Governance of the energy union

The Commission proposed a regulation on governance of the energy union, as part of its Clean Energy package (30 November 2016). The proposal aims to simplify the process of monitoring progress and help to implement the goals of Energy Union, in particular the 2030 EU targets on renewables, energy efficiency and greenhouse gas emissions. National energy and climate plans are to be prepared for the 2021-2030 period, followed by progress reports. Both plans and reports will use binding templates, and gain early input from the Commission. The proposed regulation envisages national and EU registries and inventories on greenhouse gas emissions for the post-2020 period, as a means to assess progress in meeting the goals of the Paris Climate Change Agreement.

Trilogue negotiations started in February 2018 and concluded with a provisional agreement on 20 June 2018. The final text was formally adopted by Parliament (13 November 2018) and Council (4 December 2018). It was published in the Official Journal on 21 December 2018 and entered into force three days later.


Committees responsible: Industry, Research, Energy (ITRE) and Environment, Public Health, Food Safety (ENVI) jointly under Rule 55

Co-rapporteurs: Jakop Dalunde (Greens/EFA, Sweden) & Michèle Rivasi (Greens/EFA, France)


Introduction

As part of its Clean energy for all Europeans package, issued on 30 November 2016, the Commission proposed a new regulation on governance of the energy union. This governance reform aims to integrate and simplify an overlapping set of planning, reporting and monitoring requirements ('obligations') under the existing EU energy and climate acquis. The regulation would mandate the creation of national energy and climate plans, prepared on the basis of binding templates, which outline how each Member State intends to meet the goals of energy union, in particular the 2030 EU targets on renewables, energy efficiency and greenhouse gas emissions. The regulation outlines the frequency and content of Commission monitoring reports (annual) and Member State progress reports (biennial). It lists some measures the Commission can take to ensure that Member States collectively meet their renewable energy and energy efficiency targets. The regulation closely aligns EU energy and climate goals, and provides for the establishment of national and EU inventories on greenhouse gas emissions (GHG) for the post-2020 period, together with registries assessing Member State progress in realising their nationally intended contributions under the United Nations Framework Convention on Climate Change (UNFCCC) 2015 Paris Climate Change Agreement.

The legal basis of the proposed regulation is Articles 191, 192 and 194 of the Treaty on the Functioning of the European Union (TFEU). Whereas Articles 191 and 192 specify EU competences on climate change, Article 194 provides the EU with a particular set of competences in the energy field. The regulation would be directly applicable in Member States, thereby ensuring comparability in their national energy and climate plans and reports. The regulation would enable national plans to be in place by 1 January 2021.

Existing situation

The planning, reporting and monitoring obligations of the EU energy and climate acquis are currently scattered across a wide range of legislation, approved at different times in order to meet various objectives. Each item of legislation tends to have its own set of such obligations. These are not necessarily aligned with similar requirements in related legislation, which has led to an array of planning and reporting obligations for Member States, as well as numerous monitoring obligations for the European Commission.

Several obligations under existing EU legislation are oriented towards meeting the key targets of the 2020 EU climate and energy package, so are not directly applicable to the 2030 EU climate and energy framework (approved by the European Council in October 2014) or the energy union strategy (adopted by the Commission in February 2015, endorsed by the European Council in March 2015). Certain obligations only cover the period until 2020 and will therefore cease to apply from 2021. Energy and climate issues are not always fully aligned under existing EU legislation, yet the approach of the EU's energy union strategy is to explicitly link them together. Separate reporting requirements currently exist for all key legislation under the energy and climate acquis.

Parliament’s starting position

The resolution of 15 December 2015, Towards a European Energy Union, discusses governance issues. The Parliament ‘expects the post-2020 governance framework for the Energy Union to be ambitious, reliable, transparent, democratic and fully inclusive of Parliament, and to ensure that the 2030 climate and energy
targets are achieved, in particular through the full implementation, enforcement and updating of existing climate and energy legislation'. The Parliament specifically calls for a legislative proposal on the governance system of the energy union, with ‘National Energy and Climate Plans ... geared towards meeting the 2030 targets'. The Parliament also calls for this governance system to reflect a longer-term perspective of full decarbonisation, in line with the agreed EU objective of an 80-95 % reduction in greenhouse gas emissions by 2050.

Council and European Council starting positions

The European Council conclusions of 23-24 October 2014 set out the 2030 climate and energy policy framework, including its three main targets: a binding 40 % reduction in greenhouse gas emissions (GHG), compared to 1990 levels; a minimum 27 % share of renewables in EU energy consumption (binding target only at EU level); and a minimum 27 % improvement in energy efficiency, compared to a business-as-usual scenario (indicative target only at EU level). In order to achieve these goals, the European Council ‘agreed that a reliable and transparent governance system without any unnecessary administrative burden will be developed to help ensure that the EU meets its energy policy goals’ and that ‘separate planning and reporting strands will be streamlined and brought together’.

The Energy Council conclusions of 26 November 2015 set out detailed guiding lines for the forthcoming legislation on governance of the energy union. These should include streamlined reporting requirements that reduce and rationalise the administrative burden, and allow for a monitoring of progress across all five dimensions of the energy union. The governance system should be reliable, in order to generate stability and predictability for investment, and should encourage enhanced regional cooperation and consultation, as well as exchange of information and best practices in constructive dialogue between Member States and the Commission. Member States should prepare national energy and climate plans for the 2021-2030 period, and deliver regular progress reports (every two years) on the basis of standardised templates. All of these considerations were subsequently taken up in the Commission’s legislative proposal.
Proposal

Preparation of the proposal

A European Commission impact assessment (IA) (November 2016) accompanied the legislative proposal together with a short executive summary. The IA was informed by the findings of a public consultation and a Fitness Check on the EU energy acquis (see below).

The IA notes a number of weaknesses in the existing governance framework. It observes that Member States often fail to consider the cross-national dimensions of their energy policies and EU-wide targets when planning their actions. It also finds that reporting obligations are often not coordinated under the existing energy and climate acquis. Similar considerations apply to Commission monitoring obligations, whose frequency varies greatly. Under existing legislation, many monitoring obligations will cease to apply in 2021 because they are specifically linked to meeting the objectives of the 2020 energy and climate package. On the whole the existing framework is not well suited for meeting the goals of the 2030 EU climate and energy framework, which includes EU-wide targets that need to be met without additional binding targets at national level in terms of renewables and energy efficiency. Successful implementation of the 2030 EU goals will therefore require closer coordination of policies between Member States, alongside more integrated monitoring by the Commission, providing justification for governance reform.

The IA looked at different elements of the governance process, including the frequency of national plans and progress reports by Member States, as well as the frequency of monitoring reports by the Commission. It considered the extent of involvement of the Commission and other Member States in preparing draft and final national plans. It also reflected on the best means to streamline all the relevant planning, reporting and monitoring obligations. In conclusion, the IA recommended the following options: a single legislative act on energy union governance to replace the relevant parts of the energy and climate acquis; updates of national plans every five years, progress reports every two years, and monitoring reports every year; mandatory consultation of other Member States on draft and final national plans; and allowing the Commission to issue country-specific recommendations and decisions.

The IA summarised the finding of a public consultation on governance of energy union (11 January–22 April 2016), which received over a hundred online submissions and further communications by email. Almost half (46 %) of submissions came from industry associations and private companies, national public authorities (including 15 EU Member States) accounted for 18 %, while NGOs accounted for 14 %. Streamlining obligations in a single legislative act found strong support among stakeholders, over a third of whom proposed (unprompted) the inclusion of a standardised or binding template. More regional cooperation in preparing national plans also found strong support. However, five Member States that responded to the public consultation preferred the option of non-binding guidance by the Commission (as opposed to a new legislative act). Six Member States insisted that the streamlined plans should not include new obligations with additional costs and administrative burdens.

In the preparation of its proposal, the Commission carried out a Fitness Check (FC) evaluation on all planning, reporting and monitoring obligations under the existing EU energy and climate acquis. The full FC accompanied the legislative proposal together with a short executive summary. The FC examined all the obligations that result from the EU energy acquis, including their individual costs. It found that a majority
of current obligations were effective and made a positive contribution towards meeting their objectives, but also identified a series of shortcomings and redundancies that made existing arrangements unsuitable for implementing the 2030 EU goals. The FC found a lack of policy coherence among existing obligations in the energy field, with different frequencies and levels of stringency in submission requirements. The FC also noted a lack of consistency between obligations in the energy and climate fields, together with some unnecessary administrative costs and inefficient energy regulation.

The FC proceeded to identify and categorise four sets of obligations:

> obligations that could be integrated into the proposed national plans and progress reports on energy union;

> obligations that could be repealed because they provided no added value or presented an unjustified administrative burden;

> obligations that should be kept entirely separate from the national plans and progress reports on energy union;

> obligations whose key information should be conveyed in the national plans and progress reports, but which should nevertheless exist separately because they served other distinct purposes under the energy and climate acquis.

The FC assessed a total of 91 obligations across 31 different legal acts of the energy acquis. It recommended that 19 obligations should be repealed, 18 should be integrated in the national plans and progress reports, 15 should stay in separate legislation but also be reflected in the national plans and/or progress reports, and 39 obligations should remain entirely separate from the national plans and/or progress reports. The FC also considered the 22 obligations stemming from the Climate Monitoring Mechanism Regulation (MMR) and recommended to repeal only one of these and integrate the 21 others into the national plans and progress reports. In addition to the MMR, the FC recommended that most Member State obligations arising from the Energy Efficiency Directive (2012), Energy Performance of Buildings Directive (2010), and Renewable Energy Directive (2009, amended in 2015) should be integrated in the national plans and progress reports. The FC also recommended integrating the main Commission monitoring requirements for the internal market directives on electricity and gas (2009), together with some aspects of the Offshore Safety Directive (2013) and the Euratom Treaty.

The changes the proposal would bring

The Commission proposal integrates 31 planning, reporting and monitoring obligations, and deletes a further 23 obligations. It integrates (and therefore repeals) the Climate Monitoring Mechanism Regulation (MMR), ensuring a closer alignment between energy and climate goals. It also provides that future EU planning and reporting obligations be adjusted to the global implementation of the Paris Agreement on Climate Change.

The proposal obliges each Member State to produce an integrated National Plan for energy and climate by 1 January 2019, covering the 2021-2030 period. A binding template is provided in the annex. The
regulation envisages further ten-year plans covering the periods 2031-2040 and 2041-2050, in order to meet the goals of the EU energy roadmap for 2050. National plans are to be updated every five years (first update by 1 January 2024).

Member States are asked to provide draft plans by 1 January 2018 (and thereafter at ten-year intervals), allowing time for the Commission to make recommendations and propose adjustments to meet overall EU targets for 2030. This consideration is particularly important because the EU proposes to set collective targets on renewables and energy efficiency by 2030, but without setting additional targets that are binding on individual countries. Member States are asked to provide early and effective opportunities for public consultation in preparing their draft plans, and attach a summary of public views to their submissions. Member States are asked to consult with each other on draft plans (regional cooperation), and explain the outcomes of these consultations.

Member States are asked to produce detailed progress reports on implementation of their national plans every two years. The first progress reports would be due in 2023. They should cover all five dimensions of the energy union strategy, and also explain how Member States are meeting the goals set out in the Paris Climate Change Agreement. The regulation lists the integrated reporting requirements that Member States must comply with in the fields of climate change, renewable energy, energy efficiency, energy security, internal energy market, research, innovation and competitiveness. The Commission also requests Member States to give annual updates in specific areas including GHG emissions, use of ETS revenues, and support to developing countries to mitigate climate change.

The regulation asks Member States to report their long-term low emissions strategies by 1 January 2020 (and every 10 years thereafter). These strategies should have a 50-year perspective and align with international climate change goals, as set out in the Paris Climate Change Agreement and through its future implementation.

The regulation also empowers the Commission to request additional measures from Member States in the event that the 2030 climate and energy goals risk not being met. To this end, the Commission may request Member States to adjust the share of renewable energy used in their heating and cooling, and transport sectors, and/or contribute financially towards setting up a financing platform at EU level to develop renewable energy projects. Member States would be required to contribute to this financing platform if they fail to meet their baseline share of energy from renewable sources. The Commission would also be empowered to pass further measures on the energy efficiency of products and buildings, largely by making use of its existing powers to adopt delegated acts in these areas.

The regulation sets out the requirements for national and EU inventory systems for GHG emissions, policies, measures and projections in the post-2020 period. Member States must establish their national inventory systems by 1 January 2021. The regulation also provides the legal basis for establishing national and EU registries to account for the nationally determined contributions following from the Paris Climate Change Agreement. With this in mind, the regulation requests annual reporting by Member States on GHG emissions and related environmental issues from 2021 onwards.

The regulation confers new powers on the Commission to adopt delegated acts. These would apply to the following parts of the regulation: amending the binding templates for national plans and progress reports; amending the list of GHGs and adapting inventory systems to new international guidelines; taking
additional measures to ensure that Member States meet their collective renewable energy targets (see above); and changes to national or EU inventory systems and/or registries. The conferral of powers on the Commission to adopt delegated acts would be for an initial period of five years and tacitly extended for periods of an identical duration. It could be revoked at any time by the Council or the Parliament, and should be reviewed by the Commission after a period of four years. The Council and Parliament can also object to any particular delegated act within two months of notification and thereby prevent its entry into force.

The regulation introduces an obligation for the Commission to produce an annual State of the Energy Union report by 31 October. This would regularise existing practice, whereby the Commission has sought to deliver such a report on a roughly annual basis (the first was in November 2015, the second in February 2017).

The regulation would establish an Energy Union committee composed of representatives from Member States and chaired by the Commission, to assist the latter in its work. The regulation calls for technical assistance from the European Environmental Agency in collecting data from Member States and performing quality assurance and control.

All provisions of this regulation would become fully applicable by 1 January 2021. The regulation would be subject to a formal review by 28 February 2026 and thereafter every five years. The Commission could opt to review it earlier if this is necessary to meet energy and climate goals.
Views

Advisory committees

The European Economic and Social Committee (EESC) and the Committee of the Regions (CoR) were consulted and delivered opinions on the regulation.

EESC Opinion TEN/617 on Energy Union governance – rapporteur Brian Curtis (Workers - Group II, United Kingdom) – broadly supported the regulation but felt that it needed strengthening, in order to ensure that the energy transition is both politically achievable and democratically accountable. The regulation should look beyond 2030 and fully incorporate the longer-term EU perspective of net-zero GHG emissions by 2050. The annex should contain indicative 2030 reference values for Member State contributions on renewables and energy efficiency, and in general the regulation should be more specific about the responsibility of individual Member States in contributing to the overall EU targets. A ‘ratchet’ provision should be included to contribute to the Paris Agreement’s aspirational goal of not exceeding 1.5°C warming above pre-industrial levels. The EESC opinion expressed disappointment with the ‘non-specific and inadequate provisions’ on public consultation, and called for a far-reaching European Energy Dialogue that would more closely involve civil society actors and citizens.

CoR Opinion CDR 830/2017 recommends a series of amendments to the Commission proposal. These would require national authorities to involve local and regional authorities in planning and monitoring, and explicitly include local or regional commitments (including initiatives such as the Covenant of Mayors) as part of national energy and climate plans. The CoR opinion proposes the establishment of a permanent Energy Dialogue Platform to support the active engagement of local and regional authorities, civil society organisations, business, other stakeholders and the general public. One CoR representative should also be designated to the proposed Energy Union Committee, with the objective of representing local and regional authorities as a whole.

National parliaments

Several national parliaments scrutinised the Commission proposal but no reasoned opinions were received concerning the subsidiarity early warning system. However, several national parliaments entered into political dialogue with the Commission (Czech Chamber of Deputies, Italian Senate, Polish Sejm, parliaments of Portugal and Slovakia) and raised some concerns. The Czech Chamber of Deputies stressed that national contributions to the 2030 EU renewables and efficiency targets should remain strictly non-binding, with the same principle applying to Commission recommendations and input from neighbouring countries. The Polish Sejm expressed concern that ‘some provisions included in this Regulation pose a threat to the sovereignty of Member States in deciding on their own energy mix,’ but without clarifying which provisions. The Polish Sejm also felt that energy security had too limited a profile in the proposed legislation, which should have been prepared as a directive rather than a regulation, while the deadlines for Member States to prepare their plans were too short. The Italian Senate was much more positive about the proposal, while noting the importance of ensuring effective tools were in place for monitoring and policy implementation purposes, given that Member States would be expected to draft energy plans by 1 May 2018.
Stakeholders’ views

The release of the Clean Energy package on 30 November 2016 prompted a wide range of responses from stakeholders, who focused mainly on the new policy proposals in terms of promoting renewables, energy efficiency and electricity market design. Some stakeholders also addressed the governance reform proposal.

Several environmental NGOs commented on the governance reforms. Climate Network Action Europe sees the governance reform as necessary because ‘current policies lead to a huge amount of separate planning and reporting obligations that do not necessarily provide a good basis to prepare for the transition to a zero carbon economy’. The World Wide Fund for Nature (WWF) considers the governance proposal a ‘good start’, by integrating a wide range of planning and reporting requirements, but would have liked stronger provisions on public consultation, and more clarity on how the 2030 EU targets will be enforced. E3G is both supportive and critical. On the one hand, it welcomes the integration of planning, monitoring and reporting requirements, and argues that the governance reform supports the objective of increasing investor confidence. On the other hand, it criticises the reform for failing to integrate longer term plans developed by local actors, such as the Sustainable Energy and Climate Action Plans, and for offering few assurances as to how the 2030 EU targets will be met. In a similar vein, the European Environmental Bureau (EEB) criticises the proposal because it ‘does not compensate for the lack of national binding targets after 2020. The Commission leaves it entirely up to Member States to ensure that their contributions add up to the EU target. What happens if they do not is not sufficiently defined’.

Some industry associations were supportive in principle of the governance reform but also concerned about Member States delivering on their obligations. Eurelectric believes that the proposal ‘has the potential to help national policies and measures converge closer and quicker around the adopted 2030 Climate and Energy targets and the shared Energy Union vision. However, the regional approach will only deliver if Member States implement their planning and cooperation obligations’. Wind Europe believes that in order for the governance reform to be effective, Member States need to develop meaningful plans on how they plan to manage the energy transition. But according to them, only 7 of the 28 currently have clear plans for renewables in the period after 2020.

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1 This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under ‘EP supporting analysis’.
Legislative process

The Council held debates on the Commission proposal on 27 February and 26 June 2017. A general approach was finally adopted in a meeting on 18 December 2017. The Council position was quite close to the original Commission proposal: it supported the same targets for renewables and energy efficiency (with a binding EU target accompanied by indicative national targets), and required national plans to be adopted every ten years (with progress reports every two years). In terms of renewables, the Council would introduce a list of objective criteria to assess the initial level of ambition of Member States in their planned contribution for 2030. The Commission could issue non-binding recommendations for Member States to increase their voluntary contributions. While the Council position ruled out a binding trajectory or national targets for renewables, it would supplement the indicative trajectory with three common benchmarks (2023, 2025, 2027) for assessing progress. Under the general approach, Member States would be obliged to continue meeting their binding 2020 targets on the share of renewables in their energy consumption. If they fall below these levels then additional measures would need to be taken so that they fill that gap within one year. The Council would give Member States greater flexibility in how they meet their overall renewables targets, allowing them to shift easily between sub-targets (e.g. share of wind or solar energy, share of renewables in transport or heating and cooling). Finally, progress on energy union would be monitored politically by the Council itself on an annual basis.

In the European Parliament, the file was assigned jointly, under Rule 55, to the Committee on Industry, Transport and Research (ITRE) and the Committee on Environment, Public Health and Food Safety (ENVI), since the governance regulation is equally concerned with the field of energy (typically an ITRE competence) and the field of climate change (typically an ENVI competence). The joint committee subsequently nominated two rapporteurs for the draft report – Claude Turmes (Greens/EFA, Luxembourg) and Michèle Rivasi (Greens/EFA, France). The draft report was issued in May 2017 and amendments were tabled by early July. Compromise amendments were negotiated and the final report was adopted by the joint committees on 7 December 2017 (61 votes in favour, 46 against, 9 abstentions). The report was then debated in plenary and Parliament subsequently adopted a set of amendments to the Commission proposal on 17 January 2018 (466 votes in favour, 139 against, 38 abstentions), together with a mandate to start inter-institutional (trilogue) negotiations with the Council and the Commission.

The plenary amendments introduce long-term climate and energy strategies in the governance framework, including measures to meet GHG emissions reduction targets arising from EU and Member State obligations under the Paris Agreement. The ‘general framework’ (a template) for these long-term strategies is outlined in the annex. Member States should submit their long-term plans to the Commission every five years, and adapt them in order to meet the evolving international commitments of the Paris Agreement.

The plenary voted for a binding EU target of a minimum 35 % share of renewable energy by 2030, to be achieved by means of indicative national targets (and trajectories), and for this to be reinforced by the insertion of a binding linear EU trajectory. Parliament also proposed a binding target of 40 % EU energy efficiency improvements by 2030, to be achieved by means of binding national targets and a trajectory of interim targets to be met every two years. Member States that fall below their trajectory must take measures to reach their trajectory again within one year. MEPs voted to introduce an annual ceiling in 2030 of 1 132 million tonnes of oil equivalent (Mtoe) in primary energy consumption and 849 Mtoe in final energy consumption. The Commission proposal contains higher ceilings for primary (1 321 Mtoe) and final (987 Mtoe) consumption.
The Parliament proposed that national energy and climate plans include a timeframe for the phasing out of capacity remuneration mechanisms. It also sought to strengthen the provisions on public consultation and access to data in the text. A new multi-level climate and energy dialogue e-platform would become a major tool in the consultation process. The Parliament proposed the creation of macro-regional partnerships covering particular groups of countries, replacing generic provisions on regional cooperation in the Commission proposal. MEPs proposed that national plans incorporate energy poverty measures and environmental impacts, national and regional investment strategies, and assess the compatibility with energy union objectives of any planned new major infrastructure. MEPs proposed a Union Methane Strategy in order to curb emissions.

Trilogue negotiations started in February 2018 and concluded with a provisional agreement on 20 June 2018. The agreed text was then endorsed by Coreper, on behalf of the Council (29 June), and by a joint meeting of the ITRE and ENVI committees, on behalf of the Parliament (10 July). The final text was formally adopted by the Parliament (13 November) and by the Council (4 December), and was published in the Official Journal on 21 December 2018. Regulation (EU) 2018/1999 entered into force on 24 December 2018. Some of its provisions became applicable immediately (e.g. draft national plans), while others will apply from 1 January 2021 onwards.

The new regulation aligns the EU targets for renewables and energy efficiency (as well as their implementation) with the outcomes of separate trilogue negotiations on those issues. These concluded in June 2018 with agreement on a binding 32 % EU target for renewables and a non-binding 32.5 % EU target for energy efficiency improvements by 2030. The new regulation retains the Commission proposal for ten-year national energy and climate plans to be prepared by the end of 2019 (then in 2029 and 2039), on the basis of draft plans to be submitted to the Commission by the end of 2018 (then in 2028 and 2038). Updates to these plans would be made in 2023 (2033 and 2043), with the potential to increase (but not lower) the level of national ambition. National plans would need to include policy measures to address energy poverty (where relevant) and apply the energy-efficiency-first principle throughout the supply chain. The Commission would deliver recommendations on draft plans, which Member States must take due account of and provide a full explanation if they choose not to address a particular recommendation.

The new regulation contains more detailed provisions on public consultation and regional cooperation than the Commission proposal, and in particular establishes a formal multi-level climate and energy dialogue. The regulation also introduces an e-platform for reporting of national plans and associated data and requires this to be operational by 1 January 2020, so that the first set of national plans can be listed on it. The regulation introduces an obligation on Member States to prepare long-term climate and energy strategies with a 30-year perspective, which would focus on meeting the goals of the UNFCCC Paris Climate Change Agreement. Furthermore, the regulation obliges the Commission to draft a strategic plan for methane and also establish an EU-level renewable-energy financing mechanism. Two committees of national experts, respectively covering Energy Union and Climate Change issues, would be responsible for technical work relating to the regulation, including the monitoring of relevant implementing and delegated acts adopted by the Commission. These provisions were advocated by the Parliament during trilogue negotiations.
References

EP supporting analysis


Other sources

Governance of the Energy Union, European Parliament, Legislative Observatory (OEIL).

Regulation (EU) 2018/1999 on Governance of the Energy Union and Climate Action

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