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Climate Change Regulation 2022

Austria: Law & Practice
Bernd Rajal, Felix Schneider
and Stefanie Orator-Saghy
Schoenherr

Austria: Trends & Developments
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AUSTRIA

Law and Practice

Contributed by:
Bernd Rajal, Felix Schneider and Stefanie Orator-Saghy
Schoenherr see p.22

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1. MULTILATERAL AND REGIONAL REGIMES

1.1 Multilateral Climate Change Legal Regime

General

Austria is an Annex 1 party to the United Nations Framework Convention on Climate Change (UNFCCC). It ratified the Paris Agreement on 5 October 2016 and the Kyoto Protocol on 31 May 2002.

As a member state of the European Union, Austria is part of the climate negotiation group of the European Union. As such, Austria does not speak for itself in negotiations.

European Green Deal

Fundamentally, it may be noted that Austria's position in connection with the EU-Nationally Determined Contributions for 2030 is that special attention must be paid to the needs of energy-intensive industry, with priority being given to research and further development of green hydrogen. In addition, global attention must be paid to avoiding uneven competitive conditions as a result of higher EU environmental standards. With regard to the distribution of the reduction burden outside the framework of the EU Emissions Trading System (ETS), Austria rejects the use of the GDP/capita criterion. Austria further considers that special attention must be paid to the criterion of cost efficiency.

In the context of the COP 26 (High-Level Segment for Heads of State and Government), Austria highlighted:

- its aim to reach Net Zero by 2040;
- its focus on the use of renewables;
- its rejection of nuclear energy;
- the need for carbon pricing;
- its additional contribution to the Green Climate Fund of EUR100 million, bringing Austria's total share up to EUR130 million; and
- the importance of close co-operation with the private sector.

Graz Declaration

Under the Austrian Presidency of the Council of the EU in 2018, the Graz Declaration was adopted. Essentially, the declaration requires the Commission to develop a mobility strategy by 2021 (what it has actually done by drafting the "Sustainable and Smart Mobility Strategy" dated December 2020). Further cornerstones of the Declaration consist, inter alia, in the sharpening of existing CO_2-fleet agreements based on an early review – in line with the necessary decarbonisation path according to the Paris Agreement and the EU Long-Term Strategy – to enable a faster transition to electromobility in the area of passenger cars and light and heavy commercial vehicles in particular. Proposals for concrete measures include:

- the rapid introduction of CO_2 limits for buses; and
- the establishment of predictability for the vehicle industry by quickly including reduction paths for the period after 2030.

Initiatives

For the sake of completeness, it is worth mentioning that Austria is represented in several international initiatives connected to climate change, such as "Mission Innovation", "CORSIA", the "Strategic Energy Technology (SET) Plan", "expera", "ERA-Net Smart Grids Plus", "ERA-Net Smart Cities and Communities", "IEA Technology Collaboration Programmes" and "CESEC".

1.2 Regional Climate Change Legal Regimes

NECP Co-ordination

Within the framework of the preparation of Austria's National Energy and Climate Plan (NECP), regional co-operation has taken place with Austria's neighbouring countries: Germany, the Czech Republic, Slovakia, Hungary, Slovenia and Italy, as well as with Poland, Croatia and Belgium. Several of these states met to inform each other about the respective contents of their NECP drafts and to identify possible points of contact for deepened co-operation.

Pentalateral Energy Forum

Furthermore, Austria is part of the "Pentalateral Energy Forum" (consisting of Belgium, Netherlands, Luxembourg, Germany, France, Austria and Switzerland) for regional co-operation in Central and Western Europe to improve electricity market integration and security of supply. During the PENTA Directors General meeting in November 2018 in Vienna, it was determined to use the Forum for future NECP co-ordination. Within this framework, the PENTA member states developed the "Political Declaration of the Pentalateral Energy Forum on Integrated National Energy and Climate Plans", which was adopted by the energy ministers of all PENTA member states during the Ministerial Meeting on 4 March 2019. In this declaration, it was agreed that the PENTA member states will draft a joint chapter in their various NECPs, which will lay the foundation for a structured dialogue on further long-term co-operation. This chapter was signed during the PENTA Ministerial Meeting on 25 June 2019.

The contents of the various NECPs were exchanged and discussed at the above-mentioned co-operation events, deepening areas of cross-border interest (eg, transmission networks in the energy sector and projects of common interest). Within the framework of the Pentalateral Forum, common text elements were elaborated and taken into account in the Austrian NECP.

For example, in the area of decarbonisation of the power sector, the participating states have set out their ideas for achieving a decarbonised electricity supply by 2050 (and interim targets for 2030 and 2040) based on a highly efficient energy system strongly characterised by renewables, a gradual phase-out of fossil-fuel power generation, and efficient end-use of electricity. To this end, the first step consists in a comparison of national scenarios on a possible design of the electricity system in 2050 and the identification of similarities and differences between these scenarios as well as how security of supply is ensured in these scenarios.

Furthermore, the PENTA states agreed on cross-border co-operation in the field of renewable energies. Therefore, they are voluntarily developing a package of common approaches covering different levels of co-operation, including exploring possibilities for opening up national or conducting cross-border tenders, joint tenders for interested PENTA states, and making greater use of the EU's renewable energy promotion framework, as well as existing forms of co-operation such as joint projects and statistical transfers ("cluster approaches") for interested PENTA states.

2. NATIONAL POLICY AND LEGAL REGIME (OVERVIEW)

2.1 National Climate Change Policy

General

In accordance with the requirements stipulated in Regulation (EU) 2018/842 establishing binding national annual greenhouse gas emission reduction targets for the period 2021–30 ("Effort Sharing"), Austria is pursuing the goal of reducing

its greenhouse gas emissions in non-ETS sectors by 36% by 2030 compared to 2005. During the period 2021–30, a linear target path is to be adhered to in accordance with the above Effort Sharing Regulation.

All non-ETS sectors shall contribute to the achievement of this target based on cost-effective sectoral targets which will be defined for all of these sectors in the new Climate Change Act (see also **2.2 National Climate Change Legal Regime**). As defined in the Austrian Climate and Energy Strategy ("#mission2030") adopted by the federal government on 28 May 2018, the initial focus lies on the transport and construction sectors, where the greatest quantitative reduction potential exists. This way, decarbonisation in the sense of the Paris Agreement shall be achieved.

For further information on key policy instruments/measures and initiatives by sector that are intended to contribute to climate change mitigation and adaptation in Austria, please refer to **3. National Policy and Legal Regime (Mitigation)** and **4. National Policy and Legal Regime (Adaptation)**.

Financing Measures

The implementation of measures related to climate change is naturally accompanied by a significant investment requirement, which, in line with the long-term targets of the Paris Agreement (in particular Article 2.1.c), must include contributions from the public sector (federal government, federal provinces, the EU, etc) and the private sector in equal measure. The total investment volume ultimately expected to achieve the target is largely determined by the assumed mix of regulatory, subsidy and tax policy measures.

Austria is in particular focusing on the following topics within the framework of a "Green Finance Agenda":

- development of new products within existing funding structures (eg, "Exportinvest green");
- a push for green bonds from government and quasi-government issuers;
- a review of the legal framework to create incentives for green or sustainable financial products;
- modernising covered bond legislation to enable green or sustainable covered bond issuance;
- reviewing how existing portfolio analysis tools (eg, PACTA) may be used in the Austrian market; and
- establishing initiatives to get companies to join forces on a common strategy of green and sustainable investment policies.

Technology Transfer

The successful positioning of Austrian energy technology providers requires, on the one hand, the active networking and co-operation of Austrian players in international research, technology and innovation (RTI) initiatives (such as the strategic energy technology (SET) Plan of the EU or the co-operation programmes of the International Energy Agency) and, on the other hand, the strategic bundling of individual strengths into comprehensive solution offerings.

One example of successful technology transfer is the transnational joint programming platform "Smart Energy Systems", which was initiated by Austria. In this context, a network of 25 national and regional RTI funding programmes in 23 European and associated countries was co-ordinated on the topics of smart and digital energy systems and integrated regional energy systems. Its aim is to initiate and promote transnational RTI projects in co-creation with regional actors and stakeholders in the participating countries. This shall provide Austrian actors with access to international innovation partners and EU funds.

Loss and Damage

In Austria, natural hazard management is carried out highly efficiently thanks to many years of experience and practice, which is why the population's sense of security is very strong. However, established natural hazard management is primarily concerned with risk reduction, based on historical reference values and past events.

In the future, at least soft adaptation limits may be expected at the local level in Austria. The doctrine demands that these possible limits to adaptation – with the material and non-material losses and damages that potentially accompany them – should be proactively addressed in the development of climate change adaptation strategies by the federal states (*Bundesländer*). Moreover, it will require not only a transformation of risk governance toward comprehensive climate risk management, but also transformative individual measures in adaptation that will go far beyond the current, mainly structural, public sector measures (eg, planned relocation of communities or individual settlements, new livelihoods for individuals and households, nature-based solutions, and private insurance models that also stimulate self-provisioning).

2.2 National Climate Change Legal Regime

General

Austria is a federal state. The federal constitution divides the responsibilities for legislation in the various areas between the federal government and the federal states. In some cases, there are also mixed competences. For example, in many areas (including energy law), the principle of basic legislation exists at the federal level and implementing legislation at the level of the federal states.

Climate policy in Austria is a classic cross-cutting issue, especially regarding the distribution of responsibilities for climate policy measures to reduce emissions and to adapt to climate change.

State Goals of Environmental Protection and Sustainability

The constitutional basis for Austria's climate protection policy lies in the commitment to comprehensive environmental protection (*Bekenntnis zum umfassenden Umweltschutz*). It was introduced in 1984 with the Federal Constitutional Law on Environmental Protection (*B-VG Umweltschutz*) and is now anchored in the Federal Constitutional Law on Sustainability (*B-VG Nachhaltigkeit*).

According to Section 3 paragraph 1 of the Federal Constitutional Law on Sustainability, the Republic of Austria (represented by the federal government, the federal states and the municipalities) is committed to comprehensive environmental protection. Section 3 paragraph 2 leg cit defines this as the preservation of the natural environment as the basis of human life from harmful effects, with comprehensive environmental protection consisting, in particular, of measures to keep the air, water and soil clean, as well as to avoid disturbances caused by noise. We understand that comprehensive environmental protection also includes climate protection. This follows (i) from the fact that the term "comprehensive" environmental protection is used, and (ii) from the fact that Section 3 paragraph 2 lists the protected environmental media only demonstratively (ie, "in particular").

Section 3 of the Federal Constitutional Law on Sustainability is a so-called "state objective provision" (*Staatszielbestimmung*). The essence of state objective provisions is that they give the state a mandate to act, but unlike fundamental rights, they do not confer any subjective rights on the person subject to the law regarding compliance with them.

The state objective provision in question is formulated in very general terms and leaves a great deal of room for manoeuvre in its formulation. Consequently, only laws that grossly disregard the state objective of environmental protection are threatened with unconstitutionality.

Furthermore, the state objective of environmental protection is not one of the foundational laws of the Austrian Constitution. Therefore, no absolute priority of environmental interests may be derived from it; according to the case law of the Constitutional Court, the primary significance of the state objective lies rather in the fact that it constitutes a public interest within the framework of the weighing of interests to be carried out: In this sense, the national objective of environmental protection constitutes a public interest that may justify restrictions on the freedom of acquisition.

At the same time, in accordance with doctrine, the Constitutional Court assumes that the state objective of environmental protection is subordinate to fundamental rights; ie, legislation and administration are constitutionally obliged to uphold the principle of equality of citizens before the law even if they pursue the state goal of environmental protection.

Climate Change Act 2011

Climate change issues are formally regulated in the Climate Change Act (*Klimaschutzgesetz* – KSG), which was enacted in 2011 and last amended in 2017. This federal act which, in the hierarchy (*Stufenbau*) of the Austrian legal system, is to be qualified as a simple (federal) law, defined emission caps for the following sectors for the periods 2008–12 and (after the 2017 amendment) 2013–20:

- energy and industry (outside the EU-ETS);
- transport;
- buildings;
- agriculture;
- waste management; and
- fluorinated gases

The KSG also stipulates that the federal government, together with the federal states, must draw up measures to meet the above sector targets and agree on a division of the costs to be borne if the emission caps to be complied with annually by Austria are exceeded.

The KSG finally established the National Climate Protection Committee (NKK), a body that consists of a broad spectrum of representatives from politics, administration, science, business and civil society. It discusses fundamental issues of Austrian climate policy in the light of the targets of the Paris Agreement.

Unfortunately, since the KSG was not amended after 2017, there have not been any legally defined emission caps since 2020.

Amendment to the Climate Change Act 2011

However, according to a first draft amendment to the KSG from 2021, Austria is to be made climate-neutral by 2040 by introducing emission caps for each year, a binding greenhouse gas budget and several pricing models if the specified climate targets were not met. This draft, inter alia, provides that net emissions were to be halved by 2030 and ten years later, the goal is to reach net zero.

It goes without saying that this would be very difficult (if not impossible); eg, in agriculture. Therefore, according to the draft, Austria may compensate for part of the emissions, for example by storing carbon in sinks.

The sectors affected by the draft include transport, agriculture, buildings and waste, but also parts of energy production that are not covered by the EU-ETS. The draft further indicates that

tax increases, for example in the oil tax (*Mineralölsteuer* – MÖSt), could be imposed automatically if climate targets are not met and that the natural gas levy could also rise as a result of the envisaged "additional carbon pricing".

The draft also provides for a "future investment fund" into which the federal and state governments would pay if climate targets were exceeded in individual sectors. For each excess ton of CO_2eq (ie, a ton of CO_2 or an amount of greenhouse gas with equivalent environmental impact), EUR100 would flow into the fund, whereby 60% would be borne by the federal government and 40% from the federal states. In turn, the money from the fund is to be channelled into (domestic) climate protection.

The draft further stipulates that citizens should be given more rights in climate protection. For example, if the government fails to meet its obligations related to climate protection, it will be easier for citizens to sue for violations.

The draft also includes a "climate check", which foresees an examination of laws and ordinances regarding their climate impact.

According to the competent Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology (BMK), the amended KSG is currently being finalised and should be submitted for consultation soon.

Federal Energy Efficiency Act

The aim of the Federal Energy Efficiency Act (*Bundes-Energieeffizienzgesetz* – EEffG) is to improve energy efficiency by setting energy-saving measures. The law was promulgated as part of the federal government's energy efficiency package in August 2014 and came into force on 1 January 2015. It transposes EU Directive 2012/27/EU on energy efficiency into Austrian law. A new Energy Efficiency Act (*Energieeffizienzgesetz-Neu*) is currently being drafted.

Emission Allowance Act 2011

Finally, the Emission Allowance Act 2011 (*Emissionszertifikategesetz* – EZG) should also be mentioned as a central law which may be assigned to climate change law, since it creates a system for trading greenhouse gas emissions allowances, thereby reducing greenhouse gas emissions in a cost-effective and economically efficient manner.

In time for the start of the fourth period of EU emissions trading on 1 January 2021, an amendment to the EZG came into force on 22 December 2020. Legal aspects concerning the allocation of emission allowances from 2021 onwards are set out in separate new paragraphs (see Section 5, EZG). Claims for free allocation of emission allowances may be made for two five-year periods each (2021–25 and 2026–30) pursuant to Section 24b, with applications for the 2026–30 period to be submitted by 30 May 2024 pursuant to Section 13a of the Allocation Rules Ordinance (*Zuteilungsregelverordnung*). Regulations for the inclusion of new market participants in the trading system are implemented in Section 25a of the Act. For the fourth period of EU emissions trading, the EZG now provides that, pursuant to its Section 24a, a report on the annual activity rate together with a verification report must be submitted annually by 31 March at the latest for installations for which an application for free allocation of emission allowances has been submitted.

If the current activity data shows that an adjustment to the allocation is necessary, then the changes are notified to the European Commission by 30 April, in accordance with Section 24c leg cit. After acceptance of the decision by the European Commission, the change in allocation is made by notice (*Bescheid*) and the difference

is either booked additionally or returned by the plant operator.

2.3 Key Policy/Regulatory Authorities

Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology

The key policy and administrative authority responsible for climate change policy development and regulatory enforcement is the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology (BMK). The BMK therefore plays a co-ordinating role in climate policy at the national level. In this sense, strategy processes are also steered by the BMK (if necessary, together with other ministries). In particular, the BMK is primarily responsible for the draft amendment and enforcement of the KSG, the enforcement of the EZG and the Renewable Energy Expansion Act (EAG), see also **8.1 Renewable Energy**.

Climate and Energy Fund

With its funding and initiatives, the Climate and Energy Fund supports the federal government in implementing the climate and energy targets set out in the NECP, drives the energy and mobility transition in Austria with its programmes, and raises public awareness. In concrete terms, a total of EUR1.9 billion in funding has flowed into the domestic economy through the Climate and Energy Fund since 2007. Around 200,000 realised projects have thus triggered an average of around six times that amount in investments.

It is the only federal instrument that may access all funding instruments (research funding and environmental funding) – since the fund uses different processing agencies.

Furthermore, the Climate and Energy Fund is the only instrument that focuses on the topics of energy, mobility and heat transition as well as climate change and adaptation and thus works exclusively thematically – and not along funding guidelines.

Climate Council

The Climate Council was founded as a result of the climate referendum in June 2020. According to the resolution of the National Council, the Climate Council is to be established as a participatory process for the discussion and elaboration of concrete proposals for the climate protection measures necessary to achieve the targets on the way to climate neutrality in 2040.

It is made up of 100 people who have had their main residence in Austria for at least five years, are at least 16 years old and reflect a cross-section of society in terms of gender, age, level of education and place of residence. Their selection was performed randomly, thus ensuring that the participants represent, in a balanced way, the total population.

The members of the Climate Council are supported by scientists from various disciplines who contribute information on the current state of research.

The proposals will be presented to the public for the first time at the beginning of July 2022 and subsequently handed over to the federal government.

Environmental Agency Austria–EAA

As Austria's most important environmental expert organisation and one of Europe's leading environmental consultants the EAA advocates for the transformation of the economy and society to ensure sustainable living.

Its experts provide the basis for decision making at local, regional and international level. The EAA engages in dialogue with politics, administration, business, science and civil society.

Austrian Energy Agency

The Austrian Energy Agency provides solutions for climate-neutrality by focussing on new technologies, efficiency as well as the use of natural resources such as sun, water, wind and forest. The Agency provides scientific advice to politicians, business, administration and international organisations.

The Austrian Energy Agency also implements the climate protection initiative *klimaaktiv* (for further discussion of which see **4. National Policy and Legal Regime (Adaptation)**) on behalf of the federal government and performs the tasks of the National Energy Efficiency Monitoring Agency.

The federal government, all federal states, major companies in the energy and transport industries, interest groups and scientific organisations are members of the Agency.

Provincial Governor

The provincial governor (*Landeshauptmann*) is responsible for issuing the permits for the emission of greenhouse gases pursuant to the current EZG, namely insofar as the permit most essential for the operation of the installation in question is a permit pursuant to provincial regulations (*landesrechtliche Vorschriften*). In all other cases, the authority responsible for issuing the permit is the authority responsible under the federal administrative regulations for approving those parts of the installation from which the emissions originate. The provincial governor, as the competent authority, may also entrust the district administrative authority (*Bezirksverwaltungsbehörde*) with the implementation of a procedure or with the implementation of the procedures for certain types of installations and authorise the authority to decide on their behalf.

3. NATIONAL POLICY AND LEGAL REGIME (MITIGATION)

3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors

The following is a summary of the key instruments/measures and initiatives by sector/topic that are intended to contribute to climate change mitigation in Austria.

Traffic Sector

With a share of around 46% of total emissions, traffic is currently the sector with the highest emissions in Austria. To achieve the overall target by 2030, a reduction in emissions of around 7.9 million metric tons of CO_2eq to around 15.7 million metric tons of CO_2eq (2017: 23.6 million metric tons CO_2eq) is planned. Austria's strategic approach to achieving low emissions mobility in the future is based on the principles of "avoiding" (transport that is not absolutely necessary), "shifting" (to efficient modes of transport) and "improving" (the technologies used).

This shall be achieved, inter alia, by strengthening and expanding public transport, including electrification and mobility management offers, the expansion of pedestrian and bicycle traffic, the shift of freight traffic from road to rail and the promotion of e-mobility in individual traffic.

Instruments for implementing these measures include, in particular, the adaptation of public procurement (eg, in public procurement or public fleets, the public sector will lead by example by switching to zero- and low-emission vehicles as part of routine replacement purchases), the expansion of appropriate infrastructure, the awarding of productive subsidies, the identification and gradual elimination of counterproductive incentives and subsidies, and awareness-raising.

The legal framework required in this respect is created, inter alia, by the following.

- Adjustment of the Occasional Transport Act (*Gelegenheitsverkehrsgesetz*): newly registered motor vehicles in the cab and rental car trade will only be operated with zero emissions from 1 January 2025.
- Price transparency: creation of price transparency by including the ad-hoc price in the charging point register of the Austrian NRA "e-control" and examination of further measures to increase price transparency for end customers.
- Creation of a new sign for e-charging stations in the road traffic regulations (*Straßenverkehrsordnung*).
- Federal Highway Toll Act (*Bundesstraßen-Mautgesetz*): since 1 January 2020, vehicles with a maximum permissible weight of more than 3.5 tons with pure electric drive or with pure hydrogen fuel cell drive must form a separate tariff group for which the lowest tariff is set. This lowest tariff will be 50% lower than the highest tariff. In addition, for vehicles with purely electric drive or with purely hydrogen fuel cell drive, no basic kilometre tariff is set to be charged for traffic-related air pollution.
- Facilitation of the installation of e-charging stations in multi-apartment buildings by amending housing law ("right to plug" solution).

Building Sector

There is also great reduction potential in the Austrian building sector, especially through thermal refurbishment, which provides an important economic impetus for domestic industry, by abandoning fossil fuels in new construction and switching to renewable energy sources and highly efficient district heating in existing buildings. This way, emissions may be reduced by around 3 million metric tons of CO_2eq to around 5 million metric tons of CO_2eq by 2030 in a socially and economically compatible manner.

To implement this measure, the BMK has, inter alia, published the draft Renewable Heat Act (*Erneuerbare-Wärme-Gesetz*) on which comments may be submitted until 10 July 2022 as part of its consultation (*Begutachtung*). According to this draft, all plants for heat supply operated on the basis of fossil liquid or solid fuels or fossil liquefied gas are to be decommissioned by 2035 and all plants operated on fossil gaseous fuels are to be decommissioned by 2040. This draft therefore pursues the goal of switching the heat supply of buildings entirely to renewable energy sources or quality-assured district heating.

Industry Sector

In the industry sector, Austria's aim is to trigger a surge in innovation by promoting energy efficiency measures and the broadest possible switch to renewable energy sources or electricity-based processes.

Agriculture Sector

In the area of agricultural production, greenhouse gas (in particular methane and nitrous oxide) reductions shall be realised, inter alia, through measures in the animal sector (fertiliser management, feeding strategies, husbandry systems), soil cultivation (humus build-up and stabilisation/carbon storage, erosion control) and through the preservation of permanent grassland, productive arable land and wetlands.

Furthermore, measures to increase renewable energy production and use (agricultural biogas plants, waste heat recovery, renewable fuels, engine retrofits) were put in place to increase farm energy efficiency.

A corresponding quantitative GHG-sector contribution will be anchored in the new Climate Protection Act.

Waste Management Sector

While a clear downward trend was recorded for landfilling due to the ban on depositing untreated waste with high organic content, which has been in force since 2004 and 2009 respectively, emissions from the other recovery and treatment routes, especially from waste incineration, increased.

Austria's aim is thus to avoid methane and CO2-emissions, in particular through waste avoidance, aerobic and anaerobic treatment of biogenic waste, reduction of single-use plastic articles and the increase in the recycling share of municipal waste.

Apart from awareness raising and the identification and gradual elimination of counterproductive incentives and subsidies, no specific instruments for achieving these goals have yet been presented by the Austrian legislator in this regard.

A corresponding quantitative GHG-sector contribution will be anchored in the new Climate Protection Act.

Renewable Energy Sources

By 2030, Austria plans to increase the share of renewable energy in its gross final energy consumption to 46–50% and to cover 100% of electricity consumption from renewables.

This aim is to be achieved in particular through the expansion of renewable energy generation under the EAG, which came into force on 28 July 2021 (original version), see also **8.1 Renewable Energy**. The implementation of framework conditions for feeding biogas and renewable hydrogen into the existing natural gas infrastructure, the development of a hydrogen strategy, and support for future investments in the hydrocarbon industry that are close to the industry (subsidy interest rates).

For this purpose, operating subsidies are provided in the form of sliding market premiums as well as investment subsidies. In addition, biogas and hydrogen benefit from more favourable taxation due to their allocation to the Natural Gas Tax Act (*Erdgasabgabegesetz*).

Greenhouse Gas Emissions Caps

Up until 2020, the annex to the Climate Protection Act 2011 (mentioned in **2.2 National Climate Change Legal Regime**) set caps for greenhouse gas emissions by sector (buildings, traffic, etc) for the commitment period 2013–20. The amendment to the Climate Protection Act 2011 is expected to re-introduce emission caps for each year.

Requirement to Report Greenhouse Gas Emissions

In accordance with Section 9 of the EZG, plant owners and aircraft operators participating in the EU-ETS must submit an annual emissions report verified by independent experts to the BMK by 31 March of the following year at the latest. The confirmation of the verified emissions in the emissions trading registry must be carried out by the same deadline. A certificate must be submitted for each ton of CO_2eq emitted.

The "EDM application", which is an interconnected system of internet applications and databases to support complex processes for environmental protection-related documentation, notification and reporting obligations, is used to record and report greenhouse gas emissions from stationary installations, as well as emissions and tonne-kilometres from aviation activities in accordance with the EZG. The EDM system implements the reporting submission

process (facility owner/aircraft operator – independent verifier – authority).

The emissions trading registry, in which the allocation, holding and surrender of allowances are carried out, is a completely independent system.

Facility owners and aircraft operators who are uncertain whether they fall within the scope of the EZG are invited to submit an inquiry in this regard to Department VI/1 of the BMK (ezg@bmk.gv.at).

Emission monitoring shall be carried out in accordance with the relevant legal basis, namely:

- for installations – monitoring of emissions shall be carried out in accordance with the relevant Austrian and EU legal requirements, the permit pursuant to Section 4 EZG and the associated monitoring concept; and
- for aircraft operators – monitoring of emissions shall be carried out in accordance with the relevant EU legal requirements and the monitoring concept approved pursuant to Section 8 paragraph 2 of the EZG.

Taxes (Special Expenses – Sonderausgaben)

Private expenses for the thermal renovation of buildings or for the replacement of a heating system based on fossil fuels with a climate-friendly system (eg, district heating) may be deducted as special expenses as of 2022 under certain conditions (eg, receipt of a federal subsidy, expenses less subsidy exceed the amount of EUR4,000 or EUR2,000 depending on the specific expense; ie, thermal renovation or replacement of a heating system). In this context, the actual expenses distributed over five calendar years are to be automatically taken into account by a lump sum. The lump sum for thermal renovation is therefore to be EUR800/year and the lump sum for the replacement of a heating system EUR400/year.

Taxes (CO_2 tax–CO_2-Steuer/Bepreisung)

From October 2022, CO_2 emissions are to cost EUR30 per metric ton. The level of the CO_2 tax will, as in Germany, increase year by year (in 2023 it will amount to EUR35 and in 2024 to EUR45) and gradually rise to EUR55 per metric ton by 2025.

However, in the event of significant changes in energy prices, a so-called price stability mechanism (*Preisstabilitätsmechanismus*) may also lead to a slower or faster increase in the CO_2 tax.

For consumers, this new tax will have a significant impact on heating and fuel costs. According to calculations by the economic research institute (*Wirtschaftsforschungsinstitut* – WIFO), the introduction of the CO_2 tax will result in a price increase of 7.7 cents (including VAT) per litre of gasoline and 8.8 cents (including VAT) per litre of diesel. For natural gas, the price will rise by 7.3 cents (including VAT) per m^3 and a price increase of 9.7 cents (including VAT) is expected for heating oil.

To compensate for this additional financial burden, a regional climate bonus (*regionaler Klimabonus*) will be introduced along with the CO_2 tax: in 2022, adults living in Austria will receive a one-time payment of EUR250 and a so-called "cash-back bonus" of EUR250; ie, EUR500 in total.

Taxes (Greening of the Standard Consumption Levy–Ökologisierung der Normverbrauchsabgabe)

The calculation of the standard consumption levy (NoVA) for cars is based on the CO_2 emission value in g/km according to WLTP minus 112g (2021). This value is to be divided by five. The commercially rounded result is the tax rate used to calculate the NoVA. The maximum tax rate is 50%.

If a car has CO_2 emissions exceeding 200g/km, the tax for the CO_2 emissions exceeding the limit of 200g/km is increased by EUR50 per g/km. The tax amount is to be reduced by a deduction of EUR350.

In the years 2022–24, these values shall be adjusted annually:

- the CO_2 deduction amount shall be reduced annually by the value of five;
- the malus threshold shall be reduced annually by the value of 15;
- the malus amount is increased annually by the value of ten; and
- the maximum tax rate is increased annually by 10%.

Beginning 1 January 2025, only the CO_2 deduction amount will be reduced annually by the value of three.

Climate and Energy Model Regions–Klima- und Energie-Modellregionen

Beyond municipalities, the Climate and Energy Model Regions programme of the Climate and Energy Fund supports regions in making optimal use of their local renewable energy resources, in exploiting the potential for energy savings and in sustainable management and further promotes co-operation between municipalities.

Tailor-made investment subsidies are available for climate and energy model regions from the Austrian Environmental Fund and the Climate Fund. This has resulted in over 4,000 successful projects to date, for example in the areas of renewable energy, energy efficiency, sustainable mobility and awareness raising. There are currently 120 climate and energy model regions in 1060 municipalities in Austria.

Climate Change Mitigation in the Context of Environmental Permits/Authorisations

For further information on this topic, please refer to **6.2 Directors' Climate Change Liability**.

4. NATIONAL POLICY AND LEGAL REGIME (ADAPTATION)

4.1 Policy/Regulatory Instruments and Spheres of Government/Sectors

The following is a summary of the key instruments/measures and initiatives by sector that are intended to contribute to climate change adaptation in Austria.

The Austrian Strategy for Adaptation to Climate Change–Die österreichische Strategie zur Anpassung an den Klimawandel

Adaptation to climate change is set against climate protection as an equally important goal. Austria has been pursuing this two-pillar principle in climate policy for some years now, focusing on the one hand on reducing GHG emissions to directly mitigate climate change, and on the other hand on adapting to those effects of climate change that may no longer be avoided.

Since 2012, Austria has had a strategy for adapting to climate change compiled by the (then) Federal Ministry for Sustainability and Tourism, consisting of 132 concrete recommendations for action for adjustment for a total of 14 fields of action. An excerpt of these measures per sector is described below.

- Agriculture:
  - (a) sustainable development of the soil and safeguarding of soil fertility, structure and stability;
  - (b) increased establishment and promotion of water-saving irrigation systems and improvements in irrigation planning;

(c) breeding and targeted use of water-saving, heat-tolerant plants (species/variety) in the sense of regionally adapted management;
(d) adaptation of fertiliser management to seasonal weather patterns; and
(e) provision of scientific bases on possible new diseases and pests in agriculture.

- Forestry:
  (a) adaptation of tree species and origin selection, including targeted promotion of diversity through appropriate silvicultural management and regeneration of overaged stands;
  (b) soil-conserving management;
  (c) reduction of game damage; and
  (d) development of an advisory concept for forest owners with regard to the adaptation of forests to climate change.
- Water:
  (a) analysis of existing data and promotion of further data collection on water resources;
  (b) improved co-ordination/information regarding water consumption and demand;
  (c) increased consideration of low water in the management of water resources;
  (d) achievement and safeguarding of the good status of water bodies (including groundwater);
  (e) forward-looking water management planning of groundwater resources; and
  (f) adaptive flood risk management with robust measures.
- Tourism:
  (a) consideration of climate change in tourism strategies;
  (b) development of climate-friendly adaptation measures based on tourism strategies;
  (c) elaboration, provision and improvement of regional data as a decision-making basis for adaptation measures; and
  (d) support of winter sports regions at risk of climate change in the creation of snow-independent offers.
- Electricity:
  (a) optimisation of the grid infrastructure;
  (b) promotion of decentralised energy generation and feed-ins;
  (c) increased research into energy storage options; and
  (d) stabilisation of the transmission and distribution network through appropriate climate-adapted system planning.
- Building and living:
  (a) implementation of structural measures in both new construction and renovation to ensure thermal comfort;
  (b) forced use of passive and active cooling with alternative, energy-efficient and resource-saving technologies;
  (c) climatological improvement of urban spaces, in particular consideration of micro/mesoclimatic conditions in urban and open space planning;
  (d) implementation of structural measures on buildings to protect against extreme weather events; and
  (e) increasing water retention.
- Protection against natural hazards:
  (a) development (education) and promotion of hazard and risk awareness as well as of personal responsibility in the population;
  (b) promotion of sustainable spatial development strategies with increased involvement of the hazard zone planning and risk representation;
  (c) promotion of water retention in the area as well as reactivation of natural floodplains (and floodplain areas), in particular as a contribution to precautionary land use planning; and
  (d) promotion of forecasting, (early) warning and measuring systems.
- Disaster Management:
  (a) continuous implementation of the goals of the National Crisis and Disaster Management (SKKM) Strategy 2020 with

increased consideration of the effects of climate change;
(b) establishment of a national platform for risk reduction;
(c) maintaining and, if necessary, improving the framework conditions for voluntary engagement in the field of disaster management; and
(d) increasing the flexibility of financing and funding instruments in the field of disaster management.

- Health:
  (a) general public relations work as well as specific preparation for extreme events or outbreaks of infectious diseases;
  (b) dealing with heat and drought;
  (c) dealing with floods, mudflows, avalanches, landslides and rockfalls; and
  (d) expanding knowledge of and preparing to deal with novel pathogens/infectious diseases.
- Ecosystems and biodiversity:
  (a) improving the knowledge base through research on climate change impacts on ecosystems/biodiversity;
  (b) increased consideration of climate change in existing monitoring systems and/or expansion of monitoring and early warning systems; and
  (c) integration of climate change into nature conservation instruments.
- Transport infrastructure including aspects of mobility:
  (a) reduction of possible heat stress for passengers and staff in public transport by means of suitable air conditioning;
  (b) review and, if necessary, adaptation of legal standards for the construction and operation of transport infrastructures under changed climatic conditions; and
  (c) reduction of the increase in permanently sealed transport surfaces as protection against flooding.
- Regional planning:
  (a) development and provision of practice-relevant data and information bases, awareness raising and better networking of stakeholders;
  (b) creation and safeguarding of flood retention and flood run-off areas and clear regulation of prohibitions and restrictions on land use; and
  (c) increased legal linkage between zoning and hazard zone planning.
- Economy:
  (a) measures to increase the resilience of production, distribution and operational infrastructure;
  (b) securing supply, transport networks and production through differentiated supply networks, regional clusters and production close to the market; and
  (c) securing supply and production through long-term contracts and expansion of inventories.
- Cities–Urban open and green spaces:
  (a) adaptation of water management strategy for green and open spaces;
  (b) adaptation of soil management in urban green and open spaces; and
  (c) preservation and promotion of biodiversity in urban green and open spaces.

Klimawandel-Anpassungsmodellregionen – KLAR!

Against the background of the increasing impact of climate change on Austrian regions and municipalities (of course depending on the specific geographical, geological and socio-economic framework conditions), the Climate and Energy Fund in co-operation with the BMK initiated the Climate Change Adaptation Model Regions (KLAR!) funding programme in the autumn of 2016.

The aim of the programme is to give regions and municipalities the opportunity to prepare

for climate change, to minimise the negative consequences of climate change by means of adaptation measures and to take advantage of the opportunities that arise. Through the KLAR! service platform and the KLAR! events, the Climate and Energy Fund ensures that the KLAR! regions use the available findings and information delivered by science.

While some regions are increasingly affected by drought, others suffer from the impact of increasingly heavy local precipitation. However, some regions also benefit from climate change: milder temperatures in alpine regions, for example, may unleash new potential for summer tourism or make viticulture possible in areas where this was not before.

In addition to the necessary climate protection activities, it is therefore necessary for municipalities to respond to the changing climate with measures in their areas of responsibility, such as zoning, water supply, municipal roads, or relief and rescue services, etc. Municipalities are also increasingly required to take into account the long-term effects of climate change when making decisions and investments today (eg, in forestry) in order to avoid costly wrong decisions.

The Climate and Energy Fund supports these efforts through a two-stage programme, as set out below.

- A concept and implementation phase:
  (a) preparation of a regional adaptation concept (one year);
  (b) review and approval of the concept by an external jury;
  (c) after jury approval, implementation of measures as foreseen in the regional adaptation concept (two years).
- A continuation phase:
  (a) continuation, adaptation and dissemination of measures, activities and processes.

Currently, 74 KLAR! model regions from all over Austria are working on adaptation to climate change. As of now, new regions may apply for support in KLAR!. In addition, existing regions may submit for implementation and continuation. The deadline for submission for KLAR! invest stage 1 is 16 September 2022. The end of the call for stage 2 (new and existing regions, resubmitters as well as for KLAR!-invest) is 31 January 2023.

Climate protection initiative – klimaaktiv

klimaaktiv is the climate protection initiative of the BMK. With the development and provision of quality standards, the education and training of professionals, the transfer of "green skills" to important multipliers, with consulting, information and a large partner network, klimaaktiv complements climate protection funding and regulations.

Its focus lies on the topics of construction and renovation, energy saving, renewable energies and mobility. In essence, klimaaktiv is an innovative governance instrument that uses an integrative approach to take ideas, strengths and commitment in the Austrian federal states, municipalities, businesses and NGOs and reinforces them at the federal level or throughout Austria.

klimaaktiv further aims to develop and implement new technologies by training stakeholders to acquire the necessary knowledge to properly use the latest technologies for energy efficiency and renewable energies. The Austrian Energy Agency, discussed in **2.3 Key Policy/Regulatory Authorities**, is operationally in charge of implementing the programmes and projects of klimaaktiv.

Climate change adaptation in the context of environmental permits/authorisations
For further information on this topic, please refer to **6.2 Directors' Climate Change Liability**.

5. RESPONSES TO INTERNATIONAL DEVELOPMENTS

5.1 Carbon Markets
Austria does not currently intend to play an active role in the carbon market evolving under Article 6 of the Paris Agreement; accordingly, no measures are being taken at the national level in this regard. Austria is also cautious with regard to the voluntary market.

5.2 European Union Carbon Border Adjustment Mechanism (CBAM)
The planned reduction in the free allocation of emission allowances in the context of the introduction of CBAM is expected to result in higher prices for fertilisers, cement, steel, iron, power and aluminium. This not only results in a direct cost burden for the aforementioned primarily affected goods, but also an indirect additional burden for the associated supply chains and thus other sectors of the economy, such as the automotive industry, the chemical industry, the electrical and electronics industry, and the construction and food industries. A study by the Austrian Institute of Industrial Research (*Industriewissenschaftliches Institut* – IWI) concluded that an end to free allocation in 2035 would require a total of 12.1 million metric tons of additional allowances for emissions. Assuming an allowance price of EUR90 per metric ton for the goods affected under the CBAM, this would result in additional direct costs of EUR1.1 billion. In addition, the indirect additional costs would amount to EUR529.4 million in 2035; in total, the direct and indirect additional costs would thus amount to EUR1.62 billion. In the years 2026 to 2035, a total of up to EUR8.9 billion in direct and indirect additional costs could be incurred in the Austrian economy. Consequently, in addition to the negative effects on value added, the IWI also assumes negative effects on employment, with 11,000 jobs directly at risk (with further negative consequences to be expected in downstream sectors).

The Austrian stakeholders therefore demand that the free allocation of emission allowances must remain in full force until there is proof of the effectiveness of the CBAM as a protection against carbon leakage.

As far as can be seen, concrete measures to counter CBAM have not yet been published by the federal government.

6. LIABILITY FOR CLIMATE CHANGE AND ESG REPORTING

6.1 Task Force on Climate-Related Financial Disclosures (TCFD)
In 2019 the BMK and the Federal Ministry of Finance (BMF) launched a stakeholder dialogue process to develop Austria's green finance agenda. This led to the creation of the Green Finance Alliance (the "GF-Alliance"), which focuses on aligning the financial sector with science-based climate and environmental targets, as another initiative that will pave the way for a sustainable financial system.

The GF-Alliance helps participating financial companies with these tasks and provides support for financial companies that have committed in writing to setting targets and implementing measures for their portfolio. By establishing the GF-Alliance, the BMK has created an alliance of financial companies that want to systematically align their core business with climate targets.

With the professional and technical support of the Environment Agency Austria and international experts, these companies will become visible role models and trailblazers for sustainable business that is compatible with climate protection. The GF-Alliance has also been influenced, among others, by the TCFD. The final recommendations of the TCFD are one of the guidelines the GF-Alliance members should align their reporting with. The GF-Alliance is drafting a climate-related engagement strategy which is influenced by the TCFD recommendations.

6.2 Directors' Climate Change Liability

Under Austrian tort law there is no personal liability of directors for the climate change impacts on their companies or of their companies. The Austrian Environmental Liability Act (*Bundes-Umwelthaftungsgesetz*) only stipulates a liability for damages to the soil and to water but does not allow for a general liability for climate change.

Infrastructure investments or financing arrangements that may have a negative climate change impact are not the target of any regulatory attention. However, the infrastructure project itself must undergo an environmental impact assessment (*Umweltverträglichkeitsprüfung*). According to the Austrian Environmental Impact Assessment Act 2000 (*Umweltverträglichkeitsprüfungsgesetz 2000* – UVP-G 2000) an environmental impact declaration must be submitted to the authorities. This declaration also contains a climate and energy concept, which must describe all measures which are taken to mitigate the climate change impact of the infrastructure project. The environmental impact assessment is a requirement to obtain the permits for the infrastructure project. The assessment may also be requested by interest groups and civil society and thus gets broader attention in Austria.

6.3 Shareholder or Parent Company Liability

Since there is no liability of the company or the director for climate change damage under Austrian tort law, there is also no liability for shareholders or a parent company. Moreover, the Austrian Environmental Liability Act does not foresee a direct liability for shareholders or a parent company for any damages to the soil or water. However, under the "polluter pays" principle of the Austrian Environmental Liability Act the company or the operator of a facility is liable for the damages and must take compensating measures. The costs for the compensating measures are borne by the polluter.

6.4 ESG Reporting and Climate Change

Under current Austrian law only very big corporations (ie, those with over 500 employees), which are of public interest, are required to file a "non-financial" declaration (ESG report) within their annual report. Currently, this only applies to about 120 companies in Austria. However, according to the EU Corporate Sustainability Reporting Directive (CSRD), which must be implemented by EU member states by December 2022, ESG reporting will become mandatory for large, limited liability companies (GmbH, those with more than 250 employees and EUR40 million in turnover), stock companies, companies listed on the stock market in an EU member state and capital-market oriented corporations. Starting from 2026, ESG reporting will also be mandatory for SMEs.

7. TRANSACTIONS

7.1 Due Diligence

In the past, only environmental due diligence was part of a transaction. However, over the last decade climate change and ESG in general have become a more important topic in due diligence. The focus shifted from only checking for poten-

tial environmental liabilities to checking what measures a company has in place to protect the climate or mitigate its impact on the environment. Although this is a rather new part of the due diligence process in Austria, M&A attorneys are aware of the issue and will include the evaluation of climate change and ESG in their due diligence. The findings are either presented in a separate ESG due diligence report or an independent section of the due diligence report.

As part of an ESG due diligence the following topics are covered:

- the use of renewable energy;
- the sustainability of the used utilities;
- the sustainability of the supply chain (carbon footprint);
- measures to reduce the impact on the climate;
- social responsibility and diversity;
- governance (KYC, ESG-policies, etc).

Depending on the company, the due diligence will lead to reps and warranties regarding ESG compliance. Sometimes closing conditions may also be introduced. Such conditions could either be negative conditions (eg, to stop massive pollution) or positive ones (eg, investments into renewable energy).

8. CLIMATE-FRIENDLY INVESTMENT SUPPORT

8.1 Renewable Energy

The Austrian Renewable Energy Expansion Act (*Erneuerbare Ausbau Gesetz* – EAG) provides support schemes for the uptake of renewable energy technologies. The EAG was adopted in 2021 and covers the following technologies:

- photovoltaic plants (PV plants);
- biomass power plants;
- wind energy;
- hydropower; and
- green gas.

The main support scheme is a market premium. 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 granted as a subsidy for electricity (directly) marketed and fed into the public electricity grid. Market premiums are either granted competitively or administratively upon application (wind energy, hydropower, biomass, biogas). The general requirements for funding vary depending on the technology.

The market premium will be calculated in an ordinance. This ordinance stipulates the maximum prices in cents/kWh for each technology, up to which offers in calls for tenders will be considered. The ordinance will also determine the applicable value for administrative market premiums. The maximum prices and applicable values will be determined separately for each calendar year. The amount of the market premium is the difference between the applicable value determined by a tender or fixed by ordinance (in the case of administrative allocation of funding) and the reference market value or reference market price in cents per kWh.

For wind, hydropower and PV plants, the market premium will be granted based on the reference market value, and for biomass and biogas plants based on the reference market price.

Moreover, upon application, PV plants and electricity storage facilities, hydropower plants as well as wind power plants and biomass power plants connected to the public electricity grid or railroad power grid can be subsidised by means of an investment grant.

8.2 Other Support

Besides the EAG and the market premiums for renewable energy, there are various other subsidies for climate-friendly investments. Most of these subsidies are based on the Environmental Subsidies Act (*Umweltfördergesetz*) and subsequent ordinances as well as EU secondary law.

From e-mobility to heat pumps, from green finance to renovation measures, there are many different subsidies for companies, communities and even private homes.

In combination with the prohibition of oil heating in 2020 and the envisaged prohibition of gas heating in 2040 the Austrian government introduced subsidies for businesses, house owners and tenants to switch from oil/gas to distance heating or heat pumps. The subsidies are granted for all new installations of distance heating, heat pumps or pellet heating and cover up to 50% of the costs of the new installation. Other subsidies cover, for example, the costs for external shades for windows in order to reduce the costs for cooling in summer and the linked negative influences on climate change. In general, the subsidies are granted upon application and will be paid as long as funding is available. In addition to the above-mentioned federal subsidies, there are plenty of regional or city-wide subsidies for climate-friendly investments in Austria.

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AUTHORS

Bernd Rajal is a partner at Schoenherr in Vienna and head of the firm's regulatory practice group. Bernd's practice focuses on EU energy regulation, energy infrastructure and climate change. With Schoenherr representing various governmental departments, he is also involved in legislative procedures making proposals for the amendment of environmental and energy law provisions. Bernd regularly advises on issues related to climate change. Only recently, Bernd commented on the decision rendered by the District Court in The Hague obliging Royal Dutch Shell to reduce its carbon dioxide emissions to tackle climate change. Bernd speaks fluent German and English.

Felix Schneider has been an associate with Schoenherr since 2018, focusing on public procurement, energy law and climate change. He regularly advises government bodies and private sector clients on all potential issues related to complex procurement structures. In this context, he drafts tender documents, monitors the compliance of tenders with the procurement legislation and tender conditions, and advises on remedying and clarifying deficiencies. Felix is also an advisor to energy utilities, financial investors, network operators and energy traders on all issues related to energy law and climate change. He is fluent in German, French and English.

Stefanie Orator-Saghy has been at Schoenherr since February 2017. Her main practice areas are energy regulation, trade law and climate change. Prior to joining Schoenherr, she worked for more than three years in the field of administrative and constitutional law as an associate at an international law firm. After graduating from the University of Vienna Stefanie gained experience at the Austrian Permanent Representation to the United Nations in New York and the European Commission. In 2015 Stefanie graduated from the University of Michigan Law School, where she specialised in US energy, administrative and constitutional law. She is fluent in German and English.

Schoenherr

Schottenring 19
1010 Vienna
Austria

Tel: +43 1 534 37 0
Fax: +43 1 534 37 66100
Email: office.austria@schoenherr.eu
Web: www.schoenherr.eu

Trends and Developments

Contributed by:
Bernd Rajal and Felix Schneider
Schoenherr see p.27

Climate-Neutral Hydrogen – The Austrian Hydrogen Strategy

Introduction

Against the background of Russia's declaration of war against Ukraine and the resulting urgent need to solve Austria's dependence on Russian natural gas, Austria is now focusing strongly on hydrogen as alternative to natural gas.

To this end, the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation, and Technology (BMK), in co-ordination with the Federal Ministry for Digital and Economic Affairs (BMDW), has recently drawn up a hydrogen strategy for Austria, which provides that compatibility with Austria's goal of climate neutrality may only be achieved with climate-neutral hydrogen and that, in the medium term, the latter will remain a scarce and high-quality energy carrier that must be used in a targeted and efficient manner.

Demand for climate-neutral gases in Austria

Renewable biogenic gases are already used in Austria in large quantities, mainly in local biogas plants, which use biogas produced from renewable raw materials, manure and organic residues to directly generate electricity. However, the production and injection of biomethane in natural gas quality currently plays only a negligible role in gas supply, with a production volume of around 12.7 million m³ (124 GWh) (2021) whereby current domestic gas consumption in Austria amounts to 100 TWh (2021, E-Control) or about 8.9 billion m³.

Pursuant to estimates, about 2 billion m³ (20 TWh) of renewable methane may be sustainably produced nationally from biogenic residues annually by 2040. A study by the Austrian Energy Agency and other scientific institutes has revealed, that the demand for climate-neutral hydrogen and gaseous energy carriers in general will continue to play an important role for certain applications in industry in the future, especially where material process requirements or a very high demand for high temperatures do not allow alternative access. The demand for gaseous energy carriers (methane and hydrogen) in the relevant sectors in Austria in 2040 is calculated to be between 89 TWh and 138 TWh.

Production

The production of renewable hydrogen is to take place in Austria primarily through the electrolysis of water using renewable electricity, with the operation of the electrolysis plants, if possible, making a grid-serving contribution through supply-oriented control.

According to calculations by the Federal Environment Agency, emission-free hydrogen production by electrolysis will enable greenhouse gas savings of around 1 million tons of CO_2 per 1 GW of installed electrolysis capacity in Austria by 2030.

Application

Hydrogen is to be used especially in those areas that have a high demand for thermal energy and in applications where electrification options are limited; these include the following.

- Industry:
  (a) material use (chemical industry);
  (b) steel industry (reactants); and
  (c) high-temperature processes (thermal recycling).

- Mobility:
  (a) air traffic;
  (b) ship traffic; and
  (c) long distance truck and coach.
- Energy system:
  (a) peak load balancing for volatile renewable energies; and
  (b) storage and flexibility services.

Numerous other fields of application are being discussed for the use of hydrogen from a purely technical perspective, such as in building conditioning and water heating, but hydrogen competes in these areas with far more efficient and sustainable technologies that are already available today at low cost, such as heat pumps.

In regions where these alternatives are not available due to a lack of grid infrastructure, renewable hydrogen could be used through decentralised complete solutions.

Transport

Since hydrogen is used efficiently primarily in its pure, unmixed form, it must be made available to the user in this form as a matter of priority. This should be ensured by separate transport or on-site production of climate-neutral hydrogen.

Thus, the feeding and blending of hydrogen into the gas grid plays a subordinate role. This would only gain in importance with a significant increase in hydrogen production.

Sector coupling

In order to ensure stable grid operation and long-term security of supply, and to minimise cost-intensive congestion measures such as redispatching, the operation of electrolysis plants can, if properly designed, contribute to both the secure operation of the power system – which is increasingly characterised by supply-dependent power generation – and the maintenance of security of supply through load control capacities and the storage of energy. A significant added value of sector coupling through power-to-X processes (eg, electrolysis) is the possibility of supplying non-electrified applications with material energy sources through renewable electricity.

Aims

In order to increase the use of climate-neutral hydrogen in energy-intensive industry, Austria envisages replacing 80% of the consumption of fossil-generated hydrogen in energy-intensive industry (energy and non-energy use) with climate-neutral hydrogen by 2030. To this end, new instruments for operating cost support, such as carbon contracts for difference (or "climate protection contracts"), will be further developed and implemented.

By building up electrolysis capacity, renewable hydrogen production is to be sustainably anchored in Austria. This is seen as being necessary in connection with the expansion of renewable electricity production and the resulting demands on the energy system. Assuming an operation of about 5,000 full load hours per year, 1 GW of electrolysis capacity could largely cover the current industrial demand for hydrogen in Austria.

For the decarbonisation of existing hydrogen applications as well as new application sectors, the competitiveness of renewable hydrogen with hydrogen from fossil sources must be established. To this end, investment subsidies for electrolysis plants and preferential treatment for grid tariffs, green electricity subsidies and connection costs have been implemented as part of the Renewable Energy Expansion Act (*Erneuerbaren-Ausbau-Gesetz* –EAG). Furthermore, Austria plans to introduce a quota for the sale of renewable gases on the Austrian gas market.

For the pipeline-based transport of hydrogen, the gas infrastructure currently used for natural

gas transport shall be used primarily by converting it to hydrogen pipelines. The construction of new hydrogen pipelines will be examined where there is a lack of corresponding infrastructure and a hydrogen infrastructure is necessary for decarbonisation. In doing so, embedding Austrian hydrogen infrastructure into a pan-European infrastructure development will also be considered.

Austria will further intensify co-operation and strategic collaboration with potential trading partners for climate-neutral hydrogen and its derivatives. In this context, attention will be paid to compatibility with international climate targets and the decarbonisation efforts of the respective partner countries, as well as to long-term, sustainable security of supply, and to import costs and possible cost-effective transport corridors. Likewise, Austria will strengthen the exchange with European and international partners regarding uniform international standards and common definitions and promote the reduction of market barriers. Furthermore, the possibility of transnational hydrogen networks as well as energy import diversification through an international hydrogen market shall be realised at the EU level.

Implementation

The measures for implementing the hydrogen strategy are divided into seven overarching fields of action:

- timely market ramp-up by means of flagship projects;
- promoting and incentivising production of renewable hydrogen;
- incentivising market-based business models and the targeted use of hydrogen in industry;
- building infrastructure for hydrogen transportation and exploitation and creating import opportunities;
- targeted further development of hydrogen technologies in mobility;
- intensifying R&D; and
- the establishment of the hydrogen platform H2Austria.

Outlook

The Austrian hydrogen strategy now provides the framework and direction for the switch to green hydrogen in Austria and the basis for relevant subsidies and legal measures. In addition, it provides a point of orientation for all companies, regardless of whether they already rely on hydrogen today or are about to make major technology decisions in this regard.

Contributed by: *Bernd Rajal and Felix Schneider,* ***Schoenherr***

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AUTHORS

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Schoenherr

Schottenring 19
1010 Vienna
Austria

Tel: +43 1 534 37 0
Fax: +43 1 534 37 66100
Email: office.austria@schoenherr.eu
Web: www.schoenherr.eu

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