DEVELOPING A RELIABLE AND TRANSPARENT
ENERGY UNION GOVERNANCE SYSTEM

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Key messages:

1. A reliable, transparent, and integrated governance system of the Energy Union must make clear how, in the absence of 2030 national binding targets for renewables and energy efficiency, the meeting of EU-wide targets will be assured, and who will be responsible in case of failure.

2. Principles: The governance system must be based on a number of legal principles:
   i) Existing legal obligations for the achievement of the 2020 targets should remain untouched.
   ii) New rules and processes governing the Energy Union should be agreed by the Council and Parliament in accordance with the ordinary legislative procedure. Regional and local authorities as well as other stakeholders should be consulted.
   iii) Member States must be accountable for their actions, as the achievement of the 2030 targets primarily depends on them.

3. Ensuring the 2030 targets for RES and energy efficiency are met: A combination of binding measures and EU financial mechanisms is a desirable option. A ‘carrot and stick’ framework, led by the EC, could be developed in four stages:
   i) Commission develops top-down benchmarks.
   ii) Commission collects voluntary pledges and brings forward proposals for a number of binding measures, complemented by EU financial mechanisms. A mid-term review is conducted in 2024 in order to monitor progress, and to allow corrective measures to be taken. Examples of measures and financial mechanisms are included in this paper.
   iii) If this softer approach is proving unsuccessful at the review, the Commission proposes further measures or binding national targets based on the original benchmarks (see step 1);
   iv) If Member States do not comply with their obligations, Commission launches infringement procedures.

4. Planning and reporting for renewables: The new governance should keep, as much as possible, the positive elements of the current system with trajectories and policy developments broken down by sector, source, and enabling technology. This has proven to be successful in triggering a concerted dialogue between governments and the representatives of emerging renewable energy sectors, in increasing awareness, in improving resource assessment for all RES technologies, and in promoting innovation.

5. Ensuring the consistency and comparability of Member States’ policies in all five dimensions of the Energy Union: Whilst more solid legislation, planning, and reporting is needed in areas with EU targets (GHG emissions, RES, and energy efficiency) a more intergovernmental process, based on soft law and voluntary cooperation is appropriate in areas without EU targets (such as market integration, competitiveness, energy security, and research and innovation). The final governance system should result in a dynamic combination of softer and stricter rules. Progress in all of the dimensions of the Energy Union can be measured and compared through a number of key performance indicators.

6. Regional cooperation: The governance system should pave the way for a smart enhanced regional cooperation in order to implement one or more dimensions of the Energy Union. It should be open to EEA countries and based as much as possible on a bottom-up approach.
Regional cooperation should be envisaged from the start of the planning phase in areas such as market integration, infrastructure, security of supply, research and innovation, etc. However, it should remain flexible: mandatory regional cooperation and even regional RES targets are contrary to the accountability principle. Additionally, it risks downgrading the role local governments and underestimating decentralised, local, and small scale renewable energy projects in favour of large-scale projects with high system costs.

About EGEC

EGEC is the voice of Geothermal in Europe.

More than 120 members from 28 countries, including private companies, national associations, consultants, research centres, geological surveys, and public authorities, make EGEC the strongest and most powerful geothermal network in Europe, uniting and representing the entire sector.

An international non-profit organisation founded in 1998 and based in the heart of the European quarter in Brussels, the role of EGEC is to promote members’ interests, making sure they develop and thrive. It enables the development of the European geothermal industry- whether shaping policy, improving business conditions, or driving more research and development.

Contact person:
Luca Angelino- Head of Policy and Regulation, E: Langelino@egec.org W: www.egec.org
Introduction

The current EU framework for energy and climate policy, mainly based on binding national targets, is proving to be effective. As a matter of fact, several assessments demonstrate that the EU is largely on track to meet its 2020 objectives. For the period beyond 2020, however, a different approach has been chosen. Indeed, only the 40% GHG emissions reduction target is binding on Member States. On the other hand, the minimum 27% renewable energy target is binding at EU level only, whilst the minimum 27% energy efficiency target, which may be revised upwards in coming years, is hitherto only indicative. These climate and energy targets are fully integrated in the EU Energy Union framework launched by the European Commission in February 2015.

Meanwhile, the European Council has requested that the Commission develops a reliable and transparent governance system to help ensure that the EU meets the objectives of its Energy Union, including the 2030 climate and energy targets. The new governance should streamline current planning and reporting requirements through Better Regulation.

An integrated governance system, intended as the set of rules and processes governing the Energy Union, is a positive development as it paves the way for a more consistent approach to energy and climate policies. Additionally, it will facilitate the exploitation of many synergies between the five dimensions of the Energy Union, for instance between energy efficiency and renewables in the building sector, as well as between these two combined and energy security.

A major objective of the work towards an integrated governance system is to provide a clear answer to the following questions:

a) How, in the absence of 2030 national binding targets for renewables and energy efficiency, will the meeting of EU-wide targets will assured?

b) As the achievement of the EU 2030 targets clearly depends on Member States’ actions, who will be responsible if targets are not achieved?

Shedding light on this issue is crucial to provide both industry and investors much needed stability and predictability.

In the framework of the on-going work of the Commission on governance, the European Geothermal Energy Council (EGEC) brings forward a number of proposals concerning some of its more critical aspects such as principles, mechanisms to ensure that targets are met, planning and reporting, indicators, future measures, and regional cooperation.
Principles

The governance system must be reliable and transparent. This was requested by the European Council in October 2014 and reiterated in March 2015. Yet, this concept remains ambiguous, especially considering the wide scope of Energy Union and the varying level of commitments embedded in its five different dimensions\(^1\). Setting the boundaries within which the negotiation process leading to future governance will take place is a priority. In order to be reliable and transparent, the governance system must be based on these four key and interlinked legal principles: rule of law, legal certainty, accountability, and enforceability.

Rule of law

The EU is based on the rule of law, meaning that every action taken by the Union is founded on treaties. The relative provisions set out in the Treaty on the functioning of the European Union should therefore apply. In particular, as Energy is an area of shared competence between the Union and the Member States, the future rules and processes governing the Energy Union should be proposed by the Commission and agreed by the Union legislator, i.e. the Council and the European Parliament, acting in accordance with the ordinary legislative procedure. Both institutions should be involved in the process since the very beginning. As much as possible, regional and local authorities as well as other stakeholders should also be consulted.

Legal certainty

In order to deliver, the governance system for the period beyond 2020 cannot undermine existing legal obligations for the achievement of the 2020 targets, including those set in Directive 2009/28/EC on renewable energy and in Directive 2012/27/EU on energy efficiency. Indeed, the achievement of the 2020 targets is a prerequisite for achieving the long-term objectives of the Energy Union. Any discussion over existing legal obligations will undermine the already unstable investment climate. The European Union must avoid this at all costs.

Accountability and enforceability

Not all the dimensions of the Energy Union encompass EU targets, therefore a one-size fits all approach for each of the five dimensions is not appropriate. Instead, a combination of soft law mechanisms for areas without EU targets (e.g. security of supply) and hard law (i.e. legal obligations) for areas with EU targets (e.g. for renewable energy) may be much more effective.

Achieving the 2030 targets primarily depends on Member States. This is why in a reliable governance system Member States must be held accountable for their actions. Proposals on how to comply with the principles of accountability and enforceability are detailed in the following sections.

\(^1\) The Energy Union is composed of the following five dimensions: i) energy security, solidarity, and trust; ii) A fully integrated European energy market; iii) Energy efficiency contributing to moderation of demand; iv) Decarbonising the economy; and v) Research, Innovation, and Competitiveness.
Ensuring the 2030 targets are met

GHG emission reductions target

The 40% GHG emissions reduction target will be met through efforts in both EU emission trading system (ETS) non-ETS sectors. Sectors outside the ETS, i.e. buildings, agriculture, transport, etc., are expected to reduce their emissions by 30% compared to 2005 levels. For these areas the European Council has already agreed that a revised Effort Sharing Decision (ESD) will break down the EU target into national binding targets. In this case, therefore, the current framework will basically remain intact, and infringement procedures will be launched in case Member States do not comply with their obligations for 2030.

Renewable energy and energy efficiency

Unlike the GHG emission reduction target, the minimum 27% renewable energy and energy efficiency targets are not binding on the national level. The governance system must therefore provide answers to the following:

a) How could the Commission give substance to these commitments?
b) In line with Article 194 of the TFEU, how should the Commission continue promoting renewable energy and energy efficiency?
c) How will Member States be held to account for their action?

A desirable option is a combination of binding measures and EU financial mechanisms encompassed in a *carrot and stick* regulatory framework, led by the Commission. This option could be developed in four steps as follows:

Step 1- Commission develops top-down benchmarks taking into account, amongst others, the following factors:

a) The national binding GHG emission reduction targets set out in the ESD;
b) The potential availability of renewable energy resources and related costs and benefits for society beyond a LCoE (Levelised Cost of Energy) approach;
c) The potential for cost-efficient energy efficiency and the synergies between renewables and energy efficiency, particularly in the heat sector;
d) The economic strength of each Member State, and efforts already achieved by 2020;

Step 2- Commission collects voluntary pledges and brings forward proposals to revise the relevant EU legislation, including the renewable energy, the energy efficiency, and the energy performance of buildings directives. The directives should include a number of binding measures complemented by some EU financial mechanisms. Building on the positive elements in the current national plans for renewable energy and energy efficiency, a template for a solid monitoring system should be developed. This monitoring system should be based on the binding measures and integrated in the new single national plan. A mid-term review in 2024 should be conducted in order for progress towards the 2030 targets to be monitored and to allow for corrective measures to be taken.
Step 3 - If this softer approach is not successful, Commission proposes further measures or binding national targets based on the original benchmarks (see step 1).

Step 4 - If Member States do not comply with their obligations, Commission will have to launches Infringement procedures.

Figure: Process to ensure renewables and energy efficiency targets are met
Planning and reporting for renewables

In October 2014, the European Council stressed that governance should be based on existing building blocks, including the national plans for renewable energy and energy efficiency, while separate planning and reporting strands will have to be streamlined and brought together in national plans for the post-2020 period. Indeed, there is no need to re-invent the wheel; as much as possible the positive elements of the current framework should be preserved and integrated in the new governance system.

In particular, it is crucial that the Commission defines a template for Member States to report over trajectories and policy developments planned for:

a. Each sector (electricity, heating and cooling, and transport);
b. Each source of renewable energy (solar, geothermal, biomass, wind, aerothermal etc.);
c. Different types of enabling technologies (district heating and cooling, cogeneration, heat pumps, individual heating appliances, etc.)

The current planning and reporting system for each technology in all end-use sectors has proven to be successful in:

→ **Triggering a concerted dialogue between governments/public authorities on the one hand, and the representatives of each renewable sector on the other hand.** This is especially important for relatively less developed renewable energy sectors. This dialogue has allowed some persistent technology-specific barriers in some countries to be better understood (e.g. the geological risk in Denmark and the establishment of a risk guarantee system for deep geothermal heat in such an emerging market), and has created momentum.

→ **Increasing awareness about all renewable energy technologies** among policy-makers, consumers, and the general public.

→ **Improving resource assessment and promoting research and development** in a wide range of renewable technologies.

→ Providing investors and the industry with **more stability**.

On the contrary, a **loose reporting system**, for instance requiring Member States to inform the Commission over their progress **only** in the RES sector as a whole (without any breakdown), should be avoided at all costs. This approach would **make it impossible to effectively assess compliance** with measures to be set out in future legislation, as well as the **progress for each technology** in each Member State. A loose planning and reporting system can also weaken the position of emerging sectors in the dialogue with national authorities.
Future measures and EU financial mechanisms to support the achievement of the renewable and energy efficiency targets

Before 2020, and following the collection of voluntary pledges from Member States, the Commission should bring forward proposals for a number of binding measures complemented by some EU financial mechanisms. To begin with, the new framework should safeguard and strengthen existing measures that support the growth of renewable energy, such as:

- a) Nearly Zero Energy Building (NZEB) standards after 2020;
- b) Information, training, and certification of installers;
- c) Building renovation targets for public buildings, extended beyond buildings owned by central governments.

Other possible measures can be envisaged such as:

- a) Minimum requirements for the use of renewables in district heating and non-industrial CHP;
- b) Dedicated support schemes in order to develop the next generation of renewables;
- c) Promotion of flexible renewable technologies for each country/region;
- d) Developing a methodology to calculate renewable cooling.

These measures should be complemented by EU financial mechanisms, including the announced modernisation and innovation funds, as well as by more flexible national support schemes. In this regard, it is worth highlighting that the very objective of a support scheme is to offset persisting market failures and to allow the next generation of renewables, today more costly, to progress along their learning curve. In order to avoid blocking innovation, future EU financial mechanisms and the future State Aid Guidelines should better take into consideration the different maturity levels, specific barriers, and risk profiles of different renewable energy technologies.
**Indicators: Ensuring the consistency and comparability of Member States’ policies in all 5 dimensions of the Energy Union**

Whilst more solid and detailed legislation, planning and reporting is needed for areas with EU targets, a more intergovernmental process based on soft law and voluntary cooperation could fit well for areas without EU targets such as market integration, competitiveness and affordability, energy security, and research and innovation. The final governance system should result in a dynamic combination of softer and stricter rules. Progress in all of the dimensions of the Energy Union may be measured and compared through a number of key performance indicators, including those indicated in the table below:

<table>
<thead>
<tr>
<th>Energy security, solidarity, and trust</th>
<th>Energy Union</th>
<th>Energy efficiency contributing to moderation of demand</th>
<th>Decarbonising the economy</th>
<th>Research, Innovation, and Competitiveness</th>
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<tr>
<td>A fully integrated European energy market</td>
<td>Regulated prices for gas and electricity</td>
<td>Energy efficiency improvements compared to projections</td>
<td>GHG emissions</td>
<td>Prices and costs of electricity, gas, and heating for consumers and industry</td>
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<tr>
<td>Energy dependency rate by country</td>
<td>Level of market concentration</td>
<td>Share of new and renovated buildings</td>
<td>Share of renewable energy by source</td>
<td>Public support share allocated to research and innovation in the field of energy</td>
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<tr>
<td>Energy dependency rate by source</td>
<td>Rate of vulnerable consumers / energy poverty</td>
<td>Market uptake of most efficient products</td>
<td>Financing of climate change mitigation action</td>
<td>Technological progress in renewable energy technologies, etc.</td>
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<td>Energy trade balance</td>
<td>Subsidies to fossil fuels</td>
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<td>Development of smart cities and communities</td>
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<td>Degree of regional cooperation</td>
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Table: Key performance indicators to measure progress in the 5 dimensions of the Energy Union
**Regional cooperation**

The governance system should pave the way for a smart enhanced regional cooperation between Member States in order to implement one or more dimensions of the Energy Union. Regional cooperation should be open to countries of the European Economic Area (including Iceland) as well as to neighbouring countries.

Regional cooperation should be envisaged from the start of the planning phase in areas such as market integration, infrastructure, security of supply, research and innovation, etc. Regional cooperation, however, should remain flexible, mainly with regional cooperation in policy planning or joint regional projects brought forward by Member States.

Regarding renewable energy, together with the existing cooperation mechanisms set out in the RES Directive, regional cooperation based on a bottom-up approach and exchange of information is the best to adopt considering the existence of some good practices (e.g. The EU Strategy for the Danube Region with excellent examples of cooperation in the field of geothermal energy and biomass).

Mandatory regional cooperation and even regional RES targets will be contrary to the accountability principle. Additionally, it risks downgrading the role of regional and local governments within each country. Similarly, it risks underestimating and disregarding decentralised, local, and small scale renewable energy projects in favour of large-scale projects with high system costs.