

## Research RES LEGAL – Access to the grid

### Country: Portugal

#### 1. Overview of access to the grid

<b>Overview of access to the grid</b>	In Portugal, access of electricity generated from renewable energy sources to the grid is subject to the general provisions of energy law. Access to the grid shall be granted according to the principle of non-discrimination. Electricity from renewable sources is not granted priority access.
<b>Statutory provisions</b>	<ul style="list-style-type: none"> <li>• DL 189/88 (Decreto-Lei n.º 189/88 de 27 de Maio in conjunction with its amending acts DL 225/2007 (Decreto-Lei n.º 225/2007 de 31 de Maio), DL 363/2007 (Decreto-Lei n.º 363/2007 de 2 Novembro), DL 33A-2005 (Decreto Lei n.º 33A-2005 de 16 de Fevereiro) and DR 71/2007 (Declaração de Rectificação n.º 71/2007) - Decree on renewable electricity generation)</li> <li>• DL 312/2001 (Decreto-Lei n.º 312/2001 de 10 de Dezembro – Decree on the management of the capacity of the public electricity grid, the access to this grid and the entitlement of system operators to purchase agreements)</li> <li>• DL 29/2006 (Decreto-Lei n.º 29/2006 de 15 de Fevereiro – Decree on the organisation of the national electricity grid system)</li> </ul>
<b>Connection to the grid</b>	Operators of renewable energy systems are contractually entitled against the grid operator to the connection of their systems to the grid. The grid operator is obliged to enter into a contract on the connection of a system without discriminating against certain system operators ("obligation to enter into a contract"). Electricity from renewable sources is not granted priority access. However, besides acting according to the principle of non-discrimination, the grid operator shall take into account the aims of the national energy policy, among them the use of renewable energy, when deciding on which system to connect to the grid.
<b>Usage of the grid</b>	System operators are contractually entitled against the grid operator to the transmission of electricity. The grid operator is obliged to conclude a contract on usage of the grid without discriminating against certain system operators. Electricity from renewable sources is not granted priority usage. However, besides acting according to the principle of non-discrimination, the grid operator shall take into account the aims of the national energy policy, among them the use of renewable energy, when deciding on whose electricity to transmit.
<b>Expansion of the grid</b>	As a rule, system operators are not entitled to an expansion of the grid. Yet, the grid operator has the general obligation to expand his grid. An expansion shall be economically reasonable and in line with the aims of the national energy policy. The usage of available renewable energy shall be a priority. However, system operators may apply for an early expansion of the grid, if such an expansion is necessary to connect their systems.

## 2. Basic information on legal sources

<b>Name of legal source (original language)</b>	DL 189/88	DL 312/2001	DL 29/2006
<b>Name of legal source (full name)</b>	Decreto-Lei n.º 189/88 de 27 de Maio	Decreto-Lei n.º 312/2001 de 10 de Dezembro	Decreto-Lei n.º 29/2006 de 15 de Fevereiro
<b>Name of legal source (English)</b>	Decree No. 189/1988 of 27 <sup>th</sup> May	Decree No. 312/2001 of 10th December	Decree No. 29/2006 of 15th February
<b>Abbreviated form</b>	DL 189/88	DL 312/2001	DL 29/2006
<b>Type of law</b>	Ministerial decree	Ministerial decree	Ministerial decree
<b>Document structure</b>	Articles, paragraphs	Articles, paragraphs	Articles, paragraphs
<b>Entering into force</b>	28/05/1988	11/12/2001	16/02/2006
<b>Latest amendment</b>	01/06/2007		
<b>Future amendments</b>			
<b>Purpose</b>	This decree regulates renewable electricity generation.	This decree regulates the intake capacity of the public electricity grid, access to the grid and system operators' entitlement to electricity purchase agreements.	This decree organises the national electricity grid system.
<b>Relation to renewable energy</b>	This decree promotes the generation of renewable electricity only. Decreto-Lei n.º 225/2007 de 31 de Maio (DL 225/2007), Decreto Lei n.º 33A-2005 de 16 de Fevereiro (DL 33A-2005) and Declaração de Rectificação n.º 71/2007 (DR 71/2007) renew the provisions on the feed-in tariff for electricity from renewable sources. Decreto-Lei n.º	This decree applies to electricity from CHP and electricity from renewable sources.	This decree promotes renewable energy by establishing special provisions.

	<p>363/2007 de 2 Novembro (DL 363/2007) introduces special feed-in tariffs for small-scale renewable energy systems.</p> <p>Links to the amending decrees:  DL 225/2007:  <a href="http://www.iapmei.pt/iapmei-leg-03.php?lei=5499">http://www.iapmei.pt/iapmei-leg-03.php?lei=5499</a>  DL 33A-2005:  <a href="http://www.dre.pt/pdf1sdip/2005/02/033A01/00020009.PDF">http://www.dre.pt/pdf1sdip/2005/02/033A01/00020009.PDF</a>  DR 71/2007:  <a href="http://www.iapmei.pt/iapmei-leg-03.php?lei=5711">http://www.iapmei.pt/iapmei-leg-03.php?lei=5711</a>  DL 363/2007:  <a href="http://www.garanova.com/garanova/legislacao_files/DL%20363.2007.pdf">http://www.garanova.com/garanova/legislacao_files/DL%20363.2007.pdf</a></p>		
<b>Link to full text of legal source (original language)</b>	<a href="http://www.igf.min-financas.pt/inflegal/bd_igf/bd_legis_geral/Leg_geral_docs/DL_189_88.htm">http://www.igf.min-financas.pt/inflegal/bd_igf/bd_legis_geral/Leg_geral_docs/DL_189_88.htm</a>	<a href="http://www.inag.pt/inag2004/port/divulga/legisla/pdf_nac/Concessoes/DL312_2001.PDF">http://www.inag.pt/inag2004/port/divulga/legisla/pdf_nac/Concessoes/DL312_2001.PDF</a>	<a href="http://www.dre.pt/pdf1sdip/2006/02/033A00/11891203.PDF">http://www.dre.pt/pdf1sdip/2006/02/033A00/11891203.PDF</a>
<b>Link to full text of legal source (English)</b>			

### 3. Further information

<b>Institution (name)</b>	<b>Website</b>	<b>Name of contact person (optional)</b>	<b>Telephone number (head office)</b>	<b>E-mail (optional)</b>
Ministério da Economia e da Inovação, Direcção Geral de Energia e Geologia (DGEG) – Directorate General for Energy and Geology	<a href="http://www.dgge.pt/">http://www.dgge.pt/</a>	Joao Bernardo	+351 217 922 700	Racionalizacao.Energia(at)dgge.pt
Entidade Reguladora dos Serviços Energéticos (ERSE) – Supervising authority for electric services	<a href="http://www.erse.pt/pt/Paginas/home.aspx">http://www.erse.pt/pt/Paginas/home.aspx</a>		+351 213 033 200	erse(at)erse.pt
Agência para a Energia (ADENE) – Portuguese energy agency	<a href="http://www.adene.pt/ADENE.Portal">http://www.adene.pt/ADENE.Portal</a>		+351 214 722 840	geral@adene.pt
Portal das Energias Renováveis (PER) – Information website on renewable energy	<a href="http://www.energiasrenovaveis.com/">http://www.energiasrenovaveis.com/</a>	João F. Saraiva	+351 914102695	mail@energiasrenovaveis.com

#### 4. Connection to the grid

<b>Abbreviated form of legal source</b>	<ul style="list-style-type: none"> <li>• DL 189/88</li> <li>• DL 312/2001</li> </ul>	
<b>Legal basis for a claim/addressees</b>	<input type="checkbox"/> statutory basis <input checked="" type="checkbox"/> contractual basis	Operators of renewable energy systems are contractually entitled against the grid operator to connection of their systems to the grid. The <u>grid operator</u> is obligated to enter into a contract on connection to the grid ("obligation to enter into a contract", art. 4, 5 DL 312/2001).
	<b>Entitled party</b>	The persons entitled are the system operators (art. 4 DL 312/2001).
	<b>Obligated party</b>	The person obligated is the grid operator (art. 5 DL 312/2001).
<b>Priority to renewable energy (qualitative criteria)</b>	<input type="checkbox"/> Priority to renewable energy <input checked="" type="checkbox"/> Non-discrimination	As a rule, connection to the grid shall be granted according to the principle of non-discrimination. Electricity from renewable sources is not granted priority connection. However, besides acting according to the principle of non-discrimination, the grid operator shall take into account the aims of the national energy policy, among them the use of renewable energy, when deciding on which system to connect to the grid (art. 6, 13 DL 312/2001).
<b>Capacity limits (quantitative criteria)</b>	<p>Grid operators are obliged to comply with the following criteria and regulations when allocating grid capacity (art. 6 par. 2 DL 312/2001):</p> <ul style="list-style-type: none"> <li>• Plan for the expansion of the electricity grid in conjunction with art. 7 DL 312/2001</li> <li>• Investment plan in conjunction with art. 8 DL 312/2001</li> <li>• Characteristics of the grid in question in conjunction with art. 9 DL 312/2001</li> </ul>	
<b>Limitations/deadlines</b>	Systems must be fully connected within 24 months after the grid operator's consent to connect them. For hydro-electric systems, this period is 36 months. The parties in question agree on the start of connection works in the contract on connection (art. 17f. DL 312/2001).	
<b>Arising/enforcement of a claim</b>	The circumstances in which a claim arises depend on the contractual terms. Violations of the contract carry a penalty (art. 20 DL 312/2001).	
<b>Funding</b>	<b>State</b>	
	<b>Consumers</b>	

	<b>Grid operator</b>	
	<b>System operator</b>	The system operator whose system is to be connected to the grid shall establish an additional connection to the grid. This additional connection is deemed a part of the entire grid; yet, the system operator shall bear the cost in full (Annex I art. 3f. DL 189/88).
	<b>Distribution mechanism</b>	Statutory law does not provide for a mechanism allowing for the cost of connection to the grid to be passed on.

## 5. Usage of the grid

<b>Abbreviated form of legal source</b>	<ul style="list-style-type: none"> <li>• DL 312/2001</li> <li>• DL 29/2006</li> </ul>	
<b>Legal basis for a claim/addressees</b>	<input type="checkbox"/> statutory basis <input checked="" type="checkbox"/> contractual basis	Operators of renewable energy systems are contractually entitled against the grid operator to the transmission of electricity. The grid operator is obligated to enter into a contract on usage of the grid ("obligation to enter into a contract", art. 4, 5 DL 312/2001).
	<b>Entitled party</b>	The persons entitled are the system operators (art. 4 DL 312/2001).
	<b>Obligated party</b>	The person obligated is the grid operator (art. 5 DL 312/2001).
<b>Priority to renewable energy</b> (	<input type="checkbox"/> Priority to renewable energy <input checked="" type="checkbox"/> Non-discrimination	As a rule, usage of the grid shall be granted according to the principle of non-discrimination. Electricity from renewable sources is not granted priority usage. However, besides acting according to the principle of non-discrimination, the grid operator shall take into account the aims of the national energy policy, among them the use of renewable energy, when deciding on whose electricity to transmit (art. 6, 13 DL 312/2001).
<b>Capacity limits</b>	Capacity limits may be imposed only if the maximum capacity of the grid has been reached (art. 6, 13 DL 312/2001). In this case, the grid operator shall make the implementation of the grid expansion and the investment plan a priority. Unless the plan has already been implemented, the system operator and the grid operator may conclude an agreement on limited electricity feed-ins. The conclusion of such an agreement also requires compliance with the principle of non-discrimination and the national energy policy, which especially aims at promoting the use of renewable energy sources.	
<b>Limitations/deadlines</b>	DL 189/88 and DL 312/2002 do not provide for deadlines, which may, however, be specified in the contractual terms.	
<b>Arising/enforcement of a claim</b>	The circumstances in which a claim arises depend on the contractual terms. Violations of the contract carry a penalty (art. 20 DL 312/2001).	
<b>Funding</b>		
	<b>State</b>	
	<b>Consumers</b>	
	<b>Grid operator</b>	The cost of usage of the grid shall be borne by the grid operator. He may not pass on this cost to the consumers (art. 44 par. 2 DL 29/2006).
	<b>System operator</b>	

	<b>Distribution mechanism</b>	Statutory law does not provide for a distribution mechanism.
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6. Expansion of the grid

Abbreviated form of legal source	<ul style="list-style-type: none"> <li>DL 312/2001</li> </ul>	
<p style="text-align: center;"><b>Legal basis for a claim/addressees</b></p>	<p>( ) statutory basis ( x ) contractual basis</p>	<ul style="list-style-type: none"> <li><b>General expansion of the grid.</b> System operators are not entitled to an expansion of the grid. However, the grid operator has the general obligation to expand his grid. In the event of grid capacity overload, the grid operator is obliged to implement a plan for the expansion of the grid (art. 7, 8 DL 312/2001). To this aim, the grid operator and all system operators interested are to draft an investment plan and submit it to the Minister of Economy and Innovation, who is responsible for authorising this plan. The plan shall comply with the National Energy Plan, especially with its provisions on renewable energy, and help develop the electricity grid system in Portugal.</li> <li><b>Early expansion of the grid.</b> System operators may apply for an early expansion of the grid, if the connection of a system requires an expansion. In this case, the respective system operator is contractually entitled to an expansion of the grid (art. 6 DL 312/2001).</li> <li><b>Selection of several applicants for connection.</b> If several operators apply for connection to the same connection point without the number of receive lines being sufficient, the grid operator is obliged to select the system operator to be connected according to the criteria of art. 13 DL 312/2001. This article provides for a hierarchy of criteria for decision-making to be applied by the grid operator, who must not discriminate against certain system operators when making a decision. One of the most important criteria to be taken into account is environmentally sustainable generation of electricity through the use of renewable energy.</li> </ul>
	<p><b>Entitled party</b></p>	<p>A contract may give rise to a claim for expansion of the grid, if the respective system operator applies for an early expansion of the grid in order to be able to connect his system (art. 6 DL 312/2001). The grid operator is obligated to expand the grid to comply with general standards, without the system operator being entitled to it.</p>
	<p><b>Obligated party</b></p>	<p>The person obligated to expand the grid is the grid operator that is obliged to submit to the Ministry of Economy and Innovation a detailed investment plan</p>

		(art. 7, 8 DL 12/2001).
<b>Priority to renewable energy</b> (	( ) Priority to renewable energy ( x ) Non-discrimination	As regards the expansion of the grid, electricity from renewable sources is not granted priority (art. 6, 13 DL 312/2001).
<b>Capacity limits</b>		
<b>Limitations/deadlines</b>	The contractual terms may specify deadlines for an early expansion of the grid.	
<b>Arising/enforcement of a claim</b>	The circumstances in which a claim arises depend on the contractual terms.	
<b>Funding</b>		
	<b>State</b>	
	<b>Consumers</b>	
	<b>Grid operator</b>	In general, the grid operator shall bear the cost of a grid expansion (art. 6 par. 2, art. 8 DL 312/2001).
	<b>System operator</b>	The cost of a grid expansion shall be borne by the system operator, if he has applied for an early expansion of the grid to be able to connect his system to the grid (art. 6 DL 312/2001).
	<b>Distribution mechanism</b>	Statutory law does not provide for a distribution mechanism.