

At the avosetta meeting in Oslo of April 1 and 2, 2011 on legal issues related to the promotion and regulation of renewable energy two major questions were asked: what instruments direct energy production towards renewable energy sources (RES), and how can adverse environmental side-effects be avoided? The conclusions are not based on consensus but summarize the trends of the discussions.

## 1. Instruments supporting RES

- a) The promotion of RES through massive state aids by green certificates, feed-in guarantees at high prices and direct subsidies should better be monitored in terms of its efficiency and necessity.
- b) RES support should not be maximised but must be seen in the context of the other three strategies of climate change mitigation: energy efficiency, reduction of climate gas emissions, and sufficiency (meaning the lowering or reorientation of consumption levels).
- c) It should be considered if RES support should not be replaced by taxes and phase-out schemes on non-renewables, making these more expensive and scarce thus indirectly promoting the profitability of and need for RES.
- d) Member States support schemes often further RES indiscriminately, regardless of the territorial suitability to a certain source of RES and independently from the natural capacities of the State .
- e) The EU Commission's vision to create a pan European organization of RES production and distribution is worth considering. Such a system would support the correct localization of every new RES: solar energy in sunny regions, wind energy in windy regions, hydropower in water rich and mountaneous regions, biomass in agriculturable regions.
- f) Such a system would require the construction of a European wide electricity grid that allows to flexibly but efficiently transport electricity from where it is generated to where it is needed.
- g) Proactive (mandatory) high level planning and consequently SEA is necessary for:
  - a) the specific and overall targets of the four climate mitigation strategies
  - b) the definition of the energy mix including schemes to phase out non renewables
  - c) the precise need for each energy source
  - d) territorial planning for each energy source and electricity power lines

## 2. Instruments preventing adverse environmental side-effects of RES

- a) RES are necessary to mitigate climate change but they can have serious environmental side-effects such as air, water and soil pollution, loss of biodiversity, deterioration of landscapes, reinforced industrialisation of agriculture, etc. These side-effects are being controlled by traditional and new instruments.
- b) Sustainability indicators for each energy source should be developed
- c) SEA and EIA must be applied to plans and projects for RES
- d) Authorisation procedures for RES projects should be streamlined respecting the no regression principle. This can be done by
  - aa) dematerialising major administrative steps (e-authorisation)
  - bb) allowing for a staggered approach of assessing projects from higher level planning to the authorisation of specific projects
  - cc) promote rather than decommission public participation
- e) Those suffering losses from RES should be compensated in cases of hardship. Criteria in that respect are still to be developed.
- f) The sustainability criteria for biofuel production prescribed by Directive 2009/28 need to be more precisely defined and cannot be left to the definition by biomass producers, users and certifiers.

Alexandra Aragao, Gerd Winter