

SUMMARY

The maze of wind power plant licensing in Hungary¹

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This case study analyses the Hungarian regulations on the installation of wind power plants through interviews conducted with market players and workers of relevant authorities, and through analysing the regulatory environment (laws, decrees, procedure regulations) that form the base for licensing.

The following study gives a comprehensive overview of the maze of Hungarian regulations with regard to a single market – the wind power plant market – in terms of entering said market. The primary focus is on the licensing procedure for the installation of wind farms because preparation of the originally planned procedure for the second round of quota allocation had not been completed by the time of this study, despite the initial schedule². The study also discusses the entrepreneurial perception of this second quota allocation.

The study will show that regulations on the installation of wind power plants in Hungary are not easily perspicuous for entrepreneurs – businessmen have to find their way out of a maze, should they decide to enter this market. For the completion of this task what they need is not the knowledge of clear-cut, readily available regulations and procedures but personal relations, inside information, willingness to bribe and acceptance of the non-transparent rules. Whoever enters this door should bear endless patience and agree with those who say that “it is just the way things go in Hungary”.

The first part of the study discusses the regulatory environment and the steps of the licensing procedure through available documents and interviews conducted with workers of licensing authorities, while the second part examines the perception of the procedure from the market players’ point of view. The attachment of the study summarises the information available on the websites of the licensing authorities, and discusses the requirements of the second round of quota allocation and its results published up to the completion of this study.

Perception of market players

For a better understanding of the licensing procedure of wind power plants we saw it necessary to ask as many industry players about their experiences as possible with the size and time limitations of this study in mind.

Company managers were selected via results of earlier interviews and with the snowball method, and were asked to tell us about the licensing procedure of wind power plants for a research commissioned by Energia Klub. At the time of direct contact it became clear that several entrepreneurs interpreted this request as a demand for information on the discrepancies and corruption around the tendering process. Therefore those who currently did not apply were more open to answering our questions than those waiting for the results of a tender. The reason to refusing to be interviewed was often the fear of their application’s failure due to giving information, even anonymously, on how they got to where they stand now.

¹ The research was conducted by the Corruption Research Center of the Institute of Sociology and Social Policy of Corvinus University in Budapest in cooperation with Energia Klub in the framework of the Energia Kontroll Projekt. The Energia Kontroll Projekt was created with the financial support of OSI Budapest and CEE Trust. May 2010.

² In mid-June of 2010 (after the completion of this study) the Minister of National Development modified the law regulating the wind power tenders before the results were published. Therefore the Hungarian Energy Office had to recall the tender for the instalment of wind power plants.

The basis of this summary was eventually provided by conversations with three entrepreneurs out of nine company managers approached. One is an energy merchant and power plant investor, another deals in wind power equipment and provides various services to other wind power-related companies beside applying for a quote, and the third one is involved in the purchase of project companies. This provides us with the opportunity to get to know the experiences of company managers from different viewpoints.

The licensing procedure

The licensing procedure has 3+1 phases according to the entrepreneurs. The first one is the +1: before commencing anything, one has to get a permit for the wind measurement tower. After wind measurement one has to acquire an environmental protection permission. According to the entrepreneurs, this is the lengthiest and most problematic permit, therefore it is not sensible to work on the next one, the construction permission at the same time. Obtaining the environmental protection permission can take up to one-one and a half years depending on the number of professional authorities involved, on the requested studies and on the proceedings.

„The most problematic one is the environmental protection permission, something you would not wish upon your enemies. The problem is that there are 30 professional authorities, which usually have two purposes. One is to allow for their cousins to write studies. I, for example, had to submit a study on flying invertebrates, and eventually we submitted one. We proved scientifically that flying invertebrates, i.e. flies, never fly at that height, therefore never encounter wind power plants. The question is always the same: which company conducts the study. But such a study is a small-scale expense.”

The third phase is the grid connection agreement that is often called a permit. According to the entrepreneurs, one needs altogether 30 +/-5 permits to build a wind farm, but this figure can vary depending on the decision of the main authorities on how many specialised authorities to involve in the process. The entrepreneurs reported that the number of specialised authorities, the choice of such authorities and the selection of studies is always at the discretion of the authority, and cannot be anticipated.

Evaluation of applications

All the entrepreneurs had negative experiences about the 2005-2006 quota allocation: they felt that MAVIR did not have the necessary expertise, the process was not transparent enough, politics and parliamentary lobbyism played too big a part; and company managers saw clear signs of corruption in terms of tender winners and the effective dates of regulations. Applications to the 2009 tender came primarily from those who had not received a quote last time or had withdrawn from submitting an application for some reason, e.g. the expiry of their construction permit. That is, those who had invested money into this and did not want to let it go. There are new tenders as well, but very few of the project companies created to be sold, only one in eight or nine, have applied for these.

Evaluation of the institutional infrastructure

The entrepreneurs usually complained about the lack of expertise, the slow work, and the “stubbornness” of authorities and institutions dealing with wind energy. Everybody expressed the opinion that MAVIR does not have professional knowledge, favours traditional power plants to wind power plants, is not familiar with international experience, and does not always pay attention to professional recommendations.

The second institution that received a lot of criticism was the Ministry of Economics – later became the Ministry of Transport, Telecommunication and Energy responsible for energy issues. The entrepreneurs felt that the lack of expertise was even more pronounced at this governmental body, reflected not only in professional questions but also in the discrepancies and contradictions of relevant legislation. The entrepreneurs found that this ministry is in the middle of the corruption cases of the licensing procedures and the wind energy field now and in relation to the previous tender as well.

The Hungarian Trade Licensing Office, however, was perceived positively, the entrepreneurs found that this authority is competent in this field and works more transparently than what was typical of the earlier licensing practice. They also think that the one-step system of the present tender structure is better than the previous one, although in some cases a certain power of authority is given to an institution while still granted to another, leading to contradictory situations.

„The overall problem is that this market does not have mature regulations, while the existing ones change constantly. This is why one cannot plan an investment several years in advance.”

The operation of institutions is very slow and cumbersome according to all interviewees; this can be in useful sometimes when an entrepreneur needs some extra time. The estimation of the companies is that authorities do not keep legally defined deadlines in the licensing procedure but take five to ten times longer on average.

According to the entrepreneurs interviewed, it is virtually impossible to put pressure on state institutions, on the Ministry of Economics – later Ministry of Transport, Telecommunication and Energy – or on the government for the protection of their interests. Supporting wind power is often something that only exists in saying; wind energy receives little opportunity and support because of habituation, the ways of the institutional structure and the relations to Russia of certain influential elite groups. Companies with international relations attempt to mobilise their EU partners and other relations, for example, by asking the associates or commercial consultants of the Danish, Austrian or German embassy to go to the ministry; by asking for assistance from the European Parliament and the European wind power associations, or directly from the European Commission through EU relations. They say that the government can only be influenced through the European Union when it comes to wind power, nor the publicity of press neither Hungarian lobby activities can help it. Sometimes, however, foreign politicians are unable to perform strong lobbying if they are not representing the EU directly; this was the case at the 2005-2006 quota allocation where some people suspected corruption from the start.

„This was decided at the Ministry of Transport and Economy. Even the Irish prime minister came to lobby but he was also misled as the XXX company submitted six applications for the same tender.”

Perception of the corruption

According to the entrepreneurs, corruption can be observed in two typical ways in the course of wind power plant licensing: corruption through impact studies and law firms. In the model of the impact studies the authorities and specialised authorities request studies on realistic or unusual topics from the applying company and suggest a certain company or person to write them. The other form happens less frequently but is a common procedure: a lawyer or a law firm supervises the corruption transfer, mediating between the entrepreneur and the representative of the authority. The lawyers then issue an invoice about legal counselling to the corrupt entrepreneur.

The interviewed entrepreneurs are of the opinion that corrupt deals are needed because of the uncertainty and slowness of the licensing procedure. Another corruption risk arises from the fact that, because of the uncertain legal background and the overburdened or lazy or slow authorities, some of

the entrepreneurs think they should visit the licensing authority personally to ensure progress, quicker administration, or to see if there is demand for corruption.

„The environmental Inspectorate distributes the licence application to 30 specialised authorities, but it is useful to visit them frequently and manage the situation. So you have to go and see all thirty of them; if you just sit and wait the procedure can easily take two years. This is a nurturing environment for corruption because it shortens the licensing process to six months, two weeks or even one day.”

The role of personal relations and formalisation

In Weber's bureaucracy model formalised procedures ensure the efficient operation and transparency of the organisation as opposed to individual clerks choosing the course of administration. Thus formalisation in theory diminishes corruption and the potential for corruption; if something is required and the entrepreneur submits it the application cannot be rejected without consequences. But if the requirements are uncertain and blurry officials have the opportunity to set requirements that are not clearly stated in the rules, and can really sour the life of a given client with additional tasks and demur. In such situations it can be helpful to employ middlemen who know how this bureaucracy works and can more easily cooperate due to previous involvement.

„Another important thing is to always find a local lawyer. You don't stand a chance with a lawyer from Budapest! And there is always a lawyer who is open to this.”

The most important factor for the success of the wind power plant licensing procedure, according to the entrepreneurs, is whether or not we can establish a good relationship with the people who have significant influence at the given municipality or at the licensing authority.

„If you don't visit that village, if you don't make an agreement with the mayor they will try and obstruct you. The mayor will find the opinion leaders of the village, farmers with the largest estates, and will tell them that the wind power plant will kill their favourite cows. After that they will all be against you...”

Even if an entrepreneur does not pay corruption money, it is important to personally attend to one's business. Whether it is just to urge the procedure or friendly visits and favours, the company managers told us that “personal management” of the proceedings helps tremendously in decreasing the period of waiting and in acquiring the licence.

The entrepreneurs estimate that corruption increases the costs of wind power plant projects by a couple of per cents, up to 20-25%. One can really win a lot of money this way because the licensing procedure can take up to two years, which means this much more human resources and wages for the investors should they decide not to try to speed up and simplify the procedure.