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National support for renewable electricity and the single market in Europe: the *Ålands Vindkraft* case

Executive Summary

An earlier Comment¹ discussed the tensions between the goal of a single European electricity market and the existence of national targets and accompanying support measures for renewable sources. It mentioned a case then under consideration by the European Court of Justice (ECJ), the *Ålands Vindkraft* case, in which Sweden had refused to extend its renewables support scheme to a Finnish producer. The ECJ announced its decision on 1 July.²

The judgment surprised some observers, who had expected the ECJ to go along with the advocate general in this case, in regarding the Swedish approach as intrinsically discriminatory and hence contrary to European law. Instead, the ECJ found that the Swedish renewable mechanism does not infringe European law. However, the precise basis of the ECJ's decision remains somewhat unclear, as does the more general question of when environmental considerations override other European goals, like the free movement of goods.

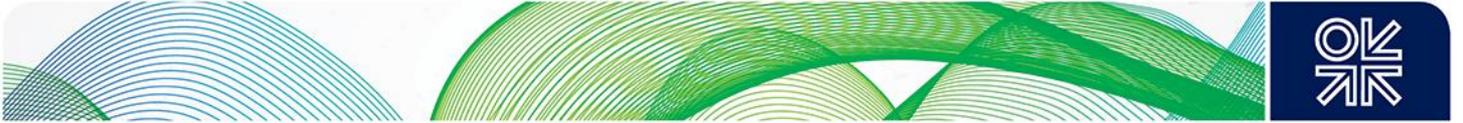
If the decision had gone the other way, it would have had significant implications for the development of renewable schemes in Europe; but as it is, the ECJ ruling may actually exacerbate rather than resolve the aforementioned tensions between national support schemes and the single market. In the short term, national governments are likely to welcome the judgment, as most Member States have designed their support schemes around providing incentives for domestic producers, given that the schemes are aimed at meeting national targets. Nonetheless, the wider effect of the decision may be to increase the tendency towards fragmentation of European energy policy goals which has been discussed in earlier Comments.³ It is difficult to reconcile the decision with the fundamental principles of European law, especially the principles of free trade and non-discrimination. It is also unclear how the EU will now make firm progress towards a level playing field for trade in electricity.

This Comment looks at the detail of the *Ålands Vindkraft* decision and some of its implications

¹ Malcolm Keay, *UK Electricity Market Reform and the EU*, OIES April 2013.

² ECJ judgment of 1 July 2014 (ECLI:EU:C:2014:2037).

³ David Buchan, *Why Europe's Energy and Climate Policies are Coming Apart*, OIES July 2013.



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