

Dear Mr. Oettinger,

From the Platform for a New Energy Model (Plataforma por un Nuevo Modelo Energético) we know you are very well aware of the situation of over 53.000 renewable energy installations in Spain, owned by people who trusted in a legislation apparently supported and pushed by EU law and policy, that are now facing the possibility of bankruptcy.

Nevertheless three weeks ago, during a discussion at the European Parliament, you declared that a further retroactive cutback of the renewable energy regulation in Spain is possible and probably the EU will not be able to prevent that.

We would like to ask you who is supposed to defend the rights of up to 200.000 people which have been affected by a combination of Laws, Royal Decrees and Royal Decree-Laws, namely RD1565/2010, RDL14/2010, RDL1/2012, Law 15/2012 and RDL2/2013, which dramatically diminished the profitability of their investments in a retroactive fashion at the extent that many of them have now a negative return.

Considering these norms to be contrary to national and EU law we tried every possible remedy, even where no remedy was apparently available. Thus we appealed before the Spanish Audiencia Nacional, the Supreme Court, the Constitutional Court and now even before the European Court of Human Rights in Strasbourg.

Unfortunately, almost three years after the first cutbacks, we are still waiting for the possibility to be heard. Spanish courts continue to ignore EU law and even deny the option of a preliminary ruling before the TJEU, in a field where no decision has been previously rendered, while they apparently prefer to create their own doctrine.

We had no choice but asking directly the European Commission, relying in its role as warden of the treaties, and thus we filed a series of complaints concerning the infringements of Directive 2009/28/CE and 2009/72/CE as well as of articles 107 and 108 TFEU¹ and the breach of article 267 of the TFEU².

And now that other another cutback to renewable energies seems to come we can only hope that the European Commission will finally take a position and choose to force Spain to comply with EU law or, if this is not possible, at least it acts in order to prevent Spanish institutional and judicial bodies from restricting over time the ability to invoke the application of EU law in its own courts.

Kind regards,



Piet Holtrop

¹These complaints have been sent to the legal service of the EC with reference numbers CHAP(2013)01105 and CHAP(2013)01125).

² Ibid, reference number CHAP(2013)00737.