



# **Happy Birthday, Paris Agreement! Here is how the EU will be celebrating**

**State of play on the negotiations on the Energy Union Governance Regulation on three core elements of the Paris Agreement - ahead of decisions in the European Parliament and Council**

Report

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## **About the Ecologic Institute**

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## **About this report**

This report has been prepared on the back of research and analysis on the Paris Agreement, the EU's 2030 climate and energy framework and transformational 2050 strategies (and policy options) that Ecologic Institute has been carrying out over the last 5 years, for and with the support of a range of funders and clients. Relevant previous papers are cited in this paper. We have benefited from the conversations with and feedback received by many colleagues and partners in the work in this line of research – and profit from their respective thinking and related publications.

The authors are grateful for specific feedback and comments received on drafts of this paper.

While it is unusual for Ecologic Institute to produce an analysis whose subject is going to change, potentially days after publication, we hope to have produced an input to an ongoing EU policy debate that is timely and relevant for policy-makers, especially in the European Parliament and for the European Council negotiations.

## **Disclaimer**

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**We welcome comments and feedback on this report.**

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## Summary

As the Paris Agreement prepares to celebrate its second birthday on December 12th, the European Union is reaching a decisive stage in the negotiations on the so-called Governance Regulation (COM(2016)759) in both the European Parliament and Council. The Paris Agreement (PA) sets ambitious long-term goals and establishes a universally supported governance process for meeting them. The success of the Agreement depends on a sincere implementation of its core elements, like a review process to increase ambition over time. The Governance Regulation (GReg) provides a vehicle through which the EU could internalise the Paris processes and thereby confirm the EU's credibility as a champion of the Paris system – and reap the added value that they can provide (e.g. a long-term target and long-term strategies). Although the European Commission proposal opened the space for innovation, it falls short in a number of important respects. Internal deliberations in the Council and especially in the European Parliament show marked improvements, which need to be maintained to ensure the EU has a proper “implementation birthday gift” for the Paris Agreement.

### Analysis of the proposals by the three EU institutions on key elements of the Paris Agreement\*

Paris Agreement element	Commission GReg proposal of 30 November 2016	European Parliament (EP) Compromise amendments	European Council (Rev.5 – of 28 November 2017)
<b>1. Long-term objectives</b>	No proper EU long-term target enshrined. The Paris Agreement is in general not prominently featured – and the PA's long-term objectives are hardly mentioned. The EU's 2050 target only appears in Article 14 on Long Term Strategies (LTS).	Proposed compromise amendments put an emphasis on long-term goals, introducing the notion of a carbon budget and also include more ambitious 2050 targets (“net zero” by 2050 the latest – if only in Article 14, not 1). The EP could decide to have the GReg as the place to establish an EU target in law.	The Council marginally improves on the Commission regarding references to Paris and its long-term objectives (see also review below). It does not, however, establish an EU 2050 target upfront (Article 1), nor does it improve on the target set out in Article 14.
<b>2. Pledge &amp; review system</b>	Essentially ignores the PA review cycle, remains silent on how and when the EU would review its own Nationally Determined Contribution – and even misaligns timing of the review of the GReg with the PA schedule.	Proposed amendments (no CAs) explicitly make the link to the Paris review cycle, connecting the timing of the GReg review specifically with the PA's timing. Furthermore, they oblige the Commission to consider the adequacy of the EU's NDC and to make proposals.	Inserts a reference to the Paris Agreement's objectives in the Review Article – but sticks with misaligned timing and does not make a specific call for ratcheting up ambition.
<b>3. Long-term strategies</b>	Relies strongly on the existing MMR Article on long-term strategies, with the important addition of a submission date – but losing the obligation for an EU LTS. Content and process specifics are also missing. A key challenge: the proposal does not sufficiently guarantee that 2030 NECPs and 2050 LTS are aligned.	Amendments provide many opportunities for strengthening LTS, making them a core feature of the EU's future governance system. Especially CA 18 A would produce a step change from the Commission's proposal, especially regarding mandatory alignment of LTS and NECPs and by providing a template for LTS.	Council puts LTS before NECPs in Article 1.1 – and provides for better language to ensure consistency between them. However, few other improvements: no additional provision on harmonised content, no process specifics, no template.
<b>Summary per institution</b>	<b><i>The Commission proposal essentially fails to implement two of the three core Paris elements – gaps the other institutions need to fill. A submission deadline on the LTS is an improvement over existing framework, but timeframes and a lack of process risk weakening their use considerably.</i></b>	<b><i>The current set of amendments in the EP has the potential to improve markedly upon the Commission's proposal on all three elements – if the right options are adopted in the leading Committees and later in Plenary.</i></b>  (Assessment could turn green)	<b><i>The current version of the Council's joint position shows some improvement over the original proposal, especially on the role of LTS – but still falls short on the review cycle, the long-term objective and on process for the LTS.</i></b>  (Assessment could turn red)

\*the colour coding indicates whether the proposal by each European institution is seen as “implementing the Paris Agreement's elements well” (green), “needs improvement” (yellow) or “is insufficient” (red). The European Parliament's amendments are evaluated as good, yet it still needs to be seen whether its potential will be realised in the vote, thus in its the European Parliament summary status achieves a yellow mark up. The Council could turn red overall, if no additional improvements are made.

## List of Abbreviations

ALDE	Alliance of European Liberals and Democrats
CA	Compromise Amendment
COP	Conference of the Parties
ECR	European Conservatives and Reformists
EE	Energy Efficiency
EFDD	Europe of Freedom and Direct Democracy
ENVI	Committee on the Environment, Public Health and Food Safety
EP	European Parliament
EPP	European People's Party
ESR	Effort Sharing Regulation
ETS	Emissions Trading System
GHG	Greenhouse Gas
Greens/EFA	Greens-European Free Alliance
GReg	Governance Regulation
GUE	European United Left/Nordic Green Left European Parliamentary Group
INDC	Intended Nationally Determined Contribution
ITRE	Committee on Industry, Research and Energy
LCDS	Low Carbon Development Strategies
LTS	Long-term strategy
MEP	Member of the European Parliament
MMR	Monitoring Mechanism Regulation
NCEP	National Energy and Climate Plan
NDC	Nationally Determined Contribution
PA	Paris Agreement
RES	Renewable Energy Sources
S&D	Group of the Progressive Alliance of Socialists & Democrats
UNFCCC	United Nations Framework Convention on Climate Change

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## 1 Introduction: implementing Paris governance in the EU

The Paris Agreement (PA) was adopted among great cheer from the participants in the room and the world on December 13<sup>th</sup>, 2015, at the 21<sup>st</sup> Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC). The treaty is considered a landmark in the international effort to stop dangerous climate change. It had considerable support from the European Union, led by host country France, which expended significant political, intellectual and economic capital to hold the meeting and organize a process that could deliver an agreement.

The Paris Agreement has adjusted central elements of the existing climate change regime and added new features, which together amount to a new and universally supported governance system. The PA includes long-term targets and spells out the magnitude of the change in global emissions required to avoid dangerous climate change. Secondly, it requires action by all countries but allows them to define their individual contributions by themselves – respecting their many respective differences. To marry these two components, the PA defines a procedural framework for process and facilitating action as a collective exercise. Most fundamentally, the Paris Agreement contains a governance process designed to combine a focus on near-term action with a focus on policy making consistent with achieving the long-term transformation to a largely carbon neutral world.

The EU as a long-time champion of international action on climate change put forward new targets for 2030 as its contribution already in October 2014.<sup>1</sup> The European Commission has since published a whole host of legislation (mainly revisions of existing policy instruments) to implement the 2030 targets and reshape elements of the EU's energy markets.

The EU system for 2030 will also see a few new features, especially concerning the governance of its 2030 targets, contained mainly in a separate piece of legislation, the 'Regulation on the Governance of the Energy Union', put forward by the European Commission in November 2016.<sup>2</sup> **It is in this law that several elements of the Paris Agreement's climate governance system could be implemented at the EU level.** Negotiations on this legislative file have been ongoing for many months, and are expected to reach a crucial waypoint in the first half of December 2017, with a committee vote in the European Parliament (following a draft report published in May 2017) and an attempt at arriving at a common position in the Council, facilitated by the Estonian Presidency.

This report analyses the proposed "Governance Regulation" (GReg) and the state of the debate in the Parliament and in Council (as per the latest set of documents available to the authors at the time of writing) against the extent to which they implement the Paris Agreement's core features. In other words, it assesses how far the EU has progressed towards implementing core elements of the Paris Agreement, as the treaty celebrates its second birthday.

## 2 Paris governance: key elements for evaluation

The Paris Agreement "is an experiment that relies on the (...) persuasive impact"<sup>3</sup> of the processes it has set up. These connect 1) individual actions by all countries (with few qualifiers for what these should be) with 2) global long-term goals and 3) a process for assessing the sum of the contributions against these objectives. The process includes a review of national contributions that are expected to

<sup>1</sup> European Council (2014). European Council (23 and 24 October 2014) – Conclusions, 2030 Climate and Energy Policy Framework, EUCO 169/14, CO EUR 13 CONCL 5, Brussels. <http://data.consilium.europa.eu/doc/document/ST-169-2014-INIT/en/pdf>

<sup>2</sup> European Commission (2016). Proposal for a regulation on the Governance of the Energy Union, amending Directive 94/22/EC, Directive 98/70/EC, Directive 2009/31/EC, Regulation (EC) No 663/2009, Regulation (EC) No 715/2009, Directive 2009/73/EC, Council Directive 2009/119/EC, Directive 2010/31/EU, Directive 2012/27/EU, Directive 2013/30/EU and Council Directive (EU) 2015/652 and repealing Regulation (EU) No 525/2013. 2016/0375 (COD). COM(2016) 759 final. [https://ec.europa.eu/energy/sites/ener/files/documents/1\\_en\\_act\\_part1\\_v9\\_759.pdf](https://ec.europa.eu/energy/sites/ener/files/documents/1_en_act_part1_v9_759.pdf)

<sup>3</sup> Bodle, R., Donat, L., & Duwe, M. (2016): The Paris Agreement: Rebooting Climate Cooperation · The Paris Agreement: Analysis, Assessment and Outlook. Carbon & Climate Law Review (CCLR) Volume 10, Issue 1 (2016) pp. 5 - 22

increase in ambition over time. There is no guarantee that this new approach will work. It depends squarely on the stringency with which both the spirit of the PA as well as its core features are implemented by its Parties.

Despite the fact that the USA under its 45<sup>th</sup> President Donald Trump have announced withdrawal from the treaty, positive momentum on the implementation of the Paris Agreement is visible around the world. Many countries are moving towards implementation of their national contributions and also many sub-national and non-governmental actors are taking action on climate change. And there is a growing interest in deploying dedicated governance frameworks to ensure that the long-term transformation at the heart of stopping climate change can be achieved. Long-term climate strategies and overarching climate laws are being deployed in many places around the world – in support of realizing the objectives of the Paris Agreement.<sup>4</sup>

Several elements are important for the successful implementation of the Paris Agreement, including some that still require specification through further negotiation, such as the Transparency Framework.<sup>5</sup> For the purposes of this report and the analysis of the state of the negotiations in the EU on the Governance Regulation, we have limited the choice of benchmarks to three main elements of direct relevance:

- 1) the long-term objectives (and their translation at the EU level)
- 2) the pledge & review cycle with ratcheting up over time and
- 3) the provision to develop long-term strategies.

These are spelled out and explained in more detail below.

## **1. The long-term objectives: global temperature goals and an emission trajectory**

- The Paris Agreement defines several elements that can be identified as objectives. These are mainly formulated in Article 2 – but also in other Articles that reference the overarching goals in Article 2. Article 2 recalls the UNFCCC's objective.
- Specifically, Article 2.1(a) of the PA stipulates the goal to “Hold[...] the increase in global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C”.
- Article 4.1 specifies that this goal requires a global emissions trajectory that starts with a “global peaking of greenhouse gas emissions as soon as possible”, followed by “rapid reductions”. This should lead to “a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century”, which can be interpreted to specify global carbon neutrality after 2050.

## **2. Pledge & review cycle**

- Article 3 of the PA states that all countries that are parties to the agreement “are to undertake and communicate” nationally determined contributions (NDCs) – these represent their respective inputs to the collective effort and “will represent a progression over time”. This notion of a series of NDCs that become more ambitious over time is repeated in Article 4.2 and 4.3, respectively.
- Article 4.9 establish 5-year cycle for the submission of NDCs, which should be revised on the basis of a review of the adequacy of the collective sum of the NDCs impact towards the target,

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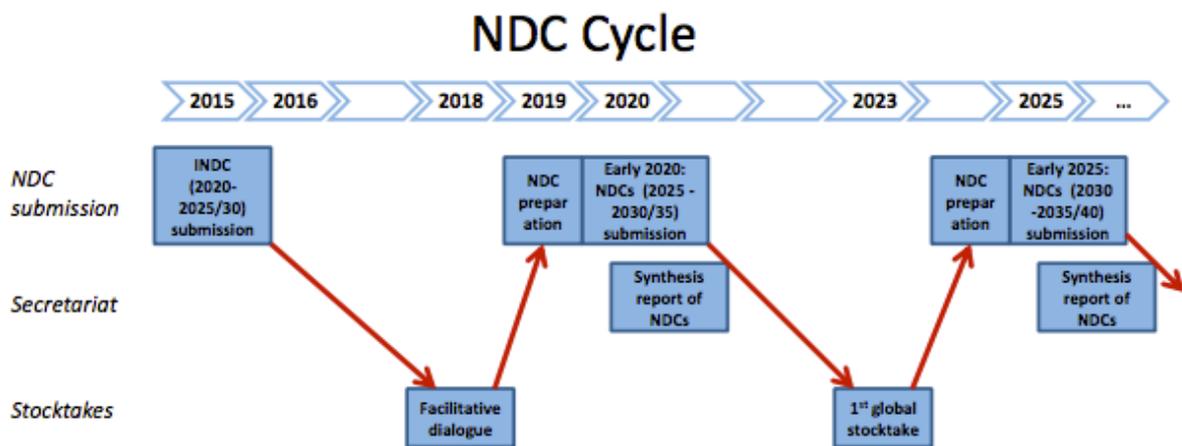
<sup>4</sup> See Duwe et al. (2017) “Paris compatible” governance: long-term policy frameworks to drive transformational change. Ecologic Institute. Berlin. <https://www.ecologic.eu/15218>

<sup>5</sup> Paris Agreement (2015). Report of the Conference of the Parties on its twenty-first session, held in Paris from 30 November to 13 December 2015. Addendum. Part two: Action taken by the Conference of the Parties at its twenty-first session. UNFCCC Secretariat. <http://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf>

called a “global stocktake”, defined in Article 14 (see also Figure below). The first formal global stocktake should happen in 2023 – but as a precursor to this process a very similar exercise should take place in 2018 already (as stated in UNFCCC decision 1/CP.21 adopted in Paris, the document to which the text of the Paris Agreement is attached<sup>6</sup>). This process, a so-called “facilitative dialogue” was being prepared at COP23 in Bonn in November 2017 and is now known as the Talanoa Dialogue (as per decision 1.CP23)<sup>7</sup>.

- The Paris decision (1.CP21) also specifies that the 5-year NDC submission cycle should start in 2020 (paras 23 and 24)
- The combination of Articles 3, 4 and 14, of the Paris Agreement thus establishes a mechanism for the continuous review of existing individual commitments that should be ratcheted up over time.

**Figure 1: visual illustration of the PA's review cycle for NDCs**



Source: Bodle, Ralph; Donat, Lena; Duwe, Matthias (2016). The Paris Agreement: Analysis, Assessment and Outlook. Background paper for the workshop “Beyond COP21: what does Paris mean for future climate policy?” [https://www.ecologic.eu/sites/files/event/2016/ecologic\\_institute\\_2016\\_paris\\_agreement\\_assessment.pdf](https://www.ecologic.eu/sites/files/event/2016/ecologic_institute_2016_paris_agreement_assessment.pdf)

### 3. Long-term strategies (LTS)

- The PA stipulates in Article 4.19 that all parties “should strive to formulate and communicate long-term low greenhouse gas emission development strategies, mindful of Article 2”. Para 35 of the Paris Decision 1.CP21 further specifies that these strategies are expected to be “mid-century” strategies, and invites their submission by 2020. With this provision the Paris Agreement includes a tool that allows a connection to be forged between decisions about near-term action such as the NDCs of Articles 3 and the long-term trajectory established in Article 4.1. This was done in recognition of the fact that planning instruments can play a crucial role in steering short-term action towards specific future goals, creating more cost-efficient pathways

<sup>6</sup> Available on the UNFCCC website under [http://unfccc.int/meetings/paris\\_nov\\_2015/session/9057/php/view/decisions.php](http://unfccc.int/meetings/paris_nov_2015/session/9057/php/view/decisions.php)

<sup>7</sup> Decision 1.CP23 and related documents from COP23 are available on the UNFCCC website at [http://unfccc.int/meetings/bonn\\_nov\\_2017/meeting/10084/php/view/dailyprogramme.php](http://unfccc.int/meetings/bonn_nov_2017/meeting/10084/php/view/dailyprogramme.php)

as well as their ability to integrate climate change considerations into broader social and economic policies.<sup>8</sup>

- The concept of long-term strategies had already been mentioned in the UNFCCC context in the decisions of the Cancun conference in 2010 (COP16)<sup>9</sup>, but further specifications had not been adopted. The inclusion of this provision in the PA represents an elevation of the concept, and follow up by individual countries has already taken place – with Mexico, Canada, the USA and Germany presenting such national 2050 strategies at COP22 in Marrakesh in 2016. Significant experience exists with such national LTS in the EU, showing added value for national policy-making and stakeholder engagement, among other effects.<sup>10</sup> However, not all MS have prepared such strategies yet – and their quality is diverse.<sup>11</sup>

### 3 The EU's climate and energy governance

The EU has been developing its toolbox of climate policy instruments for over 25 years, with several instruments already around for a decade (and currently being revised for 2030). The EU submitted its NDC to the UNFCCC in March of 2015, specifying that its target would be a reduction of at least 40% from 1990 levels by the year 2030<sup>12</sup> in line with a respective decision by EU heads of state and government in October 2014.<sup>13</sup>

The EU has a specific governance system in place for the greenhouse gas targets for 2020. This same system is largely meant to be applied also for 2030. It consists of essentially two main pieces of legislation: The EU Emissions Trading (ETS) Directive and the Effort Sharing Decision (for 2020)/Regulation (for 2030)<sup>14</sup> (now also being referred to as the Climate Action Regulation). These split the EU's overarching targets into two: the share emitted by the entities covered by the EU ETS and those emissions NOT included – the latter being distributed to Member States as binding national targets. Both laws place binding obligations on the companies and countries involved, respectively, and both have clear

<sup>8</sup> The connection to economic policy goals is evident in the use of the term “development” in the LTS terminology used in the PA itself.

<sup>9</sup> Cancun Agreement objectives, <http://unfccc.int/cancun/cancun-agreements/significance-of-the-key-agreements-reached-at-cancun/index.html#c45> (Accessed on 04/12/2017)

<sup>10</sup> See Sartor, Oliver; Donat, Lena; Duwe, Matthias; Umpfenbach, Katharina (2017). Developing 2050 decarbonization strategies in the EU: Insights on good practice from national experiences. Study. N°03/17. IDDRI, Paris / Ecologic Institute, Berlin. [http://www.iddri.org/Publications/Collections/Analyses/ST0317\\_EU%202050%20long-term%20strategies\\_OS%20et%20al..pdf](http://www.iddri.org/Publications/Collections/Analyses/ST0317_EU%202050%20long-term%20strategies_OS%20et%20al..pdf);

<sup>11</sup> “Wallace-Jones, Jane; Achampong, Lela; White, Adam (2017). A Climate for the Future. Assessing EU Member States' Low-Carbon Development Strategies and lessons for Energy Union governance. An update - the outlook in October 2017. MaxiMiseREU/WWF. [https://static1.squarespace.com/static/57050297356fb0e173a11732/t/5a251c3d419202014edb4c6c/1512381562416/WWF\\_LCDS\\_+DEC2017.pdf](https://static1.squarespace.com/static/57050297356fb0e173a11732/t/5a251c3d419202014edb4c6c/1512381562416/WWF_LCDS_+DEC2017.pdf)

<sup>12</sup> EU INDC (2015). Submission by Latvia and the European Commission on the behalf of the European Union and its Member States, Intended Nationally Determined Contribution of the EU and its Member States, Riga, Latvia. <http://www4.unfccc.int/submissions/INDC/Published%20Documents/Latvia/1/LV-03-06-EU%20INDC.pdf>

<sup>13</sup> European Council (2014) – see footnote 1

<sup>14</sup> Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2009.140.01.0136.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2009.140.01.0136.01.ENG); European Commission (2016): Proposal for a regulation on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 for a resilient Energy Union and to meet commitments under the Paris Agreement and amending Regulation No 525/2013 of the European Parliament and the Council on a mechanism for monitoring and reporting greenhouse gas emissions and other information relevant to climate change, COM(2016) 482 final 2016/0231 (COD). <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-482-EN-F1-1.PDF>

compliance systems including penalties. They are supported by technical legislation establishing reporting systems and registries for the respective data, to ensure transparency and credible monitoring processes.<sup>15</sup>

Greenhouse gas emission targets and policies have long been intimately connected in the EU with support for the deployment of renewable energy sources (RES) and enhancements in energy efficiency (EE). For 2020, the three were even linked in the symmetry of three 20-20-20 per cent targets. For 2030, again all three are meant to be going hand in hand – and to be more closely connected through a new system of joint planning and reporting at the level of national developments towards 2030. This system for the 2030 climate and energy targets of the EU was first described in the Commission's Communication "A Policy Framework for Climate and Energy in the Period from 2020 to 2030" published in early 2014.<sup>16</sup> It would work in connection with and parallel to the two laws that govern the respective pieces of the greenhouse as target.

The new framework arises from three main considerations: 1) the recognition that energy and climate policies need stronger alignment (including concerning infrastructure and markets), which can be realised through joint and integrated planning processes, 2) the challenge to facilitate the achievement of binding targets at EU level (for EE and RES) through non-binding bottom-up contributions by Member States and 3) demands for the streamlining of existing processes in order to reduce the overall administrative effort required.

To capture this new governance system in a legal framework, the European Commission published the proposal for a regulation on the Governance of the Energy Union on November 30, 2016 – as part of the so-called "Clean Energy for All" package, also known as the winter package. It will replace the existing Monitoring Mechanism Regulation (MMR) that established the basis for the EU's greenhouse gas (GHG) data reporting system and is to link planning and reporting obligations under the Renewable Energy Directive, the Energy Efficiency Directive plus the Effort Sharing Regulation (ESR) and the Regulation on the inclusion of LULUCF (land use, land use change and forestry)<sup>17</sup>.

At the heart of what is known in short as the Governance Regulation lies a new target pledging and planning instrument that combines several previous planning obligations: the integrated national energy and climate plans (NECPs), established under Article 3 of the GReg. In their NECPs, MS are meant to compile a broad range of information, including trajectories of anticipated developments in energy production, consumption and greenhouse gas emissions and relevant policies and measures. A key function of the NECPs is to formulate national contributions to the EU's 2030 targets on renewable energy and energy efficiency. The specifics are all part of the current negotiation process, but based on the Commission's proposal the contributions will not be legally binding. For greenhouse gases, the plans need to include the targets specified under the EU's internal effort sharing system for the share of the 2030 targets – which are legally binding. The plans are also meant to take a perspective beyond 2030 into account – and be aligned with Long-term strategies (to be developed after the NECPs, as per the Commission proposal).

The (proposed) GReg specifies a system for EU governments to develop these plans and for the Commission to review drafts before final versions are produced under a so-called iterative process. The Commission's role is to provide two key oversight functions: one is to check if the sum of the national

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<sup>15</sup> Vandendriessche, Marie; Saz-Carranza, Angel; Glachant Jean-Michel (2017). The Governance of the EU's Energy Union: Bridging the Gap?, EUI Working Papers RSCAS 2017/51, Robert Schuman Centre for Advanced Studies Florence School of Regulation [http://cadmus.eui.eu/bitstream/handle/1814/48325/RSCAS\\_2017\\_51.pdf?sequence=1&isAllowed=y](http://cadmus.eui.eu/bitstream/handle/1814/48325/RSCAS_2017_51.pdf?sequence=1&isAllowed=y)

<sup>16</sup> European Commission (2014): Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Policy Framework for Climate and Energy in the Period from 2020 to 2030, COM(2014) 15 final

<sup>17</sup> European Commission (2016): proposal for a regulation on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry into the 2030 climate and energy framework and amending Regulation No 525/2013 of the European Parliament and the Council on a mechanism for monitoring and reporting greenhouse gas emissions and other information relevant to climate change. COM/2016/0479 - <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016PC0479>

contributions adds up to the EU's overall targets and the second is to monitor progress in implementation, both at the individual national level as well as for the achievement of the EU's targets.<sup>18</sup>

Because it seeks to create an integrated, whole economy approach for economic as well as energy system decarbonisation – and creates a (nascent) process for connecting near and long-term planning – the Governance Regulation is well positioned to contain some of the key elements of the governance process required by Paris to drive least cost, de-risked deep decarbonisation by 2050.<sup>19</sup>

## 4 Assessing the Governance Regulation against Paris

In the following, the report will analyse the three key governance elements from the Paris Agreement identified in section 2 above. First, we will check the proposal produced by the European Commission and then contrast this with the state of deliberations in the European Parliament and the European Council – based on the latest sets of documents available from these institutions at the time of writing.

In the **European Parliament**, the rapporteurs for the two committees jointly in charge of the proposal (ITRE and ENVI<sup>20</sup>) published a joint report on the 18<sup>th</sup> of May 2017, which was followed by a staggering 1,700 amendments.<sup>21</sup> Over the course of several months, MEPs and their staff worked on finding compromise amendments (CAs), which were finally compiled at the end of November for a vote in December 7 and are available online.<sup>22</sup> There are competing CAs from different political groupings in some instances, and the analysis looks at all the CAs directly relevant to the three Paris element. Where no CAs were formulated on a given element (e.g. on Article 38) the analysis looks at relevant elements of the joint report and related individual amendments.

In the **Council**, the Energy Working Party is the main forum for discussion on the many aspects of the Governance Regulation and related pieces of legislation of the winter package. A first summary of Member States opinions was captured in a revised version prepared by the Maltese EU Presidency in the first half of 2017. The Estonian Presidency built on this approach, producing four further revised versions, aiming to capture a mix of Member State opinions in a joint document for debate and decision at the Council meeting n°3590 on December 18.<sup>23</sup> The formally fifth revision (7204/5/17 REV 5), dated November 28 is publicly available on the Council website.<sup>24</sup>

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<sup>18</sup> For a full assessment of the Commission proposal, see Duwe, Matthias; Meyer-Ohlendorf, Nils; Umpfenbach, Katharina (2017) Governance of the Energy Union - Assessment of the Commission Proposal for a Governance Regulation, Ecologic Institute, Berlin. [https://www.ecologic.eu/sites/files/publication/2017/ecologic\\_institute\\_2017\\_assessment\\_of\\_governance\\_regulation.pdf](https://www.ecologic.eu/sites/files/publication/2017/ecologic_institute_2017_assessment_of_governance_regulation.pdf)

<sup>19</sup> In principle, some of the elements that the Paris Agreement's new governance approach includes could also be incorporated into either one of the two core climate instruments ETS and ESR (see also Meyer-Ohlendorf et al. (2017) EU Climate Policies after 2020: Robust Review and Ratcheting Up Targets. Ecologic Institute, Berlin. <https://www.ecologic.eu/14450> ). Political negotiations on these two legislative files are further advanced and their state of play could not be included in this analysis. A key difference between the ETS and ESR on the one hand and the GReg on the other is the fact that the latter covers the whole of the EU's emissions and not just the respective ETS/Non-ETS shares.

<sup>20</sup> ENVI = Committee on the Environment, Public Health and Food Safety. ITRE = Committee on Industry, Research and Energy

<sup>21</sup> Rivasi, Michèle; Turmes, Claude (2017). Draft report on the proposal for a regulation of the European Parliament and of the Council on the Governance of the Energy Union, Procedure: 2016/0375(COD)). Committee on the Environment, Public Health and Food Safety & Committee on Industry, Research and Energy, European Parliament <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2F%2FEP%2F%2FNONGML%2BCOMPARG%2BPE-604.777%2B01%2BDOC%2BPDF%2BV0%2F%2FEN>

<sup>22</sup> Meeting documents for the joint Committee session are online at [http://www.emeeeting.europarl.europa.eu/committees/agenda/201712/ITRE/CJ10\(2017\)1207\\_1P/sitt-7603984](http://www.emeeeting.europarl.europa.eu/committees/agenda/201712/ITRE/CJ10(2017)1207_1P/sitt-7603984)

<sup>23</sup> Transport, Telecommunications and Energy Council, 18/12/2017, <http://www.consilium.europa.eu/en/meetings/tte/2017/12/18/>

<sup>24</sup> Council of the European Union (2017). Interinstitutional file: 2016/0375 (COD), 7204/5/17 REV 5, Proposal for a Regulation on the Governance of the Energy Union and Climate Action. <http://data.consilium.europa.eu/doc/document/ST-7204-2017-REV-5/en/pdf> . Previous version can be accessed here: [http://eur-lex.europa.eu/procedure/EN/2016\\_375](http://eur-lex.europa.eu/procedure/EN/2016_375)

## 4.1 Paris Agreement, element 1: the long-term objective

**Key GReg Articles: Article 1, Article 2, Article 14**

### 4.1.1 The Commission proposal

At present, the EU has not explicitly enshrined a long-term climate policy objective in law. EU Heads of State and Government adopted a formulation in November 2009 that references the IPCC's fourth Assessment Report as a source and sets out an EU objective for reducing emissions by 80-95% by 2050 (from 1990 levels). It has further championed the objective of staying below 2°C increase over pre-industrial levels – which is also included in the Paris Agreement. The proposal drafted for the Governance Regulation by the European Commission deals with the long-term targets as follows:

- The European Commission decided not to include a specific long-term emission reduction objective for the EU or a global temperature goal as a dedicated objective that the GReg should serve to achieve.
- The PA is mentioned several times in the preambular language (Recital 6, 29, 41) but its objectives are only referred to once and in connection with long-term strategies (recital 23) - and there is a reference to the review cycle (Recital 44).
- The opening Article 1 mentions the Paris Agreement, but only in relation to the technical reporting the EU is committed to provide to the UNFCCC Secretariat. A second reference appears in Article 3 on NECPs, but again only referencing the technicality of amending Annex I of the GReg in case of new UNFCCC decisions.
- The first reference to the PA's targets appears in Chapter 3 / Article 14 on "Long-term low emission strategies" (see also 4.3 below), which says in a rather general manner that these LTS should contribute "(a) fulfilling the Union's and the Member States' commitments under the UNFCCC and the Paris Agreement to reduce anthropogenic greenhouse gas emissions and enhance removals by sinks" (Article 14.1 a). Additional objectives mentioned (as being contributed to) are the global temperature goals (citing the specific PA language from Article 2 PA)<sup>25</sup> and the EU 2050 emissions reductions goal of 80-95% (citing the language with IPCC reference).<sup>26</sup>
- There is one other indirect reference to the PA's long-term objective in Article 25 on the assessment of progress. It gives the Commission the mandate to assess on an annual basis (from 2021) progress on many aspects of the GReg that include as the first item the EU's and the Member States compliance with its commitments under Article 4 of the UNFCCC and Article 3 of the PA<sup>27</sup>. Article 3 of the PA does not impose specific obligations but rather summarises Parties' obligations under the PA through reference to a range of articles, "in view to achieving the purpose of this Agreement" and also states the key principle of the PA that the climate action should "represent a progression over time". Thus, this link to the PA can be interpreted

<sup>25</sup> "(b) fulfilling the objective of holding the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels" (Article 14.1 GReg)

<sup>26</sup> "(c) achieving long-term greenhouse gas emission reductions and enhancements of removals by sinks in all sectors in line with the Union's objective, in the context of necessary reductions according to the IPCC by developed countries as a group, to reduce emissions by 80 to 95 % by 2050 compared to 1990 levels in a cost-effective manner." (Article 14.1 GReg)

<sup>27</sup> "4. By 31 October 2021 and every year thereafter, the Commission shall assess in particular on the basis of the information reported pursuant to this Regulation whether the Union and its Member States have made sufficient progress towards meeting the following points: (a) commitments under Article 4 of the UNFCCC and Article 3 of the Paris Agreement as set out in decisions adopted by the Conference of the Parties to the UNFCCC, or by the Conference of the Parties to the UNFCCC serving as the meeting of the Parties to the Paris Agreement;" (Article 25.4 GReg)

to be an indirect hook for making the EU live up to the PA's spirit and its key legal obligations, including working towards the overarching goal.

- Any additional references to the Paris Agreement in the Commission's proposal are of a technical nature, e.g. in Article 23 (Reporting), Article 30 (Inventories), Article 32 (policies and measures and projections), Article 33 (Registries), Article 34 (Cooperation) and Article 38 (Review). There is no further mention of a long-term objective either at global level or for the EU.

In sum, the European Commission decided not to use the GReg to enshrine a long-term target in EU law – and makes scant reference to the existing 2050 formulation and to the PA's objectives.

#### 4.1.2 The European Parliament

In the two lead committees (on this file) of the European Parliament, long-term targets and the overarching objectives of the PA have received significantly more attention.

The Rivasi/Turmes draft report of May 2017<sup>28</sup> introduced specific and ambitious long-term goals for the EU prominently in their suggested amendments to the Commission Proposal<sup>29</sup>, starting in Recital 1 with an explicit mention of the Paris Agreement's objectives, which is later translated into a specific EU target "reaching net-zero emissions domestically by 2050 at the latest, followed (...) negative emissions" (Amendment 9, recital 6c, new). It also placed these targets directly into Article 1 at the very start of the legal text of the Regulation (Amendment 42). The report also introduced the notion of calculating an EU share of a global carbon budget that would allow the achievement of the PA's global temperature targets. The report inserted the carbon budget concept into Article 1 of the GReg, and it created a separate Article that required the Commission to report on a respective analysis of a carbon budget for the EU.

Among the Compromise Amendments, several of these elements are still visible., and some have won broad political backing.

- CA 54 on recital 1 so at the very start of the regulation's text (which seems to have very broad political support as it is on behalf of EPP, S&D, ECR, ALDE, Greens/EFA, EFDD), specifically inserts that the Governance system is for both the 2030 AND long-term targets and that these should be "in line with the Paris Agreement".
- CA 17 (on behalf of S&D, ALDE, Greens/EFA, GUE, EFDD) proposes a separate new Article 13a on the "Consistency with overall climate objective" that mandates the Commission to produce an analysis on the remaining global carbon budget in line with the PA's temperature targets and translate that into a share for the EU.<sup>30</sup> It also places explanatory language on this concept into a new Recital 6c.
- CA 59 on Recital 6a and b (on behalf of S&D, ALDE, Greens/EFA, EFDD) cites the PA's temperature targets and states that the EU needs to do more and faster, specifying that this means the "Union should aim for reaching net-zero emissions domestically by 2050 at the latest, followed by entering into a period of negative emissions."
- CA 18 A (on behalf of S&D, ALDE, Greens/EFA, EFDD) concerning Article 14 on LTS also includes the same formulation of "net-zero greenhouse gas emissions within the Union by 2050 at the latest" (negative emissions soon thereafter) and expands the scope of the Article over the Commission's version further with the additional 2050 objective of "a highly energy efficient and renewables-based energy system".

<sup>28</sup> The changes proposed by the Rapporteurs cannot be taken to represent the European Parliament's opinion. How much political support the ambitious approach by the Rapporteurs has will be shown by the vote on December 7.

<sup>29</sup> Examples include: "shift to a highly energy efficient and fully renewables-based energy system at the latest by 2050" (Recital 2) and "the Union should aim for reaching net-zero emissions domestically by 2050 at the latest, followed by entering into a period of negative emissions" (Recital 6)

<sup>30</sup> "The Commission shall report by 1 July 2018 on the remaining global carbon budget that is consistent with pursuing efforts to limit the temperature increase to well below 2°C, in particular 1.5°C, above pre-industrial levels and present an analysis on a fair share of the Union in the 2050 and 2100 time perspective." (CA 17)

- Competing CA 18 B (on behalf of EPP, ECR), also on Article 14, also goes beyond the Commission's proposal but more marginally so, selectively citing language also included in CA18 A. It references the need for the EU to stay below its fair share of the remaining global carbon budget, and lists the new target of "a carbon neutral energy system within the Union", but does not spell out a specific greenhouse gas emission reduction target. In the context of what the LTS should cover, it refers to decarbonisation as an objective.
- CA 1 on Article 1 (on behalf of EPP, S&D, ECR, ALDE, Greens/EFA, GUE, EFDD), however, which replaces several previous amendments on this Article, does not retain the targets previously inserted here from the draft report – and only makes scant reference to the Paris Agreement. However, the formulation puts long-term climate and energy strategies at the heart of the Governance Regulation – and states that these should be designed for EU emissions reductions "consistent with" the PA. This reference connects the long-term PA objectives with specific EU targets, albeit in an indirect manner.

In sum, the European Parliament has given the compatibility of the EU's future governance system with the PA dedicated consideration and put a range of amendments forward to enhance the Commission proposal in this regard, some with stronger and some with weaker options for improvements. Movement by the EP towards a stronger anchoring of the long-term targets of the PA and enhanced wording on the EU's specific objectives would strengthen the perspective beyond 2030 considerably, introducing the important transformative nature of battling climate change to be more strongly present in EU climate policy.

### 4.1.3 The Council of the European Union

The Council of the European Union has also given the Paris Agreement specific consideration in its internal deliberations on the draft Governance Regulation. The latest publicly available documentation of a possible common position by Member States at the time of writing (Rev.5)<sup>31</sup> reveals the following ways in which the issue has been taken up – beyond the text proposed by the European Commission:

- In Article 1, at the very outset of the new law, Rev.5 inserts a dedicated reference to the "longer term objectives of the Paris agreement" directly into paragraph 1, making it one of the defining justifications for the system that the Regulation is setting up.
- In Article 3, Rev.5 inserts (in para 2, bullet point (e)) that the NECPs should include an assessment of their "consistency with the long-term greenhouse gas emission reduction objectives under the Paris Agreement and the long-term low emissions strategies as referred to in Article 14".
- The Council document shows no changes related to the long-term PA objectives or the EU's long-term targets in Article 14 – compared to the Commission's proposal.
- However, the long-term objectives of the PA are directly being mentioned in Article 38 (Review – see subsequent section for more detail), as an element that the Commission must report progress on in early 2026 as part of a broader review process.

In sum, there are no new specific EU level long-term targets being inserted at this point in the Council negotiations – but the references to the Paris Agreement's objectives are made significantly stronger in several places, including directly in Article 1, in the definition of the overall purpose of the Regulation.

### 4.1.4 Summary

The Commission has downplayed the importance of Paris for the EU's governance, possibly for fear of making a political compromise on the 2030 framework and its targets more complicated. In doing so, it has created a proposal that seems to neglect the Paris Agreement and key provisions, as if the Paris Agreement did not exist. This risks missing out on a key opportunity to instil the long-term dimension more strongly in EU climate and energy policy. Both other institutions improve on the proposal in

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<sup>31</sup> Council of the EU (2017), see footnote 24

this regard, although the Council does not do so for the EU specifically, but rather through highlighting the PA objective. The EP has produced amendments that go much further, strengthening the long-term dimension as the overriding objective, including both reference to the PA as well as introducing specific EU objectives that go beyond historic formulations. MEPs could seize the opportunity in their vote to establish long-term targets more explicitly as a guide for future EU policy.

## 4.2 Paris Agreement, element 2: the 5-year NDC review cycle

**Key GReg Articles: Article 3, Article 13, Article 38**

### 4.2.1 The Commission proposal

The review (and possible subsequent ratcheting up) of the contributions pledged by Parties under the PA is an absolutely vital component of the new governance system. Without its successful implementation, the overarching goals of the PA cannot be achieved. The EU does not presently have a system for setting climate targets that is enshrined anywhere in its *acquis*. For the targets adopted for 2020 and 2030, the EU's heads of state and government essentially decided these in unanimous conclusions in 2007 and 2014 respectively – based on input received by the European Commission. This process is not laid down in EU law as a given – and certainly did not formally involve the European Parliament in the decision-making.<sup>32</sup> In effect, this omission, combined with the EU's lack of a clear legal commitment to the 2050 target, means the EU's commitment to implementing Paris is constantly open to debate and discussion. The investment and political signal about the direction of policy travel remains ambiguous. The Governance Regulation provides an opportunity to define the process for how the EU would review the adequacy of its own pledged contribution – aligned in time with the schedule established under the PA (see also Figure 1 above in section 2).

The European Commission explicitly mentions the review cycle under the Paris Agreement in the explanatory memorandum to the Governance Regulation and claims that the GReg contributes to that cycle. The actual text of the proposed law does not substantiate this statement.

- The European Commission proposal does not spell out a process for the review of the EU's greenhouse gas target.
- In fact, the text of the legislation itself barely acknowledges the PA process – referencing the global stocktake only in a recital (44) and the word “nationally determined contribution” only appears in the context of a technical registry (Article 33) and in stating the existing 2030 target as having been submitted as the EU's INDC (Recital 6).
- Its Article 38, it spells out a review of the regulation through a report by the Commission that would only be published in the year 2026 – which is clearly out of tune with the PA's review cycle. Article 38 makes reference to the Paris Agreement, but only on a technical level – and not in connection to its overarching goals.
- A five-year cycle is implemented in the GReg proposal for updates to the NECPs, but there is no explicit link between these updates and a review of the EU's overall target and the need to resubmit its NDC. In fact, the timing, which the Commission claims is aligned with the PA cycle, is clearly out of sync. The updates of the plans are meant to be submitted in 2023 in draft and in 2024 as final, which places any revisions in advance of a review of the EU's NDC (supposedly as input to the review of the EU's targets). A review of the EU's targets would have to happen regardless – and its conclusions would have to be included in future versions of the NECPs, as Member States set their national energy targets for renewables and efficiency in

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<sup>32</sup> For a discussion of different processes see Meyer-Ohlendorf, Nils; Bodle, Ralph (2016): EU Effort Sharing after 2020: Review and Ratcheting Up EU Climate Targets. Ecologic Institute, Berlin. <https://www.ecologic.eu/14112>

the NECPs – but not their climate targets (which are established under the Effort Sharing Regulation). A reverse order would thus have been more in line with an implementation of the PA's review cycle.

- The “principle of progression” that applies to successive NDCs under the PA is included in Article 13 for updates to the NECPs. Paragraph 3 states that Member States “shall only modify the targets, objectives and contributions (...) to reflect an increased ambition”.
- There is no role foreseen for the European Environment Agency (EEA) – or another expert body – to support the review (Article 34 GReg on the role of the EEA does not mention Article 38). Most overarching national climate laws have established such independent advisory bodies to support progress monitoring and reviewing actions and targets.<sup>33</sup>

In sum, the proposal by the European Commission essentially ignores the review cycle established by the Paris Agreement and is silent on how the EU would review its own NDC.

#### 4.2.2 The European Parliament

As demonstrated on the issue of the long-term target, the amendments proposed from the European Parliament seem to place a greater weight on including the PA's key elements in the Governance Regulation. The draft report is clear for the need to review the EU's targets following the PA's adoption, stating in a proposed new recital 6a that the EU “needs to prepare for much deeper and faster cuts in emissions than previously foreseen.”. The amendment further specifies that this implies the need to “keep the climate and energy targets under regular review and should revise the targets upwards as necessary”.<sup>34</sup>

No Compromise Amendment has been put forward on Article 38 and the same is true for Article 13. This means individual amendments will be up for vote.

Article 38 is specifically meant to spell out provisions for a review. Figure 2 below provides an overview of the language proposed by the three institutions on this Article, and highlights suggested changes by the EP rapporteur's report and in the Council's Rev.5 document in bold.

The key changes proposed to Article 38 from the Parliament are as follows:

- Amendment 197 from the draft report explicitly links the review to the PA's cycle and its timing, setting the timing to a review report on under Article 38 to six months after the PA's facilitative dialogue/global stocktake. Furthermore, it specifically requires a review of the “adequacy” of the EU's NDC in the Commission's report. In terms of outcomes from the review, the amendment would oblige the Commission to prepare proposals, rather than making this an optional activity.
- Amendment 1483 by Tamburrano, Pedicini, David, Evi and D'Amato is even more specific than amendment 197 in making Article 38 about an implementation of the review process required by the Paris Agreement. While it maintains the proposed language on timing from the joint report, it further specifies that the Commission in its review report “shall include in its report an assessment of the adequacy of the current Nationally Determined Contribution (NDC) under the Paris Agreement, based on the latest scientific findings (including relevant IPCC assessments)” - and propose a formulation for a new NDC. In accordance with Articles 3 and 4.3 of the Paris Agreement, the proposed NDC shall represent a progression over the previous one.”
- CA 18 A (on behalf of S&D, ALDE, Greens/EFA, EFDD) would set 5 years as submission cycle also for LTS – equal to NECPs and Paris cycle.
- There is no mention of an external expert input to the review process.

<sup>33</sup> See Duwe et al (2017) Paris compatible governance – full reference in footnote 4

<sup>34</sup> Rivasi, Michèle; Turmes, Claude (2017), see reference in footnote 21

In sum, the amendments proposed in the EP’s internal process would (if adopted) represent a substantial improvement over the European Commission proposal, establishing a clear connection to the PA’s review cycle, specifically for the EU’s NDC.

**Figure 2: Language proposals for Review Article for each of the three institutions**

Commission proposal	EP – Rivasi/Turmes report (Amendment 197)	Council – Rev.5 (28 November)
<p>“The Commission shall report to the European Parliament and to the Council by 28 February 2026 and every five years thereafter on the operation of this Regulation, its contribution to the Governance of the Energy Union and the conformity of the planning, reporting and monitoring provisions of this Regulation with other Union legislation or future decisions relating to the UNFCCC and the Paris Agreement. The Commission may make proposals if appropriate.”</p>	<p><b>“Within six months of the facilitative dialogue to be convened under the UNFCCC in 2018 to take stock of the collective efforts of Parties in relation to progress towards the global long-term goal, and within six months of the global stocktake in 2023 and subsequent global stocktakes thereafter, the Commission shall report to the European Parliament and to the Council [ ] on the operation and implementation of this Regulation, its contribution to the Governance of the Energy Union and the conformity of the planning, reporting and monitoring provisions of this Regulation with other Union legislation or future decisions relating to the UNFCCC and the adequacy of its contribution to the goals of Paris Agreement. [ ] The reports shall be accompanied by proposals to enhance the Union’s climate and energy action as appropriate.”</b></p>	<p>“The Commission shall report to the European Parliament and to the Council by 28 February 2026 and every five years thereafter on the operation of this Regulation, its contribution to the Governance of the Energy Union and <b>Climate Action, the progress towards the achievement of the 2030 climate and energy targets and additional Energy Union objectives, and the long-term objectives of the Paris Agreement. In addition the Commission shall report on [ ]</b> the conformity of the planning, reporting and monitoring provisions of this Regulation with other Union legislation or future decisions relating to the UNFCCC and the Paris Agreement. The Commission may make proposals if appropriate.”</p>
<p><i>Assessment: No direct connection in the Article to the PA’s review cycle. Timing set to after the NDC review should have taken place.</i></p>	<p><i>Assessment: Explicit connection to the Paris process, and clear alignment with its timing – with the specific requirement to review the EU target.</i></p>	<p><i>Assessment: Explicit reference included on the PA’s long-term objectives. Timing set to after the NDC review would take place. No specific requirement to review the EU target</i></p>

### 4.2.3 The Council of the European Union

The Council has also concerned itself with the links to the PA review process.

- Regarding the timing of the submission of NECPs it references the connection with the facilitative dialogue in proposed language for Recital 18. However, this is based on the assumption that plans should be made available as an input to an (otherwise not spelled out) internal review process for the EU’s NDC. However, in reality, NECPs are implementing the national climate targets as set under the EU’s effort sharing system, not giving input to the target setting process.
- Concerning Article 38, the Council text improves somewhat over the Commission proposal, by making an explicit reference to the PA’s long-term objectives as an issue for consideration – but it does not challenge the Commission’s logic on the timing and sticks with the proposed date of 2026 for the review report. It also does not specifically call for a review of the NDC.

In sum, the Council does not substantially improve on the Commission’s proposal, although it signals the general understanding that the review of the GReg must have a link to the Paris Agreement and its objectives.

#### 4.2.4 Summary

The NDC review cycle is THE mechanism through which the Paris Agreement is meant to achieve its objectives. For the EU not to be implementing it in its own legislation, in the instrument meant to monitor progress towards its NDC, which even borrows elements from that same PA mechanism, is outright bewildering. It would leave any review of the EU's NDC in the hands of the Commission only (with a mandate from or Decision by the Heads of State and Government, with no proper decision-making process involving all institutions). While one can make an argument that information from the national level could contribute to a review of the NDC, the conception that the full updating of the NECPs should happen before there is a (potentially new) EU 2030 or 2035 target via a revised NDC is misguided.

The EU risks missing an opportunity to spell out process for a core element of the PA currently missing in the *acquis* if this gap is not filled by the other institutions. The Council only makes minor adjustments and does not provide for an actual mandate to review the NDC. In the EP there are no compromise amendments on the table, but amendments 197 and 1483 both provide the opportunity to turn the review under the GReg into a Paris compatible mechanism.

### 4.3 Paris Agreement, element 3: long-term strategies

**Key GReg Articles: Article 14, Article 1, Article 3**

#### 4.3.1 The Commission proposal

Having a dedicated long-term element in the EU 2030 governance system is essential, as pointed out in earlier work by Ecologic Institute and IDDRI<sup>35</sup>, because decisions taken in the next 5-10 years may well determine future emission pathways for many years beyond 2030. Policy choices and investment signals that extend or expand more carbon intensive infrastructure and practices would thus very likely make future reductions more costly – both economically and politically. Planning for 2030 must therefore be informed by the longer term direction, which requires drastic decarbonisation in all economic sectors. As per the Commission's proposal, the future EU climate and energy governance framework will have two separate, important planning documents, one for 2030, the NECPs, and one for the longer term, the LTS. Keeping these aligned represents thus a key challenge.

EU Member States already had the obligation to produce LTS in the form of Low Carbon Development Strategies (LCDS) under the MMR (Article 4 MMR) and needed to report on progress. However, as assessments have shown<sup>36</sup>, implementation at the national level has been fragmented and of variable quality – due certainly in part by the lack of a deadline and further specifications on content.

The Commission's proposal explicitly recognises the potential role of LTS in Recital 26: "Stable long-term low emission strategies are crucial to contribute towards economic transformation, jobs, growth and the achievement of broader sustainable development goals, as well as to move in a fair and cost-effective manner towards the long-term goal set by the Paris Agreement." However, the role of the LTS as described in the proposal cannot quite live up to this important function. The proposal takes the existing MMR text on LCDS as a basis for defining LTS. Specifically, it includes the following:

- The proposal establishes a separate Article (14) on long-term strategies – in an individual chapter (3) - as did the MMR.
- Article 14 makes preparation of an LTS mandatory for all MS and provides a submission date (which was lacking under the MMR) – but no longer puts the same obligation also on the Commission, on behalf of the EU.

<sup>35</sup> Sartor; Donat; Duwe; Umpfenbach (2017). Developing 2050 decarbonization strategies in the EU – full reference under footnote 10; Sartor, Oliver; Colombier, Michel; Spencer, Thomas (2015). Designing planning and reporting for good governance of the EU's post-2020 climate and energy goals. Working Paper. N°12/15, IDDRI, Paris. [http://www.iddri.org/Publications/Collections/Idees-pour-le-debat/WP1215\\_OS%20et%20al.\\_EU%20governance.pdf](http://www.iddri.org/Publications/Collections/Idees-pour-le-debat/WP1215_OS%20et%20al._EU%20governance.pdf)

<sup>36</sup> Wallace-Jones, Jane; Achampong, Lela; White, Adam (2017). Full reference under footnote 11

- The submission date is 2020, which is in line with decision 1.CP21, but two years later than draft NECPs, clearly putting short term plans first in the sequence.
- The timeframe for LTS is set to 50 years (meaning: 2070 and beyond, for future iterations)
- Article 14 provides only very little detail for content (compared to the specifics for NECPs)
- The proposal mentions the contribution to the PA long-term goal, but only the EU's specific 2050 emission reduction goal of -80-95 % (as decided in 2009) to guide LTS in living up to this (see section 4.1 above).
- The Commission's Article 14 does not provide a template nor a process to develop one – meaning that there is no guarantee on comparability of national strategies or even on similar standards being applied.
- Moreover, the proposal does not foresee any process of external review, and no interim updating beyond 10 year submissions (2020, 2030, 2040...)
- Additionally, Article 14 para 3 states that LTS and NECPs “should be consistent with each other”.

In sum, the European Commission's proposed text improves slightly over the MMR, by adding a deadline and referencing the objectives of the Paris Agreement – but the proposal does not provide assurance of the quality of national LTS and clearly risks a misalignment of 2030 NECPs and LTS through the submission sequence.

### 4.3.2 The European Parliament

The European Parliament has clearly considered the role of LTS and places importance on them and their role in the future EU governance system, as a means of thinking through and preparing for the transformation (see e.g. Amendment 26 from the Rivasi/Turmes draft report<sup>37</sup>). Several CAs making reference to the long-term strategies are currently on the table.

- CA 1 on Article 1 (on behalf of EPP, S&D, ECR, ALDE, Greens/EFA, GUE, EFDD) directly mentions as an overall objective of the governance mechanism “to implement long-term climate and energy strategies”.
- CA 2A on Article 3 (on behalf of S&D, ALDE, Greens/EFA, EFDD) aims to improve on the consistency between LTS and NECPs, by listing this as a requirement in the development of NECPs by Member States
- CA 4 on Article 4(a)(2) (on behalf of S&D, ALDE, Greens/EFA, EFDD) inserts an additional requirement for the information to be contained in NECPs, which is to provide LULUCF “trajectories (...) consistent with the long-term climate and energy strategies as referred to in Article 14”.
- CA 5A on Article 4(a)(2) (on behalf of S&D, ALDE, Greens/EFA, EFDD) expands the consistency assurance, specifying that “Member State's trajectories for the overall share of renewable energy in final energy consumption from 2031 onwards shall be consistent with the long-term climate and energy strategies.”
- CA 13 on Article 10 (on behalf of EPP, S&D, ECR, ALDE, Greens/EFA, EFDD) adds development of LTS to the processes that should allow for public consultation and stakeholder access.

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<sup>37</sup> “Member States should develop long term climate and energy strategies for 2050 and beyond identifying the necessary transformations in different sectors that are necessary to shift to a renewable energy system and achieve the goals of the Paris Agreement. The strategies should be consistent with the Union fair share of remaining global carbon budget and should be developed in an open and transparent manner and with the full involvement of relevant stakeholders. The integrated national energy and climate plans should be based on the long term climate and energy strategies and consistent with them.” (Recital 23 a) - In: Rivasi, Michèle; Turmes, Claude (2017), see footnote 21

- CA 14 on Article 10 (on behalf of S&D, ALDE, Greens/EFA, EFDD) would establish permanent Multilevel Climate and Energy Dialogue Platforms in every Member State, which should also be consulted on LTSs.
- CA 66 on Recital 12 (on behalf of S&D, ALDE, Greens/EFA, EFDD) specifies that “a mandatory template for the long-term climate and energy strategies should be introduced to ensure their quality and comparability”. This template is proposed as a separate Annex II a under CA 45 (on behalf of S&D, ALDE, Greens/EFA, GUE, EFDD)

Two competing consolidated amendments exist on Article 14 (of clearly different level of stringency) but both represent an improvement over the Commission’s proposal -one small, one large. These are analysed in more detail in the paragraph below:

**CA 18 A** on Article 14 (on behalf of S&D, ALDE, Greens/EFA, EFDD)

- This CA changes the focus of the LTS to a 30 years perspective (from 50 by the Commission), meaning planning for 2050 for the first submission
- It brings submission date forward by 1 year to 2019, making the preparation and delivery nearly parallel to those for NECPs, which increases the potential for alignment significantly.
- The amendment requests LTS every 5 years making it the same cycle duration as for NECPs and the Paris NDC review cycle.
- In addition, it specifically strengthens the language on consistency between NECPs and LTS (from should to shall).
- Moreover, it extends the obligation to produce a strategy to the EU itself via the European Commission (as it was in the MMR).
- The CA expands the reference to long-term targets and adds in additional ones, such as regarding renewable energy (see also section 4.2 above).
- It also provides additional detail on the content of LTS and stipulates a separate template be included as Annex to the GReg, and foresees a process for adjusting it (via a delegated act).
- It explicitly stresses the importance of public consultation (as CA 13 on Article 10).
- The CA adds a separate paragraph on support from the Commission for Member States, incl. providing guidance during implementation.
- Lastly, it adds an assessment of national LTS by the Commission and foresees the possibility of recommendations from the Commission – without, however, specifying a process for them (or any follow-up).

**CA 18 B** on Article 14 (on behalf of EPP, ECR) contains the following specifics.

- It also extends obligation to the Union (via the Commission) and suggests a 30-year focus.
- It keeps the 2020 submission date, and submissions at 10 years – meaning that NECPs and LTS would not be developed in parallel and be less closely aligned as under CA 14 A.
- It does, however, strengthen the language on the consistency between NECPs and LTS (from should to shall).
- It expands the language on long-term objectives, mentions decarbonisation and a carbon neutral energy system, but makes no specific reference to an economy-wide long term target.
- It also includes the para on explicit support from the Commission for Member States, incl. guidance during implementation and mentions stakeholder consultation but lacks of a template.
- It also includes the option for the Commission to issue recommendations to MS, without specifying process.

The key distinction between CA 14 A and 14 B thus lie in three main areas: the specific long-term objectives, the detail on content of the LTS and the means by which the alignment between NECPs and LTS can happen – with 14 A being stronger on all points.

In sum, the EP amendments provide ample potential for improvements over the Commission proposal on long-term strategies, with clear qualitative differences between CAs 14 A and 14 B - with CA 14 A providing for a stronger integration of the long-term dimension.

### 4.3.3 The Council of the European Union

The role of LTS has also received attention in the negotiations at Council level. The following noteworthy changes to the Commission's proposal have been introduced as of Rev.5:

- The Council language puts LTS at the heart of the Governance system, alongside NECPs, mentions LTS first in Article 1.1: "The governance mechanism shall be based on national long-term low emission strategies, integrated national energy and climate plans..."
- In Article 3.2, the Council document includes explicitly the requirement that Member States shall make their NECPs consistent with their LTS (similar to language used in the EP's CA 2).
- In Article 14 it also strengthens the consistency between the two planning documents, making this an obligation - NECPs "shall be consistent with [ ] the long-term low emission strategies referred to in this Article." This is also a change included in both CA 14 A and 14 B in the EP.
- There are only a few other changes to Article 14, with the most significant being a limitation of the focus to 30 years (2050 and beyond), away from the 2070 time horizon proposed by the Commission. Again, this change is also proposed by both CA 14 A and 14 B in the EP.
- Since the Council text puts the submission date for NECPs back by one year compared to the Commission proposal, there is a smaller temporal gap (of only one year) between the submission deadlines between draft NECPs and LTS, which may make the consistency challenge a little easier – but still creates the risk that NECPs do not take the post-2030 perspective into account sufficiently.

In sum, the Council text provides for a slight strengthening of LTS in the overall system, and some dedicated improvement on the alignment between NECPs and LTS, but does not go far enough to minimise the risk of a disconnect between 2030 and 2050. It also does not provide any additional specification of the content of LTS, or a process for follow up and an assessment.

### 4.3.4 Summary

The Commission proposal does establish LTS as a mandatory element of future planning by EU Member States – but it risks creating them as an afterthought, with the 2030 NECPs having created facts on policy and energy and climate trajectories that may not be in line with long-term objectives. By many measures, LTS are given a second-rate status to the NECPs (also on content and process), when the two should ideally be well aligned if not closely integrated with one another.

Both the possible EP amendments (some more, some less) and the current Council consensus give LTS more weight and put them one more equal footing with NECPs, but only the changes on the table in the EP could improve on the situation significantly, including the timing of the two planning processes, the specification of content and a process for frequent updating (alongside the NECPs).

LTS could also help by providing a broader perspective. Europe could use a positive narrative about the future – at the level of the Union as well as in individual Member States. Long-term climate strategies could be one vehicle to start this conversation and combine socio-economic and climate change concerns and goals into a joint up positive vision.

## 5 Conclusions

The Paris Agreement is about to have its second birthday – and at this point in time, it is not clear where the EU stands in implementing key elements of the PA in its own legislation. As a champion of global climate action and the PA, the EU was (and is) expected to take the respective provisions to heart – and have them inform its own policy-making.

The proposal for a Governance Regulation presented by the European Commission contains both positive and negative elements. Checked against the three core features of the PA identified for this specific analysis, the result is surprisingly weak. The PA is hardly referenced, essential processes ignored to downplay the importance of clarifying how the will work at the EU level. Regardless of other positive elements in the EU's climate policy efforts (early proposals for new 2030 targets, and already adopting the necessary instruments to ensure target delivery) - this is a poor reflection of the spirit of the PA and of key features that will make or break its success.

The EU could use some of these elements not just as a means of delivering on international commitments, but also to make its own policy more targeted, more cost-efficient and overall more effective in delivering the transformation to a low or zero carbon economy.

The documents that have emerged from both the internal deliberations of the European Parliament and the Council (at the time of writing) show that these issues are under consideration in both of the other two institutions. The Council shows marginal improvements on all three elements considered, but does not really do away with the main weaknesses. In the European Parliament, amendments are on the table that would introduce more substance and stronger processes, with long-term targets, a dedicated NDC review mechanism and a lot of specifics on Long-term strategies. The coming days and weeks will show which of these elements can find political support – before representatives from all three institutions sit down together at a joint table to find a compromise.

A sincere implementation of the Paris Agreement in the EU would do the following (on the three elements that this report focused on):

- **Long-term target:** an EU climate and energy governance system should reference the PA's long-term objectives explicitly – and consider what an appropriate EU level expression should be. EU climate and energy policy needs this clear sense of direction – and the commitment to it expressed by enshrining this specifically in EU legislation.
- **Review process:** the Paris Agreement's NDC cycle is clear in its timing, and the EU needs to deliver NDCs in 2020 and in 2025 and 2030... and spell out a clear process for how and when and through whom it will determine what it can contribute, as a fair share to the global mitigation effort. This process should involve all institutions – and could benefit from independent analytical input.
- **Long-term strategies:** are an undervalued tool with much potential to inform short-term policy and create a broader vision for future developments. There is much interest in many EU Member States, and a lot of experience already exists – as well as dedicated governance systems to implement them, in the form of overarching national climate laws. The EU needs to harness this potential and interest to start a dialogue on transformation that can deliver political support for the required structural changes.