



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY

Directorate C - Renewables, Research and Innovation, Energy Efficiency
C.3 - Energy efficiency

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CHAP(2016) 2516

Deutsche Umwelthilfe
Headquarters Berlin
Hackescher Markt 4
D – 10178 Berlin
E-Mail: berlin@duh.de

Subject: Your complaint CHAP (2016)2516 of 27 July 2016 against Germany

Dear Mr Müller-Kraenner

Dear Ms Brandmeyer

I refer to your complaint of 27 July 2016 relating to Germany's alleged non-compliance with Article 7 of the Energy Efficiency Directive, registered under number CHAP(2016)2516 . We would like to address the below mentioned issues you raised in your complaint.

- Calculating the baseline for determining the 1.5% savings

We have raised the issue of the deductions from the baseline made by Germany compared to the deductions made by Eurostat with Germany. In response, Germany has provided broadly satisfactory evidence on the adjustments undertaken.

- Eligibility of Savings

Regarding your general point about the eligibility of certain measures implemented by Germany under Article 7, whilst you correctly refer to the Guidance Note for Article 7 in which it is stated that measures that are "primarily intended to support policy objectives other than energy efficiency" would be excluded, we have looked pragmatically at measures used by a number of Member States to see whether, in practice, they achieve end use energy savings or not. If they do actually achieve such savings, and this can be demonstrated, we have considered those as savings that can be claimed under Article 7, given that the definition of "policy measure" in the Directive (Article 2(18)) does not require that the aim be primarily one of energy efficiency. The requirement on the other

hand is that these savings as a result of individual action stemming from the policy measure are verifiable and measurable (Article 2(19)).

We do consider the HGV Toll and the Aviation Tax measures notified under Article 7 to be in principle eligible measures under Article 7 if they actually reduce the energy use and demand, and thus generate the end-use savings, which needs to be demonstrated by the Member State in line with the common requirements of Annex V. Therefore, it is for Germany to show that such savings are actually achieved.

With regard to the savings claimed by Germany under the ETS, the Commission intends to obtain further clarification from the German authorities on how the savings are additional to the minimum requirements laid down by EU law (Directive 2003/87/EC).

Likewise, regarding the notified amount of end-use savings stemming from the Renewable Energy Heating Act, the Commission intends to obtain clarification from the German authorities on how the savings are additional to the minimum requirements for new buildings as required by Directive 2010/31/EU on energy performance of buildings (EPBD).

To the Commission's knowledge, Germany so far did not claim any savings from tax relief on energy renovations under Article 7 of the EED.

With regard to the "energy efficiency networks" you point to a slow start and raise the possibility of overestimation of savings. In this context, we would like to point out that Article 7(1) allows Member States to phase the savings over the whole period from 2014-2020 at their discretion, and thus Germany is not obliged to obtain a specific amount of savings in the first years as long as the overall notified amount has been achieved by 31 December 2020. As a consequence, the Commission does not consider a slow start of a measure as being against the rules of Article 7. However, we intend to monitor the achievement of the savings for each Member State, including Germany, via the Annual Reports due by 30 April in line with Article 24 of the EED.

I therefore wish to inform you that it is intended to close this case. However, should you have any new information that might be relevant for the re-assessment of your case I invite you to contact us within four weeks of the signature of this letter, after which the case will be closed.

Yours sincerely,



Paul Hodson

Head of Unit