



European Renewable Energies Federation

Günther H. Oettinger
Commissioner for Energy
European Commission

1049 Bruxelles

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Open Letter concerning Portugal and support mechanisms for Renewables

Dear Commissioner,

EREF needs to contact you again in the context of problematic development and planned retroactive changes in the framework of renewable energy support in one of the EU Member States. We should like to draw your attention to recent developments in Portugal, where the renewable energy sector is under a serious threat to fall victim to the Portuguese economic situation.

On February the 6th, the Portuguese decree law 25/2012 has suspended indefinitely, and with immediate effect, the allocation of new power for renewable electricity production, as a result of “the guidelines on energy policy of the present Government, which point to the need to evaluate and reassess the legal framework of electricity production from renewable energy sources and combined heat and power“.

This law seems to be a result of ongoing discussions in Portugal, which started in July 2011 with the threat of imposing a retroactive cut in feed-in tariffs or an extraordinary tax on existing renewable power capacities. Allegedly this should contribute to solve the Portuguese electric system’s economic problems and meet the conditions imposed by the European Commission, the International Monetary Fund and the European Central Bank for a bailout, mentioned in the Memorandum of Understanding, signed in May 2011.

Such a tax would result in a cut of income of at least 15 % for wind farm operators in Portugal, and would have to lead to renegotiating project finance contracts. This is why an alternative solution was presented by wind representatives in the beginning of August last

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year, suggesting a voluntary reduction of wind farm income for 3 to 5 years, in exchange for an extension of the feed-in tariffs for the same period. So far no official answer was provided for this proposal. However, in the last version of the Memorandum of Understanding it is stated that the Government should present a solution on how to limit renewable electricity producers' income by January 2011. This will be a subject at the top of the agenda of the ongoing evaluation process of the Portuguese bailout.

In addition, the Portuguese government seems to be considering a revision of the National Renewable Energy Action Plan (NREAP), decreasing new installation of renewable energy capacity until 2020 substantially. Although we understand the need to revise policies in order to adapt to the new economic Portuguese framework, the proposed substantial decrease both in renewable energy capacity and in primary consumption seems rather unrealistic, and would probably endanger reaching the mandatory national target of at least 31 % renewable energy in 2020. This would mean a violation of the binding obligation to reach the target in 2020. The Commission has always underlined that in view of the short period of less than 10 years to enact sound policies under Directive 2009/28/EC and to achieve the binding target per Member State infringement procedures would be opened swiftly if measures are taken by a Member State which clearly go against its NREAP programme and which endanger target reaching.

The solutions considered, particularly those being enacted retroactively would most likely violate general principles of EU law and specifically Directive 2009/28/EC.

The current shift in Portugal's support policy for renewable energy will not be able to solve the Portuguese electric system's economic problems, and will not be helpful for reasonably meeting the conditions imposed by the European Commission, the International Monetary Fund and the European Central Bank for a bailout, mentioned in the Memorandum of Understanding, signed in May 2011. It effectively leads to discrimination and distortion of the liberalised energy market in Portugal and thus violates the principles of Directive 2009/27/EC. We would like to outline the spirit and objective of Directive 2009/27/EC in just quoting from its recital 6: "A well-functioning internal market in electricity should provide producers with the appropriate incentives for investing in new power generation, including in electricity from renewable energy sources, ..."

Furthermore, and similar to the situation in Spain, it has to be mentioned that the problem of the Portuguese electric system cannot be solved by a cut in renewable electricity production income. The existing deficit has not been created by the support for renewable energy, but rather by the political decisions not to transfer the real electricity production costs to

consumer prices. In fact, Portuguese feed-in tariffs are very competitive, the overall average is 14% below the European average and the current wind feed-in tariff is the lowest in Europe.

The current shift is discriminating and will drastically reduce the income of one of Portugal's most successful economic sectors, recognized at global level, which would have a dramatic impact on the overall development of Portugal, eventually leading to losses of tax income, more unemployment and less economic potential. Moreover, such action would severely damage Portugal's economic and political reputation and destroy the confidence of existing and potential national and foreign investors, at a time when stability and economic security are deeply needed.

As a result of these deliberations, we urge the European Commission to intervene against these problematic developments, like it was done in similar situations in other Member States. We invite the Commission to underline to the Portuguese government the importance of regulatory stability and of avoiding retroactive changes or any other action that would irreversibly affect the renewable energy development and economic stability in Portugal.

We invite you to take the necessary actions to convince the Portuguese government to refrain from any such counterproductive measure and rather to continue supporting the future oriented and sustainable renewable energy sector in Portugal as a way out of the economic crisis.

Yours sincerely,



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EREF President