

# Reimbursement of public funds by renewable energy promoters receiving feed-in tariff

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## Introduction

On October 13 2016 Ministerial Order 268-B/2016 approved the reimbursement of public funds granted to generation facilities included in the special regime (generally, renewable energy promoters) which are receiving or have cumulatively received guaranteed remuneration (ie, feed-in tariffs) from the last resort supplier of the national electricity system.

This measure aims to reduce the tariff deficit and future costs in relation to the acquisition of electric energy from special regime generators, with the ultimate goal of ensuring the sustainability of the national electricity system.

## Ministerial order

According to the ministerial order, the last resort supplier will deduct, as soon as possible, the excessive amounts received by generators through public support schemes in an effort to promote and develop renewable energies.

For this purpose, the ministerial order provides that, within 30 days of its enactment, the member of government responsible for energy affairs (via a Directorate General of Energy and Geology proposal) must publish an order identifying, for each electricity generation facility, the "amounts received in excess" to be recouped in favour of the national electricity system. To date, this order has not been published.

Further, via a Directorate General of Energy and Geology proposal, the responsible member of government must set out the amount (in euros per megawatt hour) to be deducted from the sums paid by the last resort supplier to each special regime generation facility. The reason behind defining the value is unclear, as the amount to be deducted seems to correspond to the full amount of public funds received.

It is also unclear how this deduction (or 'correction', as prescribed in the ministerial order) will be calculated in electricity generation facilities that no longer receive a guaranteed remuneration and are therefore receiving no remuneration from the last resort supplier. The order simply stipulates that any discovered excessive amounts must be "corrected as soon as possible" by the last resort supplier.

The amounts collected by the last resort supplier will be passed through the value chain of the national electricity system under the tariff regulation. Further, 50% of the collected amounts will be deducted for the tariff deficit, to benefit future tariff years. This deduction will be made through the existing mechanism in relation to excess costs stemming from the acquisition of energy from special regime generators regulated by the national electricity system.

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## **Comment**

This ministerial order has come as a surprise to operators within the renewable energy sector and has raised several legal and practical questions.

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