



The Europeanisation of the Promotion of the Development of Renewable Energies in Transition

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Introduction

1/RE and European Integration

▶ Negative Integration

→ **Definition:** submission to EU Law.

→ **Implications :** the existence of a mandatory legal framework;
treaties → obligations to do/not to do.

→ **Negative Integration of RE:** ECJ, 19/12/2013, *Wind of Wrath*,
aff. C-262/12: submission of state measures to support RE to EU
state aid law (TFUE, s. 107).



Introduction

► Positive Integration

→ **Definition** : bring national laws together / bring them together => common legal standards = Europeanization.

→ **Implications** : Jurisdiction / institutions and procedures / normative instruments => a legal order (CJEC, 15/7/1964, Costa / Enel, aff. 6/64: "unlike ordinary international treaties, the EEC treaty has established its own legal order integrated into the legal systems of the Member States")

→ Positive Integration of RE:

- Europeanization of RE → diversity of issues;
- Europeanization of the promotion of the development of RE → environmental challenge.
 - **Objective** : development of RE.
 - **Purpose** : promotion of the development of RE.



Introduction

2 / Europeanization of the promotion of the development of renewable energies

► Legal framework

→ **Instrumented legal basis:** EU policy "in the field of the environment" (TEC, art. 174 et seq.).

→ **Standardized legal basis:** EU policy "in the field of energy" aims to "promote (...) the development of (...) renewable energies" (TFEU, art. 194.1 c)

► Object:

According to Directive 2018/2001 / EU (art. 1), establish:

→ "a common framework for promotion..."

→... "energy produced from renewable sources"

=> European definition of renewable energies.



Introduction

► Transition

→ Evolutionary Europeanisation, progressive and pace:

- **Directive 2001/77 / EC of September 27, 2001** on the promotion of electricity produced from renewable energy sources on the internal electricity market + **Directive 2003/30 / EC of May 8, 2003** aimed at promoting the use of biofuels or other renewable fuels in transport: deadline 2010.
- **Directive 2009/28 / EC of April 23, 2009** relating to the promotion of the use of energy produced from renewable sources and amending and then repealing Directives 2001/77 / EC and 2003/30 / EC: deadline 2020.
- **Directive 2018/2001 / EU of 11 December 2018** on the promotion of the use of energy produced from renewable sources: deadline 2030.



Introduction

► Transition (continued)

→ **Recent evolution of the “common framework”?** –
RE consumption target (§1). - Regimes applicable to the
means of promotion of renewable energies (§2).



§1. Evolution of the RE consumption target

▶ Development of renewable energies in the internal market

→ Production of RE:

Directive 2018/2001 / EU, art. 1: "This directive defines a common framework for the promotion of the production of energy from renewable sources".

→ RE consumption:

Directive 2018/2001 / EU, art. 3.1:

Member States collectively ensure that the share of energy produced from renewable sources in the Union's gross final energy consumption in 2030 is at least 32%.=> "Global" (A) and "binding" (B) RE **consumption** target.



§1. Evolution of the RE consumption target

A. Overall objective

▶ 32% of renewable energy consumed in the EU in 2030.

1 °) European

▶ Established by / for the EU

▶ 32% by 2030.

2°) Exclusively European

▶ Not individualized by member state

▶ "Diseuropeanisation" offset by the "binding" nature of the objective...



§1. Evolution of the RE consumption target

B. Binding objective

1°) Collective constraint

► Directive 2018/2001 / EU:

→ art. 3.1:

"The Member States shall collectively ensure that the share of energy produced from renewable sources in the Union's gross final energy consumption in 2030 is at least 32%";

→ art. 3.2: "Member States shall fix national contributions in order to collectively achieve the overall binding objective of the Union set in paragraph 1 of this article ...".

2 °) National contributions

► Directive 2018/2001 / EU, art. 3.2:

"... As part of their integrated national energy and climate plans, in accordance with Articles 3 to 5 and 9 to 14 of Regulation (EU) 2018/1999"

=> **obligation of means + surveillance** in the context of **European governance**.



§2. Evolution of the legal regimes applicable to the means of promoting RE

▶ **The evolution → all Europeanized means.**

Those: → Decided in autonomy by the member states (A.) → Imposed by EU law (B)



§2. Evolution of the legal regimes applicable to the means of promoting RE

A. Europeanisation of national resources

1°) New European rules

▶ "Aid schemes":

Member States “may implement aid schemes” (Directive 2018/2001 / EU, Art. 4.1) / codification of the Commission's “doctrine” and recent case law (CJEU) in the area of aid State (directive 2018/2001 / EU, art. 3.3 and art. 4.2 to 4.7)

▶ "Procedures" applicable to the production of RE:

Reduction of deadlines and simplification (Directive 2018/2001 / EU, art. 15 and art. 16).



§2. Evolution of the legal regimes applicable to the means of promoting RE

2 °) New legal regimes

▶ Renewable consumption

→ Consumer protection

→ Self-consumption

→ Renewable energy communities



§2. Evolution of the legal regimes applicable to the means of promoting RE

B. Europeanisation of European resources

1 °) Guarantees of origin of renewable energies

► Objective:

Trace the geographic (which states?) And energy origin of the RES (which source?).

► Evolution:

→ Extension of the field of application: renewable electricity (directive 2001/77 / EC); other forms of renewable energy (Directive 2018/2001 / EU).

→ **Clarification of the legal regime.**



§2. Evolution of the legal regimes applicable to the means of promoting RE

2 °) Environmental criteria

▶ Object

Environmental standardization for some of the renewable energies concerned by Europeanization.

▶ Evolution:

- Extension of the scope: "biomass energy".**
- Reinforcement of requirements.**



Conclusion

► **Europeanisation: European but also a national process:**

→ **Role of the State upstream of Europeanization:**

- Europeanisation is based on a competence assigned by the member states to the EU (art. 194.1 c) TFEU).

- At the same time art. 194.2 TFEU reserves for the State the determination of its "choices between different sources of energy or on the general structure of the energy supply".

However, the Europeanisation of the promotion of the development of RE is modifying the national energy mix (↗ share of renewable energies).

Europeanisation => neutralisation of the national retention of jurisdiction?

→ **Role of the State downstream of Europeanization:**

- State transposition of EU directives.

- Achievement of RE consumption targets set by the EU by member states.

The state is essential, upstream and downstream of Europeanisation, which could explain certain national resistance to it (see among the CEEC: Poland, Hungary etc.).