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The European Court of Justice has ruled against Åland Vindkraft in the July 1 ruling. RECS International demands that European law makers take steps towards a more cost-efficient and effective market for renewable energy

The ruling in favour of the Swedish Energy Agency (Energimyndigheten) in the case of *Åland Vindkraft AB v. Energimyndigheten* was not in line with the earlier opinion of the Advocate General. This outcome allows protectionist national electricity support schemes to continue, thus encouraging producers to go for the highest subsidies instead of the most cost-efficient generation. RECS International is concerned that the cost-efficient generation of renewable energy will be slowed down, making it harder for the much-needed energy transition to take place across Europe. By restricting international competition, this ruling will also keep the cost of support for European renewables high and reduce the competitiveness of European industries. RECS International believes that consumers will ultimately pay the price for this decision in the form of higher taxes, tariffs and fees, when the alternative was to promote cheap renewable power that is generated where it is most efficient to do so.

Both the ruling by the ECJ on 1 July 2014 and the opinion of the Advocate General dated 28 January 2014 held that a national renewable support scheme that adheres to Article 3(3) of the Renewable Energy Directive indeed restricts the free movement of goods required by Article 34 of the Treaty on the Functioning of the European Union (TFEU). The opinion of the Advocate General was that the current national restrictions in *Åland Vindkraft AB v. Energimyndigheten* were not justifiable, as the effects on national environmental protection were not proportionate to the level of the restriction. The ECJ ruling disagreed, considering the restriction to be a proportionate measure to control the effects and the costs of national renewable support schemes. The ECJ did not examine whether a national restriction such as this will hinder additional generation of and trade in renewable energy. Of even greater concern is the fact that the ECJ made no reference to why, if the restriction were to be lifted, national governments would not be allowed to control the effects and the costs of renewable support schemes.

The ECJ has now for the second time taken a different view from the opinions of its Advocate Generals on renewable energy trade restrictions. In both cases (*PreussenElektra AG v Schleswag AG* being the other) the ECJ has simply presumed necessity and proportionality without examining it in detail.

RECS International's position is that an efficient, effective European market for renewable energy is one that allows producers of mature renewable technologies to place wind turbines where the wind blows the hardest and solar panels where the sun shines longest, and not necessarily where national subsidies are the highest. Naturally factors other than the availability of the renewable resource will also influence the decisions of a producer, including access to the grid and other costs related to generating renewable power. For this reason RECS International recognizes that financial support will need to continue if Europe intends to meet its 2020 renewable energy growth targets and its potential 2030 targets, once these are agreed. RECS International, however, believes that this support is best provided by focusing on the location where renewable energy is consumed and not where it is produced. The member state where renewable electricity is consumed should be able to claim this electricity towards its national renewable target.

"The focus has in the past been on the *production* of renewable electricity, whereas we believe that the court completely missed this opportunity to also allow support for the *consumption* of renewables," says Peter Niermeijer, Secretary General of RECS International. Member states could then decide to introduce rules which oblige consumers – or their suppliers – to purchase renewable energy products. These instruments will eventually raise the value of renewable energy products in the electricity market, enabling renewable energy producers to compete with cheaper fossil fuel-based producers. Peter Niermeijer went on to say, "This approach would have given governments much more freedom to formulate their own policies, without disrupting the internal market." Energy consumers would also be able to support their governments in meeting national targets. They would better understand that purchasing renewable electricity products allows them to use green electricity within their homes, while helping to meet the national targets for growth in renewable electricity that are required by the European Commission. Instead the ruling by the ECJ has further delayed this positive outcome, increasing market barriers and reducing options for integrating renewable energy in the internal electricity market.

To support the consumption of renewables – as well as the reliable delivery of electricity attributes – the EU must focus on strengthening the existing reliable and robust tracking system for energy, the Guarantee of Origin. In more than 16 countries a European standard for the Guarantee of Origin has already been applied and more than 400 TWh of renewable electricity are tracked annually from the locations where it is produced to the places where it is consumed. The value of using Guarantees of Origin for disclosure cannot be disputed.

RECS International notes that, while the court decision was not in line with an open, cost-efficient and effective consumption-based target and support system, the door is still open for policy makers to find new solutions which will support all electricity consumers and boost the supply of renewable energy, while increasing European competitiveness.

About RECS International

RECS International is a non-profit organization that strives to create an open, pan-European renewable energy market which is facilitated by commonly accepted and harmonized tracking systems.

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