



Mr. Lukasz KOLINSKI
Director for Green Transition and Energy System Integration
DG ENER - Bruxelles

Copenhagen, 10-06-2025

Letter from the Danish renewable hydrogen industry regarding national implementation of REDIII

Dear Mr. Kolinski,

We, the signatories of this letter, write to you with grave concern for Denmark's implementation of the Renewable Energy Directive's (REDIII) requirements for Renewable-Fuels of Non-Biological Origin (RFNBOs) in transport into national legislation.

The Danish legislative act implementing REDIII entered into force on 21st May 2025, in accordance with the deadline established in the Directive. One of the elements of this act is that projects producing RFNBOs that have received state aid are considered to have the same emissions factor as fossil fuels, effectively resulting in that supported RFNBO-projects (notably via the Danish PtX Tender from 2023) cannot count towards the target.

The Danish government's justification for this is a perceived risk that the European Commission might see the combination of a target and state aid as "overcompensation" and might therefore require the state aid to be fully repaid.

We have repeatedly contested this interpretation of EU legislation. In our view, should interpreting the combination of targets and state aid as overcompensation be the Commission's approach, it would be extremely problematic for the many European PtX projects that are supported by the EU's own funds, e.g., the Innovation Fund and the Hydrogen Bank, or via Auction-as-a-Service. It would be, to say the least, surprising that no one had raised the issue in an EU context before.

In fact, in the EU's State Aid rules (Guidelines on State aid for climate, environmental protection and energy 2022, Article 77) it can be read that aid can be used as a complement to REDIII:

"In the European Climate Law, the Union has set binding and ambitious greenhouse gas emissions reduction targets for 2030 and 2050. In Regulation (EU) 2018/1999, the Union has set out the Union's 2030 targets for energy and climate. In the Energy Efficiency Directive, the Union has set binding energy efficiency targets for 2030. State aid may be



necessary to contribute to the achievement of those Union targets and related national contributions.”

The State Aid rules require Member States to demonstrate the need for the aid. We assume that, in connection with the Danish Energy Agency's notification of the Danish PtX Tender to the Commission, the entry into force of REDIII was taken into account. In addition, bidders in the tender naturally also calculated the effect of REDIII into their bids.

Similarly, Article 4, paragraph 1 of REDIII, states that:

"In order to reach or exceed the Union target set in Article 3(1), and each Member State's contribution to that target set at a national level for the deployment of renewable energy, Member States may apply support schemes."

Further down in the same article, it is encouraged to award support in the form of tenders, which has been the case in Denmark. All in all, there should be no overcompensation, at least as far as the Danish PtX Tender is concerned.

We also wonder why Denmark included the PtX Tender under section 3.1.2.(i) of its latest National Energy and Climate Plan. The inclusion suggests that it was intended that supported projects should count towards target fulfillment, and it does not appear that the Commission has criticized this approach.

This *de facto* exclusion of supported projects from counting towards the target sets Danish projects at a competitive disadvantage vis à vis other European projects. But most importantly, it will likely lead to Denmark falling short of the RFNBO target for 2030, as there aren't alternative, unsupported projects, that can meet the target in its entirety.

We call on you to support us in clarifying to the Danish government that there is no conflict or risk of overcompensation in combining targets with state aid. Specifically, we propose that DG ENER, in combination with DG COMP, publish a written guideline to assure Member States that they can count supported RFNBO projects towards the RFNBO targets in REDIII. Not doing so risks that the Danish misinterpretation is erroneously replicated in other Member States that haven't yet implemented REDIII.

Kind regards,

Tejs Laustsen Jensen,
CEO Hydrogen Denmark



Co-signees

