



Central Europe Energy Partners' (CEEP) Recommendations for Trilogues on a Regulation on the Governance of the Energy Union

Brussels, April 23rd, 2018

Regulation on the Governance of the Energy Union (“**EU Governance**”) is a critical part of the Clean Energy for All Europeans Package. It will provide a framework for the long-term development of the European energy policy, in line with the five Energy Union priorities and collective fulfilment of the EU 2030 targets. We welcome an ambitious approach on this file, marked by the first trilogue meeting held on 21st of February, 2018.

Bearing in mind the potential for further improvement of this file, Central Europe Energy Partners (“CEEP”) calls for inclusion in the further trilogue’s negotiations the following issues:

Delayed submission to the European Commission of draft INECPs.

In accordance with the Council position, CEEP advocates prolongation of a deadline for notification of draft INECP by the 31st of December, 2018, and submission of final plans by the 31st of December, 2019. The deadlines set out in the EU Governance Regulation should be realistic and allow Member States to prepare an in-depth analytical basis. This task is challenging, considering the fact that the final EU-wide RES and energy efficiency 2030 targets are not finally decided yet.

Therefore, we encourage adoption of the amendment of articles 3 paragraph 1 and the entirety of article 9, in line with Council’s position.

Preservation of Member States right to determine structure of the energy mix

While developing INECP in line with 5 priorities of Energy Union and the provided template, the paramount importance has Treaty-based right to determine the conditions for exploiting its energy resources, its choice between different energy sources, and the general structure of its energy supply. The EC’s review and recommendation concerning INECP should not influence the structure of Member State’s energy mix. According to Article 288 TFEU, the recommendations shall have no binding force, thus they may be taken into consideration by the Member State concerned without imposing legal obligations to follow them in the INECP’s preparation and implementation.

We support the Council’s approach that recommendations do not include quantitative and mandatory elements. Regrettably, Member States are still obliged to set out a detailed timetable for recommendations implementation.

We support the Council amendments on Recital 34, art. 9 and art. 27 paragraph 1, and suggest to remove the timetable for recommendations implementation set out in Article 15 (5).



Setting RES 2030 target at the level of 27% of gross final energy consumption binding at the EU level and introduction of indicative trajectories.

Both guidelines of the European Council (October 2014) and the EC's legislative proposal opted for a binding target of 27% of RES of final energy consumption at the EU level until 2030. We expect this target to be upheld in EU Governance Regulation. Furthermore, we support Council's approach, introducing indicative trajectories of the EU and subsequently MS with the reference points: 24% in 2023, 40% in 2025, and 60% in 2027. We believe that such a system is better than the linear trajectory and mirrors the long-term investment cycle of the energy industry.

Therefore, we support Council amendment of art 4.

It should be noted, however, that such holistic modelling, which might consider different congestions and critical points in several years in advance scenarios, is very tentative. Real system development differs from the assumptions. Many investments in the system needful for timely adjustment for massive RES deployment are, to some extent, politically dependent, while the technical part of such investments requires at least several years ahead to start implementation. There is a need for more clarified rules and assessment of cost-effective RES deployment.

Therefore, we strongly support the amendment of art. 5, and of Recital 34 bis of Council position.

Flexibility to meet RES 2020 and 2030 targets

We support a wide selection of mechanisms, which was proposed by Council in art. 27(4) for underperforming Member States – allowing them to increase their share of renewables without penalties in the form of mandatory contribution to the financing platform. We believe that making voluntary financial contributions as one of the optional measures to meet 2020, as well as 2030 RES targets, is a well-balanced proposal, enabling Member States to choose the best approach for their RES development, and reflecting the relative financial contribution to the statistically attributed RES generation from the projects concerned.

At the same time, Member States with available RES potential shall not be forced to finance RES projects outside their territory, as this can significantly weaken the development of domestic RES sources. We underline that methodology for calculating contribution and corresponding statistical benefits shall reflect the existing trends on RES market, i.e. the declining costs of some technologies, especially offshore. It shall be envisaged in the rules that projects financed by the platform should not record windfall profits, in case technology costs fall. Moreover, rule of optionality shall apply also for the platform as it was established and used in practice for statistical transfers. Due to different starting points, we are of the opinion that Member States shall retain flexibility on how to establish, achieve, and adjust their contributions to the 27% EU-wide RES target. Similarly, economic conditions and potential, including GDP per capita, and assessment of the potential for cost-effective deployment.

We call for support of the Council's amendments to article 27.

Rejection of the so-called “policy overlaps” mechanism

We consider as unnecessary provisions of the assessment by the European Commission of the impact of measures foreseen in INECP on the operation of the EU ETS, which may lead to the additional cancellation of the undefined volume of EUAs. Such obligation raises questions about the accuracy of such assessment, which is not supported by any reliable methodology. Particularly considering that the functioning of the EU ETS and carbon price is shaped by factors beyond INECP – primarily level of economic activity or pace of technological development. Results of the assessment might be misleading and, in fact, decrease predictability and certainty for business – the additional cancellation of the EUAs also minimises the EU ETS revenues, which are dedicated to support low-carbon transition.

Therefore we, call for rejection of the European Parliament amendments of article 25 paragraph 1 points a, b, c.

Rejection of provisions on capacity mechanisms

Regulation for the internal market in electricity provides a comprehensive set of rules on the establishment and criteria for capacity mechanisms functioning, including technological neutrality and cross-border participation. In this regard, capacity mechanisms are legitimate tools to solve generation adequacy problems, their functioning is aligned with the EU state aid rules and there is no need to introduce any new reporting obligations.

In this context, we strongly oppose the amendment of the European Parliament of Article 4 – para 1 – point d – point 4 and Article 21 – para 1 – point f.

Interconnections development

Achievement of the 15% interconnection target until 2030 is an ambitious goal. Process of interconnection development should be based on the results of depth cost benefit analysis, which would prove that the potential benefits outweigh the costs.

The strong obligation that each new interconnector must be subjected to such analysis is ensured by the Council position. Moreover, the Council, additionally to the European Parliament amendments, specifies more precisely the indicators which should be taken into account by Member States in a strategy, and decisions to obtain interconnection targets for 2030. In that context approach proposed by the Council that peak load and installed renewable generation are to be considered is particularly needed.

In this regard we support the amendments of art. 4 d) proposed by the Council.

Support for the European Commission assessment of new major infrastructure investments with Energy Union priorities

We strongly support the role of the European Commission in the review of new major infrastructure investment’s impact on both functioning of the internal energy market and their consistency with Energy Union priorities, particularly security of supply. In case of non-compliance, they should have a right to issue a recommendation to certain MS, which



should be taken of utmost account. We believe that it is a proportionate measure to guarantee coherence and avoid the situation, while infrastructure investment promoted by the certain state may have a deteriorating effect on the development of Energy Union and security of supply of other MS.

Therefore, we support European Parliament amendment: of Article 4(d)(2) and new Article 27 – paragraph 3 a.

Support for enhanced macro-regional and regional cooperation

We believe that Governance Regulation brings opportunities to strengthen regional dimension of the EU energy policy and reinvigorate different forms of regional cooperation.

We support European Parliament's amendment of article 11.

