

Governance of the Energy Union: a milestone in the Europeanisation of energy policy?

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As a part of the Clean Energy Package presented on November 2016, the European Commission is proposing a new Regulation aimed at creating a governance framework for the Energy Union. Such a document is essential to better understand whether and how the Energy Union initiative will further the Europeanisation of Member States' energy policy.

Energy policy is often considered an historic underperformer in terms of Europeanisation. Still, when considering Europeanisation, one should not simply refer to a transfer of sovereignty from a national to a European level. Europeanisation is defined as a Processes of (a) construction (b) diffusion and (c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public policies (Radaelli 2003).

Such a process has its own dimensions and indicators. It encompasses the vertical uploading or downloading of norms between the national and European level, the horizontal cross-loading of norms, beliefs, paradigms, and their external outreach. Its performance is identified by a level of socialisation of the elites, bureaucratic reorganisation, constitutional change, and public support. All things considered, few could doubt that nowadays the energy field is extremely sensitive to EU policies, regardless of formal transfers of sovereignty from the national to the EU level.

Still, the Europeanisation of energy policy has its own peculiarities. This process has shown a high degree of incrementalism, rather than big bangs. It has been developing across several non-energy specific templates and building blocks, such as the internal market discipline and the climate agenda, which developed separately. It is a non-linear process: the Europeanisation of a section of a system can lead to the Europeanisation or to a national retrenchment in other sections. Examples abound. EU-wide climate targets

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have been pursued through national support instruments, which introduced elements of fragmentation in the internal market. The integration of the internal gas market has limited foreign actors' ability to foreclose markets, but also exacerbated the intra-EU competition to host gas entry points. Fossil fuel-supporting infrastructure, which is key to increasing the flexibility and security of the system vis-à-vis external players, is expected to last longer than what EU targets and international climate commitments would suggest, raising the risk of either carbon lock-in or asset stranding. In addition, whilst the EU is considered by some to be an enabler for their own energy and climate ambitions, it is seen by others as an obstacle.

All this points to a fundamental problem for the Europeanisation of energy policy: its weakness in terms of dedicated governance. How can we develop collective approaches to solve the trade-offs between markets, sustainability and security when power is shared and there is a misalignment between instruments, interests, and objectives?

The Governance Regulation proposal introduces elements of Europeanisation both vertically and horizontally.

In vertical terms, the proposal introduces a process of EU monitoring of the national energy and climate plans (NECPs) that Member States are asked to develop for 10-year periods. The Commission proposes to adopt a standardised template, obliging states to take into consideration all the Energy Union dimensions and the Commission's recommendations. This type of process seems inspired by the governance model adopted with the European Semester, including country-specific recommendations and annual growth surveys. However, instead of sanctions such as the potential exclusion from EU financial instruments, the Energy Union governance proposal foresees no hard enforcement beyond a "name and shame" in the annual State of the Energy Union in case of deviations from the national linear trajectories. Assessment is procedural rather than quantitative. The most interesting incentive mechanism is a positive one: if Member States fail to meet collective targets, they might pool financial resources – managed by the Commission – to ensure their trajectories are set on the right track. Here, one can identify an embryonic form of EU

support scheme for low carbon transition. On top of the 10-year plans, Member States are also required to present long-term strategies covering emission pathways in all sectors. However, here the Commission's enforcement is even weaker. It will be up to the national constituencies to point to inconsistencies between objectives and actions.

In horizontal terms, the governance proposal asks Member States to coordinate with neighbouring jurisdictions in the elaboration of their national plans, implying a strong element of innovation with respect to the unilateral adoption of national support measures.

All in all, if measured against the degree of bureaucratic reorganisation required of Member States, the Governance proposal is an important step in the process of Europeanisation. Less so if considered against other indicators such

” The Energy Union governance proposal foresees no hard enforcement beyond a “name and shame”

as socialisation of the elites or public support – and not at all if Europeanisation is measured against the level of constitutional change. Contradictions will not necessarily disappear as a result of the regulation. However, this is the first organic attempt to bridge the gap between national energy policy and the EU objectives, which implies some change in the “ways of doing things”. It is essential to evaluate the future package performance against simple criteria – which does not its ability to solve every inconsistency in energy policymaking, but rather to put the EU on the right track to complying with the 2030 targets. ■

Maroš ŠEFČOVIČ

Vice-President of the European Commission in charge of Energy Union

We are at a major crossroads. The global energy transition is in full swing; that is a given fact. Europe is taking the lead of this global transition with our own Energy Union; that is also a given fact. We have ambitious climate and energy targets, and legislation which has been proposed over the past two and a half years to reach these targets. What remains to be decided is how each and every EU Member State will contribute to our common targets. That is not a minor question. Its answer will define the energy landscape for each of the EU Member States in the next decades, and for Europe as a whole.

That is why the Commission is asking the Member States (in our proposed legislation) to present their National Climate and Energy plans, in which they shall specify their planned actions for the next decade.

We have asked them to follow a similar methodology so that we can assess, compare, and aggregate their plans at a European level. This is the only way for us to make sure we are collectively on track to respect our own targets of at least 27% renewables, 30% energy efficiency, and 40% reduction of greenhouse gas emissions. It is also our way of ensuring we respect our obligations to the rest of the world, as we defined them as part of the Paris Agreement.

It is therefore essential that the Member States start working on their plans swiftly, and present drafts by the end of this year. Our aim is to have the final plans by the end of 2018. This way we can present the results in the State of the Energy Union of 2019, before the end of this Commission's mandate. For this reason we have made sure that the new reporting obligations are greatly simplified, yet just as rigorous and transparent.

It is crucial that in the process of developing their plans, governments look across their borders to avoid negative spill-overs and find synergies. For example, there is no need to build expensive capacity reserves in each and every Member State if their neighbour has capacities which can help out if required.

But there's more. These National Plans will be developed through iterations and broad consultations. It is therefore a rare opportunity for all stakeholders - businesses, social partners, consumers organisations, cities and regional governments - to voice their views. It is important that the consultations are as inclusive as possible and that we see as many stakeholders participating as possible.

The Energy Union cannot and should not be built in Brussels. We need our co-pilots in the Member States. Even more importantly, we must create a sense of common and broad



ownership. We must make sure everyone takes part in the transformation. This is the first time that all Member States will open their mid-term plans to consultations in parallel, so that we can all express our voices in time, at the same time, about the same issues across the EU.

Finally, the national plans are unique in the sense that they will provide investors with clarity, transparency, and predictability with regards to the national legislations for the next decade, with a scope reaching 2050! This will provide a precious overview for businesses and financial institutions over the entire continent. It will allow them to better plan their future investment, especially when it comes to infrastructure in and across countries.

For all these reasons, I invite you to seize the moment and take action. By taking part in these consultations, you take part in the overall governance process. And by taking part in the governance, you help us shape the future of Europe's Energy Union. ■

CEEP's members perspective on the Governance of the Energy Union

Central Europe Energy Partners

Central Europe Energy Partners (CEEP) believes that in order to achieve the Energy Union goals, an effective and coherent system of governance must be established. Therefore, we welcome the Proposal for a Regulation on the Governance of the Energy Union, which constitutes the backbone of the Clean Energy for All Europeans package. We would like to take an active role in the public debate accompanying the ongoing legislative process, in the hope that this will contribute to the adoption of a balanced and fit-for purpose regulation.

The properly designed governance of the Energy Union can support national policies in implementing the Energy Union goals and facilitating the attainment of climate and energy policy targets until 2030. Furthermore, streamlining of reporting obligations would reduce the administrative burden on Member States. In this regard, CEEP wishes to highlight a paradox of the system that has been designed: reporting obligations will be replaced by extensive consultation mechanisms both at horizontal (Member State – Member State) and vertical (European Commission – Member States) levels, which will ultimately pose a significant bureaucratic problem.

The governance of the Energy Union should provide a coherent and stable framework to boost investments in the energy sector. This aim can be achieved only through proper engagement of stakeholders at a national and Europe-wide level. The rapidity of the legislative timeline compromises a comprehensive consultation phase, contradicting one of the crucial objectives of the governance system: providing more certainty and predictability for investors. Furthermore, we want to emphasise the need for clarification of several elements of governance of the Energy Union, in particular the European Commission's vision of a financial platform which will act as an important instrument supporting development of renewable energy sources (RES).

We would like to express our concerns, which arise from certain provisions within the governance regulation, and appeal for improvement of the proposal.

The need for balance between the Energy Union dimensions

The Energy Union was primarily established to support member states' efforts to become more secure and reliable in terms of energy supplies, and minimise the EU's import dependency. The design of the internal energy market, as well as research and innovations development, constitute its immanent elements. The Governance of the Energy Union proposal foresees the adoption of several measures (enforcement of RES and energy efficiency targets, long-term low-emission strategies, yearly emissions monitoring system), predominantly supporting the achievement of the

EU's 2030 climate targets and further transition towards a low-carbon economy. The Governance framework prioritises only two dimensions of the Energy Union: decarbonisation and energy efficiency.

We believe that security of supply should constitute the core element of the Energy Union concept. However, we have noted that this issue is not well-reflected in the Governance of the Energy Union proposal. We appeal for an increase in the importance of the security of supply dimension, via mechanisms which support MS in improving their security of supply objectives and reducing import dependency, e.g. by introduction of reporting obligations and indicative targets on the use of domestic resources (including RES).

Subsidiarity

Governance should remain a key element of the implementation of the EU energy and climate policies, providing a stable regulatory framework up to 2030 and beyond. However, this shall be introduced according to the subsidiarity principle, and stay in line with technology neutrality and cost-effectiveness. In this regard, we perceive national RES development trajectories as an indirect imposition of national RES targets.

Flexibility

A proper governance system should be based on the flexibility principle between EU-wide targets and national policies. Regulation should only set the framework or templates for member states, allowing them to freely choose the tools and instruments they want to use to achieve said targets. Instead of a target focused approach, we would like to see more of an 'improvement' focused approach, instead of this rigid following of numerical targets.

We recommend that in adopting a non-linear RES-development trajectory and further assessment of improvements, regional specificity should be taken into consideration. Building on experiences related to the already finalised RES-development process, we should acknowledge that RES generation and consumption has never increased in a linear way. The investments process has its own dynamics, which may cause an accumulation of RES investments in the certain years, and the lack of finished, new RES generation in the rest of the period. Thus, the linear RES development trajectory does not reflect the investor's perspective and should not be the basis for the further enforcement actions.

Integrated National Energy and Climate Plans (INECPs)

CEEP supports the efforts to streamline the obligations on energy and climate policies. This should improve the predictability of long-term perspectives for the energy

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sector, in the EU as a whole as well as in specific Member States. However, further clarifications shall be introduced in order to avoid overlap with other reporting obligations, and the creation of an unnecessary administrative burden. This refers more specifically to extensive external consultation obligations. In this regard, we would like to highlight a potential paradox of this situation: extensive consultation entailing all interested MS may result in obtaining a wide array of opinions, which might be contradictory due to different national visions of an energy policy. The need to conduct broad consultation, analysis of responses, and potentially reconciling elicited opinions poses a considerable administrative burden which is contradictory to the intention of the legislator.

As the plans concerned will touch upon various aspects of the energy and climate policy, they will in fact present a more comprehensive vision of our national economies, which depend significantly on developments within the energy sector, in particular energy prices as well as the energy demand and overall energy consumption. Therefore, the INECP should be cohesive with other national policies and in fact, may play a leading role in the comprehensive economy-related policies.

A ten year period of plans would seem to be an appropriate timescale. However, one should note that first draft plan: according to the proposal, Member States have until the end of 2017 to prepare this, although one cannot not know the final version of the legislative act and must therefore take into account various contradictory targets present in different amendments (e.g. the RES target is increased in the draft MEP

C. Turmes report up to the 45% in 2030). This may cause problems for national administrations that have already begun the preparation process, hampering consultations and in consequence, impacting on the quality of these plans. Analytical assumptions, which are the basis for the preparation of the first INECP, cannot be freely adjusted to every possible regulatory scenario.

We call for a more consistent approach from the legislator in acknowledging synergies between different legislative proposals which are designed to constitute a holistic system. Furthermore, CEEP suggests changing the timing of the plan preparation process from the first period to after the adoption of the regulation.

Nature of the EC's recommendations

Further research and clarifications are needed in terms of the recommendations issued by the European Commission to the INECP. In CEEP's opinion, the EC's recommendations cannot be binding, and this must be implicitly stated in the regulation. Additionally, the obligation of Member States to present a timetable for the recommendation's implementation contradicts the non-binding nature of said recommendations. Moreover, the EC's recommendations should be accompanied by the adjusted-to-national economies costs-benefit analysis.

Regional cooperation

CEEP supports regional consultations of the draft INECP. Consultation and cooperation at the regional level, prior to the adoption of INECPs, is necessary to ensure that national choices regarding energy policy do not affect the stability of neighbouring states's energy systems. Furthermore, it would ensure that MS avoid decisions which are contrary to the Energy Union objectives. Moreover, the character and scope of the consultation process, as well as the binding power of the comments received from other Member States, are not clear. We suggest that the consultation process shall be pursued only within specific regions/ neighbouring Member States, in order to capture the general timeline of the process.

Stakeholders' impact

CEEP wishes to underline that at the every stage of the preparation and revision of the INECPs, all stakeholders should be closely involved in the process. Industry input on such plans will improve their quality, ensuring they mirror reality and introduce realistic visions. There is a need to closely cooperate on the plans with business associations, as well as the specific companies responsible for the energy development of the country. Finally, stakeholders should be engaged at the European level also, providing their input for the INECPs design and choice of the indicators related to the progress.

RES development trajectory and financing platform

The proposal includes provisions granting the EC the right to establish a financial platform, financed by the contributions imposed on states which do not meet the RES target prescribed in their linear trajectory.. We believe that such financial contributions, which are essentially equal to fines, are not the appropriate tool to stimulate underperforming member states to get back on track. We would like to point out the potential paradox of this situation. For countries lagging behind with their RES trajectories, instead of creating incentives to stimulate investment in their own domestic RES sources, they will be contributing to this financing platform. At the same time it has yet to be decided whether this financing platform will be addressed directly to the underperforming Member States. Further, the said financing platform is expected, instead of supporting investments in Member States with unsatisfactory levels of RES, to in practice address those projects which offer the best value for money, meaning that the RES-leaders will be in a more privileged position. Therefore, the compliance gap would not be met by the financing platform. We urge the EC to publish a version of the financial platform that covers the project selection procedure and decision making process.

Regarding national RES trajectories, we would like to point out another paradox. By launching the financing platform, Member States may be dis-incentivised to set an ambitious RES trajectory. We assume that in order to avoid

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CEEP's members perspective on the Governance of the Energy Union

the risk of being fined, Member States would adopt a more cautious approach to further RES development.

Long-term low emission strategies

Accomplishment of the Paris Agreement goals is an overriding priority for the European Union. We believe that this ambition should have even more emphasis today in order to demonstrate the EU's internal coherence and commitment in this regard. Therefore, we welcome the introduction of low-emission strategies as a tool of the long-term pattern of development toward a low-emission economy. However, the long-term perspective should be defined as both a reasonable and predictable perspective. We contend that the 50-year perspective is too far reaching and should be adjusted to the currently available projections focussing 2050 at the latest. Energy Sector transformation must be implemented, taking into account local circumstances.

State of Energy Union report

CEEP supports the idea of annually presenting the

overall assessment of the Energy Union implementation. In order to capture a broad and comprehensive picture, the report should also include the following elements: import dependency on solid fuels and energy, electricity and gas prices, security of supply issues, energy poverty. Thus, it can provide the industry, policy makers and citizens with a clear vision of what has been achieved and what needs to be done in future. We believe also that besides a review and summing up of achievements, the EC should present a clear legislative timetable of initiatives which it plans to undertake in the mid-term perspective.

Legal certainty should be a fundament of the emerging governance of the Energy Union. Taking into account, rapidness of legislative timeline marked the deadline for the submission of a draft version of the Integrated National Energy and Climate Plans on 1.01.2018 we consider as confusing lack of coherent approach to targets on RES and energy efficiency visible in Parliamentary reports on Governance, Renewable Energy and Energy Efficiency. It is a considerable obstacle which undermines the entire planning process. ■



CEEP
Central Europe Energy Partners

The fuzzy Governance of the Energy Union at times of uncertainty

Leszek JESIEŃ

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The governance regulation of the Energy Union has been conceptually mirrored on the system of enhanced governance in the Euro area; more broadly on the concept of open method of coordination (OMC), as practiced in various policy areas since the Amsterdam Treaty. Problems of those areas are indeed similar. In the Eurozone, the financial and economic crises had stretched its governance to an ultimate legal limit. The treaties explicitly forbid bailout of the Euro Member States, and this indeed was repeatedly practiced over the recent years in time of need, for the sake of Ireland, Portugal and a few times, of Greece. Hence, the Eurozone crisis and its governance problems seem to provide lessons on how to deliver common results in situations when the treaties do not explicitly provide for routes of common actions and those are needed for some reasons.

In a more general sense, the governance of the Eurozone and the Energy Union builds upon achievements and shortcomings of the open method of coordination. This tool has been amply tested in difficult and diverse areas of financial cooperation, education, macroeconomic coordination (Lisbon Strategy, and Europe 2020 agenda), and others. Its virtues provide for elements of coercive inducements and leadership by good example. While its difficulties are known to be slow in effects, a lack of binding instruments and a general frustration of institutions otherwise used to situations of legal certainty. The Eurozone crisis proved, among other things, that the open method of coordination may not lead to promotion of expected behaviour; in this case, financial prudence and a general decline of public debts expected as an outcome of the Stability Pack. Therefore, the Eurozone has turned to the classic set of financial stick and carrot: a financial punishment as an effect of the European Council decision transposed into the constitutional setting of states, and an incentive of enhanced borrowing at times of need. Those solutions are based on inter-governmental treaties enacted outside of the EU treaties. Hence they bind the signatories once ratified by the states themselves.

This short recollection of the Eurozone story is needed in case of the Energy Union, specifically following the Paris agreement of December 2015. The Paris agreement provided for voluntary declarations of the participating parties (among them the EU itself as a single entity) as to what are the levels of declared commitments: Intended Nationally Determined Contributions, to deliver for the sake of limiting the anthropogenic effect of the climate change. Here comes the EU dilemma, similar to the one of the Eurozone at times of crisis: how to deliver on it, as an entity of 20-something members, where their common basis of the treaties lacks proper foundations. In an ideal world, this kind of challenge

would serve as a solid basis for asking the treaty owners, thus the EU Member States, for their appropriate individual contributions to act in a democratic way. Yet, the Commission has chosen the opposite way: instead of asking for individual contributions, they have asked them to prepare plans, to renegotiate them regionally, and to punish them if not ultimately delivered.

Here comes a mismatch of objectives: what is the aim of the Energy Union? In 2014, it was designed as a complex set of objectives derived from needs for energy security. In 2017, the case of the Clean Energy Package proves that this set has changed in the hands of the Commission – its governance proposal implicitly and explicitly assumes that its overriding objective is to deliver on climate change objectives. This way, the Clean Energy Package has made for a significant U-turn of the energy union.

The main tool of the Energy Union proposed Governance is a coordination of the national plans for energy and climate (the so-called Integrated National Energy and Climate Plans, INECs). Their intended coordination objective is clear, straightforward and welcome: since we agreed to deliver at Paris, how can we now make it achievable? Its main tool and reasoning is also impeccable and welcome: perhaps plans of one country should be analysed by its neighbours, regional partners and the other EU members in general to avoid duplications and induce as much synergy as possible. Yet, as always, the devil is in details. The legislation has just been proposed and is still this – a proposal – while the plans which make a part of the proposal are already to be drawn up – the first by the end of 2017. This makes for a picture of legal uncertainty in an area of governance, which by definition is far from clear, easily understandable and known by practice. Hence, almost by definition – if delivered – first plans would almost certainly be different from the following ones. If this worries nobody, then they are bound to be almost impossible to compare one to the other, thus compelled to methodological uncertainty. Their ultimate product – a coherent set of national policies streamlined towards achieving commonly established objectives – is to be inherently built on a faulty methodology.

The open method of coordination has taught us long ago that this method makes for a cumbersome instrument of governance. Even if sometimes it's the only one available, it's still got its shortcomings that cannot be overcome easily. It is slow in proceedings, and if one wants to accelerate then it is going to get bumpy and misused over time. It does not contain an obvious instrument of legal certainty, and if one wants to get it, it is going to push it outside of the treaties. Its effects are uncertain, very much like the times we all live in. ■

COMMENT

The new role of the European Commission in the emerging Energy Union governance system

Michał DLUGOSZ

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Since its inception, the idea of an “Energy Union” has gone a long way. Originally, the concept advocated by Poland, in 2014, assumed an increase of the energy security of the EU in the field of gas by the strengthening of solidarity, emergency mechanisms and the negotiation position towards the main supplier – Russia. Chosen as one of the main priorities of the Jean-Claude Juncker cabinet, the Energy Union now entails much more than a security of supply, which is only one dimension of this project. The other four include: internal energy market, energy efficiency, sustainability-decarbonisation and research, innovations and competitiveness. This complexity provoked the proverbial phrase that the Energy Union may be compared to the Christmas tree – everyone can decorate it with their own bauble.

Indeed, the Energy Union is an umbrella project which covers numerous legislative initiatives related to different sectorial elements of the energy policy. It is difficult to say what the main priority or objectives of this project are (besides increased integration in its own terms). However, its theme is clearly visible – the overall development of the energy policy should be subordinated to the transformation of the current system into an emission free energy system. To sum up, this initiative may be perceived as an attempt of Europeanisation, both at the horizontal and vertical levels

of a policy domain, which for a long period of time has been excluded from the integration process. In this regard, 2016 brought an acceleration of work on legislation marked by two legislative packages that focus on the security of gas supply and the functioning of the electricity sector (Clean Energy for All Europeans) as well as sectorial legislation mostly related to emissions reduction (ETS reform, reduction in non-ETS sectors).

In this context, a special role has been proposed for the Regulation on Governance of the Energy Union published in November 2016, within the “Clean Energy” package. It imposes on Member States planning and reporting obligations and streamlines existing ones. The underlying idea of this exercise is to compile existing reporting obligations derived from different legal acts into one document at the same time, erasing several of them, and thereby reducing the administrative burden of Member States(1). In a nutshell, the emerging system of governance will be based on submissions every two years by MS Integrated National Energy and Climate Plans (INECP), containing energy policy targets and objectives within specific categories aligned to five dimensions of the ‘Energy Union’ (2) . It will be followed by progress reports submitted by MS every two years, again based on reflecting achieved progress. Therefore, through governance systems, there will be an established permanent platform of consultation and assessment of national

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The new role of the European Commission in the emerging Energy Union governance system

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energy policies developments.

In this multifaceted matrix, the European Commission will play a central role as a policy coordinator, entrepreneur and, in certain cases, enforcer. The main role of the EC will be to review draft INECP and further assess its implementation based on the indicators included in biennial progress reports submitted by Member States. In the case of certain states being at risk of failing to meet objectives of the Energy Union, the EC may issue recommendations. The overarching priority of this approach is to collectively progress towards the union wide climate and energy policy targets of 2030, thereby fulfilling the Paris Agreement conclusions. Despite being of non-binding nature, recommendations should be taken into the “utmost account” by Member States and progress reports should include measures adopted, or intended to be adopted and implemented, to address those recommendations with a detailed timetable for implementation. The monitoring role of the Commission will be extended further, to assess fulfilment by MS and the EU collectively on emissions reduction in accordance with Paris Agreement pledges.

Such extension of competences shouldn't be underestimated. Firstly, the EC will receive both access to comprehensive data concerning detailed aspects of national energy policy development enshrined within INECP and Progress Reports. The fact that the recommendations do not have a binding nature has in this regard a secondary importance – in terms of political process, possessed knowledge and a strong mandate of carried responsibility for the attainment of the Energy Union priorities provide the EC with adequate leverage to influence MS. It is also worth highlighting that vague legal wording and large room on interpretation of these legal provisions opens doors for further strengthening of the EC powers.

As previously mentioned, the Energy Union aims to achieve the energy transition. In line with this objective, the proposal of the Regulation foresees that the EC will have enforcement powers regarding achievement by the EU targets of RES share and energy efficiency improvement until 2030. In this regard, in case of detecting discrepancy between the EU trajectory and developments, to bridge a gap, the EC may call certain states to adjust the share of renewable energy in the heating and cooling sector and

in transport; to undertake ‘other measures’ to increase deployment of RES or force it to make financial contributions to the financing platform. To sum up, the EC receives a tool of direct interference into the national energy mix. On the other hand, it is rather hard to imagine that the EC will be keen to use it. European policy making is consensual – in this regard, the triggering of the enforcement competences would be preceded by issued recommendation and consultations. Similarly, in case of the efficiency, the prospective gap should be covered by demand of additional measures improving the energy efficiency of products, building and transport.

Last but not least, the role of the EC as a policy entrepreneur is also empowered. Firstly, according to article 27(4), it receives competences to adopt delegated acts to establish and regulate the functioning of the RES financing platform. It provides the EC with a large room for manoeuvre, to frame, potentially, a very important platform of financial support for Member States. Crucially, provisions must also touch upon project selection criteria, which further reinforce EC's influence on the energy portfolio of MS. Moreover, the EC is obliged, on an annual basis, to publish a State of Energy Union report, which besides being a review of current development may be interpreted as a legislator agenda for coming years.

To conclude, the proposal of the Energy Union governance introduces a complex system which substantially increases transparency and predictability of national policy making in line with mid-term and long-term objectives. Definitely, it is a measure aimed at the amelioration of cohesion of the energy policy at the EU level. Simultaneously, despite the fact that the system resembles an Open Method of Coordination and is based on soft enforcement measures, it significantly strengthens the position of the EC, transforming it into a fully-fledged driver of the “Energy Union” initiative. In this regard, the EC will be able to non-directly steer the direction of the development of an energy policy, which in certain cases may compromise freedom of MS to shape their energy mix. Moreover, by extension of its role and competences, the EC will face a substantive administrative burden (related for example to analysis of the INECP, issuing recommendation etc.), which may pose a challenge for effectively performing its role. ■

(1) Out of 91 identified obligations, 19 should be repealed, 18 should be integrated in the national plans, and 15 should stay separate in sectorial legislation but should be reflected in the National plans, while 39 obligations should stay separate from the National plans. In addition, for the 22 obligations stemming from the Monitoring Mechanism Regulation (MMR) and following earlier streamlining in the climate acquis the recommendation is to repeal 1 and integrate the 21 remaining obligations. Annex 7 of Regulation contains a list of already existing reporting obligations derived from European acquis and covering the entire spectrum of energy policy.

(2) A template for INECP is provided by annex 1 A accompanying the proposal.

ANALYSIS

The EU and UNFCCC. Governance of the Energy Union as a mean to implement international law into *acquis communautaire*

Weronika PELC

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The European Union has always been one of the major promoters of the goals of the United Nations Framework Convention on Climate Change (UNFCCC). The 2015 Paris Agreement, built on the UNFCCC signed by 197 countries, was ratified by 149 parties including the European Union. It entered into force on 4 November 2016. The parties to the Paris Agreement committed to keep a global temperature rise in the 21st century below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius. Under the Paris Agreement, the parties are required to define binding nationally determined contributions (NDCs) by 2020 and are required to report regularly on their emissions and on their implementation efforts. Progress will be assessed every five years.

Under the Paris Agreement, the EU is to provide information on emissions and removals of greenhouse gases; national circumstances; policies and measures; vulnerability assessment; financial resources and transfer of technology; education, training and public awareness; and any other details of activities it has undertaken to implement the Agreement. Kyoto Protocol parties must include supplementary information in their national communications and their annual inventories of emissions and removals of greenhouse gases to demonstrate compliance with the Kyoto Protocol's commitments. Also biennial reports are required on progress in achieving emission reductions and the provision of financial, technology and capacity-building support to developing countries.

The European Union is also required to provide annual national greenhouse gases inventories covering emissions and removals of direct greenhouse gases from the energy, industrial processes, solvents, agriculture, land use, land use change and forestry (LULUCF) and waste sectors. It is required to submit information on inventories annually by 15 April.

The European Union has already filed its declaration with UNFCCC on the commitment to a binding target (intended nationally determined contribution) of at least a 40% domestic reduction in greenhouse gas emissions by 2030 compared to 1990. The European Union has also committed to provide information on a regular basis in accordance with the Paris Agreement.

On 1 June 2017, the US President announced that the US, which had already ratified the Paris Agreement, would withdraw from it. The official position of the UNFCCC Secretariat is that it regrets the US decision but it "also notes the announced intention to renegotiate the modalities for the US participation in the agreement. In this regard, it stands ready to engage in dialogue with the United States gov-

ernment regarding the implications of this announcement. The Paris Agreement remains a historic treaty signed by 195 Parties and ratified by 146 countries plus the European Union. Therefore, it cannot be renegotiated based on the request of a single Party."

In the circumstances, the European Union has an even bigger role and responsibility in promoting and implementing the Paris Agreement commitments.

Proposal for a regulation of the European Parliament and of the Council on the Governance of the Energy Union ("Governance Regulation"), which was one of the documents developed as part of the winter package, reads that one of the reasons and objectives of the proposal is that, "The proposed Regulation contributes to the implementation of the Paris Agreement including its 5 years review cycle and ensures that monitoring, reporting and verification requirements under the UNFCCC and Paris Agreement are harmoniously integrated into the governance of the Energy Union."

The proposed Governance Regulation introduces a detailed framework for integrated national energy and climate plans, which inter alia, shall set Member States objectives, targets and contributions in the dimension "Decarbonisation". Member States shall set their binding national target for greenhouse gas emissions and annual binding national limits having in mind the 2030 target of at least a 40% reduction of greenhouse gas emissions as compared to 1990. Draft plans shall be prepared and submitted to the Commission by 1 January 2018 which will assess, inter alia, the level of ambition in setting the targets. The Governance Regulation requires Member States to "take utmost account of any recommendations from the Commission when finalizing their integrated national energy and climate plans". Once the plans are finalized, the Commission will periodically assess the implementation of the plans and their updates.

Besides national energy and climate plans, Member States are required to prepare by 1 January 2020 and 10 years thereafter, long-term low emission strategies to ensure UE compliance with Paris Agreement commitments. The strategies shall cover total greenhouse gases emission reduction and enhancement of removals by sinks, and also a split of the targets into individual sectors: electricity, industry, transport, building and LULUCF. The strategies shall outline expected progress on transition to low gas emission economy, including indicators such as CO₂ intensity.

Governance Regulation provides for regular reporting obligations regarding national energy and climate plans and also greenhouse gases reduction related activities. The reports shall be provided by March 2021 and every two years thereafter. Annex IV to Governance Regulation de-

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The EU and UNFCCC. Governance of the Energy Union as a mean to implement international law into *acquis communautaire*

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fines scope of the report on policies, and measures information in the area of greenhouse gases emissions. Annex V defines scope of projections information in the area of greenhouse gas emissions. Annex VI provides for a report on national adaptation actions, financial and technology support provided to developing countries, auctioning revenue. Besides these biennial reports, annual reports will be required on greenhouse gas inventories.

The first report shall be provided by each Member State by 15 March 2021 and every year thereafter for the preceding year. The same reports shall be submitted by Member States to the UNFCCC Secretariat by 15 April each year. Based on reports provided by Member States, the EU shall prepare a Union greenhouse inventory report and submit it to the UNFCCC Secretariat. A dedicated e-reporting platform shall be established to facilitate the reporting process.

Based on reports provided, the Commission shall, by October 2021 and then every year thereafter, assess the progress made by the European Union and each Member State to meet the obligations under the Paris Agreement. The Commission will report on the results of the assessment in the State of the Energy Union report which is to be provided by 31 October every year to the European Parliament and to the Council. Article 27 of the Governance Regulation provides for measures by which Commission may respond to "insufficient ambition of integrated national energy and climate plans and insufficient progress towards the Union's energy and climate targets and objectives".

If objectives of the Energy Union are not met, including the objective to reduce the greenhouse gases emissions, the Commission may issue recommendations to the Member States and take action at Union level. If there are deficiencies in the area of renewable energy, the Commission may decide that a Member State shall make a financial contribution to a financing platform set up at Union level.

Governance Regulation provides for governance of national and Union systems of greenhouse gas emissions and removals by sink. By 1 January 2021, Member States shall establish and operate a national inventory system of greenhouse gases listed in Annex III. It is important that Governance Regulation introduces a requirement that the

Union and Member States set up and maintain registers to accurately account for nationally determined contributions pursuant also to the Paris Agreement. Both the European Union and Member States shall maintain their registers in a consolidated system.

The Governance model proposed in the Governance Regulation is justified by the need to implement the Paris Agreement commitments both at the Union and Member States level. It ensures that the necessary measures are planned well in advance, implemented and that the actions are coherent within the Union. It also gives the Union powers to monitor individual Member States targets and contributions. It also ensures that the reporting, assessments and updates will encourage Member States to gradually and consequently implement planned actions.

These measures seem justified as they coordinate and organize the process all Member States committed to. If, however, the proposed Governance Regulation is amended to introduce binding commitments at Member State levels on greenhouse gases emissions reduction targets well beyond Member States Paris Agreement obligations and inconsistent with Member States energy mix, it will no longer serve the purpose to govern Member States cooperation and integrated efforts.

The proposal to increase Energy Union targets in terms of renewable energy, energy effectiveness and elimination of fossil fuels combined with proposal to define binding targets for each Member State have been presented during legislative process on Governance Regulation in the European Parliament. If Governance Regulation is modified to this effect, then it may be perceived by some Member States as a tool to impose measures having direct impact on each Member State economy and reaching far beyond climate policy. Keeping in mind the US declaration on intended withdrawal from the Paris Agreement, the European Union needs balanced solutions which will allow coordination of all Member States' progress in meeting commitments under the Paris Agreement which are already defined. The Governance Directive should serve this agreement and not open new topics beyond the agreement reached. ■

ANALYSIS

Energy efficiency, yes – but at what cost?

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The Energy and Climate Policy Framework for 2030 sets ambitious EU commitments for the three key pillars of EU climate change to further decrease greenhouse gas emission by at least 40%; increase RES share by 27%; and improve energy efficiency by 27% by 2030, compared to the 1990 level. The latter target – energy efficiency – is presented as one of the key elements for decarbonisation in the recently published Clean Energy Package, as a separate Energy Efficiency Directive and as a part of the Integrated National Energy and Climate Plans under a Regulation on the Governance of the Energy Union.

For some stakeholders, this energy efficiency target isn't ambitious enough and they ask for a higher goal, concretely, of more than 30%, with a binding character for the EU Member States, at national level. These proposals provoke intensive discussions in the EU amongst various stakeholders, including Member States. Most of the Member States ask for flexibility on: national energy efficiency targets; national incentives levels; and energy savings obligations.

At this stage, large cost-effective investments in energy efficiency cannot take place because of known market and regulatory failures. Moreover, cost-effectiveness of policy measures should be made, taking into consideration the specificities of each Member State.

On the one hand, the fulfilment of energy efficiency targets for 2030, under the energy efficiency directive, will require substantial investments from the EU Member States, as estimated in the Impact Assessment on Energy efficiency of the European Commission (EC). The EU-11 countries, with low energy consumption level per capita, are being pushed to overachieve the EU target of 30% for energy efficiency. Some countries, such as Poland and Slovakia, show that a higher level of energy consumption leads to the implementation energy efficiency target (30%) and could be reached by having 1.5% p.a. energy saving obligations. These countries should decrease their final energy consumption by 21% and 27% respectively, below the required rate at EU level. The investments needed for the implementation of these obligations might require circa 48% (Poland) and 25% (Slovakia) of national GDP₂₀₁₆ on an average estimate under the Impact Assessment. The rest of EU-11 countries, with low energy consumption level, must add on more than 1.5% p.a. energy savings in order to reach EU energy efficiency targets (30%), which would require the share of GDP₂₀₁₆ in the range of 13-25% for investments. The total final energy consumption should be decreased in the range of 32-47% for the rest of the EU-11 countries, excluding Poland and Slovakia. If we take, as an example, the Czech Republic, which has to decrease energy consumption by 32%, and if we convert this percentage of the required investments into the monetary value, we can see, as an independent Czech study shows, the investments



needed in implementation of energy efficiency measures requires approximately 26 billion EUR for the period 2021–2030. The independent experts warn that too ambitious energy efficiency targets could easily lead to counter productivity in terms of cost-efficiency of the EU climate policy implementation. This means that, at some point, the energy saving measures might cost less than new RES investments cost and otherwise. In this regard, the cost-effectiveness evaluation can help policy makers to decide whether it is rational to implement energy efficiency measures or rather invest in RES solutions.

On the other hand, it should be worth noting that energy efficiency policy and RES integration are closely linked to the EU ETS system. To some extent, these policies might overlap and have a negative impact on the proposed EU climate and energy targets for 2030. The negative effects of overlapping climate policies can be neutralized by placing the volume of allowances equivalent to the emission savings achieved outside the EU ETS market by means of the RES and EE support schemes into the Market Stability Reserve.

Summarising the above, the policy decision makers should leave some flexibility for Member States to decide what national energy efficiency targets they should follow. At this point, EU institutions could play a vital role in helping Member States tackle associated high cost for implementation of cost-effective energy efficiency measures and provide substantial energy saving obligations. ■

ANALYSIS

Clean Energy for All Europeans – a view from Romania on the new Governance Regulation

Eugenia GUSILOV

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The proposed Regulation on the Governance of the Energy Union is part of the legislative package “Clean Energy for All Europeans” presented by the European Commission (EC) on November 30, 2016. The Governance Regulation (as the entire package) has to do with the EU 2030 Climate and Energy framework targets, and acts as a “holding” structure to ensure policy alignment on commitments that the EU has made under the Paris Agreement. These commitments have been made by the EU as a whole, but their implementation is up to the Member States (MSs), i.e.: the binding targets are for the EU, but there are no specific binding national targets for each EU country. The collective EU target is to be reached through individual pledges made by Member States in their integrated national energy and climate plans. Therefore, the governance regulation attempts to incentivise states to pledge high in order to create more obligation for the MSs to deliver on the collective 2030 energy and climate targets: min. 40% cut in economy-wide GHG emissions compared to 1990; min. 27% share of renewable energy consumed in the EU; min. 30% energy efficiency target in 2030; and 15% electricity interconnection in 2030.

More to the point, the Governance Regulation obliges MSs to:

- produce an integrated national energy and climate plan (INECP) for 2021-2030 by January 1, 2019.
- prepare such plans for 10 year periods going forward.
- engage in an iterative consultation process with the Commission (e.g.: the first draft national plans to be provided by January 1, 2018).
- update the 10-year plan once during the period, although amendments are allowed only to increase the targets
- prepare and report long-term low-emissions strategies with a 50 year perspective
- produce biannual progress reports on the implementation of plans across the 5 dimensions of the Energy Union, starting from 2021
- produce annual reports on the international commitments (UNFCCC and Paris Agreement) of the EU and its members
- create national and Union inventory systems for GHG emissions, policies, measures, and projections to track national contributions.

The regulation would ensure direct applicability of provisions, comparability of INECPs and reports, and would streamline various monitoring and reporting obligations which stem from other parts of the EU energy acquis. One can only praise the intention to integrate the

planning, monitoring and reporting obligation for energy and climate (which are currently conducted separately). Enhancing the role of e-reporting is also salutary. The proposal to eliminate redundancies, streamline or repeal over 50 monitoring and reporting obligations will lead in the future to more efficiency and less red tape. However, in the immediate future (next 2-3 years) this transition will increase, not reduce, the administrative burden on MSs, especially in countries with understaffed ministries and deficient monitoring and analytical capacities.

On May 18, 2017 the EP draft report was published on the proposed Energy Governance Regulation, authored by MEPs Claude Turmes and Michèle Rivasi, in which a further 199 amendments to the text are proposed that would make the text even more ambitious. For instance, the authors introduce the idea of a “fully renewables-based energy system at the latest by 2050” (amendment 3); a proposed RES target “of at least 45% renewable energy in 2030” (am. 69); a “Union’s binding energy efficiency target of at least 40% in 2030” and “a binding national energy efficiency target for 2030” instead of “indicative” contributions (am. 76 and 147); as well as a shorter submission time for INECPs - every 5 years instead of every 10 years (am. 96). The changes express a higher level of ambition than the initial text proposed by the Commission, but which of these amendments will make it into the final version of the Regulation, if any, is hard to predict.

Central and Eastern Europe (CEE)

For climate enthusiasts, a 27% target of RES as a share of EU energy consumption may seem like a deceleration compared to the one set in 2006 (20% by 2020), as evident from amendments proposed by Turmes and Rivasi who advance a much higher target (45% renewable energy in 2030). However, the Commission has to be mindful of the reality in Central and Eastern Europe, where coal still plays an important role. The EU sees itself as a global leader in renewables, but it must not forget that it has members who cannot commit more than they already have to the EU’s green agenda, as well as making sure that the clean energy drive does not impose undue costs on its poorer Member States. The governance regulation does stress that MSs are to take into account the equitable distribution of renewable energy deployment across the EU, economic potential, geographic and natural constraints. Thus, it would be fair to allow more leeway for CEE countries: a more moderate level of green ambition, a longer timeframe for implementation, and indicative (not binding) national targets.

The introduction of an emission performance standard for capacity mechanisms (proposed by the internal market design reform) will mostly affect CEE countries: Bulgaria, the

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Czech Republic, Greece, Hungary, Poland, Romania, Slovakia, and Slovenia (the Baltic States have no domestic coal production and coal use in the energy mix is negligible). Therefore, it is reasonable to assume that these CEE countries have a common denominator and their national positions will be reflective of the EURACOAL view on the matter, which rejects the limitation on capacity mechanisms in the form of the 550 g CO₂/kWh emission performance standard: “No coal plant can meet this standard unless fitted with CCS – the very best-performing coal plants without CCS might emit 700g CO₂/kWh and many lignite plants emit more than 1000 g CO₂/kWh.”⁹ (EURACOAL, Position Paper, May

are a case in point) have a different pressing concern: social fairness and protection of the vulnerable consumer. Therefore, from a Romanian perspective, other aspects of the clean energy transition are more of interest, such as: the intention to set up an Energy Poverty Observatory, the new Modernization Fund, the EU ETS revision with solidarity in mind for the lower income MSs, etc. The fact that the Commission wants to address the topic of energy poverty/vulnerable consumers at EU level is most welcome, especially since some states (e.g.: Romania), when left to their own devices, fail to undertake the necessary action in a timely manner. The Regulation would empower the Commission

Coal vs RES in select CEE countries				
Country	Coal in energy mix (%)	Coal-fired electricity (%)	% RES in final energy consumption (2005)	% RES target in final energy consumption (2020)
Bulgaria	36%	54 %	9.4%	16%
The Czech Republic	40%	51 %	6.1%	13%
Poland	50%	80-88%	7.2%	15%
Romania	18%	27%	17.8%	24%

Source: coal data (EURACOAL, EU country profiles), RES data: baseline vs 2020 targets (2009 RES Directive)

2017). However, worldwide CCS deployment has been slow. In many CEE countries (Poland, Bulgaria, Czech Republic, Romania) coal remains a key energy security option. A strong push back from coal-reliant CEE countries against the introduction of this emission performance standard, as well as higher renewable pledges at national level, is therefore to be expected. Eastern European countries have been unjustly labelled “backward-looking east EU states”, simply because they cannot underwrite the same level of green policy ambition as Sweden (49% RES target for 2020) or Finland (38%). Moreover, in the past, some Eastern European countries have assumed very high 2020 RES deployment targets: Latvia (40%), Estonia (25%), Slovenia (25%), Romania (24%), or Lithuania (23%). It is true however that countries with a higher share of coal in the energy mix tend to have lower 2020 RES targets: Bulgaria, Czech Republic, and Poland for instance.

However, Eastern European governments (among them, MSs with the lowest income and highest % of poverty and energy poverty in the EU - Bulgaria and Romania

to exert more pressure on national policy-making in this regard, which is welcome and beneficial for countries most affected by poverty and with weak social protection policies.

Romania focus

The Regulation will exert a top down pressure for better policy planning and management at national level. It will oblige MSs to better organise and keep track of data, especially in countries with haphazard policy-making and where institutional memory in ministries is not a strong point, and Romania is a case in point. It will create pressure to improve the collection of statistical data. For instance, at present in Romania, nobody knows the exact number of households that are not connected to the electricity grid. In 2006, their estimated number was 67,738 nationwide (according to the Government Decree (GD) no. 328/2007 which approved the last electrification programme for 2007-2009). However, a GD for a subsequent electrification programme submitted for public consultation in 2012 (but

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never approved) cites a completely different number: 98,871 households not connected to the power grid. Neither the 2006 nor the 2012 document detail the methodology used to arrive at these numbers. This is a prime example of inconsistency of statistical data in Romania, which is precisely what the Regulation would address, since the integrated reporting on the internal energy market (Art 21), for instance, will require info on “national objectives with regards to energy poverty, including the number of households in energy poverty” amongst others. Aside from optimising data collection and analysis, the planning and reporting obligations will provide more certainty for investors. In Romania, the private sector has been complaining for years about the need to have stability and predictability of the regulatory framework. This Regulation will force governments to plan and report not only on the status quo (already adopted provisions), but also on policies and measures intended to be adopted, and on timetables for their implementation.

Romanian officials have made few public statements on the Clean Energy Package, while the Energy Ministry has hitherto kept a low public profile on the matter. Early in 2017 (January-February), the Energy Ministry is known to have organised a series of information sessions to inform stakeholders of key provisions in the package. To my knowledge, a publicly expressed government position on the 2016 Clean Energy Package was not formulated. However, at competent Ministry level, a non-paper must exist, if only to articulate Romania’s position at the upcoming European Council on June 22-23.

Such a position will most probably include:

- a rejection of the proposed 550 g CO₂/kWh emission performance standard which (if approved) would apply to new plants from 2018 and to existing plants from 2023. Romania has an installed capacity of 6,385 MW of coal-fired power plants (of which 3,300 MW available) which represents a quarter of the total installed electricity capacity in 2016 (24,686 MW). Therefore, the provision would definitely affect Romania, a country where 27% of electricity produced in 2015 was coal-fired and only a part of the coal TPPs comply with environmental requirements. Romania feels very strongly about asserting its sovereign right over the design of its own energy mix, of which coal is seen as a strategic part.
- support for maintaining the original EC formulation for the national energy efficiency target as “indicative” and at a 27% level, as agreed at the European Council in October 2014. Energy efficiency is very important to Romania, but there is a desire not to over-commit, thus avoiding penalties in case of failure to deliver.
- Romania is doing very well on renewables already - in 2015, 40% of electricity production in Romania came from renewable energy sources: 27% hydro, 11% wind and 2.43% solar. Consequently, an EU 27% target should not pose a concern, especially as Romania has EU funding available - for 2014-2020 - for the construction of additional renewable generation capacity under the Operational Program for Large Infrastructure (POIM), Axis 6 – Increased energy production from less exploited RES (biomass, biogas, geothermal). After introducing a very generous support scheme for renewables in 2008, the level of enthusiasm for RES in Romania has abated. The latest energy policy document – Romania’s energy strategy up to 2030 – explicitly states that a new RES support scheme is unlikely. Furthermore, as of 2013, Romanian authorities have been preoccupied with energy affordability and the impact of support schemes on the consumer’s energy bill which led to the adoption of Government Emergency Ordinance (GEO) #57/2013, a decree that delayed the transaction of part of the green certificates (GCs) until 2018. This has affected the bankability of projects and investments have dropped sharply compared to the boom year of 2012. The recent GEO no. 24/2017 amends the Romanian RES law to bring a more balanced approach, by extending the validity of GCs issued after March 2017 for the entire period of the support scheme (until March 31, 2032), by lowering the GC cap (from 57€ to 35€), and through the provision that the mandatory annual quota for the purchase of GCs established by the regulator, starting in 2018, must not exceed an average impact of EUR 11.1/MWh in the bill of the end-consumer;
- EU statistics on GHG emissions show that by 2014, Romania’s GHG emissions had already fallen by 56% compared to 1990 levels (from 252 million tonnes of CO₂ equivalent in 1990 to 110 million tonnes of CO₂ equivalent), the second biggest decrease in the EU (after Lithuania, -59%) which means that Romania has contributed more than its fair share to the collective EU benchmark of 40% GHG reduction by 2030. Climate action is an indisputably lofty and noble goal. However, further renewable energy deployment or GHG reduction should rest on the shoulders of the richer EU MSs (which also account for the biggest share of EU-wide GHG emissions: 21.9% Germany, 12.6% UK, 10.76% France, 9.69% Italy – data for 2014).

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Clean Energy for All Europeans – a view from Romania on the new Governance Regulation

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In theory, as a country that demonstrated its support for the Energy Union project, Romania should, by extension, favour the Energy Union Governance Regulation. In practice however, the proposed regulation will translate into a higher administrative burden imposed on the key competent ministries, and in particular on Romania's Energy and Environment Ministries, at least in the first years. The administrative capacity of the Romanian central government apparatus is not adequately equipped to handle the workload required to fulfill all the research, analysis, tracking and synthesis required by so many - and so frequent - monitoring and reporting obligations across different sectors. The Communication talks about channeling investments to the energy poor and exploiting synergies with initiatives underway in other sectors (buildings, low emission transport, eco-design and energy labelling). The success of this depends on the cross-sector multi-stakeholder consultations, and Romania does not have a particularly strong record in speedy inter-ministerial cooperation, or decision-making inclusive of all stakeholders.

Moreover, a culture of cooperation with think-tanks and other independent analytical centres does not exist either. Therefore, the implementation of this regulation will put Romanian institutions under significant strain in the short term, especially as, for some sectorial requirements (Art. 18 (a)5 - RES share in district heating, RES use in buildings, RES produced by cities and by self-consumers), nobody is currently tracking such indicators. The regulation stipulates that the first draft national plans are to be provided by January 1, 2018, however in Romania work on INECPS has not even started. To conclude, drafting the first integrated national reports, new data collection, and identifying certain indicators that have not been tracked before within a very tight schedule (6 months), will be very time consuming and require much effort for countries with weak monitoring and analytical capacities, especially during the first such exercise. The upside is that in the long run the regulation will force a top-down optimisation of national energy policy formulation and implementation, and reduce the room for surprises. ■

EURELECTRIC

Governance of the Energy Union – Why the electricity industry should care what and how Member States report?

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Eurelectric

The successful implementation of the Energy Union will place the European Union (EU) at the forefront of the exponential evolution of energy systems globally. Digitalisation, decarbonisation, decentralisation and democratisation are transforming all aspects of our lives and the ways we produce, distribute and consume energy are not spared. In order for this promising project to deliver value to European customers at the most efficient cost, all the while urgently tackling the climate challenge, the EU will have to resort to a robust and agile governance system. Ensuring that this system is transparent, simple and ambitious yet flexible to national contexts and changing technological realities, will be key to its success.

The Proposal for a Regulation on the Governance of the Energy Union adopted by the European Commission (EC) on 30 November, 2016 reflects good ideas on how to face this challenge. The proposal successfully encompasses the EU's obligations under the Paris Agreement, as well further target setting for 2030 and 2050. With some minor adjustments to improve the coherence of the proposal, the Reg-

ulation has the potential to become an effective EU level management tool that is flexible and adaptive to national contexts, yet sufficiently robust to sustain the desired progress trajectory. Even business management theory now favours systems over goals setting as a more productive approach to guarantee results.

EURELECTRIC identifies five key areas that require further attention in order to ensure that the Governance Regulation assumes the role of a backbone instrument, supporting all future EU energy and climate policies, with the overarching objective of ensuring the attainment of the Energy Union. With such amendments, and successful implementation, the Regulation may even become the vehicle for delivering results beyond the initially set objectives. The following areas require further elaboration and debate in order for them to be optimally reflected in the proposal: addressing the impact of policy overlaps; ensuring Member States' timely compliance with obligations under the Regulation; improving effective and practical regional cooperation; enshrining electrification as a cornerstone element of national strategy setting; and the transparent engagement

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of all relevant stakeholders in the process of defining all future national and European climate and energy plans and strategies.

The electricity sector considers these five areas as crucial towards ensuring that future deliverables arising from the governance system, such as the Integrated National Energy and Climate Plans (INECPs) and the Long-Term Low-Carbon Emission strategies, are not merely bureaucratic documents stacked in ministerial filing cabinets. They should be living, visionary manifestos that guarantee political and regulatory continuity towards the Energy Union project, thereby providing the necessary investment horizons. Eastern European countries and industry representatives should also focus on the potential of these areas of the Governance Regulation to be vehicles for driving sector transformation while facing very particular challenges such as security of supply, energy poverty, the need for a just energy transition and overall system modernisation.

Identifying and addressing the impacts of policy overlap to avoid negative impact on the EU ETS through a predefined mechanism in the Governance Regulation is a clear opportunity that has not been reflected in the Commission's proposal and neither in the draft joint report compiled by the European Parliament rapporteurs, MEPs Turmes and Rivasi. Following the lengthy negotiations to establish and consequently reform the EU's carbon market (EU Emissions Trading System, EU ETS), the focus should be on identifying levers to strengthen the EU ETS and not on debating reasons to dismantle it. EURELECTRIC is in favour of a process which monitors the effect of potential policy overlap on the EU ETS, with a clear protocol in place how to mitigate potentially negative impacts. This should be done through a transparent mechanism that would help bring the EU ETS carbon price to a level that will allow for competitive investments in low carbon technologies. This mechanism may resort to known instruments (e.g. Market Stability Reserve) or exploit the opportunity to seek a hybrid solution that integrates other approaches to carbon pricing.

The next challenge is to engage effectively with stakeholders at the national and EU levels, regardless of the current ambitious and tight deadline proposed by the Commission. With the first drafts of INECPs due by January 1, 2018, under the Commission's proposal, the transparency and usefulness of organising national public consultations, which are foreseen by the Regulation, is in question. To ensure that the INECPs indeed incorporate the feedback from citizens and key stakeholders, sufficient time for proper consultation and analysis must be allowed. Of course, the productive engagement of industry in any such consultation is both a challenge and a responsibility that they must be prepared to assume given the huge potential impact these INECPs will have on their future busi-

ness strategies. Industry should not be a passive observer in this process but should engage in a proper assessment of the future value it holds for its business development, and should assist the EU and national governments in the development of INECPs in order to spur the acceleration of investments.

However, planning and strategizing is only useful when followed by effective execution and implementation. Clear rules are necessary to govern any possible requirement to amend initially agreed commitments, in a manner that contributes to building systemic trust in the regulatory environment and which does not compromise investor predictability. For this reason, enforcing Member States timely compliance with the proposed Regulation is another issue of concern to industry stakeholders.

Regional cooperation to the process of EU energy and climate policy development is a novel concept introduced by the Commission's governance proposal. However, the proposal lacks specific clarity as to how this regional cooperation will be operationalised beyond the planning and consultation phase. Here the draft joint report by the Parliament rapporteurs offers several specific tools. These include for example the concept of macro-regional coordination, with a clear focus on practical cooperation, to develop renewable projects of regional interest, thereby offering a win-win value for regional partners. With clear gains identified through specific projects Member States could be incentivised to put skin in the game even if their participation in the mechanism is on a voluntary opt-in basis. This practical regional cooperation would pave the way for more ambitious cooperation in the future, aiming at the gradual attainment of the Energy Union, in a manner that would be coherent and palpable to Member States.

Lastly, but most importantly, the Regulation on the Governance of the Energy Union offers an opportunity to place electrification at the centre of national, and therefore European, energy and climate visions and long-term strategies. EURELECTRIC's proposal here is to complement the Long-term Low Emission Strategies with more detailed national programmes on specific electrification policies. This will lead to a predictable and measurable understanding of Member States ambition to implement the electrification agenda. This would enhance the stability sought by the electricity sector and the investor community looking to activate the capital needed to deliver the energy transition. Coupled in particular with a strong carbon price signal through a strong EU ETS, such an initiative will be a stable basis for the deployment of low carbon investments today. This will take place in a climate of transparency, trust and clear understanding of cost-effectiveness of such investments, in light of the future value they will bring to EU citizens and industry in the future. ■

Regional cooperation within the Energy Union: towards more convergence of national energy policies?

Maciej JAKUBIK

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European integration in its very nature is based on regional cooperation. This approach was laid down in the beginning of the process, already in the 50s, which entailed at that time the establishment of the regional markets of steel and coal. Today, as the EU is steadily implementing the Energy Union project, this important dimension cannot be ignored. The question that arises here is whether regional cooperation should complement national policies and, if yes, to what extent. Are the provisions included in the governance proposal adequate to tackle this issue?

As more and more electrons and molecules flowing through interconnectors and regional energy hubs have gradual trans-border effects on prices, impacting the regionally coupled markets, national decisions on the shape of energy policy have greater influence beyond the borders. This is the reality of the emerging internal European energy market, which is only becoming more interconnected and interlinked. There is broad consensus about the need for more coordination between the Member States' authorities and the operators in particular, in order to manage congestions and secure supplies, mainly in case of emergencies and shortages.

In today's Europe, we have a number of entities dealing with regional cooperation in the energy sector. These are: ENTSO electricity and gas regional groups, Electricity and Gas Regional Initiatives, Baltic Energy Market Interconnection Plan (BEMIP), Pentilateral Energy Forum (PLEF), Central East South Europe Gas Connectivity (CESEC), Regional Security coordination initiatives of TSO, North Seas Countries' Offshore Grid Initiative. Enhanced cooperation in the energy sector is developing among V4 countries as well. These numerous formal and informal bodies comprise a decent panel of experience, already functional for many years, which can inspire the direction that regional energy cooperation should move towards.

The governance proposal in article 11 presents regional cooperation as an important element in the preparation of the Integrated National Energy Climate Plans (INECP). It stipulates that the "Member States shall cooperate with each other at regional level to effectively meet the targets, objectives and contributions set out in their INECP". Consultations should be held with "neighbouring Member States and the other Member States expressing an interest" and are expected to take place during the drafting process. Their results shall be included in the draft plans. Moreover, "Member States shall continue to cooperate at regional level when implementing the policies and measures of their plans".

This system is supposed to facilitate the coordination of national energy policies and boost cooperation between Member States. Through regional cooperation, the governance proposal is also trying to increase cross-border benefits, including balancing options and supporting the planning of infrastructure in a more integrated way.

The European Commission will have an important role to play in this process. It shall facilitate cooperation and consultation among Member States on the draft plans, which means that it shall strive to find a compromise between them. However, in practice, it could be a very difficult task and would require much diplomacy from the Commission, as the issues touch upon Member States sovereign decisions.

The Energy Union project is being steadily implemented and one of its main goals is solidarity among Member States. It assumes that countries would not conduct policy or implement projects which pose a threat to the others, or which may undermine their efforts or their policies. This is a crucial role of the newly designed regional cooperation, which allows potential controversies to be detected at an early stage and mitigated against. It can also help to bridge the gap between general EU policy guidelines and the national level, as well as between the decisions of particular countries, often taken in isolation. An example here is the Nord Stream 2 project or the introduction of Energiewende in Germany. (See more: Exploring a Regional Approach to EU Energy Policies, Jacques de Jong and Christian Egenhofer, CEPS, 2014).

However, the governance proposal contains some inconsistencies. The obligation to carry out consultations among Member States must not imply a sort of transfer of national sovereignty over the energy policy, especially regarding the shape of the energy-mix. It should stay within the exclusive competence of the governments which have overall supervision of the economic development and security of energy supplies.

The other issue relates to the definition of the regions, how to define them and how to determine the scope of regional consultations. An endless process of consultations among EU-28 could unnecessarily prolong the timeline of INECP preparations and could affect their quality. It may also provoke potential conflicts among the capitals, as observed during the Security of Supply (SoS) regulation proceedings. The regulation also keeps silent about the non-EU neighbours and how to engage them in the cooperation process.

As briefly mentioned, the proposal does not include any provision concerning the shape and composition of said regions. The process of defining these regions could

OPINION

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Regional cooperation within the Energy Union: towards more convergence of national energy policies?

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take place in two ways: regions could be defined in a top-down manner, i.e. the Commission defines regions and Member States would have to cooperate within that region. This would, however, force certain Member States to join a regional grouping they don't identify with, or don't want to join.

Regional cooperation can also follow a bottom up process. Member States could form, among themselves, a grouping according to their expectations and interests. This approach seems to be more practical and effective, if initiated and smoothly directed by the European Commission. (See more: Driving regional cooperation forward in the 2030 renewable energy framework, Malte Gephart, Lucie Tesnière and Corinna Klessmann, Ecofys, 2015).

Regional cooperation in the governance of the Energy

Union could constitute a key element to improve coordination of Member States' national energy policies, and move towards the creation of the internal energy market. However, this process should be solely consultative in its nature, and not enforced. If designed properly, combined with the Member States' will, it can enable elimination of the projects or policy decisions which affect other countries or which are contrary to the Energy Union objectives.

There is a need for some convergence of the energy policy, particularly taking into account the common challenges and threats across the EU. Regional cooperation can become a process which will foster more understanding among Member States and persuade them to look beyond their borders when planning and implementing their energy policies. ■

Central Europe Energy Partners (CEEP) represents energy and energy-intensive companies and organisations from four Central European countries, employing over 200,000 workers, with a total annual revenue of more than EUR 30 billion. CEEP is the first major body to represent the energy sector companies from the region at the EU level. The aim of CEEP is to strengthen the region's energy security within the framework of EU's energy and energy security policy. CEEP is an international non-profit association with its headquarters in Brussels.

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