Pursuant to Article 64.n of the Energy Act (Official Gazette of the Republic of Slovenia, No 27/07 – official consolidated text, and 70/08) the Government of the Republic of Slovenia hereby issues the following

D E C R E E
on Support for Electricity Generated from Renewable Energy Sources

Article 1
(content of Decree)

This Decree lays down:

- the types of energy technologies for production plants generating electricity from renewable energy sources (hereinafter: RES generating plants) which can receive support,
- the classification of RES generating plants that can receive support into size categories,
- a detailed definition of support,
- the method of determining reference costs of generating electricity from RES,
- the method of determining prices for guaranteed purchase of electricity produced in RES generating plants,
- the method of determining the level of support provided as operating aid for the current operation of RES generating plants,
- the conditions for obtaining support,
- the way of obtaining support,
- the way of receiving support

and other issues associated with support for electricity generated from RES.

Pursuant to this Decree, support may be allocated for electricity generated from RES in RES generating plants where the nominal electrical capacity of the generating plant does not exceed 125 MW.

Where electricity is generated in combined or hybrid plants, electricity generated from RES may be allocated support under this Decree if the part of nominal electrical capacity attributable to electricity generation from RES does not exceed the nominal electrical capacity of 125 MW.

Article 2
(meaning of terms)

The expressions used in this Decree shall have exactly the same meaning as in the Energy Act, and moreover they shall have the following additional meaning:

- **biogas** under this regulation is a mixture of carbon dioxide, methane and other gases in traces, resulting in controlled anaerobic degradation of fuels of biological origin in Annex V;
- **biodegradable wastes** are anaerobic or aerobic biodegradable waste;
- **gross electricity generated at a generating plant** is the production of electricity during the reporting period, measured at the generator terminals or the terminals of other facilities for converting other types of energy into electricity. Electricity used for the operation of the plant itself is not deducted from the gross electricity generated;
- **single-line scheme** is the scheme of a generating plant that links multiphase connections in one line;
- **fossil fuel** is fuel obtained from ore reserves irrespective of whether it is used in its original composition or processed;
- **hybrid generating plant** is a generating plant that uses a combination of various technologies to convert one or more types of primary energy into electricity;
- **combined generating plant** is a generating plant which uses, in addition to fuels of fossil origin, renewable energy sources;
- **useful heat** is heat which, if it were not exploited from a RES generating plant to meet economically justified demand for heating, cooling or technology, would be supplied from other sources. Economically justified demand is demand that does not exceed the requirements for heating, cooling or technology;
- **generating plant's own use** means electricity consumed for the operation of the actual generating plant, to drive the feed pumps, compressors, mills, burners, treatment facilities and other similar facilities that are essential for the operation of the generating plant;
- **own consumption** is net produced electricity, which together with energy supplied from the grid is consumed on-the-spot for purposes other than for own use of generating plant;
- **nominal electrical capacity of a plant with the cogeneration of power and useful heat** means the highest continuous net electrical power of the plant in production, when the generating plant does not emit into the environment unconsumed waste heat (the heat of flue gases, radiation losses and other heat losses connected with the normal operation of a generating plant shall not be regarded as unconsumed waste heat);
- **nominal capacity of generating plant** is the maximum sustained net electrical, mechanical or thermal capacity at which a plant can operate normally without time limitations. Nominal capacity is determined by the plant operator or through takeover readings of the plant upon completion of construction. Net electrical capacity is taken into account in the nominal electrical capacity of the generating plant. In the wood biomass generating plants the nominal electric power of cogeneration of electricity and useful heat is taken in to account;
- **net electricity generated at a generating plant** is production of electricity in the reporting period measured at the exit from the generating plant, irrespective of whether it involves own consumption or electricity transmitted into the public grid. In net electricity generated, own use of the generating plant is deducted from the electricity produced at the generator terminals or terminals of other facilities for converting other types of energy into electricity;

- **new generating plant** is a RES generating plant that started regular production of electricity after 12 July 2008;
- **new generating plant** means a RES generating plant, which has not yet been included in the support system under this Regulation and from the time of its connection to the grid to the time of submission of a complete application for the allocation of support less time than a year passed.
- **reporting period** is the period of operation of a RES generating plant in which the quantity of electricity generated from RES is determined and for which guarantees of origin have been received. The reporting period for generating plants that receive support pursuant to this Decree shall be one year;
- **main fuel** is the fuel that meets the definition of renewable energy source and is used in a RES generating plant. Other fuel, especially of fossil origin, may be used only in a limited extent at the start-up of the plant or to support operation. Electricity matching the propart of the other fuel of fossil origin shall not be deemed to be energy produced from RES;
- **recipient of support** is the holder of a decision allocating support who, pursuant to a contract on the provision of support, receives support pursuant to this Decree for electricity production;
- **mainly new generating plant** is a RES generating plant at which no more than 15 years have passed from the start of electricity production to the submission of an application for eligibility for support;
- **generated electricity transmitted into the public grid** is net electricity generated and transmitted into the public grid at an appropriate delivery point;
- **generating plant** is a set of equipment and installations that convert other types of energy into electricity and can operate independently. If a generating plant comprises several such aforementioned sets, and if the consumption of electricity production is performed jointly for all the sets, such sets shall be deemed to be one generating plant. Where it is unclear, decisions regarding what are deemed to be generating plants shall be made by the Energy Agency in issuing the declaration for a generating plant or a decision allocating support, taking into account technical documentation, the construction sequence and the operation of the generating plant;
- **reference market price of energy** is the forecasted price of electricity and other fuels on the energy market, which is published pursuant to Article 64.n(12) of the Energy Act (Official Gazette of the Republic of Slovenia, No 70/08) by the Energy Agency;
- **co-firing** is the combustion of several types of fuel in the same generating plant at the same time**.** Co-firing as used in this Decree means the simultaneous combustion of fuel of fossil origin and wood biomass. Pursuant to this Decree, there are two types of generating plant with co-firing, that is, co-firing where the propart of wood biomass does not exceed 5% of the entire energy fuel input, and co-firing in generating plants where the propart of wood biomass is greater than 5%. For the first type of co-firing it shall be deemed unnecessary to refurbish generating plants that use fossil fuels in order to perform co-firing of wood biomass, and no major additional capital investment is required;
- **substrate** is biodegradable matter for obtaining biogas in an anaerobic process**;**

- **subsidies** pursuant to this Decree are received state aid as defined in Article 2 of the Monitoring of State Aids Act (ZSDrP), Official Gazette of the Republic of Slovenia, No 37/2004;
- **person eligible for support** is a producer of electricity from a RES generating plant that fulfils the conditions for the allocation of support.

Article 3

(energy technology in RES generating plants)

The provisions of this Decree relate to RES generating plants with energy technologies that exploit the following sources of renewable energy:

a) the energy potential of watercourses,

b) wind energy exploited in generating plants on land,

c) solar energy exploited in photovoltaic generating plants,

d) geothermal energy,

e) energy derived from biomass as defined in sections A1, A2, and A3 of Annex V, which is an integral part of this Decree ,

f) energy derived from biogas obtained from biomass, defined in sections B1, B2, and biodegradable waste as defined in sections C1 and C2 of Annex V, which is an integral part of this Decree ,

g) energy derived from landfill gas,

h) energy derived from gas obtained from waste water treatment plant sludge as defined in section C3 of Annex V, which is an integral part of this Decree ,

i) energy obtained from biodegradable waste from sections C1, C2, C3 and C4 of Annex V, which is an integral part of this Decree

Article 3.a

(Energy technologies of RES generating plants to be considered on a case by case basis)

Notwithstanding the preceding Article shall be entitled to support RES generating plants that use other sources which meet the definition of renewable energy sources in the Energy Act and are not covered by the preceding article, with support granted decisions by the Energy Agency on the basis of data from applications in each case.

The Energy Agency shall publish a set of necessary data for an application for a decision allocating support for cases that are treated separately in accordance with the methodology of the Article 25 of this Decree.

RES generating plant in the first paragraph of this Article shall not be eligible to support, if the reference cost of electricity production in the generating plant exceeds the reference costs in section 3.1. Annex I, which is an integral part of this Decree, applicable to the year in which generating plant commence to operate.

RES generating plants, which are treated as case by case basis, are eligible for support until the total nominal capacity of these new plants doesn't exceed 2 MW every year.

RES generating plant that produces electricity from biofuels, or other liquid biofuels which is considered on case by-case basis, is entitled to support if:
- meets the requirements of the third paragraph of this article,
- the total nominal capacity in the fourth paragraph of this article is not exceeded and
- shows that the fuel used meets sustainability criteria for biofuels or other liquid biofuels which are set out in Annex VI, which is an integral part of this Regulation, and that RES generating plant during the reporting period or within one year achieves at least 70% total efficiency of energy converted from energy input of liquid biofuels or biofuels in electricity and / or mechanical energy and useful heat.

Article 3.b

(determining the order of precedence for deciding on allocating the support in case of the annual limit of the support scope)

If the Energy Agency receives more applications for decisions allocating support for RES generating plants, the decisions allocating support are issued until the annual restrictions on the nominal electric power for RES generating plants are met in the order as the complete applications were submitted.

Article 4

(size categories of RES generating plants)

In respect of nominal electrical capacity, pursuant to this Decree RES generating plants shall be divided into the following size categories:

1. micro: nominal electrical capacity of less than 50 kW,

2. small: nominal electrical capacity of less than 1 MW,

3. medium: nominal electrical capacity of 1 MW up to and including 10 MW,

4. large: nominal electrical capacity of over 10 MW and up to and including 125 MW,

5. RES generating plants with a nominal electrical capacity of 125 MW and more.

Article 5

(definition of support)

Support is financial aid for electricity production in RES generating plants, where the costs of producing such electricity exceed the price that can be obtained for it on the electricity market.

Support for electricity produced in RES generating plants comprises:

- **guaranteed purchase of electricity (hereinafter:** guaranteed purchase). Pursuant to this support, irrespective of the price of electricity on the market, the Centre for RES/CHP Support buys all the acquired net electricity produced, for which the RES generating plant has received guarantees of origin, at guaranteed prices set out in this Decree;
- **financial aid for current operations (hereinafter:** operating support). This support is allocated for net electricity generated for which a guarantee of origin has been received and which RES electricity producers sell themselves on the market or use for their own consumption, provided that the costs of producing this energy are greater than the price that can be obtained for it on the electricity market.

In the manner stipulated in the first indent of the preceding paragraph, support may be received by RES generating plants with a nominal electrical capacity of up to 5 MW. For such generating plants, during the validity of the contract on guaranteed purchase the Centre for RES/CHP Support regulates the registration of the operating forecast and settles the difference between the forecast and actual production, including the balancing group.

RES generating plants with wood biomass co-firing shall not be eligible for guaranteed purchase pursuant to the preceding paragraph, irrespective of the size category of the generating plant.

RES generating plants with nominal electrical capacity of up to 5 MW may decide that instead of guaranteed purchase they will opt for independent sale of electricity on the market, and that they will receive support in the form of operating support pursuant to the second indent of the second paragraph of this article, wherein they must arrange their own registration of the operating forecast and the settlement of the difference between the forecast and actual production, including the balancing group.

RES generating plants with nominal capacity of 5 MW and more may only receive support pursuant to the second indent of the second paragraph of this article.

The duration of the provision of support shall be set out in the decision allocating support.

Support for RES generating plants shall be paid out for net electricity generated.

Those eligible for support who can choose the method of support they receive, shall communicate their decision on the method of support provision in their applications for a decision allocating support sent to the Energy Agency.

Article 6

(reference costs for producing electricity from RES)

The reference costs of producing electricity in RES generating plants are the indicative costs of producing electricity for individual representative groups and size of RES generating plants, based on published professional data on investments and operating costs for individual energy technologies and sizes of RES generating plants, the economic and financial parameters of investing and operating, the prices of fuels and other costs associated with electricity generation in Slovenia, and reduced by all other benefits obtained through the operation of the plant.

Reference costs shall be determined in EUR/MWh of net electricity generated.

In RES generating plants where the input fuel represents a financial cost, the reference costs shall be shown in two parts, as the fixed part of reference costs and as the variable part of reference costs. The fixed part of reference costs is determined every five years, or earlier if there are significant changes to the capital costs and other investment parameters that provided the basis for determining the fixed part of reference costs.

The variable part of reference costs shall be determined annually or more frequently on the basis of forecast reference market prices of energy. For RES generating plants in Article 3.a of this Decree Energy Agency in determining the variable component of the reference costs takes into account costs of comparable fuels on the market.

The reference costs shall be the basis for determining prices in contracts on guaranteed purchase and for the level of operating support in contracts on the provision of support. The reference costs for the period from 2009 to 2013, taking into account the level of variable costs for 2009, are shown in Annex I, which is a constituent part of this Decree.

To refurbished RES generating plants in accordance with the Article 17 of this Regulation, the decision allocating support, on basis of the share of reconstruction, determines the reduction in the fixed part of the reference costs of refurbished RES generating plant for the following amount [EUR/MWh]:

(refurbishment costs [EUR] x (1/R - 1) x A) / (nominal power capacity [MW] x H [h])

where:

R proportion of funds invested in the refurbishment and the value of the new RES generating plant, determined in accordance with Article 17 of this Decree,

A is the annuity factor for the 15-year economic period of investment and 12% discount rate. For RES generating plants in point c) of Article 3(1) of this Decree, the discount rate is 6.4%,

H is the annual operating hours of the unit given in the published methodology for determining reference costs.

In order to determine the prices for guaranteed purchase and the level of operating support in the contract, throughout the duration of the contract on the provision of support application shall be made of the fixed part of the reference costs that were valid when the RES generating plant received the first decision allocating support and concluded a contract on the provision of support.

Where during the construction of a RES generating plant an amendment to the Decree lays down new values for the fixed part of reference costs in Annex I, the decision allocating support shall define for the RES generating plant the fixed part of reference costs that applied when the RES generating plant obtained a construction permit, if that is more favourable for it. However, no more than three (3) years may elapse between the receiving of the construction permit and the decision allocating support.

Article 7

(determination of for guaranteed purchase prices for electricity)

The guaranteed purchase prices for RES generating plants that receive support in the form of guaranteed purchase of electricity generated shall be those set out in Annex II, which is a constituent part of this Decree.

The level of guaranteed purchase prices for electricity shall be the same as the reference costs for the individual production technologies and size categories.

The price in the contract on guaranteed purchase, where the input fuel does not represent a cost, shall be formulated only from the fixed part of the price, but at RES generating plants where the input fuel represents a cost, it shall also be formulated from the variable part of the price, in the same propart as the fixed and variable parts of the reference costs.

The guaranteed purchase price referred to in Annex II, which applies to electricity from an individual RES generating plant, shall be determined in the contract on the provision of support on the basis of data in the decision allocating support.

Article 8

(determination of the level of operating support)

Operating support is the difference between the reference costs of producing electricity in individual RES generating plants given in Annex I and the reference market price of electricity.

If on the basis of forecast reference market prices of electricity it is determined that the price of electricity on the market, where account is also taken of the characteristics of operating of specific types of RES generating plant, is higher than the reference costs of electricity production given in Annex I and applying to the period in question, operating support for electricity for the period in question shall not be paid.

Operating support for RES generating plants is set out in Annex III, which is a constituent part of this Decree.

Operating support for the coming years shall be determined as the difference between the reference costs that apply in the relevant year, and the reference market price of electricity for the relevant year. The reference costs for the relevant year for RES generating plants referred to in Article 7(3) shall be formulated from the fixed part of the reference costs given in Annex I and the variable part of reference costs that apply for the relevant year.

Exceptionally, for biomass generating plants for co-firing with the fossil fuel in which the biomass is less than 5% of the total input of primary energy, the operational support is equal to the respective reference costs.

Operating support referred to in Annex III for electricity from a specific generating plant shall be determined in the contract on the provision of support on the basis of data contained in the decision allocating support.

Article 9

(eligibility for support)

New and mainly new RES generating plants that have a valid declaration for a generating plant and that fulfil the conditions given in Article 16(3) of this Decree shall be eligible for support. Support shall be provided for fifteen (15) years; this period may be shorter for mainly new plants (shortened by the difference between fifteen (15) years and the actual age of the generating plant). The period in which support is provided shall be laid down in the decision allocating support.

For determining the age of a RES generating plant, the commencement of regular electricity generation in the generating plant shall be deemed to be the date of issuing of the permit for commercial operation of the RES generating plant or, for a RES generating plant for which a permit for commercial operation is not issued, the date of connection to the electricity grid of the distribution network system operator. For RES generating plants which were already in operation prior to the granting of permit for commercial operation and for the RES generating plants for which the permit for commercial operation is not issued and have been operated before or operated without connection to the grid the time of commencement of commercial operation, to establish the age of production facilities, determines the Agency for Energy.

Support is tied to the quantity of electricity produced and is allocated only for net electricity generated and supplied by the RES generating plant to the Centre for RES/CHP Support, or sold independently on the market or used as own consumption.

For those applicants seeking to obtain one of the forms of support pursuant to this Decree, but whose market share together with its company affiliates in the generation of electricity in Slovenia is greater than 25% and whose Herfindhal-Hirschman index (HH-index) of concentration on the market is greater than 2000 or, through the electricity produced from RES generating plants for which support is being requested, could become greater than that, the Energy Agency may only issue a decision allocating support if the received support does not increase its market share and market concentration

In granting its consent, apart from market share and the HH-index, the Energy Agency shall also take into account the amount of electricity for which support is being provided, the type of energy technology, the impact of providing support on the price of electricity on the market and the negative impacts of providing support in relation to other participants in the electricity market.

The condition given in the fifth paragraph of this article shall not apply to applicants seeking support for electricity from micro and small RES generating plants.

If the investor has built or installed RES generating plant to meet the requirements of regulations on construction, energy efficiency or environmental protection than electricity produced by such RES generating plant is not eligible for support under this Decree.

Article 10

(sustainable way of exploiting RES)

When deciding to allocate support to which RES generating plants are entitled it also has to be taken into account to what extent are the renewable energy sources sustainably exploited as it is defined in Articles 11, 12, 13 and 14 of this Decree.

Article 11

(maintaining ecologically acceptable flows)

RES generating plants that exploit the energy potential of water courses can receive support only for the quantity of electricity produced while ensuring the ecologically acceptable flow of the watercourse.

Where a RES generating plant does not ensure an ecologically acceptable flow, the validity of the decision allocating support shall be repealed and the contract on the provision of support shall cease to have effect. Such RES generating plants shall not be eligible for a new decision allocating support.

Article 12

(sustainability and other criteria for determining support for RES generating plants using wood biomass)

For electricity produced from biomass that has certification from the FSC (Forest Stewardship Council) or PEFC (Programme for the Endorsement of Forest Certification) regarding the sustainable production of wood biomass or other appropriate certificate of sustainable production, 10% higher variable reference costs shall apply.

The variable part of the reference costs of electricity production from wood biomass depends on the classification of the wood biomass used, as given in Annex V, which is a constituent part of this Decree.

The type of wood biomass which will be used in RES generating plant must be specified in the application for the decision allocating support. The structure of certain types or quantities of wood biomass from the decision allocating support have to be specified in an addendum to the contracts on the provision of support, which shall serve to determine the planned annual quantity of electricity that will receive support.

Electricity producers that have received higher support pursuant to the first paragraph of this article must keep the certificates referred to in this article for at least three (3) years from the payment of support.

RES generating plants that produce electricity from wood biomass must, in order to qualify for support pursuant to this Decree, achieve in the reporting period or within one year at least a 60%

total efficiency of energy converted from input wood biomass into electricity and/or mechanical energy and useful heat.

The total efficiency of heat conversion from wood biomass input shall be determined on the basis of the decree laying down the quantity of electricity produced in high-efficiency cogeneration of heat and power, and laying down the efficiency of converting biomass energy.

Article 13

(sustainable supply and exploitation of biogas)

Electricity from generating plants fuelled with biogas produced to a major extent from manure and slurry, shall be eligible for additional support to guaranteed purchase prices or operating support.

RES generating plants that produce electricity from geothermal energy, biogas or biodegradable waste shall be eligible for supplements to guaranteed prices or operating support, if on an annual level they achieve a useful heat recovery in the required extent of the input energy fuel, as set out in Annexes II and III of this Decree.

Biogas generating plants which produce biogas using a substrate that by volume contains more than 40 percent of first main field crops, are not eligible for support under this Decree. For biogas generating plants that are using a substrate that by volume contains more than 25 and less than 40 percent of grain and silage of first main field crops of corn and other cereals for the production of biogas, the variable part of the reference cost equals to 70% of variable part of reference costs given for the right substrate.

If gas from a biogas plant or landfill, or gas produced in the operation of a wastewater treatment facility, or other types of gas from biomass, are supplied into the network of energy gases of fossil origin, the electricity produced in a generating plant at another location that fulfils the conditions given in Article 9 of this Decree from gas of fossil origin in the quantity matching the value of the aforementioned input energy from gases, shall be deemed to be electricity produced from renewable energy sources.

Article 14

(exploitation of solar energy)

The photovoltaic generating plants that are not placed on buildings may be issued by Energy agency decisions allocating support up to total volume 5 MW of the total nominal electric capacity per year.

Article 15

(modification of support regarding the other types of aid provided to RES generating plants)

Where a RES generating plant has received or will receive any kind of aid that might be deemed to be a subsidy, the applicant must indicate this in the application for the allocation of support. The applicant must attach with the application copies of relevant documents on the receiving of a subsidy, clearly indicating the level and other conditions relating to such subsidy.

If after concluding a contract on the provision of support a RES generating plant receives any kind of aid that might be deemed to be a subsidy, the holder of the decision must immediately communicate this to the Energy Agency and submit the documents referred to in the first paragraph.

In the decision allocating support, owing to subsidies received the fixed part of the reference costs, which is the basis for determining the level of support, shall be reduced by the following amount (EUR/MWh):

(amount of aid received [EUR] x A) / (nominal electrical capacity [MW] x H[h])

where:

The coefficient 'A' means the annuity factor over a fifteen-year economic period of investment and the discount rate where it has to be considered:

- As discount rate for all RES generating plants the general discount rate is to be used stipulated in the Decree of unified methodology for the preparation and consideration of the investment documentation for public finance, except for RES generating plants from point c of first paragraph in Article 3 of this Decree, where discount rate is fife percentage points lower than the general discount rate ;
- If the general discount rate exceed the discount rate used for the calculation of the reference costs, than the discount rate from the calculation is used for the determination of the coefficient A;
- If the discount rate from the first or the second indent is lower than the reference discount rate used to calculate state aid credits or other financial instruments to be paid in regular rates, the reference discount rate is used, which is published for the Republic of Slovenia in the Official Journal of the EU.

H is the annual operating hours of the unit given in the published methodology for determining reference costs.

The reduction in the fixed part of the reference costs for the amount [EUR/MWh] from previous paragraph is taken in to account for the whole period of the eligibility to the support

Article 16

(application for a decision allocating support)

The owner or with the consent of the owner the operator of the RES generating plant has to submit an application for a decision allocating support to electricity produced in RES generating plant to the Energy Agency.

The Energy Agency shall decide on the allocation of support by decision in an administrative procedure.

Applicants shall be eligible for support if they fulfil the following conditions:

- the application is complete,
- the RES generating plant has a valid declaration for a generating plant and as such is entered in the register of declarations,
- it is clear from the application that this involves a new or mainly new RES generating plant,
- the RES generating plant fulfils the sustainability criteria for individual types of RES,
- the applicant has indicated that he has not received any subsidy, or if he has, he has attached with the application copies of relevant documents with information on such subsidy,
- the application clearly shows that the applicant has installed on the RES generating plant measurement and registering devices as required by the Decree on the conditions for measurement and registering devices that must pertain to generating plants that receive guarantees of origin, and on measurements that must be performed by these devices for measuring net electricity generated and for demonstrating the prescribed efficiency of wood biomass use,
- the applicant has indicated the type of support.

If the holder of a decision allocating support does not renew the declaration for the generating plant within the prescribed deadline prior to the expiry of the declaration, the decision allocating support shall cease to be valid on the day of expiry of the declaration for the generating plant. If after expiry of the declaration for the RES generating plant the plant obtains a new declaration, the person eligible for support must submit a new application for a decision allocating support.

For RES generating plants based on energy technologies referred to in Article 3a of this Decree, the applicant must, in the application, also submit information on the level and structure of the investment in the RES generating plant and other prescribed technical and operating information on the basis of which the Energy Agency shall determine the amount of fixed part of reference costs.

For micro RES generating plants referred to in the preceding paragraph, the level and structure of the investment in the RES generating plant has to be proved with copies of invoices relating to the construction of the generating plant. If the Energy Agency doubts the invoices compatibility with actual investment, it may be required for evidence to be certified by an certified appraiser of machinery and equipment value and where appropriate by a certified real estate appraiser, too.

For RES generating plants referred in Article 3.a of this Decree of other size classes, the applicant must submit copies of contracts and invoices showing the value and structure of investment in generating plant, after an expert assessment by certified appraiser of machinery and equipment and, where appropriate, certified real estate appraiser. Clarification of structure of RES production equipmentand separation from corresponding real estate will be provided by the Agency for Energy.

Regardless of the assesment of certified appraiser of machinery and equipment and real estate appraiser may the Energy Agency may refuse to issue a decision on the allocation of support, if the

investor in the investment costs included investments that are not needed for the operation of generating plant or if the value of investments in generating plant exceeds the publicly announced values of specific investments in technology-the same or similar generating plants.

The application form for obtaining a decision allocating support is given in Annex IV, which is a constituent part of this Decree.

Article 17

(refurbished RES generating plants)

As new or mainly new generating plants are in the process of obtaining a decision allocating support to address the refurbished or reconstructed generating plants if they are reconstructed or have replaced at least one of the basic sets of generating plant and the refurbishment amounts at least 50% of the value for new generating plants and that the refurbishment resulted with an increase in nominal capacity of RES generating plant for at least 10% or has the electrical efficiency of RES generating plant improved at least for one (1) percentage point, except for hydro power plants in the last paragraph of this Article.

The reconstructed basic sets of generating plants in the first paragraph include boilers and burners as well as power engines and electrical power devices or other assemblies, which serve to convert the input energy into electricity and heat.

The value of the new generating plant is determined on the basis of investment costs in the methodology from the Article 25 of this Decree, depending on the type and size class in which the generating plant from the first paragraph of this Article is classified. In the case of a generating plant from the second paragraph of the Article 3 of this Decree, the application for the decision allocating support has to be attached with a professional appraisal certified by an authorized estimator of machinery and equipment value on the investment value of new generating plant.

The increase in nominal capacity or improvement of the electrical efficiency of the generating plant from the first paragraph of this Article shall be proved by the permit for commercial operation of refurbished or reconstructed generating plant. For generating plants, which do not require permits for commercial operation, the aforesaid data are proved with the information on the execution of the connection to the electricity grid. If, on the basis of these data is not possible to determine the increase of nominal capacity or the efficiency improvement, it is necessary to prove it through the taking over measurements done by an authorized institution and the measurements data of the electrical energy produced.

To demonstrate the level and structure of the investment in the refurbishment of micro RES generating plant copies of invoices relating to the construction of the generating plant are sufficient. If the Energy Agency doubts the invoices compatibility with actual investment, it may be required for evidence to be certified by an certified appraiser of machinery and equipment value and where appropriate by a certified real estate appraiser, too. Clarification of structure of RES production equipment and separation from corresponding real estate will be provided by the Agency for Energy.

For RES generating plants of other size classes to demonstrate the level and structure of the investment in the refurbishment the applicant must submit copies of contracts and invoices

showing the value and structure of investment in refurbishment, after an expert assessment certified by appraiser of machinery and equipment and, where appropriate, certified real estate appraiser. Clarification of structure of RES production equipment and separation from corresponding real estate will be provided by the Agency for Energy.

Investors are entitled to the support for electrical energy from refurbished RES generating plants until fifteen years pass from the commencement of production with increased nominal electrical capacity or increased electrical efficiency.

Refurbished RES generating plants referred to in Article 9(1) with a nominal electrical capacity greater than 10 MW, and which exploit the energy potential of watercourses, must through refurbishing achieve at least a 15-percent increase in nominal electrical capacity for the RES generating plant. Only electricity that is additionally generated owing to the aforementioned increase in nominal electrical capacity shall be eligible for operating support.

Article 18

(decision allocating support)

If the conditions given in Article 16 of this Decree are fulfilled, the Energy Agency shall issue a decision allocating support.

Based on the application, the decision allocating support shall determine:
- the type of support;
- the elements on the basis of which the contract on the provision of support will determine the price for guaranteed purchase or the level of operating support:
    - the size category of reference costs,
    - pertaining supplements,
    - type of fuel and entitlement to supplements,
    - entitlement to supplements for useful heat deployment;

- the manner of changing the method of providing support;
- the measuring point or points for net electricity generated which will serve for calculating received electricity or electricity that is eligible for operating support, and other measuring points necessary for determining fulfilment of the sustainability criteria;
- the period providing the support.

Based on information the Centre for RES/CHP Support shall determine the price for guaranteed purchase or operating support in contracts on the provision of support.

The decision allocating support must also indicate the condition whereby the decision allocating support ceases to be valid if the decision-holder's declaration for the generating plant expires.

The Energy Agency shall send a copy of the final decision allocating support to the Centre for RES/CHP Support. No later than 15 days from the date the decision becomes final, based on the information in the decision the holder and the Centre for RES/CHP Support shall conclude a contract on the provision of support.

If the recipient of support wishes to change the method in which support is provided, he must submit a new application for a new decision, provided that the eligible person has the possibility of choosing the method of receiving support.

The recipient of support may request a change to the decision in that part determining the method of receiving support, firstly after two (2) years, and then further changes every three (3) years of receiving support. In changing the method of support, the recipient of support must act in accordance with the operating rules for the Centre for RES/CHP Support.

Appeals may be lodged against decisions of the Energy Agency regarding the allocation of support at the ministry competent for energy.

Article 19

(validity of decision allocating support)

Throughout the period of receiving support, the Energy Agency shall ex officio verify whether the recipient of support fulfils all the conditions for receiving support.

The Energy Agency shall ex officio or on the proposal of the Centre for RES/CHP Support change or cancel the decision allocating support in the following cases:

- if it determines that the recipient of support no longer fulfils the conditions for receiving support in accordance with this Decree,
- if the contract on the provision of support ceases to be valid, on the day of expiry of the contract,
- where so provided by law.

Where amendments to European Union legislation or acts of the European Commission cause an amendment to this Decree such that it affects an already issued decision, the Energy Agency shall change or cancel such decision allocating support and shall issue a new decision allocating support.

Where a recipient of support acts deliberately for the purpose of obtaining financial means to which he is not entitled, and thereby causes the rescinding of a contract on the provision of support, the decision allocating support shall also be revoked. Such beneficiary of support may no longer receive support in accordance with this Decree.

Article 20

(contract on the provision of support)

Contracts on the provision of support shall be based on information in the decision allocating support. Where there are discrepancies between the decision allocating support and the contract, the decision shall prevail.

A contract on the provision of support shall be rescinded if the Energy Agency revokes the declaration for a generating plant from such plant, or revokes the decision allocating support. The Energy Agency must immediately inform the Centre for RES/CHP Support of the onset of any reason for rescinding a contract.

Where on the basis of a forecast from the Energy Agency regarding reference market prices of energy, reasons arise for a change in the variable part of prices for guaranteed purchase in contracts on guaranteed purchase or operating support in contracts on the provision of operating support, the Centre for RES/CHP Support shall call upon the recipient of support to conclude an annex to the contract on the provision of support in order to adjust the variable part of the price or operating support within one month at the latest. If the recipient of support does not conclude an annex within one month, the Centre for RES/CHP Support shall issue another written request.

If despite the repeated written request the recipient of support does not conclude an annex within five (5) working days, the contract on the provision of support shall be cancelled immediately.

The Centre for RES/CHP Support shall immediately inform the Energy Agency of the cessation of validity of a contract on the provision of support.

A recipient of support who, upon the contract on the provision of support being rescinded owing to the reasons given in the third paragraph of this article, still wishes to receive one of the forms of support, must submit a new application for a new decision allocating support. Up until the receiving of a new decision, such beneficiary shall not be eligible to receive any kind of support pursuant to this Decree.

A recipient of support provided through a contract on guaranteed purchase must sell all net electricity generated exclusively to the Centre for RES/CHP Support.

The contract on the provision of support must specify that the Centre for RES/CHP Support is bound to purchase or provide operating support only for the quantity of electricity that was planned at the beginning of the year and set out in the annex to the contract. Permitted variances in planning shall be defined by the operating rules for the Centre for RES/CHP Support.

Contracts on the provision of support must provide that for electricity with guarantees of origin that exceeds the planned quantity referred to in the preceding paragraph, the Centre for RES/CHP Support shall provide operating support only on the condition that it disposes of sufficient financial means.

If the Centre for RES/CHP Support does not have sufficient financial means to provide support for excess quantities of electricity to which the guarantees of origin apply, it may for such electricity pay only the market price, according to which it shall sell all the electricity from its balancing group on the organised electricity market.

The contract on the provision of support must contain an obligatory provision that the Centre for RES/CHP Support and recipient of support will conclude an annex to the contract, on the basis of a new decision allocating support that will be issued owing to amendments of European Union legislation or acts of the European Commission.

Contracts on the provision of support shall be defined by the operating rules for the Centre for RES/CHP Support.

Article 21

(guarantees of origin and provision of support)

Support pursuant to this Decree may only be provided for net electricity generated for which guarantees of origin (hereinafter: GOO) have been issued. Measurement and registering devices for measuring and registering net electricity generated must be installed on RES generating plants that receive support.

RES generating plants that receive support for electricity production pursuant to this Decree shall receive guarantees of origin for one-year reporting periods.

In the provision of support, one-month temporary reporting periods shall also be used for RES generating plants.

Recipients of guarantees of origin for a temporary reporting period do not receive a guarantee of origin, but just a notification from the issuer of the guarantee of origin regarding the advance quantity of guarantees of origin pertaining to them on the basis of reported data. The sum of all monthly advance quantities in one year may not exceed the quantity of guarantees of origin that pertain to them for the reporting period.

Article 22

(transfer of guarantees of origin to the Centre for RES/CHP Support)

By concluding a contract on the provision of support for RES generating plants, the recipient of support authorises the GOO issuer to transfer all the recipient's GOO received for gross electricity generated to the Centre for RES/CHP Support.

Article 23

(way of receiving support)

For each temporary reporting period, in a manner laid down by act of the GOO issuer, recipients of support shall send to the GOO issuer data on measurements from all measurement points defined in the declaration for the generating plant, and which are the basis for issuing the GOO, and data on the measurements of net electricity generated from measurement points defined in the decision allocating support. Within deadlines defined by act of the issuer, the GOO issuer shall communicate to the recipient of support and the Centre for RES/CHP Support data on the advance quantity of electricity that is eligible for a GOO, and the advance quantity of electricity that is eligible for support.

At the end of the reporting period, within deadlines defined by act of the GOO issuer, recipients of support shall send to the GOO issuer data on measurements from all measurement points defined in the declaration for the RES generating plant, and which are the basis for issuing the GOO, and data on the measurements from measurement points defined in the decision allocating support, which are the basis for receiving support. The issuer of GOO defined by act of the issuer shall issue a quantity of guarantees of origin for electricity generated for which the RES generating plant is eligible in the reporting period, and shall define the quantity of net electricity generated eligible for support in the previous reporting period. These data shall be immediately communicated to the recipient of support and the Centre for RES/CHP Support and at the same time the issued GOO shall be transferred to the Centre for RES/CHP Support.

The quantity of electricity eligible for support based on the advance GOOs may not exceed the net quantity of electricity for which GOOs are issued at the end of the reporting period.

The reporting period for GOOs is the same as the final accounting period for support, while the temporary reporting period shall be deemed to be a temporary account in contracts on the provision of support.

Recipients of support provided as guaranteed purchase of electricity shall issue bills for net electricity generated and supplied to the Centre for RES/CHP Support, on the basis of temporary

accounts and advance quantities of guarantees of origin referred to in the first paragraph of this article, and a final account of net electricity generated that matches the quantity of gross electricity generated for which pertaining guarantees of origin are issued from the reporting period, or else is propartate to it.

Recipients of operating support may issue bills for operating support for net electricity generated on the basis of temporary accounts, and a final account in the same manner as is defined in the preceding paragraph.

If a recipient of support has, on the basis of advance GOOs and temporary accounts, received more funds than pertains to him, the excess must be settled in the final account, or no later than thirty (30) days together with legally provided penalty interest it must be refunded to the Centre for RES/CHP Support.

If a recipient of support, by communicating false or deficient measurement or other information, directly or indirectly misleads the Centre for RES/CHP Support or the Energy Agency, thereby obtaining financial resources to which he is not entitled, he must return these resources immediately to the Centre for RES/CHP Support, together with any legally provided penalty interest. In this case, the contract on the provision of support shall be cancelled immediately.

In cases referred to in the preceding paragraph, the Energy Agency shall revoke the decision allocating support.

The method of receiving support and invoicing is further defined in the rules for the operation of the Centre for RES/CHP support.

Within deadlines defined by the GOO issuer and the Centre for RES/CHP Support, the system operator of the electricity grid to which the RES generating plant receiving support is connected must send to the GOO issuer and Centre for RES/CHP Support data from the measurement point regarding electricity transmitted by the generating plant to the public grid.

Recipients of support must keep all registrations of measurements on the basis of which they received support for at least three (3) years.

Article 24

(access to the grid, balancing group and operation)

Recipients of support must adhere to the operating rules of the Centre for RES/CHP Support and must regularly notify it of possible changes in electricity production, especially upon unplanned outages and planned shut-downs.

Recipients of support must immediately notify the issuer of guarantees of origin and the Centre for RES/CHP Support of any kind of change at the measurement points defined in the declaration for the generating plant and in the decision allocating support.
Recipients of support must themselves do everything necessary for the valid connection of RES generating plants to the grid and for ensuring access to the grid.

For recipients of support included in the balancing group of the Centre for RES/CHP Support, the Centre for RES/CHP Support shall be responsible for settling the differences between the forecast and actual electricity generated.

Article 24.a

(Informing the Energy Agency of the planned RES generating plants)

Distribution system operator by 15th day of each month submits the Energy Agency information for last month of:

- the number and total nominal power capacity of RES generating plants from applications received for approval to the connection,
- the number and total nominal power capacity of RES generating plants that were issued the approval to the connection.

Energy Agency on its website publishes monthly data of:

- the total nominal power capacity of RES generating plants, which have been issued the, approval to the connection.
- the total nominal power capacity of RES generating plants by technology and size, for which the Energy Agency has received complete applications for issuance of decisions allocating support,
- the total nominal power capacity of RES generating plants by technology and size, that are subject to annual limitation and have been issued decisions allocating support.

TRANSITIONAL AND FINAL CLAUSES

Article 25

(methodology for the determination of reference costs)

The methodology that forms the basis for determination of the reference costs, and the reference costs for specific representative groups of RES generating plants, shall be published by the ministry responsible for energy on its website not later than eight (8) days after the entry into force of this Decree.

Article 26

(temporary restriction on receiving of support for some of the RES generating plants)

RES generating plants exploiting the energy potential of water courses with the nominal power capacity that exceeds 10 MW are not eligible to receive support in accordance with this Decree by 1 November 2009.

RES generating plants using wood biomass in co-firing with fuels of fossil origin, where biomass represents less than 5% of the energy fuel shall not be eligible for operating support in accordance with this Decree before 1 January 2010.

Article 27

(issuing temporary decisions allocating support up to 1 November 2009)

By 1 November 2009 the Energy Agency shall issue to new and mainly new RES generating plants, if mainly new RES generating plants are not covered by the provisions of the 42nd of the Act Amending the Energy Act (EZ-C, OGRS, No. 70/2008), in accordance with this Decree, the temporary decisions allocating support with the validity by 1 November 2009.

For new RES generating plants which have come into operation after 12 July 2008, and their operators have not acquired the status of a qualified producer before the entry into force of this Decree, shall begin their 15 years period of eligibility to support with the date of issuing of the provisional decision allocating support.

The prices for guaranteed purchase and operational support in the temporary decisions allocating support may not exceed the single annual price for the guaranteed purchase of electricity and the single annual premium provided by the Resolution on Prices and Premiums for the Purchase of Electricity from Qualified Electricity Producers (OGRS, Nos. 65/08, 98/08 and 105/08).

After the date from the first paragraph of this article, the Energy Agency shall issue decisions allocating support in accordance with this Decree. The Energy Agency shall annul the temporary decisions and issue holders with new decisions in accordance with this Decree.

Article 28
(Expiry)

With the entry into force of this Decree the Decree on the Rules for Determining Prices and Purchasing Electricity from Qualified Electricity Producers (OGRS, 25/2002) shall cease to be valid, with the exception of Articles 9 to 14 that are used to determine prices for guaranteed purchase and operational support in the temporary decisions allocating support up to 1 November 2009.

Article 29
(final provision)

This Decree shall enter into force on the day following its publication in the Official Gazette of the Republic of Slovenia, with the exception of the 7th, 8th, 10th, 11th, 12th, 13th, 15th, 17th and the second indent of the second paragraph of the Article 18, which shall apply after 1 November 2009.

No.:
Ljubljana,
EVA: 2008-2111-0016
Government of the Republic of Slovenia

Borut
Pahor
Prime
Minister

ANNEX I

Reference costs for producing electricity from renewable energy sources

1 Reference costs in RES generating plants using hydroenergy[1]

Size category of generating plant	Fixed part of reference costs [EUR/MWh]	Variable part of reference costs [EUR/MWh][2]	Total reference costs [EUR/MWh]
micro (< 50 kW)	105,47	/	**105,47**
small (< 1 MW)	92,61	/	**92,61**
medium (up to 10 MW)	82,34	/	**82,34**
large (up to 125 MW)	76,57	/	**76,57**

[1] For generating plants constructed at existing dams or barriers which were entirely or partly built for other purposes and do not impair the water conditions or improve them, account shall be taken of the reference costs covering entire structures, including dams or barriers.

[2] The variable part of reference costs, which depends on generated MWh, shall be ignored for the purposes of this Decree.

2 Reference costs in RES generating plants using wind energy

Size category of generating plant	Fixed part of reference costs [EUR/MWh]	Variable part of reference costs [EUR/MWh][1]	Total reference costs [EUR/MWh]
micro (< 50 kW)			
small (< 1 MW)	95,38	/	**95,38**
medium (up to 10 MW)			
large (up to 125 MW)	86,74	/	**86,74**

[1] The variable part of reference costs, which depends on generated MWh, shall be ignored for the purposes of this Decree.

3 Reference costs in photovoltaic generating plants

The reference costs for photovoltaic generating plants for 2009 referred to in points 3.1 and 3.2 of this Annex shall be reduced in 2011 by 20%.

In 2012, the reference costs shall be reduced:
- In the period from January the 1st 2012, to June the 30th 2012 by 30% and
- In the period from July the 1st 2012 to December the 31th 2012 by 40%.

Reference costs in the year 2013 and in subsequent years shall be further reduced on the first of January each year and on the first of July for the basic reduction of 8% from the amount of the reference costs in the previous period. Basic reduction shall be adjusted in accordance to the deviation in the total installed capacity of new photovoltaic generating plants from the target value of total annual installed capacity of new generating plants to solar energy, which is 55 MW.
Adjustment shall be made by additional reduction of one percentage point added to the basic cost reduction for every 5 MW, for which the new total installed power generating plants in the preceding year exceeds 55 MW.
Where the total installed new power generating plants in the preceding year is less than 55 MW, the basic reduction of the reference cost is reduced by one percentage point for every 5 MW, for which the total installed power of new generating plants is less than 55 MW.
Increase or decrease of the basic reduction of the reference costs could be done to a maximum of five percentage points.

3.1 Reference costs in photovoltaic generating plants built on buildings

Size category of generating plant	Fixed part of reference costs [EUR/MWh]	Variable part of reference costs [EUR/MWh][1]	Total reference costs [EUR/MWh]
micro (< 50 kW)	415,46	/	**415,46**
small (< 1 MW)	380,02	/	380,02
medium (up to 10 MW)	315,36	/	315,36
large (up to 125 MW)	280,71	/	280,71

[1] The variable part of reference costs, which depends on generated MWh, shall be ignored for the purposes of this Decree.

3.2 Reference costs in other photovoltaic generating plants

Size category of generating plant	Fixed part of reference costs [EUR/MWh]	Variable part of reference costs [EUR/MWh][2]	Total reference costs [EUR/MWh]
micro (< 50 kW)	390,42	/	390,42

small (< 1 MW)	359,71		359,71
medium (up to 10 MW)	289,98	/	289,98
large (up to 125 MW)	269,22	/	269,22

[2] The variable part of reference costs, which depends on generated MWh, shall be ignored for the purposes of this Decree.

4 Reference costs in RES generating plants using geothermal energy

Size category of generating plant	Fixed part of reference costs [EUR/MWh]	Variable part of reference costs [EUR/MWh][1]	Total reference costs [EUR/MWh]
micro (< 50 kW)			
small (< 1 MW)	152,47	/	**152,47**
medium (up to 10 MW)			
large (up to 125 MW)	[2]	/	[2]

[1] The variable part of reference costs, which depends on generated MWh, shall be ignored for the purposes of this Decree.

[2] The reference costs shall be determined for each individual case separately in the same way as for plants referred to in the second paragraph of Article 3 of this Decree.

5 Reference costs in RES generating plants using wood biomass

Reference costs cover the electricity generation using wood biomass from sources A1, A2 and A3, Annex V to this Decree.

For the use of wood biomass from source A1, Annex V to this Decree, bearing certificates of sustainable wood biomass production referred to in Article 12(2) of this Decree, the variable part of the reference costs given in points 5.1 and 5.2 of this annex shall be increased by 10%.

For the use of wood biomass from source A2, Annex V to this Decree, the variable part of the reference costs given in points 5.1 and 5.2 of this annex shall be decreased by 10%.

For the use of wood biomass from source A3, Annex V to this Decree, the variable part of the reference costs given in points 5.1 and 5.2 of this annex shall be decreased by 35%.

5.1 Reference costs in RES generating plants using wood biomass, where wood biomass represents more than 90% of the primary energy fuel input

Size category of generating plant	Fixed part of reference costs [EUR/MWh]	Variable part of reference costs [EUR/MWh][1,2]	Total reference costs [EUR/MWh]
micro (< 50 kW)	[3]	[3]	[3]
small (< 1 MW)	161,95	62,40	**224,35**
medium (up to 10 MW)	115,52	51,92	**167,43**
large (up to 125 MW)	[3]	[3]	[3]

[1] The variable part of reference costs shall be adjusted annually or more frequently based on the forecast reference market prices of wood biomass.

[2] Variable costs for year 2009

[3]. The reference costs shall be determined for each individual case separately in the same way as for plants referred to in the second paragraph of Article 3 of this Decree.

5.2 Reference costs in RES generating plants using wood biomass in co-firing with fuels of fossil origin, where wood biomass represents more than 5% of the total primary energy fuel input

Size category of generating plant	Fixed part of reference costs[1] [EUR/MWh]	Variable part of reference costs [EUR/MWh][2,3]	Total reference costs [EUR/MWh]
micro (< 50 kW)			
small (< 1 MW)	51,34	51,20	**102,54**
medium (up to 10 MW)			
large (up to 125 MW)	[4]	[4]	[4]

1 The fixed part of reference costs covers only the investment necessary for biomass co-firing.

[2] The variable part of reference costs shall be adjusted annually or more frequently based on the forecast reference market prices of wood biomass.

[3] Variable costs for year 2009.

[4] The reference costs shall be determined for each individual case separately in the same way as for plants referred to in the second paragraph of Article 3 of this Decree.

5.3 RES generating plants using wood biomass in co-firing with fuels of fossil origin, where wood biomass represents less than 5% of the total primary energy fuel input

For co-firing of biomass, where wood biomass represents less than 5% of the total primary energy fuel input, the variable reference costs shall be determined as the difference between the fuel costs respecting average price of wood biomass nationally and the average price of energy coal nationally. If co-firing is performed with other fuels, the reference costs shall be determined for each case separately in decisions allocating support.

Size category of generating plant	Fixed part of reference costs [EUR/MWh]	Variable part of reference costs[1,2] [EUR/MWh]	Total reference costs [EUR/MWh]
micro (< 50 kW)			
small (< 1 MW)	/	26,40	26,40
medium (up to 10 MW)			
large (up to 125 MW)			

[1] The variable part of reference costs shall be adjusted annually or more frequently based on the forecast reference market prices of wood biomass and coal.

[2] Variable costs for year 2009.

5.4 Adjusting the variable part of reference costs for RES generating plants using wood biomass

The variable part of reference costs shall be adjusted annually or more frequently based on the change of reference market prices of energy, published by Energy Agency'.

Based on the published methodology referred to in Article 6(3) of this Decree, the variable part of reference costs shall be adjusted in line with changes to the prices of wood biomass and energy coal in the reference prices of energy on the basis of the following equation:

$$VPRC\ (i) = I_{WB} \times VPRC\ (0)$$

where:

$VPRC\ (i)$ is the variable part of reference costs for the coming year in EUR/MWh,

$VPRC\ (0)$ *is the baseline variable part of reference costs for year 2009 in EUR/MWh,*

I_{WB} is the index of the wood biomass price, which on the basis of the Energy Agency's forecast reference prices of energy is determined as:

$$I_{WB} = P_{WB}\ (i) / P_{WB}\ (0)$$

where:

$P_{WB}\ (i)$ is the basic purchase price of wood biomass referred to in the Energy Agency's forecast for the coming year in EUR/kg

$P_{WB}\ (0)$ is the baseline purchase price for wood biomass for year 2009 in EUR/kg.

The total reference costs shall also be changed in line with the changed variable part of reference costs.

6 Reference costs in RES generating plants using biogas

6.1 **Reference costs in RES generating plants using biogas obtained from biomass**[1]

Reference costs cover the generation of electricity from biogas produced from biomass that presents more than 75% of volume of sources B1, B2 of Annex V of this Decree.

Size category of generating plant	Fixed part of reference costs [EUR/MWh]	Variable part of reference costs [EUR/MWh][2,3],	Total reference costs [EUR/MWh]
micro (< 50 kW)	118,72	41,33	**160,05**
small (< 1 MW)	111,75	44,00	**155,76**
medium (up to 10 MW)	96,18	44,59	**140,77**
large (up to 125 MW)	/	/	/

[1] Reference costs at generating plants using biogas through the use of one or more types of substrate.

[2] The variable part of reference costs shall be adjusted annually or more frequently based on the forecast reference market prices of maize silage substrate.

3 Variable costs for year 2009

6.2 **Reference costs in RES generating plants using biogas obtained from biodegradable waste**

Reference costs cover the generation of electricity from biogas produced from biodegradable waste that contains more than 25% of volume share of sources C1, C2 of Annex V of this Decree.

Size category of generating plant	Fixed part of reference costs [EUR/MWh]	Variable part of reference costs [EUR/MWh][1],	Total reference costs [EUR/MWh]
micro (< 50 kW)	139,23	/	139,23
small (< 1 MW)			
medium (up to 10 MW)	129,15	/	129,15
large (up to 125 MW)	/	/	/

[1] The variable part of reference costs, which depends on generated MWh, shall be ignored for the purposes of this Decree.

6.3 Adaptation of the variable part of the reference costs for RES generating plants using biogas produced from biomass

The variable part of reference costs shall be adjusted annually or more frequently based on the Energy Agency's forecast reference market prices of energy.

Based on the published methodology referred to in Article 6(3) of this Decree, the variable part of reference costs shall be adjusted in line with changes to the prices of maize silage substrate in the forecast reference market prices of energy on the basis of the following equation:

$$VPRC\,(i) = I_S \times VPRC\,(0) + N \times (1 - I_S)$$

where:

VPRC(i) is the variable part of reference costs for the coming year in EUR/MWh,

VPRC (0) is the baseline variable part of reference costs for year 2009 in EUR/MWh,

I_S is the index of the substrate price, which on the basis of the forecast reference market prices of energy is determined as:

$$I_S = P_S\,(i) \,/\, P_S\,(0)$$

where:

$P_S(i)$ is the price of maize silage substrate in the Energy Agency's forecast for the coming year in EUR/t,

$P_S(0)$ is the baseline price of maize silage substrate (December 2008) in EUR/t,

N is the constant determination of *VPRC*:

$N = 11{,}90$ *(micro and small generating plants)*

$N = 7{,}14$ *(medium generating plants)*

The total reference costs shall also be changed in line with the changed variable part of reference costs.

7 Reference costs in RES generating plants using biogas from the processing of wastewater treatment plants sludge

Reference costs cover the generation of electricity from biogas produced from sludge of source C3 of Annex V of this Decree.

Size category of generating plant	Fixed part of reference costs [EUR/MWh]	Variable part of reference costs [EUR/MWh]1	Total reference costs [EUR/MWh]
micro (< 50 kW)	85,84	/	**85,84**
small (< 1 MW)	74,42	/	**74,42**
medium (up to 10 MW)	66,09	/	**66,09**
large (up to 125 MW)	/	/	/

[1] The variable part of reference costs, which depends on generated MWh, shall be ignored for the purposes of this Decree.

8 Reference costs in RES generating plants using landfill gas

Size category of generating plant	Fixed part of reference costs [EUR/MWh]	Variable part of reference costs [1] [EUR/MWh]	Total reference costs [EUR/MWh]
micro (< 50 kW)	99,33	/	**99,33**
small (< 1 MW)	67,47	/	**67,47**
medium (up to 10 MW)	61,67	/	**61,67**
large (up to 125 MW)	/	/	/

[1] The variable part of reference costs, which depends on generated MWh, shall be ignored for the purposes of this Decree.

9 Reference costs in RES generating plants using biodegradable waste

Reference costs cover the generation of electricity from biodegradable waste of sources C1, C2, C3 and C4 of Annex V of this Decree.

Size category of generating plant	Fixed part of reference costs [EUR/MWh]	Variable part of reference costs[1] [EUR/MWh]	Total reference costs [EUR/MWh]
micro (< 50 kW)	–	–	**–**
small (< 1 MW)	77,44	/	**77,44**
medium (up to 10 MW)	74,34	/	**74,34**
large (up to 125 MW)	[2]	/	**[2]**

[1] The variable part of reference costs, which depends on generated MWh, shall be ignored for the purposes of this Decree.

[2] The reference costs shall be determined for each individual case separately in the same way as for plants referred to in the second paragraph of Article 3 of this Decree.

ANNEX II

Setting the prices of electricity for guaranteed purchase

With regard to the RES used and the size category of the RES generating plant, the guaranteed purchase prices are identical to the reference costs set out in Annex I, and comprise two parts:

1. **the fixed part of the guaranteed purchase price is identical to the fixed part of the reference costs, and does not change throughout the duration of the contract on guaranteed purchase;**
2. **the variable part of the guaranteed purchase price is identical to the variable part of the reference costs, where this is determined, and is adjusted annually or more frequently upon publication of the reference prices of fuel.**

For RES generating plants for which the variable part of the guaranteed purchase price is not determined, only the price of guaranteed purchase is indicated.

Guaranteed purchase prices for electricity in contracts on guaranteed purchase

1 Guaranteed purchase prices for electricity from RES generating plants using hydroenergy

Size category of generating plant	Guaranteed purchase price[EUR/MWh]
micro (< 50 kW)	**105,47**
small (< 1 MW)	**92,61**
medium (up to 5 MW)	**82,34**

2 Guaranteed purchase prices for electricity from RES generating plants using wind energy

Size category of generating plant	Guaranteed purchase price[EUR/MWh]
micro (< 50 kW)	
small (< 1 MW)	**95,38**
medium (up to 5 MW)	

3 Guaranteed purchase prices for electricity from photovoltaic generating plants

3.1 Guaranteed purchase prices for electricity from photovoltaic generating plants on buildings

	Guaranteed purchase price[EUR/MWh]
Size category of generating plant	on buildings
micro (< 50 kW)	**415,46**
small (< 1 MW)	**380,02**
medium (up to 5 MW)	**315,36**

3.2 Guaranteed purchase prices for electricity from other photovoltaic generating plants

Size category of generating plant	Guaranteed purchase price[EUR/MWh]
micro (< 50 kW)	**390,42**
small (< 1 MW)	**359,71**
medium (up to 5 MW)	**289,98**

4 Guaranteed purchase prices for electricity from RES generating plants using geothermal energy

Size category of generating plant	Guaranteed purchase price[EUR/MWh]
micro (< 50 kW)	
small (up to 1 MW)	152,47
medium (up to 5 MW)	

Where the annual useful heat deployment exceeds 30% of the input geothermal energy, the RES generating plant shall be eligible to supplement in amount of 10% of operating support for this RES generating plant.

5 Guaranteed purchase prices for electricity from RES generating plants using wood biomass where wood biomass represents more than 90% of the primary energy fuel input

Reference costs cover the generation of electricity from biomass of sources A1, A2, A3 and biomas of source B1 Annex V of this Decree.

Size category of generating plant	Fixed part of guaranteed purchase price [EUR/MWh]	Variable part of guaranteed purchase price [EUR/MWh]	Guaranteed purchase price[EUR/MWh]
micro (< 50 kW)	[1]	[1]	[1]
small (< 1 MW)	161,95	62,40	**224,35**
medium (up to 5 MW)	115,52	51,92	**167,43**

[1] This is determined for each individual case separately in the same way as for plants referred to in the second paragraph of Article 3 of this Decree.

6 Guaranteed purchase prices for electricity from RES generating plants using biogas

Where the annual useful heat deployment exceeds 15% of the input biogas energy, the RES generating plant shall be eligible to supplement in amount of 10% of operating support for this RES generating plant. Heat from biogas plants used for obtaining biogas shall not be deemed to be useful heat.
Where manure and slurry represent annually more than 30% of the volume of substrate for obtaining biogas, the RES generating plant shall be eligible to supplement in amount of 10% of operating support for this RES generating plant.

Where manure and slurry represent annually more than 70% of the volume of substrate for obtaining biogas, the RES generating plant with nominal electrical capacity of up to 200 kW shall be eligible to supplement in amount of 20% of operating support for this RES generating plant.

6.1 Reference costs in RES generating plants using biogas obtained from biomass

Size category of generating plant	Fixed part of guaranteed purchase price	Variable part of guaranteed purchase price	Guaranteed purchase price[EUR/MWh]
	[EUR/MWh]	[EUR/MWh]	
micro (< 50 kW)	118,72	41,33	**160,05**
small (< 1 MW)	11,75	44,00	**155,76**
medium (up to 5 MW)	96,18	44,59	**140,77**

6.2 Reference costs in RES generating plants using biogas obtained from biodegradable waste

Size category of generating plant	Guaranteed purchase price
	[EUR/MWh
micro (< 50 kW)	139,23
small (< 1 MW)	
medium (up to 5 MW)	129,15

7 Guaranteed purchase prices for electricity from RES generating plants using gas derived from sludge from wastewater treatment plants

Size category of generating plant	Purchase price [EUR/MWh]
micro (< 50 kW)	**85,84**
small (< 1 MW)	**74,42**
medium (up to 5 MW)	**66,09**

Where the annual useful heat deployment exceeds 15% of the input energy of biogas derived from sludge from wastewater treatment plants, the RES generating plant shall be eligible to supplement in amount of 10% of operating support for this RES generating plant. Heat from biogas plants used for obtaining biogas shall not be deemed to be useful heat.

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8 Garanteed purchase prices for electricity from RES generating plants using landfill gas

Size category of generating plant	Purchase price [EUR/MWh]
micro (< 50 kW)	**99,33**
small (< 1 MW)	**67,47**
medium (up to 5 MW)	**61,67**

Where the annual useful heat deployment exceeds 15% of the input energy of landfill gas, the RES generating plant shall be eligible to supplement in amount of 10% of operating support for this RES generating plant.

9 Guaranteed purchase prices for electricity from RES generating plants using biodegradable waste

Size category	Purchase price[EUR/MWh]
micro (< 50 kW)	/
small (< 1 MW)	**77,44**
medium (up to 5 MW)	**74,34**

Where the annual useful heat deployment exceeds 30% of the input energy of biodegradable waste, the RES generating plant shall be eligible to supplement in amount of 10% of operating support for this RES generating plant.

ANNEX III

Setting the level of operating support for electricity

Level of operating support

Operating support shall be determined by deducting from the total reference costs for an RES generating plant and size category given in Annex I, which are adjusted annually or more frequently depending on the reference costs of fuels, the price that electricity from the RES generating plant could obtain on the electricity market.

The level of operating support in EUR/MWh is determined by the following equation:

operating support (year i) = (reference costs (year i)) – (reference price of electricity (year i) × B

The reference price of electricity is the anticipated market price of electricity given in the Energy Agency's forecast reference market energy prices.

Factor B reflects the features of operation of individual types of RES generating plant and thereby the quality of electricity production and market strength, which affect the obtained price of electricity from such generating plants in the electricity market.
Exceptionally, for biomass generating plants for co-firing with the fossil fuel in which the biomass is less than 5% of the total input of primary energy, the operational support is equal to the respective reference costs.

Factor B for RES generating plant size categories

Size category	Hydro energy	Wind	Solar energy	Geothermal energy	Biomass	Biogas	Wastewater treatment plant sludge gas	Landfill gas	Biodegradable waste
micro (< 50 kW)	0.86	0.80	0.88	0.92	0. 88	0.88	0.92	0.92	0.92
small (< 1 MW)	0.86	0.80	0.88	0.92	0.91	0.91	0.92	0.92	0.92
medium up (to 10 MW)	0 90	0. 80	0.91	0.92	0.92	0.92	0.92	0.92	0.92
large (up to 125 MW)	0.90	0.86	1	0.92	0.92	1	1	1	0.92

1 Operating support for electricity from RES generating plants using hydroenergy

Size category of generating plant	Operating support [EUR/MWh]
micro (< 50 kW)	**49,57**
small (< 1 MW)	**36,71**
medium up to 10 MW	**23,84**
large up to 125 MW	**18,07**

2 Operating support for electricity produced by RES generating plants using wind energy

Size category of generating plant	Operating support [EUR/MWh]
micro (< 50 kW)	
small (< 1 MW)	**43,38**
medium up to 10 MW	
large up to 125 MW	**30,84**

3 Operating support for electricity produced by photovoltaic generating plants

In determining the level of operating support, account shall be taken of the reference costs in accordance with the first paragraph of point 3 of Annex I.

3.1 Operating support for electricity produced by photovoltaic generating plants on buildings

Size category of generating plant	Operating support [EUR/MWh] on buildings
micro (< 50 kW)	**358,26**
small (< 1 MW)	**322,82**
medium (up to 10 MW)	**256,21**
large (up to 125 MW)	**215,71**

3.2 Operating support for electricity produced by other photovoltaic generating plants

Size category of generating plant	Operating support [EUR/MWh]
micro (< 50 kW)	**333,22**
small (< 1 MW)	**302,51**
medium (up to 10 MW)	**230,83**
large (up to 125 MW)	**204,22**

4 Operating support for electricity produced by RES generating plants using geothermal energy[1]

Size category of generating plant	Operating support [EUR/MWh]
micro (< 50 kW)	

small (< 1 MW)	**92,67**
medium (up to 10 MW)	
large (up to 125 MW)	[1]

[1] This is determined for each individual case separately in the same way as for plants referred to in the second paragraph of Article 3 of this Decree.

Where the annual useful heat deployment exceeds 30% of the input geothermal energy, the RES generating plant shall be eligible for payment of a supplement amounting to 10% of the operating support.

5 Operating support for electricity produced by RES generating plants using Wood biomass

5.1 Operating support for electricity from RES generating plants using wood biomass where wood biomass represents more than 90% of the primary energy fuel input

Size category of generating plant	Operating support [EUR/MWh]
micro (< 50 kW)	[1]
small (< 1 MW)	**165,20**
medium (up to 10 MW)	**107,63**
large (up to 125 MW)	[1]

[1] This is determined for each individual case separately in the same way as for plants referred to in the second paragraph of Article 3 of this Decree.

5.2 Operating support for electricity from RES generating plants using wood biomass in co-firing with fuels of fossil origin, where biomass represents more than 5% of the energy fuel input

Size category of generating plant	Operating support [EUR/MWh]
micro (< 50 kW)	
small (< 1 MW)	**42,74**
medium (up to 10 MW)	

large (up to 125 MW)	[1]

[1] This is determined for each individual case separately in the same way as for plants referred to in the second paragraph of Article 3 of this Decree.

5.3 Operating support for electricity from RES generating plants using wood biomass in co-firing with fuels of fossil origin, where biomass represents less than 5% of the energy fuel input

Size category of generating plant	Operating support [EUR/MWh]
micro (< 50 kW)	
small (< 1 MW)	26,40
medium (up to 10 MW)	
large (up to 125 MW)	

6 Operating support for electricity produced by RES generating plants using biogas

6.1 Operating support for electricity from RES generating plants using biogas obtained from biomass

Size category of generating plant	Operating support [EUR/MWh]
micro (< 50 kW)	**102,85**
small (< 1 MW)	**96,61**
medium (up to 10 MW)	**80,97**
large (up to 125 MW)	/

6.2 Operating support for electricity from RES generating plants using biogas obtained from biodegradable waste

Size category of generating plant	Operating support [EUR/MWh]
micro (< 50 kW)	/

small (< 1 MW)	**80,08**
medium (up to 10 MW)	**69,35**
large (up to 125 MW)	**/**

Where the annual useful heat deployment exceeds 15% of the input biogas energy, the RES generating plant shall be eligible for payment of a supplement amounting to 10% of the operating support. Heat from biogas plants used for obtaining biogas shall not be deemed to be useful heat.

Where manure and slurry represents annually more than 30% of the volume of substrate for obtaining biogas, the RES generating plant shall be eligible for payment of a supplement amounting to 10% of the operating support.

Where manure and slurry represents annually more than 70% of the volume of substrate for obtaining biogas, RES generating plants with nominal electrical capacity of up to 200 kW shall be eligible for payment of a supplement amounting to 20% of the operating support.

7 Operating support for electricity produced by RES generating plants using gas obtained from sludge from wastewater treatment plants

Size category of generating plant	Operating support [EUR/MWh]
micro (< 50 kW)	**26,04**
small (< 1 MW)	**14,62**
medium (up to 10 MW)	**6,94**
large (up to 125 MW)	**/**

Where the annual useful heat deployment exceeds 15% of the input biogas obtained from sludge from wastewater treatment plants, the RES generating plant shall be eligible for payment of a supplement amounting to 10% of the operating support.

8 Operating support for electricity produced by RES generating plants using landfill gas

Size category of generating plant	Operating support [EUR/MWh]
micro < 50 kW	**39,53**
small < 1 MW	**7,67**

medium up to 10 MW	**2,52**
large up to 125 MW	**/**

Where the annual useful heat deployment exceeds 15% of the input landfill gas energy, the RES generating plant shall be eligible for payment of a supplement amounting to 10% of the operating support. Heat used to obtain biogas shall not be deemed to be useful heat.

9 Operating support for electricity produced by RES generating plants using biodegradable waste

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Size category of generating plant	Operating support [EUR/MWh]
micro (< 50 kW)	**/**
small (< 1 MW)	**17,64**
medium (up to 10 MW)	**14,54**
large (up to 125 MW)	**/**

Where the annual useful heat deployment exceeds 30% of the input biodegradable waste energy, the RES generating plant shall be eligible for payment of a supplement amounting to 10% of the operating support.

ANNEX IV

APPLICATION FORM FOR A DECISION ALLOCATING SUPPORT FOR ELECTRICITY PRODUCED FROM RENEWABLE ENERGY SOURCES

1.0 Information on the generating plant
1.1 Name of generating plant
1.2 Location of generating plant
1.3 Number of declaration for generating plant

2.0 **General information on applicant**[1]
2.1 Name and surname and details of contact person:
2.2 Address
2.3 tel.: ....., fax: ....., e-mail
2.4 Applicant's tax number

[1] If the applicant doesn't itself fully own RES generating plant, he has to attach a certified power of representation from all other owners.
If the applicant is the operator of the RES generating plant, he has to attach a certified power of representation from owner or all other owners.

3.0 Information on annual generation of elelctricity fromm RES generating plant - (estimate)
3.1 Net electricity generated in generating plant
3.2 Net electricity generated in generating plant with guarantee of origin *(gross production with guarantee of origin – own use of generating plant)*
3.3 Net electricity generated in generating plant with guarantee of origin, used for own consumption

4.0 Main fuel
4.1 Main fuel[2]:

4.2 Auxiliary fuel[3]: type, propart relative to main fuel

[2] *For biomass, indicate the predominant type of biomass in accordance with Article 12 of this Decree, and for biogas the propart of manureand slurry.*
[3] *For Auxiliary fuel indicate the type and propart relative to main fossil fuel.*

5.0 Overview of measurement and registering devices for electricity for which support is received

In a single-line scheme with an overview of measurement points for measuring energy magnitudes for obtaining a declaration for the generating plant, the measurement point for measuring and registering all net electricity generated in RES generating plant must also be entered. The number, point of installation and type of measurement devices must be in compliance with

the decree on compulsory measurements at generating plants that receive guarantees of origin and support for electricity production.

Information on the measurement and registering device

	Name of manufacturer and type	Serial number	Measurement scope/unit	Year of installation	Installation point in scheme	Most recent check, approval
Net electricity						
Useful heat						
RES fuel						
Fuel of fossil origin						

6.0 Information on construction and start-up of RES generating plant[4]

6.1 Copy of building permit for the building in which the RES generating plant is installed to meet the prescribed condition for a building permit

6.2 Date of issue of use permit

6.3 Date of contract on access to electricity grid

6.4 Copy of use permit

6.5 Copy of contract on connection to grid

[4]Complete and attach only if there have been changes subsequent to the issuing of the declaration and a new declaration is not necessary or the installation of RES generating plant was the condition to obtain the building permit.

7.0 Information on the level of capital investmen and investment in the refurbishment of the generating plant and on subsidies received

7.1 RES generating plant [5]

The level of capital investment drawn up in accordance with the methodology for determining reference costs:

Year of capital investment:

authorized estimator of machinery and equipment value /Licensed auditor[6]:

Name and surname, signature, date

[5]*Point 7.1 should only be completed for plants referred to in the final paragraph of Article 3 of this Decree.*

[6] *For micro generating plants (size category 1), copies of contracts and bills relating to construction of the generating plant shall suffice for demonstrating of capital investment.*

7.2 Refurbished RES generating plants[7]

Level of investment in refurbishment

Year of capital investment

authorized estimator of machinery

and equipment value/Licensed auditor[8]
Name and surname, signature, date

[7] *Point 7.2 should only be completed for plants referred to in Article 17 of this Decree.*

[8] *For micro generating plants (size category 1), copies of contracts and bills relating to construction of the generating plant shall suffice for demonstrating of capital investment.*

7.3 Information on the type and level of subsidies received
Type of subsidies received[9]
Date or period of receiving subsidies
Amount of subsidies received
Copy of official document on subsidies received

[9] *To describe the type of subsidies received the subsidy has to be declared, for example capital financial aid – returnable or non-returnable, interest rate of loans more favourable than usual rates, other.*

8.0 Type of support requested

8.1 Support as guaranteed purchase of electricity
8.2 Support as operating support

Place and date ……..

Signature of responsible officer of applicant

ANNEX V

Biomass that can be used for electricity production receiving support, broken down by source

Biomass source stage 1	Biomass source stage 2
A Wood biomass	A1 Wood from forests and plantations A2 Wood processing industry, by-products and residues A3 End-of-life wood
B Biomass from agriculture	B1 Energy crops B2 Biodegradable fraction of products, residues and waste
C Biodegradable biomass	C1 Biodegradable municipal waste C2 Biodegradable industrial waste C3 Sludge from wastewater treatment plants C4 Digestate from anaerobic treatment of biodegradable waste

A1 Wood from forests and plantations

Wood from forests and plantations covers wood from forests, parks, plantations of fast-growing tree and shrub species and other crops. It is only possible to reduce the size, remove the bark to dry or to moisten the wood in this category.

A2 By-products and residues from the wood processing industry

In this category wood by-products and residues from industrial production are classified. This fuel can be either chemically untreated (eg, residues in the removal of bark, sawing, shaping or compression) or are the residues of chemically treated wood, which does not contain heavy metals or halogenated organic compounds, derived from the use of timber protection substances or coatings.

A3 End-of-life wood

This category includes the End-of-life wood, which by the consumer or its user has already met its basic purpose, and is treated as waste. The End-of-life wood should not contain heavy metals or halogenated organic compounds, derived from the use of wood protective substances or coatings.

B1 Energy crops

Energy crops are wood or non-wood crops grown specifically for energy purposes

B2 Biodegradable fraction of products, residues and waste

This category includes biodegradable fraction of products, residues and waste from agriculture, including plant and animal substances.

C1, C2 Biodegradable municipal and industrial waste

Biodegradable municipal and industrial wastes are biodegradable fractions of industrial and municipal waste, which are allowed the be used of energy purposes pursuant to regulations on the waste management.

C3 Sludge from wastewater treatment plants

In this category waste sludge is classified, coming from municipal and industrial sewage plants.

C4 digestate from anaerobic treatment of biodegradable waste

ANNEX VI

Sustainability criteria for biofuels and bioliquids

Biofuels and bioliquids used in RES generating plants in fifth paragraph in Article 3.a of this Decree must fulfil the sustainability criteria set out in points 1. and 2., irrespective of whether the raw materials were cultivated inside or outside the territory of the Community.

However, biofuels and bioliquids produced from waste and residues, other than agricultural, aquaculture, fisheries and forestry residues, need only to fulfil the sustainability criteria of prescribed greenhouse gas emission savings.

1. Prescribed greenhouse gas emission savings of the use of biofuels and bioliquids

The greenhouse gas emission saving from the use of biofuels and bioliquids shall be at least 35 %.

With effect from 1 January 2017, the greenhouse gas emission saving from the use of biofuels and bioliquids shall be at least 50 %. From 1 January 2018 that greenhouse gas emission saving shall be at least 60 % for biofuels and bioliquids produced in installations in which production started on or after 1 January 2017.

In the case of biofuels and bioliquids produced by installations that were in operation on 23 January 2008, the first paragraph of this point shall apply from 1 April 2013.

2. Additional sustainability criteria for biofuels and bioliquids

2.1. Biofuels and bioliquids don't meet sustainability criteria if they are made from raw material obtained from land with high biodiversity value, namely land that had one of the following statuses in or after January 2008, whether or not the land continues to have that status:

(a) primary forest and other wooded land, namely forest and other wooded land of native species, where there is no clearly visible indication of human activity and the ecological processes are not significantly disturbed;

(b) areas designated:

- by law or by the relevant competent authority for nature protection purposes,
- for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by intergovernmental organisations or the International Union for the Conservation of Nature, unless evidence is provided that the production of that raw material did not interfere with those nature protection purposes;

(c) highly biodiverse grassland that is:

- natural, namely grassland that would remain grassland in the absence of human intervention and which maintains the natural species composition and ecological characteristics and processes, or
- non-natural, namely grassland that would cease to be grassland in the absence of human intervention and which is species-rich and not degraded, unless evidence is provided that the harvesting of the raw material is necessary to preserve its grassland status.

2.2. Biofuels and bioliquids don't meet sustainability criteria if the raw material is obtained from land with high carbon stock, namely land that had one of the following statuses in January 2008 and no longer has that status:

(a) wetlands, namely land that is covered with or saturated by water permanently or for a significant part of the year;

(b) continuously forested areas, namely land spanning more than one hectare with trees higher than five metres and a canopy cover of more than 30 %, or trees able to reach those thresholds *in situ*;

(c) land spanning more than one hectare with trees higher than five metres and a canopy cover of between 10 % and 30 %, or trees able to reach those thresholds *in situ*.

The provisions of point 2.2. shall not apply if, at the time the raw material was obtained, the land had the same status as it had in January 2008.

2.3. Biofuels and bioliquids don't meet sustainability criteria if they are made from raw material obtained from land that was peatland in January 2008, unless evidence is provided that the cultivation and harvesting of that raw material does not involve drainage of previously undrained soil.

2.4. Agricultural raw materials cultivated in the Community and used for the production of biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall be obtained in accordance with the requirements and standards under the provisions referred to under the heading "Environment" in part A and in point 9 of Annex II to Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers [UL L 30, 31.1.2009] and in accordance with the minimum requirements for good agricultural and environmental condition defined pursuant to Article 6(1) of that Regulation.

3. Until a general rule is issued, which will regulate the verification of compliance with sustainability criteria, electricity producers that use biofuels and other liquid biofuels have to send a report annually, by 31 January, to the Energy Agency on compliance with sustainability criteria for biofuels used in the past year. At the request of the Energy Agency the producers shall make available the approved data by suppliers of biofuels, which have been used in the preparation of reports, so that independent audits of the reports could be carried out.