

Manual of European Environmental Policy

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The Manual was published by Earthscan/Routledge from 2010 to 2012. It was designed as an on-line interactive reference work and annual printed versions were also produced.

This section is the text of the Manual as published in 2012. It is therefore important to note the following:

- The contents have not been updated since 2012 and no guarantee is given of the accuracy of the contents given potential subsequent developments.
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Combined heat and power

Formal reference	
2004/8/EC (OJ L52 21.02.04)	Directive on the promotion of cogeneration based on useful heat demand in the internal market and amending Directive 92/42/EC
Proposed 22.7.2002 – COM(2002)415	
Legal base	Articles 192 and 294 TFEU (originally Article 175(1) and 251 TEC)
Binding dates	
Formal compliance	21 February 2006
Establishment of harmonized reference values	21 February 2006
Member States to evaluate progress in increasing cogeneration	21 February 2007 and then every four years
Commission Report on implementation and possible revision	21 February 2008 and then every four years

Purpose of the Directive

The aim of the Directive is to increase energy efficiency and improve security of supply by creating a framework to overcome the existing barriers to combined heat and power (CHP), also known as cogeneration.

Summary of the Directive

The Directive creates a framework to support and facilitate the installation and proper functioning of cogeneration plants and amends Directive [92/42/EEC](#) on energy using products. Article 3 of the Directive lists definitions of cogeneration and Annex 1 lists the cogeneration technologies to which the Directive applies. To help determine the efficiency of cogeneration the Commission was required to establish harmonized efficiency reference values for separate production of electricity and heat by 21 February 2006, which would then be updated at regular intervals. This was achieved through adoption of Decision [2007/74/EC](#). On the basis of these reference values, Member States are required to ensure that the origin of electricity produced by cogeneration can be guaranteed according to objective, transparent and non-discriminatory criteria laid down by each Member State. Member States can designate one or more competent bodies to ensure that the ‘guarantees of origin’ are both accurate and reliable, and such guarantees should be mutually recognized by other Member States.

Member States are also required to establish the national potential for the application of high-efficiency cogeneration, and not later than 21 February 2007, and every four years thereafter, evaluate progress towards increasing the share of such high-efficiency cogeneration. Support

to aid the promotion of cogeneration is permitted, but it must be based on factors such as the amount of primary energy savings that can be made. The level and nature of direct and indirect support provided will be evaluated by the Commission and will form the basis of a review to examine to what extent such 'support schemes' have contributed to the creation of stable conditions for investment in cogeneration.

To help promote cogeneration the Directive also requires Member States to guarantee that the electricity generated from cogeneration is transmitted and distributed on the basis of non-discriminatory criteria and to facilitate access to the grid for electricity produced by this method. Member States also have a number of reporting requirements, including reporting the results of the analysis of the national potential of high-efficiency cogeneration, evaluations of existing legislation and statistics on cogeneration capacities and fuels used for cogeneration. Accordingly, on the basis of this information, the Commission shall submit a progress report on the implementation of the Directive to the European Parliament and Council no later than 21 February 2008 and thereafter every four years.

On 19 November 2008 the Commission adopted Decision [2008/952/EC](#) establishing detailed guidelines for the implementation and application of Annex II of the Directive.

Development of the Directive

Efforts to introduce measures on cogeneration were first published in 1997 in the Commission's cogeneration strategy ([COM\(97\)514](#)), with an overall indicative Community target of doubling the share of electricity production from cogeneration in the EU from 9 per cent in 1994 to 18 per cent by 2010. These targets were later confirmed in the Commission's strategy on energy efficiency ([COM\(2000\)247](#)) but little action was taken until 2002 when the Commission put forward the proposed Directive on cogeneration. The absence of targets was a key criticism of the Commission's proposal. Whilst earlier drafts of the proposed Directive had contained targets, as did the cogeneration strategy in 1997, the Commission's eventual proposal did not. Rather, it required Member States to produce national assessments of the potential for cogeneration and the barriers to its realization. Environmental lobbyists criticized the removal of targets arguing that without these operators had little incentive to invest in cogeneration. On the 13 May 2002, Parliament called for indicative targets to be included at both the national and EU level. However, the Commission felt that the establishment of even indicative targets would be 'technically difficult' at that stage. The Commission did hint that it could examine the possibility of indicative targets for each Member State once the national assessments are completed.

The initial proposal that cogeneration support programmes should be focused only on the first 50 MWe of a plant's capacity was also a particular source of contention. For the United Kingdom, for example, it was thought that this might pose difficulties in fully exempting larger cogeneration plants from the climate change levy. There also seemed to be no environmental or economic justification for this and it was feared that its inclusion would encourage Member States to focus public support on capacities below this threshold, which could lead to sub-optimal design of plants in the future.

The definition of cogeneration also caused a number of problems. The initial proposal allowed Member States to continue using national definitions. However, the absence of a harmonized definition was heavily criticized on the basis that if all Member States use

different methods this would prevent any real aggregate figures of energy savings. Environmental lobbyists were keen to see a definition which would have a strong focus on reducing CO₂ emissions, as they felt that the initial environmental rationale for promoting cogeneration was being forgotten. However, Portugal, Spain and the United Kingdom in particular were keen to delay a harmonized EU definition. The Commission compromised with a common basic definition of cogeneration but not a harmonized one, although one may follow in the future.

The final agreement was arguably much weaker than many had hoped for; this was despite the publication of the second phase of the European Climate Change Programme in April 2003, which included the promotion of cogeneration as one of its main areas of focus.

Implementation of the Directive

Information on the measures taken by the Member States to transpose Directive 2004/8/EC can be found in its national [execution measures](#).

Copies of reports on combined heat and power from all 27 Member States can be found on the Commission's [website](#).

In its Communication 'Europe can save more energy by CHP generation' ([COM\(2008\)771](#)), published in November 2008 as part of the second Strategic Energy Review, the Commission reported on progress under the Directive. As of that date, 22 Member States had transposed the legislation. The Commission signalled that its scheduled review of the Energy Efficiency Action Plan in 2009 may contain recommendations relevant to CHP.

Enforcement and court cases

No cases relating to the Directive have been concluded by the European court of Justice.

Further developments

In its 8 March 2011 publication of the Energy Efficiency Plan 2011 ([COM\(2011\)109](#)), the Commission stated that it would propose a revision to Directive 2004/8/EC later in 2011. Shortly after, on 22 June 2011, the Commission published its proposal for a new Directive on energy efficiency which would repeal Directive 2004/8/EC ([COM\(2011\)370](#)) (See Sectoral Policies: Energy for more detail).

Related legislation

The following items of EU legislation have a relationship Directive 2004/8/EC on CHP:

- Directive [2009/28/EC](#) on promotion of the use of energy from renewable sources.
- Directive [92/42/EEC](#) establishing a framework for the setting of ecodesign requirements for energy using products.