



# Impact of Renewable Energy Legislation of the EU on the reform of Georgian energy law

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## Abstract

The present document reviews major legislative aspects of the Georgian renewable energy reform. Results of the research is based on so called Desk Study and information received from processing of the secondary data. Applying quantitative method, processing and analysing of the statistical data, that are received from the reliable sources - information publicly available and requested from organizations. International experience regarding above mentioned topic is examined and necessary components are identified which are necessary for rehabilitation of the global tourism industry after the pandemic.

List of literature includes academic articles from international abstracted publications, legal and sub-legal acts of the country, strategic documents, results of the relevant international researches, information requested from the state structures.

## Introduction

Nowadays, world's energy community is establishing [1-2] new order of eco-thinking, that envisages replacing existing traditional [3] energy resources with renewable sources. New rules and methods give advantage to the low-carbon energy, that is produced by minimal [4] impact on the environment. Firstly, it is achieved by respecting to the principles of the sustainable development.

There is no energy [5] development if it doesn't comply with the sustainability criterias. On the top of it sustainable development strategy (Agenda 2030) of the United Nations, as an [6] international instrument. 7th aim of [7] universal sustainable development of the UN. It is a call for sustainable energy future. The concept of the sustainable development is [8-9] the basic of sustainable energy, that draws an attention to the balancing of efforts for economic development aims and environmental protection. It is an interesting fact that establishment of [10] sustainable development concept is connected to forest sector of 18th century and sustainable forest management, though many other dimensions and social factors were added to it.

Sustainable development is a popular term. However, it is pretty hard phenomenon, that [11] is not still totally properly defined in [12] research literature. Over the years many definitions were offered and the term "sustainable development" has been a subject of various interpretations. It can be seen as a balancing obligation between, from the one side, [13-14] development connected with the technique, from the other side, environmental and nature protection. Most frequent definition of "sustainable development", that is widely used today, comes from the [15] speech "Our Common Future" in 1987 (Brundtland Report): "Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs." (so called: generation equality principle).

Manual of the sustainable development is allocated in the major law of the country. Article 29 of the Constitution of Georgia reviews environmental protection rights and request the government to envisage interests of the current and future generations [16] for the purpose of the rational utilization of natural resources and environmental protection. The Law of Georgia on Environmental

Protection also envisages principles of the sustainable [17] development, that shares the spirit of the Constitution and preaches the establishment of the system of social development, when economic development does not damage natural resources. The law states: "An increase of the quality of human life and the [18] right of future generations to enjoy the natural resources and environment that are maximally protected from irreversible qualitative and quantitative changes."

Logic of the sustainable energy is identical and it [19] encourages the type of energy order, that will protect right of the future generations, in order them to enjoy unlimited and uninterrupted energy resources. Sustainable energy principle shall be the manual of modern energy law. In this [20] respect, it is worth to mention Energy Law's Seven Principles, elaborated by Heffron and other energy scientists (Heffron and others., 2018):

- a) The Principle of National Resource Sovereignty
- b) The Principle of Access to Modern Energy Services
- c) The Principle of Energy Justice
- d) The Principle of Prudent, Rational and Sustainable Use of Natural Resources
- e) Principle of the Protection of the Environment, Human Health & Combatting Climate Change
- f) Energy Security and Reliability Principle
- g) Principle of Resilience

### Importance of the renewable energy

Idea of renewable energy regulation is not novel phenomenon; however, [21] establishment of its theoretical basis is new thing. Scientific interest toward this field is increasing every day in Europe and the USA, it establishes in educational [22] programs of the law schools and demand for qualified employees is pretty high.

Though, in this regard Georgia cannot claim to be on the top position: there is lack of research papers not only about renewable energy, but also about the general energy law, Georgian energy law literature is very limited and an academic consensus regarding the energy law does not exist.

Utilization of renewable energy sources occurs [23-24] at fast speed. It happens due to several reasons: irreversible process of traditional energy sources' reduction, climate change, pollution of the air and environment, improvement of the energy security, popularization [25] of sustainable development, diversification of domestic energy resources and etc. Development of renewable resources promote creation of new workplaces, that increases number of employees working at generated energy units on local level. According to the Resolution [26] of European Commission of 2012 promotion of renewable energy can create more than 3

millions workplace in Europe. Number of enterprises working on clean tech is increasing at incredible rates.

However, it doesn't give a reason to be completely optimistic. If development and utilization of renewable energy was easy, probably, [27] majority of the world population would utilize it and the debates over the bad impact of the climate change would be put to an end. Elaboration [28] of renewable energy policy and establishment of its regulatory standards is pretty complex and complicated.

It unites major directions of different policies and comprises four following components:

- a. Regulations and standards
- b. Quality tools
- c. State procurement
- d. Price related tools

Envisaging mentioned components in policies of different countries is necessary and important precondition for high-quality utilization [29] and development of renewable energy sources. It is rather hard technical and economic process, which is related to huge financial resources. Besides the fact that technologies are getting cheaper, nowadays in some regions renewable energy generation is more expensive than production and purchase of the traditional energy. [30-31] Over the many years, renewable energy projects were considered to be doomed for more failure than the fossil fuel installations. This point of view caused lack of strong financial investments in this field. Due to this, for promoting utilization and development of the renewable energy, elaboration of an adequate national politics and establishment [32] of legislative, regulatory environment is necessary. Each country has its own mechanisms and supporting schemes for the renewable energy sources' development. For instance, the EU especially supports elaboration of renewable [33] energy policies and establishes special supporting schemes. It includes various promotion tools and I will discuss about it in more details below.

Developing national supporting schemes costs quite expensive. Roughly, price of renewable energy development and resources spent for [34] its popularizations is almost equal to the price of annual energy importation of Europe. The question arises: why does Europe need development of renewable energy if it can purchase energy from the energy-rich countries for [35] almost the same price (or even less)? Developing renewable energy sources is not only means of environmental protection. It promotes accomplishment of the aims, determined by Kyoto Protocol. Moreover, it also promotes benefiting from various socio-economic advantages. It also releases dependence on the energy import. And encourages technological progress. [36] Hence, promotion of

renewable energy shall be considered as an opportunity for low-carbon economic development, where innovative researches and modern developments are applied.

### Renewable energy in European Union

European citizens are proud to be considered as ecologically clean and energy effective nations. They are, without doubt, different from other nations due to their loyal[37] attitude towards the principles of sustainable development and generally, regarding clean energy. Though, Europe is one of the leading geographical region for its harmful greenhouse gas emissions, it is also leader in fight of the negative impacts of the climate change. According to Bechberger, promotion of renewable energy sources is the only right direction for strategic energy development of Europe, that will reduce greenhouse gas emissions and energy dependence of the EU on other countries. Promotion[38-39] of renewable energy generation on European continent started at the end of 80th and the beginning of 90th. Before wide usage of renewables had not taken the place. Even the Oil Crisis of 1973 did not have any impact of this situation.

Therefore, first indication of the alternative[40] energy in the EU legislation originates from 1986, when the European Council adopted a resolution, where it discussed replacement of conventional energy resources with renewable ones. More specific steps were made in 90th: in 1996 the European Commission adopted Green Paper[41] with the name of: "Energy of Future: Renewable Energy Sources." In 1997 White Paper were added to the Green Paper, which elaborated first renewable energy strategy of the EU and prepared kind of action plan.

Listed activities were followed by wide public discussions in Europe during the next few months, for the purpose of determination of priority directions[42] of renewable energy politics. It is evident that those processes caused frustration in some member states. European Commission received around 70 complaints, against the new renewable challenge, from member states. [43]Majority of complaints were sent particularly by industrial organizations, professional and regional associations, institutions and non-governmental organizations. Certainly, countries with rich fossil fuel and so-called industrial society tended to be more in opposition. They supported conventional energy resources – coal, oil and utilization of natural gas. And opposing development of new energy vision of the EU. 90th attempts passed without fundamental transformations. Europe[44] presented primary visions about renewable energy, though; it did not establish compulsory legislative regulatory conditions.

Related particular activities started from the next century. In 2001 the EU adopted a directive, about promotion of generated energy from renewable energy sources. [45] The directive established primary target indicators for member states and

presented support schemes. In 2003 one more directive on renewable energy was added to the European legislation, which regulates utilization issues of biofuel (major renewable fuel for transportation) and other renewable fuels.

### Directive (2009/28/EC) on Renewable Energy in Europe

The Directive 2009/28/EC on the Promotion of Utilization of Energy Generated from Renewable Energy Sources (hereinafter "Renewable Energy Directive" or "The Directive") can be estimated as the culmination of the progress of EU[46] politics related to renewable energy field, that came into a force in July, 2009 and requested incorporation by the member states into their national legislations by December, 2010. The Directive, along with the energy efficiency issues, is the mechanism for achievement of the Strategy 2020 of the EU, for this purpose it establishes compulsory target indicators for the member states.

The Directive is considered as the beginning for new era of renewable energy, which was presented within the framework of the European Climate and Energy package in 2009. Except the above mentioned directive, the package also includes other[47] important legislative acts, such as the Directive of the EU on the Emission Trade Schemes (ETS), Directive regarding the Specification of Fuel and others. Nowadays the directive is the main active legislative document in the field of renewables in Europe.

The directive on renewable energy was adopted before the Lisbon Treaty came into the force. Accordingly, the only energetic norm of the EU with constitutional character – article 194, can't be considered as its legislative base. The directive was founded[48] within the framework of the environmental protection legislation and was adopted on the basis of article 175 of founding treaty (Environmental protection). That is why the Renewable Energy Directive is regarded as energy specific legislative act of Environmental Protection Law (envisaging the climate change as air pollution aspect). It is quite logical, since renewable energy refuses[49] fossil fuel and its generation doesn't have an impact of the climate change or other negative effects on the environment. The directive elaborates foundational legislative definition of renewable energy and equally concerns three major sub-directions of the renewables, that is calculated by total final consumption of the energy: electricity, heating-cooling and transportation.

Regarding the legislative technique the directive is characterized by many specific details, that makes it unique from existing alternative energy instruments. Renewable energy directive establishes compulsory target indicators and it is a replacement of the "first generation acts (2002/77/EC and 2003/30/EC). It is based on the logic of "comprehensive attitude" and totally envisages modern manual principles of the modern energy law. The Directive is the main legislative document of the renewable energy,

that Georgia has an obligation of its implementation[50] within the determined time frame. Appendix XXV of the Association Agreement discusses about it, moreover article 20 of foundation document of the Energy Community and Minutes of Georgia's Unification.

Furthermore, we should also mention, that the European Green Deal envisages adoption of the new legislative framework, that cannot be left without an attention. With so called "Winter Package" the Directive (2018/2001) of renewable energy was adopted. It made 32% growth of the renewables legally compulsory and replaced an important directive of 2009.

Besides the existing changes, Renewable Energy Reform of Georgia is based on the[51] above-reviewed directive of 2009. Stipulated by the fact, that this directive is part of the Association Agreement between Georgia and the EU and is envisaged by the minutes of joining the Energy Community.

Accordingly, changes envisaged in the "Winter Package" (so called "the Dynamic Harmonization") adopted by the[52] EU, shall become obligatory for Georgia, in case the Energy Community requests it and issues compulsory act for its implementation. Content of the Association Agreement is almost the same, where its article 417 directly points out, that "the Dynamic Harmonization" shall be requested by the Council of the Association.

## Conclusion

The present research paper concerned the importance of the renewable energy and reviewed its historic development in European Union. Afterwards, it specified the Directive of the EU of 2009 and concluded that it is a central tool for the harmonization of Georgian renewable energy legislation. Regarding this, it is important to highlight two legislative acts adopted in Georgia last December: Law of Georgia on Energy and Water Supply and Law of Georgia on Promotion of Production and Utilization of Energy from Renewable Sources. In other words, a specific law that is a beginning of the new order in renewable energy field. We should also pay an attention that the Clean Energy Strategy of the EU shall have a direct impact on Georgian renewable energy reform. Which comprises number of important legislative acts, as well the above mentioned new renewable energy directive (2018/2001) of the Winter Package. It is announced that the mentioned directive, so as other legislative acts, is supposed to become compulsory to implement for all member states of the Energy Community (i.e for Georgia as well) from the first half of 2021. However, it is not known still which specific form of cooperation Georgia will have with the Energy Community. It is important, that Georgia already is on the significant stage of the renewable energy legislation reform, that requires an additional stimulation from the state, as well from

private and non-governmental sector, scientific and academic circles.

## References

1. UN Sustainable Development Goal 7.
2. It is also known as an intra-generational equity in scientific literature. According to the principle, right of the future generations on the energy is reducing, since now the utilization of the oil resources is being maximal. Accordingly, the justice requires development of the alternative - renewable energy.
3. Constitution of Georgia, article 29 (2).
4. The law of Georgia on Environmental Protection, article 4.
5. See Heffron RJ, Ronne A, Bradbrook A, Tomain JP, Talus KA (2018) Treatise for Energy Law, Journal of World Energy Law and Business 11(1): 34-48.
6. Fräss-Ehrfeld C(2006)Renewable Energy Sources, Climate Change Law, Policy and Practice Series, Kluwer Law International p. 61.
7. Bradbrook JA (2005) The Development of Renewable Energy Technologies and Energy Efficiency Measures through Public International Law, in book: Zillman D. et al. Energy Security: Managing Risk in Dynamic Legal and Regulatory Environment, Oxford University Press, USA pp. 111.
8. Communication from the Commission to the European Parliament (2012) the Council, the European Economic and Social Committee and the Committee of The Regions Renewable Energy: A Major Player in the European Energy Market, Brussels.
9. According to the directive, technological innovation in renewable energy sector is one of the main aims of the currently active directive of the EU.
10. European Commission, 2017.
11. Margvelashvili M, Maghalashvili A, Kvaratskhelia T, Ushkhvani L, Mukhigulishvili G (2015) Georgian energy sector within the context of the Association Agreement with the EU, the world experience for Georgia (WEG), TB.
12. there, 98.
13. Fräss-Ehrfeld C (2006) Renewable Energy Sources, Climate Change Law, Policy and Practice Series, Kluwer Law International. p. 61.
14. The situation has significantly changed regarding this last few years, since the investors are getting more interested in investing for the renewable energy sector. See: in REN 21, Renewables: Global Status Report 2006 Update, 15 ოთხთხილური LR, Mathews L, Czachor EN (2008) Renewable Energy in National Legislation: Challenges and Opportunities, ზილმან დ. et al. Energy Security: Managing Risk in Dynamic Legal and Regulatory Environment, Oxford University Press, 190.
15. there.
16. Margvelashvili M, Maghalashvili A, Kvaratskhelia T, Ushkhvani L, Mukhigulishvili G (2015). Georgian energy sector within the context of the Association Agreement with the EU, the world experience for Georgia (WEG), TB, 105.
17. It should be taken into an account that mostly countries the EU is cooperating with energy issues are having unstable democracies.
18. Talus K (2016) Introduction to EU Energy Law, Oxford University Press, USA pp. 137.
19. Eurostat data, access at.
20. Morata F, Solorio S (2012) European Energy Policy an Environmental Approach, Edward Elgar Publishing p. 4.
21. Council Resolution (1986) Concerning New Community Energy Policy Objectives For 1995 and Convergence of The Policies of the Member States. OJ C 241: 1-3.

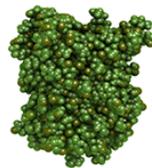
22. Communication from the Commission Energy for the Future: Renewable Sources of Energy, Brussels, (96) 576 final.
23. Communication from the Commission Energy For The Future: Renewable Sources of Energy White Paper for a Community Strategy and Action Plan, Brussels, (97) 599 final.
24. Fräss-Ehrfeld C (2006) Renewable Energy Sources, Climate Change Law, Policy and Practice Series, Kluwer Law International, 3.
25. Talus K (2013) EU Energy Law and Policy: A Critical Account, Oxford University Press, USA pp. 191.
26. There, 192.
27. Council Directive 2001/77/EC of the European Parliament and of the Council on the promotion of electricity produced from renewable energy sources in the internal market, OJ L 283/33.
28. Council Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport OJ L 123/42.
29. Share of renewable energy in EU constituted 18% in 2010, see: Commission Communication on Renewable Energy (MEMO/11/54), Brussels.
30. Number of member states couldn't implement this obligation on the initial stage and the European Commission started violation procedures against them.
31. European Commission, 2020 The Climate and Energy Framework.
32. For factories, which are main sources of greenhouse gas emissions, upper limit of emission is being set and in case of making less or more emission they start trading on the market.
33. Council Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community, OJ L 140/63.
34. Council Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC, OJ L 140/88.
35. European Commission, Carbon Capture and Storage, ob.
36. TFEU, 194.
37. TFEU, 192 (with Lisbon Edition)
38. Goods containing energy, which is provided with the energy purposes to industry, transportation, household sector, service sectors, urban sector, forest and fishing industries
39. Article 5, Renewable energy mostly generates the type of energy that is utilized for electricity, heating and cooling and transportation. See: Woerdman E, Roggenkamp M, Holwerda M (2015) Essential EU Climate Law, Edward Elgar Publishing, 127.
40. For example the word "may" is replaced by the word "shall".
41. December 31, 2018 is defined as the date, according to the minutes of the joining founding agreement of the Energy Community.
42. Article 20.
43. Transition from Strategy 2020 of the EU to Strategy 2030.
44. Peeters M, Schomerus T (2014) Renewable Energy Law in the EU: Legal Perspectives on Bottom-up Approaches, Edward Elgar Publishing 16.
45. Council Directive (EU) 2018/2001 of The European Parliament and of the Council of 11 December 2018 on the Promotion of the Use of Energy from Renewable Sources. pp. 82-209.
46. Article 37 of the new directive announces as abolished currently active Directive 2009/28/EU from July 1, 2021 There, Articles 89-93.
47. Association Agreement, Article 417.
48. Law of Georgia on Energy and water Supply.
49. Law of Georgia on Promotion of Production and Utilization of Energy from Renewable Sources.
50. European Commission Clean energy for all Europeans.
51. Council Directive (EU) 2018/2001 of The European Parliament and of the Council of 11 December 2018 on the Promotion of the Use of Energy from Renewable Sources p. 82-209.
52. Samkharadze I (2019) Europeanization of Energy Law and Policy beyond the Member States: The Case of Georgia, Elsevier Energy Policy Journal 130: 1-6.



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