



CAN Europe's answers to Frequently Asked Questions about Governance

The Governance Regulation brings together planning and reporting obligations EU Member States (MS) have on climate and energy issues under one supposedly coherent framework. This centralisation is the opportunity to achieve better policy integration and track progress on implementation of climate and energy policies. This in turn can support increased climate ambition and a faster energy transition, if the legislation is done right. However, a lot of work remains to be done for this regulation to become the transition framework it has the potential to be. This FAQ addresses some of the questions and comments that might arise when discussing governance and CAN Europe's position on it. For a more general overview of what the regulation is, see our briefing "[Five things you should know about Energy Union Governance](#)". All details of what CAN Europe advocates for can be found in our [position paper](#).

The bigger picture

Q/C: With the Clean Energy Package as proposed by the Commission (including the Governance Regulation) the EU is on track to deliver the Paris agreement.

A: This is not true. The overall target of -40% greenhouse gas emission reductions for 2030 and the targets set out in the various legislative proposals were agreed before the Paris Agreement was struck. The -40% target is set as a milestone to achieve 80% emission reductions by 2050¹. These 2030 and 2050 targets are inadequate if the EU is to comply with a 2°C scenario, as evidenced in the United Nations Environment Programmes latest emissions gap report that calls upon countries like the EU to reduce its projected 2030 emissions by another 25%. By signing the Paris Agreement, the EU has committed to pursue efforts to limit global temperature rise to 1.5°C, which would need the EU to even go much further than the UNEP recommendation. To argue that the EU is on track to implement Paris is therefore inherently flawed. To be credible internationally and to its citizens, decision makers need to recognize this fact, and start talking about how they can introduce higher ambition in all its legislation.

Q/C: The Governance Regulation is only there to ensure planning, monitoring and reporting.

A: Yes and no. This policy centralisation, if designed right, can help to unlock investor confidence and reduce transition costs while reducing the risks of stranded assets across the European economy. It could therefore support increasing climate ambition and a faster energy transition in the EU. It But this opportunity was not embraced by the European Commission: the Commission's proposal makes the development of National Energy and Climate Plans (NECPs) and long term strategies seem like just a technical exercise. Reaping the above mentioned benefits would require a significant strengthening of the Commission's proposal. The answers to the following questions in this briefing lay out the details regarding what is needed.

¹ https://ec.europa.eu/clima/policies/strategies/2050_en

Q/C: What are your 3 key priorities for the Governance Regulation?

A: The Governance regulation must be robust enough to ensure target achievement, to enable ratcheting up of ambition over time and to set the EU on a path to reach the long term goals of the Paris Agreement. Concretely, the Governance Regulation needs to:

1. Include a mechanism to increase ambition in the EU's 2030 policy framework, including the NECPs, following the UNFCCC's facilitative dialogue in 2018 and the submission, by early 2020, of the EU's revised Nationally Determined Contribution (NDC) under the Paris Agreement
2. Ensure better alignment of the NECPs with the long term strategies that MS are required to develop, by requesting that NECP and long-term strategies are done in parallel and that they are based on a revised long term goal
3. Set national binding targets for renewable energy (RES) and energy efficiency (EE) for all Member States

On 2030 targets

Q/C: There is no point to advocate for higher RES and EE targets to be enshrined in the Governance Regulation since these should be set in the sectorial legislation.

A: To align the EU's climate and energy legislation with the goals of the Paris Agreement, the EU must adopt higher targets for 2030. The Governance Regulation is closely interlinked with the sectorial legislation and it is therefore equally necessary to discuss the level of the targets in the Governance Regulation as in the sectorial files. It is of utmost importance to ensure we get the NECP framework designed so that it facilitates higher ambition, as we cannot afford to design a system which would risk locking MS into too low ambition. Doing so would mean missing out on investments and job creation in the renewable energy sector. The Governance Regulation has an additional opportunity to ensure we get higher targets in place right from the start. At the end of the day, the same targets of course need to be adopted throughout the clean energy package.

Q/C: How do you propose this "review clause" to be designed?

A: Article 38 (review) of the regulation needs to specify that within six months of the UNFCCC facilitative dialogue in 2018, and subsequent global stocktakes thereafter, the Commission shall report on the regulation's contribution to the goals of the Paris Agreement. It is important that the Commission includes in its report an assessment of the adequacy of the current NDC - based on the latest scientific findings - and propose a formulation for a new NDC. Next, it is crucial that decision-makers create a process that allow a quick adaptation of the sectorial legislation to make them coherent with the revised NDC that needs to be submitted early 2020. The Governance Regulation should ensure that within six months after the EU submits a new NDC, the Commission makes the necessary proposals to ensure that the proposed target(s) in all relevant legislation will be adjusted to the new target(s) contained in the NDC.

Q/C: We cannot accept linear trajectories when in fact deployment of RES and EE is not linear.

A: It is correct that deployment of RES and EE measures is unlikely to follow a perfectly linear rising trajectory: some years will naturally see more deployment than others. This is however no reason for changing the requirement that MS maintain linear trajectories for RES and EE deployment between their 2020 and 2030 targets. MS are still entitled to flexibility in the rate of deployment, as long as this is the flexibility to *exceed the targets* (meaning to fluctuate the rate of deployment above the minimum "line" that is the trajectory). Keeping the linear trajectory is a necessity for the EU to know if it is on track to meet the

2030 target and to take action in due time if not. Removing the linear trajectory would mean that MS could get away with not contributing enough to the EU 2030 targets or even to fall below its 2020 target. This would create an unfair, unbalanced regulation which is unable to track if MS fulfil its obligations. Furthermore, as it is clear that the EU will have to do more than currently planned MS should be incentivised to do more than foreseen. The targets should therefore be seen as a floor and not as a maximum.

Q/C: The European Council agreed in 2014 that there will be no national binding energy targets after 2020, so this is a done deal.

A: European Council decisions (made by heads of state and government) are in fact not legally binding² so going further than the European Council conclusions is by no means legally impossible. The rapid ratification process that the EU underwent to ratify the Paris Agreement is an excellent example that the EU institutions and its leaders can push for new initiatives and rapid decision making when needed. With the Paris Agreement requiring an overhaul of all EU climate and energy policies, it is legitimate for the European Parliament and the Council to opt for more stringent provisions than what was agreed by the European Council alone in 2014 (read: before Paris). In fact, re-introducing national binding targets for RES and EE would be the most favourable option to ensure a fair and balanced regulation. According to a recent publication by environmental lawyers at Client Earth *“national binding targets enshrined in EU legislation are the only way to allow an effective EU enforcement system in case a Member State (MS) does not comply with its commitments. Even more importantly, national binding targets would be a powerful instrument supporting EU in achieving various Energy Union objectives (e.g. implementation of EE targets contributes to improvement of energy security). Moreover, they would provide a strong signal to investors allowing them to project on and plan future investments. In consequence, national binding targets would contribute to the economic growth of the EU”*³.

Q/C: The proposed system to ensure action in case a MS is drifting off track is enough.

A: No, unfortunately not. If MS' contributions do not add up to the EU-level target, the proposed Regulation only provides that the Commission “shall take measures at Union level in order to ensure the collective achievement of those objectives and targets” to avoid the gap. In addition to the rather vague and uncertain timing of when such measures should be taken, it is also unclear what these additional measures would be. Providing clarity regarding what specific measures the Commission would have to take is necessary, as well as when. The proposal also does not spell out what happens if a MS does not comply with the Commission's recommendations. Next to the re-introduction of binding national energy targets, as one way to deal with this shortcoming, CAN Europe suggests that the Governance Regulation should be linked to the EU budget by establishing a financial mechanism which incentivizes higher climate and clean energy ambitions throughout all five dimensions of the Energy Union. This provision is crucial to align investment needed for achieving the specific targets with financing commitments. The targeted use of EU funds to deliver on these targets will thus increase the European added value of EU financial support on national level. It will also provide for long-term planning and investment certainty which private investors seek. For more details see our position paper on the Future EU Budget (MFF)⁴.

² <http://www.consilium.europa.eu/en/council-eu/conclusions-resolutions/>

³ <https://www.documents.clientearth.org/wp-content/uploads/library/2017-05-29-How-to-make-Member-States-set-ambitious-energy-efficiency-and-renewables-targets-ce-en.pdf>

⁴ <http://www.caneurope.org/docman/fossil-fuel-subsidies-1/3081-can-europe-position-on-the-eu-budget-post-2020/file>

On the NECPs

Q/C: It is not possible for MS to prepare a plan while the regulation is not even adopted.

A: MS have had the possibility to be involved in the preparation of the NECP template in the run up to the publication of the proposal. So the proposed NECP template should contain no major surprises and MS have had time already to start preparing for the exercise. There is also great value in preparing the draft plans before the Regulation is entering into force. That way, the Commission can be involved in the preparation of the plans at an early stage and is able to provide technical assistance to ensure MS final plans are as robust as possible once the implementation phase starts. It shall however be noted that the level of ambition and quality of the plans is the most important thing. Pushing deadlines forward could be acceptable if MS secure higher ambition of both the long term strategies and NECPs, if these are developed in parallel and if they are fully ready to be implemented when the Regulation enters into force.

On the long term strategies and a long term goal

Q/C: What long term goal for the EU are you advocating for?

A: The Paris Agreement requires all signatories to formulate a long term strategy by 2020 the latest. The Governance regulation deals with this matter by requiring all MS to put a long term strategy in place (Article 14 of the regulation). However, the reference point in Article 14 of the regulation is for MS to develop a strategy in line with an EU wide emission reduction of -80 to -95% by 2050, which is the target set out in the so called “2050 roadmap”⁵. This target is outdated, as it was agreed before the Paris Agreement was struck. To comply with the long term goals of the Paris Agreement, global fossil fuel emissions need to be phased out and replaced by 100% renewable energy by 2050 at the latest. As signatories to the Paris Agreement, the EU has agreed, as a developed region, to continue to take the lead in reaching this goal. The Commission has promised to come up with a new 2050 low-carbon roadmap which should form the basis of the EU's long-term low greenhouse gas emissions development strategy which needs to be submitted to the UNFCCC by 2020. In the meantime it is of utmost importance that the EU does not lock its legislation, including the Governance framework, into old and outdated targets. Reference to the -80 to -95% therefore needs to be removed from the regulation and replaced with a goal that fully reflects the long-term objectives of the Paris Agreement.

Q/C: It is not possible to introduce a new long term goal in the Governance regulation before the EU has agreed on the new “mid-century strategy”

A: Neither European Council conclusions nor Commission Communications are legally binding⁶. It is therefore of great importance to get a long term decarbonisation target for the EU enshrined in legislation. The Governance Regulation, which takes a whole economy approach to the transition away from fossil fuels, is a great opportunity to take a first step towards this important measure.

Q/C: What do you mean with “the NECPs and long term strategies should be better aligned”?

A: As it currently stands, 2030 plans would not be sufficiently informed by long-term considerations. This could make efforts both harder and more costly over a longer period. Therefore, the long term strategy and

⁵ The decision to reduce emissions by 80-95% by 2050 was taken by the European Council in 2009, and translated into a “low-carbon economy roadmap” adopted in 2011 which suggests the EU should reduce its emissions by 80% by 2050

⁶ http://ec.europa.eu/civiljustice/glossary/glossary_en.htm#Communication

the NECP should be developed together so that the two are consistent and so that MS avoid investing in projects that become stranded assets. This would mean aligning the timing for developing and updating the long term strategies with the one for the NECPs. As it currently stands, the procedure will inevitably produce strategies of strongly varied quality, while the European Union's credibility in international negotiations depends heavily on its capacity to make a coherent contribution. Integrating the long-term perspective into the shorter term NECPs by developing the two together means the same process for public participation, assessing and monitoring their implementation, as well as their ten year update should apply. This would ensure higher quality, more coherent strategies across the Union.

Finally

Q/C: What you are advocating seems to significantly increase the administrative burden for MS?

A: No, actually the opposite is true. Reintroducing national binding targets would minimize the need for an iterative process between the Commission and the MS, which would significantly reduce the administrative burden on MS. Doing the long term strategies in parallel with the NECPs would also reduce administrative burden, as MS could streamline the public consultation and the modelling exercises to a much larger extent. Further, agreeing on a robust review clause which allows for ambition, including the measures in the NECPs, to be raised over time would help avoid a situation where legislation has to be reopened whenever the EU submits a new NDC to the UNFCCC.

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