

GLOBAL RENEWABLE ENERGY Guide

- Belarus
- Bosnia & Herzegovina
- Brasil
- Croatia
- Czech Republic
- Estonia
- Finland
- France
- Georgia
- Germany
- Hungary
- Ireland
- Italy
- Japan
- Jordan
- Kazakhstan
- Kyrgyzstan
- Latvia
- Lithuania
- Macedonia
- Mexico
- Montenegro
- Poland
- Romania
- Russia
- Serbia
- Slovakia
- Turkey
- United Arab Emirates
- United Kingdom
- United States of America
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GLOBAL RENEWABLE ENERGY Guide

2015

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CONTENTS

1- BELARUS,	
<i>Vlasova Mikbel & Partners</i>	4
2- BOSNIA & HERZEGOVINA,	
<i>Huskić Law Office</i>	14
3- BRAZIL,	
<i>Machado, Meyer, Sendacz e Opice Advogados</i>	25
4- CROATIA,	
<i>Marić & Co</i>	41
5- CZECH REPUBLIC,	
<i>White & Case (Europe) LLP</i>	55
6- ESTONIA,	
<i>Cobalt Law Office</i>	59
7- FINLAND,	
<i>Asianajotoimisto White & Case Oy</i>	64
8- FRANCE,	
<i>White & Case LLP</i>	73
9- GEORGIA,	
<i>Mgaloblishvili Kipiani Dzidzighuri (MKD)</i>	83
10- GERMANY,	
<i>White & Case LLP</i>	90
11- HUNGARY,	
<i>Lakatos, Köves and Partners</i>	104
12- IRELAND,	
<i>Arthur Cox</i>	112
13- ITALY,	
<i>Clifford Chance</i>	125
14- JAPAN,	
<i>White & Case LLP</i>	140
15- JORDAN,	
<i>Ali Sharif Zu'bi Advocates & Legal Consultants</i>	150
16- KAZAKHSTAN,	
<i>Dentons Kazakhstan LLP</i>	154
17- KYRGYZSTAN,	
<i>Kalikova & Associates</i>	164
18- LATVIA,	
<i>Klavins Ellex</i>	170
19- LITHUANIA,	
<i>Ellex</i>	176
20- MACEDONIA,	
<i>Kimova Law Office</i>	190

21- MEXICO,	
<i>White & Case LLP</i>	194
22- MONTENEGRO,	
<i>Law Office Vujacic</i>	205
23- POLAND,	
<i>White & Case</i>	212
24- ROMANIA,	
<i>Tuca Zbarcea & Asociatii</i>	219
25- RUSSIA,	
<i>White & Case LLC</i>	239
26- SERBIA,	
<i>Marić & Co</i>	250
27- SLOVAKIA,	
<i>White & Case s.r.o</i>	260
28- TURKEY,	
<i>Çakmak Avukatlık Bürosu</i>	275
29- UNITED ARAB EMIRATES,	
<i>White & Case LLP</i>	284
30- UNITED KINGDOM,	
<i>White & Case LLP</i>	288
31- UNITED STATES OF AMERICA,	
<i>White & Case LLP</i>	308
32- URUGUAY,	
<i>Ferrere</i>	318

FOREWORD

ÇAKMAK PUBLISHING is pleased to publish this 2015 edition of the *Global Renewable Energy Guide*, which has been published annually since 2010.

Global Renewable Energy Guide is designed to provide an overview of applicable legislation and available incentives to renewable energy companies worldwide. It will aid investors, lenders and government agencies in understanding and comparing relevant provisions from different jurisdictions.

The publication maintains a Q&A format with a common questionnaire set by the editors and answered by leading practitioners from 32 jurisdictions around the world.

The following are notable observations from this 2015 edition of the *Guide* regarding the regulatory regime and available incentives for renewable energies in the 32 jurisdictions explored:

- Most of the countries, 20 out of 32, have an independent regulatory authority to supervise and regulate the electricity sector, including renewable energies, while the remaining 12 countries opt for regulation of the electricity sector by a Ministry.
- Most of the countries, 25 out of 32, provide for tax advantages for the generation of electricity from certain or all types of renewable energy sources.
- Purchase guarantees (feed-in tariffs) or similar support mechanisms are available in most of the countries, 24 out of 32.
- The ratio of ensuring a minimum price for the electricity generated by renewable energy companies is high as well (22 countries out of 32 countries).
- In 19 out of the 32 countries, priority for connection to and/or usage of the transmission and/or distribution system is provided for renewable energy companies.
- 9 out of the 32 countries provide for additional incentives for the domestic manufacturing of equipment and materials.

We gratefully acknowledge the contributions of all the authors of this publication, who have been selected for their recognized expertise in the field of renewable energy law, and thank them for making this Guide a reality.

Av. Mesut Çakmak
Av. Dr. Çağdaş Evrim Ergün
Editors
Ankara, October 2015

HUNGARY



Péter Köves



Péter Lakatos



Szabolcs Mestyán

LAKATOS, KÖVES AND PARTNERS

GENERAL

1. What is the nature and importance of the renewable energy in your country?

Although renewable energy has not been in the foreground of political debates, renewable energy sources are seen as opportunities for the country to develop new economic sectors. Their development may serve as a solution to recent economic difficulties because it has the potential to create numerous “green-collar” jobs. More broadly, it could also provide a solution to national and global sustainability and environmental preservation issues. In effect, the government has adopted multiple strategies to utilize the country’s renewable resources.

As a member of the European Union, Hungary is committed, under the EU Renewable Energy Directive, to increasing the share of renewable energy sources in its energy production. Under the Hungarian Renewable Energy Action Plan (otherwise known as National Action Plan or NAP), Hungary has set itself a target that exceeds the one set by EU directives. More specifically, the government is committed to achieving a 14.65% share of renewable energy sources in the total energy production by 2020.

In 2013 9.22% of the electricity generated in Hungary was produced by renewable energy sources.

The National Action Plan (“NAP”), enacted in 2010, is an ambitious guide that seeks to replace the state’s antiquated economic model – which relied too heavily on fossil fuels – with a modern “green” economic model. The NAP sets out measures with a long-term outlook. The NAP has three main objectives: (i) to optimize security of supply by developing renewable energy sources in order to reduce the country’s dependence on energy imports, (ii) to develop environmental sustainability and climate protection, and (iii) to promote competitiveness. Ultimately, the NAP attempts to utilize the country’s natural, economic, social, cultural and geopolitical assets in order to reach the goals it sets for the state. In the long-term, the NAP should serve as the basis for an Act on sustainable energy management, which will stipulate precise measures and a framework for the sustainable development of Hungary’s economy.

The National Energy Strategy and the New Széchenyi Plan, both adopted in 2011, cite the development of a green economy as a key point in the recovery and expansion of Hungary’s economy. Among other suggestions, these documents emphasize the importance of increasing the use of renewable energy sources in

order to achieve a sustainable energy supply. In accordance with these efforts, recent renewable energy projects include a new waste and bio-mass processing unit in the Mátra Power Plant with a value of HUF 2 billion; the construction of a bio-gas power plant in Tatabánya valued at HUF 3 billion; and the construction of a solar power plant near Mátra Power Plant with a value of HUF 6.4 billion.

Despite the ambitious targets set by the Government, Hungary remains dependent on energy imports in particular with respect to natural gas which, combined with coal and nuclear energy, accounts for approximately 90% of its energy mix. The lengthy permitting procedures, high costs of grid connection and insufficient grid capacity hinder the full utilization of the growth potential of the renewable energy sector. Still, thanks to its geographical location, Hungary has a relatively strong resource of solar power, an excellent bio-energy potential and large reserves of geothermal energy, all of which could lure further investments, if combined with a more flexible administrative environment and less investment barriers.

2. What is the definition and coverage of renewable energy under the relevant legislation?

Renewable energy is defined by Section 3 (45) of Hungary's Act No. LXXXVI of 2007 on Electricity ("Electricity Act") as energy from a renewable, non-fossil and non-nuclear energy source such as solar, wind, geothermic energy, wave, tide or hydro energy, biomass or other energy source either directly or indirectly generated from biomass, landfill gas, gas from a sewage treatment facility and biogas. Aerothermal energy is also qualified as renewable energy by Decree No. 1/2012 (I.20.) of the Ministry for National Development on the calculation methodology of the share of energy from renewable sources, which

implements the definition of the European Directive 2009/28/EC on the promotion of the use of energy from renewable sources.

REGULATION

3. How is the renewable energy sector regulated? What are the principal laws and regulations?

General regulatory framework

The Electricity Act sets out a framework that regulates the production of electricity through renewable energy sources. With respect to renewable energy producers, the Act regulates the establishment of new energy capacities, the access of energy producers to the electricity network (the grid) and the licensing of power plants. The framework tries to promote the production of electricity through renewable energy sources by reducing some of those producers' input costs. For example, authorized network operators bear a portion of the costs associated with required technical adaptations to the public utility system, which are necessary to integrate renewable energy producers into the electricity network.

In order to promote the use of renewable energy sources, the Electricity Act imposes a purchasing obligation which guarantees renewable energy producers a certain level of income for their investment. Government Decree No. 389/2007 (XII. 23.) sets out the rules on the feed-in obligation and feed-in tariffs of electricity produced from renewable energy resources, or from waste and electricity generated in co-generation facilities. Decree No. 63/2013. (X. 29.) of the Ministry for National Development further details the rules on the distribution of electricity falling under the feed-in obligation and on the methodology for determining prices to be applied in the course of distribution.

The Electricity Act also designates the Hungarian Energy and Public Utility Regulatory Authority as the main regulatory authority in the Hungarian energy market.

Specific rules for wind and biofuel

As regards wind energy, Decree No 33/2009 (VI. 30.) of the Ministry for Transportation, Communications and Energy sets out the conditions for the announcement of tenders to establish wind power capacities and the minimum requirements in such tenders, and the rules of procedure in such tendering.

As far as biofuel is concerned, the European Union's Renewable Energy Directive (2009/28/EC) on the promotion of the use of energy from renewable sources and the Fuel Quality Directive (2009/30/EC) on the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions have been implemented in Hungary by Act No. CXVII of 2010. On the basis of this Act, the requirements for sustainable biofuel production are further detailed by Government Decree No. 343/2010.

4. What are the principal regulatory bodies in the renewable energy sector?

The main regulatory authority in the Hungarian energy market is the Hungarian Energy and Public Utility Regulatory Authority ("MEKH"). MEKH is an independent regulatory body which means that it enjoys wide discretion in exercising its competency, and the Ministry for National Development as MEKH's supervisory organ has limited powers over it (e.g. neither MEKH's decision can be modified or repealed by the Ministry, nor can MEKH be forced to commence proceedings).

In the renewable energy sector the competence of MEKH extends to (i) approving and repealing energy licenses and supervising their observation; (ii) supervising the energy market including market abuse and protect customers;

(iii) setting the amount and duration of electricity off-take obligation; (iv) setting charges for system usage and prices in regulated markets; (v) issuing the guarantee of origin of renewable energy; (vi) rendering decisions in relation to the daily operation of a licensee (e.g. approve its merger, demerger or internal codes).

Besides MEKH, regulatory powers are also exercised by the Government and particularly by the Ministry for National Development in the form of adopting decrees for the implementation of sectoral energy acts (e.g. Decree No. 1/2012 of Ministry for National Development on the Calculation of the Proportion of Renewable Energy or Government Decree No. 389/2007 on the Off-Take Obligation and the Price of Electricity from Renewable Sources). As decision-making regarding long-term projects and strategic objectives also falls within the competence of the Government and the Ministry, they can substantially influence the market indirectly (e.g. by the approval of the Hungarian Renewable Energy Action Plan 2010-2020).

5. What are the main permits/licenses required for renewable energy projects?

The permits/licenses required for renewable energy projects do not substantially differ from the permits/licenses required for energy projects generally. Accordingly, every renewable energy project needs general, non-energy-related permits and special, energy-related permits.

The general permits mainly cover the (i) environmental permits (issued by the environmental authority if the project has an effect on the environment); (ii) water usage permits (issued by the disaster prevention authority if the project involves water-related work or establishment of water facility); (iii) building permits (issued by the building authority). Before planning a renewable energy project, it is also advisable to consult the local municipalities affected, as they have the authority

to designate areas within their territories where the installation of energy projects is possible.

The installation and commencement of the operation of power plants also require special energy-related permits. Furthermore, a change in the nominal capacity of each power plant is subject to special permits. With respect to special permits, the MEKH acts as the administrative authority and issues licenses. Licenses are mainly differentiated by the nominal capacity of the power plants (regardless of whether they generate energy from renewable or non-renewable sources) and fall into the following categories: (i) simplified license for power plants with a nominal capacity of 0.5 MW or above; (ii) normal license for power plants with a nominal capacity of 50 MW or above. In the case of power plants with nominal capacity of 500 MW or above, a preliminary license must also be procured which may be granted upon the affirmative resolution of the Parliament.

In accordance with the provisions of Government Decree No. 389/2007, renewable energy projects may participate in the off-take system (for a description of this system, please refer to Section No. 8) if the licensee submits its request and MEKH approves that. In this case, MEKH determines the amount and the price of the electricity eligible for feed-in in the off-take system. It is noteworthy that, for wind turbines, a slightly different procedure applies as MEKH may issue licenses only through tenders.

6. Is there a category of “license-exempt generation”? If so, does it cover some types of renewable energy based generation?

The Electricity Act provides for license exemption for energy generation, regardless of whether from renewable or non-renewable sources, for (i) household power plants (means a micro power plant connected to a low voltage system with an interconnection capacity of less than 50 kVA at any given connection point); and

(ii) power plants with a nominal capacity below 0.5 MW. For both of these power plants, neither a general building permit (except for power plants with a nominal capacity below 0.5 MW that operate in Natura 2000 or other protected sites or which connect to a power installation) nor special permits are needed. However, other statutory requirements are still applicable to this license-exempt energy generation (e.g. there shall be a connection point to the main electricity grid system).

Due to the governmental incentives and economic considerations, household power plants have become widespread in the area of solar and wind energy, while power plants with a nominal capacity below 0.5 MW are common in the field of the water and bio-gas energy. A recent amendment of Act LXXXV of 2011 on Environmental Protection Product Charges imposed a duty on solar cells, thus the growth rate of solar power is likely to decrease.

INCENTIVES

7. Are tax advantages available to renewable energy generation companies?

Development tax incentives in the form of tax allowances may be granted under Act LXXXI of 1996 on Corporate Tax and Dividend Tax (“Corporate Tax Act”) to taxpayers who install and operate ‘independent environment protection projects’ with a minimum value of HUF 100 million. An investment may qualify as an eligible project if it exclusively serves the environment protection and rehabilitation objectives as defined by Act LIII of 1995 on the General Rules of Environmental Protection. Such objectives include: (i) the reduction of the use and pollution of the environment, the prevention of damaging the environment and its rehabilitation; (ii) the protection of human health and the improvement of the environmental conditions of life quality; and (iii) the preservation and conservation of natural resources, and rational and efficient management

that ensures the renewal of such resources. A further eligibility criteria is that the investment shall be either (i) a green field investment performed by an SME or realized in specific regions of Hungary, or (ii) an investment for a new business activity to be realized by a large enterprise in specific settlements in the central region of Hungary. Investors must also comply with the requirements of Government Decree No. 165/2014 (VII.17.) on Development Tax Allowances.

The tax allowance may only be claimed if a minimum of 25% of investment costs is funded by the investor's own equity and if prior to the commencement of the investment either a notification has been sent to the relevant Ministry or – in the case of projects exceeding certain thresholds – the request for approval by the Government has been submitted. The investor must also have been a tax payer in Hungary for a minimum of five years prior to the submission of the notification or request for approval. The project must be operated for a minimum of 5 years by a large enterprise or 3 years by an SME after completion for the investor to be allowed to claim the tax allowance.

The taxpayer may take advantage of the tax allowance either in the tax year of or following the year when the operation started, and may continue utilizing the incentive in the following nine tax years but not later than the fourteenth tax year after the submission of the initial notification or the request for approval for the project.

The extent of the tax allowance that may be claimed (i.e. the maximum amount of investment costs that may be deducted from the corporate tax) depends on the qualification of the investor as a small, medium or large enterprise and the geographical location of the investment project.

Further to the above environment specific tax allowance, companies that generate energy from renewable sources may also be eligible for

general, non-renewable specific tax incentives available under the Corporate Tax Act.

8. Is there a purchase guarantee given by the relevant legislation for the electricity generated by renewable energy companies?

Hungary operates a feed-in tariff system (designated as a mandatory off-take regime, with the Hungarian abbreviation: "KÁT") which guarantees tariffs for renewable and waste based electricity higher than the actual market price. The operation of this feed-in tariff system is based on the so called KÁT balance group. Electricity producers eligible for KÁT support have to join the KÁT balance group and contract with MAVIR, the Hungarian transmission system operator, which is the recipient of the electricity sold in the KÁT system and pays the feed-in tariffs to the power generators. Its tasks also include balancing deviations from the production schedule, buying and selling the electricity eligible for KÁT support, and distributing it to KÁT recipients. The base load in the KÁT system is distributed among the obliged 'balance group' operators in proportion to the consumption (excluding consumption under universal service subject to certain conditions) in their balance group. The remaining quantity of KÁT electricity above the base load is sold on the organized power market (HUPX).

The feed-in quantity and feed-in period for each eligible electricity producer is determined by MEKH. Producers can sell in the KÁT system until their respective feed-in period expires or until the feed-in quantity is used up. This mechanism is intended to ensure that the producer does not get more support than required for the return of the investment. The feed-in period for biomass and biogas plants is 15 years, for landfill gas plants it is 5 years; other kinds of support may proportionally reduce these periods. In the case of other technologies the feed-in period and quantity is determined individually for each project.

9. Is there a minimum price guarantee given by the relevant legislation for the electricity generated by renewable energy companies?

Feed-in tariffs are different for renewable electricity and waste-to-energy electricity. Furthermore, tariffs are differentiated by size (nominal capacity), time of licensing (before or after 1 January 2008), time period during the day (peak, valley and deep-valley periods with different lengths as set out in detail in the schedule of Government Decree No. 389/2007), as well as by technology (solar and wind energy get slightly different tariffs). The feed-in tariff of the producers of renewable energy licensed before 1 January 2008 is adjusted by the Hungarian Consumer Price Index of the previous year.

By contrast, the tariffs of waste-to-energy producers and those renewable producers who were licensed after 1 January 2008 are indexed on a yearly basis by the consumer price index of the previous year reduced by one percentage point. Actual tariffs can be found on the webpage of the Authority.

10. Has the Kyoto Protocol been ratified? What is the general regime for carbon credits?

The Kyoto Protocol was ratified by Hungary in 2002 and came into force on 16 February 2005. As a member of the European Union, Hungary follows EU directives in order to participate in the EU Emission Trading System (EU ETS), which operates pursuant to Article 17 of the Kyoto Protocol. The regime governing the trade of carbon credits in Hungary is found in Act CCXVII of 2012. Moreover, Act LX of 2007 alongside Government Decree 323/2007 (XII. 11.) provide a detailed framework regarding the execution of Hungary's commitments under the Kyoto Protocol.

In its third trading period, the EU ETS imposes an EU-wide cap on emissions, which is reduced each year. Businesses must cover their total emissions by maintaining a sufficient number of allowances (carbon credits). In order to meet their target, businesses can either reduce their total emissions or purchase allowances from businesses that have a surplus of allowances. In effect, the scheme adds value to allowances, which in turn creates an incentive for companies to invest in emission reducing projects.

In order to improve transparency, allowances are increasingly allocated through auctioning. However, a portion of the allowances continues to be allocated for free by governments on the basis of harmonized rules.

Due to changes in Hungary's industries and recent economic downturns, the greenhouse gas emissions in the country have been below target, which has generated a surplus of carbon credits.

The minister responsible for energy policy can buy or sell carbon credits on behalf of the Hungarian State. Pursuant to Section 22 of Government Decree 323/2007 (XII. 11.), the money generated by the sale of allowances must be used to operate the Green Investment Scheme. More specifically, the Scheme aims at further reducing national emissions and at supporting the state's environmental commitments by subsidizing emission reducing projects.

11. Do the renewable energy based power plants have priority for connection to the grid?

Renewable energy based power plants enjoy certain benefits when connecting to the grid under the Electricity Act and Decree No. 7/2014 (IX.12.) of MEKH on the financial conditions of connecting to the grid. As a means of prioritizing Renewable Energy Sources for Electricity (RES-E), the Electricity Act allows grid operators to impose

importation restrictions on energy imports that are disadvantageous for renewable energy producers. Such restrictions include denying access to the grid, or limiting, reducing or suspending previously agreed supplies. When applying any of these restrictions, network operators must observe the principles of an objective, transparent, and non-discriminatory decision-making and compliance with applicable regulations.

Decree No. 7/2014 reduces the costs for RES-E plants to connect to the grid. The Decree provides for a reduction in connection fees for power plants that generate at least 70% or 90% of their electricity through renewable energy sources by 30% and 50% respectively.

12. Is there an incentive for domestic (local) manufacturing of equipment or materials used in the construction of renewable energy based power plants?

In Hungary, equipment or materials used for the constructions of renewable energy based power plants do not receive preferential treatment; however, there are other incentives intended to support the production of raw material at local level that can be used in renewable energy based power plants. The most important incentives apply to the following renewable energy sources: (i) bio-mass (ii) bio-gas and (iii) bio-fuel.

With regard to bio-mass, electricity produced by using bio-mass must take part in the off take obligation in line with Government Decree 389/2007.

As to bio-gas, livestock establishments may apply for non-refundable subsidies to develop bio-gas plants as set out by the Decree No. 27/2007 of the Ministry for Agriculture.

In relation to bio-fuel, the fuel distributors shall ensure that the proportion of the bio-fuel in the fuel distributed by them reaches a certain target specified by a government decree

in accordance with the provisions of Act CXVII of 2010 on the Promotion of Renewable Energy in the Field of Traffic, which serves as an indirect incentive for bio-fuel producers.

There are also non-refundable subsidies available for the production of the energy herb and plants in accordance with Decrees 71/2007 and 72/2007 of the Ministry for Agriculture.

13. What are the other incentives available to renewable energy generation companies?

There are several incentives which are non-energy or non-renewable energy specific and from which renewable energy generation companies can benefit.

Hungary has a favourable position in the 2014-2020 EU Fiscal Period as more than HUF 7,000 billion can be allocated to supported projects. Three of the operative programs may be of particular importance for investors as they consider energy – and particularly renewable energy – as key areas. These programs are: (i) the Environmental and Energy Efficiency Operative Program (“KEHOP”), (ii) the Economy Development and Innovation Operative Program (“GINOP”) and (iii) the Area and Settlement Development Operative Program (“TOP”). This implies that in the future, many new tender opportunities will potentially be available for investors of energy generation from renewable sources. These programs put emphasis on the application and enhancement of renewable energy sources, the decrease of CO₂ emission or the establishment of smart and low energy cost economy. The recent restructuring of the management of tendering and decision-making procedures and the allocation of the powers to the individual ministries and the Prime Minister’s Office may reduce the length and the

administrative burden of the tendering and application procedures for funding under the EU schemes.

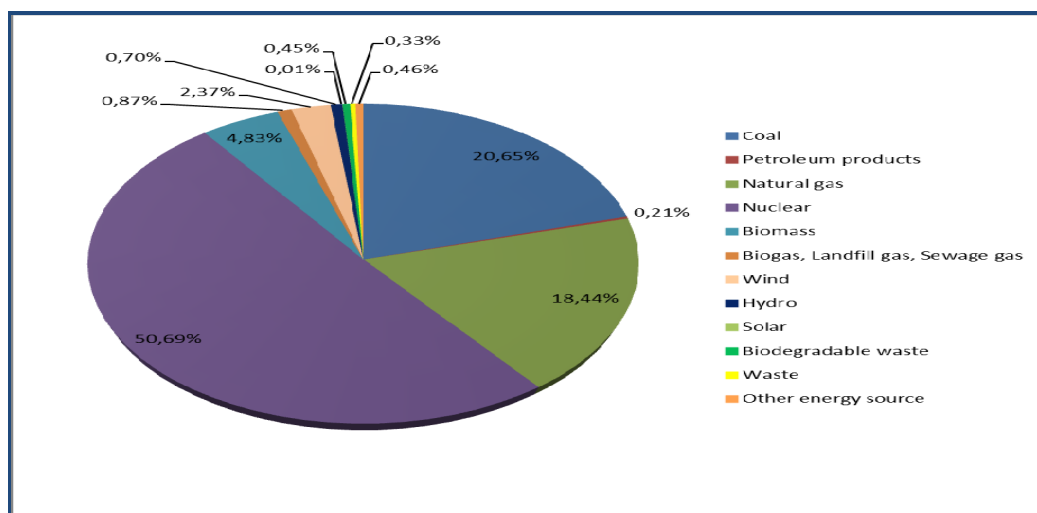
STATISTICS

14. What is the percentage of electricity generated based on each type of renewable energy source in the total generation of electricity on a country wide scale?

Statistical data regarding the Hungarian Power System has yet to be released for 2014.

However, in 2013, the data showed that 9.22% of the electricity generated in Hungary was produced from renewable energy sources. At that time, biomass (4.83%) and wind (2.37%) were the major sources of renewable energy. Other renewable sources included biogas, landfill gas and sewage gas (0.87%), hydro (0.70%), solar (0.01%), and biodegradable waste (0.45%).

Share of energy sources in gross electricity production in Hungary in 2013.¹



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¹ Statistical Data of the Hungarian Power System, MAVIR, 2014

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