

# EREF

European Renewable Energies Federation



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Günther H. Oettinger  
Commissioner for Energy  
European Commission

1049 Bruxelles

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## **New round of retroactive changes against renewable energies in Spain again breaches EU law and endangers achievement of 2020 renewable energy targets**

Dear Commissioner,

EREF, the European Renewable Energies Federation, together with the Spanish Renewable Energy Association, APPA, as the umbrella of the renewable energy associations in Spain and representing the vast majority of the national renewable sector, would hereby like to express their deep concern as regards the severe measures adopted against renewable electricity and biofuels producers in Spain since the beginning of 2013. They clearly require an intervention by the European Commission.

In our letter of 18 July 2012, we already warned of the negative consequences of planned fiscal measures against renewable energy projects in Spain. In your answer of 17 October 2012, you pointed out that despite the urgent need to curb the so-called tariff-deficit “Member States should avoid retroactive measures and stop-start approaches that affect negatively the investment climate for renewable energy projects” and you assured us that “the Commission continues to actively monitor renewable policy developments in Spain with a view to consider if any action at EU level is necessary”.

The Spanish renewable energy industry understands that in times of financial and economic crisis Member States need to take steps to reduce costs. However, measures weakening investor confidence in the renewables sector only damage an industry which is crucial for

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economic growth, security of supply, job creation and greenhouse gas emissions reduction. As such, they are thus clearly incompatible with key European policy objectives.

Spain's renewable energy industry is ready to participate in a multi-stakeholder dialogue to discuss the best way forward for the reform of the Spanish power sector and come up with a constructive solution to reduce the electricity tariff deficit. Despite the more than 25 years of experience of APPA and its stellar reputation as representative of the Spanish renewables industry, neither APPA nor any other association from the renewable sector has been invited to give their opinion or input. The Spanish government simply did not allow any kind of dialogue and took decisions without considering economic consequences.

The Spanish Government, instead of taking into consideration advice from the European Commission, the respective alerts in the EU Semester recommendations to Spain and in its Communication titled "Renewable Energy: a major player in the European energy market", not to mention the continued warnings and proposals of APPA and other Spanish renewable energy associations, approved Law 15/2012 (of 27th of December) on tax measures for energy sustainability, a further regulation with strongly negative influences on the business of existing renewable electricity (RES-E) installations. This new law, which entered into force in 2013, introduced the new tax we already warned about in our last letter of July 18 2012. The tax applies on the gross revenues of the sale of electricity with a flat rate for all technologies, both conventional and renewable. The tax applies not only to new installations but to all existing ones as well. The new law established an even higher tax level (7%) than originally proposed in several draft versions of the law (6%).

On Friday, February 1, 2013, the Spanish Council of Ministers, without any former notice, approved Royal Decree-Law (RDL) 2/2013 which entered into force the next day. It abolished the option of receiving the hourly wholesale electricity market price plus a certain premium based on Royal Decree 661/2007. This specific "market price plus premium" remuneration system made Spain, since 2004, a pioneer in promoting the switch from fixed tariffs for renewable electricity to more flexible feed-in premiums. This was in line with the Commission's position that with increasing penetration levels renewable energy support mechanisms should encourage operators to respond to market signals. By abolishing this option, the Spanish Government is spurning 10 years of strong economic and technological efforts of successfully integrating (mainly variable) renewable energies into the conventional power market.

The remaining remuneration option is a pure fixed feed-in tariff. RES-E producers can either take the feed-in support or receive only the hourly pool price, without any premium. This “market price only” option is economically not viable, as renewable sources today (still) cannot compete with the pool price, nor can it guarantee a reasonable return of investments. Offshore wind energy, which until now could choose the market price plus premium option (with a cap of 18.20 €/ct/kWh) now can only choose between the fixed feed-in tariff (14.85 €/ct/kWh) and the hourly wholesale market price (without any premium). Thus, the support for offshore wind has been effectively reduced.

RDL 2/2013 changed the mechanism of indexation of the RES-E remuneration to the consumer price index (inflation), decoupling it from the real evolution of the energy costs. Thus, the feed-in tariff for existing RES-E installations becomes degressive and endangers their profitability even more. Furthermore, the provision of an additional premium of up to 0.7 €/ct/kWh for repowered wind farms has been eliminated by RDL 2/2013. Similar to Law 15/2012, RDL 2/2013 constitutes a clear violation of several obligations under EU law (risking non-achievement of Spain’s RES targets for 2020, violation of legitimate expectations of RES-E producers, breach of non-discrimination principle between different energy technologies, etc.).

Spanish policy for biofuels took a U-turn as well, recently. On February 22, the Spanish Government approved the Royal Decree-Law 4/2013 to support entrepreneurship, stimulate economic growth and create jobs, including a significant reduction of the biofuels consumption mandates from 2013 onwards. Without any previous consultation with the National Energy Commission (CNE) or any stakeholders, the global biofuels mandate has been axed from 6.5 to 4.1% , whereas biodiesel and bioethanol targets have been reduced to 4.1% (from 7%) and 3.9% (from 4.1%), respectively.

Despite these devastating reductions, the same Royal Decree-Law 4/2013 claims in its recitals that this decision “will give some stability to the biofuels sector without putting at risk, at all, the fulfillment of the European [energy] targets for the year 2020”. These considerations are fallacies. Those abrupt and retroactive measures undermine any certainty to the sector and will interfere significantly with Spain’s progress towards the 10% goal for renewables in transport by 2020. The Government has put just another nail in the coffin of the Spanish biodiesel sector after several years of massive imports that have disrupted the domestic market.

We ask you for an urgent meeting in order to present and discuss our views on these measures and possible ways to avoid their harmful impact on meeting the EU's 2020 renewable energy targets.

Yours sincerely,



Rainer Hinrichs-Rahlwes

EREF President



José Miguel Villarig Tomás

President of APPA