

## Energy & Natural Resources - Finland

Renewable energy: challenges and opportunities for power producers

Contributed by [Krogerus Attorneys Ltd](#)

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### Background

The third EU climate and energy package has moved into its implementation phase in all EU member states. The package, which was agreed by the European Parliament and the European Council in December 2008, can be seen as a major turning point in EU climate policy. As a result of this agreement, the EU Renewable Energy Directive (2009/28/EC) came into force in June 2009. EU member states formulated their respective national renewable energy action plans and submitted them to the European Commission before the end of June 2010; Finland submitted its plan on June 30 2010. The deadline for member states to transpose the directive into national legislation was December 31 2010.

The emission reduction targets set out in the package – known as the '20-20-20 targets' – must be met by 2020. According to these targets, by 2020 EU greenhouse gas emissions must be cut by 20% compared to 1990 levels, 20% of all the energy consumed in the European Union must be generated by renewable sources and energy efficiency must be improved by 20%. According to the targets set out in Annex I of the EU directive, 38% of the energy consumed in Finland must be generated by renewable resources by 2020, an increase of almost 10% compared to 2005 figures (28.5% of energy consumed in Finland came from renewable sources in 2005).

### Legal framework

The Finnish action plan was partly implemented by the Act on the Promotion of Renewable Energy Generation (1396/2010), which came into force on January 1 2011. According to the act, feed-in tariffs may be granted in relation to electricity which is generated using wind power, biogas or wood-based biomass. Renewable energy power plants using these sources are eligible for such tariffs if they are new plants with a specific minimum production capacity, that have never previously received state aid. In addition, wind power, wood-based biomass, biogas and hydropower plants which are ineligible for tariffs may be eligible for fixed operating aid if they meet certain conditions set out in the act.

According to the Finnish action plan, wind power generation will be increased to 6 terawatt hours (TWh) by 2020. The use of biogas generation – the newest form of renewable energy – will reach 0.7TWh by the same year. The payable feed-in tariff for electricity produced by wind power, biogas or wood-based biomass will be calculated based on the difference between the legally confirmed guarantee price of electricity produced by using the abovementioned renewable energy resources and the three-month average market price for electricity in the marketplace in which the power plant is located.

The target price for electricity which is produced by using wind power, biogas or wood-based biomass must be set in advance by national law. In order to attract early investment in wind power plants, the target price for the feed-in tariff will be higher until the end of 2015. The first feed-in tariff period will be 12 years. In specific cases, biogas power plants may also be eligible for investment aid. This will be based on regional agricultural development programmes which are in place for the period from 2007 to 2013 and national investment aid programmes.

The latest changes to the action plan will focus on the usability of wood-based biomass or biogas fuels in combined heat and power (CHP) production and differentiated heat

Authors

[Timo Lankinen](#)



[Ville Hailikari](#)



production. Power production based on wood-based biomass is to be increased to 25 TWh a year by 2020. Power producers may apply for operating aid for CHP power production which uses wood-based biomass (ie, woodchips) as fuel. The amount of the tariff will be guaranteed for wood-based biomass CHP power production; the price will be variable and will follow the EU Emissions Trading Scheme allowances' three-month average market price.

### Planning and infrastructure

The national action plan seems to offer lots of opportunities for new businesses. However, future planning and infrastructure regulation may create certain challenges in relation to the efficient development of such energy production. Recent changes to the Act on Land Use and Construction (132/1999) enable new wind power plants to be added to municipal and town plans in areas which have not been reserved for this purpose in the regional plans. This development constitutes a major improvement in facilitating the establishment of new power plants. However, the traditional hierarchy of the different level plans has caused some legal uncertainty between the planning authorities and the power producers over the use of specific areas for wind power, given the lack of clear regulation in the regional plans. In June 2011 the Ministry of Environment issued a new proposal for guidelines on the interpretation of planning regulations but more detailed guidelines and interpretations are still required.

The tariffs relating to the connection and distribution of wind power on the national electricity grid and the areal distribution networks have given rise to discussions between wind power producers, the electricity grid and network companies in Finland. According to the Act on Electricity Markets (386/1995), network companies should allow neutral and non-discriminatory access at reasonable tariffs to the electricity grid and network for all users. The national grid's stated intention to raise its tariffs and tighten its contractual terms and conditions in relation to wind power plant connection is a worrying sign of the respective parties' different interests in developing wind power production in Finland.

### Comment

The implementation of the abovementioned targets creates new challenges and opportunities for stakeholders in the Finnish renewable energy sector. These stakeholders include EU member state governments, regional and municipal planning and licensing authorities, power producers, developers and builders of renewable energy power plants, the national electricity grid and distribution network companies, as well as the financial sector.

The legally binding targets in the EU climate and energy package have presented the national energy and environmental agencies and the regional and municipal planning and licensing authorities with a completely new set of challenges when considering the different interests of the various stakeholders. These interests should all be taken into account during administrative decision-making processes; the authorities must harmonise the various legal objectives in order to meet the targets set out in the third package.

Although all EU member states have made a great number of legislative and regulatory changes in order to help them meet the new climate and energy targets, they still face a major challenge to enable the renewable energy sector to grow without compromising the safety and functionality of the critical infrastructure. One way of moving forward in this respect would be to stage open, transparent and legally neutral talks between the authorities and other stakeholders in all relevant forums relating to the renewable energy sector. This would also challenge legal professionals around the world to seek a new approach towards regulation in order to establish harmonised goals relating to both economic growth and emissions reduction before the next round of global climate negotiations, which take place in Durban, South Africa in December 2011.

*For further information on this topic please contact [Timo Lankinen](mailto:timo.lankinen@krogerus.com) or [Ville Hailikari](mailto:ville.hailikari@krogerus.com) at Krogerus Attorneys Ltd by telephone (+358 29 000 6200), fax (+358 29 000 6201) or email ([timo.lankinen@krogerus.com](mailto:timo.lankinen@krogerus.com) or [ville.hailikari@krogerus.com](mailto:ville.hailikari@krogerus.com)).*

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