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## Research RES LEGAL – Promotion system

### Country: Austria

#### 1. Overview of promotion system

<b>Overview of promotion system</b>	In Austria, electricity from renewable sources is mainly promoted through price regulation based on a feed-in tariff. Furthermore, the construction of small and medium-sized hydro-electric power stations and small PV systems is promoted through subsidies.
<b>Statutory provisions</b>	<ul style="list-style-type: none"><li>• Ökostromgesetz (Green Electricity Act)</li></ul>
<b>Promotion system</b>	<ul style="list-style-type: none"><li>• <b>Price regulation.</b> Electricity from renewable sources is mainly promoted through a feed-in tariff, which is set out in the Green Electricity Act and the regulations related thereto. Operators of renewable energy systems are entitled against the government purchaser, the so-called Ökostromabwicklungsstelle (hereinafter called "Clearing and Settlement Agency"), to the conclusion of a contract on the purchase of the electricity they produce ("obligation to enter into a contract").</li><li>• <b>Subsidies.</b> The construction of small and medium-sized hydro-electric power stations is subsidised by investment grants. The legal basis of these grants is the Green Electricity Act together with the applicable subsidy directive.</li></ul>
<b>Technologies</b>	All renewable electricity generation technologies are eligible for the Austrian feed-in tariff. In contrast to the tariff, subsidies are available for small and medium-sized hydro-electric power stations and small PV systems only.
<b>Area of application</b>	All incentives for the use of renewable energy are applicable within the territory of Austria only.
<b>Funding</b>	The costs of supporting electricity from renewable sources are borne by those consumers that are obliged to pay the so-called "Zählpunktpauschale" (hereinafter called "support fee") to their grid operator. The feed-in tariff is also funded from profit from the sale of electricity from renewable sources by the Clearing and Settlement Agency to the electricity traders. Electricity traders may pass on to the final consumers the difference between the price they pay and the fixed market price they are obliged to charge.

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## 2. Basic information on legal sources

<b>Name of legal source (English)</b>	Federal Act on the Promotion of Electricity Produced from Renewable Energy Sources (Green Electricity Act)		
<b>Name of legal source (original language)</b>	Bundesgesetz, mit dem Neuregelungen auf dem Gebiet der Elektrizitätserzeugung aus Erneuerbaren Energieträgern und auf dem Gebiet der Kraft-Wärme-Kopplung erlassen werden (Ökostromgesetz – ÖSG)		
<b>Abbreviated form</b>	Green Electricity Act		
<b>Type of law</b>	Act of parliament		
<b>Document structure</b>	Titles, chapters, sections, paragraphs, numbers		
<b>Entering into force</b>	24/08/2002		
<b>Latest amendment</b>	20/10/2009		
<b>Future amendments</b>			
<b>Purpose</b>	The Act regulates the support system for electricity from renewable sources and the use of certificates of origin (§ 2).		
<b>Relation to renewable energy</b>	The Act aims to promote renewable energy and combined heat and power only.		
<b>Link to full text of legal source (original language)</b>	<a href="http://www.ris2.bka.gv.at/GeltendeFassung.wxe?QueryID=Bundesnormen&amp;Gesetzesnummer=20002168&amp;TabbedMenuSelection=BundesrechtTab">http://www.ris2.bka.gv.at/GeltendeFassung.wxe?QueryID=Bundesnormen&amp;Gesetzesnummer=20002168&amp;TabbedMenuSelection=BundesrechtTab</a>		

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<b>Link to full text of legal source (English)</b>			
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### 3. Further information

Institution (name)	Website	Name of contact person (optional)	Telephone number (head office)	E-mail (optional)
Federal Ministry of Economy, Family and Youth, Energy and Mining Department	<a href="http://www.bmwfj.gv.at">http://www.bmwfj.gv.at</a>		+43 171 10 00	<a href="mailto:service@bmwfj.gv.at">service@bmwfj.gv.at</a>
Austrian Energy Agency	<a href="http://www.energyagency.at/">http://www.energyagency.at/</a>		+43 158 615 240	<a href="mailto:office@energyagency.at">office@energyagency.at</a>
E-Control Ltd. - Deregulation agency	<a href="http://www.e-control.at/">http://www.e-control.at/</a>		+43 124 72 40	<a href="mailto:office@e-control.at">office@e-control.at</a>
Dachverband Energie-Klima – Umbrella Organization Energy-Climate Protection	<a href="http://www.energieklima.at/">http://www.energieklima.at/</a>		+43 590 900 34 65	<a href="mailto:energieklima@fmfi.at">energieklima@fmfi.at</a>

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#### 4. Means of promotion

##### 4.1. Price regulation (Green Electricity Act)

<b>Abbreviated form of legal source(s)</b>	Green Electricity Act
<b>Country-specific promotion system</b>	Electricity from renewable sources is mainly promoted through price regulation based on a feed-in tariff. Operators of renewable energy systems are entitled to the conclusion of a contract with a government purchaser, the Clearing and Settlement Agency, on the purchase of and payment for electricity as long as funds are available (§ 10 Green Electricity Act). The Clearing and Settlement Agency distributes the electricity purchased among all electricity traders, who have to pay a statutorily set price which exceeds the market price for electricity (§ 19 par. 1 in connection with § 22b par. 2 and 3 Green Electricity Act).
<b>Promoted technologies</b>	<p>The Clearing and Settlement Agency is obliged to purchase electricity from renewable sources regardless of the generation technology used, under the following conditions:</p> <ul style="list-style-type: none"><li>• There are still funds available for the year (§ 10 Green Electricity Act).</li><li>• The systems in question has been commissioned and the contract with the Clearing and Settlement Agency has been concluded within the periods stipulated in § 10 Green Electricity Act.</li><li>• The producer in question is obliged to supply green electricity for at least twelve calendar months (§ 10a par. 2 Green Electricity Act).</li><li>• The producer is obliged to join the eco-balance group (§ 10a par. 2 Green Electricity Act).</li></ul> <p>Due to the amendment of the Green Electricity Act of 20 October 2009, further funds were provided, 2.1 million € of which were designated for photovoltaic systems (§ 21b Green Electricity Act).</p> <p>The feed-in tariff is allocated on a "first come – first served" basis. Applications received after the funds for the year were completely disbursed will be considered in the following year; applications become invalid after three years (§ 10a par. 7 Green Electricity Act).</p>
<b>Wind energy</b>	Eligible (§ 10 in connection with § par. 1 no. 11, 27 Green Electricity Act).
<b>Solar energy</b>	<p>Eligible (§ 10 in connection with § 5 par. 1 no. 11, 27 Green Electricity Act) under the following condition:</p> <ul style="list-style-type: none"><li>• The system capacity must exceed 5 kWp (§ 2 par. 2 no. 2 Green Electricity Act).</li></ul>
<b>Geothermal energy</b>	<p>Eligible (§ 10 in connection with § 5 par. 1 no. 11, 27 Green Electricity Act) under the following condition:</p> <ul style="list-style-type: none"><li>• Systems must reach an efficiency of at least 60%. The required efficiency may be increased by order if the increase is deemed economically reasonable (§11 par. 1 Green Electricity Act).</li></ul>

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<b>Biogas</b>	Eligible (§ 10 in connection with § 5 par. 1 no. 11, 27 Green Electricity Act) under the following condition: <ul style="list-style-type: none"> <li>Systems must reach an efficiency of at least 60%. The required efficiency may be increased by order if the increase is deemed economically reasonable (§ 11 par. 1 Green Electricity Act).</li> </ul>	
<b>Biomass</b>	Eligible (§ 10 in connection with § 5 par. 1 no. 11, 27 Green Electricity Act) with the following exceptions: <ul style="list-style-type: none"> <li>Electricity produced from spent liquors, meat-and-bone meal, sewage sludge or waste is ineligible, except waste with a high proportion of biogenic substances (§ 2 par. 2 no. 1 Green Electricity Act).</li> <li>Systems must reach an efficiency of at least 60%. The required efficiency may be increased by order if the increase is deemed economically reasonable (§ 11 par. 1 Green Electricity Act).</li> <li>Systems fuelled by solid biomass are ineligible unless measures were taken to prevent particulate matter emissions (§ 10a par. 1 Green Electricity Act).</li> </ul>	
<b>Hydro-electricity</b>	The following systems are eligible (§ 10 in connection with § 5 par. 1 no. 11, 27 Green Electricity Act): <ul style="list-style-type: none"> <li>Small-scale hydro-power systems whose maximum capacity does not exceed 10 MW (§ 2 par. 2 no. 1 in connection with § 5 par. 1 no. 16 Green Electricity Act).</li> <li>The systems must have been put into operation after 1 January 2008 or modernised after 1 January 2008. They must not be eligible for investment grants pursuant to § 12a Green Electricity Act and must not be the subject of an application for an investment grant pursuant to § 32d par. 9 Green Electricity Act.</li> </ul>	
<b>Area of application</b>	<b>National</b>	The Green Electricity Act promotes systems within the territory of Austria only.
	<b>International</b>	Electricity generated outside Austria is not eligible for promotion. However, Austria recognises certificates of origin of EU member states, EEA states and third states (§ 9 par. 1 Green Electricity Act).
<b>Legal basis for a claim/addressees</b>	( ) statutory basis ( x ) contractual basis	In Austria, claims for the tariff are based on written agreements. Under certain conditions, the Clearing and Settlement Agency is obliged to conclude contracts with the operators of renewable energy systems on the purchase of and payment for green electricity ("obligation to enter into a contract", § 10 Green Electricity Act).
	<b>Entitled party</b>	The persons entitled to the tariff are the operators of renewable energy systems (§ 10 Green Electricity Act). In order for a system operator to be entitled to the tariff, the system he claims tariff for must be licensed as a "green electricity system". Systems are licensed by the governor (§ 7 par. 1 Green Electricity Act).
	<b>Obligated party</b>	<ul style="list-style-type: none"> <li><b>Clearing and Settlement Agency.</b> The Clearing and Settlement Agency is obliged to the purchase of all electricity generated from renewable energy sources as long as funds are available (§ 10 Green Electricity Act). The Clearing and Settlement Agency is a private enterprise that has a state license and is responsible for the purchase and sale of electricity from</li> </ul>

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		<p>renewable sources within the territory of Austria (§ 14 ff Green Electricity Act).</p> <ul style="list-style-type: none"> <li>• <b>Electricity trader.</b> The second party obligated to satisfy the claim are the electricity traders, who are obliged to purchase the quantities of electricity assigned to them by the Clearing and Settlement Agency at the transfer price set by law (§ 19 par. 1 Green Electricity Act).</li> </ul>
Payment structure	<b>Bonus</b>	
	<b>Guaranteed payment</b>	According to the Green Electricity Act, the feed-in tariff is a guaranteed payment whose amount differs for every source of energy (§ 11 par. 1 Green Electricity Act).
	<b>Criteria for amount of payment</b>	The amount of payment depends on the average production costs of cost-efficient systems that are up to date with the latest technological research (§ 11 par. 1 Green Electricity Act). The factors used to determine cost-efficiency and technological advancement are the longevity of a system, the investment and operation costs, the adequate investment of resources and the annual amount of electricity produced (§ 11 par. 3 Green Electricity Act). Apart from this, pricing must be designed to promote a continuous increase in the production of electricity from renewable sources (§ 11 par. 2 Green Electricity Act).
	<b>Adjustment mechanisms</b>	The tariff for new systems may be gradually reduced to reflect the development of costs for a certain technology. The amount of annual reduction is determined by order of the Minister of Economy, Family and Youth (§ 11 par. 1 Green Electricity Act). However, the feed-in tariff applicable on the date on which a given contract is concluded applies to the entire grant period (§ 11 par. 2a Green Electricity Act).
	<b>Limitations/deadlines</b>	<p>Entitlement to the tariff is limited in time, regardless of the source of energy used.</p> <ul style="list-style-type: none"> <li>• <b>Biomass and biogas technologies.</b> A given operator of a system fuelled by solid or liquid biomass or biogas is entitled to the purchase of all electricity he feeds in and to the payment of the tariff applicable on the date on which the contract is concluded, for 15 years starting on the date on which the system is put into operation (§ 11 par. 2a Green Electricity Act). After this period, the operator is entitled to the purchase of his electricity at the market price (less the reserve capacity costs charged by the Clearing and Settlement Agency) (§ 10 no. 4 in connection with § 20 Green Electricity Act).</li> <li>• <b>Other systems.</b> A given operator of any other renewable energy system is entitled to the purchase of electricity fed in and to the payment of the tariff applicable on the date on which the contract is concluded, for 13 years starting on the date on which the system is put into operation (§ 11 par. 2a Green Electricity Act). After this period, he is entitled to the purchase of his</li> </ul>

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		electricity at the market price (less the reserve capacity costs charged by the Clearing and Settlement Agency) (§ 10 no. 3, 4 in connection with § 20 Green Electricity Act).
	<b>Amount</b>	The amount of tariff is determined for each source of energy by the Minister of Economy, Family and Youth (§ 11 par. 1 Green Electricity Act). The Green Electricity Order, which is to determine the tariffs for 2010, has not been passed yet.
<b>Funding</b>	<b>State</b>	
	<b>Consumers</b>	The costs of the support system are borne by the end users (§ 22 par. 1 Green Electricity Act).
	<b>Grid operator</b>	
	<b>System operator</b>	
	<b>Distribution mechanism</b>	<p><b>1. Support fee.</b> On the one hand, the costs are passed on to the consumers, who have to pay a support fee.</p> <ul style="list-style-type: none"> <li>• <b>Consumers – grid operator.</b> The grid operators charge all users (large-scale consumers, private households) a support fee (Zählpunktpauschale), which differs according to the level of consumption, on top of the grid use fee. The support fee must be listed separately on the bill (§§ 22 par. 1 Green Electricity Act).</li> <li>• <b>Grid operator – Clearing and Settlement Agency.</b> The grid operator is obliged to pay income from the support fee to the Clearing and Settlement Agency every quarter (§ 22 par. 1 Green Electricity Act). From 2007 up to and including 2012, the support fee is as follows (§ 22a par. 1 Green Electricity Act): <ul style="list-style-type: none"> <li>•</li> <li>• For users connected to voltage levels 1 to 4: 15,000 € per calendar year.</li> <li>• For users connected to voltage level 5: 3,300 € per calendar year.</li> <li>• For users connected to voltage level 6: 300 € per calendar year.</li> <li>• For users connected to voltage level 7: 15 € per calendar year.</li> </ul> </li> </ul> <p>After 2012, the support fee will be determined by order for a period of three years (§</p>



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		<p>22a par. 2 Green Electricity Act).</p> <p><b>2. Profit from sales.</b> On the other hand, the feed-in tariff is financed from the profits made by the Clearing and Settlement Agency from the sale of electricity from renewable sources to the electricity traders. The profit results from the difference between the market price and the higher price electricity traders have to pay according to § 5 par. 1 no. 32 Green Electricity Act (§ 22b Green Electricity Act). Electricity traders may pass on to the final consumers the difference between the price they pay and the market price they charge.</p> <p><b>3. Other profits.</b> Other costs incurred by the Clearing and Settlement Agency, like administrative costs or investments related to the execution of its tasks (e.g. reserve capacity costs), the costs of support for new technologies and energy efficiency programmes, or bonus payments for renewable energy systems fuelled by liquid biomass or biogas (§ 21 Green Electricity Act), are recovered through the following payments (§ 23 par. 2 Green Electricity Act):</p> <ul style="list-style-type: none"><li>• income earned from administrative fines</li><li>• other income</li><li>• income from interest payments.</li></ul>
<b>Control mechanisms</b>	<ul style="list-style-type: none"><li>• <b>Reporting.</b> E-Control Ltd. was established by the government on the basis of the Energy Liberalisation Act. It shall constantly monitor whether the objectives of the Green Electricity Acts are achieved and regularly inform the Federal Ministry of Economy, Family and Youth about developments impeding the achievement of these objectives (§ 24 par. 1f Green Electricity Act). To this aim, E-Control must submit an annual report (§ 25 par. 1 Green Electricity Act).</li><li>• <b>Administrative fines.</b> Those who fail to comply with the obligations laid down in the Green Electricity Act shall be deemed to commit an administrative offence and shall be charged a fine, which is then used as grant aid by the Clearing and Settlement Agency (§ 29 par. 1 ff. Green Electricity Act).</li></ul>	