

GUIDELINES ON THE STATE AID GRANTED FOR THE PRODUCTION OF RENEWABLE ENERGY IN THE EUROPEAN UNION

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Abstract: *In this paper I presented the most important orientations in the field of state aids granted for the production of renewable energy in the European Union for the 2014-2020 period. Given that the “Europe 2020 Strategy” is based on the creation of the conditions required for an intelligent, sustainable and inclusive growth, a number of main objectives were set, including for climate change and for the sustainable use of energy. Among these objectives, we would like to mention the increase to 20% of the share of renewable energy consumed in the European Union. On 22 January 2014, in a communication, the European Commission proposed that the energy and climate objectives be achieved by 2030, among which a mandatory objective at the EU level for the renewable energy of at least 27 %.*

Key words: *state aid, renewable sources, environmental protection, energy, market*

INTRODUCTION

The Guidelines on State aid for environmental protection constitute one of the tools for the implementation of a comprehensive action plan in the energy field in the 2014-2020 period that should allow for the adoption of an integrated European policy on energy and climate. The main objective of the control of the state aids in the environmental protection field is to make sure that the support measures will result in a level of environmental protection higher than the one achieved in the absence of such aids. The positive effects of this aid should compensate its negative effects in terms of distortion of the competition, taking into account the “polluter pays” principle. The review of the regulations on the state aids for the environmental protection is made according to the guidelines defined in the action plan for the state aids.

http://www.minind.ro/hg_495/orientari_mediu_energie_romana.pdf

In order to prevent the state aids from distorting competition in the domestic market and from affecting trade among the member states a manner contrary to the common interest, article 107, paragraph 1 of the Treaty on the Functioning of the European Union stipulates the principle according to which state aids are prohibited. Nevertheless, in certain cases, aids can be compatible with the domestic market under article 107, paragraphs 2 and 3. Under article 107 paragraph 3, letter c of the Treaty, the Commission may deem them compatible with the domestic market and facilitate the development of certain economic activities in the European Union, if they do not adversely affect trade conditions to an extent contrary to the common interest.

MATERIALS AND METHOD

The paper was prepared based on the analysis of the data published by the Communication from the European Union “*Guidelines on State aid for environmental protection and energy for 2014-2020*” and the Communication “*Energy 2020 - A strategy for competitive, sustainable and secure energy*”.

In this paper I presented the most important guidelines on the state aid granted for the production of renewable energy in the European Union for the 2014-2020 period. Given that the “*Europe 2020 Strategy*” aims at creating the conditions required for an intelligent, sustainable and inclusive growth, a number of main objectives were set, including for climate change and for the sustainable use of energy. Among these objectives, we would like to mention the increase to 20% of the share of renewable energy

consumed in the European Union. On 22 January 2014, in a communication, the European Commission proposed that the energy and climate objectives be achieved by 2030, among which a mandatory objective at the EU level for the renewable energy of at least 27 %.

RESULTS AND DISCUSSIONS

Europe 2020 Strategy aims at creating the conditions required for an intelligent, sustainable and inclusive growth, a number of main objectives were set, including for climate change and for the sustainable use of energy:

- the reduction of the greenhouse gas emissions by 20% in the European Union compared to the level of 1990;
- the increase by 20% of the share of renewable energy in the European Union;
- to make a 20% improvement in energy efficiency in the European Union compared to the level of 1990.

The first two mandatory objectives at national level were implemented through the “*Energy/Climate Package*”.

On 22 January 2014, in a communication entitled “*A policy framework for climate and energy in the period from 2020 to 2030*”, the European Commission proposed that the energy and climate objectives should be reached by 2030. The main axes of this 2030 framework are:

- the reduction of the greenhouse gas emissions by 40% compared to the 1990 level;
- a mandatory objective at EU level for the renewable energy of at least 27 %;
- renewed ambitions for the policies concerning the energetic efficiency;
- a new governance system and a set of new indicators for the provision of a competitive and safe energy system.

In order to support these objectives, the “*Europe 2020 Strategy*” presented the initiative “*A resource-efficient Europe*”, one of the seven flagship initiatives. This initiative aims at creating a policy framework meant to support the transition towards an efficient economy from the point of view of the use of the resources and with low carbon dioxide emissions that should contribute to:

- the stimulation of the economic performance, reducing, at the same time, the use of resources;
- identifying and creating new opportunities for the economic growth and for the stimulation of innovation and to the consolidation of the Union’s competition;
- providing the security of the supply with essential resources;
- combating climate change and limiting the impact of the use of resources on the environment.

The Union set ambitious objectives in terms of climate change and sustainable energy use, especially within its Europe 2020 Strategy. Several the legislation of the European Union already contributes to the achievement of these objectives, namely the EU ETS (the European Union Emission Trading Scheme), Directive 2009/28/EC (“Directive on the promotion of the use of energy from renewable sources”) and Directive 2009/30/EC (“Directive as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions”).

It is expected that in the period between 2020 and 2030, the confirmed renewable energy sources will allow for the network supply at competitive prices, which implies that subsidies and exemptions of balance responsibilities should be gradually eliminated.

Thanks to the market tools, such as bidding or competitive tendering proceedings opened to all renewable electricity producers which compete on an equal footing within the European Economic Area, subsidies should normally be reduced to a minimum and be

eventually eliminated. However, given the various technologic development stages of the renewable energy technologies, these guidelines allow member states to organize specific tendering proceedings related to these technologies, based on the longer-term potential of a certain new and innovative technology, on the need for diversification, on the constraints and stability of the network, and on the (integration) costs related to the system.

Taking into account the over-capacity on the food-biofuel market, it is deemed that granting aids for investments in new and existing capacities in favour of food-biofuels is not justified. However, the aids for investments dedicated to the conversion of the food-biofuel facilities into advanced biofuel plants are authorized in order to cover the costs of such conversion. In addition to this specific case, the aids for investments dedicated to biofuels can only be granted for advanced biofuels. While aids for investments in food-biofuels are no longer granted, operating aids for food-biofuels can only be granted until 2020.

In relation to the aids granted for the production of hydroelectric power, their impact can be twofold. On the one hand, they have a positive impact due to the low greenhouse gas emissions, but on the other hand, they can also have a negative effect on the water supply networks and on biodiversity. Consequently, when aids are granted for the production of hydroelectric power, the Member States should observe the provisions of Directive 2000/60/EC and especially article 4, paragraph 7, which provides the criteria for authorizing new changes of bodies of water.

One of the basic principles of the European Union legislation on waste management is waste hierarchy, which sets a priority order between the various ways of treating wastes. The state aids granted for renewable energy that uses wastes, including waste heat as supply fuel can be a positive contribution to the protection of the environment, provided that they do not disregard this principle.

Waste hierarchy means: preventing, preparing for reuse, recycling, other options of recovery, for example energy recovery and waste disposal.

Aids granted for renewable energy can be granted as aids for investments or operating aids. Aids granted for renewable energy should, in principle, contribute to the integration of products from renewable sources on the electricity market.

In order to foster integration renewable energy on the electricity market, it is important that the beneficiaries sell electricity directly on the market and be subject to the market obligations. From 1 January 2016, the following cumulative conditions shall be applied to all new aid schemes and measures scheme:

- aids shall be granted as a premium to which the market price at which producers sell their electricity directly on the market will be added;
- the beneficiaries shall be subject to the standard balancing responsibilities, except where there are no intraday liquid markets;
- measures shall be applied to make sure that producers are not stimulated to produce electricity at negative prices.

In a transitional phase which covers the years 2015 and 2016, aid for at least 5% of the new planned capacity of producing renewable energy should be granted based on competitive tendering proceedings, based on clear, transparent and non-discriminatory criteria. From 1 January 2017, aids shall be granted by means of on competitive tendering proceedings, based on clear, transparent and non-discriminatory criteria, except when:

- The Member States prove that only one project or a very limited number of projects or sites could be eligible;
- The Member States prove that the competitive tendering proceedings would result in the increase of the support levels (for example, in order to avoid the presentation of strategic offers);

- The Member States prove that the competitive tendering proceedings would result in low project implementation rates (in order to avoid an insufficient participation to tender).

Aids may be granted without competitive tendering proceedings to plants with an installed capacity of production of electricity lower than 1 MW or to demonstration projects, except for electricity produced from wind power plants with a capacity for production of electricity installed no more than 6 MW or 6 production units.

In terms of renewable energy other than electricity, operating aid will be considered compatible with the domestic market if the following cumulative conditions are met:

- Aid per energy unit will not exceed the difference between the total equalized costs of the energy produced by means of the specific respective technology and the market price of the respective type of energy;
- The total equalized costs of the energy produced can include a normal return on capital. Aids for investments are deducted from the total investment value when the total equalized costs of the energy produced are calculated;
- The production costs are updated periodically, at least once a year;
- Aids are granted only up to the full depreciation of the plant, in compliance with the usual accounting rules in order to avoid having the operating aids based on the total equalized costs of the energy produced exceed the depreciation of the investment.

Operating aids granted for biomass after the depreciation of the plants are compatible with the domestic market if a Member State proves that the operating costs incurred by the beneficiary after the depreciation of the plants continue to be higher than the market price of the respective energy and if the following cumulative conditions are met:

- Aids are only granted based on the renewable energy produced;
- The measure is designed so as to compensate the difference between the operating costs incurred by the beneficiary and the market price;
- There is a monitoring mechanism used to check if the operating costs incurred by the beneficiary continue to be higher than the market price of the respective energy.

Modernization of the support granted for renewables

The rules on state aids granted for the production of renewable energy helped achieve the EU environmental objectives. In compliance with the current EU objectives, until 2020, a fifth of the total energy consumption should come from renewable sources. In 2012, the EU average had already consumed 14.1 % of its energy from renewable sources. Based on the current developments and policies, the EU average of renewable energy in the energy consumption could reach 20.9 % by 2020.

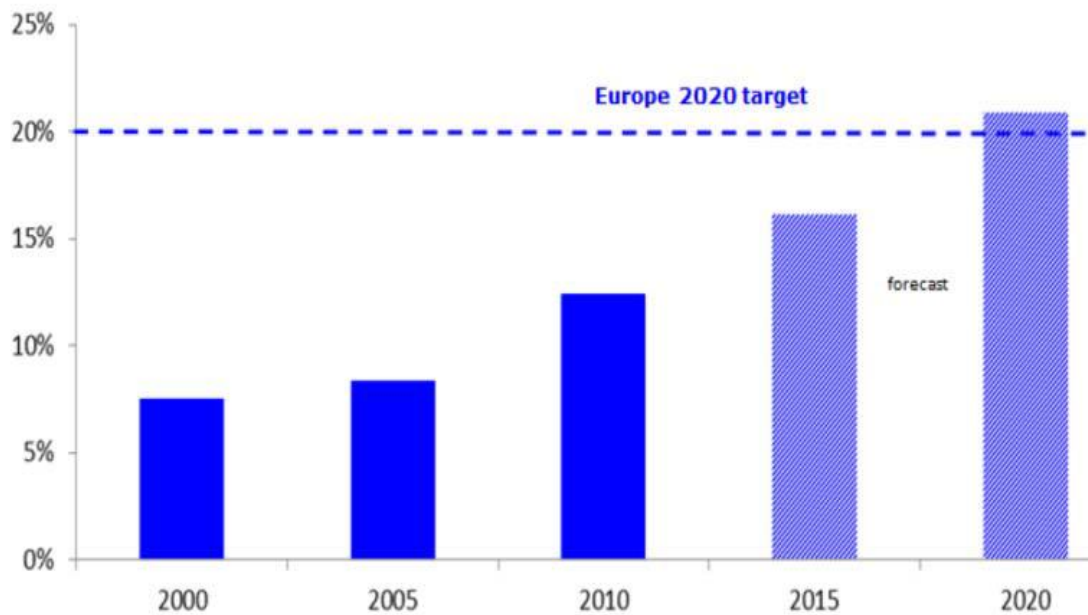


Figure 1. EU average of renewable energy in gross final energy consumption, 2000-2020

Source: European Commission, study commissioned by the European Commission. Chart available in annex 2 of the Communication "Taking stock of the Europe 2020 strategy for smart, sustainable and inclusive growth "

This is the good news. But there are also new challenges. Renewable energies have become the victim of their own success. The rapid increase in renewable energy generators had also caused distortions of the market. Four issues in particular needed attention.

- **Support schemes are not cost-efficient**

In order to support renewable energy sources, Member States mainly use feed-in premiums. This shelters producers of renewable electricity from market signals and changing electricity prices, which gives them no economic incentive to adapt project features (such as location, installation design, or actual operation) to supply and demand.

- **Market fragmentation**

There are large differences between support instruments and support levels across Member States and technologies.

Figure 2 below shows that many Member States spend large amounts on support schemes for producing electricity from renewable energy sources (RES-e), both in absolute terms as well as per MWh.

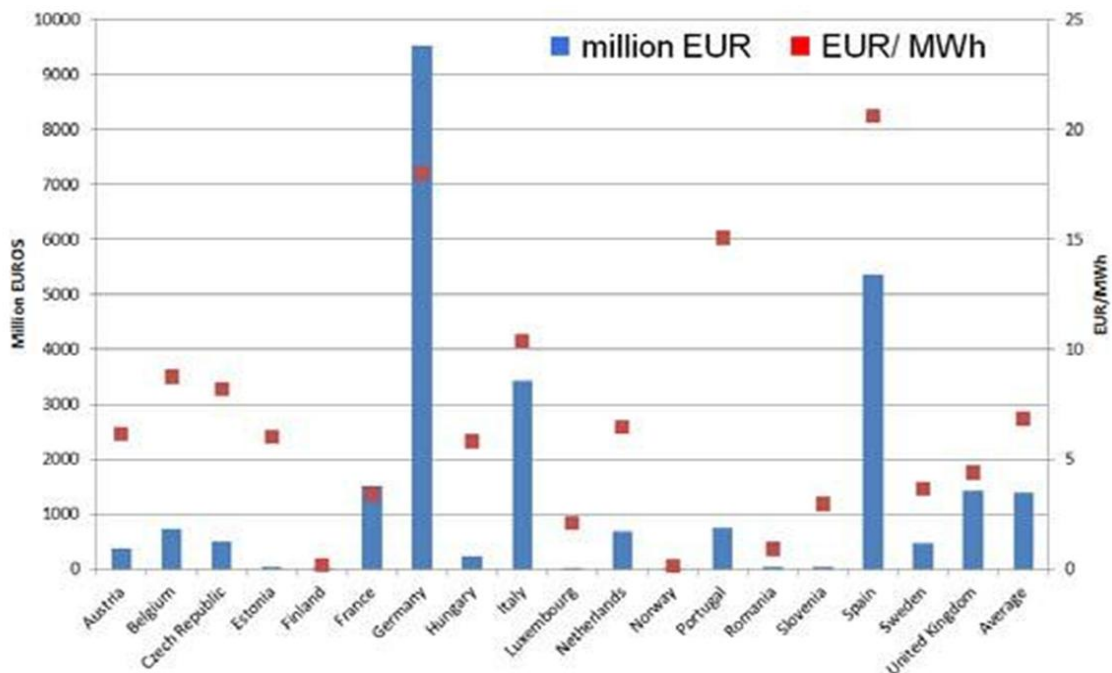


Figure 2. RES-e support in Europe in € million and per unit of energy consumed.
Source: CEER, June 2013

Source: http://ec.europa.eu/competition/publications/cpb/2014/016_en.pdf

Different levels of support are not necessarily problematic, but large differences could potentially encourage "subsidy shopping", when companies choose investment locations based on the aid they will receive rather than other criteria, such as infrastructure. One explanation for large differences between Member States could simply be that it is difficult to set tariffs administratively at the right level. Member States tend to subsidize national energy production exclusively, which reinforces fragmentation of the energy market.

In June 2014, the Council emphasized the need to move progressively towards cost-effective and market-based support mechanisms for renewables. In order to limit energy costs borne by end users, the Council also called for greater convergence between national support schemes beyond 2020.

CONCLUSIONS

The Communication "A strategy for competitive, sustainable and secure energy", as part of the flagship initiative "A resource-efficient Europe", has already concluded that the objectives related to a secure, sustainable and affordable energy will be undermined unless electricity grids are upgraded, obsolete plants are replaced by competitive and cleaner alternatives and energy is used more efficiently throughout the whole energy chain.

The framework for 2030 refers to an ambitious commitment for the reduction of the greenhouse gas emissions, in compliance with the requirements for 2050. The implementation of this objective must follow an approach able to provide the efficiency of costs, providing flexibility to the Member States, enabling them to define the transition towards carbon dioxide emissions appropriate to their specific circumstances and to foster the research and innovation policy in order to support the climate and energy framework for the period beyond 2020.

Through the guidelines formulated in this field, the European Commission sets the conditions under which the aids for energy and environment can be deemed compatible with the domestic market, focusing three objectives through the modernization of the state aid controls:

- Fostering the intelligent, sustainable and inclusive growth on a competitive domestic market;
- Focusing the Commission's control on the cases with the greatest impact on the domestic market and strengthening, at the same time, the cooperation with the Member States in terms of implementation of the rules for granting state aids;
- Simplifying rules and accelerating the decision-making process.

The joint assessment principles based on the compatibility conditions in these guidelines aim at consolidating the domestic market, at fostering the increased efficiency of public spending through a more effective contribution of the state aids to the joint objectives, analysing the stimulating effect more rigorously, limiting the minimum state aid required and avoiding possible negative effects of the aids on competition and on trade.

These guidelines began to be implemented as at 1 July 2014 and will replace Community guidelines on State aid for environmental protection published on 1 April 2008. They will be implemented by 31 December 2020. The Commission will apply these guidelines to all notified support measures for which a decision is required after their effective date, even though the projects were notified before that date. However, individual aids granted based on aid schemes approved and notified to the Commission under the obligation to notify such aids individually will be assessed based on the guidelines applicable to the aid scheme on which the individual support is based. In the Commission's opinion, all aids granted as reductions of the support financing for the renewable energy can be declared compatible with the domestic market.

If necessary, the Member States should modify these schemes to harmonize them with these guidelines no later than by 1 January 2016, with the following exceptions:

1. Consequently, the existing aid schemes under article 1 letter (b) of the (EC) Regulation no. 659/1999 of the Council laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union of the EC Treaty for operating aids in support of renewable energy and cogeneration should be adapted to the present guidelines only when the Member States extend their existing aid schemes, when they must notify them again after the expiration of the 10-year period or after the expiry of the validity of the Commission's decision or when it modifies them.

2. When a beneficiary has received, from a Member State, the confirmation that it will benefit from a state aid under such a scheme on a pre-determined period, such aid may be granted throughout the whole period under the conditions set in the scheme at the time of the confirmation.

3. The Member States are invited to give their explicit and unconditional agreement on the adequate measures proposed, within two months from the publication of these guidelines in the Official Journal of the European Union. In the absence of an answer, the Commission will consider that the respective Member State does not agree with the measures proposed.

The Commission can decide to review or to change these orientations anytime, if this is necessary for legal policy reasons related to competition in order to take into account other international policies and commitments of the European Union.

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