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CONTRIBUTION

From:	General Secretariat of the Council
To:	Delegations
Subject:	PL comments on the revised Governance Regulation

Delegations will find in annex the PL comments on the revised Governance Regulation.

**PL comments on REV2 of the proposal
for a regulation on the Governance of the Energy Union**

General comment: Poland supports direction of changes proposed by EE Presidency, especially concerning i.a. timeframe for preparation of national energy and climate plans. However, it should be underlined that governance regulation must reflect sectoral legislation and these works are still ongoing. Therefore, it still difficult to decide on some proposals of the regulation.

Specific comments

2016/0375 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the Governance of the Energy Union ~~and Climate Action~~.

- (34) To help ensure coherence between national and Union policies and objectives of the Energy Union, there should be an on-going dialogue between the Commission and the Member States. As appropriate, the Commission should issue recommendations to Member States including on the level of ambition of the draft national plans, on the subsequent implementation of policies and measures of the notified national plans, and on other national policies and measures of relevance for the implementation of the Energy Union. Member States should take ~~utmost account of~~ such recommendations into consideration and explain in subsequent progress reports how they have been implemented.
- (35) Should the ambition of integrated national energy and climate plans or their updates be insufficient for the collective achievement of the Energy Union objectives and, for the first period, in particular the 2030 targets for renewable energy and energy efficiency, the Commission should take measures at Union level in order to ensure the collective achievement of these objectives and targets (thereby closing any 'ambition gap'). Should progress made by the Union towards these objectives and targets be

Commented [BR1]: Presented document provides a deletion from its normative content an expression "*utmost account of*". In this regard, the preamble of the proposal requires unification.

insufficient for their delivery, the Commission should, in addition to issuing recommendations, take measures at Union level or Member States should take additional measures in order to ensure achievement of these objectives and targets (thereby closing any 'delivery gap'). Such measures should take into account early ambitious contributions made by Member States to the 2030 target^[1] for ^[1] energy efficiency when sharing the effort for collective target achievement. **Such measures should also take into account early efforts made by Member States to the 2030 target for renewable energy by reaching in 2020 a share of energy from renewable sources above its binding target or by making early progress in the implementation of its contribution to the Union's binding target of at least 27% of renewable energy in 2030.** In the area of renewable energy, such measures can also include voluntary financial contributions by Member States to a financing platform managed by the Commission, which would be used to contribute to ~~the most~~ cost-efficient renewable energy projects across the Union, **thus providing the Member State with the option to contribute to the EU target achievement at the lowest possible cost.** ~~Member States' national renewable energy targets for 2020 should serve as baseline shares of renewable energy from 2021 onwards.~~ In the area of energy efficiency, additional measures can in particular aim at improving the energy efficiency of products, buildings and transport.

- (41) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in order to ~~amend the general framework for integrated national energy and climate plans (template), set up a financing platform to which Member States can contribute in case the Union trajectory towards the 2030 Union renewable energy target is not collectively met,~~ take account of changes in the global warming potentials ("GWPs") and internationally agreed inventory guidelines, ~~set substantive requirements for the Union inventory system~~ and set up the registries pursuant to Article 33. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Inter-institutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and

Commented [BR2]: On the grounds of reservations of the Member States towards conferring on the Commission power to adopt delegated acts concerning setting up a financing platform Poland proposes to describe this mechanism within regulation.

their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. It should also take into account, where necessary, decisions adopted under the UNFCCC and the Paris Agreement.

(41a) Commission's power to adopt delegated acts shall be exercised with particular emphasis on the role and importance of the national experts and their opinions as set out in Annex of the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In order to ensure full and fair participation of national experts in the rulemaking proceedings it is of the utmost importance that their opinions are discussed with due attention and that conclusions thereof are duly taken into consideration.

CHAPTER 1

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation establishes a Governance mechanism to:
 - (a) implement strategies and measures designed to meet the objectives and targets of the Energy Union, and for the first ten-year period from 2021 to 2030 in particular the EU's 2030 targets for energy and climate;
 - (b) ensure the timeliness, transparency, accuracy, consistency, comparability and completeness of reporting by the Union and its Member States to the UNFCCC and Paris Agreement secretariat.

The governance mechanism shall be based on national long-term low emission strategies, integrated national energy and climate plans covering ten-year periods starting from 2021 to 2030, corresponding integrated national energy and climate progress reports by the Member States and integrated monitoring arrangements by the European Commission and national long-term low emission strategies. It shall define a structured, iterative process between the Commission and Member States in view of the finalisation of the national plans and their subsequent implementation, including with regard to regional cooperation, and corresponding Commission action.

CHAPTER 2

Commented [DK3]: Due to the limited participation of the national experts on preparatory works on delegated acts and a broad discretion of the Commission's power to adopt delegated acts provided for herein, the role of the national experts and their opinions should be emphasised. It shall become the practice of the Commission to devote every effort to strengthening the transparency of the legislative procedures concerning adoption of delegated acts. Poland holds the position that national experts' opinions shall be given careful consideration in the course of preparation of delegated acts.

Commented [MJ4]: Definitely, but there is no justification to include it at the beginning of the list

INTEGRATED NATIONAL ENERGY AND CLIMATE PLANS

~~The Commission is empowered to adopt delegated acts ¹ in accordance with Article 36 to amend Annex I in order to adapt it to amendments to the Union Energy and Climate policy framework, energy market developments and new UNFCCC and Paris Agreement requirements.~~

~~Note: it was underlined during the discussion that implementing acts should not be used to amend an Annex.~~

Article 4

National objectives, targets and contributions for all the five dimensions of the Energy Union

as regards the dimension "Decarbonisation":

- (2) with respect to greenhouse gas emissions and removals and with a view to contributing to the achievement of the economy wide EU greenhouse gas emissions reduction target:
 - i. the Member State's binding national target for greenhouse gas emissions and the annual binding national limits pursuant to Regulation [] [ESR];
 - ii. the Member State's commitments pursuant to Regulation [] [LULUCF];
 - ~~iii. where applicable, other national objectives and targets consistent with existing long term low emission strategies;~~
 - ~~iv. where applicable, other objectives and targets, including sector targets and adaptation goals;~~

(b) as regards the dimension "Energy Efficiency":

- (1) the indicative national energy efficiency contribution to achieving the Union's ~~binding~~ energy efficiency target of 30% in 2030 as referred to in Article 1(1) and Article 3(4) of Directive 2012/27/EU [version as amended in accordance with proposal COM(2016)761], based on either primary or final energy consumption, primary or final energy savings, or energy intensity.

¹ ~~Note: it was underlined during the discussion that implementing acts should not be used to amend an Annex.~~

Commented [BR5]: Poland holds the position that the scope of delegation touches some of the essential elements of the proposal (climate policy, energy policy). The framework of national energy and climate plans, specified in Annex I, that could be amended by means of delegated acts, constitute essential elements of the governance of the Energy Union. The amendments of Annex I shall be made by means of amending the regulation in line with relevant legislative procedure.

Commented [BR6]: The new proposal for an Article 4, para. 1 (iv) of the project raises serious concerns for PL. Adoption of the proposed provision may create a disturbing precedent in European Union law to determine in the future by the EC separate sectoral targets within the ESR framework (eg in transport, agriculture, etc.) as well as adaptation objectives. It should be stressed out that by setting separate targets in each sector, Member States will find it more difficult to achieve synergies between internal policies in the future.

Member States shall express their contribution in terms of absolute level of primary energy consumption and final energy consumption in 2020, and in terms of absolute level of primary energy consumption and/or final energy consumption in 2030, with an indicative linear trajectory for that contribution from 2021 onwards. They shall explain their underlying methodology and the conversion factors used;

(c) as regards the dimension "Energy Security":

- ~~(1) if applicable national objectives with regard to increasing the diversification of energy sources and supply from third countries;~~
- ~~(2) if applicable, national objectives with regard to reducing energy import dependency from third countries;~~
- ~~(3) if applicable national objectives with regard to the readiness to cope with constrained or interrupted supply of an energy source, in coherence with the plans to be established under Regulation [as proposed by COM(2016) 52 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010] as well as under Regulation [as proposed by COM(2016) 862 on risk preparedness in the electricity sector and repealing Directive 2005/89/EC] including a timeframe for when the objectives should be met;~~
- ~~(4) if applicable national objectives with regard to deployment of national domestic energy sources ||;~~

(d) as regards the dimension "Internal Energy Market":

- (1) the level of electricity interconnectivity that the Member State aims for in 2030 in consideration of the electricity interconnection target for 2030 of at least 15 %; Member States shall explain the underlying methodology ²;
- ~~(2) key national objectives for electricity and gas transmission infrastructure that are necessary for the achievement of objectives and targets under any of the five dimensions of the Energy Union Strategy;~~

Commented [BR7]: PL underlines role of energy security as one of the core dimensions of the Energy Union. For this reason reference to energy security should be maintained.

² Explanatory footnote: a methodology on how the 15% interconnection target should be calculated will be proposed by the Member States Commission, based on the advice to be provided by the Commission and electricity interconnection target expert group.



Article 5

Member States' contribution setting process in the area of renewable energy

1. When setting their ~~contribution for their share~~ indicative national contribution of energy from renewable sources in gross final consumption of energy in 2030 and the last year of the period covered for the subsequent national plans, pursuant to Article 4(a)(2)(i), Member States shall take into account the following:

Article 6

Member States' contribution setting process in the area of energy efficiency

2. When setting their contribution referred to in paragraph 1 Member States may take into account circumstances affecting primary and final energy consumption, such as, *inter alia*:
 - d) development of all sources of low carbon ~~[renewable]~~ energy ~~[ies]~~, ~~[nuclear energy]~~, carbon capture and storage; and

Commented [BR8]: In PL opinion the new provisions contained in Article 6 (2) d, may exert a significant influence on the energy mix of the MS. These proposals are in contradiction with PL's position, directly referring to the exclusion of coal as a source of energy rather than a gradual transformation in to renewable energy sources.

Article 9

Draft integrated national energy and climate plans

1. By [31 December] 2018³ and every ten years thereafter Member States shall prepare and submit to the Commission a draft of the integrated national energy and climate plan referred to in Article 3(1).
2. The Commission may issue recommendations, ⁴ based on the submitted draft plans, to

Commented [BR9]: It should be emphasized that setting the date for the drafting of energy and climate plans should not be based on the Facilitative Dialogue (FD2018), which will be carried out under the UNFCCC. This process - its scope, duration and organization - is at this moment unspecified within the framework of the UNFCCC. It should be noted that although the date of submission of the draft plan (31 December 2018), as proposed in the new draft regulation, would allow for include in the draft plan the results of FD2018, which will take place in November next year, the time to include the outcome of the process will be very short (about a month, because COP24 will end on December 14, 2018). In addition, it should be noted that footnote 35, along with the explanation presented therein, is not consistent with the date proposed in Article 9 of the draft regulation (31.12.2018).

³ Explanatory note: the sequencing of the draft and final national plans and the timelines for their submission have been aligned with the Paris Agreement in order to allow for an informed participation of the EU and its Member States in its review mechanism. Hence, the Commission proposal requires the draft plans by January 2018 in view of the Facilitative Dialogue of November 2018. This will allow the EU and its Member States to be prepared and explain how the EU and its Member States are taking steps to implement the EU 2030 commitment under the Paris Agreement.

⁴ Note: cf. Art. 288 TFEU "(...) Recommendations and opinions shall have no binding force." -this should be moved from note to legal text

Article 11

Regional cooperation

1. Member States shall cooperate with each other at regional level and especially with neighbouring Member States to effectively meet the targets, objectives and contributions set out in their integrated national energy and climate plan.
2. Member States shall, well before submitting their draft integrated national energy and climate plan to the Commission pursuant to Article 9(1), identify opportunities for consulting neighbouring Member States whose energy system would be directly impacted and the other Member States expressing an interest. Member States shall set out in their draft integrated national energy and climate plans **at least** the **provisional** results of such ~~regional~~ consultation, including where applicable how comments have been taken into account.
3. The Commission shall facilitate cooperation and consultation among the Member States on the draft plans submitted to it under Article 9 in view of their finalisation.
4. Member States shall **consider** [] the comments received from other Member States pursuant to paragraphs 2 and 3 **when preparing** [] their final integrated national energy and climate plan, and explain **in those plans** how such comments have been **considered** [].
5. For the purposes specified in paragraph 1, Member States shall continue to cooperate ~~at regional level~~ when implementing the policies and measures of their plans.

Article 12

Assessment of the integrated national energy and climate plans

[] On the basis of the integrated national energy and climate plans and their updates as notified pursuant to Articles 3 and 13, **the Commission []** shall assess, ~~in particular,~~ whether:

Article 13

Update of the integrated national energy and climate plan⁵

1. By 1 **31 July** 2023⁶, and every 10 years thereafter, Member States shall submit to the Commission a draft update of the latest notified integrated national energy and climate plan referred to in Article 3 or confirm to the Commission that the plan remains valid.
2. By 1 **31 July** 2024, and every 10 years thereafter, Member States shall notify to the Commission an update of the latest notified integrated national energy and climate plan referred to in Article 3, unless they have confirmed that the plan remains valid pursuant to paragraph 1 of this Article.
- 3.⁷ **In the update referred to in paragraph 2, Member States shall only modify their national[] target[], objective[] or contribution[] for each 1 quantified EU target, objective or contribution set out in Article 4(a) and (b), 1 to reflect an increased ambition as compared to the one[] set in the latest notified integrated national energy and climate plan.**

Commented [BR10]: PL proposes inserting the footnote in the text of the article.

Commented [BR11]: The assumptions presented in footnote 39 are contrary to the interpretation of Poland on the GST mandate. The provision suggests that MS for a year prior to the GFC process are obliged to present their draft energy and climate plans in order to prepare the EU for the GST process. Nevertheless, given the assumptions of the GST process itself and its informative character for the Paris Agreement parties, in the PL assessment, such plans should be based on outcomes from the GST. GST aims to collect information on global efforts to achieve the goals set by the Paris Agreement. Therefore, the GST process is not the place to present the EU's leadership in reducing, and only on the basis of its results and information on global action, the Union should engage in internal discussions and actions.

Commented [BR12]: In the PL assessment, this is a statement that says explicitly about increasing commitments e.g. reductions.

⁵ **Explanatory note: it is underlined that this Article contains no obligation for MS to submit an update, in case the NECP remains valid ("or confirm to the Commission that the plan remains valid", cf. para 1 and 2). Furthermore, the Article contains no provision preventing MS from making policy changes/adaptations as required, or updating their NECP's at other moments in time. -this should be moved from note to legal text**

⁶ **Explanatory note: the sequencing of the draft and final updated national plans and the timelines for their submission have been aligned with the Paris Agreement in order to allow for an informed participation of the EU and its Member States in its review mechanism. Hence, the Commission proposal requires the draft updated plans by January 2023 in view of the Global Stocktake of November 2023. This will allow the EU and its Member States to participate in this process fully prepared and to show leadership by explaining how the EU and its Member States are implementing the EU 2030 commitment under the Paris Agreement.**

⁷ **Explanatory note: the changes aim to make it clear that (without prejudice to sectoral obligations under EU law) MS have the flexibility to make adjustments on their subtargets etc. at national level, provided that their national overall target/objective/contribution on the 'EU headline targets' as listed in Art. 4(a) and (b) is not decreased. For example, a MS could decrease its national subtargets for renewable energy in transport or solar energy, provided it offsets this decrease by at least 100%, for example by increasing its national subtargets for renewable energy in Heating and Cooling and wind energy.**

CHAPTER 4 REPORTING

SECTION 1

BIENNIAL PROGRESS REPORTS AND THEIR FOLLOW UP

Article 15

Integrated National Energy and Climate Progress Reports

5. Where the Commission has issued recommendations pursuant to Article 27(2) or (3), the Member State concerned ~~shall~~ may include in its report referred to in paragraph 1 of this Article information on the policies and measures adopted, or intended to be adopted and implemented, to address those recommendations. Such information ~~shall~~ may include a detailed timetable for implementation. Where a Member State has its justified reasons, it informs the Commission why the recommendations have not been followed according to Article 28(2).

Article 17

Integrated reporting on national adaptation actions, financial and technology support provided to developing countries, auctioning revenue ⁸

4. The Commission shall adopt implementing acts to set out the structure, format and submission processes for Member States' reporting of information referred to in paragraphs 1 and 2 (b) ~~pursuant to this Article~~. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 37(3).

Article 18

Integrated reporting on renewable energy ⁹

Member States shall include in the integrated national energy and climate progress reports the information:

- (a) on the implementation of the following trajectories and objectives:

⁸ Explanatory note: corresponds to Articles 15, 16 and 17(b) and (c) of the MMR.

⁹ Note: For Articles 18-22, (progress reports) consequential changes that follow from the discussions on Article 4 and Annex I will be made.

Commented [DK13]: There is no legal justification for making Commission's recommendations binding for the Member States. According to Article 288 subparagraph 5 TFEU recommendations are not binding and therefore are not an instrument suitable for enforcement of Member States' obligations under the Regulation. Member States shall have a choice to decide whether to include or not recommendations in the relevant reports provided for in the Regulation.

Commented [BR14]: Rule of reporting on climate support under MMR are consistent with methodology development by the UNFCCC. Therefore, it is unreasonable to adopt implementing act to set out structure, format and submission process of this report. In particular, when the new reporting rules under the Paris Agreement are negotiated. It should be also stressed that not all of MS have binding international financial commitments, as not all of MS are included in Annex II of the UNFCCC.

- (1) national indicative trajectory for the overall share of renewable energy in gross final energy consumption from 2021 to 2030;

Article 19

Integrated reporting on energy efficiency

c) as set out in Part 2 of Annex VII.

By 31 July 2022, Member States shall report to the Commission on the achievement of the 2020 energy efficiency national targets by providing the information set out in Part 2 of Annex VII of this Regulation, and of the 2020 renewable energy national targets by providing the following information:

- (a) the sectoral (electricity, heating and cooling, and transport) and overall shares of energy from renewable sources in 2020;
- (b) the measures taken to achieve the 2020 national renewable energy targets, including measures related to support schemes, guarantees of origin and simplification of administrative procedures;
- (c) the share of energy from biofuels and bioliquids produced from cereal and other starch-rich crops, sugars and oil crops in energy consumption in transport;
- (d) the share of energy from biofuels produced from feedstocks and of other fuels listed in part A of Annex IX of Directive 2009/28/EC in energy consumption in transport

Commented [BR15]: Article 23 para 4bis might be transferred to Article 19.

Article 21

Integrated reporting on the internal energy market

- e) if applicable, national objectives with regards to energy poverty, including the number of households in energy poverty and if Member State establishes legal framework for energy poverty;

Formatted: English (United States)

Commented [BR16]: PL is of the opinion that energy poverty is a complex issue and to fulfil reporting duties properly MS shall establish legal framework in their national law. Energy poverty is a phenomenon that needs to be defined in the context of each Member State's individual conditions. It has not been defined in Polish legislation and it has not been described within the framework of any methodology yet. There is no comprehensive policy of supporting customers that are afflicted by this problem. For this reason, in PL there is no statistical model which could enable to monitor the problem and assess the effects of measures undertaken to fight against energy poverty. Without preparing proper tools, it will not be possible to fulfil reporting obligations. Especially, taking into account that energy poverty as a problem is not limited only to the availability of electricity and goes beyond provisions of the electricity directive. Now in PL we are conducting studies on energy poverty, so the definition and measures to fight against energy poverty will be prepared in future.

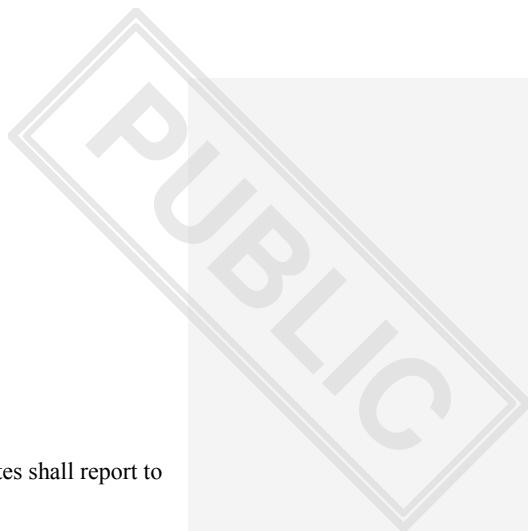
Article 22

Integrated reporting on research, innovation and competitiveness

Member States shall include in the integrated national energy and climate progress reports [] the information on the implementation of their following objectives and measures in the research, innovation and competitiveness area, using data provided to the International Energy Agency:

- (b) ~~national objectives and policies translating to a national context the SET Plan objectives and policies;~~
- (e) ~~national objectives for total [] public and, where available, private [] spending in research and innovation relating to clean energy technologies as well as for technology cost and performance development;~~
- (d) ~~if appropriate, national objectives including long term targets for 2050 for the deployment of technologies for decarbonising energy and carbon intensive industrial sectors and, if applicable, for related carbon transport, use, and storage infrastructure;~~
- (e)(b) national objectives to phase out energy subsidies, especially those with an adverse effect on climate policy;**
- (f) ~~implemented, adopted and planned policies and measures to achieve the objectives referred to in points (b) and (e);~~
- (g) ~~cooperation with other Member States in implementing the objectives and policies referred to in points (b) to (d), including coordination of policies and measures through the SET Plan, such as alignment of research programmes and common programmes;~~
- (g) ~~financing measures, including Union support and the use of Union funds, in this area at national level, if applicable.~~

Commented [KM17]: Member States in the framework of its membership to the International Energy Agency (IEA) are obliged to deliver data from energy sector including research and innovation. In order to avoid duplication of administrative works the EC should cooperate with the IEA and use data collected by the IEA from MSs for the needs of the Energy Union and national plans. Moreover sub-areas of energy data in the IEA excel files should be updated by SET-Plan priorities (eg. CCU, offshore wind etc.).



SECTION 2

ANNUAL REPORTING

Article 23

Annual Reporting ¹⁰

1. By 31 July 2021, and every year thereafter (year X), Member States shall report to the Commission:

a) where possible, their approximated greenhouse gas inventories for the year X-1;

Commented [BR18]: In accordance with MMR.

2. As of 2023, Member States shall determine and report to the Commission final greenhouse gas inventory data by 15 March each **reporting** year (X) and preliminary data by 15 January each year including the greenhouse gases and the inventory information listed in Annex III. The report on the final greenhouse gas inventory data shall also include a complete and up-to-date national inventory report. **Within three months of receiving the reports, the Commission shall make the information referred to in Annex III, part 1, point (n) available to the Committees referred to in Article 37.**

Commented [BR19]: According to Article 37, the Commission will be assisted by the Energy Union Committee and the Climate Change Committee.

~~4bis. By 31 July 2022, Member States shall report to the Commission on the achievement of the 2020 energy efficiency national targets by providing the information set out in Part 2 of Annex VII of this Regulation, and of the 2020 renewable energy national targets by providing the following information:~~

~~(a) the sectoral (electricity, heating and cooling, and transport) and overall shares of energy from renewable sources in 2020;~~

~~(b) the measures taken to achieve the 2020 national renewable energy targets, including measures related to support schemes, guarantees of origin and simplification of administrative procedures;~~

¹⁰ Explanatory note: corresponds to Articles 7 and 8 MMR.

~~(e) the share of energy from biofuels and bioliquids produced from cereal and other starch-rich crops, sugars and oil crops in energy consumption in transport;~~

~~(d) the share of energy from biofuels produced from feedstocks and of other fuels listed in part A of Annex IX of Directive 2009/28/EC in energy consumption in transport.~~

Commented [BR20]: Article 23 para 4bis doesn't fit her and possibly might be transferred to Article 19.

5. The Commission is empowered to adopt delegated acts in accordance with Article 36 to:

a) amend Part 2 of Annex III by adding or deleting substances in the list of greenhouse gases;

b) supplement this Regulation by adopting values for global warming potentials and specifying the inventory guidelines applicable in accordance with relevant decisions adopted by the bodies of the UNFCCC or Paris Agreement.

Commented [BR21]: Poland holds the position that the scope of delegation touches some of the essential elements of the proposal. By amending Annex III Part 2 Commission may change the scope of Member States' obligations under this regulation.

Article 27

Response to insufficient ambition of integrated national energy and climate plans and insufficient progress towards the Union's energy and climate targets and objectives

4. If, in the area of renewable energy, without prejudice to the measures at Union level set out in paragraph 3, the Commission concludes, based on its assessment pursuant to Article 25(1) and (2) in the year 2023, that the linear Union trajectory referred to in Article 25(2) is not collectively met, Member States shall ensure by the year 2024 that any emerging gap is covered by additional measures, such as:

a) adjusting the share of renewable energy in the heating and cooling sector set out in Article 23(1) of [recast of Directive 2009/28/EC as proposed by COM(2016) 767];

b) adjusting the share of renewable energy in the transport sector set out in Article 25(1) of [recast of Directive 2009/28/EC as proposed by COM(2016) 767];

c) making a **voluntary** financial contribution to a financing platform set up at Union level, contributing to renewable energy projects and managed directly or indirectly by the Commission;

d) other measures to increase deployment of renewable energy.

Such measures shall take into account the level of ambition of early **efforts** **||** **towards** the Union's 2030 target for renewable energy by the Member State concerned.

||If a Member State does not maintain the baseline share of energy from renewable sources in its gross final consumption of energy set out in Article 3(3) of [recast of Directive 2009/28/EC as proposed by COM(2016) 767] from 2021 onwards, the Member State concerned ~~shall ensure that any gap to may cover~~ the baseline share ~~is covered~~ by making a voluntary financial contribution to the financing platform referred to in point (c) of the first subparagraph. **||** For the purposes of **||**[this subparagraph and] point (c) of the first subparagraph, Member States may use their revenues from annual emission allowances under Directive 2003/87/EC.

~~The Commission is empowered to adopt delegated¹¹ acts in accordance with Article 36 to set out any necessary provisions for the establishment and functioning of the financing platform referred to in point (c).~~

Article 28

Commission recommendations to Member States

1. ~~The Commission shall as appropriate issue recommendations to Member States to support ensure~~ the achievement of the objectives of the Energy Union.
2. Where reference in this Regulation is made to this Article the following principles shall apply:
 - b) the Member State shall set out, in its integrated national energy and climate progress report made in the year following the year the recommendation was issued, how it has taken **||** **due** account of the recommendation and how it has implemented or intends to implement it. It shall provide **reasoneds** justifications where it deviates from it;

Commented [BR22]: It should be considered to make recommendations an instrument that supports the achievement of the objectives of the regulation, not an instrument to achieve the intended objectives. According to Article 288 subparagraph 5 TFEU recommendations are not binding and therefore Member States shall have a choice to decide whether to include or not recommendations in the relevant reports provided for in the Regulation.

¹¹ ~~Note: many delegations hold reservations on the use of delegated acts. The Presidency invites delegations to indicate whether this subparagraph can stay (and the financial platform provisions should be elaborated), should be deleted, or "delegated" should be replaced with "implementing".~~

Article 30

National and Union inventory systems ¹²

6bis. ~~The Commission shall adopt delegated acts in accordance with Article 36 in order to supplement this Regulation by setting out rules concerning the requirements on the establishment, operation and functioning of the Union inventory system. In the preparation of such acts, the Commission shall take into account any relevant decisions adopted by the bodies of the UNFCCC or of the Paris Agreement.~~

Article 31

Inventory review ¹³

4. The Commission shall, by means of an implementing act, determine the total sum of emissions for the relevant years arising from the corrected inventory data for each Member State upon completion of the review split between emissions data relevant for Article 9 of Regulation [] [ESR] and emission data referred to in Annex III part 1 (c) to this Regulation and also determine the total sum of emissions and removals relevant for Article 4 of Regulation [] [LULUCF]. ~~Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).~~
5. ~~The data for each Member State as recorded in the registries set up pursuant to Article 13 of Regulation [] [LULUCF] ~~one-four~~ months following the date of publication of an implementing act adopted pursuant to paragraph 4 of this Article, shall be used for the compliance check with Article 4 of Regulation [] [LULUCF] including changes to such data arising as a result of that Member State making use of the flexibilities pursuant to Article 11 of Regulation [] [LULUCF].~~¹⁴
6. ~~The data for each Member State as recorded in the registries set up pursuant to Article 11 of Regulation [] [ESR] ~~four one~~ months following the compliance check date with Regulation [] [LULUCF] referred to in paragraph 5 of this Article, shall be used for the compliance check pursuant to Article 9 of Regulation [] [ESR] for the years 2021 and 2026. The compliance check pursuant to Article 9 of Regulation [] [ESR] for~~

Commented [BR23]: It should be noted that within the current ESD period, the time taken to accounting for a given year is 4 months. As it was demonstrated by the experience of the first international transaction of purchase of AEA units between Malta and Bulgaria, after the negotiation and preparation of the relevant agreement - from December 2016 to April 2017, this was barely enough time to complete the procedure.

¹² Explanatory note: corresponds to Articles 5, 6 and 9 MMR.

¹³ Explanatory note: corresponds to Article 19 MMR.

¹⁴ In order to ensure coherence, the content of this Article will be aligned with the LULUCF Regulation following an agreement thereon.

each of the years 2022 to 2025 and 2027 to 2030 shall be performed at a date falling one month following the date of the compliance check for the previous year. This check shall include changes to such data arising as a result of that Member State making use of the flexibilities pursuant to Articles 5, 6 and 7 of Regulation [] [ESR].¹⁵

CHAPTER 8 DELEGATION

Article 36

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles ~~3(4)~~, 23(5), ~~27(4)~~, ~~30(6)~~ and 33(4) shall be conferred on the Commission for a period of five years from [the date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Articles ~~3(4)~~, 23(5), ~~27(4)~~, ~~30(6)~~ and 33(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Commented [BR24]: Due to the fact that in 2027 and in 2032 (when the emission accounting is to be carried out) the annual emission figures for each year in five year period will be known - the change of the method of accounting should be considered by replacing month for each year by "block" for a period eg 4 months total for all five years.
Since for each five-year period the Commission is to announce the volume of emissions covered by the ESR and LULUCF by issuing its implementing act in accordance with Art. 31 sec. 4 of the Governance Regulation, which means that values for each of the year will be known at the same time it's seems unnecessary lengthening of procedures (waiting for a settlement of one year to begin settlement of the next year).

¹⁵ **In order to ensure coherence, the content of this Article will be aligned with the ESR Regulation following an agreement thereon.**

CHAPTER 9 FINAL PROVISIONS

Article 37

Energy Union *and Climate Change* Committees¹⁶

4. Where simple majority of the component members of the committee opposes, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Commented [DK25]: Having taken into account the scope of obligations imposed on Member States by the proposal, implementing acts shall not be adopted if any predominant position emerges within the committee against the appropriateness of an implementing act. In such case, the Commission shall seek for solution largely supported by the majority in the committee. Therefore, in the interest of Member States represented by national experts in the committee, the Commission shall not adopt the draft implementing act, unless submits an amended version of that act to the same committee or submits the draft implementing act to the appeal committee for further deliberation in accordance with relevant provisions of Regulation (EU) No 182/2011.

¹⁶ Explanatory note: the proposed Energy Union Committee and its Working Groups play an important role for the integrated governance. They will work in the respective sectorial formations relevant for this Regulation, meaning that e.g. when climate issues are discussed the expectation is that Member States send their climate representatives and experts to these meetings, as will the Commission. Analogically, when issues are primarily of an energy dimension, the same is true for the expected participation and representation from Member States and the Commission. The current practice of issue-specific Working Groups discussing different topics is expected to continue under the umbrella of the Energy Union Committee.

ANNEX I

GENERAL FRAMEWORK FOR INTEGRATED NATIONAL ENERGY AND CLIMATE PLANS

1. NATIONAL OBJECTIVES AND TARGETS	
1.1. Dimension Decarbonisation	
1.1.1. GHG emissions and removals (for the plan covering the period from 2021 to 2030, the 2030 Framework target of at least 40% domestic reduction in economy-wide greenhouse gas emissions as compared to 1990)¹⁷	
i.	The Member State's binding national 2030 target for greenhouse gas emissions in the non-ETS-sectors, the annual binding national limits ¹⁸ and the commitments under the LULUCF Regulation ¹⁹
ii.	If applicable, other national objectives and targets consistent with existing long-term low emission strategies. If applicable, other objectives and targets, including sector targets and adaptation goals
1.1.2. Renewable energy (2030 Framework target)	
i.	The Member State's planned share of energy from renewable sources in gross final consumption of energy in 2030 as its national contribution to achieve the binding EU-level target of at least 27% in 2030
ii.	An <u>indicative linear</u> trajectory for the overall share of renewable energy in gross final energy consumption from 2021 to 2030
iii.	Estimated trajectories [] for the sectorial share of renewable energy in final energy consumption from 2021 to 2030 in the electricity, heating and cooling, and transport sectors
iv.	If applicable, assessed contributions [] by renewable energy technology that the Member State projects to use to achieve the overall and sectorial trajectories for renewable energy from 2021 to 2030 including expected total gross final energy consumption per technology and sector in Mtoe and total planned installed capacity (divided by new capacity and repowering) per technology and sector in MW
v.	If applicable, trajectories on bioenergy demand, disaggregated between heat, electricity and transport, and on biomass supply, by feedstocks and origin (distinguishing between domestic production and imports). For forest biomass, an assessment of its source and impact on the LULUCF sink
vi.	If applicable, other national trajectories and objectives, including long-

¹⁷ Consistency to be ensured with long-term low emission strategies pursuant to Article 14.

¹⁸ For the plan covering the period from 2021 to 2030: Member State's binding national 2030 target for greenhouse gas emissions in the non-ETS sectors and the annual binding limits as set under Regulation [] [ESR].

¹⁹ Regulation [] [LULUCF].

term or sectorial ones (e.g. share of advanced biofuels, share of renewable energy in district heating, renewable energy use in buildings, renewable energy produced by cities, energy communities and self-consumers)

1.2. Dimension Energy efficiency (2030 Framework target)

- i. The indicative national energy efficiency contribution to achieving the Union's [binding/**indicative**] energy efficiency target of [30%] in 2030 as referred to in Article 1(1) and Article 3(4) of Directive 2012/27/EU [version as amended in accordance with proposal COM(2016)761], based on either primary or final energy consumption, primary or final energy savings, or energy intensity; expressed in terms of absolute level of primary energy consumption and/or final energy consumption in 2020 and 2030, with an ~~linear~~-**indicative** trajectory for that contribution from 2021 onwards; including the underlying methodology and the conversion factors used
- ii. Cumulative amount of energy savings to be achieved over the period 2021-2030 under Article 7 on energy saving obligations of Directive 2012/27/EU [version as amended in accordance with proposal COM(2016)761],
- iii. Objectives of [] the long-term **strategy for the** renovation of the national stock of residential and [] **non-residential** buildings, [] both public and private []
- iv. The total floor area to be renovated or equivalent annual energy savings to be achieved from 2021 to 2030 under Article 5 on the exemplary role of public bodies' buildings of Directive 2012/27/EU,
- v. If applicable, other national objectives, including long-term targets or strategies and sectorial targets. National objectives in areas such as energy efficiency in the transport sector and with regard to heating and cooling

ANNEX III

GHG INVENTORIES INFORMATION

Part 1

information of the Member State's intentions to make use of the flexibilities in Article 5(4) and (5) of Regulation [] [ESR].

A Member State may request derogation from point c to apply a different methodology than specified in Part 3 of this Annex if the methodology improvement required could not be achieved in time for the improvement to be taken into account in the greenhouse gas inventories of the period from 2021 to 2030, or the cost of the methodology improvement would be disproportionately high compared to the benefits of applying such methodology to improve accounting for emissions and removals due to the low significance of the emissions and removals from the carbon pools concerned. Member States wishing to benefit from the derogation shall submit a reasoned request to the Commission by 31 December 2020, indicating the timeline by when the methodology improvement could be implemented and/or the alternative methodology proposed, and an assessment of the potential impacts on the accuracy of accounting. The Commission may request additional information to be submitted within three months of receiving the derogation request a reasonable time period specified. Where the Commission considers that the request is justified, it shall grant the derogation within a period of four months of notification of the request. At the same time. ~~If if~~ the request is rejected, the Commission shall give reasons for its decision.

Commented [BR26]: New PL proposal for specifying the time frames of derogation request procedure. Rules and procedures accompanied by the time limits set out clearly should be known in advance in order to enhance the transparency. In this way they will benefit both the Member States and the Commission.

Part 3 - Methodologies for monitoring and reporting in LULUCF sector

~~Spatially~~ Geographically explicit land-use conversion data in accordance with the 2006 IPCC Guidelines for National Greenhouse Gas Inventories ~~for the identification and tracking of land-use categories and conversions between land-use categories.~~

Tier 1 methodology ~~using globally calibrated standard emission factors and parameter values~~ in accordance with the 2006 IPCC Guidelines for National Greenhouse Gas Inventories.

For emissions and removals for a carbon pool that accounts for at least 25-30% of emissions or removals in a source or sink category which is prioritised within a Member State's national inventory system because its estimate has a significant influence on a country's total inventory of greenhouse gases in terms of the absolute level of emissions and removals, the trend in emissions and removals, or the uncertainty in emissions and removals in the land-use categories, at least Tier 2 methodology using nationally determined emission factors and parameter values calibrated to national circumstances in accordance with the 2006 IPCC guidelines for National Greenhouse Gas Inventories.

Member States are encouraged to apply Tier 3 methodology using non-parametric modelling calibrated to national circumstances, describing the physical interaction of the bio-physical system, in accordance with the 2006 IPCC Guidelines for National Greenhouse Gas Inventories.

Part 4 – Inventory indicators

Indicator title	Indicator
TRANSFORMATION B0	Specific CO ₂ emissions of public and auto-producer power plants, t/TJ CO ₂ emissions from public and auto-producer thermal power stations, kt divided by all products—output by public and auto-producer thermal power stations, PJ
TRANSFORMATION E0	Specific CO ₂ emissions of auto-producer plants t/TJ CO ₂ emissions from auto-producers, kt divided by All products output by auto-producer thermal power stations, PJ
INDUSTRY A1.1	Total CO ₂ intensity—iron and steel industry, t/million euro Total CO ₂ emissions from iron and steel, kt divided by gross value added—iron and steel industry
INDUSTRY A1.2	Energy-related CO ₂ intensity—chemical industry, t/million euro Energy-related CO ₂ emissions chemical industries, kt divided by gross value added—chemical industry
INDUSTRY A1.3	Energy-related CO ₂ intensity—glass, pottery and building materials industry, t/million euro Energy-related CO ₂ emissions glass, pottery and building materials, kt divided by gross value added—glass, pottery and buildings material industry
INDUSTRY A1.4	Energy-related CO ₂ intensity—food, drink and tobacco industry, t/million euro Energy-related CO ₂ emissions from food, drink and tobacco industry, kt divided by gross value added—food, drink and tobacco industry, million euro (EC95)
INDUSTRY A1.5	Energy-related CO ₂ intensity—paper and printing industry, t/million euro Energy-related CO ₂ emissions paper and printing, kt—Gross value added—paper and printing industry, million euro (EC95)
HOUSEHOLDS A0	Specific CO ₂ emissions of households for space heating, t/m ² CO ₂ emissions of households for space heating divided by surface area of permanently occupied dwellings, million m ²
SERVICES B0	Specific CO ₂ emissions of commercial and institutional sector for space heating, kg/m ² CO ₂ emissions from space heating in commercial and institutional, kt divided by Surface area of services buildings, million m ²
TRANSPORT B0	Specific diesel-related CO ₂ emissions of passenger cars, g/100 km
TRANSPORT B0	Specific petrol-related CO ₂ emissions of passenger cars, g/100 km

Commented [BR27]: Changes made in accordance with the wording referring to the methodologies specified in Annex IIIa to LULUCFR.

Commented [BR28]: We suggest removing the "old" MMR indicators, which need a lot of extra economic data

ANNEX IV

POLICIES AND MEASURES INFORMATION IN THE AREA OF GREENHOUSE GAS EMISSIONS

Information to be included in the reports referred to in Article 16:

c) information on national policies and measures, or groups of measures, and on implementation of Union policies and measures, or groups of measures, that limit or reduce greenhouse gas emissions by sources or enhance removals by sinks, presented on a sectoral basis and organised by gas or group of gases (HFCs and PFCs) listed in Part 2 of Annex III. That information shall refer to applicable and relevant national or Union policies and shall include:

- (iv) where used indicators ~~used~~ to monitor and evaluate progress over time;
- (vi) where available, estimates of the projected costs and benefits of policies and measures, as well as estimates of the realised costs and benefits of policies and measures;
- (vii) where available, all **existing** references to the assessments of the costs and effects of national policies and measures, to information in the implementation of Union policies and measures that limit or reduce greenhouse gas emissions by sources or enhance removals by sinks and to the underpinning technical reports;
- (viii) where available, an assessment of the contribution of the policy or measure to the achievement of the long-term low emission strategy referred to in Article 14;

Commented [BR29]: The data listed in points (iv), (vi) - (viii) of Annex IV should not be obligatory, due to the difficulties to prepared them, particularly in the context of cross-sectoral policies and measures.