, cardboard or board with a production capacity of more than 20 tons per day are produced and in which carbon dioxide is emitted or for aviation activities).

The EZG provides two main requirements for the emission of greenhouse gases. To operate a facility, the owner must first obtain a facility-specific permit. Only after the permit is issued, the owner of the facility can obtain emission allowances. An emission allowance entitles the facility owner to emit one metric ton of carbon dioxide equivalent during a specified period (trading period).

Emission allowances may be allocated free of charge to permitted facilities under certain conditions. If no free allocation takes place, the emission allowances may be acquired via an auction platform or purchased from other plants.

In comparison, the National Emission Certificate Trading Act (*Nationales Emissionszertifikatehandelsgesetz*) is intended to regulate the gradual introduction of a measure to reduce greenhouse gas emissions not subject to EU emissions trading. For this purpose, a national greenhouse gas emission allowance trading system was introduced in stages (introduction phase, transition phase and market phase, beginning from 1 January 2026).

Furthermore, the Carbon Border Adjustment Mechanism Enforcement Act (*CBAM- Vollzugsgesetz*) of 2023 stipulates the reduction of the free allocation of emission certificates starting from 2026 for those sectors that produce goods which, upon import from third countries, are subject to Regulation (EU) 2023/956 that establishes a carbon border adjustment mechanism (CBAM), and for which a distinct CBAM factor has been introduced in Article 10a(1a) of the ETS Directive. The CBAM will be progressively established and become fully effective by 2034.

3.13 What is the legal and regulatory framework applicable to the development of carbon capture and storage projects?

The legal framework for carbon capture and storage (CCS) is laid down in the CCS Directive (Directive 2009/31/EC). This Directive regulates the framework conditions for CO₂ transport and storage in underground reservoirs. The CCS Directive leaves Member States free to choose whether to allow storage on parts or all of their territory. Austria has chosen to prohibit permanent geological storage of carbon dioxide with very few

exceptions for research purposes (Federal Act Prohibiting Geological Storage of Carbon Dioxide, *Bundesgesetz, über das Verbot der geologischen Speicherung von Kohlenstoffdioxid*) and to evaluate international experience with CCS in five-year intervals. As legally required, the prohibition of CCS is currently in the evaluation phase of the five-year cycle. In addition, a carbon management strategy (CMS) is under development with targets and measures for carbon capture, utilisation and storage (CCUS) and negative emissions.

Currently, there are a few research projects in the field of CCS in Austria. For example, the “ViennaGreenCO₂” project aims to develop a new, cost-effective, and energy-efficient carbon dioxide capture technology. Additionally, the community Güssing in Burgenland is known for its demonstration plants that showcase advanced bioenergy technologies, e.g., the Güssing Biomass Power Plant uses a biomass gasification process to produce energy and has been a site for testing CCS technologies to capture and store CO₂ from the gasification process.

3.14 Are there financial or regulatory incentives available to promote investment in carbon capture and storage projects?

Currently, there are only financial incentives in Austria to encourage investment in CCS research projects but no commercial CCS projects. In addition to EU funding and the EU-wide emissions trading scheme already mentioned above (see question 3.12), those instruments encompass, for example, the funding programme of the Climate and Energy Fund or the Environmental Funding Act.

3.15 What are the main sources of financing for the development of carbon capture and storage projects in your jurisdiction?

See question 3.3 above.

4 Consents and Permits

4.1 What are the primary consents and permits required to construct, commission and operate utility-scale renewable energy facilities? Does the consenting and permitting regime differ for specific types of renewable energy facilities, such as nuclear, offshore wind, battery storage, or others?

The construction, commissioning and operation of renewable energy systems is generally subject to approval and compliance with the applicable zoning and safety distances (e.g., to critical infrastructure such as railroads, roads, power lines, etc.). The permitting regimes differ between specific types, sizes and (possible) environmental impacts of renewable energy facilities. Depending on the plant, the size of the plant and the energy source, various permits may be considered (e.g., permits under the Trade, Water, Electricity, Gas, Forestry, Nature Protection and Construction Acts). Usually, several permits under different legal acts and from different authorities are required for the construction and operation of renewable energy projects. Due to the distribution of competences under constitutional law, there is no comprehensive permit for renewable energy facilities in Austria. A single permit from a single authority (“one-stop-shop”) is only provided for certain large projects that exceed the required thresholds of the UVP-G.

For example, the construction and operation of wind power plants would require obtaining permits under the electricity and high voltage power grid law and nature protection law and aviation law, if the thresholds for the application of the UVP-G are not exceeded.

Hydroelectric power plants are usually permitted under the UVP-G or the federal Water and the provincial Nature Protection Acts. Besides the water and nature protection permits, further permits may be required, for example, under the Forest Act or the provincial Electricity Acts.

Depending on the location and size, photovoltaic systems could require permits under the applicable Trade, Electricity, Building and Nature Protection Acts.

Biomass power plants require a permit under the Trade Act or the Act on Emissions of Boiler Plants (*Emissionsschutzgesetz für Kesselanlagen, EG-K*). Further permits may be required.

The permit requirement for battery storage depends on the material to be stored. Usually, permits under the Trade Act, eventually the Electricity Act, are required. The storage of flammable gases (e.g., hydrogen) or storage sites for the geological storage of carbon dioxide (unless prohibited under the Federal Act on the Prohibition of Geological Storage already mentioned above) may require a permit under the UVP-G, depending on total storage capacity.

4.2 What are the primary consents and permits required to construct, commission and operate distributed/C&I renewable energy facilities?

For distributed/C&I renewable energy facilities, the same consent requirements as stated in question 4.1 apply.

4.3 What are the requirements for renewable energy facilities to be connected to and access the transmission network(s)?

In Austria, a transmission network is defined as a high-voltage interconnected system with a voltage level of 110 kV and above used for the supranational transport of electrical energy. The competence to connect to the grid within an area covered by a distribution grid generally lies with the distribution grid operators in accordance with the ElWOG. Direct connection to the transmission grid by the renewable energy producer is possible for large power plants with grid connection over 110 kV and a minimum capacity of 5,000 kW.

In general, the operator of a renewable energy facility has a right to the relevant grid connection, if capacity is available (currently, in several regions only limited or even no capacity is available). Connections to the grid are generally permitted in compliance with the General Grid Conditions. In addition to the direct statutory and regulatory requirements, these regulate the basic legal relationship between the transmission system operator and the partners regarding grid connection and grid usage. Furthermore, individual bilateral agreements are concluded. Network operators are allowed to charge regulated fees, such as for the connection and usage of the grid.

4.4 What are the requirements for renewable energy facilities to be connected to and access the distribution network(s)?

In Austria, distribution means the transport of electricity over high, medium or low voltage distribution networks for the purpose of delivery to customers, excluding supply. The “general connection obligation” introduced in the ElWOG

obliges electricity grid operators to define clear non-discriminatory conditions under which connection to the grid must be possible. The initial establishment of a network connection and the modification of an existing network connection are subject to a private network access contract between the grid operator and the electricity producer. The use of the network at an existing network connection is defined by the network access contract.

A network access fee is charged for access to the network. This fee covers all reasonable expenses incurred by the grid operator in connection with the initial connection to a grid or the modification of a connection because of an increase in the connected load of a grid user at market prices. Further fees for the usage of the system, the usage of the grid, metering charge and others may be charged. The fees are subject to regulations by the market regulator (E-Control).

4.5 Are microgrids able to operate? If so, what is the legislative basis and are there any financial or regulatory incentives available to promote investment in microgrids?

Microgrids are generally able to operate in Austria. The legislative basis is the ElWOG, which applies to all electricity networks. Incentives must be assessed on a case-by-case basis. See also question 3.5 above.

4.6 Are there health, safety and environment laws/regulations which should be considered in relation to specific types of renewable energy or which may limit the deployment of specific types of renewable energy?

Health, safety and environmental regulations are part of the respective approval procedure(s) of the renewable energy facility (see question 4.1 above).

5 Storage

5.1 What is the legal and regulatory framework which applies to energy storage and specifically the storage of renewable energy?

The economical side of the storage of (renewable) energy is mainly regulated by the ElWOG and the GWG. While the ElWOG governs, e.g., the rights and obligations of electricity market participants (including storage operators) or network reserves, the GWG governs the rights and obligations of gas market participants (also in relation to gas storage).

The technical side of the construction and operation of storage facilities is governed by the various regulations stipulating permit requirements for such facilities. As mentioned above, the permit obligations for a specific storage facility must be assessed on a case-by-case basis. Large energy storages, especially economically appropriate pumped hydro-power plants but also large gas storages, will usually require an environmental impact assessment permit under the UVP-G. Smaller gas storages usually require permits under the GWG, the GewO or the Mineral Raw Materials Act (*Mineralrohstoffgesetz, MinRoG*) and the provincial building codes. Battery storages will usually require a permit under electricity law. Depending on the specific storage project, several other permit requirements (e.g., under the Water Act, the provincial nature protection laws, etc.) may apply.

5.2 Are there any financial or regulatory incentives available to promote the storage of renewable energy?

Apart from the investment premiums for hydrogen projects (see question 3.2), pumped hydropower storage plants and facilities for the conversion of electricity (and water) to hydrogen or synthetical gas with a minimum output of 1 MW are exempt from grid usage fees and network loss charges for 15 years after the begin of their commercial operation.

5.3 What are the main sources of financing for the development of energy storage projects in your jurisdiction?

See question 3.3.

6 Foreign Investment and International Obligations

6.1 Are there any special requirements or limitations on foreign investors investing in renewable energy projects?

There are no special requirements or limitations on foreign investments in renewable energy projects. However, Austria has established a foreign direct investment screening regime that applies if a non-EU, non-EEA or non-Swiss investor intends to acquire undertakings or assets that are considered “critical infrastructure” (including investments in the energy sector). In such cases, prior approval must be obtained from the Federal Ministry of Labor and Economy (BMAW) if certain thresholds are met. The BMAW may prohibit the transaction if national security interests are concerned.

6.2 Are there any currency exchange restrictions or restrictions on the transfer of funds derived from investment in renewable energy projects?

For currency exchange restrictions or restrictions on the transfer of funds derived from investments in renewable energy projects, the general rules (e.g., sanctions) apply.

Depending on the nature of the investment and the investor, as well as the investor’s place of residence, various tax consequences in Austria may apply.

6.3 Are there any employment limitations or requirements which may impact on foreign investment in renewable energy projects?

The Austrian labour and work migration regulations apply to all employment relations indiscriminately, whereas employment of third-country nationals is subject to certain restrictions (e.g., requirement of work permits). Further, strict notification requirements towards authorities must be observed in

the case of cross-border postings and secondment of workers to Austria, and there is a risk of severe penalties if these requirements are not met.

6.4 Are there any limitations or requirements related to equipment and materials which may impact on foreign investment in renewable energy projects?

Equipment and materials for renewable energy projects are subject to the general rules on product safety, which are extensively regulated on the EU level. Additional requirements may depend on their specific use in renewable energy projects.

7 Competition and Antitrust

7.1 Which governmental authority or regulator is responsible for the regulation of competition and antitrust in the renewable energy sector?

In Austria, the Federal Competition Authority (*Bundeswettbewerbsbehörde, AFCA*) is responsible for merger control, detection and prosecution of cartel agreements and the abuse of market power or general market research and sector inquiries. This also applies to the energy sector. In addition to the AFCA, the E-Control has competition powers in the energy sector.

If a cartel or abuse of market power has a significant impact on competition in several Member States of the EU, the European Commission (the Commission) is responsible for prosecution. Furthermore, the Commission is competent for merger control with EU-wide effects.

7.2 What power or authority does the relevant governmental authority or regulator have to prohibit or take action in relation to anti-competitive practices?

The AFCA is an investigative institution; decisions in cartel cases and abuse of dominance are made by the Cartel Court. The Supreme Cartel Court decides on appeals against these decisions of the Cartel Court. Mergers need to be notified to the AFCA, if certain thresholds are met or exceeded. The Cartel Court only reviews a merger if the AFCA or the Federal Cartel Prosecutor (*Bundeskartellanwalt*) apply for a “Phase II”. In this case, the Cartel Court decides if a merger raises competitive concerns and thus must be blocked or is compatible with the market.

The E-Control may submit applications to the Cartel Court asking for a determination of an infringement or the ending of an infringement.

7.3 What are the key criteria applied by the relevant governmental authority or regulator to determine whether a practice is anti-competitive?

Anti-competitive practices are generally divided into two main categories: (i) cartels (i.e., collusion between undertakings that restricts competition); and (ii) abuse of a dominant position (e.g., market position with a market share of 30%).

8 Dispute Resolution

8.1 Provide a short summary of the dispute resolution framework (statutory or contractual) that typically applies in the renewable energy sector, including procedures applying in the context of disputes between any applicable government authority/regulator and the private sector.

For disputes in the renewable energy sector, the general rule is that E-Control has jurisdiction over certain disputes relating to energy law.

E-Control has exclusive jurisdiction over disputes concerning the legality of denying third parties access to the electricity and gas networks and gas storage, and over disputes between suppliers concerning the legality of denying the transfer of entry capacity in the gas sector, unless the Cartel Court has jurisdiction over these claims.

In addition, a mandatory arbitration procedure before E-Control is provided for several energy industry disputes. This is referred to as the “successive jurisdiction” of E-Control. Accordingly, a party entitled to network access or storage access may not file a lawsuit in court until the regulatory authority’s decision in the dispute resolution procedure has been issued.

Furthermore, all other electricity disputes can also be heard in an optional arbitration procedure before E-Control.

Otherwise, the ordinary courts have jurisdiction over all other disputes concerning claims arising from the contract between the grid operator and customers entitled to grid access, concerning claims between grid operators and persons entitled to grid access and between grid operators and energy companies, and concerning claims arising from the settlement of balancing energy.

Disputes between the competent governmental/regulatory authority and the private sector are usually subject to administrative law. This applies in particular to notices issued by the governmental/regulatory authority, which can be contested in administrative proceedings before the administrative courts. Decisions of the administrative court can be challenged at the Supreme Administrative Court or at the Constitutional Court if violations of constitutional rights are claimed.

8.2 Are alternative dispute resolution or tiered dispute resolution clauses common in the renewable energy sector?

It is common, but not mandatory, for disputes between energy companies to be settled by arbitration. Alternative dispute resolution mechanisms (arbitration or mediation) are common in cross-border contracts. Dispute resolution clauses are frequently multi-tiered, requiring parties, e.g., to seek an amicable settlement of the dispute for a certain period of time, or mediate, before issuing arbitration proceedings.

8.3 What interim or emergency relief can the courts grant?

Austria’s courts have the power to grant interim relief. Courts may order a blend of interim measures designed to secure monetary claims, claims to certain performance, or to preserve the legal *status quo*. Among other reliefs, courts may order a party to refrain from selling or pledging property or disposing of a claim against a third party.

8.4 Is your jurisdiction a party to and has it ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and/or the Convention on the Settlement of Investment Disputes between States and Nationals of Other States and/or any significant regional treaty for the recognition and enforcement of judgments and/or arbitral awards?

Austria is a party to and has ratified both the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

Additionally, the EU Regulation 1215/2012 (Brussels I Regulation) is directly applicable in Austria. The regulation provides that judgments in commercial and civil matters rendered in other EU Member States shall be recognised and enforceable in Austria without “any special procedure” or “declaration of enforceability” being required.

Furthermore, Austria is party to the Energy Charter Treaty.

8.5 Are there any specific difficulties (whether as a matter of law or practice) in litigating, or seeking to enforce judgments or awards, against government authorities or the state?

Apart from state immunity, which does not extend to assets linked to commercial activities, there are no specific difficulties in litigating, or seeking to enforce judgments or awards, against government authorities or the State.

8.6 Are there examples where foreign investors in the renewable energy sector have successfully obtained domestic judgments or arbitral awards seated in your jurisdiction against government authorities or the state?

To date and to our knowledge, no foreign investor in the renewable energy sector has been successful in obtaining a domestic judgment or an arbitral award against government authorities or the State.

9 Updates and Recent Developments

9.1 Please provide a summary of any recent cases, new legislation, regulations, and policy announcements in renewables in your jurisdiction.

Recently, legislative changes took place both on the federal and provincial levels. On the federal level, some legislative proposals have now entered into force that were previously stuck in the legislative process for more than a year, for example the EWG and the amendment to the EEEffG.

The EWG, which came into effect on 29 February 2024, aims to generally prohibit the installation of fossil-based heat supply systems for space heating and/or hot water in new buildings (see question 3.2 above). The amendment to the EEEffG came into effect on 15 June 2023 and serves to implement the Energy Efficiency Directive II (Directive 2018/2002/EU).

Furthermore, the draft of the EGG was adopted by the Council of Ministers on 21 February 2024 and transmitted to the National Parliament for further consideration. The EGG promotes the expansion of domestic renewable gas production (see question 3.8 above). The draft of the WFöG was adopted

by the Council of Ministers on 15 May 2024 and also forwarded to the National Parliament. The WFöG should promote the production of renewable hydrogen.

Also, last year a “Renewable Expansion Acceleration Act” (*Erneuerbaren-Ausbau-Beschleunigungsgesetz, EABG*) was announced, which is intended to implement some of the requirements from RED III (e.g., a “fast track” and “one-stop-shop” for permitting procedures for renewable energy projects below the EIA-threshold). However, this act has not yet been transmitted to the National Parliament due to constitutional, contentual and procedural concerns.

The re-alignment of the Climate Protection Act (*Klimaschutzgesetz*) is already stuck in political discussions since 2018.

Changes have also been made at a provincial level, particularly in the Spatial Planning Laws, to facilitate the construction of photovoltaic systems and wind power plants, e.g., in Lower Austria.

The increasing interest of citizens in the approval procedures for renewable energy projects should also be emphasised. As a result, the authorities, courts and especially the Administrative Court often have to deal with questions about citizen participation (e.g., public referendums).

9.2 How do you envisage the renewable energy landscape in your jurisdiction evolving over the next five years?

The renewable energy landscape in Austria is poised for significant growth over the next five years. This anticipated expansion is likely to be driven by a combination of factors, including technological advancements, increased public awareness of climate change, and the government’s commitment to reducing carbon emissions. Austria has already made strides in incorporating renewable energy, due to its topographical features particularly hydroelectric power, into its energy mix and this trend is expected to continue with a greater emphasis on diversifying also into other renewable sources, such as wind, solar, and biomass.

There is a strong likelihood of increased investment in renewable energy projects, both from domestic and international sources. The European Union’s ambitious targets for reducing greenhouse gas emissions and promoting renewables are likely to result in favourable policies and financial incentives, making Austria an attractive destination for investment. Furthermore, the global shift towards sustainable energy sources can attract multinational corporations and foreign governments looking to invest in green technologies and infrastructure.

The overall appearance of the renewables sector in Austria is set to undergo significant transformations. We can expect to see an increase in the number of wind farms, solar parks, and biomass facilities. The integration of smart grids, sector coupling and energy storage solutions will also be critical to manage the intermittent nature of renewable energy sources. While decentralised assets will play an important role, some of the main steps to achieve climate and energy targets are directly connected to several large-scale generation, storage and transmission projects. In short, every technology for the generation, storage and transmission of (renewable) gas and electricity must have their roles. Ultimately, the success of the energy targets will depend heavily on the political landscape and particularly on the alignment with other, often excessive targets such as restoration of habitats.

To facilitate these changes, regulatory and legislative frameworks will need to adapt. This could involve streamlining the permitting process for renewable energy projects, providing for sufficient staffing of the relevant authorities and regulators, the consideration of new subsidies or tax incentives, and setting clear targets for renewable energy production. Additionally, policies that encourage research and development in the sector could further bolster innovation and growth.

In conclusion, the renewable energy sector in Austria is on the cusp of a transformative period, with growth driven by a combination of technological innovation, investment, and supportive policies. The landscape is expected to evolve into a more diverse and resilient energy system, underpinned by a regulatory environment that fosters sustainable development.



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