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Austria

RENEWABLE ENERGY

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This country-specific Q&A provides an overview of renewable energy laws and regulations applicable in Austria.

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AUSTRIA

RENEWABLE ENERGY



1. Does your jurisdiction have an established renewable energy industry? What are the main types and sizes of current and planned renewable energy projects? What are the current production levels?

The primary energy production in Austria is dominated by a remarkably high share of renewable energies. Austria holds a pioneering role internationally, with 85% of its domestic primary energy production coming from renewable energy sources. The main contributors are hydropower and biomass, taking advantage of Austria's topography. However, renewables only account for approximately 31.4% of Austria's gross final energy consumption. Recent political efforts and renewable energy promotion have led to the increased importance of other renewables such as wind, geothermal, and solar energy.

In 2021, renewables produced a total of 450.7 petajoules (PJ) of energy. Biomass accounted for 40.2%, hydropower for 31%, firewood for 13.9%, wind power for 5.4%, heat pumps for 4.1%, biogas for 1.4%, solar photovoltaic for 2.2%, solar thermal for 1.6%, and geothermal energy for 0.2%.

2. What are your country's net zero/carbon reduction targets? Are they law or an aspiration?

The European "Green Deal", based on the developed strategy in the Paris Agreement, encompasses various political initiatives aimed at achieving the agreed climate protection goals.

The European "Green Deal," based on the Paris Climate Agreement, encompasses various political initiatives aimed at achieving climate protection goals. A key interim target is to reduce greenhouse gas emissions by 55% compared to the period between 1990 and 2030. As part of the EU climate and energy package, Austria committed to increase the share of renewable energy in

its national energy mix to 34.0% by 2020. This target was surpassed, with a percentage of 36.5% achieved in 2020. The significant increase in renewable energy from 33.8% in 2019 to 36.5% in 2020 can be attributed to measures implemented during the COVID-19 crisis, particularly the first lockdown's curfew and travel restrictions, which led to a substantial decrease in fossil fuel consumption in the transport sector by 18.0%.

In June 2019, the EU enacted a comprehensive update of its energy policy framework to facilitate the shift away from fossil fuels towards cleaner energy and to deliver on the EU's commitments in the Paris Agreement to reduce greenhouse gas emissions. This new energy rulebook, the so-called "Clean Energy for all Europeans Package", marks a significant step towards the implementation of the union energy strategy, adopted in 2015. The package emphasises energy efficiency, security of supply, renewable energy development, and carbon dioxide reduction.

To align with the new EU energy package, the Austrian government launched a climate and energy strategy called "#mission2030" in June 2018, which sets out strategies to meet the ambitious 2030 targets. Additionally, the federal government aims to make Austria climate-neutral by 2040. The current government program focuses on enhancing renewable energy in Austria's total energy consumption, improving mobility services, implementing infrastructure measures, and decarbonising the road transport fleet. However, the program lacks specific steps to achieve the goals in many areas.

The EU Effort-Sharing Regulation (2018/842/EU) requires a 36% reduction in greenhouse gas emissions outside the EU ETS (EU Emissions Trading System) by 2030 compared to 2005 levels. Austria met the agreed reduction path for 2021 under this regulation.

Within the framework of the EU's Fit-for-55 Package, which sets more ambitious targets for 2030, Austria's targets are expected to be increased to 48%.

3. Is there a legal definition of 'renewable energy' in your jurisdiction?

Section 5 para. 1 no 13 of the Renewable Energy Expansion Act (Erneuerbaren-Ausbau-Gesetz) provides a definition for renewable energy. Energy from renewable sources or renewable energy is defined as “energy from renewable non-fossil sources, namely wind, solar (solar thermal and solar photovoltaic) and geothermal energy, ambient energy, tide, wave and other ocean energy, hydropower, energy from biomass, landfill gas, sewage treatment plant gas, biogas and renewable gas”.

4. Who are the key political and regulatory influencers for renewables industry in your jurisdiction and who are the key private sector players that are driving the green renewable energy transition in your jurisdiction?

Regulatory policies and decisions concerning the generation of renewable energy in Austria are determined by the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation, and Technology, also known as the “BMK”. The current minister, Mag. Gewessler, was nominated by the Austrian Green Party and plays a crucial role in implementing climate change measures, promoting the renewable industry, and proposing changes to the legal framework.

The other party in the current two-party coalition government in Austria is the People’s Party. Its renewable energy policy is heavily influenced by the Chamber of Commerce and the Federation of Austrian Industries.

E-Control serves as the regulatory authority for renewable energy and conducts investigations and provides expert opinions on the electricity and gas market and competition. It is also responsible for monitoring the issuance, transfer, and cancellation of guarantees of origin for renewable energy through a computerised database, the so-called database of guarantees of origin (*Herkunftsnachweisdatenbank*). Additionally, E-Control is required to submit the annual Monitoring Report on renewables to the BMK.

The competence for the regulatory framework for the funding of renewables is shared between the BMK and E-Control. Provincial governments also have a significant influence as they are competent to determine the locations for wind farms, green field photovoltaic systems, and other renewable projects.

Key players driving the Austrian energy transition in the private sector are energy companies controlled by the federal state or the provinces, such as Verbund AG, EVN AG, Energie AG Oberösterreich, Energie Burgenland AG, Salzburg AG für Energie, Verkehr und Telekommunikation, Energie Steiermark AG, KELAG-Kärntner Elektrizitäts-Aktiengesellschaft, TIWAG-Tiroler Wasserkraft AG, and illwerke vkw AG. There are also privately owned companies like oekostrom AG für Energieerzeugung und -handel, PÜSPÖK group, and CLEEN Energy AG. Additionally, numerous small undertakings are active in the renewable energy sector, especially since the Renewable Energy Expansion Act (*Erneuerbaren-Ausbau-Gesetz*) entered into force.

5. What are the approaches businesses are taking to access renewable energy? Are some solutions easier to implement than others?

What we observe is that the approach to renewable energy adoption varies depending on the industry, existing solutions, and local circumstances. For instance, many players of the strong Austrian paper industry, have already implemented waste heat cogeneration plants several years ago to cover their high demand for heat and electricity. Meanwhile, the steel industry in Austria has initiated projects to transition from coal and natural gas to hydrogen as the primary energy source, although the feasibility of implementing these projects on a large scale is yet to be proven. Many industries, both large and small, are undertaking photovoltaic projects either on their own premises or through contracting models, either on-site or in nearby locations.

For smaller businesses, it is often more convenient to procure “green energy” from regular suppliers, as they may not have the resources to implement renewable energy systems themselves.

6. Has the business approach noticeably changed in the last year in its engagement with renewable energy? If it has why is this (e.g. because of ESG, Paris Agreement, price spikes, political or regulatory change)?

According to a recent survey conducted among the largest companies in Austria, sustainability is already incorporated into their corporate strategies. Three out of five companies have fully integrated a sustainability concept into their strategies, while every third company has done so partially. However, only about half of the

surveyed executives were able to provide specific information about their goals for achieving climate neutrality.

Nevertheless, climate change and the need for policy changes are increasingly becoming part of companies' day-to-day operations. Price spikes associated with the conflict in Ukraine and considerations regarding security of supply also play a significant role in making business decisions.

7. How visible and mature are discussions in business around reducing carbon emissions; and how much support is being given from a political and regulatory perspective to this area (including energy efficiency)?

Approximately one third of Austria's carbon emissions are included in the EU ETS (EU Emissions Trading System), which is aimed at reducing emissions by assigning a cost to them. As a result, major industrial players in Austria have implemented measures to minimise carbon emissions in order to avoid the expenses associated with carbon emission certificates. In line with this, Austria introduced a carbon tax on fossil fuels starting from 1 October 2022, which increases the cost of fuel and serves as an incentive to shift to non-hydrocarbon mobility.

The Directive 2018/2002/EU on energy efficiency sets rules and obligations to achieve the EU's 2020 and 2030 energy efficiency targets. Currently, Austria is facing significant delays in transposing this Directive. Consequently, the European Commission initiated infringement procedures against Austria in late 2020. Political disagreements within the government have been the cause of this substantial delay. The current governing parties have been unable to reach an agreement on the specific legal text. It took twelve versions before the government bill was finally ready to be lodged with the National Parliament. However, transposing this law requires a two-thirds majority in the National Assembly. Therefore, one of the larger opposition parties would need to support the current government bill. Currently, it is unlikely that this will happen, which means that the process will be further prolonged.

8. How are rights to explore/set up or transfer renewable energy projects, such as solar or wind farms, granted? How do

these differ based on the source of energy, i.e. solar, wind (on and offshore), nuclear, carbon capture, hydrogen, CHP, hydropower, geothermal and biomass?

The Electricity Sector Act (*Elektrizitätswirtschafts- und -organisationsgesetz 2010*) provides the regulatory framework for the generation, transmission, distribution, and supply of electricity, as well as the organisation of the electricity industry. It also supports the development of electricity generation from renewables and ensures grid access for renewables.

The Renewable Energy Expansion Act (*Erneuerbaren-Ausbau-Gesetz*) incorporates the European Union's goal of covering at least 32% of gross final energy consumption with renewables and Austria's aim for climate neutrality by 2040. This law provides rules for renewable energy funding (a market premium and investment grants), regulations for renewable energy communities, guarantees of origin for renewables, and an integrated Austrian network infrastructure plan.

Since Austria is still dominated by federalism, the nine Austrian provinces have far-reaching legislative authority in many areas (e.g., building law, regional planning law). Furthermore, each province enacts its own Electricity Act because of the framework legislation in the energy sector.

Renewable energy facilities generally require a construction permit (*Baugenehmigung*) according to regional building codes. However, the differences in the provinces range from complete exemption (from the permit necessary or from the scope of application of the respective provincial building regulations), to the exemption from authorisation (if a permit under the regional Electricity Law is required), to a simple-notification procedure up to a permit requirement.

Furthermore, renewable energy system must comply with provincial planning regulations (i.e., zoning, provincial development, and planning purposes) and possible municipal regulations to protect the landscape (*Ortsbildschutz*).

Additionally, a permit under the respective provincial Electricity Act (*elektrizitätsrechtliche Bewilligung*) may be required. Owing to the different provincial laws, the requirements to obtain the permit for the generation, transmission, and distribution of renewable electricity (i.e., permit requirement, simple-notification procedure, or no permit requirement) vary in each province. Mostly, the respective form of the permit under the provincial Electricity Act depends on the maximum capacity (*Engpassleistung*) of the respective renewable energy

system. However, there is an exemption from any permit or notification requirement for facilities that require authorisation under trade law

(*Betriebsanlagengenehmigungsausnahme gemäß § 12 Abs 2 Elektrizitätswirtschafts- und -organisationsgesetz 2010*).

Hydropower facilities additionally require a permit under the Water Act (*Wasserrechtsgesetz 1959*).

Environmental impact assessments may be required for hydropower, offshore/onshore wind, geothermal, and biomass facilities, depending on factors such as size and maximum output.

Biomass plants may require a permit under the Waste Management Act (*Abfallwirtschaftsgesetz 2002*).

Geothermal plants require a permit according to the Water Act. Each province defines areas where such permits are required. Outside of these areas no such permits are required.

9. Is the government directly involved with the renewables industry? Is there a government-owned renewables company or are there plans for one?

The primary electricity companies in Austria are predominantly owned by the federal state or the federal provinces, with the majority of shares held by these entities. These companies are actively involved in the renewable energy sector. For instance, the federal state owns 51% of the shares in Verbund AG, one of the largest suppliers of electricity generated from hydropower. Similarly, the province of Tyrol fully owns TIWAG (Tiroler Wasserkraft AG), another company operating in the hydropower sector.

10. What are the government's plans and strategies in terms of the renewables industry? Please also provide a brief overview of key legislation and regulation in the renewable energy sector, including any anticipated legislative proposals?

The former EU target of achieving 32% of the EU's gross final energy consumption from renewable energy is no longer relevant. The EU's comprehensive legislative package "Fit for 55" aims not only to fulfil the requirements of the European Climate Change Act but also to increase the share of renewables to 40%. This will be accomplished through an amendment to the Renewable Energy Directive (2018/2001/EU). On 30th

March 2023, a preliminary political agreement was reached between the Council of the European Union and the European Parliament. According to this agreement, the share of renewable energy sources in the EU's total energy consumption is planned to be raised to 42.5% by 2030. Additionally, there is an indicative target for an additional increase of 2.5%, making a share of 45% achievable.

Regarding gross final energy consumption, Austria established a target through the government initiative #mission2030 in 2018 to increase the share of renewable energies to a range of 45-50% by 2030. To accomplish this objective, substantial measures are necessary, with a primary focus on the electricity sector. As outlined in Section 4 para. 2 of the Renewable Energy Expansion Act (*Erneuerbaren-Ausbau-Gesetz*), Austria aims to have 100% of its total electricity consumption sourced from renewable energy sources starting from 2030 onwards. Additionally, pursuant to Section 4 para. 1 Renewable Energy Expansion Act, Austria aims to achieve climate neutrality by 2040.

Additionally, the Austria government launched other initiatives to shift away from fossil fuels, for instance regarding the objective of reducing reliance on oil. The initiative "Away from Oil" aims to assist consumers, municipalities, and businesses in transitioning from oil-fired heating systems to renewable energy alternatives. Currently, there are approximately 600,000 oil-fired heating systems in Austria, accounting for around 14% of all heating systems. The "Away from Oil" promotion campaign is part of a comprehensive effort to restructure companies and individuals towards more sustainable options. A budget of EUR 400 million has been allocated for boiler replacements and the promotion campaign. Additionally, Austrian provinces offer their own subsidy programs to support the adoption of ecofriendly heating systems.

There is a draft law currently awaiting approval in the National Parliament called the Renewable Heat Act (*Erneuerbare-Wärme-Gesetz*). This proposed law seeks to immediately prohibit the use of natural gas heating in new buildings and aims to transition to renewable heating systems by 2040. It further proposes to ban natural gas heating in all buildings after 2040.

For a summary of the key legislation related to renewables, please refer to question 8.

11. Are there any government incentive schemes promoting renewable energy (direct or indirect)? For example, are there

any special tax deductions or subsidies offered? Equally, are there any disincentives?

In principle, the Renewable Energy Expansion Act (*Erneuerbaren-Ausbau-Gesetz*) provides three support mechanisms: market premiums based on tendering procedures, market premiums based on applications, and investment grants. Before the Renewable Energy Expansion Act, the Green Electricity Act 2012 (*Ökostromgesetz 2012*) offered support to producers of renewable energy through feed-in tariffs based on contracts with the Green Electricity Settlement Agency ("**OeMAG**"). Under the Renewable Energy Expansion Act, OeMAG is no longer obligated to purchase the generated electricity from renewable energy sources. Hence, the electricity producers must market the electricity themselves.

The market premium represents the subsidy that can be obtained for the electricity from renewables which is sold and fed into the public grid. Therefore, this subsidy aims to compensate for the difference fully or partially between the production costs of electricity from renewables and the average market price for electricity for a certain period. It is calculated from the difference between the value to be applied in cents per kWh determined in the context of a tendering procedure or established by ordinance and the respective reference market value or reference market price in cents per kWh. A market premium can be obtained through a tendering procedure for photovoltaic, hydropower, wind, biomass, and green gas facilities. The annual tender volumes are 700,000 kW peak for photovoltaic, 7,500 kW for biomass, 390,000 kW for wind power, and 20,000 kW for joint tenders for wind and hydropower installations. Administered market premiums have lower tender volumes and may not be available for all mentioned renewable sources. The market premium is typically paid out monthly by the competent body, the Renewables support management entity (*EAG-Förderabwicklungsstelle*). OeMAG has been appointed as competent body and is therefore entrusted to fulfil the task of the Renewables support management entity.

Investment grants support the construction, revitalisation, and expansion of photovoltaic, hydropower, wind power, biomass, and green gas facilities. These grants are awarded through subsidy calls (*Fördercalls*) with a limited application timeframe, following the "first come, first served" principle. The details of investment grants are outlined in ordinances issued by the Federal Minister for Climate Protection, Environment, Energy, Mobility, Innovation, and Technology in agreement with the Federal Minister for Agriculture, Regions, and Tourism. The new Investment

Grant Ordinance for Electricity (*EAG-Investitionszuschüsseverordnung-Strom*) is effective from 16 April 2023, while the Investment Grant Ordinance for Green Gas is still pending.

Further to the funding on federal level, there are also funding programmes for renewables and energy efficiency at provincial level.

In addition, end-users of self-produced renewable energy are exempted from electricity tax (*Elektrizitätsabgabe*). This also applies to the consumption within renewable energy communities.

12. Has your Government had to help with the basic cost of energy over the last year and has that led to any discussion about de-linking the gas price and renewables prices?

One measure that arose due to the massive increase in energy prices and the accompanying public pressure on politicians is the so-called "electricity-cost-brake" (*Stromkostenbremse*). At the beginning of October 2022, the National Parliament passed this measure to curb the significant increase in costs for household customers and low-income households. The electricity-cost-brake relieves a household by an average of about EUR 500 per year. The Austrian federal government provides around EUR 3-4 billion, depending on the development of energy prices. The electricity-cost-brake has been in force since 1 December 2022 and will remain in effective until 30 June 2024.

Up to a basic consumption of 2,900 kWh of electricity per year, the energy price is to be set at a maximum of 10 cent/kWh (net), regardless of the number of household members. This means that households will only pay an energy price of about 10 cent/kWh (net) for annual electricity consumption of up to 2,900 kWh. The difference will be compensated as a subsidy. Electricity consumption exceeding 2,900 kWh will be charged to households at the contractually agreed price and must thus be paid in full by the households. There is no need to actively request this subsidy as electricity suppliers are obliged to deduct the funded amount directly from the electricity invoice.

Low-income households are eligible for funding of grid costs (*Netzkostenzuschuss*), which are to be paid to grid operators for maintaining the grid. This subsidy will be granted for the period from 1 January 2023 until 30 June 2024 and is limited to an amount of EUR 200 per year.

Additionally, each province has its own funding scheme

to tackle the rising energy prices.

13. If there was one emerging example of how businesses are engaging in renewable energy, what would that be? For example, purchasing green power from a supplier, direct corporate PPAs or use of assets like roofs to generate solar or wind?

An emerging trend is the active involvement of large businesses and industries in the installation of on-site photovoltaic systems. A notable example is the Airport in Vienna, which has made significant investments in photovoltaic systems on rooftops and greenfield areas adjacent to the runways. As a result, the airport is now able to meet approximately 30% of its electricity requirements through these photovoltaic installations. Another significant development is Lafarge, one of the major players in Austria's cement industry, announcing plans at the beginning of 2023 to install a 2 MW peak capacity photovoltaic system at one of its sites.

Moreover, businesses tend to conclude PPAs (Power Purchase Agreements) for various reasons. PPAs offer a secure basis for calculations because they guarantee the purchase of the generated renewable power for several years at a fixed price. As an alternative to a fixed price, upper and lower price limits can be set. Additionally, as bilateral agreements, PPAs offer the parties a high degree of individuality in their design (e.g., take-or-pay clause, take-as-produced clause) and businesses can improve their image because they are purchasing green energy.

14. What are the significant barriers that impede both the renewables industry and businesses' access to renewable energy? For example, permitting, grid delays, credit worthiness of counterparties, restrictions on foreign investment.

The first major challenge lies in gaining public acceptance, which is crucial for the implementation of energy projects. Any opposition can significantly delay the permitting process by several years and render it economically unviable. A prime example of such delays is the construction of the Salzburg power line, a project undertaken by APG, the Austrian Transmission System Operator. In 2012, APG filed an application for the approval of a 380 kV power line under the Environmental Impact Assessment Act. However, several municipalities and citizen movements immediately appealed the decision of the Federal Administrative Court (BVwG).

Their appeal was not against the power line itself but rather focused on the demand for underground cabling to prevent significant environmental damage. After a comprehensive 295-page (!) decision, the Supreme Administrative Court (VwGH) dismissed all appeals, allowing the construction work to resume.

Another obstacle is the territorial planning procedure, especially for wind farms and photovoltaic plants. Due to Austria's federal system, each provincial government is responsible for deciding on both the respective zoning plan and spatial planning. Hence, the federal government does not have a say in these matters as land-use planning falls under the jurisdiction of the respective province.

15. What are the key contracts you typically expect to see in a new-build renewable energy project?

The main goal of key contracts is to secure the required land for the specific project. As a result, a common contract is concluded between the landowner and the project developer. In the case of photovoltaic systems, easement or rental contracts are often established to acquire the necessary roof area for the installation of the system. In this scenario, a contractor frequently constructs, develops, and operates the photovoltaic system on behalf of the property owner. These contracts typically specify that the homeowner is the primary user and operator of the rooftop photovoltaic plant, as self-consumption of renewable energy is exempt from electricity tax.

16. Are there any restrictions on the export of renewable energy, local content obligations or domestic supply obligations?

There are no restrictions to that effect.

17. Has deployment of renewables been impacted in the last year by any non-country specific factors: For example, financing costs, supply chain or Covid 19?

To the best of our knowledge, the deployment of renewables has not been affected by any non-country specific factors. Moreover, the COVID-19 pandemic had no specific impact on the renewable energy sector. The most notable effect of the pandemic in the energy sector was the significant decline in energy consumption. When comparing 2020 and 2021, energy consumption fell by over 7%. In mid-March 2020, Austrian energy

consumption decreased by 13% within a span of two weeks.

18. Could you provide a brief overview of the major projects that are currently happening in your jurisdiction?

One of the key renewable projects in progress is the research project "GeoTief Wien", which currently takes place in the eastern area of Vienna. During drilling operations for oil and gas in 1974, no fossil fuel sources were found, but instead, a significant hot water reservoir was discovered directly beneath the city. Research is currently underway to determine the size and temperature of this heat reservoir. Preliminary estimates suggest that this geothermal energy source could potentially provide district heating for up to 125,000 Viennese households in the future.

In Nickelsdorf, located in the province of Burgenland, a hybrid system combining wind and solar power is being installed, with an expected total installed capacity of 112 MW upon completion.

Another major project is the "Underground Sun Storage" by RAG Austria AG, Austria's largest energy storage company. This ground-breaking initiative involves the world's first underground pore storage facility for hydrogen. Through electrolysis, solar energy is converted into green hydrogen, which is then stored in its pure form in an underground natural gas reservoir located in Gampern, Upper Austria. The storage facility's capacity is equivalent to the surplus energy generated by approximately 1,000 photovoltaic systems installed on single-family homes during the summer. This excess energy is stored during the summer months and can be utilized during winter to generate electricity and heat.

19. How confident are you that your jurisdiction can become a leader in newer areas like offshore wind or hydrogen?

With its significant renewable electricity production,

particularly from hydro-plants, and the need to find an alternative energy source to replace natural gas or coal in energy-intensive industrial processes, hydrogen has become a top priority for the Austrian government, the energy sector, and the industrial players. In response, the Austrian government presented a hydrogen strategy in 2022 to address these challenges. The strategy outlines the following objectives:

- By 2030, Austria aims to install 1 GW of electrolysis capacity. The strategy assumes a utilization rate of 50%, which amounts to approximately 4.35 TWh.
- Replace 80% of hydrogen currently produced from fossil sources with green hydrogen by 2030. With the aforementioned capacities, this target is attainable.
- Looking ahead to 2040, the projected hydrogen demand is expected to be 67-75 TWh. Out of this demand, hydrogen alone could meet 16-25 TWh. The strategy suggests that the remaining demand could be met by methane. However, the expansion plan beyond 2030 remains unclear in the strategy, as no specific targets have been set.

To achieve these ambitious goals, the federal government has implemented various funding opportunities for the construction of necessary facilities and research in this field. Given the full commitment of all key players, including the energy industry, large energy-consuming industries, and the government, we are confident that Austria will emerge as a leader in hydrogen technology.

20. How are renewables projects commonly financed in your jurisdiction?

Projects for households are privately financed, utilising the various subsidy schemes that the Austrian federal and provincial governments have increased in recent years to promote renewable energy projects. Corporate projects are financed either directly by the company or by major investors.

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