



CONTRADICTIONS IN THE HUNGARIAN REGULATION SYSTEM OF LICENSING SMALL BIOMASS POWER PLANTS

(AND OTHER INTERESTING PHENOMENONS)

LÁSZLÓ BALOGH

PRES.OF HUNGARIAN ASS.FOR RENEWABLE ENERGY

baloghlaszlo@gmail.com

INTRO:THE HUNGARIAN ASSOCIATION FOR RENEWABLE ENERGY SOURCES

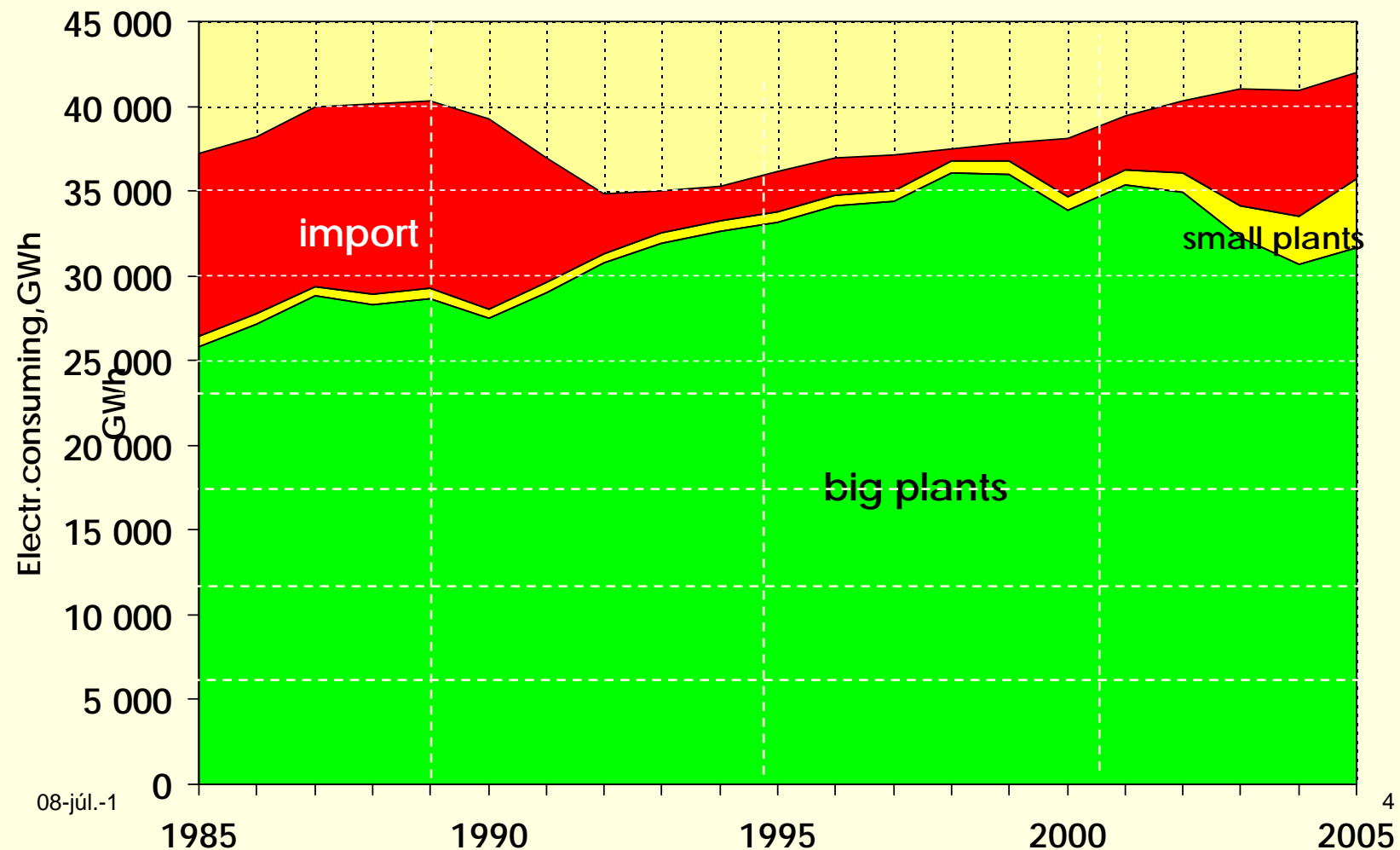
- **Established in 2004 in the frame of a Spanish - Hungarian PHARE project**
- **Non profit NGO, financed by members only**
- **14 other associated NGOs involved in any form we try to be as an umbrella organization (difficult-different interests)**
- **Members: 55 small- middle-sized enterprises**
- **Sectors: biomass, biogas, geothermal, wind, solar collectors and photovoltaic**

Intro: **Some of our activities**

- Saving the interests of our members
- Supporting of our members with relevant information
- Trying to communicate with rule and decision makers on energy regulatory subjects
- Taking part in support of project preparation, feasibility studies, licensing process, financing solutions,
- Consulting service on technical, economical and regulatory subjects, for our members and other organisations, etc.
- R+D activities, based on the knowledge of our members

Hungary: Some basic data - balance

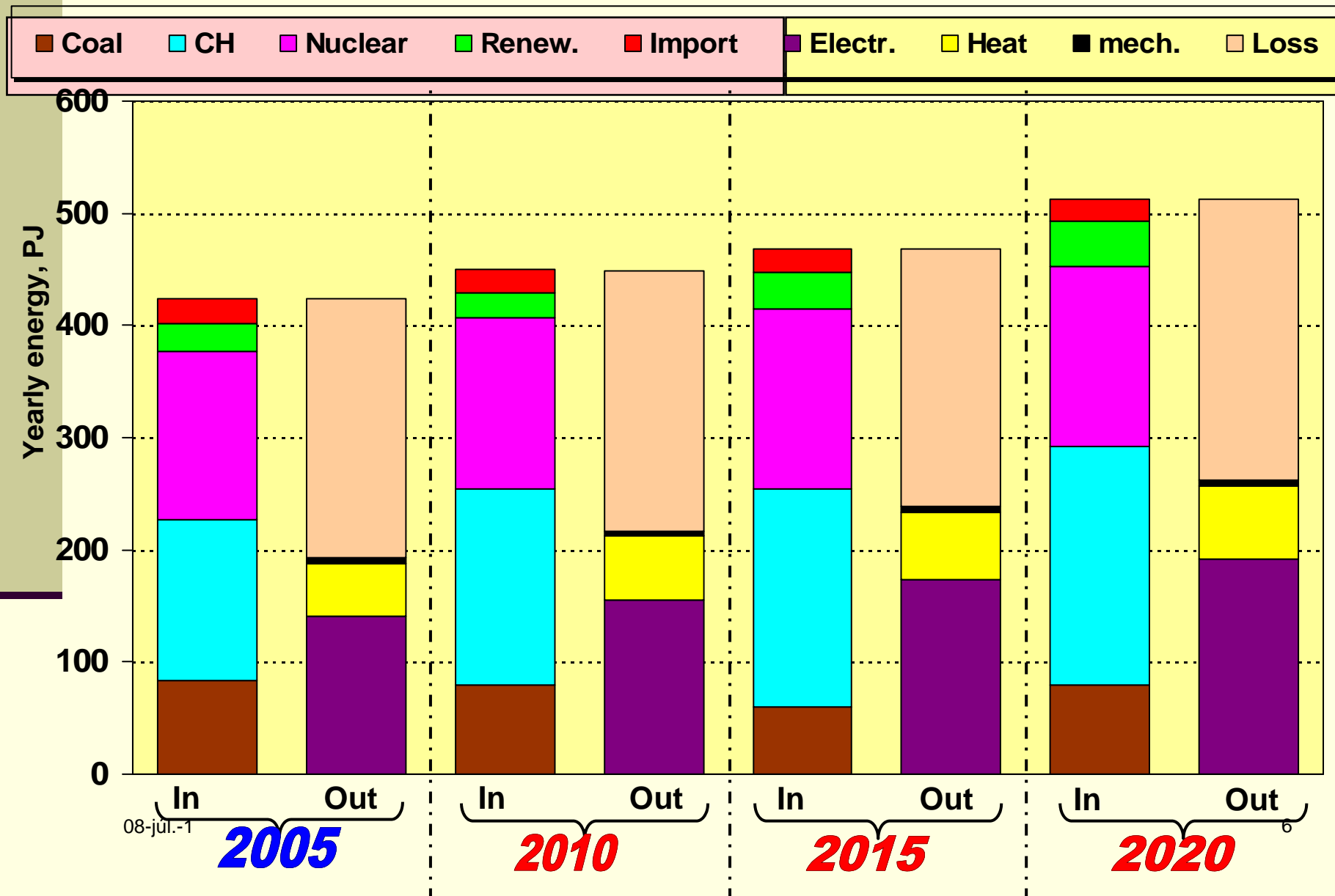
1985-2005 (Source: Mr.Strobl-2006.)



Tendencies: SHARE OF RENEWABLES (until 2005) in Power Generation & Consumption (GWh)

R+D activities, based	2001	2002	2003	2004	2005
Water	186	194	164.6	194.7	160
Biogas	7.6	11.2	15.6	15	16
Wind	0.9	1.1	3.3	5.4	38
Biomass (wood)	0	0	74.8	654.7	1,500
Total renewable	195	206	258	869	1,714
Total electric consumption	39,588	40,415	41,270	41,830	42,400
Renewable %	0.5	0.5	0.6	2.1	4.1

Tendencies: Actual and future balance according to the fuels (Source: Mr.Strobl-2006.)



Licensing – Permitting-Authorisation.

What is this? Practical approach.

Terminology is a problem in even an international environment

All the administrative steps from the starting phase of economical planning and technical designing to the beginning of the commissioned commercial operation included:

1. All the necessary procedures in front of all the Authorities and grid owner companies. (Because these companies operating like an Authority in practice not as a market player)
2. All the legal procedure package related to the using of the land for generation and **cables**.

Our job is: Licensing of power generation producers with different biomasses, **COMMON RULES! Independent from the RES.**

Directive 2003/54/EC uses: No permission, no licensing, but: Authorization

Golder+Ecofys use: „Authorisation” „Permission” and „Approval”

We use: **Licensig**, because of the terminology of the Hungarian Electricity Act (website of the Hungarian Energy Office – HEO: www.eh.gov.hu)

(Act LXXXVI of 2007 and all the related subordinated prescriptions)

Licensing – What is this in Hungary?

Who are the stake holders?

Main players :

- **Environmental + Constructing, + Energy regulatory authorities + Sub-ordered procedures at 25-35 authorities, depend on**
- **PLUS: Grid owner associations + legal procedures with land owners**

What licenses included in these procedures? What are the results?

„Main pieces” are:

**Environmental license,
Building constructing license,
Constructing license of electric works (power producing and
connecting units like connecting cables,
Results of legal procedures with private land owners**

Licensing – What is this in Hungary? Which are the rules-The power generation case

Only the main elements, Basic acts:

Act LXXXVI of 2007 on Electric Energy

Code Civil+ 18-20 others, not written here regarding the participation subordinated authorities (For example military air traffic control, only if there is a military air base etc.)

Governmental decrees:

- **No 273/2007. (X. 19.) on the implementation of some provisions in the Act No LXXXVI (2007) on the electricity**
- **No 389/2007. (XII. 23.) on obligatory off-take and purchase price of electricity generated from waste or from renewable energy sources, or by CHPG**
- **No 382/2007. (XII. 23.) on authority licensing procedures for construction of electricity facilities**

Licensing – Which are the main rules?The power generation case

Decrees of the Ministry of Transport and Economy

- No 119/2007. (XII. 29.) on the electricity network charges
 - No 117/2007. (XII. 29.) on the financial and technical terms and conditions of connection to the public utility electricity network
- No.110/2007. (XII. 23.) on the calculation method of the electricity and consumable heat amounts in high efficiency CHPG
- No 109/2007. (XII. 23.) on distribution of electricity under off-take obligation by the TSO and on calculation of such distribution fees

Licensing – Which are the main rules?The power generation case –Supply Codes

Electricity Supply Codes approved by the Hungarian Energy Office (HEO):

Grid Code (prepared by: System Operator)

Commercial Code (prepared by: System Operator)

Distribution Code (prepared by: network licensees, it depend on the area of the actual distribution licensee)

Business Conduct Rules (prepared by: each licensee – different!)

**+ different prescriptions of the system Operator
+ technical standards**

Licensing – Which are the main rules?The power generation case-protecting of environment -not the all

Air Protection+Climate Protection

Act of 2003. LXXXIX. on Fees relating the Burden on the Environment

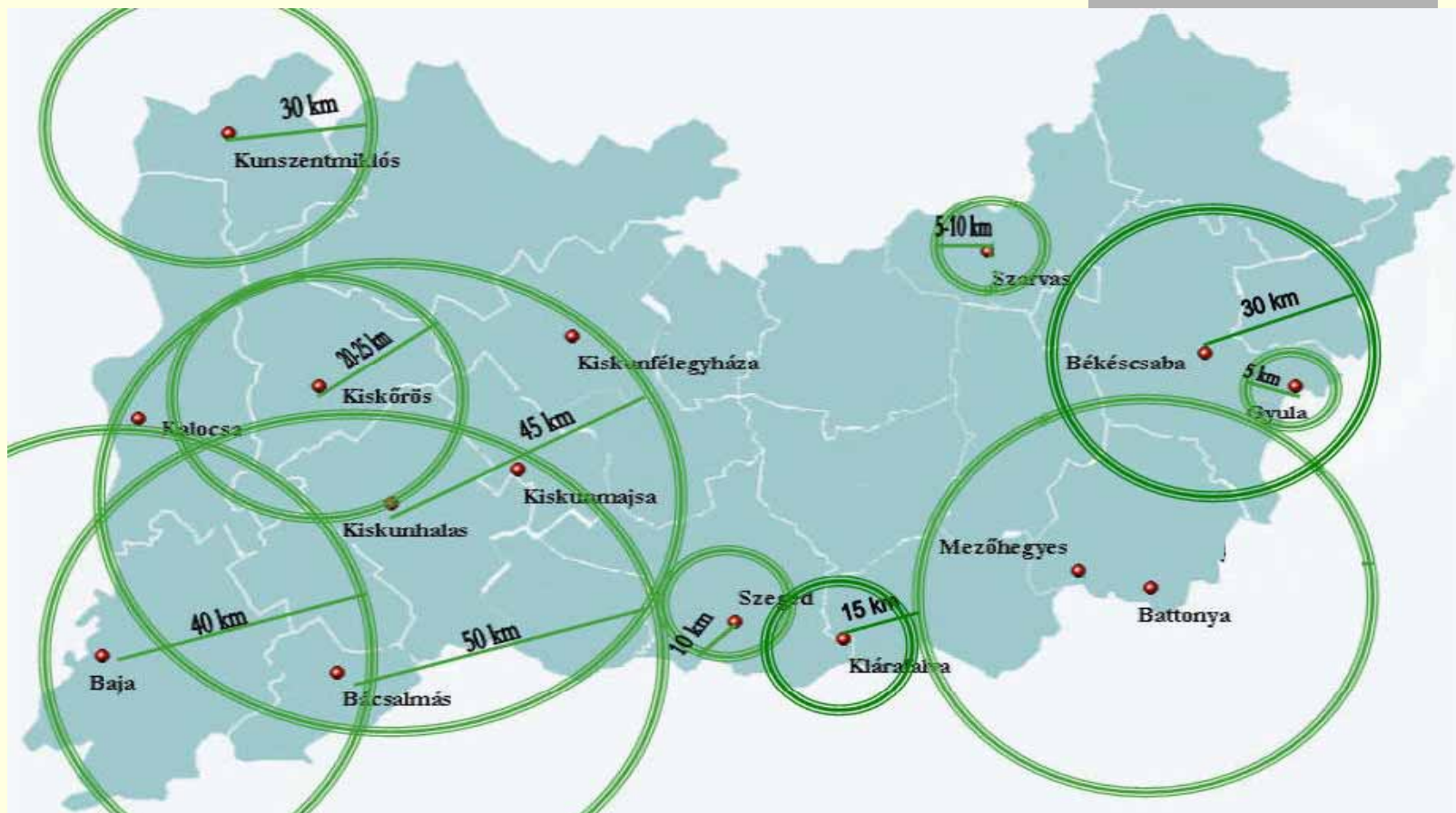
KTM Decree 22/1998 (VI. 26.) on Emission Limits of Pollutants from Furnaces with Heat Output 50 MWth and above

Govt. Decree 21/2001 (II. 14.) on Certain Rules regarding Air Protection

OGY Resolution 49/2002 (VII. 19.) on Joining to Kyoto Protocol etc.

Problem 1: Pre-licensing stage + agricultural conditions-Southern Hungary

Source: NOS Ltd.2007.



Problem 2: Licensing phase-the historical roots.

Difficult legal demonstrability.

Once upon a time....

Roots: 2001 CX (and its specific modifications) Electricity Act + its Executive order (We understood the answers of some questions late after the events.)

Due to the strange contents of some parts of these legal rules and attached legislation elements, the role of the operations of different authorities was not clear. E.g.: The local municipalities (as construction authority) or another governmental offices are the competent authorities in the first licensing stage. (There are 4-5 stages existing). The next stage is the Hungarian Energy Office. A lot of troubles started -but only for the „ignorants” won who not acted according to the rules.

Problem 2. Licensing phase-the historical roots (Story of missing normativity)

As Act of Electricity : 2001 CX, its modification in 2005 and his Executing Decree: There are different legal actions, processes started because the applicants, they operated according to the rules could not receive licenses, inspite of those ones they violate the prescriptions.

Until the 2005 modification the previous original procedures needed to attach the previous licenses to start the procedures in the Hungarian Energy Office (HEO). From 2005-till 2007 transitionally it was enough to give a declaration only that the Applicant posses all the prescribed previous licenses. They did not obliged to attach the documents .The honest clients collected first all the papers, others not, only have given the declaration-without any control on HEO side. At the end of the day the honest clients had run out of the time, inspite the others, they received license. The HEO did not controlled if this group has license or not.

This means a lot of money on the other hand for those they have license, because they had sold it for different big international utility companies. So the honest parties has punished, the opposite side has won.

Problem 3. Actual – Licensing biomass plants –Demonstrative example-not the full story

1. Act LXXXVI of 2007 on Electric Energy
2. 273/2007.(X.19.) Government decree defines the role of HEO in the licensing procedure. According to the Annex 4, point 8.. Necessary documents:All the licenses required by other legislation. (Which ones? No answer)
3. Government decree No 382/2007. (XII. 23.) on authority licensing procedures for construction of electricity facilities. According to the Annex 3, point 7.6 : Necessary documents: All the licenses required by other legislation. (Which ones? No answer)
4. The clerks try to bridge over the problem, on very low level, they call each other and try to agree: „I will give to the clients a letter, this means that now I see it is OK. You will give your license, the client will come to me with this license and if any other problem has not arisen, I give this license.”

Problem 3. Actual problem – Licensing biomass plants –Demonstrative example practical consequences

- Exact sequence of the whole project preparatory and licensing processes are not clear and not prescribed
- Different time intervals of open windows at different authorities and grid owner companies are not harmonized.
- Due to this basic situation the processes are not transparent and not normative.
- Sometimes interventions needed – from whom? The Gods are helpfool – sacrifice needed with some rituales

But all the individual Acts are starting: „This Act is harmonized with the EU legislation.”

Deep analysis needed to change– not only Acts, but Trading rules, Grid Code, Distribution Code, Code of conducts and not only the individual elements of legislation, but the operation of the whole process, how does it work as a system, or not. This control is missing from the Hungarian fragmented 6-10 kg weight legislation „system”.

Problem 3. Actual problem – Licensing biomass plants –Demonstrative example - details tomorrow on Biogas events

Activities	Weeks							
1.								
2.								
3.								
4.								

Problem 3. Licensing biomass plants- sequences generally approx. 25-30 Authorities over-all

The problem is:

- **There are a lot of procedures,**

They depend on each other, even some of the rules are not written or not published,

One organisation is not considers the needs or deadlines of other organisation - among others: procedures of environmental authority, building license, local governments versus other offices,

**Plus: distribution, transmission (network) companies, etc,
Separately all members of them are helpful, they want to solve the problem, independent from the legal procedures confusing the project owner.**

Looks like an intentionally mixed up system.

What the EP and the Council want?

DIRECTIVE 2003/54/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 June 2003

concerning common rules for the internal market in electricity and repealing Directive 96/92/EC

Problem 3. Actual problem Licensing of biomass plants- contradictions with 2003/54/EC

-

Article 6

Authorisation procedure for new capacity

1. For the construction of new generating capacity, Member States shall adopt an authorisation procedure, which shall be conducted in accordance with objective, transparent and non discriminatory criteria.

Problem 3. Licensing of biomass plants- contradictions with: 2003/54/EC/-Article 23 f - on practical executive level

(f) the terms, conditions and tariffs for connecting new producers of electricity to guarantee that these are objective, transparent and non-discriminatory, in particular taking full account of the costs and benefits of the various renewable energy sources technologies, distributed generation and combined heat and power;

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the promotion of the use of energy from renewable sources

- (24) The lack of transparent rules and coordination between the different authorisation bodies has been shown to hinder the deployment of renewable energy. Therefore the specific structure of the renewable energy sector should be taken into account when national, regional and local authorities review their administrative procedures for giving permission to construct and operate plants producing electricity, heating and cooling or transport fuels from renewable energy sources. Administrative approval procedures should be streamlined with clear deadlines for installations using energy from renewable sources. Planning rules and guidelines should be adapted to take into consideration cost effective and environmentally beneficial renewable heating and cooling and electricity equipment.

Problem 4. Financial supporting 1EUR–250HUF

-
The amount of the so-called **KÁP** - that represents the support relative to the regulated public utility wholesale prices – associating with the electricity generated from renewables, waste and co-generated electricity falling under feed-in obligation was **48.2 billion HUF in 2007**. 70% of the total KÁP (33.5 billion HUF) is in association with co-generated electricity.

[1] A fund for compensation purposes associating with the feed-in obligation of electricity, which is the due of those who are obliged to take over the electricity, and specified in Section g) of Article 2 of the Decree 56/2002. (29.12) of the Minister of Economy and Transport – effective in 2007. (The definition and the concept of the regulated public utility wholesale price was in force until 31 December 2007.)

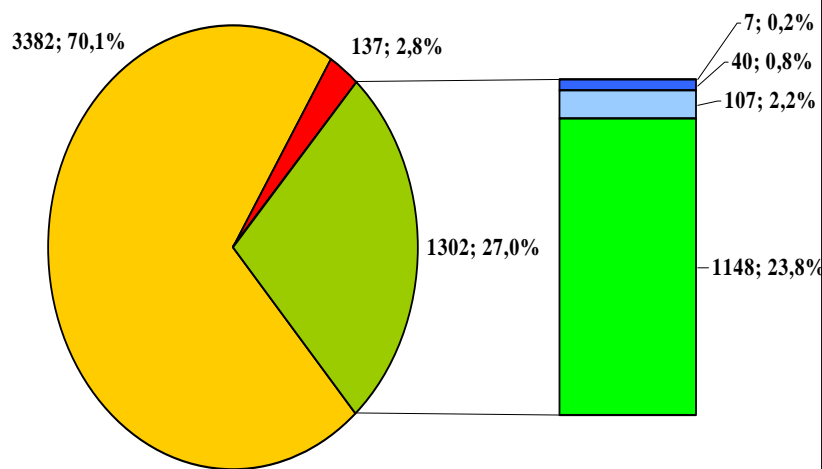
Problem 4. Financial supporting-roots

-

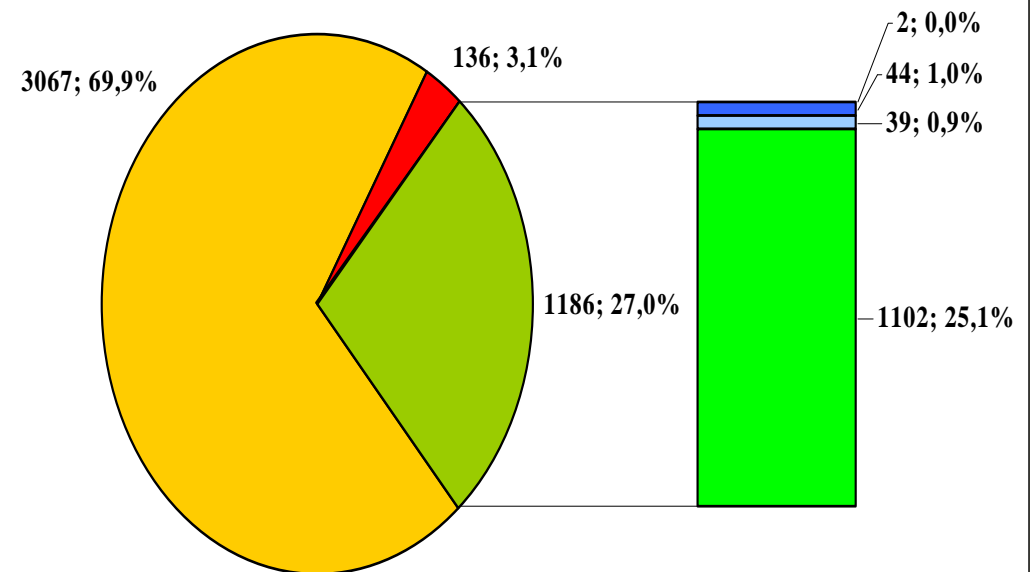
- Renewable energy sources are the following (in accordance with Section 47 of Article 3 of the Act CX of 2001 on electricity – that was effective in 2007): solar, wind, geothermal energy, hydro energy, biomass, energy source produced from biomass, gas deriving from waste deposit, sewage gas as well as biogas.
- But at the end of the licensing procedures, the license holder receiving its „quota of support”, The quota is the part of licensing procedure

Problem 4. Financial supporting –The structure (1EUR=250HUF)

2007:



2006:



■ Kapcsolt	■ Hulladék+Nyomásejtő	■ Megújuló összesen
□ Hulladéklerakó és szennyvízgáz	■ Vízörőmű	■ Szélörőmű
■ Biomassza, biogáz		

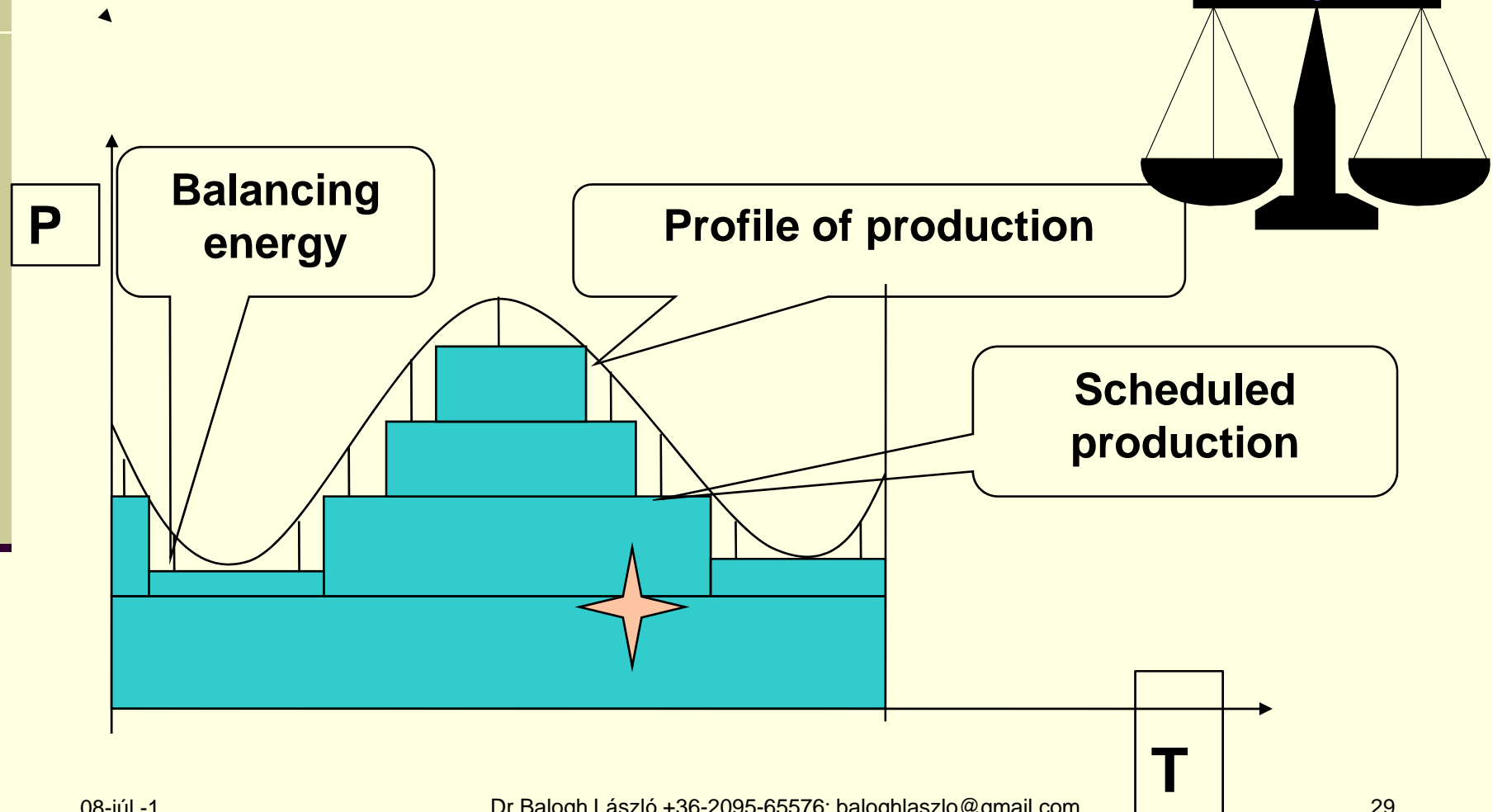
Problem 4. Financial supporting-Biomass



Problem 4. Financial supporting- 27 %Biomass



Problem 5. System operator's activity-price and method of balancing, scheduling-trial periode of operation



Problem 5. System operator's activity-price and method of balancing, scheduling

The whole process of scheduling is problematic

Without details: We can feel significant flaws of normativity and transparency in the communication and informatic system of the Transmission System Operator in two forms:

1. Hungarian TSO is not operating according to his own rules

2. Some prescriptions of scheduling and pricing of balancing energy has discriminatory elements and punishes all the market players of distributed production – also all the biomass operated small power plants among them

Some possible suggestions

1. Optimal but – mission impossible: Restructuring and rewriting all the domestic relevant regulatory elements to harmonize with the EU Directives

2. Possible actions:

2.1 Prescriptions for the member states: Yearly detailed report on the development of using RES, included the different types of RES with prescribed structure and content of the report .

(Main points: licensing, financial supporting, system operation, modifications of specific regulatory elements, and not to integrate the individual sources)

2.2 Wider dissemination of information about possibilities of legal reparations, procedures if EU prescriptions injured

2.3 Involving suitable independent NGO-s in member states to monitor the actual state of using RES in every 2-3 years.

IF NEEDED, HUNGARIAN ASSOCIATION OF RENEWABLE ENERGY SOURCES IS READY TO COOPERATE

**THANK YOU FOR YOUR
ATTENTION**

**LÁSZLÓ BALOGH pres. of :
HUNGARIAN ASS.FOR RENEWABLE ENERGY
SOURCES**

baloghlaszlo@gmail.com

www.mmesz.hu