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## **CONTRIBUTION**

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

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

## ES COMMENTS ON GOVERNANCE REGULATION

### 1. OBJECTIVE CRITERIA FOR THE FILLING OF THE AMBITION GAP

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[NOTE: COMMENTS ARE REFERRED TO RES TARGET. HOWEVER, THEY ALSO APPLY TO ENERGY EFFICIENCY.]

COREPER gave a clear mandate to the EWP to work on the concretion and detail of objective criteria. EWP should be asked upon and discuss the concrete objective criteria acceptable for their MS. **This discussion cannot be postponed and replaced by a generic claim for objective criteria** (to be defined at which stage? and by who?).

The current regulation fails to create a good Governance framework that ensures the achievement of the EU RES target, incentivises ambition, ensures a cost efficient and realistic development of RES and recognises the efforts of the good performing countries.

1<sup>o</sup>. **Objective criteria for the filling of the gap and for guiding MS in the setting of the national contribution should be defined by Member States in the Regulation.** ES would not accept to give a generic mandate for the COM to define the objective criteria. The objective criteria has to be sufficiently specified in the Regulation. An implementation act could further establish the methodology for the assessment of the Commission, if this act is an automatic application of what is contained in the Regulation.

2<sup>o</sup>. **Criteria set out in article 5 needs to be substantially revised:**

- It is too vague.
- **It does not place relative costs as the main driver of RES deployment. Present value of past, present and future costs of deploying renewables** (taking into account not only costs of support schemes, but also costs of higher volatility, back up, grid development, etc....) **should be the essential factor.** MS with a lower relative cost should contribute more, until relative costs are equal across the EU. This is the only way we can ensure a cost-efficient deployment with minimum impact for the competitiveness of EU economy. All consumers should relatively make the same efforts across the EU.
- **It does not recognise at all efforts made in the period 2005-2020** and the definition of early efforts would include a country with a 6% RES level in 2020 (if its target was 5%), but would not include a country with a RES level of 20% if its target was 20%.

For ES it would be necessary to amend and much further specify the criteria, making a difference between “drivers” (costs) and “restrictions” (environmental, technical), and specifying how the criteria should be applied by MS and the Commission.

3<sup>o</sup>. **The assessment of the COM should stick to these objective criteria.** The current proposal states that the COM “shall take in due account”... However, the COM should not be able to assess with different criteria or methodology to what is contained in the Regulation, contrary to articles 9 and 27.1 (“the Commission shall use objective criteria based on relevant parameters that affect RES energy deployment”)

COM should be obliged by the Regulation to quantify and justify in its decision how it has taken into account the relative costs (as the main driver of RES deployment) and the rest of the criteria set out in the Regulation.

- 4<sup>o</sup>. **The filling of the gap should only be required to MS that have shown a lower level of ambition, strictly according to the objective criteria laid down in the Regulation.** Current wording of article 27.1 creates a framework where the COM could require additional efforts to all MS, ambitious or not.

According to article 27.1, the COM will not be obliged to require efforts only to less ambitious countries, as this is only one possibility but it is not mandatory: "The Commission *may* furthermore issue recommendations to individual MS if it considers that the planned contribution of a MS is inadequate. For this comparison of MS ambitions the Commission shall use objective criteria based on relevant parameters".

### **Proposed amendments:**

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#### **New recital 36**

*For the setting of the national contribution to the renewables target, objective criteria should be provided in order to ensure an equitable and cost efficient deployment across the European Union. In this regard, costs of deploying renewables, taking into account all costs (such as support schemes, network development, back up, volatility, balancing services), should be the main driver of efforts and restrictions for this deployment according to national specificities should duly be taken into account. Those Member States which can deploy renewables at a lower cost should assume a greater effort, until relative costs are equal across the European Union. This criteria not only ensures an efficient development. It also guarantees that all consumers relatively make the same efforts across the EU.*

#### **Article 2 (definitions)**

(19) 'early efforts' means a Member State's achievement in 2020 of a share of energy from renewable sources **of at least 20%** or above its national binding 2020 target or a Member State's early progress in the **deployment of renewables during the period 2005-2020**, or in the implementation of its contribution to the Union's binding target of at least 27% of renewable energy in 2030 as referred to in Article 3 of [recast of Directive 2009/28/EC as proposed by COM(2016) 767].

#### **Article 5 (Member States' contribution setting process in the area of renewable energy)**

1. When setting their contribution for their share 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:

- (a) the measures provided for in [recast of Directive 2009/28/EC as proposed by COM(2016) 767];
- (b) the measures adopted to reach the energy efficiency target adopted pursuant to Directive 2012/27/EU [version as amended in accordance with proposal COM(2016)761];
- (c) **where relevant**, other measures to promote renewable energy within Member States and at Union level; and

(d) the application at national level of the following ~~any~~-relevant circumstances affecting renewable energy deployment such as ~~inter alia~~:

(i) Present value of past, present and future costs of deploying renewables relative to Gross Domestic Product during the period 2005-2030, taking into account all extra-costs including need for back up, volatility management and grid development.

equitable distribution of deployment across the European Union;

(ii) economic potential ~~and potential for cost-effective deployment~~.

(ii) Objective restrictions or limitations to the deployment of renewables in the Member State, if applicable:

- geographical, **environmental** and natural constraints, including those of non-interconnected areas and regions; [and]
- the level of power interconnection between Member States;

(iii) early efforts as defined in Article 2(19), if applicable.

**A Member State shall indicate in its integrated national energy and climate plan which ~~how~~-relevant circumstances affecting renewable energy deployment ~~it has~~ have been taken into account.**

(e) Any other relevant circumstance affecting the deployment of renewables that a Member State indicates in its integrated national energy and climate plan.

2. Member States shall collectively ensure that the sum of their contributions adds up to at least 27% of energy produced from renewable sources in gross final energy consumption at Union level by 2030.

#### **Article 9.2 (draft integrated national energy and climate plans)**

2. The Commission may issue recommendations, **based** on the **submitted** draft plans, to Member States in accordance with Article 28. **49 [ ] Those recommendations [ ] may address:**

(a) the level of ambition of objectives, targets and contributions in view of collectively achieving the Energy Union objectives and notably the Union's 2030 targets for renewable energy and energy efficiency; **in doing so, the Commission shall apply the objective criteria set out in Annex XXX of this Regulation ~~take due account of relevant circumstances affecting renewable energy deployment indicated by the Member State in question, as set out in Article 5(d) and of circumstances affecting primary and final energy consumption indicated by the Member State in question, as set out in Article 6(2).~~**

(b) policies and measures relating to Member States' and Union level objectives and other policies and measures of potential cross-border relevance;

(c) interactions between and consistency of existing (implemented and adopted) and planned policies and measures included in the integrated national energy and climate plan within one dimension and among different dimensions of the Energy Union.

#### **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:

- (a) ~~the targets, objectives and contributions are sufficient for the collective achievement of the Energy Union objectives and for the first ten-years period in particular the targets of the Union's 2030 Climate and Energy Framework, with regard to renewable energy on the basis of the objective criteria for national contributions to the Union's 2030 renewable energy target set out in Annex XXX of this Regulation and with regard to energy efficiency on the basis of the objective criteria for national contributions to the Union's 2030 energy efficiency target set out in Annex Y of this Regulation.~~
- (a) the plans comply with requirements of Articles 3 to 11 and **Member States have taken due account of** the Commission recommendations issued pursuant to Article 28.

**Article 27.1 (Response to insufficient ambition of integrated national energy and climate plans and insufficient progress towards the Union's energy and climate targets and objectives)**

1. If, on the basis of its assessment of the integrated national energy and climate plans and their updates pursuant to Article 12, the Commission concludes that the targets, objectives and contributions of the national plans or their updates are insufficient for the collective achievement of the Energy Union objectives and, in particular, for the first ten-years period, for the Union's 2030 targets for renewable energy ~~and energy efficiency~~ **and interconnections**, **it shall require additional efforts through individual recommendations to those Member States whose contributions are below the level resulting from the objective criteria according to Annex XXX.**

~~If after these recommendations are duly taken into account by affected Member States the Union's 2030 targets are still not met, the Council will decide on the measures necessary to achieve the Union's 2030 targets. The Commission may propose [take] measures and make use of relevant empowerment~~ **at Union level in order to ensure the collective achievement of those objectives and targets. With regard to renewable energy such measures shall take into consideration the level of ambition of contributions to the Union's 2030 target by Member States set out in the national plans and their updates.**

~~The Commission may furthermore, in the event described in the previous subparagraph, issue recommendations to individual Member States if it considers that the planned contribution of a Member State in the area of renewable energy is inadequate in comparison to other Member States. For this comparison of Member States' ambitions and the resulting recommendation, the Commission shall use objective criteria based on relevant parameters that affect renewable energy deployment as set out in Article 5(d)(i) to (v).~~

**New Annex XXX. Objective criteria for the assessment of the level of ambition and response to insufficient ambition**

**1. Assessment of the level of ambition of the national contributions to the renewables target**

**1. This Annex contains the provisions to be applied by the Commission when assessing the level of ambition of contributions to the Union's binding target of at least 27% of renewable energy in 2030 as referred to in Article 3 of [recast of Directive 2009/28/EC as proposed by COM(2016) 767]. According to this Annex, the level of ambition shall be determined by:**

- a) An evaluation of the present value of past, present and future costs of deploying renewables relative to Gross Domestic Product (GDP) during the period 2005-2030, as the driver of the level of ambition, so that this value converges to a common value for all Member States;
- b) An evaluation of the objective restrictions for the deployment of renewables in each Member State, if applicable, that may prevent a Member State from contributing to the EU target with the level resulting of the application of subparagraph a);
- c) OPTIONAL TO INCLUDE: An evaluation of the early efforts as defined in Article 2(19), as a measurement of the extent to which additional contributions may be required in order to achieve the collective 27%, because of the restrictions mentioned in subparagraph b).

2. The Commission shall measure for each Member State the present value of past, present and future costs of deploying renewables, relative to GDP during the period 2005-2030. Where Member States have provided this estimate in their draft Plan, the Commission shall use this value, without prejudice of possible verification with national authorities, unless a European common methodology is approved. Where a Member State has not provided its estimate or has provided an incomplete one, the Commission shall complete the estimation using standard values considering the average costs of the European Union.

The calculation shall take into account all economic costs of deploying renewables:

- Costs of the support schemes;
- Investments in reinforcement of the transmission and distribution network;
- Costs derived from the guarantee of immediate services by means of balancing energy effectively mobilized;
- Cost of back up and availability services to maintain the necessary reserves in the medium term;
- Renewable energy discharges (losses of income for producers by the generated energy that is not consumed, nor can be exported);
- Cost of hedging of risks against the greater volatility of the market price.

3. Based on the calculation mentioned on paragraph 2, the Commission shall set a provisional national contribution to the 27% target for each Member State, so that the cost of deploying renewables relative to GDP converges to a common value for all Member States.

4. The Commission shall assess the existence of possible objective and external restrictions that impede a Member State to reach the provisional national contribution mentioned in paragraph 3. These restrictions shall be included and duly justified in the draft Plans and shall be limited to the following:

- a) geographical, environmental and natural constraints, including those of non-interconnected areas and regions; [and]
- b) the level of power interconnection between Member States;

The Commission shall not count as a restriction those limitations whose impact could have been reduced or eliminated by the affected Member State with due diligence or at a reasonable cost.

5. The Commission shall reallocate the gap emerging from the application of paragraph 4 among the rest of Member States, so that the cost of deploying renewables relative to GDP converges to a new common value.

OPTIONAL TO INCLUDE: However, only up to [30%] of the gap shall be allocated to Member States that fulfil any of the following conditions:

a) Achievement in 2020 of a share of renewables of at least 20% according to the estimates contained in the draft Plan;

b) Achievement in 2020 of a share of renewables [5] percentage points above its national binding 2020 target.

6. Any gap emerging from possible restrictions as mentioned in paragraph 4 that may prevent a member State from increasing its national contribution as a result of the reallocation mentioned in paragraph 5 shall be filled using the criteria of paragraph 5.

7. An implementing act shall develop a methodology for applying this Annex.

## **2. Assessment of the level of ambition of energy efficiency contributions**

(...)

## **2. FILLING OF THE PROGRESS GAP**

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### **Article 4.2**

ES is not in favour of discussing the concrete values of the X and the Y without having more certainty over the objective criteria that could influence in the value of the national contribution. The X and the Y that would be affordable for the system varies a lot depending on the final contribution.

However, the maximum values we propose at this stage are the following:

**X:** 15-17%

**Y:** 30%

*ES will only increase its level of interconnection in 2025 at the earliest, with the Biscay Gulf line.* Therefore, even though no decision at national level has been adopted yet, it would be efficient that ES concentrates its deployment in the second half of the decade, once this project is commissioned.

ES believes that another reference point should be foreseen for 2026, or that reference points should be in 2024 and 2026.

### **Article 27 paragraphs 2, 3, 4 and 5**

This article should avoid making good performing countries pay for the insufficient progress of bad performing countries. The system should be similar to the one foreseen for the corrective arm of the Stability and Growth Pact and in particular to the excessive deficit procedure (article 126 TFUE and Protocol no 12 on the excessive deficit procedure).

- The progress of MS towards renewables, energy efficiency and interconnections shall be responsibility of the MS. The Council (and the Energy Union Committee) shall be responsible of monitoring the progress and shall decide upon the proposals and recommendations of the Commission.
- If there is an insufficient progress at national level, according to thresholds foreseen in the Regulation (or in a protocol), ie. deviation of indicative trajectory –X and Y- for

the RES, **the Commission shall issue a report** and the Energy Union Committee (article 37) shall issue an opinion on the Commission's report. If the Commission considers there is a risk of incurring in the abovementioned gap, it may also issue an opinion and inform the Council.

- The assessment of the Commission shall take into account projects in the pipeline that will be commissioned in the short term.
- **The Council shall decide after an overall assessment whether a gap exists and shall address recommendations to the Member State concerned with a view to bringing that situation to an end within a given period.** Such recommendations shall take into consideration relevant circumstances affecting renewable energy deployment and primary and final energy consumption.
- **If a Member State persists in failing to put into practice the recommendations remedial actions shall be required by the Council.** This stage shall be characterised by an intensification of control.
- **If a Member State still persists, in a third stable the Council may apply sanctions.**

Hence, measures at EU level should only and exclusively play a role to cover the part of the progress gap that is due to overriding reasons of public interest not attributable to the bad performing countries that objectively impede them from progressing towards their national contributions in a swifter way. **This shall be appreciated by the Council** after the assessment of the Commission and the opinion of the Energy Union Committee.

#### **Proposed amendments:**

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##### **Recital 35**

*(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 require further efforts to those Member States whose level of ambition is lower take measures at Union level in order to ensure the collective achievement of these objectives and targets (thereby closing any 'ambition gap'). For the renewable energy and energy efficiency targets, the Commission will measure the level of ambition according to the objective criteria laid down in the Regulation. Should progress made by the Union towards these objectives and targets be insufficient for their delivery, Member States that have not reached the thresholds of progress established in the Regulation should be required to take additional measures within a limited timeframe. These measures should be agreed by the Council upon a recommendation from the Commission and an opinion of the Energy Union Committee. In order to ensure the compliance with the Council's recommendations, a strict monitoring procedure should be established, with coercive measures in case the national gap persists. the Commission should, in addition to issuing recommendations, [take] propose measures and make use of relevant empowerments 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'). Measures at EU level should only be adopted as last resort, when the Council appreciates overriding reasons of general interest not attributable to Member States that put the Union at risk of not meeting the objectives of the Energy Union. Such measures should take into account relevant circumstances affecting the deployment of renewables and primary and final energy consumption. early ambitious contributions made*



~~by Member States to the 2030 target [ ] for [ ] 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 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 **the starting point for their national indicative trajectory for the period 2021 to 2030** [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.

#### **Article 27 paragraphs 2, 3, 4 and 5**

**2. Member States shall ensure that no delivery gap emerges towards the achievement of the Union's 2030 targets for renewable energy, energy efficiency and interconnections. The Council and the Energy Union Committee shall be responsible of monitoring the progress at national and EU level and shall decide upon the proposals and recommendations of the Commission.**

a) If, on the basis of its assessment pursuant to Article 25(1)(b), the Commission concludes that insufficient progress is made by a Member State towards meeting the targets, objectives and contributions or implementing the policies and measures set out in its integrated national climate and energy plan, it shall issue recommendations to the Member State concerned pursuant to Article 28. In issuing such recommendations, the Commission shall take into consideration ambitious early efforts by Member States to contribute to the Union's 2030 target for renewable energy.

**b) If the Commission concludes, based on its assessment pursuant to Article 25 (1) (b), that the indicative national trajectory for renewables according to article 4.(a)(2), energy efficiency according to article 4.(b) or interconnections according to the roadmap included in the national plan are not met, the following provisions shall apply:**

**i. The Commission shall issue a report and the Energy Union Committee (article 27) shall issue an opinion on the Commission's report. If the Commission considers there is a risk of incurring in the abovementioned gap, it may also issue an opinion and inform the Council. The assessment of the Commission shall take into account projects in the pipeline that will be commissioned in the short term.**

**ii. The Council shall, on a proposal from the Commission, and having considered any observations which the Member State concerned may wish to make, decide after an overall assessment whether a gap exists.**

**iii. Where the Council decides that a gap exists, it shall adopt, without undue delay, on a recommendation from the Commission, recommendations addressed to the Member State concerned with a view to bringing that situation to an end within a given period. Such recommendations shall take into consideration relevant circumstances affecting renewable energy deployment and primary and final energy consumption according to articles 5 and 6.**

- iv. If a Member State persists in failing to put into practice the recommendations of the Council, the Council may decide to give notice to the Member State to take, within a specified time limit, measures for the gap reduction which are judged necessary by the Council in order to remedy the situation.
- v. In such a case, the Council may request the Member State concerned to submit reports in accordance with a specific timetable in order to examine the adjustment efforts of that Member State.
- vi. As long as a Member State fails to comply with a decision, the Council may decide to apply or, as the case may be, intensify one or more of the following measures:
  - a. to require the Member State concerned to make a non-interest-bearing deposit of an appropriate size with the Union until the gap has, in the view of the Council, been corrected.
  - b. to impose fines of an appropriate size.
- vii. The President of the Council shall inform the European Parliament of the decisions taken.
- viii. When taking the decisions or recommendations, the Council shall act on a recommendation from the Commission.
- ix. When the Council adopts the measures, it shall act without taking into account the vote of the member of the Council representing the Member State concerned.

3. Measures at EU level shall only be adopted as last resort, when the Council appreciates overriding reasons of general interest not attributable to Member States that put the Union at risk of not meeting the objectives of the Energy Union and, in particular, for the first ten-years period, the targets of the Union's 2030 Framework for Climate and Energy for renewable energy, energy efficiency and interconnections.

*If, on the basis of its aggregate assessment of Member States' integrated national energy and climate progress pursuant to Article 25(1)(a), and supported by other information sources, as appropriate, the Commission concludes that the Union is at risk of not meeting the objectives mentioned in the first subparagraph, of the Energy Union and, in particular, for the first ten-years period, the targets of the Union's 2030 Framework for Climate and Energy for renewable energy and energy efficiency, it may issue recommendations to all Member States pursuant to Article 28 to mitigate such risk. The Commission shall, as appropriate, ~~[take]~~ **propose measures and make use of relevant empowerments** at Union level in addition to the recommendations in order to ensure, in particular, the achievement of the Union's 2030 targets for renewable energy and energy efficiency. With regard to renewable energy, such measures shall take into consideration ambitious early efforts by Member States to contribute to the Union's 2030 target. the following provisions shall apply:*

- a) The Commission shall issue a report about the factors causing the Union delivery gap, based on the national reports mentioned in paragraph 2.b).i. The Energy Union Committee shall issue an opinion on the Commission's report.
- b) The Council shall decide, after the adoption of all recommendations to Member States according to paragraph 2.b).iii, whether measures at EU level are necessary.
- c) The Council shall adopt, without undue delay, recommendations addressed to all Member States and the necessary measures at EU level to mitigate the risk of not meeting the

objectives of the Energy Union. The Council shall decide on a recommendation from the Commission and the opinion of the Energy Union Committee. Such recommendations shall take into consideration relevant circumstances affecting renewable energy deployment and primary and final energy consumption according to articles 5 and 6.

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), that the **indicative** Union trajectory referred to in Article 25(2) is not collectively met **in 2023 and 2025,** the Commission may propose, as part of its recommendation to the Council according to paragraph 3.c), the adoption of additional measures at European level such as:

Member States shall ensure by the year 2026 and 2028, respectively, that any emerging gap is covered by additional measures, such as:

(d) [other] national measures to increase deployment of renewable energy;

(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]; **NOTE: this must be referred to national energy plans, if the amendment proposed by ES –making this par. 4 only applicable to European measures- is not accepted. Rationale: the renewable quota indicated in Article 23(1) of DERII cannot be considered at the same level as the renewable quota in the transport sector indicated in Article 25(1) of DERII, being indicative the first one and binding the second one. Therefore, any adjustment needed in the renewable energy quota in the heating and cooling sector must be taking as a departing point the values set out in the National Integrated Energy and Climate Plans, which can consider yearly increases different from the one set in Article 23(1) of DERII.**

(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;

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.

**(For proposals for the financing platform, see the following point)**

5. If, in the area of energy efficiency, without prejudice to other measures at Union level pursuant to paragraph 3, the Commission concludes, based on its assessment pursuant to Article 25(1) and (3), in the year 2023 that progress towards collectively achieving the Union's energy efficiency target mentioned in the first subparagraph of Article 25(3) is insufficient, the Commission may propose, as part of its recommendation to the Council according to paragraph 3.c), the adoption of additional measures at European level that it shall [take] propose measures and make use of relevant empowerments at Union level by the year 2024 in addition to those set out in Directive 2010/31/EU [version as amended in accordance with proposal COM(2016) 765] and Directive 2012/27/EU [version as amended in accordance with proposal COM(2016) 761] to ensure that the Union's **[ ] 2030 energy efficiency targets are met. Such additional measures** may in particular improve the energy efficiency of:

(a) products, pursuant to Directive 2010/30/EU and Directive 2009/125/EC;

(b) buildings, pursuant to Directive 2010/31/EU [version as amended in accordance with COM(2016) 765] and Directive 2012/27/EU [version as amended in accordance with COM(2016) 761];

(c) transport.

### **3. FINANCING PLATFORM**

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**The current design of the financing platform is not acceptable for ES. If it is not changed we request the ELIMINATION of the platform, even though we are in favour of a system to optimise the development of RES across the EU.**

European auctions addressed to operators could ONLY WORK in a scenario with:

- A fully integrated and interconnected market.
- Harmonised network tariffs and charges across the EU
- Harmonised support schemes and RES auctions.

As none of these conditions exists, the **European auctions addressed to operators will exclusively benefit the private interest and the interest of countries with the budgetary capacity to contribute the platform, but will deeply damage “receptor” MS with a limited capacity of deploying res in an economic way, as the bids of private undertakings do not internalise all the negative externalities and costs for the national consumers, namely:**

- Extra-costs associated to those RES installations in the system: grid development, back up, higher volatility in the system, etc. National consumers will have to support this cost.
- Increase in the cost of the national support scheme that would have to compete now with the European financial support. National consumers will have to support this cost.
- The “receptor” Member States with a limited capacity to deploy RES at affordable costs will have difficulties for achieving their own objective, if RES installed in their country account for the MS that contribute to the platform. These MS may find it impossible, due to budgetary restrictions deriving from the Stability and Growth Pact, to achieve their objectives by contributing financially to the platform.

Moreover, this design would go against the Treaties, as Member States would not participate in the decisions of installations deployed in their territory.

**In the light of these considerations ES proposes that the auctions are addressed to Member States, and not to private projects.**

- **Member States with capacity for deploying renewables will bid in the tenders and financing will be allocated to MS that make the lowest bid.**
- **Member States will be responsible for ensuring the deployment of RES in their territory, according to the national support schemes in place.**
- **Implementation of projects will be responsibility of MS. Guarantees, milestones and penalisations should be duly included in the auction. An audit scheme should be put in place, similar (but more operative and less bureaucratic) than the ones existing in structural funds.**

#### **Proposed amendment**

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***The financing platform referred to in point (c) shall tender support for new renewable electricity projects in the Union.***

- a) ***Member States shall voluntarily bid for a given capacity of renewables projects in their territory within a given timeframe at a price.***
- b) ***Support shall be provided in the form of a premium paid on top of market prices, and support shall be and allocated to Member States bidding for the lowest financial support projects bidding for the lowest premium.***
- c) ***Member States shall be responsible for ensuring the implementation of the projects in their territory and shall manage the financial support provided by the financing platform. The conditions of the tender shall specify the applicable guarantees, milestones and penalisation to Member States that fail to comply with the obligations deriving from the tender.***
- d) ***The use of the funds allocated shall be subject to oversight and to an internal and external audit system.***
- e) ***Every year, renewable energy generated by installations financed by the financing platform shall be statistically attributed to the participating Member States, reflecting their relative financial contribution, proportionally to the share of cost that has been financed with the funds allocated, considering the total costs of those installations for the system, including the extra-costs linked to their integration in the system under secure conditions.***

***An implementing act shall set out*** ~~The Commission is empowered to adopt delegated acts in accordance with Article 36 to set out [any]~~ ***the necessary provisions for the establishment and functioning of the financing platform referred to in point (c), in particular:***

- ***the methodology for the calculation of the maximum level of financial support the premium for each tender;***
- ***the tender design to be applied, including conditions for delivery and associated penalties;***
- ***the methodology for calculating the contributions of Member States ('distribution key').***

#### **4. Interconnections**

- 1) **The Governance Regulation should put the interconnections target at the same level as the renewables and energy efficiency target, and should include the necessary instruments that ensures the achievement of this target:** adequate governance, monitoring and financing of projects. Projects to reach the interconnections target should not be left to the political momentum of concerned Member States nor be conditioned to the cost benefit analysis, but should instead be compulsory as the rest of the objectives.

We propose the following amendments in order to achieve this:

1. Introduction of a new article (in this regulation or in the Directive of electricity market).

#### **Article 7**

##### ***Member States' contribution setting process in the area of Internal Energy Market***

1. ***For the Internal Energy Market purpose, in particular for the national interconnection targets, the following provisions shall apply:***

a) Member States that have not reached the minimum interconnection target of 10% shall include in their Integrated National Energy and Climate Plans a roadmap to the achievement of the target considering the most efficient investment projects, after having consulted affected Member States.

b) The investment projects included in a Member State's roadmap, if the Member State has not reached a 10% level of interconnection, shall be subject to approval by the Commission and shall automatically increase the other affected Member States' binding interconnection target. For the purposes of the setting and notification of 2030 targets, affected Member States shall include these projects as Prior Investment Projects for the Internal Market.

2. Member States shall take into account that projects included in a Member State's roadmap that has not reached a 10% level of interconnection shall be qualified as "Prior Investment Projects for the Energy Internal Market" and shall be subject of the following specific provisions:

a) Simplified procedures shall be established in national legislation for the necessary authorisations of these projects. Competent authorities can only deny the granting of the necessary authorisations or impose conditions for environmental reasons in the light of the environmental impact assessment. In these cases, affected Member States shall examine alternative projects to meet the interconnection targets and a revised roadmap shall be presented to the European Commission for approval;

b) Prior Investment Projects shall be automatically qualified as projects of common interest;

c) The Commission shall support Prior Investment Projects through an enabling framework comprising the enhanced use of Union funds, in particular financial instruments. Access to European funding shall not be conditioned to a specific positive cost benefit analysis;

d) The only purpose of cost benefit analysis of these projects shall be the distribution of the cost between affected Member States;

e) Delay or risk of delay in the implementation of these projects will entitle any affected Member State to require the Commission to designate an independent mediator for one or various projects whose decisions shall be respected by affected parties; or alternatively to require the Commission to designate an independent technical expert to provide advice and propose changes on ongoing projects. EU funds shall be available for these purposes.

2. Amendment of articles 4.d.1: "(1) the level of electricity interconnectivity that the Member State aims for in 2030 with a view of achieving the electricity interconnection target for 2030 of at least 15 % for all Member States, including necessary increases above the minimum target for border Member States to achieve a binding 10% target, and a roadmap for the compliance with these targets;

3. Article 21.1.a to include in the objectives and measures of the progress reports, detailed measures on the interconnection progress: 21.1 (a) the level of electricity interconnectivity that the Member State aims for in 2030 with a view of achieving the national interconnection target according to articles 4(d)(1) and 7.1.b); the roadmap for the achievement of this target and the timeframe for the commissioning of Prior Investment Projects; measures relating to the granting of authorizations of Prior Investment Projects, the qualification of Prior Investment Projects as projects of common interest and the granting of EU funds;

4. Article 25. New paragraph: 4. By 31 October 2023 and every year thereafter, the Commission shall assess the progress towards the interconnection target of each Member State, the compliance with the roadmap for the achievement of these targets and timeframe, measures adopted for the commissioning of Prior Investment Projects and the existence of delays regarding the implementation of these projects.
5. Article 27. New paragraph: 6. If, in the area of interconnections, the Commission concludes, based on its assessment pursuant to Article 25(1) and (4), in the year 2025 that progress towards collectively achieving interconnection targets is insufficient, Member States shall ensure by the year 2026 that any emerging gap is covered by measures additional to the ones established in (proposed) article 7.2, such as the redefinition of the Member States roadmap and/or Prior Investment Projects, with the coordination and impulse of the European Commission and the cooperation of other affected Member States. Affected Member States shall communicate planned measures in compliance with this paragraph.

2) **The level of interconnections should be more strongly linked in the Governance Regulation to the level of integration of RES that is possible in the Member State.** The **European Council Conclusions** clearly link RES deployment with the level of interconnections: *“The integration of rising levels of intermittent renewable energy requires a more interconnected internal energy market and appropriate back up, which should be coordinated as necessary at regional level.”* In this sense, the Regulation should:

- **Clearly link the assessment of the level of ambition in RES target to the planned level of interconnections in 2030.**
- Foresee that National Plans may include, in addition to the national contribution, **sensitivity analyses** of the national contributions and trajectories taking into account the maximum technically and economically affordable level of renewables under different interconnection scenarios. If the maximum affordable level is achieved, the Member State should not be subject to any additional effort until the investment projects enabling an increase of interconnections are commissioned.
- If the **financing platform** is maintained, the financing platform **should not only pay for the support scheme of installing RES plants, but also for all other costs related to the deployment of RES in each country**, for instance, **interconnections, extracosts of back up, capacity mechanisms, development of network, volatility** in the market and system operation, etc. This may be difficult to calculate but these costs may be very relevant, for instance in the case of Spain taking into account the level of interconnections.

## 5. LINEAR TRAJECTORY OF ENERGY EFFICIENCY

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ES does not support linear trajectory for energy efficiency. In article 4.(b)(1), the linear trajectory should be replaced by a similar system to the milestones foreseen for the RES target.

## 6. ADMINISTRATIVE CHARGES IN REPORTING OBLIGATIONS

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Article 18 (b) par 5 we propose to only leave “measures promoting the use of energy from biomass, especially for new biomass mobilization” or include if applicable.

Article 25

**Postpone first assessment of progress to 31 October 2023 instead of 31 October 2021.**

**Justification:**

First reporting from MS according to Article 15 has been postponed from 15 March 2021 to 15 March 2023. Then, first assessment of progress needs to be postponed accordingly from 31 October 2021 to 31 October 2023.

**Annex I.A.2.1.2.v**

Current drafting of this section is not consistent with the drafting of article 18.a.4). Therefore, we propose to amend it using the current wording of article 18.a.4):

*“v. If available, ~~data trajectories~~ on bioenergy demand, disaggregated between heat, electricity and transport, **including the share of biofuels, share of advanced biofuels, share of biofuel produced from main crops produced on agricultural land, and data on biomass supply, by feedstock and origin (distinguishing between domestic production and imports).** For forest biomass, an assessment of its source and impact on the LULUCF sink **should be provided upon its availability.**”*

**Justification:**

Assure consistency among the drafting in the articles and in the Annexes.

**Annex I.A.3.1.2.vi**

Comment and proposal consistent with the one made in article 18 related to the reporting of specific measures on the promotion of the use of energy from biomass:

*“vi. If applicable, specific measures on the promotion of the use of energy from biomass, especially for new biomass mobilization, ~~taking into account:~~*  
— ~~biomass availability: both domestic potential and imports from third countries~~  
— ~~other biomass uses by other sectors (agriculture and forest-based sectors); as well as measures for the sustainability of biomass production and use”.~~

**Annex VII**

**Part 1.g:**

It is proposed to delete this item. The analysis proposed in Annex IX of the need to assess the effects of using raw materials instead of other materials for food use, is based on assumptions about quantities and types of raw materials that could potentially have been used instead of those that have been really employed, which lacks any objective foundation.

*(g) ~~the development and share of biofuels made from feedstocks listed in Annex IX of [recast of Directive 2009/28/EC as proposed by COM(2016) 767] including a resource assessment focusing on the sustainability aspects relating to the effect of the replacement of food and feed products for biofuel production,~~*

**Part 1.c)**



~~(c) developments in the availability, origin and use of biomass resources for energy purposes;~~

*Rational: Data for this information is not available and to gather it from relevant actors would be costly.*

**Part 1.f)**

~~(f) the estimated demand for energy from renewable sources to be satisfied by means other than domestic production until 2030, including imported biomass feedstock;~~

*Rational: Data for this information is not available and to gather it from relevant actors would be costly.*

**Part 1.h)**

~~(h) the estimated impact of the production or use of biofuels, bioliquids and biomass fuels on biodiversity, water resources, water availability and quality, soils and air quality within the Member State;~~

**Part 1.k:**

Information considered an unnecessary administrative burden for MS.

~~(k) electricity and heat generation from renewable energy in buildings (as defined in Article 2(1) of Directive 2010/31/EU). This shall include disaggregated data on energy produced, consumed and injected into the grid by solar photovoltaic systems, solar thermal systems, biomass, heatpumps, geothermal systems, as well as all other decentralized renewables systems;~~

**Part 1. l**

Information considered to be an unnecessary administrative burden for Member States is requested to be deleted. The level of detail of progress reports should not be disproportionate in order to allow Member States to be able to complete them in a timely manner.

~~(l) if applicable, the share of food-based and advanced biofuel, the share of renewable energy in district heating, as well as the renewable energy produced by cities and energy communities as defined by Article 2 of [recast of Directive 2009/28/EC as proposed by COM(2016) 767];~~

**Annex VIII**

The sustainability report should be limited to information that the Commission needs to ensure the fulfilment of the objectives of the renewable directive.