

Research RES LEGAL – Grid issues

Country: Portugal

1. Overview

Overview of grid issues	In Portugal, access of electricity generated from renewable energy sources to the grid is subject to the general legislation on energy. Access to the grid shall be granted according to the principle of non-discrimination. Electricity from renewable sources is not granted priority access.
Connection to the grid	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 national energy policy, among them the increased use of renewable energy, when deciding on which system to connect to the grid.
Use of the grid	System operators are contractually entitled against the grid operator to the transmission of electricity. The grid operator is obliged to conclude a contract on the use of the grid without discriminating against certain system operators. Electricity from renewable sources is not granted priority use. However, besides acting according to the principle of non-discrimination, the grid operator shall take into account the aims of national energy policy, among them the increased use of renewable energy, when deciding on whose electricity to transmit.
Grid expansion	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 national energy policy. The use 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.
Statutory provisions	<ul style="list-style-type: none"> DL 189/88 (Decreto-Lei n.º 189/88 de 27 de Maio) – Decree-law on renewable electricity generation, in conjunction with its amending acts DL 313/95 (Decreto-Lei n.º 313/95 de 24 de Novembro), DL 56/97 (Decreto-Lei n.º 56/97 de 14 de Março), DL 168/99 (Decreto-Lei n.º 168/99 de 18 de Maio), DL 312/2001 (Decreto-Lei n.º 312/2001 de 10 de Dezembro), DL 339-C/2001 (Decreto-Lei 339-C/2001 de 29 de Dezembro), DL 33-A/2005 (Decreto-Lei n.º 33-A/2005 de 16 de Fevereiro), DL 225/2007 (Decreto-Lei n.º 225/2007 de 31 de Maio), and DR 71/2007 (Declaração de Rectificação n.º 71/2007) DL 312/2001 (Decreto-Lei n.º 312/2001 de 10 de Dezembro) – Decree-law 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, in conjunction with its amending acts DL 33-A/2005 (Decreto Lei n.º 33-A/2005 de 16 de Fevereiro) and DL 118-A/2010 (Decreto-Lei 118-A/2010 de 25 de Outubro) DL 29/2006 (Decreto-Lei n.º 29/2006 de 15 de Fevereiro) – Decree-law on the organisation of the national electricity grid system, in conjunction with its amending act DL 104/2010 (Decreto-Lei 104/2010 de 29 de Setembro) DL 363/2007 (Decreto-lei n.º 363/2007 de 02 de Novembro) – Decree-law on the legal framework of the electricity produced by very small production plants (microproduction units), in conjunction with its amending act Law 67-A/2007 (Lei n.º 67-A/2007 de 31 de Dezembro) and DL 118-A/2010 (Decreto-Lei 118-A/2010 de 25 de Outubro)

	<ul style="list-style-type: none"> • DL 141/2010 (Decreto-Lei n.º 141/2010 de 31 de Dezembro) – Decree-law that transposes into national law the Directive No. 2009/28/EC and sets national targets for renewable energy use in the gross final consumption • DL 34/2011 (Decreto-Lei n.º 34/2011 de 8 de Março) – Decree-law on renewable energy production in small power plants (miniproduction units).
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2. Basic information on legal sources

Name of legal source (original language)						
Name of legal source (full name)	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	Decreto-Lei n.º 363/2007 de 2 de Novembro	Decreto-Lei n.º 141/2010 de 31 de Dezembro	Decreto-Lei n.º 34/2011 de 8 de Março
Name (English)	Decree-Law No. 189/1988 of 27 May	Decree-Law No. 312/2001 of 10 December	Decree-Law No. 29/2006 of 15 February	Decree-Law No. 363/2007 of 2 November	Decree-Law No. 141/2010 of 31 December	Decree-Law No. 34/2011 of 8 March
Abbreviated form	DL 189/88	DL 312/2001	DL 29/2006	DL 363/2007	DL 141/2010	DL 34/2011
Entry into force	28.05.1988	11.12.2001	16.02.2006	31.01.2008	01.01.2011	22.04.2011
Last amended on	01.06.2007 by DL 225/2007	25.10.10 by DL 118-A/2010	30.09.2010 by DL 104/2010	25.10.2010 by DL 118-A/2010		
Future amendments						
Purpose	This decree-law regulates renewable electricity generation.	This decree-law regulates the intake capacity of the public electricity grid, access to the grid and system operators' entitlement to electricity purchase agreements.	This decree-law organises the national electricity grid system.	DL 363/2007 establishes the legal framework for electricity generated by 'microproduction units'. Its amending act (DL 118-A/2010) simplifies this framework.	This decree-law partially transposes Directive No. 2009/28/EC of the European Parliament and the Council on the promotion of the use of energy from renewable sources into national law.	This decree-law establishes the legal framework for RES generation by small power plants (miniproduction units).
Relation to renewable energy	This decree-law promotes the generation of renewable electricity only. Decreto-Lei n.º 225/2007 de 31 de Maio (DL	This decree-law regulates the intake capacity of the public electricity grid, access to the grid and system operators' entitlement to	This decree-law promotes renewable energy by establishing special provisions.	This decree-law establishes the legal framework for electricity generated by 'microproduction units'. A microproduction	This decree-law sets national targets for renewable energy use in gross final consumption and introduces 'Guarantees of Origin' for electricity	This decree-law establishes the legal framework for renewable energy generation by small power plants (miniproduction units),

	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 363/2007 de 2 Novembro (DL 363/2007) introduces special feed-in tariffs for small-scale renewable energy systems.	electricity purchase agreements.		unit is defined as an installation that uses a single production technology and has a single-phase or three-phase load operating at low voltage and an output of up to 5.75kW.	from renewable energy sources.	A miniproduction unit is defined as an installation that uses a single production technology and has an output of up to 250kW.
Link to full text of legal source (original language)	DL 189/1988: http://www.igf.min-financas.pt/inflegal/bd_igf/bd_legis_geral/Leg_geral_docs/DL_189_88.htm (this is not an official source; excluding amendments) Links to the amending decrees: DL 225/2007: www.iapmei.pt/iapmei-leg-03.php DL 33A-2005: www.dre.pt/pdf1sdi	DL 312/2001: http://www.edpdistribicao.pt/pt/produtor/renovaveis/EDP%20Documents/DL312-2001.pdf DL 33-A/2005: http://www.edpdistribicao.pt/pt/produtor/renovaveis/EDP%20Documents/DL33A-2005.pdf	DL 29/2006: http://www.dre.pt/pdf1sdi/2006/02/033A00/11891203.PDF (excluding amendments)	DL 363/2007: http://www.renovavei.snahora.pt/c/document_library/get_file?folderId=15654&name=DLFE-1201.pdf DL 118-A/2010: http://www.renovavei.snahora.pt/c/document_library/get_file?uuid=db01a1f3-4943-408c-bdc4-923b58f617f4&groupId=13360	DL 141/2010: http://dre.pt/pdf1sdi/2010/12/25300/0609306098.pdf	DL 34/2011: http://www.renovavei.snahora.pt/c/document_library/get_file?uuid=3793bbf1-584e-4081-9650-9b5fc1cf905f&groupId=13360

	<p>p/2005/02/033A01/00020009.PDF</p> <p>DR 71/2007: www.iapmei.pt/iapmei-leg-03.php</p> <p>DL 363/2007: www.garanova.com/garanova/legislacao_files/DL%20363.2007.pdf</p>					
<p>Link to full text of legal source (English)</p>						<p>Summary in English: http://dre.pt/sug/1s/diplomas_resumo.asp?id=20110422&lang=en</p>

3. Further information

Institution (name)	Website	Name of contact person (optional)	Telephone number (head office)	E-mail (optional)
Ministério da Economia, da Inovação e do Desenvolvimento. Direcção Geral de Energia e Geologia (DGEG) – Directorate General for Energy and Geology at the Ministry of Economy, Innovation and Development	http://www.dgge.pt/	Joao Bernardo	+351 217 922 700 +351 217 922 782	Racionalizacao.Energia(at)dgge.pt
Entidade Reguladora dos Serviços Energéticos (ERSE) – Energy Services Regulatory Authority	http://www.erse.pt/pt/Paginas/home.aspx		+351 213 033 200	erse(at)erse.pt
Rede Eléctrica Nacional, S.A. (REN) – Concession holder of the National Electricity Transmission Grid (RNT)	http://www.ren.pt/vEN/Pages/home02.aspx		+ 351 210 013 500	Contact form at the website
EDP Distribuição – Distribution System Operator	http://www.edpdistribuicao.pt/pt/Pages/homepage.aspx		+351 210 021 610	Contact form at the website
Agência para a Energia (ADENE) – Energy Agency	http://www.adene.pt/ADENE.Portal		+351 214 722 840	geral(at)adene.pt
Portal das Energias Renováveis (PER) – Portal on Renewable Energy	http://www.energiasrenovaveis.com/	João F. Saraiva	+351 914102695	mail(at)energiasrenovaveis.com
Associação de Energias Renováveis (APREN) – Renewable Energy Association	http://www.apren.pt/		+351 213 151 621	apren(at)apren.pt

4. Connection to the grid

Abbreviated form of legal sources	<ul style="list-style-type: none"> • DL 189/88 and its amending acts • DL 312/2001 and its amending acts • DL 34/2011 	
Overview	<p>Operators of renewable energy systems are contractually entitled against the grid operator to connection of their systems to the grid. The grid operator is obligated to enter into a contract on connection to the grid ("obligation to enter into a contract", art. 4 DL 312/2001 as amended by DL 118-A/2010, art. 5 DL 312/2001 and articles 5 and 6 DL 34/2011). The circumstances in which a claim arises depend on the contractual terms.</p> <p>Entitled party. The persons entitled are the system operators (art. 4 DL 312/2001 and articles 5 and 6 DL 34/2011).</p> <p>Obligated party. The companies obligated are the grid operators (art. 5 DL 312/2001), namely the Transmission System Operator (Rede Eléctrica Nacional, S.A. - REN) and the Distribution System Operator (mainly EDP Distribuição). When connecting miniproduction units (installations using a single production technology and have a capacity of up to 250kW), the supplier is obliged to enter into contracts with the operators of renewable energy systems (art. 14 DL 34/2011).</p>	
Procedure	Procedure	<ul style="list-style-type: none"> • The operators of renewable energy systems are contractually entitled against the grid operator to connection of their systems to the grid. The grid operator is obligated to enter into a contract on connection to the grid ("obligation to enter into a contract", art. 4 DL 312/2001 as amended by DL 118-A/2010 and art. 5 DL 312/2001). There are two possible procedures for grid connection: Request for Prior Information – PIP (art. 10 DL 312/2001 as amended by DL 118-A/2010) and contest (art. 14 DL 312/2001 as amended by DL 33-A/2005). By submitting a Request for Prior Information (<i>Pedido de Informação Prévia</i>), RES-E producers can find out if the grid has sufficient capacity to import their electricity. Public tenders are initiated by the government. The operators of miniproduction units may use a simplified procedure, which is described in articles 15 and 16 of DL 34/2011. <p>The circumstances in which a claim arises depend on the contractual terms.</p>
	Deadlines	<p>Systems must be fully connected within 24 months after the grid operator's consent to connect them (License of Establishment). For hydro-electric systems and power plants with a capacity of up to 50 MVA, this period is 36 months. Operators of renewable energy systems may request an extension of the above-mentioned deadlines (art. 17 par. 6 DL 312/2001). The parties in question agree on the start of connection works in the contract on connection (art. 17f. DL 312/2001). Miniproduction units are connected after the exploitation certificate is issued (art. 21 DL 34/2011).</p>
	Obligation to provide information	<p>When receiving a Request for Prior Information – PIP, the Directorate-General for Energy and Geology (DGEG) shall provide the information requested within 40 days after the period for the submission of PIPs is over.</p>

		Grid operators shall provide the information requested by the DGEG within 30 days (art. 10 DL 312/2001 as amended by DL 118-A/2010). The operators of renewable-energy-based microproduction units shall provide all the information requested by the DGEG, the supplier and the grid operator (art. 6 DL 34/2011).
Priority to renewable energy (qualitative criteria)	() Priority to renewable energy (x) Non-discrimination	As a rule, connection to the grid shall be granted according to the principle of non-discrimination. For this reason, 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 national energy policy, among them the increased use of renewable energy, when deciding on which system to connect to the grid (art. 6, 13 DL 312/2001).
Capacity limits (quantitative criteria)	<p>The 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"> • Plan for the expansion of the electricity grid in accordance with art. 7 DL 312/2001 • Investment plan in accordance with art. 8 DL 312/2001 • Characteristics of the grid in question in accordance with art. 9 DL 312/2001 <p>As regards miniproduction units, the grid operator may deny registration of new entrants when the total power injection into a grid substation exceeds the limit of 20% of the substation's capacity (art. 4 DL 34/2011).</p>	
Funding		
	State	
	Consumers	
	Grid operator	
	System operator	<p>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). If an operator of renewable energy system intends to establish a connection to the grid and there is no capacity available, the system operator shall wait for the grid to be upgraded or participate in the costs of the upgrade (art. 6, 12 DL 312/2001).</p> <p>The operators of renewable-energy-based miniproduction units shall bear the costs of connection to the grid (art. 6 DL 34/2011).</p>
	Distribution mechanism	Statutory law does not provide for a mechanism allowing for the cost of connection to the grid to be passed on.

5. Use of the grid

Abbreviated form of legal sources	<ul style="list-style-type: none"> • DL 312/2001 and its amending acts • DL 29/2006 and its amending acts 	
Overview	<p>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 use of the grid ("obligation to enter into a contract", art. 4 DL 312/2001 as amended by DL 118-A/2010 and art. 5 DL 312/2001).</p> <p>The circumstances in which a claim arises depend on the contractual terms.</p> <p>Entitled party. The persons entitled are the system operators (art. 4 DL 312/2001 and articles 5 and 6 DL 34/2011).</p> <p>Obligated party. The companies obligated are the grid operators (art. 5 DL 312/2001), namely the Transmission System Operator (Rede Eléctrica Nacional, S.A. - REN) and the Distribution System Operator (mainly EDP Distribuição). As regards contracts with miniproduction units, the Supplier shall celebrate the contract with operators of renewable energy systems (art. 14 DL 34/2011).</p> <p>Operators of renewable energy systems are contractually entitled against the Last Recourse Supplier (EDP Serviço Universal) to sell the electricity produced (art. 20 DL 29/2006).</p>	
Procedure	Procedure	<p>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 use of the grid ("obligation to enter into a contract", art. 4 DL 312/2001 as amended by DL 118-A/2010 and art. 5 DL 312/2001).</p> <p>The circumstances in which a claim arises depend on the contractual terms.</p>
	Deadlines	DL 189/88 and DL 312/2002 do not provide for deadlines, which may, however, be specified in the contractual terms.
	Obligation to provide information	
Priority to renewable energy (qualitative criteria)	<input type="checkbox"/> Priority to renewable energy <input checked="" type="checkbox"/> Non-discrimination	<p>As a rule, use of the grid shall be granted according to the principle of non-discrimination. For this reason, electricity from renewable sources is not granted priority use. However, besides acting according to the principle of non-discrimination, the grid operator shall take into account the aims of national energy policy, among them the increased use of renewable energy, when deciding on whose electricity to transmit (art. 6, 13 DL 312/2001).</p>
Grid stability	<p>Capacity limits may be imposed only if the maximum capacity of the grid is 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 imports. The conclusion of such an agreement also requires compliance with the principle of non-discrimination and the aims national energy policy, which include the increased use of renewable energy sources.</p> <p>The operators of renewable-energy-based miniproduction units may export to the grid up to 50% of the level of consumption contracted with the Supplier (DL 34/2011).</p>	

Funding		
	State	
	Consumers	
	Grid operator	The cost of use of the grid shall be borne by the grid operator (art. 44 par. 2 DL 29/2006).
	System operator	
	Distribution mechanism	The costs are included in the charges for the use of the transmission and distribution grids (art. 6 DL 312/2001).

6. Grid expansion

Abbreviated form of legal source	DL 312/2001 and its amending acts	
Overview	<ul style="list-style-type: none"> • General expansion of the grid. 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, Innovation and Development, 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. • Early expansion of the grid. 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 and participates in the costs of the expansion (art. 6, 12 DL 312/2001). • Selection of several applicants for connection. If several operators apply for connection to the same connection point without the number of receiving 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. <p>Entitled party. 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>Obligated party. The party obligated to expand the grid is the grid operator that is obliged to submit a detailed investment plan to the Ministry of Economy and Innovation (art. 7, 8 DL 312/2001).</p>	
Procedure	Procedure	The Transmission System Operator shall submit an expansion plan to the Minister of Economy, Innovation and Development for authorisation. The plan shall comply with Portugal's national energy policy, especially with its provisions on renewable energy (art. 7 DL 312/2001).
	Enforcement of claims	The circumstances in which a claim arises depend on the contractual terms.
	Deadlines	The contractual terms may specify deadlines for an early expansion of the grid.
	Obligation to provide information	
Incentives for grid expansion		
Funding		

	State	
	Consumers	The regulator includes the costs of already implemented grid upgrades in the charges to be paid by the final consumers. In other words, grid development costs are included <i>a posteriori</i> .
	Grid operator	In general, the grid operator shall bear the cost of a grid expansion (art. 6 par. 2, art. 8 DL 312/2001).
	System operator	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 and art. 12 par. 7, 8 DL 312/2001).
	Distribution mechanism	Article 6 (2) of DL 312/2001
Grid studies	<p>The National Transmission Grid Development and Investment Plan (PDIRT) for the period 2012-2017, available for public consultation from March to April 2011, can be downloaded from the Transmission System Operator's website (http://www.ren.pt/vPT/Destaques/Pages/pdirt2011.aspx). After public consultation, the final version will be sent to the Directorate General for Energy and Geology at the Ministry of Economy, Innovation and Development.</p> <p>PDIRT 2012-2017 – Strategic Environmental Assessment. Environmental Report. (as of April 2011): Available at: <http://www.ren.pt/SiteCollectionDocuments/Plano%20Desenvolvimento%20e%20Investimento/2012_2017/PDIRT%202012-2017%20(2022)-CP%20-%20AAE%20Relatório%20Ambiental.pdf></p> <p>PDIRT 2012-2017 – Strategic Environmental Assessment. Environmental Report. Non-Technical Summary (as of April 2011): Available at: <http://www.ren.pt/SiteCollectionDocuments/Plano%20Desenvolvimento%20e%20Investimento/2012_2017/PDIRT%202012-2017%20(2022)-CP%20-%20RA%20Resumo%20não%20Tecnico.pdf></p> <p>PDIRT 2012-2017 – Technical Report (as of April 2011): Available at: <http://www.ren.pt/SiteCollectionDocuments/Plano%20Desenvolvimento%20e%20Investimento/2012_2017/PDIRT%202012-2017%20(2022)-CP%20-%20Relatório%20Técnico.pdf></p>	