

Brussels, 5. December 2023

Shaping EU climate and energy policy: Insights from and questions for the Ariadne project

ENHANCING THE EU GOVERNANCE MECHANISM FOR THE 2030 AND 2040 TARGETS – HOW THE GOVERNANCE-REGULATION SHOULD BE REVISED



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AGENDA

- › **Welcome and Introduction** 11:00 – 11:05
- › **Presentation 1: Status quo after Fit for 55 and remaining challenges; what can the upcoming reform of the governance-regulation achieve up until 2030 and beyond?** 11:05 – 11:20
- › **Presentation 2: Governing the European Green Deal: Stakeholder Views on the Update of the Governance Regulation** 11:20 – 11:35
- › **Short inputs and reflections by Stakeholders** 11:35 – 11:55
- › **Open Discussion** 11:55 – 12:25
- › **Closing Remarks** 12:25 – 12:30

WELCOME AND INTRODUCTION

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PRESENTATION 1: STATUS QUO AFTER FIT FOR 55 AND REMAINING CHALLENGES; WHAT CAN THE UPCOMING REFORM OF THE GOVERNANCE-REGULATION ACHIEVE UP UNTIL 2030 AND BEYOND

Ronja Busch • Research Associate • Stiftung Umweltenergierecht – Foundation for
Environmental Energy Law

AGENDA

- › Status Quo – The Governance Regulation as central steering instrument
- › Green Deal & Fit for 55: Implications for the application of the Governance Regulation and its enhancement
- › Wrap up and open questions

STATUS QUO – THE GOVERNANCE REGULATION AS CENTRAL STEERING INSTRUMENT



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STATUS QUO – ENERGY AND CLIMATE GOVERNANCE IN THE EU

Art. 194 TFEU

- › **Energy** as a shared responsibility between EU Member States and the EU.
- › Each Member State has the right to decide the conditions for exploiting its own energy resources, choose between different energy sources and decide the general structure of its energy supply.

Art. 191, 192 TFEU

- › EU is competent to act in all areas of **environmental** policy, including **climate change**

Energy Union (2014)

5 Dimensions:

- Energy security;
- Internal energy market;
- Energy efficiency;
- **Decarbonisation;**
- Research, innovation and competitiveness

Governance Regulation (2018)

Establishment of a **governance mechanism** to implement strategies & measures to

- meet objectives and targets of the **Energy Union**
- and **long-term EU GHG emissions commitments** consistent with the PA

Framework for Decarbonisation:

- Emission Trading System (ETS)
- Effort Sharing Regulation (ESR)
- Land Use, Land-Use Change and Forestry (LULUCF)

EU Climate Law (2021)

STATUS QUO – ENERGY AND CLIMATE GOVERNANCE IN THE EU

EU Climate Law (2021)

= EU GHG emission reduction targets:
-55 % by 2030; 2040 target; Climate neutrality by 2050

System of measuring progress towards achievement of the climate-neutrality target; “European Stocktake”

Emission Trading System (ETS)

- › EU-wide target for specific sectors: -62 % in 2030, compared to 2005 levels

Effort Sharing Regulation (ESR)

- › EU-wide target for non-ETS sectors: -40 % in 2030, compared to 2005 levels
- › Binding minimum contributions for MS

LULUCF

- › EU removal target of 310 Mio t CO₂ eq by 2030
- › No debit rule (GHG emissions may not exceed GHG removals)

Sectoral legislation with EU targets and national contributions for 2030

- › RED
- › EED
- › EPBD
- › Etc.

EU Governance Regulation (2018)

= Central procedural steering instrument for

- objectives of the Energy Union
- GHG emission reduction governance

MS determine national policies and measures, (and national contributions) alongside EU measures
→ **Coordination needed!**

STATUS QUO – WHAT IS THE GOVERNANCE REGULATION AND WHAT IS IT NOT?

➤ **“Umbrella Regulation”** that covers all dimensions of the Energy Union and GHG emission reductions and enables integrated governance

- › The **Governance Regulation does not set any targets**. Instead, the targets derive from other legal acts such as the ESR, LULUCF, RED, EED, EPBD.
- › **Policy planning by the Member States** and **policy coordination by the Commission**

Definition of a policy mix on how the targets are to be met

Ensuring that the Member States make good use of their discretion and meet their targets and the EU targets

Core Elements:

- 1) **National Energy and Climate Plans (NECP)** for the medium-term (10 years) perspective of energy and climate policy
- 2) **Long-term Strategies (LTS)** for the long-term (30 years) perspective of energy and climate policy

Reporting Obligations

- › NECP related reporting (progress reporting, integrated reporting on dimensions of Energy Union)
- › Other Reporting obligations (national policies and measures, national projections, UNFCCC-Reporting, use of ETS revenues among others)

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GREEN DEAL & FIT FOR 55: IMPLICATIONS FOR THE APPLICATION OF THE GOVERNANCE REGULATION AND ITS ENHANCEMENT



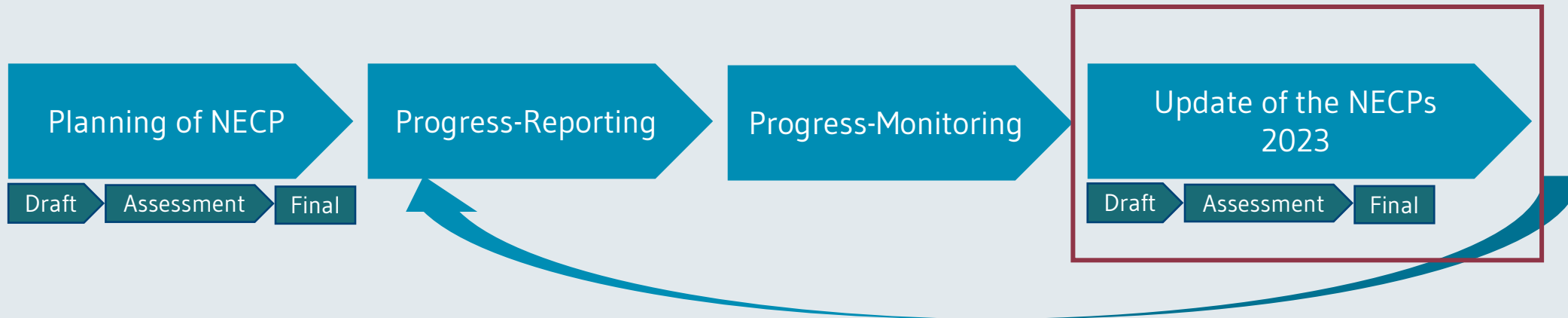
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APPLICATION OF THE GOVERNANCE REGULATION AND ITS ENHANCEMENT: TWO PARALLEL PROCESSES

➤ Framework to ensure the achievement of the 2030 targets

➤ Governance Regulation → Management system with elements of an enforcement system:



➤ Alignment of the Governance Regulation of 2018 to ensure the achievement of the 2030 targets and to **pave the way to achieve the 2040 target**

GREEN DEAL & FIT FOR 55: IMPLICATIONS FOR THE GOVERNANCE REGULATION

➤ **New mix of instruments to achieve the 2030 EU energy and climate targets but without providing for a corresponding amendment to the Governance Regulation.**

“Only” **revision of sectoral legislation**: more ambitious targets, stricter requirements for the sectoral measures and new reporting obligations

Need to update the existing governance framework in light of recent developments:

RED

- **New EU-wide target of 42.5%/45%** share of RE in the Union's gross final energy consumption
 - Existing framework in Governance Regulation aligned: trajectory for national contributions with reference points to be reached in 2022, 2025 and 2027
- Introduction or reinforcement of **sector-specific sub-targets**, each with different legal obligations
- **Mapping of areas and designating renewables acceleration areas** necessary for national contributions towards the EU renewable energy target for 2030

EED

- New **binding EU-wide energy consumption reduction target of at least 11.7 % in 2030** compared 2020
- **Article 4** now contains a **whole range of new governance provisions** that overlap with those in the Governance Regulation

EPBD

- Building renovation plans

The sole amendment of sectoral legislation bears the **risk of a fragmentation** of governance provisions and thus undermines the central **"umbrella function"** of the Governance Regulation!

➤ **New mix of instruments** requires a **corresponding amendment to the Governance Regulation.**

"Only" **revision of sectoral legislation**: more ambitious targets, stricter requirements, reporting obligations

Definition of the **different types of sub-targets**. Establishing the **process for determining the national contributions and other parameters** for achieving these sub-targets in a standardised manner.

RED

- **New EU-wide target of 42.5%/45%** share of RE in the Union's energy consumption
- Existing framework in Governance Regulation aligned: targets to be reached in 2022, 2025 and 2027
- Introduction or reinforcement of **sector-specific sub-targets**, e.g. for transport
- **Mapping of areas and designating renewables acceleration zones** to reach the EU renewable energy target for 2030

Unclear whether only the MS are required to periodically review the coherence between the **mapped areas** and the NECPs, or whether the Commission should also be involved in this review.

EED

- New **binding EU-wide energy efficiency target** of 11.7 % in 2030 compared 2020
- **Article 4** now contains a **requirement for coherence** between the EE targets and those in the Governance Regulation

New EED provisions need to be transferred to the Governance Regulation; no alignment between RE and EE with regard to the mechanisms to ensure sufficient ambition and progress

Need to update the existing governance framework in light of recent developments:

EPBD

- Building renovation plans

Coherence with NECP process

GREEN DEAL & FIT FOR 55: IMPLICATIONS FOR THE ENHANCEMENT OF THE GOVERNANCE REGULATION

- **Expand the Governance Regulation to include the aspect of social cushioning of climate and energy policy measures**
 - › Transfer Governance provisions from the Social Climate Fund Regulation to the Governance Regulation
 - › Link to **energy poverty** (Art. 3(3), Art. 24 TFEU) as Social Climate Fund intends to significantly reduce energy poverty
 - › And to the Dimension of **Decarbonisation** as it intends to cushion social impacts of the ETS

WRAP UP AND OPEN QUESTIONS

- › Clarification of the **role of the Governance Regulation until 2030 and beyond: Steering instrument** for Energy Union or enlargement to other aspects of Energy and Climate?
- › **Update Governance Regulation** in the light of recent developments / amendments in sectoral legislation
- › **Strengthen ambition and progress gap mechanisms** while respecting Member States' right to self-determine their energy mix
- › Expand the Governance Regulation to **include the aspect of social cushioning** of climate and energy policy measures
- › **Strengthen interlinkage with the Effort Sharing Regulation (ESR)**: Integrate Art. 8 ESR (corrective actions) into the Governance Regulation and strengthen this mechanism in case of non-sufficient progress
- › And finally: What is needed for **new NECPs 2028/2029** to achieve the future 2040 target(s)?

PRESENTATION 2: GOVERNING THE EUROPEAN GREEN DEAL: STAKEHOLDER VIEWS ON THE UPDATE OF THE GOVERNANCE REGULATION

Michèle Knodt and Nils Bruch – Technical University Darmstadt



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BACKGROUND

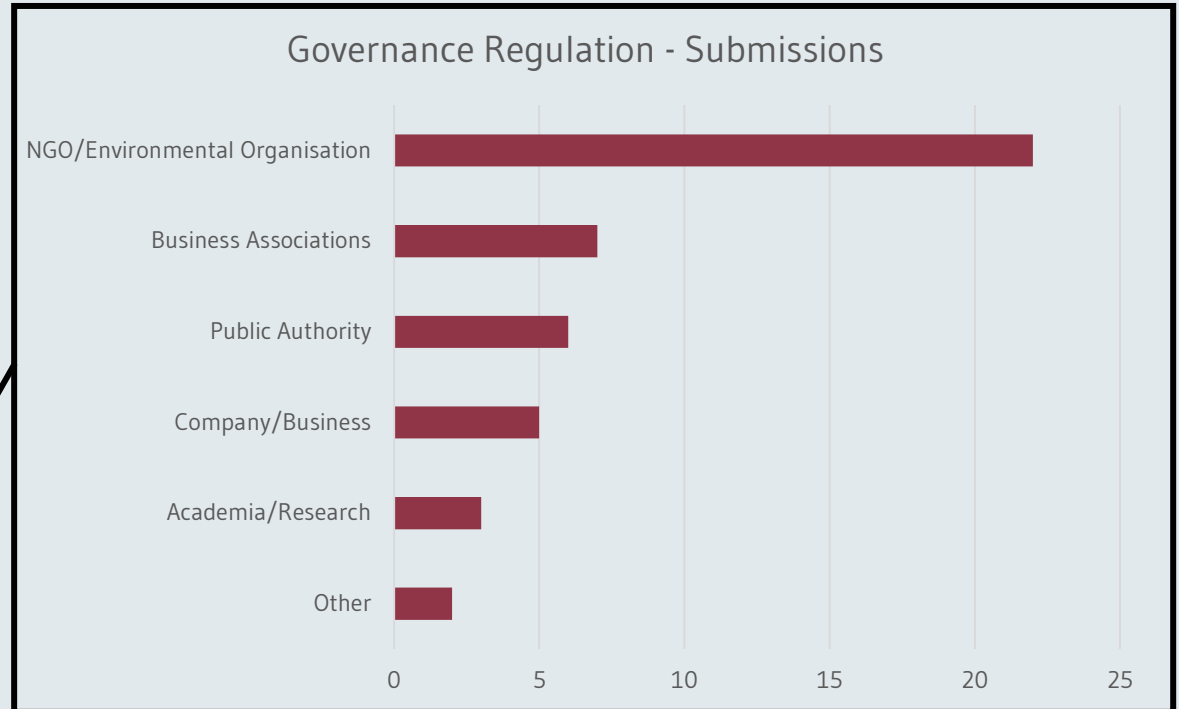
- › Online Consultation of the European Commission on the Review Report on the Governance Regulation (06/07/23 – 03/08/23)
- › Assessment of submissions regarding:
 - › Issue Salience (Most Important Issues)
 - › Polarization / Alignment

BACKGROUND

Stakeholder Submissions to Online Consultations



Governance Regulation - Submissions



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| Categories | Total |
|--|--------------|
| General | |
| Reject Revision | 0% |
| Update Issues | 66.7% |
| Additional Issues | 64.4% |
| Deficiencies | |
| Lack of MLG | 17.8% |
| Purpose / Targets | 42.2% |
| Administrative Burden / Lack of Capacity | 20% |
| Lack of Public Participation / Justice | 35.6% |
| Implementation / Compliance | 33.3% |
| Other | 31.1% |
| Harder Soft-Governance | |
| Enforcement | 44.4% |
| Binding/Mandatory | 40% |
| Sanctions/Conditionality | 17.8% |

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|--|-----------|
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› Consensus for Revision in All Stakeholder Groups
 → **What Should be Revised?**

| Categories | Total |
|--|--------------|
| General | |
| Reject Revision | 0% |
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› Consensus for Revision in All Stakeholder Groups
 → **What Should be Revised?**

- › Most important issues:
1. Update Issues
 2. Additional Issues
 3. Strengthen Enforcement

UPDATE OF ISSUES

› All Stakeholders Demand Update of Governance Regulation in Context of Revised Sectoral Legislation

› Specific Demands by Stakeholder Groups:

› **Business Associations and Companies:** Energy Efficiency First, Electricity Infrastructure

› **NGOs:** Multi-Level Dialogues, Binding Standards for Public Participation, Energy Poverty

ADDITIONAL ISSUES

› Demand of **Additional Issues** to be Integrated in GovReg and **NECPs**:

› **Business Associations and Companies**: Critical Raw Materials / Industrial Policy, Data Centers

› **NGOs**:

[...] introduce *economy-wide national climate neutrality dates* for each Member State, as well as *national climate neutrality targets, national binding energy targets* and *national binding sectoral targets* (for both ESR and non ESR sectors) – Multiple NGOs, one business association, one company

ADDITIONAL ISSUES

› Demand of **Additional Issues** to be Integrated in GovReg and **NECPs**:

› **Business Associations and Companies**: Critical Raw Materials / Industrial Policy, Data Centers

› **NGOs**: Climate Neutrality, Sufficiency, Access to Justice

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| Groups | Category Binding/Mandatory |
|----------------------------------|-------------------------------|
| Academic/Research | 33.3% |
| Business association | 14.3% |
| Company/business | 20% |
| NGO & Environmental Organization | 62.5% |
| Public authority | 0% |
| Total | 40% |

Binding/Mandatory:

- › Include Binding and Stringent Provisions on Climate Neutrality
- › Mandatory Update of nLTS
- › Public Participation

| Groups | Category Binding/Mandatory |
|----------------------------------|-------------------------------|
| Academic/Research | 33.3% |
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Binding/Mandatory:

- › Include Binding and Stringent Provisions on Climate Neutrality
- › Mandatory Update of nLTS
- › Public Participation

| Category | Public Authority |
|--|------------------|
| General | |
| Reject Revision | 0% |
| Update Issues | 83.3% |
| Additional Issues | 0% |
| Deficiencies | |
| Lack of MLG | 0% |
| Purpose / Targets | 16.7% |
| Administrative Burden / Lack of Capacity | 66.7% |
| Lack of Public Participation / Justice | 0% |
| Implementation / Compliance | 0% |
| Other | 16.7% |
| Harder Soft-Governance | |
| Enforcement | 0% |
| Binding/Mandatory | 0% |
| Sanctions/Conditionality | 0% |

Update Issues

- › Timing of Reporting Obligations
- › Update Renewable Energy Reference Points
- › Only Update, No New Issues

The forthcoming Governance Regulation revision, ***should not be used*** as an ***alternative way to introduce/set new requirements and/or new obligations*** to be included in the NECPs or the NECPRs other than those agreed and specified in the ***relevant European Directives included in the fit for 55 package***. Its ***original purpose*** should not be altered and the purpose of the revision should strictly maintain the reflection of the ***latest changes*** on the relevant European Directives. – MoE Cyprus

› Update Issues

- › Timing of Reporting Obligations
- › Update Renewable Energy Reference Points
- › Only Update, No New Issues

Administrative Burden / Lack of Capacity

- › Single Platform for Data Reporting
- › Interoperable Reporting Tools Between EU and UNFCCC
- › **Scale Down Reporting Significantly**

| Category | Public Authority |
|---|------------------|
| General | |
| Reject Revision | 0% |
| Update Issues | 83.3% |
| Additional Issues | 0% |
| Deficiencies | |
| Lack of MLG | 0% |
| Purpose / Targets | 16.7% |
| Administrative Burden / Lack of Capacity | 66.7% |
| Lack of Public Participation / Justice | 0% |
| Implementation / Compliance | 0% |
| Other | 16,7% |
| Harder Soft-Governance | |
| Enforcement | 0% |
| Binding/Mandatory | 0% |
| Sanctions/Conditionality | 0% |

In general Latvia believes that the Governance Regulation is ***too detailed and administratively burdensome*** setting ***too detailed reporting obligations***.
– Ministry of Climate and Energy Latvia

In some cases then, the ***NECP is seen as a bureaucratic tool*** rather than a ***political priority*** - Energy Cities

› Administrative Burden / Lack of Capacity

› Single Platform for
Data Reporting

› Interoperable
Reporting Tools
Between EU and
UNFCCC

› Scale Down
Reporting
Significantly

POLARISING / ALIGNED ISSUES

› **Conflict** between Administrative Burden and Inclusion of Additional Aspects?

- › Dimension of Reporting Efficiency → Compatible with Additional Aspects
- › Dimension of Retrograding → Conflict with Additional Aspects

› **Alignment** for Ambitious Revision Prevails

- › Consensus about Update and Alignment of Governance Regulation with Revised Sectoral Legislation
- › Strong Coalition Among NGOs for Inclusion of Binding Climate Neutrality and (Sectoral) Energy Targets
- › Stronger Implementation of Public Participation Instruments → **Responsibility of Public Authorities!**

DISCUSSION

- › Demands for Additional Issues, Bindingness and Enforcement Should be Complemented by **Strengthening of Procedure**
- › **Recommendations:**
 - › Align Mechanisms for Renewable Energy and Energy Efficiency
 - › Infringement Procedures for Delivery Gap → Binding EU and National Trajectories / Reference Points
 - › Use Cross-Policy Conditionalities in Ambition and Delivery Gap Mechanisms for all Sectoral Targets
 - › More Bindingness = Stronger Implementation, Enforcement and Strategic Importance

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THANK YOU FOR YOUR ATTENTION

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