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**COMMISSION STAFF WORKING DOCUMENT**

**FITNESS CHECK**

**Reporting, Planning and Monitoring Obligations in the EU Energy acquis**

*Accompanying the document*

**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE  
COUNCIL**

**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  
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## 1. INTRODUCTION

As part of the Smart Regulation<sup>1</sup> policy the Commission has initiated a programme for Regulatory Fitness and Performance (REFIT). This is a continuous process, affecting the whole policy cycle – from the design of a piece of legislation to implementation, enforcement, evaluation and, where justified, revision or repeal.

Under the first stages of this programme, the Commission is reviewing the entire stock of EU legislation and decided on follow-up actions, one of which is a Fitness Check involving a comprehensive policy evaluation aimed at assessing whether the regulatory framework for a particular policy sector or a specific part of the acquis is "fit for purpose".

In this context, Fitness Checks provide an evidence-based critical analysis of whether EU actions are proportionate to their objectives and delivering as expected. A Fitness Check pays particular attention to identifying any unexploited synergies (e.g. improved performance, simplification potential, lower costs, reduced burden, more efficient application, etc.) or inefficiencies (e.g. excessive burdens not proportionate to the benefits provided, overlaps, gaps, inconsistencies and/or obsolete measures) within the group of measures in the selected policy sector or part of the acquis, which might have appeared over time. A Fitness Check helps identifying the cumulative impact of the EU actions in question, covering both costs and benefits.

When agreeing on the EU 2030 Framework on Climate and Energy, the European Council concluded in October 2014 that "*a reliable and transparent governance system without any unnecessary administrative burden will be developed to help ensure that the EU meets its energy policy goals*"<sup>2</sup>. In this context the Council also concluded that this governance system will "*build on the existing building blocks, such as national climate programmes, national plans for renewable energy and energy efficiency*"<sup>3</sup> and that "*[s]eparate planning and reporting strands will be streamlined and brought together*"<sup>4</sup>.

The Commission underlined in its Energy Union Strategy in February 2015 the need for "*an integrated governance and monitoring process, to make sure that energy-related actions at European, regional, national and local level all contribute to the Energy Union's objectives*"<sup>5</sup> and to "*bring together energy and climate actions [...] leading to more and longer-term policy coherence*"<sup>6</sup>. Furthermore it announced that one of the purposes of the governance process of the Energy Union will be to "*streamline current planning and reporting requirements, avoiding unnecessary administrative burden*"<sup>7</sup>.

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<sup>1</sup> Communication from the Commission to the European Parliament, the Council, The European Economic and Social Committee and the Committee of the Regions; Smart Regulation in the European Union; COM(2010)543final; Brussels; 8 October 2010.

<sup>2</sup> European Council Conclusions; EUCO 169/14; Brussels; 24 October 2014.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank; A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy; COM(2015) 80 final; Brussels; 25 February 2015.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

The Commission Work Programme 2016<sup>8</sup> included in its Annex II on REFIT initiatives as item 10 the Fitness Check of current planning and reporting requirements. An assessment of the consistency of existing obligations and the administrative burden related to them is one of the deliverables for 2016.

The first Communication on the State of the Energy Union of November 2015 stressed that the *"Commission foresees in 2016 a proposal on streamlining planning and reporting requirements related to climate and energy actions for Member States and the Commission to reduce as soon as possible unnecessary administrative burden in line with the better regulation agenda and to align planning and reporting requirements with the Energy Union Framework Strategy"*<sup>9</sup>. This proposal shall be *"[b]ased on inter alia a fitness check of current reporting obligations"*<sup>10</sup>.

Moreover the TTE (Transport, Telecommunications and Energy Council) of 26 November 2015 called upon the Commission to prepare *"as a matter of urgency, an inventory of existing planning and reporting obligations and proposals for streamlining these obligations in order to reduce administrative burden and ensure coherence, simplification and consistency"*<sup>11</sup>. This inventory and the respective conclusions are presented in the final chapter of the Fitness Check.

The mandate for the Fitness Check on "Streamlining reporting and planning obligations in the EU energy acquis [REFIT]"<sup>12</sup> was approved on 8 December 2015.

### **1.1. Purpose of the evaluation & Reasons for a REFIT exercise**

The purpose of this Fitness Check is to ascertain whether there is a potential for simplification and reduction of administrative burden within the EU energy acquis and to assess the extent to which the current obligations are in line with the Better Regulation criteria of effectiveness, efficiency, coherence, relevance and EU added value. The present Fitness Check focuses on planning, reporting and monitoring<sup>13</sup> obligations within the EU energy acquis and interlinkages with climate legislation<sup>14</sup>, but does not cover interlinkages with other fields of the EU acquis for example in the field of transportation.

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<sup>8</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions; Commission Work Programme 2016 – No time for business as usual; COM(2015) 610final; Brussels; 27 October 2015.

<sup>9</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank; State of the Energy Union 2015; COM(2015) 572 final; Brussels; 18 November 2015.

<sup>10</sup> Ibid.

<sup>11</sup> Council conclusions on the governance system of the Energy Union; 869/15; Brussels; 26 November 2015.

<sup>12</sup> Op.cit.: Fitness Check Roadmap.

<sup>13</sup> For this Fitness Check planning and reporting obligation are understood as those obligations foreseen for MS in the various legal acts within the scope. Monitoring refers to the obligations for the Commission to monitor and to report to the European Council and/or European Parliament and/or the European Economic and Social Committee and/or the Committee of the Regions and/or other institutions as well as to the general public and the MS.

<sup>14</sup> Concerning the specific coverage of the climate legislation, provisions in the Monitoring Mechanism Regulation (MMR) are covered. The MMR establishes a single mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate

Reporting, planning and monitoring obligations are an essential element of the EU policy monitoring system and provide the Commission with the data needed to assess the effectiveness of the implementation of EU legislation. Furthermore these obligations aim at providing the necessary information to the European Parliament, Council and the European general public on the results achieved by EU legislation and its influence on policy reforms at national and at European level. However, the current EU energy acquis includes a large number of reporting and planning obligations for Member States (MS) and planning and monitoring obligations for the Commission that all might entail high administrative burden and costs. Moreover, these obligations have not been set up in a coherent way via a dedicated act, but developed over time for different sectors of EU energy law. Even though each obligation provides valuable and useful information on specific aspects, interactions with other aspects might not always have been taken into account, thereby not making best use of existing synergy potentials.

Therefore, this Fitness Check measures in a comprehensive way the overall administrative burden of the reporting, planning and monitoring obligations in the EU energy acquis, both for the MS and for the European Commission. Furthermore, it assesses the degree of coordination among these obligations, identifies any possible information gaps and elaborates as well on the interaction between reporting, planning and monitoring obligations in the energy acquis and in the EU climate legislation.

The results of this Fitness Check are used as a basis for the Impact Assessment on Energy Union Governance, which will in turn form the basis for the legislative proposal on Energy Union Governance. In particular, the results of the Fitness Check helps to determine which reporting, planning and monitoring obligations are suitable for being streamlined and merged, kept separate in sectorial legislation, or even repealed from the energy or climate acquis.

More specifically, for each of the existing planning, reporting and monitoring obligations in the energy acquis and the MMR, the Fitness Check assesses whether the obligation is suitable for:

- being integrated in National Plans, Progress Reports and integrated Commission monitoring (and at the same time be amended in or repealed from current sectorial legislation); or
- remaining a separate obligation in sectorial legislation, which will however be reflected in the National Plans, Progress Reports and integrated Commission monitoring; or
- remaining an entirely separate obligation in sectorial legislation (with possible amendments) without reflection in the National Plans and/or Progress Reports; or
- remaining a separate obligation from National Plans, Progress Reports and integrated Commission monitoring but, given its relation to obligations to be incorporated in the

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change and already represents the result of a previous streamlining exercise. It includes provisions that interact with planning, reporting and monitoring obligations in the energy acquis.

National Plans, Progress Reports and integrated Commission monitoring, linked to those obligations and to follow the legal destination of those obligations<sup>15</sup>; or

- being fully repealed from current sectorial legislation and thus removed from the EU energy and climate acquis.

The current planning, reporting and monitoring obligations are classified accordingly (see the overview tables in chapter 8) based on the results of this evaluation.

Building on these conclusions of the Fitness Check on the set of assessed obligations, the Impact Assessment evaluates policy options on legal approaches to streamline the existing planning, reporting and monitoring obligations.

As stated in the REFIT Scoreboard 2015 "*the Commission intends to evaluate the options for streamlining planning and reporting obligations in the post-2020 period*"<sup>16</sup>, which is done in the above mentioned Impact Assessment for which this Fitness Check serves as a basis and departure point. This decision followed the Commission's Communication on a policy framework for climate and energy in the period from 2020 to 2030 of 22 January 2014<sup>17</sup>. The European Council approved on 24 October 2014<sup>18</sup> the 2030 Climate and Energy Framework with three targets and one infrastructure objective to be met by 2030 with the energy efficiency target to be reviewed by 2020 having in mind 30% of energy savings. The European Council also agreed and confirmed on 19 March 2015<sup>19</sup> the development of a reliable and transparent governance system without additional administrative burden in order to help ensure that the EU meets its energy policy goals.

In order to deliver on the announced action in the REFIT Scoreboard 2015, this Fitness Check was included as a REFIT exercise in annex II of the Commission Work Programme 2016<sup>20</sup>. Furthermore, the identified shortcomings of the existing planning, reporting and monitoring obligation system can only be addressed in a coherent and holistic way by the tool of a REFIT exercise that takes into account the interlinkages between the different obligations.

## **1.2. Scope of the evaluation**

The scope of this Fitness Check is the EU energy acquis and in particular the planning, reporting and monitoring obligations of the EU MS and of the European Commission contained in the various legal instruments. Accordingly, reporting, planning or notification obligations from the private sector are beyond the scope of this Fitness Check for practical reasons and as the large majority of the existing reporting, planning and monitoring obligations concern the public sector with only a minority of the obligations concerning the

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<sup>15</sup> For example, because the obligation supports the collection of data for the National Plans or because it improves the accuracy of such data. This category is only relevant for some obligations of the current MMR and was not applied for the obligations under the energy acquis.

<sup>16</sup> Commission Staff Working Document; Regulatory Fitness and Performance Programme (REFIT): State of Play and Outlook; SWD(2015) 110 final; Strasbourg; 19 May 2015.

<sup>17</sup> 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; Brussels, 22 January 2014.

<sup>18</sup> Op.cit.: EUCO 169/14.

<sup>19</sup> European Council Conclusions; EUCO 11/15; Brussels; 20 March 2015.

<sup>20</sup> Op.cit.: COM(2015) 610final.

private sector. This point was confirmed by the survey<sup>21</sup> conducted in the framework of the Fitness Check<sup>22</sup> and by the public consultation<sup>23</sup> done by the Commission, where a majority of stakeholders agreed that the scope of the foreseen future integrated national energy and climate plan should be limited to obligations addressing the EU institutions and MS.

However, MS depend for some obligations to a significant extent on the information and reports submitted to them by private entities as proven by the results of the survey and desk research<sup>24</sup>. Consequently, reducing the administrative burden on the public administration of the MS is also likely to reduce the burdens put on private companies and businesses by the respective legislation.

Planning, reporting and monitoring obligations for Transmission System Operators (TSOs), National Regulatory Authorities (NRAs) and the Agency for the Cooperation of Energy Regulators (ACER)<sup>25</sup> are considered to be within the scope of this exercise as these obligations are linked to the EU regulatory framework for the energy sector and, inter alia, serve to ensure investment planning, market transparency and compliance.

The Fitness Check focuses on planning, reporting and monitoring obligations that have to be submitted on a regular basis by MS and/or the Commission and that include information that can be used to assess progress with respect to the EU energy policy goals. For these reasons, the following types of obligations are excluded from the Fitness Check<sup>26</sup>:

- Reports that are not submitted on a regular basis (required only once or only submitted upon request by the Commission or another institution) as these obligations do not require Member State to set up permanent structures and procedures to collect and analyse data. In addition, many such reporting requirements were already performed in the past and therefore do not require further action;
- Plans or reports that are not related to the achievement of EU energy policy goals such as reports to the European Parliament on the use of delegated powers, which concern only inter-institutional relationships;
- Notification obligations of MS related to the transposition and application of EU law meaning the communication by Member States of transposition measures and explanatory documents for the implementation of EU directives (MNE/NIF databases) are not considered as a reporting obligations;
- Plans and reports resulting from amendments of EU legislation implementing international obligations (such as the Joint Convention on the safety of spent fuel

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<sup>21</sup> The results of the survey are available in the study commissioned by DG Energy.

<sup>22</sup> According to the survey, public authorities bear 53 percent of the burdens resulting from the obligations, while large companies experience 21 percent of the burden and Small and Medium Sized Enterprises (SMEs) experience 11 percent of the burden. Furthermore, the study also found that SMEs are not subject to any impact or burden resulting from reporting obligations.

<sup>23</sup> The results of the public consultation are available in annex IV of the Staff Working Document.

<sup>24</sup> A detailed list of the literature consulted in the framework of this analysis is available in the annexes of both studies providing input to this Fitness Check.

<sup>25</sup> A more detailed analysis of the respective role of each of these bodies can be found in the study supporting the Fitness Check commissioned by DG Energy.

<sup>26</sup> See chapter 3 for a list of the obligations that were excluded from the scope of the Fitness Check based on these criteria.

management and on the safety of radioactive waste management (2005/510/Euratom) as these would require an amendment of the international instruments.

Following these criteria and in close cooperation with the respective units of the different Commission services concerned that are responsible for the reporting, planning and/or monitoring obligations in question, a detailed list of the legal acts in the scope of the Fitness Check was drawn up. The reporting, monitoring and planning related articles of the following pieces of EU legislation included in the scope of this Fitness Check are (in alphabetical order):

- ACER Regulation<sup>27</sup>
- Connecting Europe Facility Regulation<sup>28</sup>
- Crude Oil Imports Regulation<sup>29</sup>
- Electricity Directive<sup>30</sup>
- Energy Efficiency Directive<sup>31</sup>
- Energy Labelling Directive<sup>32</sup>
- Energy Performance of Buildings Directive<sup>33</sup>
- Energy Statistics Regulation<sup>34</sup>
- Euratom Supply Agency Statues Council Decision<sup>35</sup>
- Financial Assistance in the Field of Energy Regulation<sup>36</sup>
- Gas Directive<sup>37</sup>
- Hydrocarbons Directive<sup>38</sup>
- Infrastructure Regulation<sup>39</sup>

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<sup>27</sup> Regulation (EC) 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators.

<sup>28</sup> Regulation (EU) 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) 913/2010 and repealing Regulations (EC) 680/2007 and (EC) 67/2010.

<sup>29</sup> Council Regulation (EC) 2964/95 of 20 December 1995 introducing registration for crude oil imports and deliveries in the Community.

<sup>30</sup> Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC.

<sup>31</sup> Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and repealing Directives 2004/8/EC and 2006/32/EC.

<sup>32</sup> Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products.

<sup>33</sup> Directive 2010/31/EU of the European Parliament and of the Council of May 2010 on the energy performance of buildings.

<sup>34</sup> Regulation (EC) 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics.

<sup>35</sup> Council Decision 2008/114/Euratom of 12 February 2008 establishing Statues for the Euratom Supply Agency.

<sup>36</sup> Regulation (EC) 663/2009 of the European Parliament and of the Council of 13 July 2009 establishing a programme to aid economic recovery by granting Community financial assistance to projects in the field of energy (as amended by Regulation (EU) 1233/2010 of the European Parliament and of the Council of 15 December 2010).

<sup>37</sup> Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

<sup>38</sup> Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons.

- Intergovernmental Agreements Decision<sup>40</sup>
- Network Access for Cross-Border Electricity Exchanges Regulation<sup>41</sup>
- Network Access for Natural Gas Transmission Regulation<sup>42</sup>
- Nuclear Decommissioning Assistance in Bulgaria and Slovakia Regulation<sup>43</sup>
- Nuclear Decommissioning Assistance in Lithuania Regulation<sup>44</sup>
- Nuclear Illustrative Programme (PINC)<sup>45</sup>
- Nuclear Safety Directive<sup>46</sup>
- Offshore Safety Directive<sup>47</sup>
- Oil Stocks Directive<sup>48</sup>
- Petrol Products Consumer Prices and Crude Oil Supply Costs Council Decision<sup>49</sup> and the related Commission Implementing Regulation<sup>50</sup>
- Radioactive Waste and Spent Fuel Directive<sup>51</sup>
- Renewable Energy Directive<sup>52</sup>
- Security of Electricity Supply Directive<sup>53</sup>

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<sup>39</sup> Regulation (EU) 256/2014 of the European Parliament and of the Council of 26 February 2014 concerning the notification to the Commission of investment projects in energy infrastructure within the European Union, replacing Council Regulation (EU, Euratom) 617/2010 and repealing Council Regulation (EC) 736/96.

<sup>40</sup> Decision 994/2012/EU of the European Parliament and of the Council of 25 October 2012 establishing an information exchange mechanism with regard to intergovernmental agreements between Member States and third countries in the field of energy.

<sup>41</sup> Regulation (EC) 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) 1228/2003.

<sup>42</sup> Regulation (EC) 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) 1775/2005.

<sup>43</sup> Council Regulation (EURATOM) 1368/2013 of 13 December 2013 on Union support for the nuclear decommissioning assistance programmes in Bulgaria and Slovakia, and repealing Regulations (Euratom) 549/2007 and (Euratom) 647/2010.

<sup>44</sup> Council Regulation (EU) 1369/2013 of 13 December 2013 on Union support for the nuclear decommissioning assistance programme in Lithuania and repealing Regulation (EC) 1990/2006.

<sup>45</sup> The legal basis for the PINC is article 40 of the Euratom treaty: "In order to stimulate action by persons and undertakings and to facilitate coordinated development of their investment in the nuclear field, the Commission shall periodically publish illustrative programmes indicating in particular nuclear energy production targets and all types of investment required for their attainment. The Commission shall obtain the opinion of the Economic and Social Committee on such programmes before their publication".

<sup>46</sup> Council Directive 2009/71/EURATOM of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations (as amended by: Council Directive 2014/87/EURATOM of 8 July 2014).

<sup>47</sup> Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC.

<sup>48</sup> Council Directive 2009/119/EC of September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products.

<sup>49</sup> Council Decision 1999/280 of 22 April 1999 regarding a Community procedure for information and consultation on crude oil supply costs and the consumer prices of petroleum products.

<sup>50</sup> Commission Implementing Regulation (EU) 1348/2014 of 17 December 2014 on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency.

<sup>51</sup> Council Directive 2011/70/EURATOM of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste.

<sup>52</sup> Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (as amended by Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 September 2015 amending Directive 94/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources).

<sup>53</sup> Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment.

- Security of Gas Supply Regulation<sup>54</sup>
- Shipments of Radioactive Waste Directive<sup>55</sup>
- Trans-European Energy Infrastructure (TEN-E) Regulation<sup>56</sup>
- Transparency of Gas and Electricity Prices Directive<sup>57</sup>
- Wholesale Energy Markets Regulation<sup>58</sup>

In addition and as specified in the mandate for the Fitness Check, the "interaction between the reporting and planning obligations in the energy *acquis* and in the EU climate legislation were considered as well<sup>59</sup> in this evaluation. Therefore, the Fitness Check also assessed interactions between the Monitoring Mechanism Regulation (MMR)<sup>60</sup> and those reporting obligations within the energy *acquis* which were found to contain such interactions, notably the Renewable Energy Directive, the Energy Efficiency Directive, the Energy Performance of Buildings Directive and the Energy Statistics Regulation.

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<sup>54</sup> Regulation (EU) 994/2010 of the European Parliament and of the European Council of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC.

<sup>55</sup> Council Directive 2006/117/EURATOM of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel.

<sup>56</sup> Regulation (EU) 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision 1364/2006/EC and amending Regulations (EC) 713/2009, (EC) 714/2009 and (EC) 715/2009.

<sup>57</sup> Directive 2008/92/EC of the European Parliament and of the Council of 22 October 2008 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (recast).

<sup>58</sup> Regulation (EU) 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency.

<sup>59</sup> Op.cit.: Fitness Check Roadmap.

<sup>60</sup> Regulation 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision 280/2004/EC.

## 2. BACKGROUND TO THE INITIATIVE

### 2.1. Intervention Logic

As the core of this Fitness Check are those provisions of the different legal acts in the entire EU energy acquis that focus on planning, reporting and monitoring as well as eventual interlinkages and overlaps with the EU climate legislation, the assessment of the intervention logics of the different pieces of legislation focuses on identifying the role that the reporting, planning and monitoring obligations in each respective legislation were intended to play. Hence, the intervention logics presented below only refer to the planning, monitoring or reporting requirements contained in different articles of the respective legal acts and do by no means refer to the overall objectives of these pieces of legislation.

The intended role of these reporting, planning and monitoring requirements is then compared to the role actually performed by these obligations in a later stage in order to assess the respective obligation according to the evaluation criteria (see chapter 6).

As an overview, the intervention logic behind most of the planning, monitoring and reporting obligations analysed in the framework of this Fitness Check are mainly aimed at:

- monitoring compliance with the legislation and/or diverse legal requirements;
- monitoring progress with target achievement (e.g. renewable energy and energy efficiency targets);
- sharing knowledge and best practices with MS and other institutions;
- informing the general public and adding to the transparency of the energy markets;
- reporting trends, developments and insights in order to increase market transparency and collecting data and information for other uses (for example for the Eurostat database).

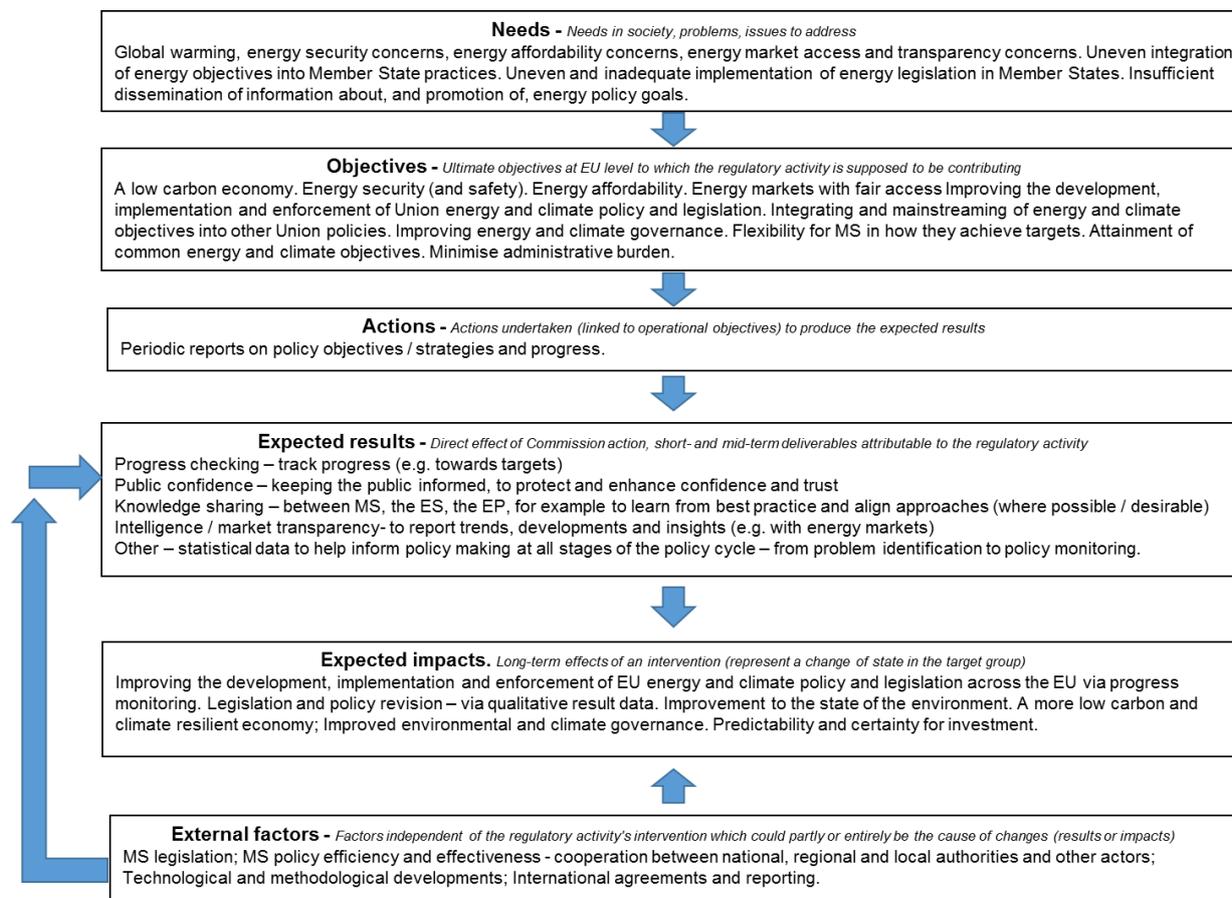
Monitoring compliance is the most widespread intervention logic objective with 52% of the obligations within the scope of this evaluation. 34% of the obligations contribute to the monitoring of progress towards target achievement and 35% of the obligations include the aim of knowledge sharing. In addition 28% of the obligations are identified to be contributing to market transparency and distribution information to the general public while 18 % of the obligations serve data collection purposes<sup>61</sup>.

A graphic representation of the general intervention logic for reporting and monitoring obligations in the EU energy acquis is presented below:

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<sup>61</sup> The numbers do not add up to 100% as one obligation may serve several intervention logic objectives and was therefore counted for each of the objectives it serves.

Figure 1: Intervention logic for reporting and monitoring obligations in the EU energy acquis



While nearly all of the directives within the scope of this Fitness Check also include articles on reporting obligations concerning the transposition and implementation of the respective directive, those are, as stated before, outside the scope of this evaluation.

A detailed overview of the intervention logics of all obligations falling within the scope of this Fitness Check can be found in annex I and annex II.

Following the definition of the scope of the Fitness Check as outlined in the respective chapter in section two, the following obligations are considered to be out of scope as they are one-off evaluations, reports on the implementations of the respective legal act, relate solely to international obligations, only have to be provided ad-hoc or after a specific request. Hence, the following provisions are not considered in the Fitness Check:

Table 1: Obligations outside the scope of the Fitness Check

<b>Legal Act</b>	<b>Reasoning for being out of scope</b>					
	<b>One-off reporting, planning or monitoring obligation</b>	<b>Notification</b>	<b>One-Off Reviews of legal act and report</b>	<b>One-Off Reports on implementation of legal act</b>	<b>Ad-hoc and obligations</b>	<b>Relating to international obligations or other</b>
Connecting Europe Facility	Art. 27					
Delegated Regulation 2012/244/EU <sup>62</sup>			Art. 5 and 6			
ILUC Directive <sup>63</sup>	Art.3			Art. 4		
Ecodesign Directive <sup>64</sup>	Art. 16	Art. 12				
Energy Efficiency Directive	Art. 24(10)	Art. 5, Art. 19(2) and annex V.4	Art. 24(8)	Art. 24(9)		
Energy Labelling Directive			Art.14			
Energy Performance of Buildings Directive	Art. 10(5)		Art. 19			
Energy Star Program Regulation <sup>65</sup>			Art. 13			
Financial Assistance in the Field of Energy Regulation		Art.11 and 27				
Hydrocarbons Directive		Art. 3(3)			Art. 8(1)	

<sup>62</sup> Commission Delegated Regulation (EU) No 244/2012 of 16 January 2012 supplementing Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings by establishing a comparative methodology framework for calculating cost-optimal levels of minimum energy performance requirements for buildings and building elements.

<sup>63</sup> Directive 2015/1513/EU of the European Parliament and of the Council of 9 September 2015 amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources.

<sup>64</sup> Directive 2009/125/EC of the European Parliament and of the Council of 21 October 1999 establishing a Framework for the Setting of Ecodesign Requirements for Energy-related Products.

<sup>65</sup> Regulation 106/2008 of the European Parliament and of the Council of 15 January 2008 on a Community energy-efficiency labelling programme for office equipment as amended by Regulation 174/2013 of the European Parliament and of the Council of 5 February 2013.

Infrastructure Regulation			Art. 11			
Intergovernmental Agreements Decision	Art. 3					
International Convention on Nuclear safety & Commission Decision 1999/819/Euratom <sup>66</sup>						Art.5
Ionising Radiation Council Directive <sup>67</sup>	Art. 101 and 103	Art. 76 and 79				
Joint Convention <sup>68</sup>						Art. 32
Network Access for Cross-Border Electricity Exchange Regulation				Art. 24	Art. 20	
Network Access for Natural Gas Transmission Regulation				Art. 29	Art. 25	
Nuclear Decommissioning Assistance in Bulgaria and Slovakia Regulation	Art. 4					
Nuclear Decommissioning Assistance in Lithuania Regulation	Art.4					
Oil Stocks Directive			Art. 22		Art. 10	
Offshore Safety Directive	Art. 27(4), 39(1), 39(2) and 39(3)	Art. 27(5)		Art. 40		
Radioactive Substances in Water Council Directive <sup>69</sup>					Annex II.1	
Radioactive Waste and Spent Fuel Directive					Art. 4(4) and 13	
Renewable Energy Directive	Art. 17(9), 18(2), 18(9), 19(2), 19(4), 19(6), 23(7), 23(8) and 23(9)	Art. 6, 7, 8, 9, 10 and 11		Art. 23(10)		

<sup>66</sup> Commission Decision 1999/819/Euratom of 16 November 1999 concerning the accession to the 1994 Convention on Nuclear Safety by the European Atomic Energy Community (Euratom).

<sup>67</sup> Council Directive 2013/59/EURATOM of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43 Euratom and 2003/122/Euratom.

<sup>68</sup> Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management & Commission Decision 2005/510/Euratom of 14 June 2005 concerning the accession of the European Atomic Energy community to the 'Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management'.

<sup>69</sup> Council Directive 2013/51/EURATOM of 22 October 2013 laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption.

Security of Gas Supply Regulation	Art. 13(6a)					Art. 13(6b)
Smart Grids and Smart Meters Recommendation <sup>70</sup>	Art. V.15 and V.16					
Smart Meters Roll-Out Preparations	Art. 44					
TEN-E Regulation	Art. 9 and 17	Art. 8				Art. 5(1) and 5(4)
Transparency of Gas and Electricity Prices Directive						Art. 2(2)
Tyres Labelling Regulation <sup>72</sup>			Art. 14			
Wholesale Energy Markets Regulation		Art. 9				Art. 8

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<sup>70</sup> Commission Recommendation 2014/724/EU of 10 October 2014 on the Data Protection Impact Assessment Template for Smart Grid and Smart Metering Systems.

<sup>71</sup> Commission Recommendation 2012/148/EU of 9 March 2012 on Preparations for the Roll-Out of Smart Metering Systems.

<sup>72</sup> Regulation (EC) 1222/2009 of the European Parliament and of the Council of 25 November 2009 on the labelling of tyres with respect to fuel efficiency and other essential parameters.

### 3. EVALUATION QUESTIONS

This Fitness Check is carried out according to the Better Regulation guidelines and assesses the fitness of the reporting, planning and monitoring obligations within its mandate according to the five Better Regulation criteria of effectiveness, efficiency, relevance, coherence and EU-added value. Thus, these evaluation criteria were also explicitly included in the mandate for the Fitness Check<sup>73</sup>.

Regarding **effectiveness**, the Fitness Check identifies the extent to which the current MS' and Commission's reporting, planning and monitoring obligations provide information on the impact of EU policies and what are the quantitative and qualitative effects of these obligations. Furthermore, the Fitness Check assesses whether there is quantitative or qualitative evidence proving that such information is actually used in order to shape EU energy policies.

Concerning **efficiency**, the Fitness Check assesses the extent to which the costs involved are justified given the changes and effects achieved as well as whether the costs are proportionate to the benefits achieved. Furthermore, the overall administrative burden of EU energy reporting, planning and monitoring obligations for MS, the Commission and other stakeholders is assessed.

With regards to **relevance**, the Fitness Check evaluates whether the current planning, reporting and monitoring obligations are well-suited for the objectives of EU energy policy and whether the obligations in each sector is useful for the Energy Union strategy. Furthermore, it assesses whether the existing reporting, planning and monitoring obligations do adapt to technological developments in the field of analytical tools for big data.

As far as **coherence** is concerned, the Fitness Check identifies to what extent the reporting, planning and monitoring obligations for each sector of the EU energy acquis are coherent among themselves and whether interactions among different reporting, planning and monitoring obligations inside and outside the energy field, including the reporting, planning and monitoring obligations contained in the climate legislation, have been taken into account.

With respect to **EU-added value**, the Fitness Check evaluates the extent to which the current reporting, planning and monitoring obligations contribute to the coordination of energy policies at EU level and whether they contribute to the integration of national energy systems.

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See [http://ec.europa.eu/smart-regulation/roadmaps/docs/2016\\_ener\\_024\\_cwp\\_refit\\_reporting\\_planning\\_obligations\\_en.pdf](http://ec.europa.eu/smart-regulation/roadmaps/docs/2016_ener_024_cwp_refit_reporting_planning_obligations_en.pdf).

## 4. METHOD

The Fitness Check has quantitatively and qualitatively assessed the impact, administrative burden and costs as well as the benefits resulting from the planning, reporting and monitoring obligations enshrined in the EU energy acquis and the interaction with reporting, planning and monitoring obligations in the EU climate legislation. The selected legislative obligations considered in the Fitness Check were identified in an internal screening exercise of the whole EU energy acquis by the European Commission undertaken in 2015 and updated where necessary throughout 2016. As a general rule, the analysis in this report is retrospective assessing the obligations in force as well as the costs and benefits of planning, reporting and monitoring obligations as performed up to the beginning of 2016.

The Fitness Check evaluation was launched in the beginning of January 2016 after the respective roadmap had been approved in December 2015 and undertaken for the first three quarters of 2016. The analysis basically took place on the basis of information and data gathering and on the assessment of the costs and benefits of planning, reporting and monitoring obligations:

First, the gathering of data on the existing reporting, planning and monitoring obligations was conducted and a theoretical assessment of these provisions in order to review the intervention logics of each of the obligations was undertaken. Further, their expected role and impacts were clarified including a general literature review. Second, an assessment of the costs and benefits of planning, reporting and monitoring obligations was undertaken and third, the existing obligations were evaluated along the five Better Regulation evaluation criteria and based on the information gathered in the first two steps.

### 4.1. Information and data gathering

The Commission launched a dedicated public consultation<sup>74</sup> to underpin the Fitness Check and collected the views, ideas and expertise of the various stakeholders (MS, local and regional administrations, industry and business associations, individual companies and SMEs, research institutions, think tanks and NGOs as well as interested citizens). In addition, the Commission received data and input for this Fitness Check from two interlinked and mutually reinforcing Commission studies<sup>75</sup>. And finally the Commission undertook in-house qualitative and quantitative research and interviews in order to validate the findings and gather additional information.

Regarding the Commission evaluation study, a screening via the means of desk research of the planning, reporting and monitoring obligations being identified as within the scope of the Fitness Check was conducted at the beginning. In this phase reports on already carried out evaluations of the legal acts in question and, where available, existing Impact Assessments conducted for each of the legal acts were collected and screened for already conducted

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<sup>74</sup> A summary of the results of the public consultation can be found in annex II of this Staff Working Document.

<sup>75</sup> The first study being a "1) Preparatory study for the Commission's Fitness Check Evaluation of Planning and Reporting Obligations in the EU energy acquis; 2) Support for an Impact Assessment in view of legislative proposals on streamlining of Planning, Reporting and Monitoring for the Energy Union (Energy Union Governance)" commissioned by DG ENER and the second study on "Possible Streamlining of Climate and Energy Reporting Requirements in Areas with Interlinkages" commissioned by DG CLIMA (i.e. the Interlinkages Study).

evaluations of the planning, reporting and monitoring provisions contained in each of the legal acts. Furthermore, the intervention logic of each planning, reporting and monitoring obligation lying within the scope of this Fitness Check were developed and used to identify the role that these obligations have or were intended to play in each piece of legislation (see chapter 3).

As regards the Interlinkages Study, the analysis took place in two steps. First, a theoretical review of the existing legislative framework in energy and climate was conducted. It identified the areas where energy and climate reporting obligations interlink, overlap and lack consistency. This theoretical analysis was complemented by a review of reports and data in 15 Member States and an identification of possible inconsistencies in information actually reported.

#### **4.2. Costs and benefits of planning and reporting obligations**

To assess the costs associated with each of the obligations in the scope of the Fitness Check, the methodology of the Standard Cost Model as described in tool 53 of the Better Regulation Toolbox<sup>76</sup> was followed. The assessment of the benefits followed a similar approach building in particular on the typology of costs and benefits provided in tool 51 of the Better Regulation Toolbox<sup>77</sup> and included both, direct and indirect regulatory benefits. The information and data necessary for this model and for the calculation of the man-days needed in order fulfil each obligation as well as for the assessment of benefits resulting from planning, reporting and monitoring obligations were collected from various sources including databases like Eurostat, information collected during the theoretical screening part of the study and a dedicated survey of public servants at EU and MS level as well as information obtained in interviews at MS and EU level. Additional information and data was collected through a dedicated public consultation published on the Your-voice-in-Europe-website (see annex IV for more information). When assessing the data concerning costs and benefits resulting from the obligations within the scope of the Fitness Check, special attention was paid to ensure that the necessary robust quantification mechanisms were used for aggregating the collected data on costs and benefits.

It needs to be highlighted that the Fitness Check did not attempt to perform an exhaustive evaluation or a comprehensive costs and benefits analysis of all the legal acts within its scope, but focused its analysis on those provisions of the acts that relate to planning, reporting and/or monitoring obligations for MS and the European Commission<sup>78</sup>.

As mentioned, a survey of policy officers in all MS was conducted in the framework of one of the studies contribution to this Fitness Check. The survey was sent out to responsible policy officers for the various reporting and planning obligations in all 28 MS, but no replies were received from four MS (Denmark, Italy, the Netherlands and Sweden). The MS selected for subsequent interviews were Austria, Belgium, Denmark, Ireland, Italy, France, Germany, Greece, Latvia, the Netherlands, Poland, Portugal, Romania, Slovakia, Spain and the United Kingdom. The MS selected for the interview part of the study reflect a range of different criteria such as geographical mix, size, labour costs and productivity, sector relevance, time of

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<sup>76</sup> See: [http://ec.europa.eu/smart-regulation/guidelines/docs/br\\_toolbox\\_en.pdf](http://ec.europa.eu/smart-regulation/guidelines/docs/br_toolbox_en.pdf).

<sup>77</sup> Ibid.

<sup>78</sup> This includes obligations for Commission Agencies such as ACER or entities such as ENTSO-G and ENTSO-E, but also MS agencies such as TSOs and NRAs.

being an EU MS and differences in the implementation and enforcement practices of energy and climate policies. In order to ensure coherence, a similar set of MS (same list as above, but excluding Ireland, Italy, the Netherlands and Portugal) was analysed by the second study on interlinkages of the energy acquis with the climate field. The online survey targeted public servants at MS and EU level that are directly involved with the various planning, reporting and monitoring strands. The survey was open from 22 February to 24 March for MS and from 28 February to 8 April for the European Institutions. The survey was sent to a total 803 potential respondents<sup>79</sup> in the MS and a total of 110 replies providing 247 obligation specific responses<sup>80</sup> were received. Unfortunately, only a very limited number of officials at the European level provided a reply to the survey (only five replies received in total), which means that no quantification of costs and benefits at the EU level was possible. However, in-depth interviews with 17 MS representatives and 19 Commission officials (including one from Eurostat and one from ACER) to further deepen the understanding and gather additional data were conducted by the consultant. These also enabled the establishment of qualitative estimates for the costs and benefits of the various monitoring obligations at EU level.

The involvement of other stakeholders in the Fitness Check on planning, reporting and monitoring obligations in the EU energy acquis was ensured at different stages of the evaluation and by a variety of different fora. A Public consultation was launched by the Commission on 11 January 2016 and open until 22 April 2016. The public consultation, which was answered by 103 stakeholders via the electronic template and by an additional 35 stakeholders submitting their replies via the functional mailbox of the consultation, provided valuable input to the Fitness Check exercise (for more information on the outcome of the public consultation see annex IV)<sup>81</sup>. In addition, the Commission organised comprehensive and dedicated in-house meetings involving the policy officers directly involved in the assessment of the different MS' reports and plans as well as the monitoring at EU level in March and April in order to complement and cross-reference the data and information obtained in the study. Therefore, the involvement of the Commission officials as important stakeholders was fully ensured. In addition and to ensure the full involvement of MS, a dedicated Technical Working Group on National Energy and Climate Plans was set up and so far four meetings with MS representatives were organised in Brussels on 6 October 2015, 15 December 2015, 5 April 2016 and on 21 June 2015 to discuss *inter alia* the Fitness Check and the related streamlining exercise.

### **4.3. Limitations – robustness of findings**

The additional consultations conducted by the Commission itself, notably discussions inside the Commission with the policy officers in charge of the respective obligations and in the meetings of the Technical Working Group, served as a cross-check of the data obtained through the studies conducted by external consultants. No major discrepancies between the two sets of information were identified.

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<sup>79</sup> For 43 of these potential respondents, the emails bounced back but several potential respondents forwarded the link to the surveys to colleagues involved thereby increasing the total number of potential respondents by approximately 50 to 60 people.

<sup>80</sup> This is due to the fact that one respondent can be responsible for several obligations and therefore also can provide several datasets.

<sup>81</sup> Most contributions were received by Industry Associations and private companies with 46% of replies, national public authorities (national, regional or local government) with 18% and Non-Governmental Organisations with 14%.

While the collection of data on the costs and benefits resulting from the various reporting and planning obligations for the MS could be achieved via the survey, similar quantified cost and benefit figures could not be established for the costs and benefits resulting from the various planning and monitoring obligations entrusted to the European Commission and its Agencies through this quantitative method. Consequently, the assessment of the costs, administrative burden on the Commission as well as of the resulting benefits had to be done by relying on qualitative data obtained in interviews with the respective staff working on these obligations. Due to the smaller number of involved staff in comparison to the national administrations of all 28 MS, this different approach and non-quantification of cost related data at the European level does not compromise the quality and robustness of the findings of this evaluation.

Despite the high number of replies to the survey on the assessment of costs and benefits of reporting, planning and monitoring obligations, for some obligations only a limited number of replies provided quantitative data, which could limit the robustness of the findings of the Fitness Check for certain obligations. This limitation was taken into account when analysing the concerned obligations and this limitation is clearly stated in the analysis in following chapters. This also explains the fact that for a very little number of obligations<sup>82</sup>, not enough evidence could be collected to allow for an assessment of the costs and benefits of these obligations or for an evaluation along the five Better Regulation criteria. Consequently, the Fitness Check did not provide any conclusions or recommendation for the integration of these obligations (article 5(4) of the Energy Performance of Buildings Directive, article 24(5) of the Energy Efficiency Directive and article 19(5) of the Renewable Energy Directive), as also not enough information on these obligations could be gathered during the internal Commission interviews to allow for a sound recommendation. The findings and recommendations for the other obligations are however firmly based on an extensive analysis conducted in chapter 6 of the Fitness Check and can therefore be considered to be robust and sound.

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<sup>82</sup> This concerns basically article 5(4) of the Energy Performance of Buildings Directive, article 24(5) of the Energy Efficiency Directive and article 19(5) of the Renewable Energy Directive.

## 5. STATE OF PLAY AND RESULTS OF THE EVALUATION

In this section we review how the planning, reporting and monitoring obligations in the different legal acts within the energy acquis have performed regarding the costs, administrative burden they represent. In addition the benefits produced by each obligation are assessed and their performance is evaluated with regards to their objectives as identified in their intervention logics. This chapter does not only relate to the obligations contained in the energy legislation but will also assess the interlinkages with the climate field, notably with the reporting, planning and monitoring obligations contained in the MMR. Furthermore, we aim to assess the extent to which the existing reporting, planning and monitoring obligations are in line with the objectives of the Energy Union and its governance system.

An underlying shortcoming of the existing system of planning, reporting and monitoring within the energy acquis is the fact that the different obligations were not always designed keeping in mind the obligations contained in other legal acts. This situation is mainly due to the fact that the reporting, planning and monitoring system was not designed at the same moment in time but gradually developed over several years with the oldest obligations being part of this Fitness Check dating from 1957<sup>83</sup> and several additional obligations being added over different times during the past 60 years. This however does not mean that no coordination or efforts to simplify and modernise the reporting, planning and monitoring system were made, but up until today, no complete evaluation of all these obligations within the EU energy acquis was undertaken.

As the study has shown, the Commission in the past did its utmost when suggesting new legislation to ensure that only data, reports and plans needed for this obligation are requested and that the requested information is *inter alia* coherent with the obligations contained in other pieces of legislation in order to avoid overlaps and duplications. Furthermore, over the past years several attempts were made when updating existing legislation to ensure continued efforts of improving the reporting, planning and monitoring contained in these legislative acts, for example the study showed continued efforts undertaken in the past to streamline the obligations contained in the Renewables Directive among other by the introduction of a template. However, despite these efforts the current Fitness Check still identified further streamlining potential concerning the Renewables Directive (see chapters 6 and 8) which underlines the usefulness and comprehensiveness of the current exercise.

Furthermore, in 2013 a limited streamlining exercise was launched by DG Energy and DG Regional and Urban Policy in the form of a report on the screening of existing reporting and planning obligations of the Commission and the MS<sup>84</sup>. The report identified 65 different reporting obligations and suggested the merger of 43 of these obligations into 14, the unchanged maintenance of 17 reports and the abolishment of five reports. However, only a small number of the obligations analysed in the 2013 report are within the scope of the current Fitness Check because they fall within the exclusion criteria defined in chapter 2. Of the 24 obligations from the 2013 exercise that fall within the current Fitness Check, 16 were

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<sup>83</sup> The obligation for the Commission to produce the PINC is contained in the Euratom Treaty signed 25 March 1957. The next oldest obligation still in force and within the scope of the Fitness Check is the Hydrocarbons Directive which came into force on 30 May 1994.

<sup>84</sup> Defaa, Walter & Lowe, Philip, *Streamlining Reporting Requirements; Report of Working Group 14 – Screen internal and external reporting requirements and propose way forward*, Brussels, 10 June 2013.

suggested for merger, five to be maintained unchanged and three were suggested to be repealed. Unfortunately, the immediate follow up to this 2013 report was rather limited<sup>85</sup>. For example none of the obligations recommended for abolishment was repealed so far and only a limited number of the recommended changes and mergers took place<sup>86</sup>. In order to address this shortcoming, the current Fitness Check also suggests for those obligations that were already evaluated in the 2013 exercise to follow up on the then made recommendations.

## 5.1. Infringements

Another problem identified in the research connected to the existing planning, reporting and monitoring framework contained in the EU energy acquis, is related to the implementation of the various directives and the timely submission of reports and plans by MS. Quite often, the Commission has to contact MS and remind them to submit their reports or plans, which can consequently, if reports or plans are only submitted with a delay, lead to a late fulfilment of the respective and linked monitoring obligations by the Commission. The main reasons identified for these difficulties by MS in submitting reports or plans in time are the time-consuming nature of some obligations and the need to trace back and collect data from national as well as European sources. To this extent, 155<sup>87,88</sup> infringement procedures linked to reporting obligations within the energy acquis have been launched by the European Commission over the past twelve years.

The large majority of these infringement cases were linked to obligations in the renewables sectors and here mainly to the two directives that were streamlined in the framework of the Renewable Energy Directive. 38 infringement cases were related to reports required under article 3(3) of directive 2001/77EC<sup>89</sup> on the biannual renewables progress reports. Furthermore, 53 infringement cases were launched in relation to article 4(1) of directive 2003/30/EC<sup>90</sup> on the annual progress reports and eight infringement cases in relation to article 3(1) of the same directive on the minimum proportion of biofuels. Under the new Renewable Energy Directive, nine infringement procedures were launched in relation to articles 4(1) and 4(2) which provide the legal basis for the NREAPs and another six procedures were launched concerning article 4(3).

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<sup>85</sup> The reporting frequency in article 9 of the Nuclear Safety Directive was changed, the Regulation 617/2010 was replaced in 2014 with the new infrastructure regulation, but which did not change the original obligations contained in regulation 617/2010 and in 2013 three Council regulations (549/2007, 1990/2006 and 647/2010) were merged into two new regulations (the Nuclear Decommissioning Assistance in Bulgaria and Slovakia Regulation and the Nuclear Decommissioning Assistance in Lithuania Regulation).

<sup>86</sup> A more detailed analysis of the follow-ups and measures taken to the 2013 streamlining report is available in the study "1) Preparatory study for the Commission's Fitness Check Evaluation of Planning and Reporting Obligations in the EU Energy Acquis; 2) Support for an Impact Assessment in view of the legislative proposals on streamlining of Planning, Reporting and Monitoring for the Energy Union (Energy Union Governance)".

<sup>87</sup> Data from the Infringement Database of the European Commission NIF/MNE.

<sup>88</sup> Nine of these cases related to the notification obligation in article 15(4) of the Radioactive Waste Council Directive and one relates to obligations contained in the predeceasing legal acts to the Ionising Radiation Council Directive, which is also outside the scope of the Fitness Check. Additional three infringement cases were by accident encoded twice in the infringement database.

<sup>89</sup> Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market [N.B.: repealed and replaced by the Renewables Directive on 23 April 2009].

<sup>90</sup> Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport [N.B.: repealed and replaced by the Renewables Directive on 23 April 2009].

The second largest field of infringement procedures within the energy acquis was energy efficiency with a total of 26 infringement cases. 19 of these cases related to the establishment of NEEAPs under article 14(2) of the Old Energy End-Use Efficiency Directive<sup>91</sup>. Another three cases were related to article 4 of the Energy Efficiency Directive and four infringement cases concerned article 14(1).

One infringement case was launched in relation to article 5(2) of the Energy Performance of Buildings Directive another one was launched concerning article 3(3) of the Energy Labelling Directive.

Since the introduction of the EU Pilot procedures<sup>92</sup> the number of infringements for MS's non-compliance with reporting obligations has steadily decreased due to the increased use of the EU Pilot procedures. In this respect, the Commission has started over 200 EU Pilot Procedures in the past seven years with the view to ensure that MS fulfil timely their reporting obligations. The majority of these pilot procedures related to the Energy Efficiency Directive with a total of 102 pilot procedures<sup>93</sup>, Energy Performance of Buildings Directive with 60 pilot procedures<sup>94</sup>, the Security of Gas Supply Regulation with 32 pilot procedures, the Renewable Energy Directive with 15 pilot procedures<sup>95</sup> and the Radioactive Waste and Spent Fuel Directive with 13 pilot procedures<sup>96</sup>. In the climate field, a total of 12 pilot procedures were opened in 2014 and 2015 related to the MMR. For each case, the Member State concerned complied voluntarily with EU Law and there was no need to open an infringement case.

## **5.2. Evaluation of the different planning and reporting obligations**

The following section contains a detailed analysis of current costs and benefits of each of the planning, reporting and monitoring obligations within the scope of this Fitness Check following the methodology described in more detail in chapter 5. This analysis does not only include the quantified costs and benefits but also the evaluation of each obligation along the five Better Regulation criteria to the extent possible given the above mentioned limitations concerning the quantification of costs and benefits at the level of the European Institutions. As regards the climate sector and in line with the mandate for the Fitness Check of a REFIT evaluation of the energy acquis, the Fitness Check did not assess the planning, reporting and monitoring obligations in the entire climate sector along the five Better Regulation criteria.

Regarding the benefits of the different planning, reporting and monitoring obligations assessed in the Fitness Check, it should also be stressed that a significant part of these benefits concerns climate change mitigation, which – if successful – would entail enormous benefits which however are very difficult to quantify. Therefore, no such quantification of this kind of

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<sup>91</sup> Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC [N.B. repealed and replaced by the Energy Efficiency Directive on 25 October 2012].

<sup>92</sup> An "EU Pilot" is a Commission initiative which aims to find solutions to problems in the application of EU law. It is supported by an online database and communication tool. Through the dialogue in EU Pilot, problems can be often solved more quickly ensuring compliance with the obligations of EU law, to the benefit of the public and businesses.

<sup>93</sup> Twelve of these lead to the subsequent launch of infringement procedures.

<sup>94</sup> One of these pilot procedures lead to an infringement procedure.

<sup>95</sup> One of these pilot procedures lead to an infringement procedure.

<sup>96</sup> Nine of these pilot procedures lead to infringement cases.

benefits was undertaken in the evaluation, but they should be kept in mind when reading the following section.

The **ACER Regulation's** reporting obligation in article 11 aimed at issuing the annual report by ACER was assessed by the supporting study to produce relatively high<sup>97</sup> costs to the agency<sup>98</sup> itself. While the production of this report is considered by ACER to be burdensome, especially concerning data collection, the report is seen by stakeholders as one of the key EU reports on the trends and developments in the electricity and gas markets. As it concerns the five Better Regulation criteria, the report therefore scores high concerning relevance, EU added value and effectiveness. Due to the high burden for ACER in assembling the report, the efficiency was only rated medium.

Concerning the internal reporting tool based on article 13(12) the study assessed the costs of the obligation to be high but without being able to provide quantified data on the obligation. The benefits were assessed as low, with medium values for efficiency and EU added value. Nevertheless, the study also found that despite the burden represented by the obligation, the report is seen as needed by ACER as it addresses regulatory activities of ACER including financial and administrative matters. The Fitness Check assesses the report therefore to be important nevertheless for ensuring transparency and accountability towards EU citizens.

For the obligation in article 34 on the evaluation of the programme and operational activities of ACER the study assessed the resulting costs as medium but without being able to provide detailed cost numbers<sup>99</sup>, while the benefits were evaluated as being high with high results for all five Better Regulation criteria. This good result was confirmed by the internal screening of the Commission, which found the obligation to be useful and of comparatively small costs. It delivers on its aims of increasing transparency and informing on the activities of ACER.

The obligation for MS in article 22 of the **Connecting Europe Facility Regulation** was found by the supportive study to produce comparable high costs with the median costs for the fulfilment of this obligation amounting to EUR 26,355 per year of which 25,000<sup>100</sup> were identified as costs for the outsourcing or subcontracting of related work. The median person-days/year needed for each MS in order to fulfil the obligation amount to 20 days/year. While the survey conducted with MS showed that the reporting obligation is assessed as providing some benefits and the study assessed the overall benefits as high, the interviews within the Commission itself as well as the study showed that the data received via this obligation is not

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<sup>97</sup> The definition for the classification of costs as low, medium or high in the study is as follows:

- Low: cost (of a median country) is below or equal to the first quartile of the distribution of costs of all obligations;

- Medium: cost is between the first and last quartiles;

- High: cost is higher or equal than the last quartile.

<sup>98</sup> As outlined in chapter 5, quantitative cost data for the Commission and its agencies such as ACER could not be established via the survey. This means that this data could not be quantified, but relies on qualitative data obtained in the interviews conducted, which is also the reason, why no precise numbers were produced by the study but a general assessment was made instead.

<sup>99</sup> This is also due to the fact that so far only one evaluation of ACER took place in 2014 which makes it difficult to provide detailed median annual cost figures.

<sup>100</sup> The number has to be interpreted with some caution, as it relies on a limited number of replies (three) with one MS reporting high outsourcing costs.

used by the Commission<sup>101</sup>. The study as well as the internal interviews therefore show a rather low result concerning efficiency as the obligation puts comparatively high costs on MS while the data produced that is not further used by the Commission. This means that the obligation represents an unjustified administrative burden for MS.

For the **Crude Oil Imports Regulation** the MS reporting obligation in articles 2 and 7 the study found that the associated costs are relatively high with median total costs of EUR 27,128, which are to a large part (EUR 26,000) due to costs for equipment and software<sup>102</sup>. The benefits overall of the obligation were assessed as moderate. The reporting for this obligation is currently done mainly via the electronic system EMOS recently implemented. The system itself was identified in the study as being very user-friendly and welcomed by MS. However, the study also showed that at least one indicator collected overlaps with indicators reported by MS to Eurostat and is therefore reported. Based on the information obtained in the study and the internal interviews it can be concluded that despite the high costs the obligation can be seen as efficient with room for improvement concerning coherence.

Article 8 of the regulation obliges the Commission to report monthly on the data received by the MS, an obligation that was found by the study to result in medium annual median costs of EUR 14,481 due to 100 man-days per MS needed for fulfilling the obligation<sup>103</sup>. The resulting report was also shown to be of great value not just for European Institutions but also to a variety of external stakeholders such as petroleum companies, business associations or private entrepreneurs. The internal interviews by the Commission also revealed that the obligation is done annually by the Commission in agreement with the MS (publishing all 12 monthly reports at the same time) and that the data reported and collected is of purely statistical nature. In conclusion, the obligation provides high benefits at reasonable costs while being mainly about statistics.

The **Electricity Directive's** obligation in article 4 was assessed by the study to produce comparatively moderate median costs of EUR 13,279 with the largest part (EUR 10,000) foreseen for equipment and software<sup>104</sup> and requiring on average 15 man days per year per MS. The study furthermore found the benefits to be moderate with medium results for efficiency and effectiveness, mainly due to the fact that the costs are relatively high while some of the indicators<sup>105</sup> reported under the obligation overlap with Eurostat indicators and generally the obligation was identified to be a duplication of the obligation contained in article 37(1e)<sup>106</sup> of the same directive, which put the assessment of the EU added value for this obligation very low. Furthermore, during the interviews conducted within the study, stakeholders identified additional overlap with the obligations contained in article 7(1-4) of

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<sup>101</sup> The Commission is already, independently of this Fitness Check, addressing the issue and an interpretative note on this effect is foreseen for later this year.

<sup>102</sup> However, these costs are based on two countries with one of them reporting significant costs for equipment and software.

<sup>103</sup> It has to be noted however that these numbers rely on one single respondent to the survey (presumably the official at EU level dealing with the obligation).

<sup>104</sup> However, these numbers might be inflated by two MS reporting such high costs.

<sup>105</sup> This concerns notably the energy supply (electricity), the supply/demand balance of electricity and the energy (electricity) demand.

<sup>106</sup> However it needs to be stressed that the obligation contained in article 37(1) is not directed towards MS as such, but towards the NRAs, while article 4 is directed to MS with the opportunity to delegate the obligation to the respective NRA.

the Security of Electricity Supply Directive, which was confirmed by similar findings of the public consultation. In addition the public consultation found the coherence of the obligation with the ten-year network development plans to be worthy of improvements. Based on these findings, the obligation proved overall to be neither cost-efficient nor providing additional value.

For the planning obligation for TSOs in article 22 the study assessed the related costs to be comparatively high but without being able to provide quantified data<sup>107</sup>, therefore only resulting in a medium assessment of the efficiency of the obligation. Overall the benefits were evaluated as moderate with high scores being identified for relevance and the EU added value and a little lower for effectiveness and efficiency. The coherence was only rated as low, which shows that the consistency of the plans which are produced by the TSOs with overall energy policy needs to be improved. The internal interviews done within the Commission showed that the obligation provides valuable information that is not easily available from other sources, which was confirmed by the public consultation that stressed the importance of the obligation. Following from these assessments, the obligation itself proves to be well established and adds value, but the coherence of the measure needs to be further improved.

The reporting obligation for NRAs contained in article 37(1) was found by the study to result in comparatively high median costs of EUR 48,953 with the largest cost component being equipment and software (EUR 45,045)<sup>108</sup> and resulting in median 38 man-days per year per MS. As stated above a partial overlap with the obligation in article 4 was identified and also several indicators<sup>109</sup> were found to be overlapping with indicators reported to Eurostat, but the overall benefits were nevertheless evaluated as high. The study further identified the obligation to provide high added values for effectiveness, coherence and relevance and a lower one for efficiency and EU added value mainly due to the comparatively high costs. Furthermore, the need to ensure coherence with reporting under article 11 of the ACER Directive was identified and the public consultation also showed some overlaps with the obligations in article 7 of the Security of Electricity Supply Directive and a general possibility to increase coherence. In addition, the internal interviews of the Commission showed that the obligation is one of the main reports providing information on the internal energy market for electricity and the data obtained is widely used, which proves the high value of the obligation.

The monitoring obligation for the Commission in article 47 was assessed by the study to result in medium costs for the Commission, but without being able to provide quantified data, while at the same time providing only a mediocre benefits with all five Better Regulation criteria assessed as only being of medium added value. Furthermore the study identified the content of the report to be similar to the ACER annual report on the internal markets in electricity and natural gas (article 11 of the ACER regulation) with the latter being more detailed. Furthermore, the obligation under article 47 was already suggested for merger by the 2013 streamlining exercise. For these reasons, the obligation in the form of a self-standing report seems to provide only little added value.

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<sup>107</sup> The obligation was added only with a delay to the scope of the study and could therefore not be integrated in the survey resulting in only a non-quantified costs and benefits assessment based on interviews and desk research.

<sup>108</sup> However, these numbers might be inflated by two MS reporting such high costs.

<sup>109</sup> Notably concerning: the wholesale electricity price, the volumes of electricity sold on the market, the domestic electricity consumption, the electricity import and export as well as the electricity supply/demand balance.

For the planning obligations under the **Energy Efficiency Directive** under articles 3, 24(2) and annex XIV (part 2) which provide the legal basis for the NEEAPs the study found that these obligation result in quite high median yearly costs of EUR 59,680 with the majority of these resulting from the outsourcing or subcontracting of the work on this obligation (EUR 50,000 of median costs). The median yearly man-days for each MS required for the fulfilment of this obligation were assessed as 49. Concerning benefits, these were assessed as high by the study with the exception of efficiency (mainly due to the high costs) and relevance, which is due to the fact, that the plans were generally qualified as being not easily comparable, quite long and specific, which might limit their impact. The internal interviews done by the Commission confirmed the overall high added value of the obligation, but also the need to improve the efficiency of the obligation. The public consultation furthermore showed that while stakeholders think that the planning obligation is useful and important, the coherence of the obligation with other obligations in the field of energy efficiency would need further improvement and the streamlining of the obligation was favoured by many stakeholders.

The planning obligation for MS contained in article 4 to establish a long term strategy for mobilising investment in the renovation of the national building stock was identified by the study to result in relatively elevated median costs of EUR 29,096 per year mainly resulting from outsourcing and subcontracting (EUR 20,000). The median yearly man-days needed for complying with the obligation are also quite high with 77 days. The benefits of the obligation were assessed as moderate with relevance being identified as comparatively low, while the obligation provided mediocre results concerning efficiency, coherence and EU added value and higher results as concerns the effectiveness. Despite this evaluation, the study also found the obligation to be useful to policymakers<sup>110</sup>. The public consultation also confirmed the usefulness and importance of the obligation, but also identified potential for improving the coherence of the obligation.

For the planning obligation for MS in article 7(9) the study did not provide detailed costs or benefits numbers<sup>111</sup>, but the internal interviews conducted by the Commission showed that obligation has proven relevant in order to that the Commission and other stakeholders are adequately informed about the alternative policy measures taken by MS in order to achieve the energy efficiency targets among final consumers. The public consultation also showed that while the obligation is considered to be useful and an important element, improvements concerning coherence are possible.

The planning obligation for MS contained in article 14(1) and annex VIII on the potential for cogeneration and district heating and cooling was proven by the study to result in the highest median costs per year of all obligations within the Energy Efficiency Directive of EUR 73,666 which are mostly due high outsourcing costs of EUR 60,000 while the median man-days needed per MS to fulfil the obligation were identified as being 44. The overall benefits of the obligation were assessed as low and the study also showed that the overall efficiency, effectiveness and coherence were also rather low, mainly due to some overlaps with Eurostat

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<sup>110</sup> In particular the obligation was found to be more useful than a similar obligation contained in article 10(2) of the Energy Performance of Buildings Directive.

<sup>111</sup> This is mainly due to the fact, that the obligation is basically a one-off planning obligation which should in principle have been outside the scope of the study. Furthermore, as the deadline for this obligation was already in December 2013 it would have been quite difficult to establish detailed cost figures two and a half years later. Due to the importance of the obligation itself, it was however included in the Fitness Check exercise.

reporting. However, at the same time the study collected evidence that the data provided by MS under this obligation is very useful for the Commission and also the public consultation showed that stakeholders see the obligation as a central element of the Energy Efficiency Directive. These results show that while the obligation provides needed data, there is room for improvement in order to make it more efficient, effective and coherent.

The obligation for MS in article 24(1) and annex XIV (part 1) providing the legal basis for the annual progress reports was shown by the study to result only in medium yearly median costs of EUR 4,124 and resulting in 24 median man-days needed per year for the fulfilment of the obligation for each MS. The benefits were overall assessed as high but the study also found that some of the indicators reported under the progress report overlap with indicators already reported by MS to Eurostat<sup>112</sup>. The study found that the effectiveness and relevance for this obligation are high while efficiency, coherence and EU added value were identified as scoring only medium, which is mainly due to the overlaps with Eurostat reporting and the fact that the annual frequency of the reports was deemed by many stakeholders to be too frequent, providing too little added value for the extra work involved. Stakeholders in the public consultation stressed the importance of the obligation and as well the need for this obligation to be more coherent with other energy efficiency related obligations. The above mentioned points therefore show that while the progress reports are generally considered useful, there is room for improvement concerning the timing as well as in tackling the identified overlaps and increase thereby the overall coherence.

The obligation for MS in article 24(6) on energy statistics was proven by the study to result in comparatively low yearly median costs of EUR 655 and 9 man-days per MS, which is mainly due to the fact that the obligation concerns statistical data. Nevertheless, the obligation was identified by the study as only providing low overall benefits with low results for efficiency, relevance and EU added value, which are also due to identified overlaps with indicators already reported by MS to Eurostat<sup>113</sup>. Overall, the obligation provides benefits at very low costs to MS, but there is improvement potential concerning the overlaps with Eurostat.

The monitoring obligation for the Commission on the evaluation of NEEAPs contained in article 24(3) was identified by the study of representing mediocre costs for the Commission of EUR 13,115 and 40 man-days needed for the fulfilment of the obligation<sup>114</sup>. The benefits are assessed by the study as high overall, which was confirmed by the stakeholder's replies in the public consultation that found the obligation indispensable. But the study also found that the goals set out in the intervention logic are not entirely achieved by the reports produced under this obligation. This shows that a further improvement potential for the working of this obligation is present.

The obligation in article 24(11) was not assessed by the study as it does not represent a genuine reporting obligation, but only the obligation for the Commission to publish the reports and plans received by MS. As this only requires minimal resources from the Commission but

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<sup>112</sup> This mainly concerns indicators on the final energy consumption by sector, the total final energy consumption, the primary energy consumption, the fuel input for thermal power generation, the electricity generation from combined heat and power as well as the electricity and heat generation from thermal power generation.

<sup>113</sup> This mainly concerns district heating production.

<sup>114</sup> It has to be noted however that these numbers rely on one single respondent to the survey (presumably the official dealing with the obligation).

results in significant benefits in terms of transparency and providing information to the general public, the obligation can be considered successful.

The monitoring obligation for the Commission contained in article 24(4) was identified by the internal interviews as being comparatively burdensome for the Commission while providing only very little additional benefits especially in the light of Better Regulation, which foresees the consistency and coherence among Union policies and directives as a general goal.

For the monitoring obligation for the Commission under article 24(5) the study was unable to provide quantified data for the costs or benefits of the obligation, but assessed that there might be a potential to increase the coherence of the obligation and reduce the related administrative burden.

Overall the interviews conducted in the framework of the study also mentioned overlaps between the Energy Efficiency Directive and the Energy Performance of Buildings Directive as well as the Energy Statistics Regulation.

The obligation for MS contained in article 3(3) of the **Energy Labelling Directive** was assessed by the study result in moderate yearly median costs of EUR 6,846 which are mainly due to outsourcing and subcontracting (EUR 5,011) and needs on average 10 man-days per MS per year to fulfil the obligation. The benefits were overall assessed as high and while the study proved that the reporting obligations under the directive lead to an overall better compliance with the directive, the overall assessment for the five Better Regulation Criteria was only medium for effectiveness, coherence and EU added value and even only low for coherence. This is mainly due to the fact that a significant overlap was identified with obligations under the Market Surveillance Regulation<sup>115</sup>. This negative view on the obligation was also confirmed by the internal interviews conducted by the Commission.

The monitoring obligation under article 3(4) of the directive was assessed by the study to rather low as it only concerns a synthesis report of the MS's contributions, but without providing quantified data. However, the fact that the report is only a synthesis, also means that the added value of the report is very limited further amplified by the significant overlap that was detected concerning the Market Surveillance Regulation, which leaves compliance checking as the only identified benefit of the reporting obligation and the overall benefits only been assessed as moderate. As the Commission has more effective tools such as EU pilots or infringements to check the compliance of MS, the added value and benefits resulting from this obligation seem questionable.

The MS' planning obligation contained in article 9(1) of the **Energy Performance of Buildings Directive** was identified by the study to result in comparatively mediocre median costs of EUR 2,131 per year which are entirely due to labour costs of on average 18 man-days for each MS per year needed. The study assessed the benefits as moderate with higher results for effectiveness, efficiency, coherence and relevance. Furthermore, several respondents from the MS identified a potential for this obligation to be integrated in the NEEAPs. The internal interviews by the Commission confirmed the benefits identified in association with this

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<sup>115</sup> Regulation 765/2008 of the European Parliament and of the council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93.

obligation but also assessed that the coherence especially with the NEEAPs could be further enhanced. In the public consultation stakeholders considered the administrative burden resulting from the obligation to be rather high while also identifying a potential to increase the coherence of the obligation.

The obligation for MS defined in article 10(2) on the list of existing and proposed measures and instruments was proven by the study to result only in low administrative costs and burdens to the MS of median EUR 1,270 or 15 man-days per year per MS. While the study identified the benefits over all as moderate, it evaluated the efficiency, effectiveness and coherence of the obligation as high but much lower scores were achieved concerning relevance and EU added value. Overall the obligation was not considered useful as a self-standing report neither by the interviews with MS officials who suggested merging the obligation with the NEEAPS, nor by the Commission officials, who considered the information on this subject collected under article 4 of the Energy Efficiency Directive to be much more useful and complete. These results of the study were confirmed by the internal interviews of the Commission.

Concerning the reporting obligation in article 5(2) the study identified the median costs resulting from this obligation to be comparatively high with EUR 36,098 with the largest costs coming from expenses for equipment and software (EUR 20,000) and resulting in 50 man-days per year per MS on average needed to fulfil the obligation. The benefits were assessed as high overall, but the high costs resulted in the efficiency of the obligation being rated as only medium, while the other four criteria were identified in the study as high. Also the interviews with MS officials confirmed the high benefits identified, with most participants expressing their satisfaction with the obligation. Nevertheless, the study also found that the high costs related to the obligation might be reduced by further improving coherence and streamlining the obligation. In the public consultation stakeholders underlined the importance of the obligation but also stressed the potential to increase the coherence of the obligation via streamlining.

The monitoring obligation for the Commission contained in article 9(5) the study was unable to provide an assessment or detailed quantified numbers for costs and benefits, but also identified potentials for improving the coherence of the obligation with other obligations and reducing the resulting administrative burden. Respondents in the public consultation assessed the obligation as providing notable benefits.

The monitoring obligation contained in article 10(3) is closely linked to the above analysed obligation in article 10(2) and as the assessment of this obligation was rather negative, the obligation in article 10(3) was not identified to be much more positive or provide added value or benefits and the internal interviews showed, that the coherence of the obligation should be improved.

Concerning the monitoring obligation contained in article 5(4) the study was unable to provide any quantitative or qualitative data on the costs and benefits related to the obligation.

For the obligation for MS contained in articles 4(1a, b & c) and 5 of the **Energy Statistics Regulation** to submit energy statistics to Eurostat the study found the costs to be medium but without being able to provide quantified data for these obligations. Regarding benefits, these were assessed as moderate with a higher value for efficiency. However, the study identified the obligations as providing only statistical data to Eurostat, which was identified for similar

obligations to only result in comparatively low costs. Furthermore, the survey identified that reporting obligations under this regulation are duplicated by obligations in several other legal acts within<sup>116</sup> and beyond<sup>117</sup> the scope of this Fitness Check. Therefore, the coherence of this obligation with other obligations could be improved.

The reporting obligation for MS in article 6(4) was identified by the study as resulting in comparatively low yearly median costs of EUR 1,495 all resulting from the labour costs of the 15 man-days needed for fulfilling the obligation. The study further assessed the benefits as moderated and provided a mixed evaluation of the obligation along the five Better Regulation criteria with high scores on coherence, low scores on efficiency despite the low costs and medium scores for effectiveness, relevance and EU added value. This shows that the obligation while being useful in order to ensure the quality of the data could benefit from improvements.

The obligation for the Commission to disseminate yearly energy statistics in article 5(5) the study assessed the costs resulting from the obligation to be low but without being able to provide quantified numbers, but stating that since the main aim of the obligation is to disseminate already collected data, the costs should be rather low. The benefits were evaluated as high since the obligation provides the data to the general public and thereby also ensures transparency.

As concerns the obligation for the Commission contained in article 3 of the **Euratom Supply Agency Statues Council Decision**, the study was not able to provide an estimate of the median costs of the obligation<sup>118</sup> but provided results on the benefits resulting from the obligation, which were assessed as moderate. A higher result was found for effectiveness of the regulation and a low result for efficiency, mainly due to the fact, that the reports include a significant amount of additional information not required by the obligation. Furthermore the study did not find the necessity for yearly reports and work programmes convincing. While there might be some potential for improvements, the potential for streamlining with other Commission obligations seems non-existent given the nature and the aims and direction (from the Agency to the Commission) of this reporting obligation of the Agency. This is confirmed by the result of the 2013 streamlining exercise, where this obligation was recommended to be maintained unchanged.

The monitoring obligation in article 28 of the **Financial Assistance in the Field of Energy Regulation** was found by the study to only cause low annual costs, but without being able to provide quantitative data. The benefits were assessed by the study as low with a higher value for efficiency and a lower value for relevance. The internal interviews done by the Commission confirmed the low benefits of the obligations and also identified the entire regulation as being considered to be outdated and also the latest report done by the

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<sup>116</sup> Respondents in the MS survey referred to the Crude Oil Imports Regulation, the Energy Efficiency Directive and the Renewable Energy Directive.

<sup>117</sup> Respondents referred to the Alternative Fuels Infrastructure Directive (Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure) and to Directive 2015/652 (Council Directive 2015/652 of 20 April 2015 laying down calculation methods and reporting requirements pursuant to Directive 98/70/EC of the European Parliament and of the Council relating to the quality of petrol and diesel fuels).

<sup>118</sup> The fact that the obligation is put on the DG of the Euratom Supply Agency is the likely reason for this.

Commission on the European Energy Programme for Recovery<sup>119</sup> concluded that while the programme has delivered good results, "[t]he majority of projects have been completed"<sup>120</sup> with a similar successful assessment being made for the European Energy Efficiency Fund. The study also found the obligation to become obsolete soon.

The obligation in article 5 of the **Gas Directive** to monitor the security of gas supply was assessed by the study to result in mediocre median annual costs for MS of EUR 16,503, which are mainly due to costs for equipment and software (EUR 15,000)<sup>121</sup> and on median 10 man-days per year are needed for the fulfilment of the obligation. The benefits were evaluated as high but the study also identified overlaps of the indicators reported for this obligation with MS' reporting obligations to Eurostat<sup>122</sup> as well as overlaps with the reporting obligation contained in article 41(1e) of the directive. Nevertheless and due to the comparatively lower costs and high benefits of the obligation reported, the study assessed a high score for all Better Regulation criteria but EU added value with a medium result. The internal interviews by the Commission did not entirely support these good results concerning benefits but confirmed the significant overlaps with the reports provided under article 41(1e) of the directive as well as with the obligations under the Security of Gas Supply Regulation. Furthermore, the public consultation also identified overlaps of the obligation with the Security of Gas Supply Regulation.

The obligation for NRAs under article 41(1e) was identified by the study to produce comparatively high annual median costs of EUR 49,351 with the overwhelming part of the costs being attributed to equipment and software expenses (EUR 45,000)<sup>123</sup>. The fulfilment of the obligation also needs a median of 60 man-days per year per MS and the obligation was assessed as providing high benefits. The study identified overlaps of the indicators reported under this obligation with the Eurostat indicators<sup>124</sup> which resulted in a medium assessment of the coherence. Overall the study also proved the importance of these reports and their usefulness for policy making. While the data provided is seen as useful not only by the Commission but also by ACER who makes use of the data for producing EU level analysis, it does not provide the desired transparency, which together with the high costs involved lead to an only medium assessment of the efficiency of the obligation. The other criteria, with the exception of EU added value were rated as high by the study. The internal interviews of the Commission showed that the obligation is one of the main reports providing information on the internal energy market for gas and the data obtained is widely used, which proves the high value of the obligation, while some potential for improvements remain.

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<sup>119</sup> Report from the Commission to the Council and the European Parliament; On the implementation of the European Energy Programme for Recovery and the European Energy Efficiency Fund; COM(2015) 484 final; Brussels, 8. October 2015.

<sup>120</sup> Ibid.

<sup>121</sup> However, these numbers might be inflated by two MS reporting such high costs.

<sup>122</sup> This concerns indicators on energy (gas) supply, the supply-demand balance of gas and the energy (gas) demand.

<sup>123</sup> However, these numbers might be inflated by two MS reporting such high costs.

<sup>124</sup> Namely the following indicators were identified as overlapping: the wholesale gas prices, the percentage of natural gas in primary national energy consumption and in final energy consumption, the net consumption of gas, the gas storage sites capacities and the quantity of liquefied natural gas (LNG) imports.

The TSOs' planning obligation under article 22 was assessed by the study to result in comparatively high costs<sup>125</sup> and moderate benefits, therefore only resulting in a medium assessment of the efficiency while identifying high scores for relevance and EU added value. The study also showed that the coherence of the plans produced by the TSOs needs further improvement as this category was only rated as producing low benefits while overall the obligation is seen as providing important benefits in the form of clear planning relevant to policy decisions on infrastructure investments such as Projects of Common Interest (PCIs). The internal interviews done within the Commission showed that the obligation overall provides valuable information that is not easily available from other sources and the public consultation also showed that most stakeholders see the obligation as being of particular relevance. Following from these assessments, the obligation itself proves to be well established and adds value, but the coherence of the measure needs to be further improved.

The monitoring obligation for the Commission contained in article 52 was assessed by the study to result in comparatively medium yearly costs, but also identified as only delivering moderate benefits with medium results in the areas of efficiency, effectiveness, coherence and relevance. In addition, the study identified the content of the report to be similar to ACER's annual report on the internal markets in electricity and natural gas resulting from article 11 of the ACER Regulation with the latter being identified as more detailed and therefore providing more added value. Furthermore, the obligation under article 52 was already identified by the 2013 streamlining exercise as a candidate for merger. For these reasons, the obligation in the form of a self-standing report does not provide much added value.

The reporting obligation in article 9 of the **Hydrocarbons Directive** was assessed by the study to result in low yearly median costs to MS of EUR 1,689 completely due to 31 man-days needed per year to fulfil the obligation leading to a high evaluation concerning the efficiency of the directive. Overall the benefits were assessed as high, but on the other hand the obligation was identified by the study to have nearly no relevance at all given the fact that the aim of the MS reports is to provide input to the Commissions summary report under article 8(2). However no such report has been issued by the Commission since 1994, a fact that was confirmed by the internal interviews in the Commission, which also showed that the information to be submitted by MS under this obligation can also easily be acquired via the notified tenders. Therefore, this obligation clearly represents an unnecessary administrative burden for MS.

For the Commission's monitoring obligation under article 8(2) no data could be collected on the costs and benefits of the obligation due to the fact that no such monitoring report has been produced since 1994. The internal interviews also revealed that such a report was never requested by the concerned stakeholders and can therefore be considered not to be seen as providing any potential benefits. Furthermore, the obligation was already suggested for repeal by the 2013 streamlining exercise.

The obligations for MS contained in articles 3 and 5 of the **Infrastructure Regulation** were assessed to only cause low yearly median costs of EUR 407 and resulting in only three man-days needed to fulfil the obligation. The study assessed the benefits from the obligation as

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<sup>125</sup> The obligation was added only with a delay to the scope of the study and could therefore not be integrated in the survey resulting in only a non-quantified costs and benefits assessment based on interviews and desk research.

moderate and also found that notable overlaps in the reporting needs exist for these obligations with other reporting obligations notably to ENTSO-E and ENTSO-G which results in lower values assessed for the effectiveness, relevance and added value of these obligations. This view was confirmed by the internal interviews conducted by the Commission and by the public consultation that identified the obligations to be redundant with those concerning the ten-year network development plans under the Network Access for Cross-Border Electricity Exchanges Regulation and under the Network Access for Natural Gas Transmission Regulation. In addition, the public consultation identified duplications of the obligation with similar obligations contained in the TEN-E Regulation and overall several stakeholders also suggested the repeal of the obligation.

For the linked monitoring obligation for the Commission contained in article 10 of the regulation the study was unable to provide quantified data on the costs of the obligation, but assessed effectiveness and relevance as medium with a higher score for efficiency, coherence and EU added value. However, overall the study found the obligation to provide only limited added value, since the data required to be submitted under this regulation is also submitted by MS to ENTSO-E and ENTSO-G as well as gathered through other institutions<sup>126</sup> and in a better and more up-to-date quality. Another shortcoming identified by the study, is the fact, that the projects listed in the MS reports and then taken up in the Commission report might not have been implemented by the project promoters in the end, which significantly diminishes the value of the report and leads to the fact that it is not used to a large extent.

For the monitoring obligation under article 8 of the **Intergovernmental Agreements Decision** the study assessed the costs resulting from it as low, but without being able to produce quantified data, while the benefits were evaluated to be high with high values for efficiency, effectiveness, coherence, relevance and EU added value. However the provided evaluation has to be seen with the limitation that so far only one report under this obligation was produced in February 2016. The obligation was assessed in the internal interviews of the Commission as useful and providing added value in informing the public and ensuring transparency on the Intergovernmental Agreements concluded in the energy field. Furthermore, the 2013 streamlining exercise also suggested to maintain the obligation and the new proposal by the Commission for a revised Intergovernmental Agreements Decision even improved on the transparency by replacing the reporting obligations due every three years with a continuously updated electronic database.

The planning obligation for ENTSO-E under article 8 of the **Network Access for Cross-Border Electricity Exchanges Regulation** was identified by the study to result in comparatively medium yearly costs but without providing quantified data. As concerns the added value of the obligation, the study assessed the benefits as high. On the one hand, the ten-year network development plans are seen as highly needed and relevant for energy infrastructure planning and having an impact on the national level and improving investment decision making, which all resulted in high scores for efficiency, effectiveness, coherence and relevance, the plans only scored low concerning coherence. This is mainly due to an identified redundancy and overlapping with PCI reporting, which is – in difference to the ten-year network development plans – legally binding. The internal interviews conducted by the Commission confirmed the findings of the study and also stressed the need for improvements in the area of coherence with national planning obligations in the energy field, while the

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<sup>126</sup> The provider of global energy and commodities information PLATTS was mentioned in the interviews.

public consultation also confirmed the relevance of the obligation and the need for increased coherence.

The planning obligations for TSOs under article 12(1) was identified by the study to result in mediocre yearly costs but without being able to produce quantified numbers while providing high benefits concerning all five Better Regulation criteria. This is mainly due to the fact, that the regional TSO plans are seen as an important and well justified building block in the context of cross-country energy networks. The interviews in the Commission underlined these assumptions but it was also stressed that the coherence of the regional plans could be further improved. Stakeholders also confirmed the usefulness of the obligation in the public consultation but underlined also the potential for improving the coherence of the plans with overall planning.

The monitoring obligation for the Commission under article 24 was identified by the internal interviews conducted as fulfilled, since the obligation only concerned the monitoring of the implementation of the regulation, but since the reporting on this was to be included in the regular reports under the Electricity Directive, the obligation was wrongly considered to be a regular reporting obligation in the initial screening exercise and added to the scope of the Fitness Check.

The planning obligation for ENTSO-G under article 8 of the **Network Access for Natural Gas Transmission Regulation** was assessed by the study as resulting in medium median annual costs but without providing quantified results. Concerning the benefits, these were assessed as high with the study high results for efficiency, effectiveness, relevance and EU added value. The ten-year network development plans resulting from the obligation were identified as being one of the key bases for the development of energy networks across the EU providing a high value to the Commission and stakeholders, which was confirmed by the public consultation. On the other hand, the study found the coherence of the obligation to be only low, mainly due to the fact of identified overlaps and redundancy with reporting on PCIs. The internal interviews conducted by the Commission as well as the public consultation also identified a need to further improve the coherence of the obligation.

The planning obligation for TSOs under article 12(1) was assessed by the study to result in mediocre yearly costs, but without providing quantified numbers. Furthermore the study found the benefits resulting from the obligation high with the regional plans as being important and well justified elements in the context of cross-country energy networks, especially due to them addressing specific needs and local circumstances. These high benefits justify according to the study the rather effort intensive preparation of the plans and consequently the obligation was assessed as receiving high marks concerning efficiency, effectiveness, coherence, relevance and EU added value. Stakeholders also confirmed the usefulness of the obligation in the public consultation but underlined also the potential for improving the coherence of the plans with overall planning.

Concerning the monitoring obligation for the Commission contained in article 29 of the regulation, the internal interviews showed that this obligation can be considered to have been fulfilled, as the obligation only concerned the monitoring of the implementation of the regulation. However, as this monitoring had to be done in the framework of a regular reporting obligation under the Gas Directive, this obligation was wrongly considered in the initial screening to be a regular obligation within the scope of the Fitness Check.

The planning and reporting obligations for the Commission contained in articles 6(1) and 6(2) of the **Nuclear Decommissioning Assistance in Bulgaria and Slovakia Regulation** and of the **Nuclear Decommissioning Assistance in Lithuania Regulation** were assessed as one by the study, due to the fact that the two regulations are nearly identical. For articles 6(1) the study found the median costs to be mediocre of EUR 32,787 entirely due to labour costs of 100 man-days per year. The study assessed the benefits resulting from these obligations as high with high results for the efficiency, effectiveness, coherence and EU added value of the regulations, while being unable to assess the relevance. The internal interviews of the Commission confirmed the technical nature of the obligation, which was assessed as being very relevant related to the nuclear decommissioning of outdated nuclear reactors in the concerned MS.

The reporting obligation for the Commission in articles 6(2) of the regulations was assessed by the study to result in exactly the same median costs as the planning obligation of EUR 32,787 resulting from 100 man-days and was also assessed as providing high benefits regarding efficiency, effectiveness, coherence and EU added value.

For the obligation for the Commission in article 40 of the Euratom Treaty on the obligation to produce a **Nuclear Indicative Programme (PINC)** the study was unable to provide any indication regarding the costs of the obligation but assessed that it provides moderate benefits, with higher scores for coherence<sup>127</sup>. The internal interviews conducted by the Commission however showed that the obligation is considered of high benefit and also that nuclear energy investments presented in MS national plans could serve as an input for the next PINC (and replace the respective existing MS obligations for the PINC) and national progress reports could feature progress on these investments. The State of the Energy Union would allow tracking aggregate progress made based on MS progress reports and compare with PINC projections.

The obligation for MS to conduct international peer reviews contained in article 8(e1) of the **Nuclear Safety Directive** was assessed by the study to result in median annual costs of EUR 2,900 for each MS mainly due to 30 man-days per MS needed to fulfil the obligation. The study assessed the benefits of the obligation overall as moderate with higher scores for efficiency, effectiveness and relevance. However, the study also identified overlaps with obligations under the International Atomic Energy Agency (IAEA), especially with the Safety Convention<sup>128</sup> and suggested to increase the coherence respectively – a suggestion that has already been implemented by the Commission in the form of an agreement with the IAEA in order to ensure coordination. The internal interviews by the Commission also showed that the obligation is not an entirely regular reporting obligation, since the article does not provide for a date when reports would be due, but only stipulates, that they have to be done at least once every ten years starting from the date of the entry into force of the directive. This applies equally to the obligation in article 8 (e2&3).

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<sup>127</sup> One reason for this limited data on the obligation is that it was only identified as being within the scope of the Fitness Check after the study was already launched. Therefore, it could no longer be included in the survey and interviews and also the remaining time for desk research was shorter.

<sup>128</sup> Convention on Nuclear Safety of the IAEA adopted in Vienna on 17 June 1994 and in force since 24 October 1996.

Concerning the obligation to conduct topical peer reviews in article 8(e2&3) the study assessed the costs to MS to amount to median annual costs per MS of EUR 25,779 with the largest part of the costs being due to software and equipment<sup>129</sup> and a need of 30 man-days for fulfilling the obligation. The benefits of the obligation were identified by the study as moderate with a higher assessment for efficiency and effectiveness, but also with a need to improve coherence especially concerning overlaps with the Safety Convention of the IAEA.

The two-off obligation in article 9(1) for MS to report on progress made with the implementation of the directive was assessed by the study to produce comparatively medium median costs of EUR 3,810 per year and 15 man-days annually while providing moderate benefits with a higher result for efficiency. The obligation was suggested in the 2013 streamlining exercise to be maintained but with a changed reporting cycle from every three years to every six years. This recommendation was already implemented by the Council Directive 2014/87/EURATOM<sup>130</sup>.

For the Commission monitoring obligation in article 9(2) the study identified the annual costs for this obligation to be EUR 26,230 resulting from 80 man-days needed<sup>131</sup>. The study found the obligation to provide moderate benefits with a higher score for efficiency but low results for effectiveness and relevance. Furthermore, results from the survey show that the Commission assesses the obligation as delivering substantially on the goal of compliance checking.

The obligation contained in article 25(1) and annex IX (point 3) of the **Offshore Safety Directive** was assessed by the study to result in medium median costs of EUR 9,344 resulting from 180 man-days needed to fulfil the obligation<sup>132</sup>. The benefits resulting from the obligation were assessed by the study to be high and the obligation is overall considered as being very effective with the study finding that the risk of accidents having decreased as a result of the directive. The internal Commission interviews further showed that the reporting format for the obligation prescribed in an implementing regulation<sup>133</sup> is well working with no overlaps identified by the study.

For the monitoring obligation of the Commission in article 25(3) the study was unable to produce precise cost numbers but assessed that the obligations provides high results for coherence, relevance and EU added value based on the high appreciation of the reports from the MS resulting from article 25(1) that form the basis for these reports. The obligation itself was however suggested by the 2013 streamlining exercise to be merged with other obligations, which points to some potential for improving the coherence of the obligation, which was confirmed by the internal interviews conducted by the Commission.

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<sup>129</sup> It has to be noted that the cost numbers for this obligation were largely inflated by one MS stakeholder reporting comparatively high costs for equipment and software.

<sup>130</sup> Council Directive 2014/87/EURATOM of 8 July 2014 amending Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations.

<sup>131</sup> It has to be noted however that these numbers rely on one single respondent to the survey (presumably the official dealing with the obligation).

<sup>132</sup> Only one country provided costs figures for this obligation and as a consequence, results for this obligation should be carefully interpreted.

<sup>133</sup> Commission Implementing Regulation 1112/2014 of 13 October 2014 determining a common format for sharing of information on major hazard indicators by the operators and owners of offshore oil and gas installations and a common format for the publication of the information on major hazard indicators by the Member States.

Concerning the obligation contained in article 6(2) of the **Oil Stocks Directive** the study identified the annual media costs as medium with EUR 2,410 and 10 man-days needed to comply with the obligation, as MS have established a lean processes for the collection of the needed data. Overall the benefits of the obligation are assessed as moderate by the study with higher values for effectiveness and relevance. Identified possible improvements concern coherence, especially concerning coordination with the collection of various indicators and regarding EU added value, concerns on the transparency and accuracy of the reported stocks was voiced. The study also showed that the main aim of the obligations under this directive is to ensure compliance with the requirements of the directive, which the study found to be accomplished. Furthermore some overlaps with obligations in articles 12 and 13 of the directive (which have a monthly reporting cycle) and international obligations to the International Energy Agency (IEA) were identified, which resulted in a lower coherence score.

Concerning the obligations in articles 9(4) and 9(5) on specific stocks the study assessed the median annual costs to be low but without being able to provide quantified data. The benefits were evaluated to be low as well with a low result for effectiveness and a medium result in coherence. The low benefits are mainly due to the fact that the obligation was assessed to be redundant with the majority of the information to be reported under these two articles already provided by the obligation in article 6. Furthermore, the study supporting the ongoing evaluation of the Oil Stocks Directive<sup>134</sup> showed that the requirement is not seen as useful by several MS, while the burden was assessed as considerate but manageable. The study also found that the higher indirect costs of choosing the obligation in article 9(4) over the one in article 9(5) actually disincentivizes MS to hold specific stocks at all.

For the obligation contained in article 12 on monthly statistical summaries of emergency stocks, the study found the annual median costs to be medium with EUR 2,595 and 12 man-days, while the benefits are high as the obligation allows following emergency stock dynamics within the EU, especially since similar reporting obligations towards the IEA do not differentiate between emergency stocks and commercial stocks.

Concerning the obligation in article 13 on monthly statistical summaries of specific stocks<sup>135</sup> these are reported by the study to result in high median yearly costs of EUR 50,490 mainly due to high software and equipment costs of EUR 50,000, while the actual reporting burden was assessed as quite low by the study supporting the ongoing evaluation of the Oil Stocks Directive and is only 8 man-days. The directive provides for moderate benefits with a higher assessment for coherence and EU added value. The study found the efficiency, relevance and effectiveness to be only medium mainly due to the perceived too high frequency of the obligation.

For the obligation in article 14 on monthly statistical summaries of commercial stocks the study assessed the median costs as medium with EUR 3,311 and 11 man-days needed while the benefits are found to be high with medium values for relevance and EU added value. For

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<sup>134</sup> Study in support of the mid-term evaluation of the functioning and implementation of Council Directive 2009/119/EC (Oil Stocks) by Trinomics of 20 May 2016; not yet published.

<sup>135</sup> These were so far only submitted by three MS (France, Denmark and Lithuania) that hold specific stocks, but France decided to no longer hold these stocks after 1 January 2016. MS not holding specific stocks have to provide the report under article 9(5).

all the monthly reporting obligations, the study also found that streamlining of these with Eurostat reporting obligations has already taken place, which explains the more or less good results for coherence.

For the MS reporting obligation contained in article 3(1) of the **Petrol Products Consumer Prices and Crude Oil Supply Costs Council Decision** found the median annual costs to be at a medium level with EUR 3,163 and 8 man-days needed to fulfil the obligation while the benefits were assessed as high with a low value for coherence. This is mainly due to the fact that the same data is reported under Crude Oil Imports Regulation and to Eurostat but in various periods with diverging criteria, leaving room to improve the coherence of the obligation.

The obligation under article 3(2) was evaluated by the study as bearing median annual costs at a medium level of EUR 2,483 and 10 man-days while providing moderate benefits, with a lower value for relevance although the study also assesses this obligation as providing the basic statistical data necessary for the oil bulletin publication (resulting from the Commission obligation in article 4), which is seen by many stakeholders as a very useful and valuable tool.

For the two obligation for the Commission resulting from article 4 (publication of crude oils supply costs monthly and the weekly oil bulletin) the study found the monthly obligation to result in low level costs of EUR 7,240 from 50 man-days needed<sup>136</sup> to fulfil the obligation. The benefits were assessed as high with high values for all five criteria. For the weekly obligation, the study found the median annual costs to be medium with EUR 28,962 resulting from 200 man-days<sup>137</sup>. The benefits were measured to be high with the resulting publication (the weekly oil bulletin) being assessed by the study and the internal interviews by the Commission as extremely important and valuable not just to the Commission but to a wide range of stakeholders from MS, the European Central Bank, industry and business associations, consultants, researches as well as press officers.

For the obligations under the Petrol Products Consumer Prices and Crude Oil Supply Costs Council Decision currently negotiations are ongoing in order to transfer the transmission of the statistical data reported under the decision from DG Energy to Eurostat which would allow to further increase coherence in data collection while allowing DG Energy to focus on the analysis of data.

Concerning the MS reporting obligation in article 14(1) of the **Radioactive Waste and Spent Fuel Directive** the study found the annual median costs for MS related to the fulfilment of the obligation to be low with EUR 1,310 per MS and on median 15 man-days per year needed. The benefits are assessed as moderate with higher values for efficiency and effectiveness, but a low result for EU added value and only a medium result for coherence. The lower values for coherence and EU added value can be attributed to identified overlaps with reporting obligations in the Shipments of Radioactive Waste Council Directive under article 20(1). The need to improve the coherence of the obligation was confirmed by the internal interviews of the Commission.

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<sup>136</sup> Idem.

<sup>137</sup> Idem.

For the MS obligation to arrange for self-assessments under article 14(3) the study found the related median annual costs to be medium with EUR 5,755 per MS and 30 man-days per year required. The benefits were assessed as moderate with low values for coherence and EU added value. These are mainly due to identified overlaps with reporting obligations with IAEA obligations mainly with the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management<sup>138</sup>. These overlaps with IAEA obligations were also notified by stakeholders during the public consultation.

Concerning the Commissions obligation in article 14(2) the study found the median annual costs to be EUR 32,787 and 100 man-days needed for fulfilling the obligation<sup>139</sup> while the benefits were assessed as moderate with a high result for efficiency but lower values for effectiveness and coherence, mainly due to overlaps found by the study with the Shipments of Radioactive Waste Council Directive and IAEA reporting obligations, namely the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. While the study also found problems in delivering on the intervention logic goals of the obligation namely compliance checking, the internal interviews of the Commission came to a higher evaluation of the obligation which was found to be effectively working and efficiently delivering on its objectives.

For the MS' planning obligation contained in article 4 and annex VI of the **Renewable Energy Directive** the study evaluated the resulting median annual costs to be at a medium level with EUR 10,309 with the cost resulting to nearly half-half from outsourcing and 90 man-days needed to fulfil the obligation. The benefits overall were rated high for the obligation with high scores for all five Better regulation criteria, but the study also found a potential for further improving the coherence and reducing the administrative burden associated with the obligation, which was confirmed by the internal interviews conducted by the Commission. The public consultation confirmed the importance of the obligation as stakeholders identified the obligation as one of the key provision within the NREAPs that should be maintained in content while at the same time stressing an existing potential to increase the coherence of the obligation with other obligations via streamlining.

Concerning the reporting obligation for MS contained in article 22 the study found the median annual costs to be at a medium level with EUR 4,407 mostly resulting from labour costs of 40 man-days needed to fulfil the obligation. The study found the obligation to provide high benefits also with high values for all five criteria despite some incoherence identified with reporting obligations to Eurostat especially concerning indicators<sup>140</sup>. The report was found by the study to be of high value as without it, the data resulting from it would not be available limiting significantly the understanding of the measures taken by MS and the results achieved. The study also found the template developed by the Commission for this obligation to have facilitated the reporting and having already reduced the resulting burden by streamlining. The obligation was furthermore classified by stakeholders in the public consultation as indispensable and the internal interviews done by the Commission confirmed the high value of

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<sup>138</sup> Joint convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management adopted on 29 September 1997 and entering into force on 18 June 2001.

<sup>139</sup> It has to be noted however that these numbers rely on one single respondent to the survey (presumably the official dealing with the obligation).

<sup>140</sup> This notably concerns the indicators on the actual consumption of energy from renewable sources in the preceding two years and the sectorial and overall shares of renewable sources.

the obligation, but also showed that further improvements especially concerning coherence are possible. This was confirmed by the comments made by MS stakeholders during the survey and interviews conducted in the framework of the study, who identified overlaps of the obligations under the Renewable Energy Directive with the SHARES data from Eurostat, the Energy Efficiency Directive and the Energy Statistics Regulation.

For the Commission's monitoring obligation to produce progress reports under articles 17(7) and 23(3) the study assessed the costs of the obligation to be at a high level, but without being able to provide quantified data on this. The benefits were considered to be high as well but with medium values for efficiency and EU added value, mainly because of the data used for the report from Eurostat is often only available with a delay of two years. The obligations were also recommended by the 2013 streamlining exercise to be merged. For article 17(7) on the sustainability of biofuels, the study found the obligation to be redundant and obsolete as it no longer corresponds to the current trends observed in the biofuels industry and therefore an adaptation might be needed. Also overlaps with the Alternative Fuels Infrastructure Directive<sup>141</sup> were identified by the study. The internal interviews by the Commission showed an improvement potential concerning the coherence of the reports.

Regarding the Commission's monitoring obligation in article 19(5) the study found the related costs to be at a high level but was unable to provide quantified numbers for this obligation. The benefits could not be assessed but correlations to the Fuel Quality Directive<sup>142</sup> as well as to the ILUC Directive were found.

Concerning the obligation for the Commission in article 24, the study found the costs of the obligation to be at a low level, however without being able to provide quantified figures and only providing moderate benefits, while scoring high for all five Better Regulation criteria. While the study concluded that the publication of the available reports increases the transparency in principle, it also concluded that there is no need for a separate platform to achieve this goal. The internal interviews of the Commission also showed that this obligation might not be the right vehicle for doing so since a dedicated transparency platform just for the renewables directive might not make use of possibilities for reducing costs by streamlining.

For the MS' obligation in article 7(1-4) of the **Security of Electricity Supply Directive** the study found the annual median costs to be medium with EUR 2,834 mainly resulting from 10 man-days needed to fulfil the obligation. The benefits were assessed as high with medium values for coherence and low for EU added value. This is mainly due to identified overlaps with reporting obligations to ACER and articles 4 and 37 of the Electricity Directive. These overlaps were also confirmed by the opinions expressed by stakeholders in the public consultation, who in addition mentioned overlaps with the ten-year network development plans. The internal interviews within the Commission confirmed the overlaps identified as well as the low coherence and EU added value of this obligation, which represents an unnecessary administrative burden.

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<sup>141</sup> Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure.

<sup>142</sup> Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC.

Concerning the Commission's monitoring obligation in article 7(5) the study found the median annual costs to be comparatively low, but without being able to provide quantified data. The benefits were also assessed as being only low mainly due to the redundancy of the obligation, as the reporting from the Commission to MS, competent authorities and ACER is based on the obligations in article 7(1-4) and all recipients of the report already receive the information contained within it under other obligations. The study also assessed the effectiveness, coherence and EU added value of the obligation as low and the efficiency as medium with only relevance being given a higher score. In addition, the obligation was already suggested for repeal by the 2013 streamlining exercise and the internal interviews done by the Commission as well as the replies submitted by stakeholders in the public consultation also showed the limited added value of this obligation.

Relating to the MS' planning obligation in article 9 concerning risk assessments of the **Security of Gas Supply Regulation** the study found the associated median annual costs to be comparatively high with EUR 57,956 with the main part of the costs coming from EUR 40,500 for equipment and software<sup>143</sup>. The benefits were assessed as high, but with medium results for efficiency, coherence and EU added value.

Concerning the planning obligation for MS in articles 4 and 5 the study found the related costs as high with median yearly costs of EUR 40,956 mostly resulting from high outsourcing and subcontracting costs of EUR 36,000. The benefits resulting from the obligation were assessed as high with medium results for efficiency, coherence and EU added value. The study identified streamlining potential concerning the timing periods and the scope of reporting, but also rated the relevance of the preventive action plans and emergency plans resulting from the obligation as very high. While the envisaged exchange of the national plans should have increased the awareness and coherence overall, the coordination of reporting between MS was assessed as poor by the Commission's Report on the implementation of the Security of Gas Supply Regulation<sup>144</sup> as this exchange did not materialise. The public consultation confirmed the essential nature of the obligations as planning instruments, but also underlined the limited streamlining potential due to their specific nature.

For the Commission's monitoring obligation in article 14 the study evaluated the costs as medium but without providing quantified data but stressing that the administrative costs are significant. The benefits generally assessed as high but with a low result for relevance, EU added value and coherence resulting from the fact that scope and approaches from MS reporting have not been well aligned. Furthermore, the obligation was recommended by the 2013 streamlining exercise for a merger and also the public consultation identified overlaps of the obligation with the obligations under article 5 of the Gas Directive. The new proposal for the revision of the Security of Gas Supply Regulation does propose to not continue the obligation<sup>145</sup>.

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<sup>143</sup> However this figure is based on two countries reporting, with one mentioning quite high costs for equipment and software which might not be the case for all MS.

<sup>144</sup> European Commission (2014); Report on the implementation of Regulation (EU) 994/2010 and its contribution to solidarity and preparedness for gas disruptions in the EU; SWD(2014) 325.

<sup>145</sup> Proposal for a Regulation of the European Parliament and of the Council concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010; COM(2016) 52 final; Brussels 16. February 2016.

Regarding the MS' reporting obligation in article 16(1c) in the **Shipments of Radioactive Waste Directive** the study found the annual median costs to be low with EUR 1,293 and 16 man-days needed per year and MS to fulfil the obligation. The benefits were assessed as moderate with higher results for efficiency and effectiveness, but the study also identified overlaps with IAEA obligations namely with the Convention on Nuclear Safety and the Joint Convention on the Safety of Spent Fuel management and on the Safety of Radioactive Waste Management. Some respondents to the survey reported overlaps with the obligation under article 14(2) of the Radioactive Waste Council Directive<sup>146</sup>.

The obligation for MS in article 20(1) was found by the study to result in low annual median costs of EUR 656 and providing moderate benefits with higher results for efficiency and effectiveness, but a low result for EU added value. Furthermore, the study identified overlaps with IAEA obligations, namely with the Convention on Nuclear Safety and the Joint Convention on the Safety of Spent Fuel management and on the Safety of Radioactive Waste Management, which were also confirmed by the replies received in the public consultation. Survey participants also found overlaps with the obligation under article 14(2) of the Radioactive Waste Council Directive<sup>147</sup>.

Regarding the Commission's monitoring obligation under article 20(2) the study assessed the related yearly median costs for the Commission as high with EUR 106,557 due to the largest part to outsourcing and subcontracting (EUR 100,000)<sup>148</sup> while the benefits were found to be moderate with a lower value for coherence. This is mainly due to the fact that partial overlaps with the Commission monitoring for the Radioactive Waste Council Directive and IAEA obligations, namely with the Convention on Nuclear Safety and the Joint Convention on the Safety of Spent Fuel management and on the Safety of Radioactive Waste Management, were identified in the interviews for the study. Furthermore, the interviews with MS in the framework of the study also showed, that the Commission report is not considered by them as very relevant or having high value, which is contrary to the findings of the internal interviews done by the Commission, where the report was assessed to be of high value despite the high costs to the Commission.

For the reporting obligation of ACER under article 5(5) of the **TEN-E Regulation** the study was not able to produce quantitative data on the costs or benefits. However the study was able to identify, that the obligations under the regulation are generally seen by the Commission as very useful and providing data that would otherwise not be available especially in order to monitor the implementation of Projects of Common Interest (PCIs). A structured online survey has been developed by ACER, the Commission and the competent national authorities in order to facilitate reporting and improve coherence, efficiency and effectiveness. The replies to the public consultation also stressed the importance of the obligation but also identified a potential for improving its coherence especially in relation to similar provisions on the notification of investments in the Infrastructure Regulation.

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<sup>146</sup> While the respondents did not exactly mention which articles are overlapping, an analysis of the content showed that these two are the most likely match referred to by the survey participants.

<sup>147</sup> Idem.

<sup>148</sup> It has to be noted however that these numbers rely on one single respondent to the survey (presumably the official dealing with the obligation).

Concerning the MS reporting obligation in articles 1, 2(1), 3 and in annex I on gas prices of the **Transparency of Gas and Electricity Prices Directive** the study found the related annual medium costs to be at a low level with EUR 1,506 and 20 man-days needed for the fulfilment of the obligation. The benefits were evaluated as moderate with higher results for relevance and EU added value. For the obligation in articles 1, 2(1), 3 and in annex II on electricity prices the study came to similar results with median annual costs of EUR 1,312 and 6 man-days needed. Also the benefits were assessed as moderate. Some problems for these two obligations were identified concerning the coherence, as respondents to the survey identified overlaps with reporting obligations to Eurostat as well as to ACER. The internal interviews of the Commission confirmed this and the study also showed that the current proposal to repeal the directive and the new proposal which will cover the collection of data on natural gas and electricity prices for household and non-household sectors in one legal act is already addressing the issue.

For the Commission's monitoring obligation in article 8, the study evaluated the associated costs to be at a medium level, but without being able to provide quantified data for this, while the benefits were assessed as high. However, the study also confirmed that the information contained in the report is already reported in the ACER report and in addition, the prices reported to Eurostat are publicly available. This view was also confirmed by the 2013 streamlining exercise that suggested this obligation for repeal. Consequently, the new proposal of the Commission for the repeal of the Transparency of Gas and Electricity Prices Directive does not foresee the continuation of this obligation.

For the obligation for ACER in article 7(2 and 3) of the **Wholesale Energy Markets Regulation** the study assessed the resulting annual costs as medium but was not able to provide quantified data. Concerning the benefits the study found these to generally high but with only medium results for efficiency, relevance and EU added value. The report resulting from the obligation is seen as useful and beneficial, but the coherence of the obligation was found to be only low, mainly because of identified overlaps with the Transparency Regulation<sup>149</sup>, which creates a double burden to market participants for providing data in different times and templates. Furthermore, the study found that while the regulation suggests that the report under this regulation can be combined with the report of article 11(2) of the ACER Regulation, this opportunity has not been used thus far which decreases the result for coherence and provides a possibility for improvement, which was also confirmed by the responses of stakeholders in the public consultation.

#### *Interlinkages between energy and climate fields*

Concerning further interlinkages between obligations in the energy and climate fields, ex-post evaluation of climate policies shows that the progress in terms of energy efficiency and renewable energy are among the main drivers behind the emission reductions observed in the recent years. Accordingly, the reporting of information and data in the energy and climate fields are closely interrelated.

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<sup>149</sup> Commission Regulation (EU) No 543/2013 of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council.

A full overview of the MMR obligations and the way they are interlinked with the planning, reporting and monitoring obligations in the energy field is included in the conclusions chapter of this Fitness Check (table 3).

In particular, there are interactions and subsequently possibilities for streamlining the reporting obligations in the Renewable Energy Directive, the Energy Efficiency Directive and the Energy Performance of Building Directive with the MMR, as shown in table 4 in the conclusions chapter which provides a more detailed general overview of streamlining possibilities.

## **6. ANSWERS TO THE EVALUATION QUESTIONS**

The following chapter concludes by providing the key answers concerning the findings of the five central evaluation criteria of effectiveness, efficiency, relevance, coherence and EU added value presented in chapter 4 and which guide the Fitness Check. A more detailed analysis of these five criteria can be found in the respective chapters of the underlying studies<sup>150</sup> supporting the Commission's conclusions.

### **6.1. Effectiveness**

Overall the Commission's Fitness Check found the planning, reporting and monitoring obligations within the EU energy acquis have a positive contribution to the vast majority of objectives of these obligations. Their contribution was assessed to be especially positive in terms of tracking and monitoring compliance with as well as the implementation of the legislation, in order to use the data collected and to provide synthesised information on the issues at hand which could not have been produced otherwise.

Furthermore the evaluation supported by the studies showed that MS regard planning and reporting obligation as relevant to national energy policy making in particular setting up plans monitoring their progress. However, the Fitness Check and supporting studies also found a difference in this aspect between "old" and "new" MS (meaning those that joined after the 2004 enlargement). "Old" MS often already have similar obligations in their national policy framework which limits the effectiveness of EU policies and the respective planning and reporting obligations on national energy policy as EU policies no longer can act as an impetus for change. On the other hand, the study also found that particularly central European countries often had the opposite experience with EU planning and reporting obligation inducing changes in national energy policies. These assessments were confirmed by the survey conducted by the consultant, where 65% of MS respondents had a positive opinion on the role of reporting and planning obligations on policy development with a slightly higher result for renewable energy and for energy markets. Likewise, it was established that the maturity of the corresponding policy in question in the respective MS influences the extent to which the planning and reporting obligations are able to shape and make an active contribution to the national energy policy in the area. In general, the influence of the EU obligations is having a less important contribution in that MS that developed policy in the area in advance of EU level action.

Concerning the Commission, the information collected from MS was assessed by the study to be overall useful in gaining valuable information on how the MSs are progressing with respect to energy legislation and that the large majority of this data would not be available from other sources. In addition, the study also found evidence that this data is used to adjust policy at the EU level thereby helping to shape EU energy policies.

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<sup>150</sup> The Study conducted by DG Energy on the "1) Preparatory study for the Commission's Fitness Check Evaluation of Planning and Reporting Obligations in the EU energy acquis; 2) Support for an Impact Assessment in view of legislative proposals on streamlining of Planning, Reporting and Monitoring for the Energy Union (Energy Union Governance)" pp. 55-89 and the Interlinkages Study conducted by DG CLIMA.

## 6.2. Efficiency

Regarding efficiency, the Fitness Check assessed the extent to which the costs and/or resources used for the planning, reporting and monitoring obligations are justified by the benefits and/or changes resulting from these obligations. While the study was able to quantify the costs related to planning and reporting obligations occurred by the 28 MS to be around EUR 20 million per year, the assessment of the benefits was much more difficult to quantify. This especially concerns the difficulty of assessing what extent of the benefits resulting from each obligation can be attributed to the respective planning, reporting or monitoring obligation in the concerned piece of legislation. However, there is clear theoretical evidence that such obligations are an important part of policy compliance and therefore make an important contribution to the achievement of the policy objectives. The increased compliance with the various provisions in the legal acts resulting from the planning, reporting and monitoring obligations can also be expected to have a large positive impact on the environment and the global climate as the objectives of EU energy policy are more likely to be met, which is especially true to those legal acts relating to the 2020 framework and climate change mitigation. Compared to the huge benefits resulting from successful climate change mitigation, the costs associated with planning, reporting and monitoring obligations can be seen as marginal, which does not mean that there would not be further potential for improvements and cost reductions.

The link between the obligations and overall compliance with legal acts was confirmed by the survey and interviews conducted in the framework of the Fitness Check and the underlying study, where a majority of stakeholders was of the opinion that the administrative burden and costs associated with the respective planning, reporting and monitoring obligations is mostly justified<sup>151</sup> given the achieved benefits and policy changes with of course different results for different obligations<sup>152</sup>. Furthermore, the majority of the stakeholders surveyed were also of the opinion that the EU obligations contribute considerably (39% of respondents) or at least moderately (32% of respondents) to improved compliance, transposition checking, monitoring of the implementation as well as enforcement and performance of EU law, which underlies the overall efficiency of the planning, reporting and monitoring obligations in the EU energy acquis.

The evaluation also concluded that the main actors concerned by the planning, reporting and monitoring obligations in the EU energy acquis are public authorities at the national and EU level, including regulatory authorities and EU agencies. While some large companies are also affected to a certain extent (namely in providing specific energy data to the national public authorities) no evidence of a reporting impact and burden on SMEs was found.

As regards interlinkages with climate reporting some reporting obligations of the MMR overlap to some extent with the obligations of the Renewable Energy Directive, the Energy

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<sup>151</sup> Recommendations for those obligations that were deemed to represent an unjustified burden by stakeholders included the integration of these obligations with other, sometimes overlapping obligations, or the repeal of the concerned obligation.

<sup>152</sup> Overall, obligations in the field of decarbonisation, renewable energy and the internal energy market were assessed even more positively. While obligations relating to energy efficiency were assessed by more than half of the respondents as having made a moderate or even considerable contribution, benefits are not always perceived as considerable in the field of nuclear energy.

efficiency Directive and the Energy Performance of Buildings Directive, as further explained in section 7.3 'Coherence', these overlaps entail inefficiencies.

### 6.3. Coherence

Concerning coherence this Fitness Check found a number of inconsistencies and overlapping obligations within the energy acquis itself as well as between the energy acquis and the climate acquis. Interlinkages and possibilities to streamline have not always been used in the past, even if they were known as is shown by the limited follow-up to the 2013 streamlining exercise done by DG Energy. Within the climate field, streamlining took place in the framework of the adoption of the MMR in 2013.

Furthermore the evaluation and underlying studies found that the current obligations represent some overlaps with MS reporting the same or similar information to several entities or under different legal bases and different entities sometimes producing separate reports on the same or very similar topic. The Fitness Check as well as the underlying studies also found that these duplications are stemming mainly from the inclusion of some general aspects in various reporting obligations in the energy and climate acquis, the overlap of specific pieces of legislation and provision in the EU energy and climate legislation as well as provision that oblige MS to collect and report statistical data, which is in principle already dealt with by Eurostat. These overlaps were also confirmed by the results of the survey, where 41% of MS respondents indicated that they have to report the same data under more than one obligation.

There are also inconsistencies concerning the timing and periodicity of the different planning, reporting and monitoring obligations in the energy field that range from weekly obligations to obligations that have to be fulfilled once every ten years. While the chosen periodicity makes mostly sense when looking at the single obligations, often interactions with other existing obligations are underutilized and a better alignment of the timing and periodicity of reporting obligations could help avoiding overlaps and reduce administrative burden. In addition, the improvement of the coherence of these obligations in terms of frequency could reduce the administrative burden for the concerned stakeholders and limit that present risk that the source data may have evolved in the time between two different obligations leading to different results and conclusions, even though the report concerns similar aspects.

As regards the interlinkages between energy and climate planning and reporting obligations, in terms of *periodicity of the reporting*, there are discrepancies between the climate and energy reporting obligations. In the climate field, MS report to the Commission policies and measures (PaMs) and greenhouse gas emission projections every two years. They also report PaMs in the biennial Project Reports. Renewable energy PaMs and projections are also reported in the NREAPs which is due 'in case of deviation from the indicative trajectory'. In the energy efficiency sector, PaMs are reported in the NEEAP which is due every three years. Due to these differences in terms of periodicity, the information and data cannot be used in several reports thus creating additional administrative burden for the Member States and contributes to the lack of comparability of data as illustrated above.

In terms of *timing of the reporting*, the periodic reporting of greenhouse gas data (i.e. the inventory) under the MMR is due in March. Under the Energy Efficiency Directive, this information is due in April. According to the Renewable Energy Directive, this information is submitted in December. As observed in several Member States, the information which is common to the three reports is most of the time updated between March and December.

Hence, the periodic information reported under energy and climate lacks comparability and the coherence could be improved. In this context, it must be stressed that the timing and periodicity of the climate reporting is constrained by the obligations of the EU and its Member States towards the UNFCCC. For instance, the reporting deadlines for Member States provision of their annual GHG inventories to the EU are aligned in such a way as to enable the timely preparation and submission of the annual EU GHG inventory to the UNFCCC. However, as seen below, the existence of several and uncoordinated reporting and planning obligations in the MMR, the Renewable Energy Directive, the Energy efficiency Directive, the Energy Performance of Buildings Directive and other legal acts within the scope of this Fitness Check entail inefficiencies as confirmed by the analysis of the reports of a large sample of 15 MS done in the framework of the interlinkages study.

Regarding the *lack of data comparability*, data reported under energy and climate legislation are often not directly comparable. In particular, the account rules pursuant to the Renewable Energy Directive on the use of compliant biofuels and bioliquids (Article 17) make it very difficult to impossible to compare the data under this Directive with the data reported in the inventories pursuant to the MMR. The review of the reporting from the Member States confirms that these discrepancies are large.

Moreover and concerning the *duplication of reporting*, one of the consequences of the existence of different reporting obligations in energy and climate is that the Commission or the Member State report several time similar pieces of information<sup>153</sup>. In addition to the duplication of efforts<sup>154</sup>, there is a lack of quality and consistency between these two categories of reporting. The analysis of the reports of the MS indeed shows that the number of energy efficiency and renewable energy PaMs reported by MS pursuant the MMR differ significantly from the number of policies reported pursuant the relevant energy legislation<sup>155</sup>. Similarly, climate and renewable energy projections may differ significantly as observed in the Interlinkages Study by analysing the reports of the selected 15 MS. Furthermore the interlinkages study also found a considerable overlap of reporting of annual energy indicators reporting under article 7(1f) of the MMR with the Eurostat database that represents and unnecessary administrative burden. The lack of coherence between energy and climate reporting and planning obligation can be summarised as followed:

Consequently and on the basis of the above, it is safe to conclude that some of the planning, reporting and monitoring requirements under the energy and under the climate acquis are not entirely consistent and further efforts to increase the coherence of the obligations within the EU energy acquis as well as concerning the interlinkages with the climate acquis are needed.. The lack of integration of planning, reporting and monitoring obligations also means that existing synergies between different obligations within the energy field but also between the energy and climate fields cannot be realised. This increases the risk of fragmentation and may lead to increased and continued incoherence, inconsistencies and duplications of obligations and means that the existing and proven benefits of integrated planning, reporting and

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<sup>153</sup> For example renewable and energy efficiency policies are reported in the NREAPs (Article 22 Renewable Energy Directive) or in the NEEAP (Article 24 Energy Efficiency Directive and Article 10 Energy Performance of Buildings Directive). These policies are in principle also reported separately in the PaM database under the MMR as they contribute to mitigate greenhouse gas emissions (Article 13 MMR).

<sup>154</sup> This also concerns efforts that would duplicate the PaM database like the RES-Legal database aiming at reporting PaMs in the renewable sector. However, it has not been updated for the last two years.

<sup>155</sup> See chapter 5 of the Interlinkages Study for more information on this.

monitoring are not fully taken advantage of, which creates unnecessary burdens and costs while reducing the overall benefits achieved. These identified incoherencies within the EU energy acquis and concerning interlinkages with the climate acquis as well as the identified unnecessary burdens and costs on stakeholders will be addressed by the recommended actions for each of the obligations contained in the conclusions chapter of the Fitness Check.

#### **6.4. Relevance**

As far as relevance is concerned, the results of the Fitness Check are mixed and quite different regarding the various reporting, planning and monitoring obligations assessed. While the majority of the obligations is still evaluated to be of relevance, the Fitness Check also identified several obligations that are deemed to be irrelevant or no longer of use and should be brought up to date (see chapter 8 for more details on which obligations are concerned and will be recommended *inter alia* for a repeal by the Fitness Check).

In general however the survey also showed that MS consider on many accounts that the content of the current planning, reporting and monitoring obligations is still relevant since many of these obligations address issues of relevance to national policy making and help MS in benchmarking themselves against other MS and enabling mutual learning. As far as the climate field is concerned, monitoring and reporting obligations have been streamlined recently with the adoption of the MMR.

Concerning the extent to which technological developments in the field of analytical tools for big data were adapted relating to planning, reporting and monitoring obligations in the EU energy acquis, the study found that electronic reporting systems are used for some of the obligations analysed at the EU level and also at the national level. While these are generally seen as useful, not all obligations might lend themselves easily to electronic tools. Concerning the feasibility of big data analysis, the study concluded that big data analysis is not really possible with the existing data requests, since the data is not collected systematically at the necessary detail and resolution for this purpose. In cases where big data analysis would provide an advantage, it should be ensured that the necessary data is available at the needed detail and resolution.

#### **6.5. EU Added Value**

In both the energy and climate field, the data reported by MS is paramount to support the Commission's task to monitor the correct implementation of EU law. Especially, this data enables the Commission to track progress towards EU level objectives. Concerning the climate acquis, the EU needs to collect and aggregate information from the Member States in order to comply with its reporting obligations as a party to the UNFCCC.

Concerning the EU added value of the planning, reporting and monitoring obligations of the EU energy acquis, the study had some limitations in assessing it, since while the fact that the collection of EU level data as well as information on policies and measures does enable MS to compare and learn from each other – a fact that was also confirmed by the results of the survey – the study was not able to prove the causality in the design of individual MS policies.

However and concerning transparency, the Fitness Check and the underlying studies proved that the planning, reporting and monitoring obligations in most legislative acts of the EU energy acquis contributed to the transparency of energy policy to a large extent with a little

lower result for the transparency of public and private energy investments and spending, which is also due to the fact that relatively little data is collected on direct industry expenditure.

Regarding the contribution to the integration of national energy systems, the results are rather mixed with EU planning and reporting obligations not necessarily supporting integration or improved cooperation with responsibilities being scattered between different ministries. It can be expected that the integration of planning and reporting obligations in the new integrated national energy and climate plans as well as respective progress reports will increase this integration impetus. On the other hand there are cases of cooperation between different ministries in MS where the reporting requirements successfully improved the integration between these ministries but only with limited benefits.

In addition, the Fitness Check also found that most of the data reported by MS to the Commission is generally not available from other sources and allows the Commission to monitor progress as well as the implementation of the respective legal acts. Furthermore, no other body than the Commission is currently collecting and collating EU energy information from each MS in a structured way that would allow to track progress towards EU level objectives and would produce data in an easily comparable format.

However and as shown by the above analysis the evaluation also showed that these assumptions are not true for all obligations within the scope of this Fitness Check as several obligations were found not to provide EU added value and will therefore be suggested for repeal in the table in the conclusions chapter.

## 7. CONCLUSIONS

This Staff Working Document presents the results and findings of the Fitness Check evaluation carried out by the European Commission on the planning, reporting and monitoring obligations within the EU energy acquis and the interlinkages with the EU climate acquis. Based on the results of this evaluation presented in the previous chapters, this chapter provides the general conclusions of the Fitness Check with regard to effectiveness, efficiency, coherence, relevance and EU added value of current planning, reporting and monitoring requirements. On this basis, the chapter also gives recommendations for each of the reporting and planning obligations within the scope of this Fitness Check.

Overall, the current regulatory framework relating to planning, reporting and monitoring obligations within the EU energy acquis delivers mostly good results, while at the same time enticing a series of shortcomings.

The majority of current obligations are considered effective and make a positive contribution towards achieving their objectives. The conclusions are less positive with regard to efficiency, where a high administrative burden of some obligations are disproportionate, although overall efficiency is considered acceptable to good. The relevance of current obligations is generally considered good (if EU-added value is not considered), with only a relatively small number of obligations found to be irrelevant or not providing information that is actually used<sup>156</sup>.

No overall quantification of EU added value has been possible, but it varies between different policy areas. Most of the information collected or produced through current obligations would not be available from other sources and gives to MS and the Commission the possibility to measure progress at EU and national level and benefit from best practice examples.

There is still potential for improving the planning, reporting and monitoring obligations with regards to coherence in particular. Inconsistencies and incoherence have been identified both within the energy acquis as well as concerning the interlinkages with the climate acquis. The analysis strongly suggests that a systematic integration of Member States' planning and reporting as well as of the Commission's monitoring will be necessary to ensure coherence and enable Member States as well as the Commission to make full use of synergies and ensure consistency between various planning and reporting strands.

On this basis, it can be concluded that there is potential for significant improvement of the current EU energy acquis as regards planning reporting and monitoring, as well as with regard to interlinkages with the EU climate acquis. The way forward for each of the obligations with the scope of the analysis based on this Fitness Check is provided in the following tables.

This overview is without prejudice to the forthcoming Commission's legislative proposal on the Governance of the Energy Union (preparations still ongoing by the time this Fitness Check was finalised).

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<sup>156</sup> These obligations are suggested in the below table for a repeal.

Table 2: Recommendations for planning, reporting and monitoring obligations within the energy acquis

Name of obligation	Legal basis	Art.	Description of obligation	Type (planning / reporting / evaluation)	Frequency	Entity targeted by the obligation	Recommendation*	Short Reasoning based on evaluation in chapter 6
ACER Regulation	Regulation (EC) 713/2009	11	ACER Annual Report internal markets in electricity and natural gas (market monitoring report)	Reporting	Annual	ACER	<b>Keep separate</b>	Seen as a key report and done individually by ACER so no link to MS or COM reports possible
ACER Regulation	Regulation (EC) 713/2009	13 (12)	Annual ACER activity report	Reporting	Annual	ACER	<b>Keep separate</b>	Important report for transparency, but is an ACER obligation on its activities and no direct link to the Energy Union
ACER Regulation	Regulation (EC) 713/2009	34	Evaluation report on ACER	Monitoring	Every 4 years	EC	<b>Keep separate</b>	As specific reporting on ACER concerning the evaluation of ACER's work and not linked to Energy Union
Connecting Europe Facility Regulation	Regulation (EU) No 1316/2013	22	Report on progress and investments made in projects of common interest	Reporting	Annual	MS	<b>Repeal</b>	As data is not further used by EC
Crude Oil Imports Regulation	Regulation 2964/95/EC	8	COM to analyse information and communicate it to MS	Monitoring	Monthly	EC	<b>Keep separate</b>	As it is a monthly obligation, not suitable for integration, but the obligation provides high benefits; integration with Eurostat reporting obligations could be an option

Crude Oil Imports Regulation	Regulation 2964/95/EC	2, 7	Report at regular intervals on the conditions under which the oil imports or deliveries have taken place	Reporting	Monthly	MS	<b>Keep separate</b>	As it is a monthly obligation, not suitable for integration, but the obligation provides high benefits; integration with Eurostat reporting obligations could be an option
Electricity Directive	Directive 2009/72/EC	4	Monitoring of security of supply by MS, with possibility to delegate to NRA	Reporting	Every 2 years, by 31 July	MS	<b>Repeal</b>	As the obligation was found neither cost-efficient nor providing added value
Electricity Directive	Directive 2009/72/EC	22	Submit a national ten-year network development plan based on existing and forecast supply and demand, containing efficient measures in order to guarantee the adequacy of the system and the security of supply	Planning	Annual	TSOs	<b>Keep separate and reflect</b>	As a TSO obligation it should stay separate, but MS would need to reflect relevant parts in national integrated energy and climate plan to ensure coherence
Electricity Directive	Directive 2009/72/EC	37(1) ( e )	National Regulatory Authority annual report	Reporting	Annual	NRA	<b>Keep separate</b>	It is an obligation on NRAs and should continue to be produced by the NRAs so it is not easily integrated in a report that should be done by the MS as such
Electricity Directive	Directive 2009/72/EC	47	Overall progress report on internal market of electricity; should include MS measures for improving competition +/- recommendations	Monitoring	Annual	EC	<b>Integrate</b>	Little added value in self-standing report; integration will allow to tackle identified overlaps
Energy Efficiency Directive	Directive 2012/27/EU	3	Member State shall set an indicative national energy efficiency target	Planning	Every 3 years	MS	<b>Integrate</b>	Integration will improve coherence and efficiency of the obligation, furthermore, this represents a cornerstone of the future Energy Union governance system

Energy Efficiency Directive	Directive 2012/27/EU	24(2), Annex XIV Part 2	NEEAPs	Planning	Every 3 years	MS	<b>Integrate</b>	Integration will improve coherence and efficiency of the obligation, furthermore, this obligation represents a cornerstone of the future Energy Union governance system
Energy Efficiency Directive	Directive 2012/27/EU	4	Long-term strategy for mobilising investment in the renovation of the national building stock	Planning	Every 3 years	MS	<b>Integrate</b>	useful obligation for policymakers, but coherence with other obligations can be improved by integration
Energy Efficiency Directive	Directive 2012/27/EU	7(9)	one-off notification of planned alternative measures to energy efficiency obligation schemes	Planning	one-off	MS	<b>Keep separate and reflect</b>	Since a one-off planning obligation little added value in integration, but it should be reflected in the integrated plans
Energy Efficiency Directive	Directive 2012/27/EU	14(1)	Comprehensive assessment of the potential of cogeneration and district heating and cooling	Planning	Every 5 years	MS	<b>Keep separate and reflect</b>	useful obligation providing needed data, but due to technical nature not suitable for complete integration but should be reflected in the integrated plans
Energy Efficiency Directive	Directive 2012/27/EU	Annex VIII	Potential of cogeneration and district heating and cooling	Planning	Every 5 years	MS	<b>Keep separate and reflect</b>	Relates to obligation under article 7(9), therefore same procedure recommended
Energy Efficiency Directive	Directive 2012/27/EU	24(1), Annex XIV Part 1	Progress report	Reporting	Annual	MS	<b>Integrate</b>	Progress reports are a useful tool; integration in integrated national energy and climate progress reports will allow to address the identified overlaps and improve coherence regarding timing

Energy Efficiency Directive	Directive 2012/27/EU	24(3)	Evaluation of annual reports and NEEAPs	Monitoring	Other	EC	<b>Integrate</b>	integration will improve the coherence of the obligation and since the current NEEAPs will be integrated in the new climate and energy plans, it makes sense to also integrate the obligation related to the evaluation of these
Energy Efficiency Directive	Directive 2012/27/EU	24(4)	Monitor impact of implementing the EED on the ETS Directive, the RES Directive, the EPBD Directive, the Effort-sharing Decision and industry sectors (carbon leakage sectors)	Monitoring	Other	EC	<b>Repeal</b>	burdensome obligation with little to no added value
Energy Efficiency Directive	Directive 2012/27/EU	24(5)	review of continued need for exemptions set out in Article 14(6)	Monitoring	Other	EC	<b>Keep separate</b>	Quite technical review obligation with little possibility for integration; also the study did not provide enough information for a sound different recommendation
Energy Efficiency Directive	Directive 2012/27/EU	24(6)	Statistics on production from high and low efficiency cogeneration, capacities and fuels for cogeneration, and on district heating and cooling in relation to total heat and electricity production and capacities	reporting	Annually	MS	<b>Keep separate</b>	Purely statistical obligation therefore possible to integrated in the future in reporting under the Eurostat Regulation as this would improve on the identified overlaps with Eurostat reporting
Energy Efficiency Directive	Directive 2012/27/EU	24(11)	publication of reports referred to in Article 24(1) and (2)	Monitoring	As in para 1 and 2 (annually and every three years respectively)	EC	<b>Repeal</b>	Although the obligation was found useful, repeal is suggested due to the fact that the reports to which the obligation refers will be integrated. However a similar publication obligation should be included in the governance proposal for transparency reasons
Energy Labelling Directive	Directive 2010/30/EU	3(3)	Enforcement activities and level of compliance	Reporting	Every 4 years	MS	<b>Repeal</b>	little added value and benefits could be identified in the Fitness Check but the obligation largely overlaps with the Market Surveillance Regulation

Energy Labelling Directive	Directive 2010/30/EU	3(4)	Synthetic report of MS 4 years reporting	Monitoring	Every 4 years	EC	<b>Repeal</b>	little added value and benefits could be identified in the Fitness Check but the obligation largely overlaps with the Market Surveillance Regulation
Energy Performance of Buildings Directive	Directive 2010/31/EU	5.2	Report all input data and assumptions used for cost-optimal calculations and their results	Reporting	Every 5 years	MS	<b>Integrate</b>	Important obligation, but with an identified potential to increase coherence which can be best achieved by integration
Energy Performance of Buildings Directive	Directive 2010/31/EU	5(4)	Report on the progress of the Member States in reaching cost-optimal levels of minimum energy performance requirements.	Monitoring		EC	<b>Keep separate</b>	Fitness Check did not produce enough evidence for a different recommendation
Energy Performance of Buildings Directive	Directive 2010/31/EU	9.1	Planning requirement on minimum energy performance requirements (plans NZEB)	Planning	Every 5 years	MS	<b>Integrate</b>	Obligation assessed as providing good results, but significant overlap with NEEAPs which can be best addressed by integration
Energy Performance of Buildings Directive	Directive 2010/31/EU	9.5	Report on progress of MS in increasing the number of nearly zero energy buildings	Monitoring	Every 3 years	EC	<b>Integrate</b>	Obligation identified as beneficial but also with a need to improve coherence and reduce the resulting administrative burden
Energy Performance of Buildings	Directive 2010/31/EU	10.2	List of existing measures and instruments, including financial	Reporting	Every 3 years	MS	<b>Integrate</b>	Obligation not considered very useful, but merger with integrated plans and reports will be able to keep the useful parts of the obligation while avoiding unnecessary burdens
Energy Performance of Buildings Directive	Directive 2010/31/EU	10.3	Examination (monitoring) of the effectiveness of the measures and instruments, including financial, listed by MS pursuant to Art.10.2	Monitoring	Not specified	EC	<b>Integrate</b>	Similar assessment as for article 10(2); integration should be able to address the identified shortcomings of the obligation

Energy Statistics Regulation	REGULATION (EC) No 1099/2008	4.1(a)	Transmit national statistics (annual)	Reporting	Annual	MS	<b>Keep separate</b>	Obligation concerning statistical data with quite some overlaps with Eurostat obligations; measures to improve the coherence with Eurostat reporting should be considered to address identified shortcomings
Energy Statistics Regulation	REGULATION (EC) No 1099/2008	4.1(b)	Transmit national statistics (monthly)	Reporting	Monthly	MS	<b>Keep separate</b>	Obligation concerning statistical data with quite some overlaps with Eurostat obligations; measures to improve the coherence with Eurostat reporting should be considered to address identified shortcomings
Energy Statistics Regulation	REGULATION (EC) No 1099/2008	4.1(c)	Transmit national statistics (short-term monthly)	Reporting	Monthly	MS	<b>Keep separate</b>	Obligation concerning statistical data with quite some overlaps with Eurostat obligations; measures to improve the coherence with Eurostat reporting should be considered to address identified shortcomings
Energy Statistics Regulation	REGULATION (EC) No 1099/2008	5(5)	The Commission (Eurostat) shall disseminate yearly energy statistics by 31 January of the second year following the reported period.	Monitoring	Annual	EC	<b>Keep separate</b>	Highly beneficial statistical report
Energy Statistics Regulation	REGULATION (EC) No 1099/2008	6.4	Every five years, Member States shall provide the Commission (Eurostat) with a report on the quality of the data transmitted as well as on any methodological changes that have been made.	Reporting	Every 5 years	MS	<b>Keep separate</b>	Obligation overall useful to ensure quality of the statistical data; integration with Eurostat reporting obligations should be considered to improve coherence and address identified shortcomings
Euratom Supply Agency Statues Council Decision	Council Decision 2008/114/Euratom	3	Report on the activities of the Agency in the previous year and a work programme for the next year	Reporting	Annual	ESA	<b>Keep separate</b>	ESA reporting obligation to EC with no integration potential

Financial Assistance in the Field of Energy Regulation	Regulation No 663/2009, as amended by regulation 1233/2010	28	Report on implementation of financial assistance to projects in the field of energy	Monitoring	Annual	EC	<b>Repeal</b>	As the entire Regulation was found to be outdated
Gas Directive	Directive 2009/73/EC	5	Monitoring of security of gas supply by MS, with possibility to delegate to NRA	Reporting	Annual, by 31 July	MS	<b>Repeal</b>	Significant overlaps of the obligation found with article 41(1e) of the same directive as well as with obligation to Eurostat and the Security of Gas Supply Regulation
Gas Directive	Directive 2009/73/EC	22	Submit a national ten-year network development plan based on existing and forecast supply and demand, containing efficient measures in order to guarantee the adequacy of the system and the security of supply	Planning	Annual	TSOs	<b>Keep separate and reflect</b>	As is a TSO obligation should stay separate, but MS would need to integrate relevant parts in national integrated energy and climate plan to ensure coherence
Gas Directive	Directive 2009/73/EC	41(1) e	NRA annual report	Reporting	Annual	NRA	<b>Keep separate</b>	It is an obligation on NRAs and should continue to be produced by the NRAs so it is not easily integrated in a report that should be done by the MS as such
Gas Directive	Directive 2009/73/EC	52	Overall progress report on internal market of gas; should include MS measures for improving competition +/- recommendations	Monitoring	Annual	EC	<b>Integrate</b>	Little added value in self-standing report; integration will allow to tackle identified overlaps
Hydrocarbons Directive	Directive 94/22/EC	8(2)	Report on the conditions for granting and using authorization for the prospection, exploration and production of hydrocarbons - on the situation of entities in third countries and on the state of any negotiations undertaken with those countries or in the framework of international organizations	Monitoring	Other	EC	<b>Repeal</b>	Monitoring report was issued once in 1994 and never afterwards; never requested by stakeholders

Hydrocarbons Directive	Directive 94/22/EC	9	Annual report on prospecting, exploration and production	Reporting	Annual	MS	<b>Repeal</b>	as the information provided largely duplicated the information in the notified tenders and therefore presents an unnecessary administrative burden
Infrastructure Regulation	Regulation No 256/2014	3 and 5	Reporting on investment projects in energy infrastructure within the European Union	Reporting	Every 2 years	MS	<b>Repeal</b>	Significant overlaps of the obligation identified (notably for reporting obligations to ENTSO-E and ENTSO-G) with little to no added value provided by the obligation under this regulation
Infrastructure Regulation	Regulation No 256/2014	10	Cross-sector analysis of the structural evolution and perspectives of the Union's energy system	Monitoring	Every 2 years	EC	<b>Repeal</b>	Significant overlaps of the obligation identified (notably for reporting obligations to ENTSO-E and ENTSO-G) with little to no added value provided by the obligation under this regulation
Intergovernmental Agreements Decision	Decision 994/2012/EU	8	Report on information exchange mechanism with regard to intergovernmental agreements (IGA) between Member States and third countries in the field of Energy	Monitoring	Every 3 years	EC	<b>Keep separate and reflect</b>	New Commission proposal for a revised Intergovernmental Agreements Decisions foresees the introduction of an electronic database to increase the transparency on the issue; the publications in this database can be reflected in State of the Energy Union
Network Access for Cross-Border Electricity Exchanges Regulation	Regulation 714/2009	8	Adopt a non-binding Community-wide ten-year network development plan, (Community-wide network development plan), including the modelling of the integrated network, scenario development, a European generation adequacy outlook and an assessment of the resilience of the system	Planning	Every two year	ENTSO-E	<b>Keep separate and reflect</b>	As it is an ENTSO-E obligation it should stay separate, but MS would need to reflect relevant parts in national integrated energy and climate plan to ensure coherence
Network Access for Cross-Border Electricity Exchanges Regulation	Regulation 714/2009	12(1)	publish a regional investment plan	Planning	Every two year	TSOs	<b>Keep separate and reflect</b>	As a TSO obligation it should stay separate, but MS would need to reflect relevant parts in national integrated energy and climate plan to ensure coherence

Network Access for Cross-Border Electricity Exchanges Regulation	Regulation 714/2009	24	Regulation implementation monitoring and reporting by COM, including preparation of the report "Progress towards completing the Internal Energy Market"	Monitoring		EC	<b>Repeal</b>	The Fitness Check showed that the reporting obligation can be considered fulfilled
Network Access for Natural Gas Transmission Regulation	Regulation 715/2009	8	Adopt a non-binding Community-wide ten-year network development plan, (Community-wide network development plan), including the modelling of the integrated network, scenario development, a European generation adequacy outlook and an assessment of the resilience of the system	Planning	Every two year	ENTSO-G	<b>Keep separate and reflect</b>	As it is an ENTSO-G obligation it should stay separate, but MS would need to reflect relevant parts in national integrated energy and climate plan to ensure coherence
Network Access for Natural Gas Transmission Regulation	Regulation 715/2009	12(1)	publish a regional investment plan	Planning	Every two year	TSOs	<b>Keep separate and reflect</b>	As a TSO obligation it should stay separate, but MS would need to reflect relevant parts in national integrated energy and climate plan to ensure coherence
Network Access for Natural Gas Transmission Regulation	Regulation 715/2009	29	Regulation implementation monitoring and reporting by COM, including preparation of the report "Progress towards completing the Internal Energy Market"	Monitoring		EC	<b>Repeal</b>	The Fitness Check showed that the reporting obligation can be considered fulfilled
Nuclear Decommissioning Assistance in Bulgaria and Slovakia Regulation and Nuclear Decommissioning Assistance in Lithuania Regulation	Council Regulation 1368/2013 & Council Regulation 1369/2013	6(1) and 6(2)	Annual work programme	Planning	Annual	EC	<b>Keep separate</b>	Keep separate as very technical obligation (dealing with the nuclear decommissioning programme in 3 MS)

Nuclear Decommissioning Assistance in Bulgaria and Slovakia Regulation and Nuclear Decommissioning Assistance in Lithuania Regulation	Council Regulation 1368/2013 & Council Regulation 1369/2013	6(2)	Progress report	Monitoring	Annual	EC	<b>Keep separate</b>	Keep separate as very technical obligation (dealing with the nuclear decommissioning programme in 3 MS)
Nuclear Safety Directive	Council Directive 2009/71/Euratom, as amended by Council Directive 2014/87/Euratom	8e(1)	Self-assessment and international peer review	Reporting	Ad hoc but at least every 10 years	MS	<b>Keep separate</b>	Keep separate as IAEA obligation and in practice not regularly (no clear date) so basically ad hoc but at least once every 10 years
Nuclear Safety Directive	Council Directive 2009/71/Euratom, as amended by Council Directive 2014/87/Euratom	8e(2&3)	Topical peer review	Reporting	Ad hoc but at least every 6 years	MS	<b>Keep separate</b>	Keep separate as IAEA obligation and in practice not regularly (no clear date) so basically ad hoc but at least once every 10 years
Nuclear Safety Directive	Council Directive 2009/71/Euratom, as amended by Council Directive 2014/87/Euratom	9(1)	Report on progress made with the implementation of this Directive	Reporting	Every 6 years	MS	<b>Keep separate</b>	It is a two-off obligation on the implementation of the directive which provides little integration potential as there is no clear link to Energy Union objectives
Nuclear Safety Directive	Council Directive 2009/71/Euratom, as amended by Council Directive 2014/87/Euratom	9(2)	Report on progress made with the implementation of this Directive	Monitoring	Every 6 years	EC	<b>Keep separate</b>	Main objective of the obligation is compliance checking and the obligation will not be continued post 2020 so there is little integration potential
Offshore Safety Directive	Directive 2013/30/EU	25(1), Annex IX point 3	Annual report on oil and gas installations and their safety	Reporting	Annual (starting end of 2017)	MS	<b>Keep separate</b>	Technical report, well working and no overlaps identified in the Fitness Check

Offshore Safety Directive	Directive 2013/30/EU	25(3)	Annual report based on the information reported by MS to the EC	Monitoring	Annual	EC	<b>Integrate</b>	The Fitness Check identified a potential to increase the coherence of this overall useful obligation with other energy reporting obligations, which can be best achieved by integration
Oil Stocks Directive	Directive 2009/119/EC	6(2)	Annual summary copy of the stock register	Reporting	Annual	MS	<b>Keep separate and reflect</b>	Coherence of the obligation could be improved but for legal reasons, the obligation needs to be kept at an annual frequency, which makes reflection the most efficient way to increase coherence
Oil Stocks Directive	Directive 2009/119/EC	9(4) and 9(5)	Annual summary copy of the stock register	Reporting	Annual (9(5))	MS	<b>Keep separate (9(4)) and reflect (9(5))</b>	Art 9 (4) provides that there should be notification in specific circumstances and therefore needs to be kept separate. Article 9(5) can be annexed to the MS integrated report; the identified incentive for MS to not hold specific stocks resulting from the obligations should be addressed in the ongoing evaluation of the oil stocks directive
Oil Stocks Directive	Directive 2009/119/EC	12	Monthly statistical summaries of emergency stocks	Reporting	Monthly	MS	<b>Keep separate</b>	As it is a monthly obligation, not suitable for integration, but the obligation provides benefits; the completed integration with Eurostat reporting obligations under the MOS questionnaire should achieve this
Oil Stocks Directive	Directive 2009/119/EC	13	Monthly statistical summaries of specific stocks	Reporting	Monthly	MS	<b>Keep separate</b>	As it is a monthly obligation, not suitable for integration, but the obligation provides benefits; integration with Eurostat reporting obligations should be considered

Oil Stocks Directive	Directive 2009/119/EC	14	Monthly statistical summaries of commercial stocks	Reporting	Monthly	MS	<b>Keep separate</b>	As it is a monthly obligation, not suitable for integration, but the obligation provides benefits; the completed integration with Eurostat reporting obligations under the MOS questionnaire should achieve this
Petrol Products Consumer Prices and Crude Oil Supply Costs Council Decision	Council Decision 1999/280 (and its implementing acts provided in Commission Implementing Regulation (EU) No 1348/2014)	3.1	MS shall communicate to the COM: a) crude oil supply cost cif, b) the consumer prices of petroleum products net of duties and taxes and inclusive of all taxes in force	Reporting	Monthly	MS	<b>Keep separate</b>	Obligation on pure data collection and very statistical; integration with Eurostat reporting obligations should be considered to address identified overlaps
Petrol Products Consumer Prices and Crude Oil Supply Costs Council Decision	Council Decision 1999/280 (and its implementing acts provided in Commission Implementing Regulation (EU) No 1348/2014)	3.2	MS shall communicate to the COM: Consumer prices of petroleum products net of duties and taxes in force	Reporting	Weekly	MS	<b>Keep separate</b>	Obligation on pure data collection and very statistical; integration with Eurostat reporting obligations should be considered
Petrol Products Consumer Prices and Crude Oil Supply Costs Council Decision	Council Decision 1999/280 (and its implementing acts provided in Commission Implementing Regulation (EU) No 1348/2014)	4	COM to publish crude oil supply cost cif (and the consumer prices of petroleum products net of duties and taxes and inclusive of duties and taxes charged)	Monitoring	Monthly	EC	<b>Keep separate</b>	Obligation on pure data collection and very statistical; integration with Eurostat reporting obligations could be considered

Petrol Products Consumer Prices and Crude Oil Supply Costs Council Decision	Council Decision 1999/280 (and its implementing acts provided in Commission Implementing Regulation (EU) No 1348/2014)	4	COM to publish consumer prices of petroleum products net of duties and taxes charged (weekly Oil Bulletin)	Monitoring	Weekly	EC	<b>Keep separate</b>	Obligation on pure data collection and very statistical; integration with Eurostat reporting obligations should be considered
PINC	Euratom treaty	40	EC to publish periodically illustrative programmes indication in particular nuclear energy production targets and all types of investment required for their attainment	Monitoring	Irregular	EC	<b>Integrate</b>	The PINC has as a relevant link to planned integrated national climate and energy plans: nuclear energy investments presented in MS national plans could serve as an input for the next PINC (and replace the respective existing MS obligations for the PINC)) and national progress reports could feature progress on these investments. The State of the Energy Union would allow to track aggregate progress made based on MS progress reports and compare with PINC projections.
Radioactive Waste and Spent Fuel Directive	Council Directive 2011/70/Euratom	14(1)	Report on the measures it has taken to implement the obligations of the Convention	Reporting	Every 3 years	MS	<b>Keep separate</b>	Technical obligation not directly linked to the Energy Union objectives, but the study identified a streamlining potential by aligning dates with art. 20(1) of 2006/117 thereby increasing the coherence of the obligation
Radioactive Waste and Spent Fuel Directive	Council Directive 2011/70/Euratom	14(2)	Report on progress (implementation) + summary report to EP, C and EESC + inventory of radioactive waste and spent fuel and future prospects	Monitoring	Every 3 years	EC	<b>Keep separate</b>	Technical obligation not directly linked to the Energy Union objectives, but the study identified a streamlining potential by aligning dates with art. 20(1) of 2006/117 thereby increasing the coherence of the obligation

Radioactive Waste and Spent Fuel Directive	Council Directive 2011/70/Euratom	14(3)	Self-assessments and international peer reviews	Reporting	ad hoc, but at least every 10 years	MS	<b>Keep separate</b>	as in practice not regularly (no clear date) so basically ad hoc but at least once every 10 years; therefore no potential for integration
Renewable Energy Directive	Directive 2009/28/EC as amended by Directive (EU) 2015/1513	4 + Annex VI	National Renewable Energy Action Plan (NREAP)	Planning	once	MS	<b>Integrate</b>	Since obligation was considered to provide high benefits overall but with a potential to increase coherence and reduce administrative burden, integration seems the best way to achieve this; furthermore, this obligation represents a cornerstone of the future Energy Union governance system
Renewable Energy Directive	Directive 2009/28/EC as amended by Directive (EU) 2015/1513	22	MS Progress Report on NREAPs	Reporting	Every 2 years	MS	<b>Integrate</b>	obligation provides high benefits, but also overlaps were identified with <i>inter alia</i> MMR and Energy Efficiency Directive; coherence can be best improved by integration
Renewable Energy Directive	Directive 2009/28/EC as amended by Directive (EU) 2015/1513	17(7) + 23(3)	Progress report	Monitoring	Every 2 years	EC	<b>Integrate</b>	Monitoring reports are seen as useful and beneficial, but coherence can be improved by integration; the identified redundancy and partial outdatedness of art. 17(7) can thereby also be resolved
Renewable Energy Directive	Directive 2009/28/EC as amended by Directive (EU) 2015/1513	19(5)	Report on typical and default values of biofuels and bioliquids emissions	Monitoring	Every 2 years	EC	<b>Keep separate</b>	Very technical report; potentially to be reviewed in the context of the new Renewable Energy Directive
Renewable Energy Directive	Directive 2009/28/EC as amended by Directive (EU) 2015/1513	24	Making relevant information public on the transparency platform	Monitoring	Irregular	EC	<b>Integrate</b>	While publication of the available reports is positive, the need for a separate platform to achieve this goal is not evident; can be more efficiently achieved via integration

Security of Electricity Supply Directive	Directive 2005/89/EC	7 (1-4)	Report on overall adequacy of the electricity system to supply current and projected demands for electricity	Reporting	Every 2 years	MS	<b>Repeal</b>	Fitness Check showed various overlaps of the obligation with other obligations to ACER and under the Electricity Directive and obligation does not provide much added value
Security of Electricity Supply Directive	Directive 2005/89/EC	7 (5)	Report on investments planned and their contribution to the objectives	Monitoring		EC	<b>Repeal</b>	Obligation was found to provide no added value
Security of Gas Supply Regulation	Regulation 994/2010	4 and 5	Preventive Action Plans and Emergency Plans	Planning	every 2 years	MS	<b>Keep separate and reflect</b>	Evaluation identified limited integration potential due to the specific nature of the plans; their key elements should be reflected in MS integrated report.
Security of Gas Supply Regulation	Regulation 994/2010	9	Risk assessment	Planning	Every 2 years	MS	<b>Keep separate and reflect</b>	Evaluation identified limited integration potential due to the specific nature of the plans; their key elements should be reflected in MS integrated report.
Security of Gas Supply Regulation	Regulation 994/2010	14	Report on the security of gas supply to be included in annual reporting in Directive 2009/73/EC	Monitoring	Every 2 years	EC	<b>Keep separate and reflect</b>	Obligations it is not taken over in the new SoS Regulation; key elements of this should be reflected in EC integrated report.
Shipments of Radioactive Waste Directive	Council Directive 2006/117/Euratom	16(1c)	Inform the Commission and the Advisory Committee on a yearly basis on shipments of radioactive waste and spent fuel to third countries that, in the opinion of the competent authorities of the MS of origin, meet the exports requirements	Reporting	Ad hoc	MS	<b>Keep separate</b>	ad hoc reporting and therefore not suitable for integration

Shipments of Radioactive Waste Directive	Council Directive 2006/117/Euratom	20(1)	Report on implementation of the directive	Reporting	Every 3 years	MS	<b>Keep separate</b>	Technical obligation not directly linked to the Energy Union objectives, but the study identified a streamlining potential by aligning dates with art.14(1) of 2011/70 thereby increasing the coherence of the obligation
Shipments of Radioactive Waste Directive	Council Directive 2006/117/Euratom	20(2)	Summary report on the implementation of the Directive with particular attention for art. 4	Monitoring	Every 3 years	EC	<b>Keep separate</b>	Very technical report but the identified overlaps should be addressed
TEN-E Directive	Regulation (EU) No 347/2013	5(5)	Consolidated Report: Evaluation of progress achieved, recommendations, evaluation of consistent implementation of the Union-wide consistent implementation of the Union-wide network development plans with regard to the energy infrastructure priority corridors and areas	Reporting	Annual	ACER	<b>Keep separate</b>	As it is an ACER obligation, but the coherence with other obligations should be addressed
Transparency of Gas and Electricity Prices Directive	Directive 2008/92/EC	1, Annex I	Annex I: Gas prices reports	Reporting	Other	MS	<b>Repeal</b>	Already to be repealed by virtue of a future Regulation on electricity prices which proposal is before the Council (COM(2015) 496 of 18.11.2015)
Transparency of Gas and Electricity Prices Directive	Directive 2008/92/EC	1, Annex II	Annex II: Electricity prices report	Reporting	Other	MS	<b>Repeal</b>	Already to be repealed by virtue of a future Regulation on electricity prices which proposal is before the Council (COM(2015) 496 of 18.11.2015)
Transparency of Gas and Electricity Prices Directive	Directive 2008/92/EC	8	Report on the transparency of gas and electricity prices charged to industrial end-users	Monitoring	Annual	EC	<b>Repeal</b>	Already to be repealed by virtue of a future Regulation on electricity prices which proposal is before the Council (COM(2015) 496 of 18.11.2015)

Wholesale Energy Market Regulation	Regulation No 1227/2011	7(2) and(3)	Market Monitoring Report and recommendations from Agency to COM. National regulatory authorities shall cooperate at regional level and with the Agency in carrying out the monitoring of wholesale energy market	Reporting	Annual	ACER	<b>Keep separate</b>	As it is an ACER obligation, but the coherence with other obligations should be addressed
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\* *Legend: Integrate means the obligation is incorporated in integrated national energy and climate plans, integrated national energy and climate progress reports and integrated Commission monitoring; Keep separate means the obligation remains an entirely separate obligation in sectorial legislation (with possible amendments); or Keep separate and reflect means the obligation remains a separate obligation in sectorial legislation, which will however be reflected in the integrated national energy and climate plans, progress reports and integrated Commission monitoring; Repeal means the obligation is fully repealed from current sectorial legislation and thus removed from the EU energy and climate acquis.*

Table 3: Overview of classification of obligations in the MMR including recommendations

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	4	updates every 2 years	Obligation to prepare a LCDS, to report on the status of implementation and to make it available to the public	Planning / Reporting	MS and EC	Linked	Integrate in governance act	The Article is relevant for planning in the climate field with a long term perspective. While the national plans are focussed on the Energy Union's objectives for 2030, the LCDS cover a longer time frame. Consistency of the national plans should be ensured with the low-carbon development strategies or similar future strategic planning obligations of the EU, e.g. mid-century strategies under the Paris Agreement. However given the different time perspective and objectives of the two documents, it is not possible to be fully streamlined. The Article is suitable to be integrated in the new legislative initiative on governance. There are linkages to plans, targets and measures reported in NEEAPs and NREAPS under energy legislation. The Article is to be revised to reflect the new text in the Paris Agreement.

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	5	updates every 2 years	Requirements for Member States' national inventory systems	Other/reporting	MS	Linked	Integrate in governance act	The obligations regarding national inventory systems are part of the 'environment' of the integrated national energy and climate plans as they support the implementation of the EU objectives by enabling the collection of data at Member State level in an integrated way. There are linkages to energy legislation related to responsibilities for the reporting of energy data and information in particular to access to data reported under the Energy Statistics Regulation. The Article is also important for ensuring compliance with international obligations. The Article includes references to the Energy Statistics Regulation. Closely linked with Article 7 MMR and to follow that Article. This article would need to be integrated in the new legislative initiative on governance

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	6	N/A	Union inventory system	Other/reporting	EC	Linked	Integrate in governance act	As the Article establishes the Union inventory system, it is linked to the Union inventory of GHG emissions, which includes the data on the EU's GHG emissions and shows where the EU - overall- stands. Though it does not contain a planning or reporting obligation for Member States, and therefore cannot be integrated in Member States' plans or progress reports, the Article is important as it supports the implementation of EU objectives as it ensures the timeliness, transparency, accuracy, consistency, comparability and completeness of national inventories and the Union inventory. In this way, it contributes to enabling the assessment of progress towards the EU's international climate action commitments, which are linked to the EU's domestic targets to reduce GHG emissions and is therefore also important for the Energy Union. The Article is also important for ensuring compliance with international obligations. Closely linked to Article 7 MMR and to follow that Article. Consequently, this article would need to be integrated in the new legislative initiative on governance

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	7	annual	Reporting obligations on Member States' greenhouse gas inventories and obligation for the Commission to compile the Union greenhouse gas inventory	Reporting	MS and EC	Integrate National and Reports (in Plans Progress)	Integrate in governance act	The Article is important for providing data to assess compliance with the ESD targets and for ensuring compliance with international obligations. It is linked to integrated national energy and climate plans and reporting on progress on the delivery of the plans and suitable to be integrated in the legislative initiative on governance. It supports the implementation of the EU objectives as it enables the collection of data at Member State level in an integrated way. There are linkages with Energy Statistics Regulation and data reported under that Regulation to Eurostat and inconsistencies between inventory data and the data reported under the Energy Statistics Regulation that derive from differences in definitions applied and timelines for reporting and updating data. Also linkages with indicators used in the energy sector reporting. To be streamlined taking into account the work on indicators done in the framework of the Energy Union. Annex I to the MMR, which includes a list of GHG Member States have to report in their GHG inventories, is to follow Article 7. The list of indicators in Annex III to the MMR, is to be updated and streamlined taking into consideration the work on indicators done in the framework of the Energy Union and to follow Article 7 MMR. This article needs to be integrated in the plans and progress report after possible revision to streamline it with the energy acquis (especially Energy Statistics Regulation).

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	8	annual	Requires Member States to report approximated greenhouse gas inventories	Reporting	MS	Integrate National and Reports) (in Plans Progress	Integrate in governance act	Article important for tracking annual progress with GHG emissions targets, as it provides approximated data for the year x-1 as compared to the inventories which contain data on GHG emission with two years lag (relating to the year x-2). Relevant for the Energy Union as it provides data to track progress to ESD targets and -linked- international targets. Therefore also linked to the integrated national energy and climate plans and the reporting on progress towards the targets, objectives and trajectories laid down in these plans. To follow Article 7 MMR. This article needs to be integrated in the plans and progress reports.
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	9	N/A	Procedures for completing emission estimates to compile the Union inventory (gap filling)	Other	MS and EC	Linked	Integrate in governance act	Article important for ensuring compliance with internal and international obligations. It sets modalities and procedures in case Member States do not report their GHG inventories within the required deadlines. It is important for tracking progress towards ESD GHG emission reduction targets, as it allows the Commission to fill in the missing GHG emissions data in case Member States do not submit it. Therefore it is also important in the context of assessing the direction the EU is going with regard to its 2030 climate target. To follow Article 7 MMR. This article would need to be integrated in the new legislative initiative on governance.

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	10	N/A	Establishment and operation of registries (for Kyoto Protocol units)	Other	MS and EC	Linked	Integrate in governance act	Article important for ensuring compliance with international obligations (UNFCCC) and the ESD targets. The Union Registry enables the use of flexibilities under the ESD. The information contained in the registry will be paramount for an accurate tracking of progress with the ESD targets. To be revised in light of the outcome of negotiations on the further detailed rules for implementation of the Paris Agreement. Establishment and operation of registries is a precondition for the retirement of units (Article 11 MMR) and reports on the additional period for fulfilling commitments under the Kyoto Protocol (Article 22 MMR). This article needs to be integrated in the new legislative initiative on governance after revision to take in consideration the developments under the Paris agreement and to delete the parts relating to the Kyoto Protocol.
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	11	N/A	Retirement of units under the Kyoto Protocol	Other	MS	Linked	Integrate in governance act	Article important for ensuring compliance with international obligations (UNFCCC). Though the Kyoto Protocol second commitment period runs until the end of 2020, retirement of units needs to take place after the additional period for fulfilling commitments, in 2023. This Article needs be included in the new legislative initiative on governance after deletion of the parts referring to the first commitment period of the Kyoto Protocol. Linked to Article 11 and Article 22 MMR.

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	12	updates every two years	National systems of policies and measures and projections	Other/reporting	MS and EC	Linked	Integrate in governance act	Article important for reporting on progress with the national plans. It supports the implementation of EU objectives as it ensures systems for reporting are in place and continuously improved, and it ensures the timeliness, transparency, accuracy, consistency, comparability and completeness of the information reported. The scope of the national systems should be broadened to include integration between energy and climate enabling the compilation of coordinated progress reports. This Article needs to be integrated in the new legislative initiative on governance after streamlining with ENER acquis.
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	13	every two years	Reporting obligations for Member States related to reporting on policies and measures relevant for climate action	Reporting	MS	Integrate (in National Plans and Progress Reports)	Integrate in governance act	Article important with regard to policies and measures in the context of the integrated national energy and climate plans. Linkages with energy legislation (reporting of policies and measures under EED, RED), where streamlining could take place to avoid double reporting of policies and measures. Suitable to be integrated to reduce overlaps, incoherence and inconsistencies. Also important for ensuring compliance with international obligations. This Article needs to be integrated in the plans and progress reports after streamlining with ENER acquis.

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	14	every two years	Reporting obligations for Member States related to projections of greenhouse gas emissions	Reporting	MS	Integrate (in National Plans and Progress Reports)	Integrate in governance act	Article important with regard to projections in the context of the integrated national energy and climate plans. Linkages with energy legislation where also reporting on projected information takes place. Suitable to be streamlined to come to a single set of integrated climate and energy projections. Also important for ensuring compliance with international obligations. This Article needs to be integrated in the plans and progress reports after streamlining with ENER acquis.
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	15	every 4 years	Member States' reporting of information on national adaptation planning and strategies	Reporting	MS	Linked	Integrate in governance act	Indirect link with the integrated national energy and climate plans, as information on adaptation is also included in the integrated national energy and climate plans which are to be coherent and consistent with the national adaptation actions plans. It is suitable to be integrated in the legislative initiative on governance. Relates to UNFCCC. This Article needs to be included in the new legislative initiative on governance after revision in light of the Paris Agreement.

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	16	annual	Member States' reporting related to financial and technology support provided to developing countries	Reporting	MS	Linked	Integrate in governance act	In the context of the UNFCCC and Paris Agreement, the EU and its Member States are committed to scaling up the mobilisation of climate finance in the context of meaningful mitigation actions and transparency of implementation, in order to contribute their share of the developed countries' goal to jointly mobilise USD 100 billion per year by 2020 from a wide variety of sources. The EU needs to support finance commitments with concrete data and information. Integration of reporting of this information in the legislative initiative on governance is important in order to ensure that all the reporting obligations relating to the implementation of the UNFCCC are included in a single legal act. This Article needs to be included in the new legislative initiative on governance after revision in light of the Paris Agreement.

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	17	annual	Reporting on revenues from the auctioning of emission allowances under the EU emissions trading system and on the use of project credits from the ESD	Reporting	MS	Integrate (in National Plans and Progress Reports)	Integrate in governance act	Reporting on the use of revenues from the auctioning of emission allowances under the EU emissions trading system suitable to be integrated as it is expected that parts of these sums will be underpinning the financing component of the plans since MS are expected to use 50% of these revenues for climate purposes. Article also important for implementation of the ESD as it relates to the use of flexible mechanisms under this decision. Suitable to be integrated as it will be an integral part of the analysis under the decarbonisation component of the integrated national energy and climate plans. This article needs to be included partly in the plans, partly in the reporting on progress with the plans.

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	18	every four years	Union and Member States' submission of National Communications and Biennial Reports to the UNFCCC and copies to the Commission	Reporting	MS and EC	Linked	Integrate in governance act	Relates to the UNFCCC; 4 yearly national communications (international requirement) require reporting on a country's national circumstances, actual emissions, policies and measures, projected emissions, financial and technology support provided to developing countries, adaptation, research and systematic observation and education. The MMR includes all reporting requirements related to this. Keeping international reporting of national communications and biennial reports together with reporting obligations linked to international reports (e.g. projected emissions, policies and measures) enables easier access to data, and leads to more consistency and higher credibility of information reported to the Commission and internationally. No direct link with the national plans, but the reporting under the national plans needs to be consistent with the reporting of National Communications and Biennial Reports. Suitable to be integrated in the new legislative initiative on governance in light of the Paris Agreement.
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	19	annual	Review of GHG inventories for ESD purposes	Other	EC	Linked	Integrate in governance act	Article important for ESD implementation. This Article should be integrated in the legislative initiative on governance as the provision on the ESD review forms part of the "environment" of the plans and supports the implementation of the EU objectives by making the information more accurate. Needs redrafting to apply to the new ESD. This Article needs to be included in the new legislative initiative on governance after revision in light of the Effort Sharing Regulation proposal of the Commission.

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	20	N/A	Addressing the effects of recalculations in the ESD	Other	EC	Repeal	Governance to repeal the obligation	The provision on addressing the effect of recalculations in the ESD is not needed for the Effort Sharing Decision post 2020 and can be deleted. Annex II to the MMR (Formula to calculate the sum of the effects of the recalculated GHG emissions for each MS) is to follow Article 20(1) of the MMR.
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	21	annual	Commission reporting on progress towards international and ESD targets	Reporting	EC	Integrate (in the Commission's monitoring Report)	Integrate in governance act	Commission report on progress towards EU targets and international commitments. Report submitted to the European Parliament and the Council and also used internationally to demonstrate at the annual Climate Conferences, what action the EU is taking in the climate field and to show progress towards its international commitments. Suitable to be integrated with the Commission's report in the context of the governance of the Energy Union.
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	22	in 2023	Union and Member States to submit report to the UNFCCC on the additional period for fulfilling commitments under the Kyoto Protocol	Reporting	EC and MS	Linked	Integrate in governance act	Relates to the UNFCCC/ Kyoto Protocol. Relevant for the second commitment period of the Kyoto Protocol after expiry at the end of 2020, as it deals with reports that are to be drawn up after the expiration of the second commitment period. No direct link to the national climate and energy plans. However, this Article should be integrated in the new legislative initiative on governance after revision.

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	23	N/A	Cooperation between Member States and the Union	Other	EC and MS	Linked	Integrate in governance act	Full cooperation and coordination between the Member States and the Commission is paramount, for example in the context of inventory reviews. Full cooperation and coordination will also be important in the context of the governance of the Energy Union. Article linked to Article 7 MMR. Needs to follow Article 7 of the MMR. This Article needs to be integrated in the new legislative initiative on governance.
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	24	N/A	Role of the European Environment Agency	Other	EEA	Linked	Integrate in governance act	The EEA assists the Commission in its work to comply with various Articles of the MMR , including tasks that are very relevant in the context of the Energy Union, such as compiling the information reported by Member States on policies and measures and projections, performing quality assurance and quality control procedures on the information reported by Member States on projections and policies and measures, preparing estimates for data on projections not reported by the Member States (gap filling) and compiling data as required for the annual report to the European Parliament and the Council prepared by the Commission (Climate Action Progress Report).As there are streamlining opportunities as regards projections and policies and measures, this streamlining also entails consequences as to the role of the EEA. To be included in the new legislative initiative on governance,

Name of obligation	Legal basis	Article	Frequency	Description of obligation	Type (planning / reporting / evaluation)	Entity targeted by the obligation	Recommendation in relation to National Plans, Progress Reports, Commission Monitoring	Recommendation in relation to legislative initiative	Short Reasoning
Monitoring Mechanism Regulation	Regulation (EU) No 525/2013	25	N/A	Climate Change Committee to assist the Commission	Other	N.a.	Linked	Integrate in governance act	The Climate Change Committee is relevant for all the climate acquis (EU ETS, ESD, transport) and has a role as committee in the meaning of Regulation (EU)182/2011. For the purposes of the Energy Union the role of the Committee may have to be updated in the context of future implementing powers under the legislative initiative on governance. To be integrated in the new legislative initiative on governance.

\* *Legend for the column "Recommendation in relation to National Plans, Progress Reports, Commission Monitoring": **Integrate** means the obligation is integrated in National Plans, Progress Reports and integrated Commission monitoring (and at the same time being amended in or repealed from current sectorial legislation); **Linked** means the obligation is remaining a separate obligation from National Plans, Progress Reports and integrated Commission monitoring but, given its relation to obligations to be integrated in National Plans, Progress Reports and integrated Commission monitoring, linked to those obligations and to follow the legal destination of those obligations; **Repeal** means the obligation is fully repealed from current sectorial legislation and thus removed from the EU energy and climate acquis.*

Table 4: In depth overview of streamlining possibilities between energy and climate planning, reporting and monitoring obligations

Interlinkage between energy and climate planning and reporting obligations	Renewable Energy Directive (Directive 2009/28/EC, Directives (EU) 2015/1513 & Commission Decision 2009/548/EC (Template for NREAP))	Energy Efficiency Directive (Directive 2012/27/EU and 2009/125/EC, Commission Staff Working Document SWD(2013)180 final (Template for NEEAPs))	Directive on the Energy Performance of Buildings (EPB) (Directive 2010/31/EU)	Regulation on Energy Statistics	Biofuels and bioliquids reporting requirements in the MRR under the ETS
MMR Art. 4(2) Status of implementation of low-carbon development strategy (LCDS) and MMR Art. 13(1)(b) Report on updates to the LCDS and progress in implementation	<p>LCDS should be expected to be consistent with NREAP and refer to renewable targets as they are presenting an important contribution to the low-carbon development.</p> <p>Streamlining would be recommended</p>	<p>LCDS should be expected to be consistent to NEEAP and refer to energy efficiency targets as they are presenting an important contribution to the low-carbon development.</p> <p>Streamlining would be recommended</p>	LCDS should be expected to be consistent to National plans for nearly zero-energy buildings and EPB-related measures and instruments	-	-
MMR 7(1) Greenhouse gas inventories	<p>Biomass use in TJ; CO2 emissions from biomass/biofuel/bioliquids + Gross final consumption to be consistent with total consumption used in GHG inventories.</p> <p>Conclusion: Under the RED sustainability criteria for biofuel and bioliquids are defined more precisely than for GHG inventory reporting.</p>	<p>Reporting on GHG reduction + Reporting on energy consumption, GVA, GDP and certain activities (Annex XIV).</p> <p>Conclusion: Primary energy consumption used for the calculation of ex-post savings on primary energy consumption should match to consumption considered in GHG inventories</p>	-	<p>Annual reporting of energy consumption.</p> <p>Conclusion: Energy consumption reported under the Energy Statistics Regulation should match to reporting in inventory. Fact addressed by MMR 7 (m). Comparison in Annex VI of Implementing Regulation 749/2014</p>	<p>Calculation of emissions from biomass/bioliquids/biofuels.</p> <p>Conclusion: Definition of biomass under the EU ETS is consistent with RES Directive</p>

<p><b>MMR Art. 13 Information on national policies and measures</b></p>	<p><b>Conclusion:</b> Under the RED relevant PaMs are also reported at a more disaggregate level; some elements of reporting are the same (type of measure, status of measure) as under MMR but notation is different.</p> <p>Reporting intervals between RED and MMR differ. Calculation of emissions savings follows harmonized methodology under RED which is different from MMR approach.</p> <p>Streamlining would be recommended</p>	<p><b>Conclusion:</b> Under the EED relevant PAMS are reported. The focus here is on other aspects than under the MMR and the reporting is much more detailed under EED. Streamlining the way information is reported may be helpful in order to facilitate less reporting effort and comparability of information between reporting streams.</p> <p>Reporting intervals between EED and MMR differ - EED NEEAPs triannual April 30; MMR biennial March 15</p> <p>Streamlining would be recommended</p>	<p><b>Conclusion:</b> Under EPBD policies and measures also relevant under MMR may be reported. It is encouraged to integrate this reporting under the NEEAPs.</p> <p>Streamlining would be recommended</p>	<p>-</p>	<p>-</p>
<p><b>MMR Art. 14 Reporting on projections</b></p>	<p><b>Conclusion:</b> Expected trajectories in NREAPs were relevant for GHG projections, but currently outdated and only reported once, expected information in progress reports has more character of road map or policy targets than a projection. Due to accounting rules, energy data under MMR and data in RES reports is not directly comparable. Calculation of GHG impacts not comparable between RED and MMR.</p>	<p><b>Conclusion:</b> Expected energy efficiency targets in principle comparable to the projection parameters under MMR. However actually they do not seem to be incorporated into with measures or with additional measures scenarios under MMR, information in NEEAPs should be reflected in MMR scenarios but usually MMR projections are higher</p> <p>Streamlining would be recommended</p>	<p>-</p>	<p>not relevant in this context</p>	<p>not relevant in this context</p>

## 8. ANNEXES

### 8.1. *Annex I: Intervention Logics of all the planning, reporting and monitoring obligations stemming from the EU energy acquis and falling within the scope of the Fitness Check*

The reporting obligations for the Commission contained in article 34 of the **ACER Regulation** to be performed at least every four years aim at evaluating the results achieved, working methods, mandate and tasks of the agency by the Commission and reporting on the results to the European Parliament and the Council. The main objective of this article is therefore to evaluate the work of the agency and to provide for transparency of its activities.

The agency itself has annual reporting obligations contained in articles 11 and 13(12). Article 11 aims at the monitoring of the internal electricity and natural gas markets and the publication of an annual report by the agency on this to the general public. The annual reporting obligations contained in article 13(12) aim at the publication of an annual report on the activities of the agency with the aim of monitoring the agency's work and informing European institutions and the public.

The **Connecting Europe Facility Regulation** contains an obligation for MS in article 22 to report to the Commission on the progress made in implementing projects of common interest and the investments made with the aim ensuring the timely delivery of the EU co-funded projects as well as informing the public about the state of play of these.

The **Crude Oil Imports Regulation** foresees the obligation for MS in articles 2 and 7 to provide each other and the Commission with information on the import of crude oil. The Commission is obliged in article 8 to analyse the information received and communicate it to the MS with the aim of increasing transparency and providing information in order to stabilise the Community market and ensure that abnormal world market fluctuations do not have an unfavourable impact on the community market.

The **Electricity Directive** foresees the obligation for MS in article 4 to monitor security of supply issues and publish every two years a report outlining their findings resulting from this monitoring as well as on any measures taken or envisaged by the respective MS. The report has to be provided to the Commission and aims at enabling the Commission to monitor the security of energy supply at MS and EU levels.

Article 22 foresees an obligation for Transmission System Operators (TSOs) to submit every year a ten-year network development plan to the respective National Regulatory Authority (NRA) based on existing and forecasted supply and demand containing efficient measures in order to guarantee the adequacy of the system and security of supply.

Article 37(1e) foresees an obligation for NRAs to report annually on their activities and the fulfilment of their duties to the relevant national authorities, the Agency for the Cooperation of Energy Regulators (ACER) and to the Commission with the aim of enabling these to monitor the implementation of activities and obligations contained in the directive by the NRAs.

The Commission is due according to article 47 to monitor the application of the directive and report annually to the European Parliament and the Council on the overall progress on the internal market of electricity including MS measures for improving competition on the

market. Where appropriate, the Commission may issue recommendations. The main aim of this obligation is to monitor and demonstrate the progress in the completion of the internal energy market for electricity.

The **Energy Efficiency Directive** contains a total of seven planning and seven regular reporting or monitoring obligations:

Articles 3, 24(2) and annex XIV (part 2) provide the legal basis for the National Energy Efficiency Plans (NEEAPs). Article 3 foresees the obligation for MS to set an indicative national energy efficiency target, which should take into account *inter alia* the overall EU wide reduction in primary energy consumption. Article 24 foresees the obligation for MS to submit their NEEAPs to the Commission. These plans cover significant energy efficiency improvements measures such as expected and/or achieved energy savings in view of realizing the national energy efficiency targets including updated estimates of the overall primary energy consumption in 2020. These obligations aim at encouraging MS to set up clear and comprehensive plans and to be able to check if the proposed measures and policy changes are sufficient to reach the 2020 targets. Furthermore, the plans should be used in a round of modelling with different macroeconomic models to verify and complement the results.

Article 4 of the directive foresees the obligation for MS to establish long-term strategies for mobilising investments in the renovation of the national building stocks and communicate them to the Commission as part of the NEEAPs. The main aims of this obligation are to ensure that a long-term strategy is developed, that an overview of the respective MS's national building stock is provided, that key policies foreseen to be used by the MS to stimulate renovations are identified and that an estimate of the expected energy savings resulting from these renovations is provided.

Article 7(9) provides the basis for MS's planning obligation to notify alternative policy measures to energy efficiency obligation schemes and annex V point 4 provides the obligation for MS to notify their detailed proposed methodology for the operation of the energy efficiency obligation schemes to the Commission.

The planning obligation for MS under article 14(1) and annex VIII on the assessment of the potential of cogeneration as well as district heating and cooling with the aim of setting up a framework to trigger investments in efficient district heating and cooling and to facilitate the identification of the most resource and cost effective solutions to meeting the respective heating and cooling needs.

Article 24(1) as well as annex XIV (part 1) provide the basis for the MS obligation to produce annual progress reports for the Commission. The aim of these obligations is to provide the basis for the Commission's monitoring of progress towards the 2020 targets and that each MS achieves cumulative end-use energy savings by 31 December 2020 as set out in the directive. Furthermore, this obligation allows identifying best-performers as well as those MS with a need for strengthening their performance.

The Commission is due under article 24(3) to assess and evaluate the plans and reports submitted by the MS with the aim of determining the extent to which MS have made progress towards the achievement of the respective targets and on the implementation of the directive. The result of this evaluation has to be reported to the European Parliament and the Council.

Furthermore article 24(11) foresees the obligation for the Commission to make the reports and plans produced by MS under articles 24(1) and 24(2) publicly available.

Article 24(4) foresees the obligation for the Commission to monitor the impact of the implementation of the Energy Efficiency Directive on the ETS Directive<sup>157</sup>, on the Renewable Energy Directive, on the Energy Performance of Buildings Directive and on the Effort Sharing Decision<sup>158</sup> as well as on industrial sectors particularly exposed to a significant risk of carbon leakage with the aim of ensuring consistency and coherence among these Union policies and directives.

Article 24(5) foresees the obligation for the Commission to report to the European Parliament and the Council on the continued need of possible exemptions set out in article 14(6) for cost-benefits analysis for cogeneration and efficient district heating and cooling with the aim of assessing whether the criteria for these exemptions can still be justified taking into account the availability of heat load and the real operating conditions of the exempted installation.

The annual reporting obligation for MS to the Commission contained in article 24(6) on the submission of energy statistics related to *inter alia* electricity and heat production from high and low efficiency cogeneration, cogeneration capacities for heat and electricity and on district heating and cooling capacities aims at providing the Commission with the necessary data to assess the progress made by the MS towards the achievement of the 2020 targets for energy efficiency.

The **Energy Labelling Directive** foresees the obligation for MS in article 3(3) to report to the Commission every four years on the enforcement activities for the directive and the level of compliance in the respective MS with the aim of allowing the Commission to verify whether compliance rates are increasing as a result of market surveillance enhanced and with a special regard to the responsibilities of suppliers and dealers.

Based on these MS reports, the Commission is due according to article 3(4) to regularly provide a synthesis report to the European Parliament and the Council with the aim of informing them as well as the general European public and increasing overall transparency.

The **Energy Performance of Buildings Directive** foresees the obligation for MS in article 9(1) to draw up national plans for increasing the number of nearly zero-energy buildings with the aim of ensuring reaching the target of all new buildings as of 31 December 2020 being nearly zero-energy buildings and that all new government occupied or owned buildings being nearly zero-energy buildings by the end of 2018. The obligation enables the Commission to check whether the national plans submitted including the proposed measures and policy changes are sufficient for target achievement. To this end and in virtue of article 9(5) of that directive, the Commission shall report on a regular basis and develop an action plan and, if necessary, propose measures to increase the number of those buildings and encourage best

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<sup>157</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC.

<sup>158</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 emissions reduction commitments up to 2020.

practices as regards the cost-effective transformation of existing buildings into nearly zero-energy buildings.

Article 10(2) requires MS to provide a list of existing and proposed measures and instruments including financial ones promoting the objective of the directive but not stemming from it to the Commission and update this list every three years. Furthermore, article 10(3) requires that the Commission assesses the effectiveness of these measures and provides advice and recommendations where needed.

Article 5(2) foresees the obligation for MS to calculate and submit to the Commission a report on the cost-optimal levels of minimum energy performance requirements for buildings in line with Delegated Regulation 2012/244/EU. The aim of this obligation is to improve the ambition levels of Member States towards cost-optimal energy performance requirements.

The Commission is obliged in virtue of article 5(4) to publish a report on this progress made by MS in this respect.

The **Energy Statistics Regulation** foresees the obligations for MS in article 4(1a, b & c) and in article 5 to provide the Commission (Eurostat) with statistical energy data on an annual (a), monthly (b) and short-term monthly (c) basis. The aim of these obligations is to ensure that precise and timely data on energy quantities, their forms, sources, generation, supply, transformation and consumption is available and can be used for the purpose of monitoring the impact and consequences of the policy work on energy.

Article 5(5) foresees the obligation for the Commission (Eurostat) to disseminate yearly energy statistics based on the above-mentioned reports from MS with the aims of transparency and providing data and information to the general public.

Furthermore, article 6(4) foresees an obligation for MS to provide the Commission (Eurostat) every five years with a report on the quality of the data transmitted to the Commission (Eurostat) as well as any methodological changes made by the MS if applicable. The aim of this obligation is to ensure the quality of the data provided to the Commission (Eurostat) by the MS.

The **Euratom Supply Agency Statues Council Decision** in Article 3 of the annex foresees the obligation for the Commission in the form of the Director-General of the Euratom Supply Agency to submit a yearly report on the activities of the agency in the previous year and a work programme for the coming year to the European Parliament, the Council and the Commission. The aim of this obligation is to enable the Commission to supervise the activities of the agency and be able to observe developments in the nuclear fuel market in the context of supply security.

The **Financial Assistance in the Field of Energy Regulation** foresees in article 28 an obligation for the Commission to report yearly on the implementation of the European Energy Programme for Recovery established by the regulation to the European Parliament and the Council. The aim of this obligation is to help identifying serious risks in the implementation of the priority projects as well as to recommend measures to offset those risks and, where appropriate and consistent with the Recovery plan, make additional project proposals.

The **Gas Directive** foresees the obligation for MS in article 5 to monitor gas security of supply issues and publish every year a report outlining their findings resulting from this monitoring as well as on any measures taken or envisaged to address them. The report has to be provided to the Commission and aims at enabling the Commission to monitor the security of energy supply at MS and EU levels.

Article 22 foresees an obligation for TSOs to submit every year a ten-year network development plan to the respective National Regulatory Authority (NRA) based on existing and forecast supply and demand containing efficient measures in order to guarantee the adequacy of the system and security of supply.

Furthermore, article 41(1e) foresees an obligation for NRAs to report annually on their activities and the fulfilment of their duties to the relevant national authorities, ACER and to the Commission with the aim of enabling these to monitor the implementation of activities and obligations contained in the directive by the NRAs.

The Commission is obliged in Article 52 to monitor the application of the directive and report annually to the European Parliament and the Council on the overall progress on the internal gas market including MS's measures for improving competition on the market. Where appropriate, the Commission may issue recommendations. The main aim of this obligation is to monitor and demonstrate the progress in the completion of the internal energy market for natural gas.

The **Hydrocarbons Directive** foresees the obligation for MS in article 9 to report annually to the Commission on the geographical areas opened to prospecting, exploration and exploitation as well as on the granted authorisations, the beneficiaries of these and the estimated reserves on the respective MS's territory. The aim of this obligation is to ensure a non-discriminatory access to and pursuit of activities related to the prospecting, exploration and exploitation of hydrocarbons under conditions which encourage greater competition in the sector thereby favouring best performers and reinforcing the integration of the internal energy market.

Furthermore, article 8(2) foresees the obligation for the Commission to report periodically without setting a specific timeline to the Council on the situation of entities in third countries and on the state of any negotiations undertaken with those countries or in the framework of international organisations with the aim of ensuring that MS's entities enjoy a treatment in third countries comparable to that enjoyed by third countries' entities within the EU.

The **Infrastructure Regulation** foresees the obligation for MS in article 3 to notify data and information on investment projects in the sectors of oil, gas, electricity, biofuels and carbon dioxide transport and storage to the Commission every two years. The details of what data needs to be reported are being spelled out in article 5. The aim of this obligation is to provide a consistent view of the future developments of the Union's energy system as a whole and provide a harmonised reporting framework for investment projects which should allow anticipating problems, promoting best practices and establishing greater transparency.

Based on the data received from the MS, the Commission is obliged in article 10 to produce every two years a cross-sector analysis of the structural evolution and perspectives of the Union's energy system. The aim of this obligation is to identify potential future gaps between the demand and supply of energy that are of significance for the Union's energy policy with an emphasis on potential future deficiency and flaws in the production and transmission

infrastructure, to identify investment obstacles and promoting best practices in addressing them and to increase the transparency for market participants as well as potential market entrants.

The **Intergovernmental Agreements Decision**<sup>159</sup> foresees the obligation for the Commission in article 8 to report every three years on the information exchange mechanism concerning Intergovernmental Agreements between MS and third countries in the field of energy. The aims of this obligation are to ensure transparency and coordinated action to ensure that such agreements effectively secure energy supply and allow for a closer intra-Union cooperation in the field of external energy relations.

The **Network Access for Cross-Border Electricity Exchanges Regulation** in article 8 foresees the obligation for the European Network of Transmission Operators for Electricity (ENTSO-E) to adopt every two years a non-binding Community-wide ten-year network development plan including a European generation adequacy outlook with the aim of modelling the integrated network, develop scenarios and assess the resilience of the electricity system.

Article 12(1) foresees the obligation for the TSOs to contribute to the activities of ENTSO-E under article 8 and to publish a regional investment plan every two years with the aim of taking investment decisions based on this plan.

The **Network Access for Natural Gas Transmission Regulation** in article 8 foresees the obligation for the European Network of Transmission Operators for Gas (ENTSO-G) to adopt every two years a non-binding Community-wide ten-year network development plan including a European supply adequacy outlook with the aim of modelling the integrated network, develop scenarios and assess the resilience of the gas system.

Article 12(1) foresees the obligation for the TSOs to contribute to the activities of ENTSO-G under article 8 and to publish a regional investment plan every two years with the aim of taking investment decisions based on this plan.

The **Nuclear Decommissioning Assistance in Bulgaria and Slovakia Regulation** foresees the obligation for the Commission in article 6(1) to produce each year a work programme specifying the objectives, expected results, related performance indicators and timeline with the aim of justifying the use of funds and as an input for the examination procedure. Furthermore, article 6(2) foresees the obligation for the Commission to produce an annual progress report on the implementation of the work carried out in the past years. Another aim of this report is to serve as a basis for the annual work programme of the following year.

The **Nuclear Decommissioning Assistance in Lithuania Regulation** foresees the obligation for the Commission in article 6(1) to produce each year a work programme specifying the objectives, expected results, related performance indicators and timeline with the aim of

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<sup>159</sup> A proposal for the repeal and replacement of the decision was presented by the Commission in February 2016 (Proposal for a Decision of the European Parliament and of the Council on establishing an information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy and repealing Decision No 994/2012/EU; COM(2016) 53 final; Brussels; 16 February 2016). However, as the Intergovernmental Agreements Decision of 2012 is still in force, it is considered in the Fitness Check.

justifying the use of funds and as an input for the examination procedure. Furthermore, article 6(2) foresees the obligation for the Commission to produce an annual progress report on the implementation of the work carried out in the past years. Another aim of this report is to serve as a basis for the annual work programme of the following year.

The **Nuclear Indicative Programme (PINIC)** is a requirement under article 40 of the Euratom treaty<sup>160</sup> which foresees the obligation for the Commission to periodically publish nuclear energy production targets and all the types of investment required for their attainment.

The **Nuclear Safety Directive** foresees the obligation for MS in article 8e(1) to conduct periodic (at least once every ten years) self-assessments of their national framework and competent regulatory authorities and invite an international peer review with the outcomes of these to be reported to other MS and the Commission. The aim of this obligation is to ensure continuous improvement of nuclear safety.

Furthermore, article 8e(2&3) foresees the obligation for MS to ensure a national assessment of a specific topic related to nuclear safety of the relevant nuclear installations in their territory and the arrangement of topical peer reviews on this assessment at least every six years. The relevant reports resulting from this process must be published with the aim of this obligation being to share knowledge on the process and technical findings of the peer reviews in order to increase nuclear safety.

Article 9(1) foresees the obligation for MS to report on the implementation of the directive twice (in 2014 and in 2020), while article 9(2) foresees the obligation for the Commission to report to the European Parliament and the Council on the progress made in the implementation of the directive based on the reports submitted by MS with the aim of these two obligations being to ensure the implementation of the directive.

The **Offshore Safety Directive** foresees the obligation for MS in article 25(1) and annex IX (point 3) to report annually to the Commission on offshore oil and gas installations, their safety and any changes in the respective national regulatory framework, while the Commission is obliged in article 25(3) to publish an annual report based on the information received. The aim of these two obligations is to allow the Commission to monitor and evaluate the progress made towards meeting the objectives as well as to compare progress between different MS, which should also help increasing the public acceptance of offshore oil and gas activities by increased transparency. Furthermore, it should allow the Commission to monitor the development of offshore safety in Europe, encourage the transfer of knowledge and the sharing of lessons learned as well as promoting continuous improvement in the prevention of major incidents.

The **Oil Stocks Directive** foresees the obligation for MS in article 6 to keep a continually updated and detailed register of all emergency stocks held and to report annually on the stock register to the Commission with the aim of providing the Commission with an overview of the quantities and nature of the emergency stocks included in the register.

Articles 9(4) and 9(5) oblige MS to either maintain a certain level of specific stocks and notify them to the Commission (obligation in article 9(4)) or, if the MS in question decides not to

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<sup>160</sup> Treaty Establishing the European Atomic Energy Community, 25 March 1957, Rome.

hold specific stocks, to report annually to the Commission (obligation in article 9(5)) on measures taken to ensure and verify the availability and physical accessibility of its emergency stocks.

Furthermore, the Directive foresees an obligation for MS to provide the Commission with monthly statistical summaries of emergency stocks (article 12), of specific stocks (article 13) and of commercial stocks (article 14) with the aim of ensuring an up-to-date overview of emergency stock levels, specific stock levels and commercial stock levels. In addition, the commercial stock level also provides an indication of the tightness of the market and its influence on crude prices.

**The Petrol Products Consumer Prices and Crude Oil Supply Costs Council Decision and the related Commission Implementing Regulation** foresees the obligation for MS in article 3(1) to report monthly to the Commission on the crude oil supply costs and on the consumer prices of petroleum products net of duties and taxes and including all taxes and in article 3(2) to report weekly on the consumer prices for petroleum products net of duties and taxes. The aim of these obligations is to enable the Commission to monitor oil costs and petroleum product prices.

Based on this information from MS, the Commission is obliged in article 4 to publish each month the crude oil supply costs and the consumer prices of petroleum products net of duties and taxes and inclusive of duties and taxes as well as weekly the consumer prices of petroleum products net of duties and taxes with the aim of increasing transparency and informing the public on oil costs and petroleum product prices<sup>161</sup>.

**The Radioactive Waste and Spent Fuel Directive** foresees the obligation for MS in article 14(1) to report every three years on the implementation of the directive and it foresees the obligation for the Commission in article 14(2) to report on the basis of the MS' reports to the European Parliament and the Council with the aim of providing information on the progress made in the implementation, as well as on the inventories of radioactive waste and spent fuel present in the Union's territory.

Furthermore, article 14(3) foresees the obligation for MS to arrange for a self-assessment of their national framework, competent regulatory authority, national programme and its implementation at least every ten years and invite an international peer review. The outcomes of these peer review need to be reported to the Commission and made publicly available with the aim of ensuring that high safety standards are achieved in the safe management of spent fuel and radioactive waste.

**The Renewable Energy Directive** foresees the obligation for MS in article 4 and linked to annex VI to adopt a National Renewable Energy Action Plan (NREAP) with the aim of setting out MS's national targets for the share of energy from renewable sources in transport, in electricity as well as in heating and cooling for 2020. Furthermore, the plans should take into account the effects of other policy measures relating to energy efficiency and the adequate measures taken to achieve those national overall targets, including *inter alia* cooperation

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<sup>161</sup> In article 4 of the "Commission Decision 1999/566/EC of 26 July 1999 implementing Council Decision 1999/280/EC regarding a Community procedure for information and consultation on crude oil supply costs and the consumer prices of petroleum products" this weekly and monthly publication was named "Oil Bulletin".

between local, regional and national authorities. The submission of these NREAPs should also enable the Commission to evaluate the plans, notably the adequacy of the measures envisaged by MS and if needed issue recommendations to the respective MS.

Article 22 foresees the obligation for MS to report every two years to the Commission on the progress made in the promotion and the use of energy from renewable sources. The aim of this obligation is to enable the MS and the Commission to monitor the progress made towards the targets and trajectories set in Annex I of the Directive and in the NREAPs. Furthermore, the reports provide the ability to compare the performance across the EU and sets out the measures taken or planned at the national level in order to promote the growth of energy from renewable sources.

The Commission is obliged in articles 17(7) and 23(3) to report every two years MS reports and own monitoring and analysis to the European Parliament and the Council on the progress in renewable energy development in the EU and on the origin of biofuels and bioliquids as well as the impact of their production on social sustainability in the community and in third countries resulting from the increased demand for biofuels. The aim of this obligation *is inter alia* to ensure the sustainability of raw materials used for biofuels consumed within the community.

Furthermore, article 19(5) foresees the obligation for the Commission to report every two years on typical and default values of biofuels and bioliquids emissions with the aim of evaluating these values and in the case of a need for adjustment providing the Commission with the obligation to produce a respective legislative proposal adjusting these values.

The Commission is obliged in article 24 to establish an online public transparency platform with the aim of increasing transparency as well as facilitating and promoting cooperation between MS.

The **Security of Electricity Supply Directive** foresees the obligation for MS in article 7(1-4) to ensure that reports under article 4 of the Internal Electricity Market Directive cover the overall adequacy of the electricity system to supply current and projected demands for electricity. The aim of this obligation is to ensure the achievements of the objectives of the directive, specifically to safeguard a high level of security of electricity supply.

The Commission is obliged in article 7(5) to report on the basis of the information received to MS, competent authorities and the European Regulators Group on Electricity and Gas on the investments planned and their contribution to the objectives of the directive. This reporting obligation can be fulfilled as part of the obligation under article 47 of the Electricity Directive.

The **Security of Gas Supply Regulation**<sup>162</sup> foresees the obligation for the competent authorities in each MS in article 9 to make a full assessment of the risks affecting the security of gas supply and to update these assessments every two years with the aim of analysing

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<sup>162</sup> A proposal for the repeal and replacement of the regulation was presented by the Commission in February 2016 (Proposal for a Decision of the European Parliament and of the Council concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010; COM(2016) 52 final; Brussels; 16 February 2016). However, as the Security of Gas Supply Regulation from 2010 is still in force, it is considered in the Fitness Check.

exceptionally high gas demand and supply disruption scenarios and to categorize the threats and hazards into high- medium- and low-risk while taking into account national specificities.

Based on these risk assessments, the regulation requires the competent authorities in each MS in article 4 and 5 to establish preventive action plans and emergency plans with details being spelt out in article 10 containing the measures needed to remove or mitigate the risks identified as well as the measures to be taken to remove or mitigate the impact of a gas supply disruption. These plans need to be updated every two years. The aim of this obligation is to increase the security of gas supply and to help to avoid or at least reduce the probability or impact of the various risks identified.

The Commission is obliged in article 14 to report annually as part of its reporting obligations under the Gas Directive on the security of gas supply measures with the aim of drawing conclusions as to possible means to enhance the security of gas supply at the Union level and report on the progress made on market interconnectivity.

The **Shipments of Radioactive Waste Directive** foresees the obligation for MS in article 16(1c) to report to the Commission and the Advisory Committee set up under the directive on a yearly basis information on the prohibition of shipments of radioactive waste and spent fuel to third countries that, in the opinion of the competent authorities of the MS does not meet the export requirements with the aim of sharing this information among MS on countries that are not considered suitable for receiving radioactive waste.

Furthermore, article 20(1) foresees the obligation for MS to report every three years to the Commission on the implementation of the directive while article 20(2) foresees the obligation for the Commission to establish a summary report on the basis of MS's reports and submit it to the European Parliament, Council and the European Economic and Social Committee with the aim of providing insight and transparency on the implementation of the Directive.

The **Trans-European Energy Infrastructure (TEN-E) Regulation** foresees in article 5(5) the obligation for ACER to report annually to the regional groups set up by the regulation on the projects of common interest evaluating the progress achieved and make, where appropriate, recommendations on how to overcome delays and difficulties encountered with the aim of ensuring the consistent implementation of the Union-wide network development plans with regard to the energy infrastructure priority corridors and areas.

The **Transparency of Gas and Electricity Prices Directive**<sup>163</sup> foresees the obligation for MS in article 1, 2(1) and 3 as well as in annexes I and II to ensure that suppliers report to the Commission (Eurostat) twice per year data on the prices and terms of the sale of gas and electricity to industrial end-users and on the price systems in use as well as every two years on the breakdown of consumers and the corresponding volumes of consumption. The aim of these obligations is to ensure transparency of electricity and gas prices for industrial end-users.

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<sup>163</sup> It has to be noted, that the directive is already foreseen for a repeal by the Commission's Proposal for a Regulation of the European Parliament and of the Council on European statistics on natural gas and electricity prices and repealing Directive 2008/92/EC of the European Parliament and of the Council concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users. Nevertheless, it was decided to still include the directive into the Fitness Check as it is still in force until the Commission's proposal is adopted.

The Commission is obliged in article 8 to report annually to the European Parliament, the Council and the European Economic and Social Committee on the operation of the directive with the aim of ensuring transparency.

The **Wholesale Energy Markets Regulation** foresees the obligation for the ACER in article 7(2 and 3) to report annually to the Commission on its activities under the regulation and to assess the operation and transparency of different categories of market places and ways of trading including, where appropriate, recommendations. Furthermore, national regulatory authorities are encouraged to cooperate at regional level with the Agency in order to carry out the monitoring of the wholesale energy market.

## **8.2. Annex II: Intervention Logics of the planning, reporting and monitoring obligations stemming from the climate acquis covered by the Fitness Check**

The **Climate Monitoring Mechanism Regulation (MMR)** is a single instrument which streamlines most of the reporting, planning and monitoring obligations in the climate field. The MMR focusses on planning, reporting and monitoring obligations for Member States and the Commission. It is a single instrument through which domestic and international reporting requirements are implemented and which sets the EU's own internal reporting rules on the basis of internationally agreed obligations. The MMR implements reporting and review requirements related to the Effort Sharing Decision (ESD)<sup>164</sup>, reporting related to the EU Emissions Trading System (ETS) Directive<sup>165</sup> and requirements stemming from international climate action agreements<sup>166</sup>. The Fitness Check assesses for the planning, reporting and monitoring obligations in the MMR whether and how they are interlinked with energy planning, reporting and monitoring obligations. A full overview of the MMR obligations and the way they are interlinked with planning, reporting and monitoring obligations in the energy field is included in the conclusions of this Fitness Check (table 3). An in depth overview of streamlining possibilities is also included in the conclusions of this Fitness Check (table 4).

The reporting under the MMR covers emissions of seven greenhouse gases from all sectors including energy, industrial processes, land use, land use change & forestry (LULUCF), waste, agriculture (greenhouse gas inventory, Article 7 MMR and proxy inventory, Article 8 MMR). It also covers greenhouse gas emission projections (Article 14 MMR), policies and measures (PaMs) to cut greenhouse emissions (Article 13), national measures to adapt to climate change (Article 15), low-carbon development strategies (Articles 4 and 13(1)(b)), financial and technology support for developing countries (Article 16), and national governments' use of revenues from the auctioning of allowances in the EU emissions trading system (Article 17).

According to Article 21 of the MMR, the Commission assesses annually the progress made by the Union and its Member States to meet their greenhouse gas emission reduction targets. The objective of the climate action progress report is to provide on an annual basis a comprehensive overview of all climate policies and progress to targets.

As the MMR is a result of a recent (2013) streamlining exercise in the climate field it constitutes a coherent and largely up-to-date set of obligations enabling the EU and its Member States to fulfil their domestic obligations and their obligations vis à vis the UNFCCC. Many of its obligations fulfil both purposes and many are linked to each other. For example, the greenhouse gas inventory need to be submitted to the UNFCCC, but it also provides the Commission with information on Member States' greenhouse gas emissions needed to assess

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<sup>164</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. The MMR establishes a review and compliance cycle under the ESD; it ensures that solid information is available to allow annual determination of compliance with the ESD.

<sup>165</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC. In 2015 the Commission presented a legislative proposal to amend the ETS for the period after 2020. The MMR incorporates the reporting requirements for the use of revenues from the auctioning of emission allowances to see for which purposes they are used.

<sup>166</sup> In the context of the United Nations Framework Convention on Climate Change (UNFCCC)

progress towards Member States' targets under the Effort Sharing Decision. The ESD review (Article 19 MMR) is not a reporting, planning or monitoring obligation itself but it makes the information more accurate, thereby supporting the implementation of EU objectives. Member States' reporting on PaMs and projections provides the Commission with information regarding what climate action Member States are taking and how Member States' greenhouse gas emissions are expected to develop, and also serves as an input for the biennial report and National Communications (Article 18) which shall be provided every two years or four years by the Commission and the Member States to the UNFCCC. Articles on national systems for inventories (Article 5 MMR) or on national systems for policies and measures and projections (Article 12 MMR) enable the collection of data at Member State level in an integrated way. The Paris Climate Agreement revised only a limited number of international obligations covered by the current MMR such as on adaptation. It also established a work programme to develop further international transparency rules, but these will only be adopted later on.

### 8.3. *Annex III: Procedural information*

#### *Lead DG and internal references*

The Fitness Check on "Streamlining reporting and planning obligations in the EU energy acquis [REFIT]" was led by DG Energy. It was included as item 2016/ENER/024 in the Agenda Planning and as Commission's REFIT Initiative item 10 in the Commission Work Programme of 2016<sup>167</sup>. DG Climate Action contributed to the work of the Fitness Check and especially to the analysis of the interlinkages between the energy and climate acquis (tables 3 and 4).

#### *Organisation and timing*

An inter-service steering group (ISG) was set up in October 2015 with representatives from the Directorate Generals for Energy; Climate Action; Agriculture and Rural Development; Competition; Economics and Financial Affairs; Environment; Eurostat; Internal Market, Industry, Entrepreneurship and SMEs; Justice and Consumers; Mobility and Transport; Regional and urban Policy; Research and Innovation, the Legal Service and the Secretariat General. In addition, representatives from the European Environmental Agency were invited to some meetings as experts.

Table I.1 ISG meeting dates and topics of discussion as well as other consultations

<b>Date</b>	<b>Topics of discussion</b>
11.11.2015	Fitness Check Mandate (Roadmap), Terms of References for the study by the external consultant; Consultation Strategy and Questionnaire for the Public Consultation
03.05.2016	Presentation of the Intermediate Report from the consultant and discussion of the report; Presentation by DG CLIMA on the study on interlinkages between the energy and climate acquis; Presentation and discussion on the envisaged structure of the Fitness Check Staff Working Document;
22.06.2016	Final supporting study send to ISG Members by email for comments until 27 June
15.07.2016	Final Meeting of the ISG (in the Framework of the Meeting of the Governance ISG <sup>168</sup> meeting in order to make use of existing synergies); Presentation of the Final supporting studies and the draft Fitness Check Staff working Document;

#### *Consultation of the Regulatory Scrutiny Board*

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<sup>167</sup> Op.cit.: COM(2015) 610final.

<sup>168</sup> Interservice Group on Energy Union Governance and the 2016 State of the Energy Union under the lead of the Secretariat-General.

The Regulatory Scrutiny Board (RSB) issued a positive opinion on this Staff Working Document in its meeting of 14 September. The RSB refrained from providing any comments on how the Fitness Check could be further improved.

#### *External Expertise*

The analysis underpinning this Fitness Check was undertaken by two independent but closely interlinked studies commissioned by DG ENER and DG CLIMA respectively.

The study commissioned by DG ENER with the title "1) Preparatory study for the Commission's Fitness Check Evaluation of Planning and Reporting Obligations in the EU energy acquis; 2) Support for an Impact Assessment in view of legislative proposals on streamlining of Planning, Reporting and Monitoring for the Energy Union (Energy Union Governance)" was undertaken by a consortia under the leadership of Trinomics and with the participation of Technopolis Group and Ludwig Bolkow Systemtechnik from 31 December 2015 until 30 June 2016.

The study commissioned by DG CLIMA with the title "Possible Streamlining of Climate and Energy Reporting Requirements in Areas with Interlinkages" was undertaken by a consortia under the leadership of Amec Foster Wheeler in association with Öko-Institut and Bio by Deloitte from 31 December 2015 until 30 June 2016.

## 8.4. Annex IV: Stakeholder consultation

### EXECUTIVE SUMMARY

#### *Background and approach:*

This public consultation was launched on 11 January 2016 to collect views and input from stakeholders and citizens ahead of the forthcoming proposal on the Governance system of the Energy Union. The consultation period lasted over 12 weeks and closed on 22 April 2016. The consultation focused on: i) how current planning and reporting obligations in the energy and climate field could be better streamlined to better serve the objectives of the Energy Union; ii) how to best proceed to develop integrated planning, reporting and monitoring tools and; iii) how to set up a Governance process conducive to the attainment of the objectives of the Energy Union. The responses to this public consultation fed into the Commission's evaluation and fitness check of existing planning and reporting obligations as well as into the Impact Assessment for the Commission's legislative proposal on the Governance of the Energy Union.

A summary of the main views related to the specific sections of the consultation is provided below:

#### D) Streamlining of existing planning and reporting obligations

While the vast majority of respondents recognise the importance of existing planning and reporting obligations, a broad consensus emerges on the need to better streamline, align and integrate existing planning and reporting obligations to avoid gaps, duplications and inconsistencies. The responses acknowledge the need to focus on all dimensions of the Energy Union, but suggest that this effort should primarily focus on the obligations more closely related to the 2030 Energy and Climate Framework.

A general consensus also emerges that the Energy Union Governance presents an opportunity to address the inconsistencies between planning towards the Energy Union's five dimensions. Some energy planning obligations at EU level are considered as misaligned with medium and long-term EU climate objectives while synergies between energy and climate plans could be better exploited. Detailed and standardised planning and reporting tools (such as templates) are considered by the majority of stakeholders as important elements to facilitate the monitoring of Member States' actions and to increase accountability and transparency. According to replies received, reporting obligations play a very important role under several aspects. An adequate level of reporting obligation should be maintained to monitor both the implementation of policies as well as to assess the progress made towards the fulfilment of the Energy Union targets, notably for those defined in the context of the 2030 Energy and Climate Framework.

A majority of stakeholders agree on the necessity to focus the streamlining efforts on the existing planning obligations more closely related to the objectives and by the 2030 Framework (notably greenhouse gas emissions in the non-ETS sectors, renewables, energy efficiency) to avoid policy overlaps and inefficiencies while providing a clearer picture of the overall savings efforts. Several stakeholders point towards the necessity to better integrate the National Renewable Energy Action Plans (NREAPs), the National Energy Efficiency Action

Plans (NEEAPs), and climate planning requirements. A couple of respondents raised the Low Carbon Development Strategies (LCDS) in this context. While highlighting the necessity of streamlining and reducing overall planning obligations, all respondents agree that all five dimensions should be adequately reflected in future planning instruments.

## II) Forthcoming initiative on Governance

Concerning the nature of the initiative, a vast majority of respondents consider that a single legislative act should be the Commission preferred option for streamlining planning and reporting obligations in the energy and climate field post 2020. A high number of stakeholders also advocate for the inclusion of binding templates in the legal proposal. While several Member States also openly support the legally binding option, some Member States would rather give preference to non-legislative approaches (non-binding guidance).

On the structure of the Plans, respondents are generally of the opinion that the Integrated National Energy and Climate Plans ("the Plans"), while reflecting the five dimensions of the Energy Union, should be produced on the basis of a detailed template and focus on the areas with quantified EU targets, eventually replacing existing planning tools. From a different perspective, a limited number of stakeholders – which includes several Member States – proposes alternative approaches, notably suggesting short strategic planning documents with a high level of aggregation. Several stakeholders, including a majority of Member States, insist on the necessity of avoiding new administrative burden or additional costs. All respondents equally advise on the necessity of standardised reporting templates mirroring the structure of the new planning instruments.

Regarding reporting on renewables and energy efficiency, several stakeholders are also asking for the introduction of benchmarks, trajectories or "corridors". Several stakeholders also voice the necessity, for the new planning instruments, to factor in a long term vision until 2050 and to refer to the key indicators agreed upon at the European level.

On the political process governing the finalisation and review of the Plans, a vast share of respondent advocates for a transparent and participatory planning process conducive to investor confidence and public acceptance.

According to the majority of respondents, national administrations as well as national stakeholders and national Parliaments will have a key role to play in the preparation of the Plans. It is also held by a number of respondents that the Commission should also play an important role to i) provide templates and technical support to Member States in the preparation phase of the Plans; ii) to assess the Plans and review the progress made (notably via the State of the Energy Union) and iii) to introduce additional measures in view of ensuring delivery of the EU-level objectives.

Concerning the revision of the Plans, Member States are generally focusing on the necessity to find a right balance between on the one hand the principle of investment certainty and on the other the possibility to adapt the Plans to changing circumstances. It is also widely recognised that obsolete Plans could undermine the reliability and transparency of future planning for investors and other stakeholders.

Finally, there is widespread consensus that the new Governance system should facilitate the coordination of national energy policies and foster regional cooperation. Stakeholders also agree that the Commission should play an important role in guiding Member States and setting up process defining regional cooperation. There is also widespread belief in the principle that Member States' consultations and mutual reviews could play a role in the political process leading to the definition of the new Plans.

## INTRODUCTION AND APPROACH

This consultation is enshrined in the preparatory work of the legislative initiative on the Governance of the Energy Union. This follows the adoption of the Energy Union on 25 February 2015, the Commission's guidance to Member States on national Plans on 18 November 2015 and the Council's Conclusions on Energy Union Governance on 26 November 2015. The public consultation was launched on 11 January 2016 to collect views and input from stakeholders, citizens and Member States on the forthcoming proposal on the Governance system of the Energy Union and how current planning and reporting arrangements in the energy field could be improved to meet the objectives of the Energy Union and to reduce administrative burden.

The Commission's State of the Energy Union presented on 18 November 2015 states that "*[i]ntegrated national energy and climate Plans, addressing all five dimensions of the Energy Union, are necessary tools to have more strategic planning*", and that "*[i]n order to track progress, a transparent monitoring system needs to be put in place based on key indicators as well as on Member States' biannual reports concerning progress made on their national Plans*". This builds further on the Commission's Communication on the Energy Union of February 2015, which explained that a purpose of the Governance process for the Energy Union is to "*streamline current planning and reporting requirements, avoiding unnecessary administrative burden*".

In line with the European Commission's Better Regulation package, the online-based consultation period lasted over twelve weeks, closing on 22 April 2016. Responses submitted late<sup>169</sup> were accepted for over a week after this deadline. The questions of the consultation were formulated so as to respect the Commission's new 'better regulation' requirements and to feed into two parallel processes. In the first instance, this consultation contributes to assess whether existing requirements are effective, efficient, and coherent within the broader EU legislative framework thus contributing to the Commission's evaluation and fitness check of existing planning and reporting obligations (a REFIT initiative in the Commission's 2015 Work Programme). In the second instance, this contribution supports the identification of the most appropriate policy options to be considered by the Impact Assessment for the Commission's proposal(s) for streamlining of planning and reporting in the energy and climate field foreseen for late 2016, as announced by the State of the Energy Union.

The survey was divided into four general sections. The first two sections focused respectively on the assessment of existing planning and reporting obligations. In these sections, an overview of existing obligations in the energy sector concerning the Member States as well as the Commission was made available to stakeholders. The third section focused on possible options for streamlining planning and reporting obligations, notably assessing the advantages and disadvantages linked to the creation of an Integrated National Energy and Climate Plan (from hereafter 'the Plans') as well as integrated reporting and monitoring tools. The fourth and final section sought stakeholders' views on how to structure the process underpinning the Governance system of the Energy Union.

Participants were invited to answer all questions deemed relevant. The functional email address [ENER-ENERGY-UNION-GOVERNANCE@ec.europa.eu](mailto:ENER-ENERGY-UNION-GOVERNANCE@ec.europa.eu) was set up so as to provide additional guidance for participants, if required. To ensure transparency, single

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<sup>169</sup> Via the functional email address.

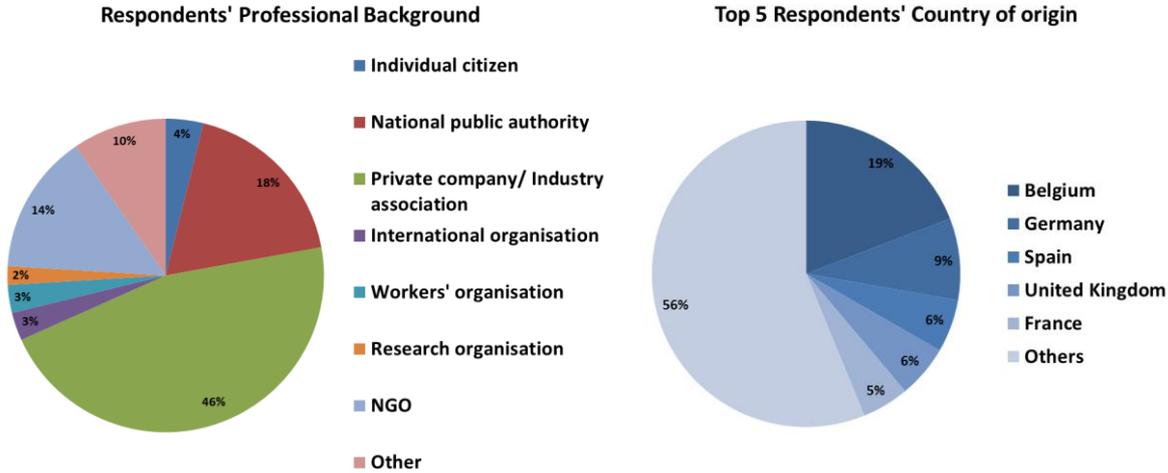
contributions were made publicly available on the DG ENER website<sup>170</sup>. Statistical information contained in the contributions was evaluated via a customised spreadsheet model, while the qualitative submissions were methodologically assessed with the help of a cluster analysis. All quantitative figures are derived from a dataset that was retrieved from the consultation website on 25 April 2016.

**PARTICIPANTS**

The online survey received a total of 103 submissions<sup>171</sup>. The functional email inbox received an additional 35 documents, either in complement to or in lieu of online submissions. Most contributions were submitted by Industry Associations and private companies (46%), National Public Authorities (either central or local government) (18%) and NGOs (14%).

The Commission received contributions from national public authorities from 15 Member States: Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Latvia, Lithuania, Malta, The Netherlands, Poland, Slovakia and Sweden. Norway also replied to the consultation.

Of all the organisations that submitted contributions, the majority stated to be active in Belgium (19%), which may be explained by the fact that most European-wide organisations are based in the Brussels area and are officially registered with the Belgian authorities. Organisations then reported to be most active in Germany (9%), followed by United Kingdom (6%), Spain (6%) and France (5%).



<sup>170</sup> <https://ec.europa.eu/energy/en/consultations/consultation-streamlining-planning-and-reporting-obligations-part-energy-union>

<sup>171</sup> The tables and charts included in this document are solely based on the replies received via the online platform. Other responses are analysed as well but not included in the tables and charts.

## RESPONSES

### Part I – Evaluation of planning obligations

#### *Question 1) on the importance and relevance of existing planning obligations at EU level*

This section of the consultation asked stakeholders to express their views **on the role and relevance of existing planning obligations** as well as on the possible parts of the existing planning obligations that could be **streamlined, repealed or maintained separate**.

From a general perspective, based on the elements provided, **stakeholders are acknowledging as "very important" the role played by existing planning obligations**, particularly to ensure the achievement of the EU energy and climate objectives (61%); to increase certainty for investors (59%); and for effective and efficient implementation of EU legislation (58%). Planning obligations are perceived by a majority of stakeholders as "important" or "very important" tools also to ensure full coherence between national Plans of all EU Member States, the fulfilment of international commitments as well as to enable the Commission to provide substantial and useful advice.

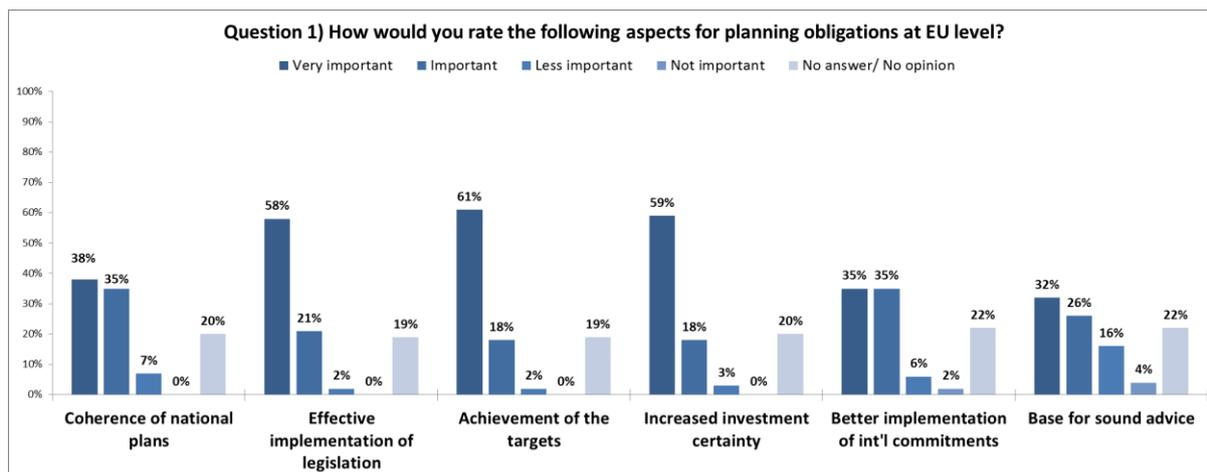
When looking at specific groups of stakeholders, a vast majority of the *national public authorities* agree on the "important" or even "very important" role played by those planning obligations for all the six aspects detailed in the consultation<sup>172</sup>. *Private companies, industry associations* and *NGOs* consider existing planning obligations even more important (in particular, all the six aspects below are indicated as "very important" by at least 74% of NGOs).

In the same vein, the assessment of the written contributions confirms that effective planning (as well as reporting<sup>173</sup>) is widely considered as **a strong tool helping the EU achieve its energy and climate goals, ensuring that policies are coherent and mutually reinforcing**. Furthermore, according to a large share of stakeholders, **existing templates enshrined in sectorial legislation are important** in view of assuring sound monitoring, accountability, consistency and comparability of Member State progress towards the agreed targets. Planning instruments are considered equally important to promote exchange of information and knowledge sharing.

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<sup>172</sup> For a full overview of the aspects assessed in the public consultation, refer to the Graph relating to Question 1

<sup>173</sup> For a more detailed assessment on reporting obligation, please refer to the Section II of this report.



*Question 2) and 3) on existing overlaps or inconsistencies among the existing planning obligations and on the obligations to be streamlined, repealed or maintained separate.*

Replies received to this consultation point to **several existing overlaps between climate and energy planning instruments**. Stakeholders notably point to existing overlaps between the Monitoring Mechanism Regulation (MMR) (Regulation (EU) No 525/2013)<sup>174</sup>, the Renewable Energy Directive (RED)<sup>175</sup> and the Energy Efficiency Directive ('EED')<sup>176</sup>, especially regarding the planning of policies and measures.

From the consultation a **general consensus emerges that the Energy Union Governance presents an opportunity to address the inconsistencies** that might exist between different planning obligations, to increase transparency and reduce the administrative burden. This view is notably shared by all 15 Member States having replied to the public consultation.

According to many, an integrated planning instrument would reduce duplication, loss of information and increase the efficiency of the overall planning process. Several stakeholders also highlight that energy planning obligations at EU level could be better aligned **with medium and long-term EU energy and climate objectives**. Likewise, several stakeholders are stressing that **planning provisions could also be better aligned in terms of timing and better harmonized** via the use of the same data, assumptions, projections and scenarios across policy areas. Finally, according to many, potential **synergies between energy and climate Plans could be better exploited**.

A majority of stakeholders agree on the necessity to **focus the streamlining efforts on the existing planning obligations more closely related to the objectives set by the 2030 Framework** (notably greenhouse gas emissions in the non-ETS sectors, renewables, energy

<sup>174</sup> Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC.

<sup>175</sup> -Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC.

<sup>176</sup> Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC.

efficiency) to avoid policy overlaps and inefficiencies, and provide a clearer picture of the overall efforts related to the quantified EU level target that were agreed by the European Council back in October 2014.

In more concrete terms, a majority of stakeholders see the necessity to **better integrate** into one consolidated national Plan both the planning obligations of the **National Energy Efficiency Action Plans (NEEAPs) and the National Renewable Energy Action Plans (NREAPs)**. Those are considered by several respondents as partially overlapping and offering scope for better alignment (notably on scenarios, future energy use projections, interaction of described policies and measures). There is nonetheless a minority of respondents advocating for keeping these obligation separate, within binding templates for NREAPS and NEEAPs to be enshrined in the revised Renewable Energy Directive and Energy Efficiency Directive respectively.

Concerning energy efficiency, the need for better coordination is often mentioned regarding planning obligations contained respectively in the Energy Efficiency Directive (EED) and in the Energy Performance of Buildings Directive (EPBD)<sup>177</sup>. Several stakeholders are asking to incorporate provisions related to energy savings (reported annually under EED Articles 3, 24.1 and Annex XIV, Articles 4 and 7) into overarching Plan as part of the energy efficiency dimension. EED Articles 5 & 14 and EPBD Articles 5 & 9 are also mentioned as potential elements for an integrated planning (or reporting) tool.

According to several stakeholders, **also climate planning obligations**, should be streamlined. Several stakeholders are of the opinion that Low Carbon Development Strategies (LCDS) under the Monitoring Mechanism Regulation<sup>178</sup>, should be streamlined into one integrated plan. Only very few mention the Corrective Action Plan under Art. 7 of the Effort Sharing Decision (ESD)<sup>179</sup> and the Information on current and future LULUCF actions under the LULUCF Decision<sup>180</sup> (Art 10(2)(d) and Annex IV) as candidates for streamlining. Other stakeholders think that full streamlining is not possible but that consistency should be ensured between LCDS and the integrated plan. Planning of policies and measures is also mentioned as an area where streamlining could take place. Some stakeholders are pointing out that consistency with international obligations regarding planning in the climate field should be ensured.

From a different perspective some stakeholders are pointing out that streamlining should not interfere with international obligations in the climate planning.

On the **planning obligation to be kept separate**, stakeholders express divergent views. Some are advocating for the full integration of planning obligations that are relevant for the achievement of the Energy Union. Others are of the opinion that planning obligations loosely

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<sup>177</sup> Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings.

<sup>178</sup> Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC, OJ L 165, 18.6.2013.

<sup>179</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.

<sup>180</sup> Decision No 529/2013/EU of the European Parliament and of the Council of 21 May 2013 on accounting rules on greenhouse gas emissions and removals resulting from activities relating to land use, land-use change and forestry and on information concerning actions relating to those activities.

connected with the priorities of the Energy Union, too detailed or not addressing Member States should remain separate. Most frequently mentioned examples of planning obligations that should remain separate concern the planning requirements under Regulation (EU) 994/2010 on Security of Gas Supply<sup>181</sup>.

Very few stakeholders highlighted specific **planning obligations that could be repealed**. Some respondent nonetheless notably highlighted that planning and reporting obligations in the NREAPs and the NEEAPs contains statistics and data already available through Eurostat. Some also argue that the level of detail in the planning and reporting obligations according to the Renewable Energy Directive (RED) could also be reduced. Art 9 of the Energy Performance of Buildings Directive (EPBD) on national Plans for nearly zero-energy buildings was also mentioned by some respondents as carrying high administrative burden.

The following sections will offer a more comprehensive assessment of existing planning obligations in the different areas of the energy and climate acquis, as emerged in the context of this public consultation.

*Question 4) on specific elements/articles of the current planning obligations in the field of renewable energy considered indispensable*

In the field of renewable energy, a wide consensus emerges on the fact that **the key provision of the NREAPs'**, namely overall and **sectoral renewable energy shares by 2030, indicative trajectories and a binding and detailed template** (Article 4 and Annex VI), should be retained in a way or in another. Several respondents would nonetheless be supportive of the integration of these provisions in a wider, integrated, plan.

According to the majority of stakeholders, new renewables planning instruments should notably detail Member States' level of ambition building further on the existing 2020 national targets. In this perspective, indicative trajectories are considered by the most as a crucial element of new planning tools. These should, according to several stakeholders, allow the Commission to monitor adequately progress towards the EU-wide renewables target set for 2030. Several stakeholders are also advocating for the definition of renewables share or **trajectories per sector** (power, heating and cooling as well as transport) and technology-specific deployment volumes in order to provide investors with visibility over market developments.

According to several respondents, future planning requirement should also **detail national policies and measures** to incentivise higher uptakes of renewables including support mechanisms, planned reinforcements of transmission and distribution infrastructures, streamlining of administrative procedures, as well as specific policies and measures for the heating and cooling sectors.

*Question 5) on specific elements/articles of the current planning obligations in the field of energy efficiency considered indispensable*

In a similar fashion, a majority of respondents are stressing that **existing EED and EPBD planning requirements should be kept and continue in the new planning tools**. In

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<sup>181</sup> Regulation (EU) No 994/2010 of the European Parliament and of the Council of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC.

particular, Article 3 of the EED obliging Member States to define indicative national energy efficiency targets is considered by a majority of respondents as a central element to be retained or reflected in the new planning instruments of the Energy Union dedicated to energy efficiency policies. Stakeholders also emphasize the importance of **Articles 4** (long-term strategy for mobilising investment in the renovation of the national stock of residential and commercial buildings) **and Article 7** (on energy efficiency obligations schemes) as central elements of existing acquis to be preserved. **Article 5** (on alternatives approach for achieving annual saving in public buildings) and **Article 14** (national strategy for realizing the national heating and cooling potential) are also mentioned by many stakeholders as centrals. Finally other articles that, according to many, should be merged or at least reflected in the new integrated Plans are: Article 24.2 and **Annex XIV** (on National Energy Efficiency Action Plans).

Concerning the **EPBD**, the following elements are considered by the respondents as particularly relevant in view of new planning requirements: **Article 9** on national Plans for increasing the number of nearly zero-energy buildings and **Article 10** on existing and proposed measures and instruments including financial incentives. Some stakeholders nonetheless highlights that **Article 4 of the EED** (building efficiency strategy as part of the NEEAPs) **and the same Article 9 of the EPBD could be streamlined** and better integrated into new integrated plan.

*Question 6) on specific elements/articles of the current planning in the field of low-carbon development strategies considered indispensable*

In the context of this consultation, respondents have identified several elements of the current planning in the field of low-carbon development strategies that are considered indispensable. With regard to Low-Carbon Development Strategies (LCDS), **Article 4 of the Monitoring Mechanism Regulation (MMR)**, as well as concerning Article 15 of the MMR on the National adaption planning and strategies, many respondents see the Paris Agreement as a push factor for ensuring regular reporting on the development and review of LCDS, and for strengthening the requirements related to planning. On the other side, other respondents mention that EU legislation should not spell out detailed content of LCDS but rather focus on harmonised reporting of LCDS, as the current obligations do. Links between LCDS and planning in the energy field (for example NREAPs), international reporting requirements of the UNFCCC, as well as linking with the new integrated plans are also mentioned as an important element. Some stakeholders also indicate that reporting on policies and measures under Article 13 of the MMR is important in this regard.

*Question 7) and 8) on specific elements/articles of the current planning obligations in the field of internal market, infrastructure development, research, innovation and competitiveness.*

On the other dimensions of the Energy Union, several stakeholders are of the opinion that it might be **too complicated to streamline in an integrated plan, planning obligation related to directives and regulations of the third energy package as well as the infrastructure regulations**. Some stakeholders see nonetheless some room for further simplification of existing planning requirements also in those fields.

While there is no clear agreement between stakeholders to what extent planning requirement in the field of infrastructure and internal energy market should be included or reflected in new planning tools of the Energy Union, several planning requirement have been nonetheless

identified, by the respondents of this consultation, as of particular relevance. These notably includes **Article 22 of the Internal Electricity Market Directive**<sup>182</sup> and Article 22 of the **Internal Gas Market Directive**<sup>183</sup> (Transmission System Operators should submit annually to National Regulatory Authorities a national ten-year network development Plans based on existing and forecast supply and demand).

According to some stakeholders, also particular obligations from the **Regulation on conditions for access to the natural gas transmission networks**<sup>184</sup> and from the **Regulation on conditions for access to the network for cross-border exchanges in electricity**<sup>185</sup> (namely respective **Articles 8** on the obligation to produce non-binding Community-wide ten-year network development plan every two years and **Articles 12** on obligation for Transmission system operators to publish a regional investment plan every two years) would have a relevance for the new planning tools.

Furthermore, according to most respondents, the Preventive Action Plans and Emergency Plans under **Articles 4 and 5** of the **Regulation on Security of gas supply**<sup>186</sup>, currently under revision, represent essential planning instruments related to security of supply. Nonetheless, according to many respondents, given their specific nature, those should be kept separate from the envisaged integrated Plans.

Despite diverging vision on the opportunity to streamline or integrate above mentioned obligations into integrated Plans, a majority of stakeholders tend to agree that the **scope of the integrated Plans should be limited to the obligations addressing the EU institutions and the Member States competences**. In the same line, some argue that planning and investments in energy infrastructure should remain the sole responsibility of market participants. In this vein, existing planning obligations falling under the competences of ENTSO-E, ENTSO-G, ACER and of the National Regulatory Authorities (NRAs), should remain separate.

As far as the fifth dimension of the energy Union is concerned, several stakeholders stressed the role of the Energy Union indicators in monitoring progress made in the areas of research, innovation and competitiveness. Several stakeholders are also against the introduction of new planning requirement related to those specific areas since this **might create additional administrative burden for national administrations**.

#### *8.4.1. Question 9) on the qualitative or quantitative evidence on the administrative burden on Member States and other stakeholders resulting from planning obligations at EU level*

From the replies received it could be concluded that it is very **difficult for individual stakeholders to properly assess and quantify the administrative burden** on Member

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<sup>182</sup> Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC.

<sup>183</sup> Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

<sup>184</sup> -Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005.

<sup>185</sup> Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003.

<sup>186</sup> Regulation (EU) No 994/2010 of the European Parliament and of the Council of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC.

States and other entities resulting from current planning obligations at EU level. More specifically, stakeholders and Member States find particularly difficult to draw a clear line between burdens caused by the planning obligations at the national level or stemming from international commitments (such as the UNFCCC) with the ones caused solely by the EU legislation.

However, in general term, **respondents do not consider the compliance with the existing planning obligations on energy legislation to be excessive or unnecessary**. This holds true, in particular for the planning obligations in the areas of renewables and energy efficiency. In parallel, as already acknowledged, several stakeholders and Member States are highlighting that existing **administrative burden can be further reduced via better aligned reporting requirements and via the definition of detailed or binding templates**. In this vein, some stakeholders also recall that the value of harmonised templates was also clearly underlined in the Commission's Renewable energy progress report<sup>187</sup>.

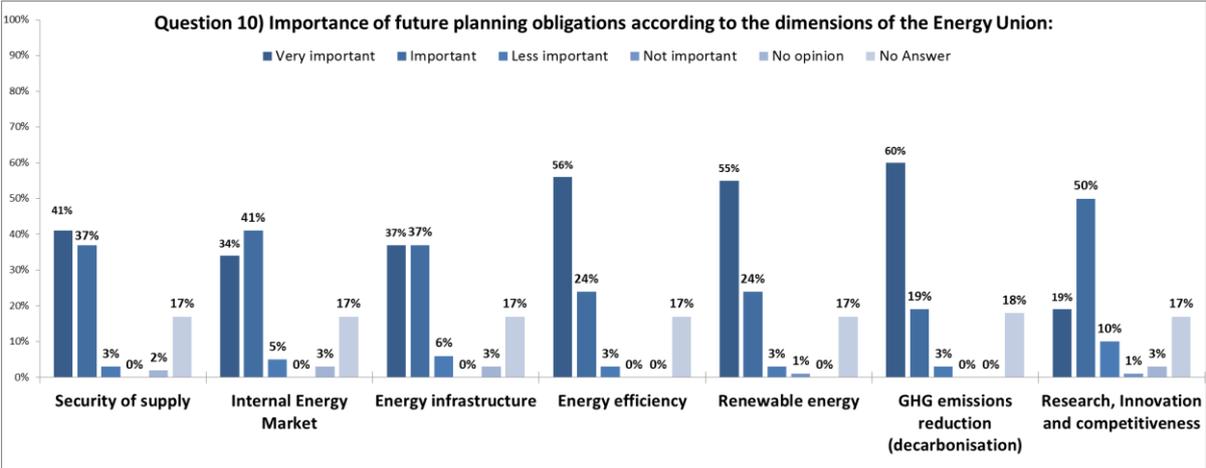
#### 8.4.2. *Question 10) on the level of importance of future planning obligations in the different areas of the Energy Union Strategy*

While highlighting the necessity of streamlining and reducing overall planning obligations focusing on the areas of the 2030 Energy and Climate Framework, most of the respondents agree that all five dimensions should be fully represented in future planning instrument. In fact, all areas on which stakeholders were asked to comment were indicated as "important" or even "very important". More particularly, around 60% of *national public authorities* as well as around 70% of *private companies and industry associations* consider future planning obligations relating to the first four dimensions of the Energy Union as "important" or "very important". Moreover, between 80 to 90% of *NGOs* consider future planning obligations relating same dimensions as "very important". Only future planning obligations relating to innovation, research and competitiveness received a relative lower support. Those are nonetheless still considered as "very important" by 15% of *national public authorities*, 20% of *NGOs* and 27% of *private companies and industry association*. This outcome reinforces the principle that **future integrated planning should be holistic and cover all five dimensions of the Energy Union**.

In their open submissions, several stakeholders put further emphasis on various aspects and principles, such as the need to better integrate in the planning obligations the internal market dimension (with not only a focus on infrastructure planning but also on increase competition, market integration and market coupling) or to prioritize energy efficiency actions ("Energy Efficiency First" principle). At the same time several stakeholders highlight that **planning requirement should correspond to concrete need**, in order to reduce the risk of creating new administrative burden.

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<sup>187</sup> COM(2015) 293 final



## Part II - Evaluation of reporting obligations

### *Question 11) on the importance and relevance of existing reporting obligations at EU level*

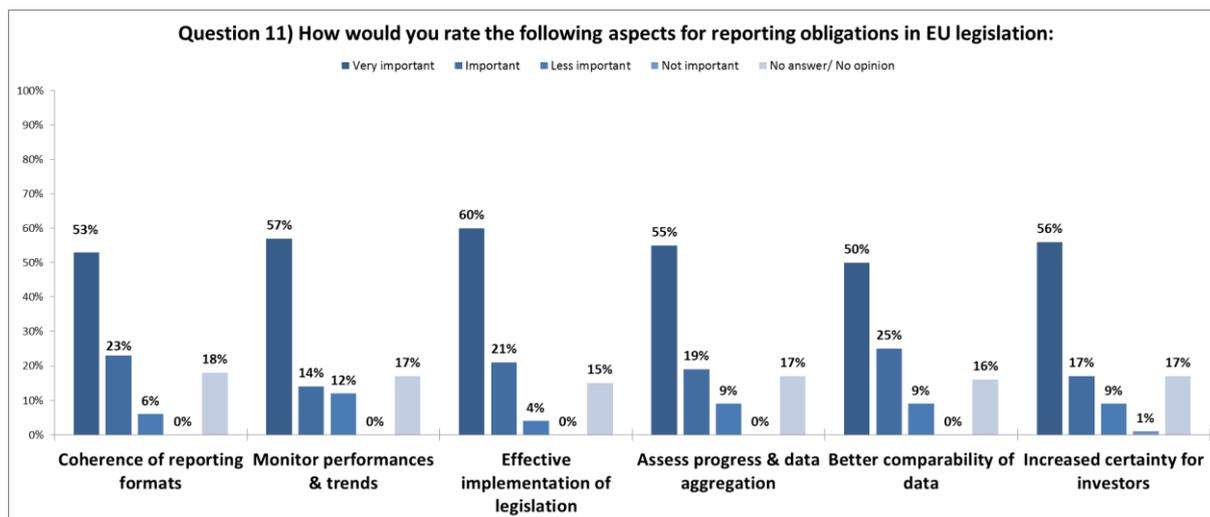
In the energy and climate field there are a number reporting obligations for the Member States and for the Commission. In order to contribute to the evaluation of existing energy and climate acquis, this section of the consultation asked stakeholders to express their views on the role and relevance of existing reporting obligations.

Based on the replies received, it can be concluded that reporting obligations play a very important role under several aspects. These are considered as **essential tools to monitor the performance and trends** (57% of overall stakeholders rate this as "very important", including 37% of *public authorities*, 58% of *private companies and industry associations* and 87% of *NGOs*) as well as to ensure the **effective implementation of EU legislation in the energy and climate field** (60% rate this as "very important", including 47% of *public authorities*, 62% of *private companies and industry associations* and 87% of *NGOs*), thus being important to foster investment certainty, competitiveness and growth in the EU (56% rate this as "very important", including 37% of *public authorities*, 61% of *private companies and industry associations* and 87% of *NGOs*).

More specifically, written inputs received confirm that reporting obligations are widely considered **crucial to timely assess progress towards defined energy and climate targets**, to **keep Member States better informed** and **eventually to take corrective action** in an informed way. Reporting is also seen as important in order to assess progress in implementation of international obligations and commitments.

In order to be able to play these crucial roles, stakeholders agree that **the coherence of reporting formats is of central importance** (53% of the respondents rate this as a "very important" aspect, including 37% of *public authorities*, 50% of *private companies and industry associations* and 87% of *NGOs*). According to several respondents, reporting requirements should ensure that there is a uniform basis to aggregate data in order to be able to correctly monitor target attainment. According to a vast majority of respondents, consistent reporting enables the legislator to identify and address barriers and deficiencies in a timely way. A wide range of stakeholders also favours **mandatory reporting templates** as well as the public disclosure of the information contained in the reports. Likewise, according to most stakeholders, **detailed and standardized reporting could also** increase accountability and transparency for investors. Several respondents are also asking a more systematic use of innovative IT and/or online reporting tools.

On the opportunity to streamline existing obligations, a majority of respondents to the consultation agree that **overlapping obligations should be removed. This objective should be nonetheless achieved without reducing the ability of current instrument to adequately monitor both the implementation of policies and measures and progress towards the fulfilment of the Energy Union targets.** Likewise, most stakeholders tend to agree that the **reporting system should continue to monitor the fulfilment of at least the three headline targets of the 2030 Energy and Climate Framework.** Reporting on the implementation of international climate change obligations and on infrastructure is considered equally relevant by a wide share of stakeholders.



*Question 12) on overlaps or inconsistencies among the existing reporting obligations in the same or different areas of the energy acquis.*

In line with the conclusions drawn on planning obligations, from the public consultation a wide consensus emerges on the importance of avoiding overlapping reporting obligations. Member States in particular are asking that double reporting should be avoided.

In the same vein, responders stress that there are several areas of EU acquis in the energy and climate field where the **timing of reporting could be improved**, and most notably between the Renewable Energy Directive (RED), the Energy Efficiency Directive (EED) on the one side, and the Effort-Sharing Decision (ESD) and the Monitoring Mechanism Regulation (MMR) on the other side. Some stakeholders are also pointing out that energy data is generally reported to EUROSTAT and that double reporting could be avoided by better exploiting data submitted in the context of the Regulation (EC) No 1099/2008 on energy statistics<sup>188</sup>.

Concerning the elements more closely related to the 2030 Energy and Climate Framework, several stakeholders highlight that reporting under the **RED and EED overlaps with certain planning and reporting obligations contained in the MMR**, such as Article 22 of the RED that requires Member States to report on estimated net greenhouse gas emission saving due to the use of energy from renewable sources. RED reporting obligations would also overlap with some elements of the Electricity Directive (Directive 2009/72/EC)<sup>189</sup> notably on elements illustrating renewable electricity integration in the market and connection to the grid.

Stakeholders are also stressing that, for **buildings policies in particular, reporting requirements are spread across several sectorial legislations**: EPBD, EED, RED, ESD and the MMR. Also the reporting obligation regarding district heating and cooling under the EED and the RED are considered by some stakeholders as inconsistent or redundant.

Concerning the infrastructure and security of supply dimensions, some stakeholders see **potential for further alignment between obligations under the Directive 2005/89 on**

<sup>188</sup> Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics.

<sup>189</sup> Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC.

**Security of Electricity Supply and infrastructure investment<sup>190</sup> and Directive 2009/72 on Common rules for the internal market in electricity<sup>191</sup>**, more particularly between Article 7 of the Directive 2005/89 and between Article 4, 37(1)(e) of the Directive 2009/72. Some stakeholders also suggest revising obligations under Article 13.6(b) of the **Regulation (EU) 994/2010** on Security of Gas Supply to avoid duplication of the reporting obligations under **Regulation (EU) 1227/2011** on Wholesale Energy Market Integrity and Transparency (REMIT)<sup>192</sup>. According to some stakeholders same information could also be found in reports to be prepared under Articles 13 (on information exchange) and 14 (on monitoring by the Commission) of **Security of Gas Supply Regulation** and under **Article 5 of Internal Gas Market Directive** (on Monitoring of security of supply). Stakeholders also point to possible overlaps between the reporting obligations Regulation (EU) 347/2013 on Guidelines for trans-European energy infrastructure<sup>193</sup> in relation with the high level groups (e.g. CESEC).

Moreover, potential overlaps are identified in relation to the network code implementation monitoring in electricity and gas: (Regulation (EU) 714/2009 and Regulation (EU) 715/2009). Obligations for the TYNDP or annual report on natural gas markets under the EU Gas Regulation (EC) 715/2009 are also reported as redundant with obligations from Regulation (EC) 256/2014 on Notification of Investments in the field of Energy.

Finally, stakeholders highlight concrete overlaps in the **field of nuclear energy**, notably between the reporting obligation to the IAEA (Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management<sup>194</sup>) and the Council Directive 2006/117/Euratom regarding shipments of radioactive waste and spent fuel<sup>195</sup> and the Council Directive 2011/70/Euratom<sup>196</sup>. In this vein, some respondents are also suggesting to use existing international reports to comply with EU reporting obligations.

*Question 13) on current reporting obligations that could be streamlined into one integrated report*

Based on the replies received, a general consent emerges around the principle that **streamlined reporting instruments should mirror as closely as possible the streamlined planning obligations**, and eventually the template of the integrated Plan. While some respondents would seize the opportunity linked to this initiative to streamline most of current reporting obligations into an integrated report, others see some limits to this approach. While most would confine the streamlining exercise to the areas that are considered most relevant,

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<sup>190</sup> Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment.

<sup>191</sup> Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC.

<sup>192</sup> Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency.

<sup>193</sup> Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009.

<sup>194</sup> <https://www.iaea.org/publications/documents/infcircs/joint-convention-safety-spent-fuel-management-and-safety-radioactive-waste-management>

<sup>195</sup> Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel.

<sup>196</sup> Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste.

other go as far as suggesting creating **sector-specific reports** following the structure of the five dimensions of the Energy Union.

**In the same vein**, respondents tend also to agree that **reporting obligations that are not or are very loosely connected with particular dimension of the Energy Union should be kept separate from an integrated report**. This should allow the possibility to keep a **different frequency** for some technical reports. Examples made by stakeholders include notably obligations in the field of nuclear energy (such as Article. 8e of the Council Directive on Safety of Nuclear Installations<sup>197</sup>).

Moreover, **according to several stakeholders, report obligations not falling directly on Member States should also remain separate**. An example of such type of reporting obligations frequently mentioned are the annual reports on security of gas and electricity supply by National Regulatory Authorities' (NRAs) (Article 41(1)e of the Internal Gas Market Directive<sup>198</sup>).

**There are nonetheless two particular dimensions that are frequently mentioned as the ones offering the biggest potential to rationalize existing reporting obligations**. Those are the reporting requirements linked to the dimensions of decarbonization and of the internal energy market/ security of energy supply.

Under the **decarbonisation dimension**, several stakeholders suggest to streamline the reporting obligations for example related to policies and measures and to ensure coherence and consistency with reporting requirements that stem from the UNFCCC. Some respondents indicate that not all reporting obligations should be included into a single document as this would lead to overcomplexity, notably the full transferral of UNFCCC requirements in the integrated plans may overburden the plans. Some stress that there should be no double reporting of information (internationally and within the EU context).

Some stakeholders finally believe that reporting on the engine fuels and quality of engine fuels could be streamlined (notably on crude import reporting, under the Council Regulation (EC) No 2964/95<sup>199</sup> and on volumes and quality of engines fuels under the Fuel Quality Directive (FQD)<sup>200</sup>).

On the internal market dimension, some stakeholders advocate for the development of an **industry-wide standardized template for regulatory reporting** obligations arising from the European Market Infrastructure Regulation (EMIR)<sup>201</sup> and from the regulation on Wholesale Energy Market Integrity and Transparency (REMIT). In the same vein, others are suggesting to **combine several reporting requirement related to the market dimension in a joint report**. Such an integrated market report could notably include Article 11 on ACER Annual

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<sup>197</sup> Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations.

<sup>198</sup> Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

<sup>199</sup> Council Regulation (EC) No 2964/95 of 20 December 1995 introducing registration for crude oil imports and deliveries in the Community.

<sup>200</sup> Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC.

<sup>201</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

Report of Regulation (EC) No 713/2009; Article 7(3) Regulation (EU) No 1227/2011; reporting obligations under the Directive 2008/92/EC<sup>202</sup>; Article 4 and 37(1) of the **Internal Electricity Market Directive** (2009/72/EC); Article 20 of Regulation (EC) No 714/2009 on provision of information and confidentiality; and the Implementing Regulation (EU) No 1113/2014<sup>203</sup>. Some stakeholders are also asking for a **better coordination of ten-year network development Plans with current or future planning and reporting obligations on monitoring of security of electricity supply** (for instance, Art. 22 of the Directive 2009/72; Art. 4 of the Directive 2009/72 and Art. 7 of the Directive 2005/89). In the same vein some stakeholders are also asking to simplify current reporting obligations in the area of energy infrastructure i.e. by streamlining provisions in the Regulation (EU) 256/2014<sup>204</sup> on Notification of Investments in the field of Energy and Regulation (EU) No 347/2013 on guidelines for trans-European energy infrastructure.

**Concerning the other dimensions, less reporting overlaps have been identified.** As far renewable energy are concerned, some respondents point to existing overlaps between some reporting requirements, notably concerning reporting **on final energy consumption**, on **electricity infrastructure development** and **network operation** and **GHG reduction related to renewable energy**.

On energy efficiency, the principal feedback received suggests that that it would make sense to include all **reporting obligations related to buildings** a single reporting tool. According to stakeholders, further improvements can be made to better align EED and EPBD reporting obligations.

**Few respondents mention specific reporting obligation that could be repealed.** The following examples are notably cited by some stakeholders and Member States: the already mentioned Regulation on notification of investment projects in energy infrastructure (Regulation (EU) No 256/2014); Article 22(1) (g) and Article 22(1) (k) of the Renewable Energy Directive; as well as Annex III on indicators of the MMR (Regulation (EU) No 525/2013).

The following sections further explore and offer a more comprehensive assessment of existing reporting obligations in the different areas of the energy and climate acquis, as emerged in the context of this public consultation.

*Question 14) on the elements/articles of the current reporting obligations in the field of renewable energy considered indispensable*

Through the consultation many respondents underline the **importance of solid reporting obligations**, especially in the absence of legally binding targets at Member States level. In

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<sup>202</sup> Directive 2008/92/EC of the European Parliament and of the Council of 22 October 2008 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (recast).

<sup>203</sup> Commission Implementing Regulation (EU) No 1113/2014 of 16 October 2014 establishing the form and technical details of the notification referred to in Articles 3 and 5 of Regulation (EU) No 256/2014 of the European Parliament and of the Council and repealing Commission Regulations (EC) No 2386/96 and (EU, Euratom) No 833/2010.

<sup>204</sup> Regulation (EU) No 256/2014 of the European Parliament and of the Council of 26 February 2014 concerning the notification to the Commission of investment projects in energy infrastructure within the European Union, replacing Council Regulation (EU, Euratom) No 617/2010 and repealing Council Regulation (EC) No 736/96.

this vein, a majority of stakeholders highlights the **importance of maintaining provisions related to reporting of the current RED, and notably Article 21 and 22** on Member States reporting on national renewable energy shares, support schemes, simplified administrative procedures, and transmission and distribution reinforcements. These provisions are considered by most respondents as important to ensure accountability and to provide the scope for corrective actions. According to many, the content of the progress reports should be reduced to most vital information focusing on the targets and sub-targets in various sectors such as electricity, heat and transport. According to several, also the use of biofuels (**Articles 19 and 23**) should also continue to be closely monitored.

Stakeholders also took the opportunity to comment on the **possible timing for the reporting obligations**. While several stakeholders are advocating for maintaining biennial reporting some other asked to reduce the frequency of the progress reports in the field of renewable energy to align it with the timing of the reporting of the EED, under Article 24 (1 in 3 years). According to those stakeholders, current frequency would be too burdensome for some national administrations.

Furthermore, according to some stakeholders indispensable elements of reporting should also detail the use of **cooperation mechanism, statistical transfers or joint projects (Article 4, 6 and 7)**.

Finally, several stakeholders are also asking to **retain the main provisions on the European Commission's monitoring and reporting obligations as per Article 23**.

*Question 15) on the elements/articles of the current reporting obligations in the field of energy efficiency considered indispensable*

As in the case of renewables, existing reporting obligations of the EED and EPBD are considered by many stakeholders are crucial elements to be maintained in the new reporting instruments. Concerning the **EED** in particular, many respondents ask to **preserve the obligations requiring Member States to report on their progress towards their national energy efficiency targets (Article 24(1)) and the Commission to analyse and report on progress and issue timely recommendations** to the European Parliament and the Council (Article 24(3)). Key elements contained in the National Energy Efficiency Action Plans (Article 24.2 and Annex XIV part 1 and 2), which include reporting requirements for several articles in the directive should, in the view of many, also be maintain in future reporting instrument. Other key provisions of the EED that are generally mentioned as important are Article 4; 5, 6, 7(9) (on the planning and reporting requirement for measures to fulfil article 7;) and Articles 14, 15 and 19(2).

In parallel, also in the field of energy efficiency, several stakeholders are asking to the European Commission to **provide a mandatory, standardised template for reporting obligations**.

Concerning the **EPBD**, most stakeholders agree that the key articles should be preserved, and notably Articles 5 and 9(5), the latter detailing Commission **reporting obligations linked to the number of nearly zero-energy buildings**.

*Question 16) on elements/articles of the current reporting in the field of low-carbon development strategies considered indispensable*

Several respondents highlight the **importance of existing obligation to report on the implementation low-carbon development strategies (LCDS)** and on other requirements. Some consider the existing reporting obligations on LCDS to be sufficient, while others think these should be strengthened. Under the **Monitoring Mechanism Regulation**, Articles 4, 5, 7, 8, 13-18, 21 and 22 are considered as particularly important. For example, **Article 13, on reporting policies and measures**, is considered particularly relevant to ensure adequate monitoring. Ensuring coherence and consistency of these requirements with international obligations is also mentioned as indispensable

*Question 17) and 18) on elements/articles of the current reporting obligations in the field of infrastructure development and internal energy market considered as indispensable*

There is a **general consent that reporting obligations linked to the development of Project of Common Interests are important also in the context of the development of integrated reporting**. In particular, Article 5 and 17 of the Regulation (EU) No 347/2013 on guidelines for trans-European energy infrastructure (respectively on ACER and Commission's reports) are seen by many stakeholders as important pillars in their specific domain. Reporting obligations for project promoters to submit annual reports are seen as important tools to identify problems with the development of the project in a timely manner. The annual reports also enable the European Commission to identify and address any common challenges experienced by the projects.

**There are nonetheless divergent views as far as the reporting obligations on monitoring of security of supply are concerned.** According to several stakeholders, Art. 7(5) of the Security of Electricity Supply Directive<sup>205</sup> (Commission obligation to report on Electricity and Gas on the investments planned and their contribution to the objectives of the directive) is an element that should be preserved. In parallel, **observers result divided on the opportunity to introduce a regional dimension to the existing monitoring obligations linked to security of supply.**

Stakeholders' contributions **highlight the importance of the completion of the Internal Energy Market, unanimously considered as a key tool to promote the EU energy policy.** According to many, the Energy Union Governance should therefore ensure regular monitoring and reporting obligations, including on the impacts of energy costs and prices on competitiveness in the composition of energy costs and prices. **Stakeholders also emphasize the role of progress report on internal market of electricity and gas under the Internal Electricity Market Directive and the Internal Gas Market Directive.** Some stakeholders are finally mentioning as important to include **Articles 10 and 13** of Regulation (EU) No 543/2013<sup>206</sup> dedicated respectively to information relating to the unavailability of transmission infrastructure and to congestion management measures.

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<sup>205</sup> Directive 2005/89/EC.

<sup>206</sup> Commission Regulation (EU) No 543/2013 of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council Text with EEA relevance.

*Question 19) on reporting obligations in the field of energy research and innovation considered indispensable*

A majority of stakeholders agrees that research and innovation represent key drivers to achieve the objectives of the Energy Union. In this vein, **some are suggesting to enhance reporting requirements related to the share of public support** allocated to research, development and innovation in the field of energy as well as related to **ongoing or completed research projects** within the EU. In a different register, other stakeholders point out that **requesting new information might create additional administrative burden for national administrations**. Some also highlight that reporting on research and innovation funding is done on an annual basis to the International Energy Agency (IEA). Several stakeholders finally rely on the strengthened reporting system under the new Strategic Energy Technology (SET) Plan<sup>207</sup> and on the new indicators to be defined in the context of the Energy Union<sup>208</sup>.

Some stakeholders also stress that the Commission should also **improve the tracking of the spending of ETS revenues** as well as **spending under the European Structural and Investment Funds (ESIF)** to ensure that Energy Union spending is appropriately targeted.

*Question 20) on the administrative burden imposed by existing reporting obligations on both Member States and other stakeholders*

In line with the opinions expressed for the planning obligations, several respondent highlight that it is **particularly difficult to quantify, at national level, the administrative burden directly linked to existing EU reporting obligations**. There is nonetheless a general agreement that, **while reporting obligation in the climate and energy field has increased over time, standardised reports and mandatory templates could play a role in reducing the overall administrative costs**. Those are notably perceived as particularly beneficial to i) reduce the time that national administrations spend reporting via economies of scales and learning effects; and ii) facilitate the analysis of aggregated data by the Commission, thus accelerating the compilation of monitoring reports.

In general, stakeholders note a **higher level of administrative burden in the reporting associated to the areas of the internal energy market, energy efficiency and climate dimension**.

*Question 21) on the importance of future reporting obligations for Member States in the key areas of the Energy Union Strategy*

As for planning obligations, there is a **general tendency to consider important to maintain an adequate level of reporting obligations along all five dimensions of the Energy Union**. According to many, a holistic reporting system is necessary to be able **to mirror adequately**

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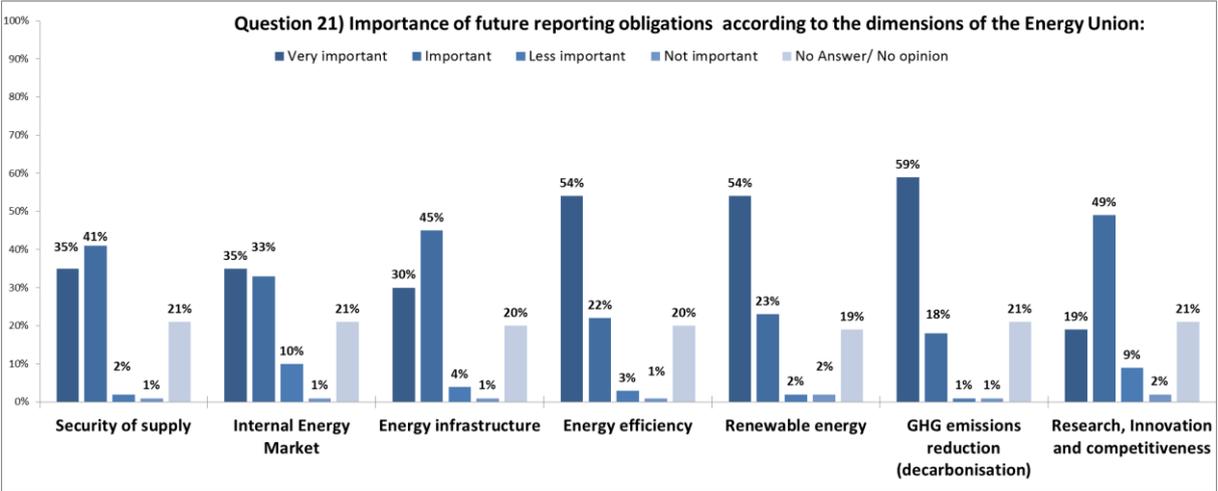
<sup>207</sup> Communication from the Commission: Towards an Integrated Strategic Energy Technology (SET) Plan: Accelerating the European Energy System Transformation (C/2015/6317). This Communication foresees to improve the reporting from Member States on national research and innovation priorities and investments Key Performance Indicators (KPIs) will be monitored. In parallel, the Commission will further strengthen the existing SET Plan Information System (SETIS) to ensure a more diligent and intelligent use of available information, data and reporting practices by stakeholders and the Member States.

<sup>208</sup> SWD/2015/0243 final: Monitoring progress towards the Energy Union objectives - Concept and first analysis of key indicators Accompanying the Communication on the first State of the Energy Union.

**planning obligation and to be able to quickly react to possible deviations from the intended goals set by the Energy Union.**

At the same time, as for planning elements, several insist on the primary importance of reporting in the areas where EU-level targets have been agreed. This is why greenhouse gas emissions reduction, renewables and energy efficiency are indicated as the domains where reporting should be prioritized (those are indicated as "very important" by respectively 59%, 54% and 54% of the overall respondents to the online questionnaire).

Looking at specific stakeholders group, between 32 and 48% of the *national public authorities* indicate as ""very important" all areas subject to consultation, with the exception of reporting obligations relating to research, innovation and competitiveness (considered "very important" only by 16% of *national public authorities* having replied). Figures relating to replies from *private companies and industry association* are even higher, ranging from a 28% of "very important" for research, innovation and competitiveness to a 63% of "very important" for GHG emissions reduction). Finally NGOs put particular emphasis on the energy efficiency, renewable energy and GHG emissions reduction areas (all considered as "very important" for more than 80% of respondents from this group) whereas the internal energy market, energy infrastructure, research, innovation and competitiveness and security of supply are considered by a majority of them only as "important".

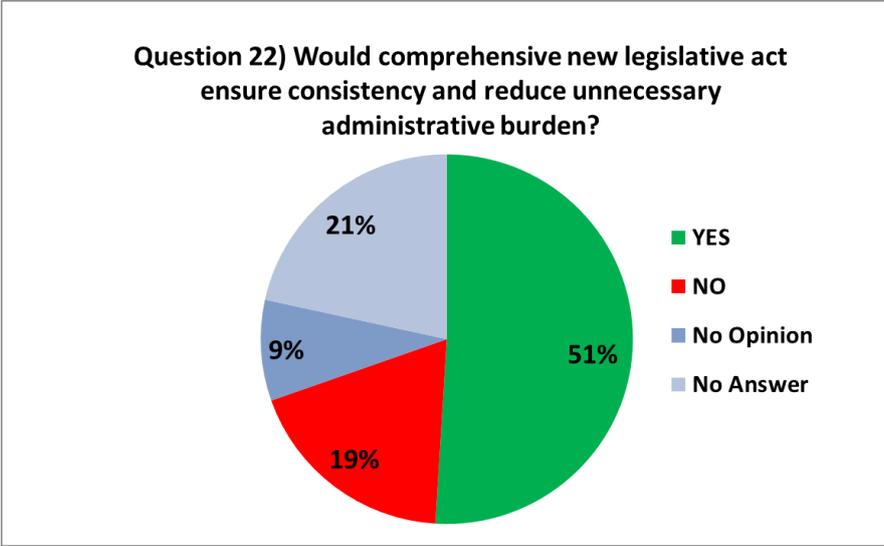


**Part III – Options for streamlining planning and reporting obligations (Questions 22 to 29)**

This section of the consultation seeks stakeholders' views on the options for the design of the new Governance initiative. The main learning from this section of the consultation constituted the basis on which where formulated the options described in the Impact Assessment related to this initiative.

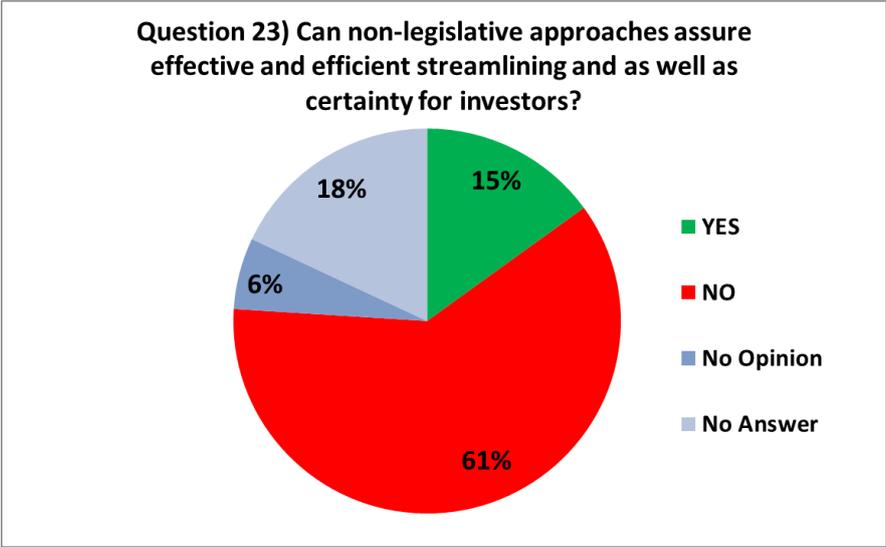
Based on the replies received to questionnaire, **stakeholders perceive a new legislative act covering both planning and reporting obligations as a viable option to ensure consistency between planning and reporting obligations while reducing unnecessary administrative burden.** In fact, an absolute majority of stakeholders having replied to the online consultation (51%) see several benefits deriving from the use of a legislative instrument. A comprehensive legislative act can, in view of many, attain both consistency between the various objectives under the five dimensions of the Energy Union and reduction of the administrative burden. According to the same stakeholders this approach would reduce overlaps and inconsistencies, while enhancing comparability between Member States. While several Member states are also openly supporting this policy option some stress that the process should not add new administrative burden or entail additional costs.

Moreover, in their written comments, most respondent agree that such **legislation should not only regulate the streamlining of planning and reporting requirements** but also provide the basis for **the Integrated National Energy and Climate Plans as well as detail the political process** of the Governance of the Energy Union.



Question 23 was inviting stakeholders to assess the options to streamline and improve planning, reporting and monitoring obligations on the basis of comprehensive **soft** (i.e. legally non-binding) **Commission guidance**. If adopted, this soft guidance would complement the existing *Guidance to Member States on National Energy and Climate Plans as part of the Energy Union Governance* presented as an Annex to the Commission's State of the Energy

Union<sup>209</sup>. A vast majority of respondent to the on-line consultation (61%) do not consider this option as adequate to ensure efficient and effective streamlining of existing obligations while fostering investment certainty. It has nonetheless to be acknowledged that the non-legislative approach remains the favourite option for some Members States. Those are notably insisting on the principle that choices impacting the energy mix should remain solely of national competence. In this vein, *national public authorities* having replied to the consultation remain somewhat more divided on the potential consequences of non-legislative approaches (23% would see benefits, whereas 47% don't consider this approach as effective and efficient). From a different perspective, an overwhelming majority of *private companies and industry associations* and *NGOs* (respectively 57% and 94% of replies) don't consider a non-legislative approach as a viable option.

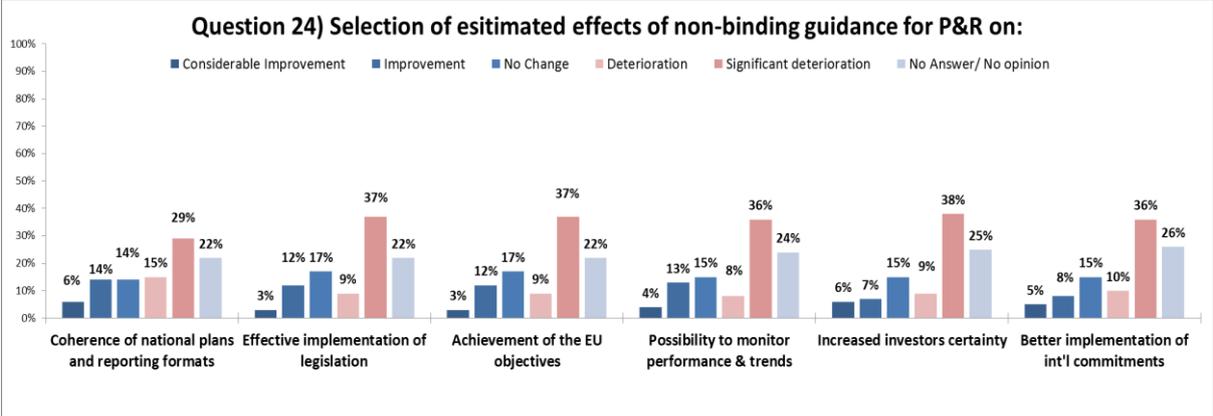


Questions 24 to 26 ask stakeholders to express their views on the potential impacts linked to different options for the Governance of the Energy Union. Stakeholders were invited to express their view around the options of i) a non-legislative guidance; ii) the revision of sectorial legislation or iii) a new single legislative act.

From feedbacks received to question 24 dedicated to the estimated impact of a **non-binding guidance**, it can be evinced that stakeholders consider that, **compared to the current situation, this option would: i) negatively affect the possibility to properly implement EU legislation** (37% of stakeholders anticipate a "significant deterioration", including 11% of *public authorities*, 34% of *private companies and industry associations* and 80% of *NGOs*) ii) **reduce the possibility to attain EU energy and climate targets** (37% of stakeholders anticipate a "significant deterioration", including 11% of *public authorities*, 34% of *private companies and industry associations* and 80% of *NGOs*) and iii) **reduce the possibility to adequately monitor progress and trends** (according to 36% this option would bring a "significant deterioration" including 11% of *public authorities*, 31% of *private companies and industry associations* and 80% of *NGOs*). As a consequence, this option is also considered by a vast majority of respondents as **entailing direct negative impacts on investment**

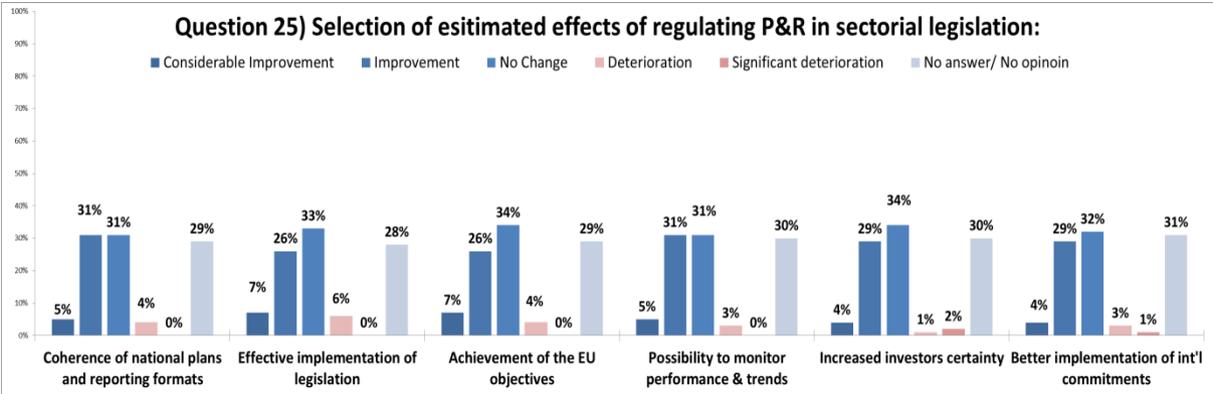
<sup>209</sup> COM(2015) 80

**certainty.**(here again, 38% of stakeholders anticipate a "significant deterioration" including 16% of *public authorities*, 34% of *private companies and industry associations* and 80% of *NGOs*).



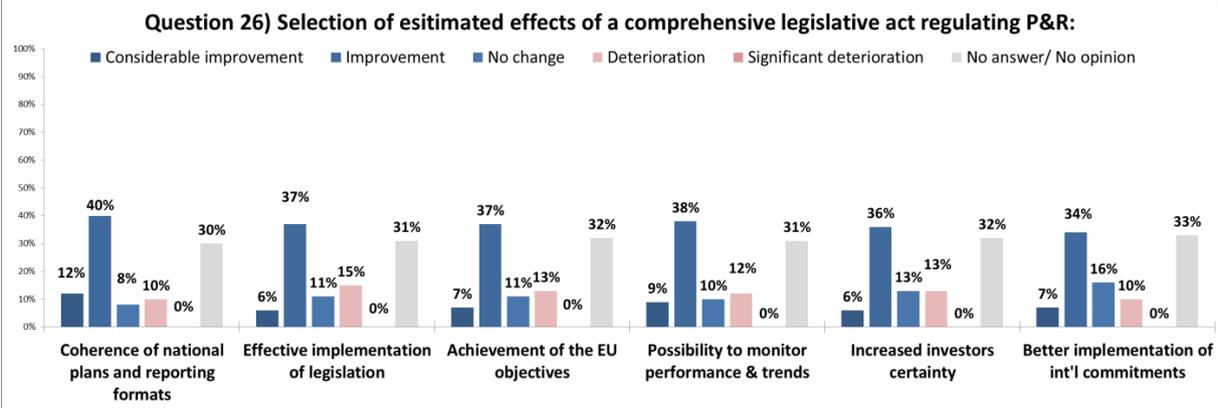
Question 25 was asking respondents views on possible impact that would derive form **streamlining of the current planning and reporting obligations through revisions of the existing sectorial legislation.** With this option, it is envisaged to amend directly existing sectorial legislation in order to incorporate and align existing planning, reporting and monitoring obligations in integrated national energy and climate Plans and reporting tools, amending or repealing non relevant or redundant obligations from current legislation. **Based on received replies; this option** is perceived by the majority of stakeholders **as a better option than soft guidance.** It has nonetheless to be noted that according to the majority of respondent this solution **would not bring particular improvements compared to the present situation,** notably in terms of comparability, coherence and predictability.

More specifically, whereas about 40 % of *public authorities, private companies and industry associations* don't expect particular changes should this option be retain, it is interesting to note that about 50% of the *NGOs* would expect a slight improvement from current situation.



The third option contemplated in question 26 revolved around a **single legislative act to streamline current planning, reporting and monitoring obligations in the energy and**

**climate field post 2020.** With this option, legislative provisions would be proposed and amended in a single and harmonised legal instrument. In line with view expressed to previous questions, **responders reiterated a clear preference for a new comprehensive initiative having a legislative nature.** According to replies received, in all areas analysed, such option is considered by a vast majority of responders as an **improvement from the current situation.** This option would notably i) **increase the coherence** of planning instruments ("improvement" or "considerable improvement" for 52% of overall respondents, including 68% of *public authorities*, 44% of *private companies and industry associations* and 73% of *NGOs*); ii) **improve the monitoring phase** ("improvement" or "considerable improvement" for 47% of overall respondents, including 58% of *public authorities*, 38% of *private companies and industry associations* and 73% of *NGOs*); **facilitate the achievement of the Energy Union targets** ("improvement" or "considerable improvement" for 44 % of overall respondents, including 58% of *public authorities*, 31% of *private companies and industry associations* and 73% of *NGOs*) while ensuring iv) the **effective implementation of the legislation** ("improvement" or "considerable improvement" for 43 % of overall respondents, including 58% of *public authorities*, 31% of *private companies and industry associations* and 73% of *NGOs*).

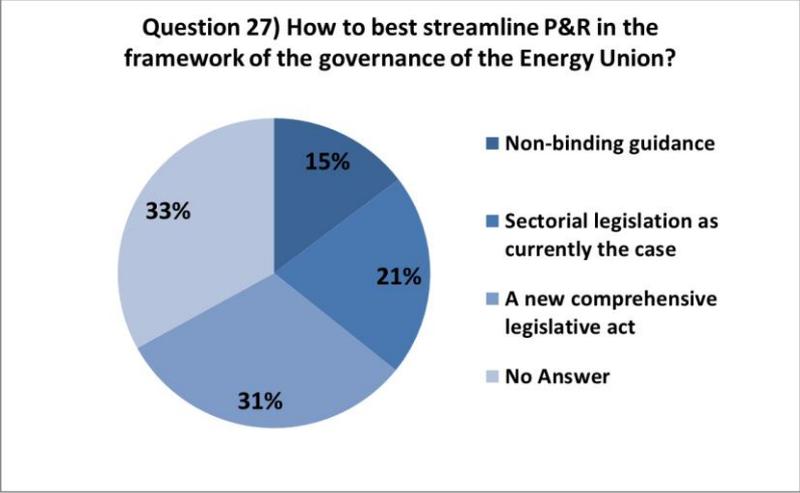


In line to replies received in question 22 to 26, question 27 confirms stakeholders' **clear preference of a comprehensive legislative initiative over other type of initiatives proposed.** As already illustrated in the sections dedicated to questions 10 and 21, according to most stakeholders, the legislative initiative should cover both planning and reporting obligations across the five dimensions of the Energy Union. This option is supported by 31% of overall respondents, including 42% of *national public authorities* and in particular 7 out of 15 Member States having replied to the consultation. Moreover also 33% of *private companies and industry associations* as well as 33% of *NGOs* also support this option.

The option of streamlining obligations by sectorial legislation received support form 21% of stakeholders. If 10% of *national public authorities*<sup>210</sup> point towards this option, not a single Member State expresses explicit preference for this way forward. Finally only 27% of *private companies and industry associations* and 20% of *NGOs* favour this option.

<sup>210</sup> This category regroups government institutions both at central and local level.

To conclude, the non-binding guidance option receives support from only 15% of stakeholders but including 21% of *national public authorities* and in particular 5 Member States. Only 23% *private companies and industry associations* and 0% of *NGOs* express preference for this option.



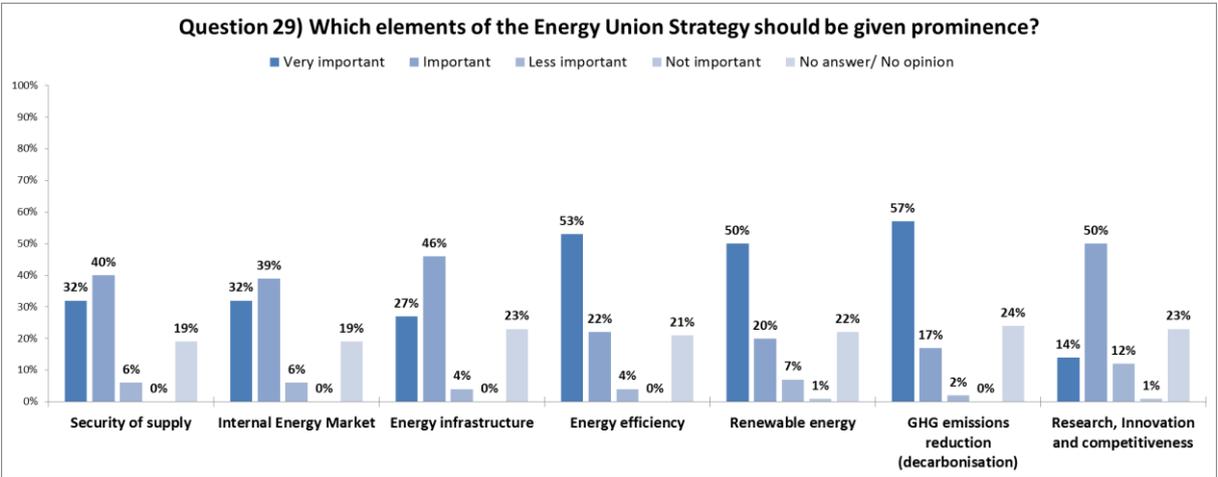
**Part IV - Options for the Governance system of the Energy Union and its process**

This section of the consultation looks into respondents preferred options for the content of the integrated national Plans that will be developed in the context of the new Governance of the Energy Union as well as into the process on the development and revision of these Plans.

*Questions 29) to 31) on the scope and nature of the Integrated National Energy and Climate Plans*

Building further on the replies to the sections devoted to the scope of existing planning and reporting obligations that will have to be subject to streamline (questions 1-21) respondents reiterated the need to ensure that the resulting integrated Plans are holistic enough to capture the five dimensions of the Energy Union while offering a sufficient level of detail. This view is notably supported by 6 Member States out of 15 having replied to the consultation. According to an absolute majority of stakeholders, including 6 Member States, the **Plans should nonetheless give more prominence to the areas covered by the 2030 energy and climate framework** and notably greenhouse gas emission reductions (element considered by 53% of the overall respondents as "very important", including 52% of *public authorities*, 54% of *private companies and industry associations* and 94% of *NGOs*), energy efficiency (53% of overall respondents consider it as "very important", including 47% of *public authorities*, 38% of *private companies and industry associations* and 94% of *NGOs*) and renewable energy ("very important" to the eyes of 50% of overall stakeholders, including 52% of *public authorities*, 46% of *private companies and industry associations* and 87% of *NGOs*).

When looking at the views expressed by the *national public authorities*, it can be conclude that a lot of emphasis is also dedicated to security of supply, energy infrastructure and internal energy market (very important elements of the future plans respectively for 42%, 37% and 37% of respondents belonging to this group of stakeholders).



On the **exact structure of the Integrated National Energy and Climate Plans**, respondents, and in particular Member States, propose alternative options. Notably 4 Member States out of 15 having replied suggest the introduction of short strategic planning documents with high level of aggregation focussing on the long term policy objectives reflecting the quantified

targets agreed at the EU level, and in particular the 2030 Framework targets. Concise planning documents would have a higher probability to remain updated over time.

According to some of the stakeholders that are suggesting to adopt **high level plans**, those documents could eventually be accompanied by streamlined reporting instruments detailing a wider range of policies and measures. The retention of sectorial or more detail reporting would nonetheless reduce the benefits stemming from the streamlining efforts, notably in terms of reduction of existing administrative burden. 6 Member States warn of the risk of introducing new obligations via the adoption of detailed plans.

An absolute majority (52%) of stakeholders having replied to the consultation, including 3 Member States, are nonetheless suggesting maintaining an adequate level of detail in future planning instruments in order not to lose important information. According to this line of thought, the integrated Plans should cover all main elements identified as important in previous sections of this consultation in order to ensure a holistic approach and a better coverage of the five dimensions of the Energy Union. According to most stakeholders, the new Plans should also **detail policies and measures** to achieve the indicated overall objectives. It has to be noted that, especially in the areas of renewables and energy efficiency, 38% of stakeholders, including 6 Member States, are asking for the introduction of benchmark, trajectories or "corridors", notably for renewables and energy efficiency in order to track each single Member States' progress against the overall EU targets. (refer to question 4 for more detailed assessment).

Several stakeholders (34 % of respondents, including 2 Member States) also voice the necessity, for the new planning instruments, to factor in a long term vision until 2050. Several stakeholders are finally asking to introduce direct reference between the elements to be detailed in the Plans and the key indicators agreed upon at the European level.

Despite the absence of dedicated question, about one third of stakeholders (32%, of overall replies, including 3 Member States) advocate for the inclusion of standardized or binding templates. Those respondents equally advise on the necessity of standardised reporting templates mirroring the structure of the new planning instruments.

#### *Question 31) on the political process to ensure the stability of the Integrated National Energy and Climate Plans*

Several respondents (41% of overall replies) share the view that a **transparent and participatory planning process is essential in order to foster investment certainty and public acceptance**. In turn, those aspects would both contribute to the stability and credibility of the integrated Plans. According to most contributions received, the preparation of the Plans should be also transparent and involve stakeholders at both the European and the national level. Likewise, a majority of stakeholders value the transparency of reporting.

While some Member States pointed out that the type of political process necessary for developing national Plans should be determined at national level based on the subsidiarity principle, there is a general agreement that the solidity of the **Plans could be strengthened by a validation process involving national governments, cross party political approval and/or the involvement of national parliaments. Several stakeholders are also asking the approval of the new Plans via the use of national legislative acts.**

There is also a general consent on the **necessity to agree on a detailed timeline for the finalisation of the Plans as well as to foresee regular update of Plans**, also taking into account the reporting cycles under the Paris Agreement. A minority of stakeholders are also suggesting that **national contributions detailed in the Plans should become binding** once the iterative process has been completed.

According to several stakeholders, **Member States should report to the Commission on the implementation of the Plans** while the Commission should ensure the enforcement of the integrated Plans. In this vein, several stakeholders are notably suggesting the **introduction of milestones or benchmarks against which the national Plans are assessed** and/or the use of legal mechanisms to ensure accountability. It is also generally agreed that the **Commission should also hold Member States accountable for the delivery of their national Plans**, ensure that the national Plans at least achieve agreed 2030 EU level targets **and incentivise regional cooperation** in the preparation of the Plans.

According to many, the Commission should have the ability to issue **country-specific recommendations** and play a stronger role in facilitating cooperation between Member States and in ensuring convergence between member states national energy policies.

Finally, several respondents are asking for the definition of specific legal provisions that would allow the **introduction of further measures in case a gap** is identified towards achieving the 2030 EU-level targets. Most stakeholders are of the opinion that these **additional measures should be foreseen in the context of the revision of relevant sectorial legislation** (notably the Renewables Energy Directive and the Energy Efficiency Directive).

*Question 32) on the main factors justifying an update of the Integrated National Energy and Climate Plans in the period from 2021 to 2030*

From received replies, notably by 5 Member States, clearly emerges **the need to find a right balance between the importance to strengthen, via the Plans, long term regulatory certainty and policy clarity with the need to ensure the possibility to adapt planning instruments to changing circumstances**. The stability of the Plans is considered by a vast majority of respondents as particularly important in order to minimize regulatory uncertainty, lower investment risk, reduce cost of capital, push forward technical developments and minimise costs.

In parallel, it is widely recognized that the **Plans should be periodically updated, taking into account all changes that are hard to predict** well in advance, among others, technological progress, major changes in national energy and climate policies and measures, changes in costs of proposed measures, economic and fiscal development.

Based on the reflections above, according to some respondents, Member States should therefore maintain the right to amend and update the Plans as needed and as often as needed based on changes of the legislative, economic or political environment. According to those respondents, the evaluation of the need for amending or updating the Plans should be carried out on an ongoing basis.

From a different perspective, other stakeholders are proposing to restrict the updating possibility to a limited number of sections of the Plans or only in case of significant change of policy goals and/or projections.

*Questions 33) to 35) on the role of different Institutions in the Governance process (definition and monitoring of the Integrated National Energy and Climate Plans)*

Via those three questions, stakeholders were asked to identify which Institutions could play the most relevant role in the definition, revision and assessment of the implementation of the integrated Plans.

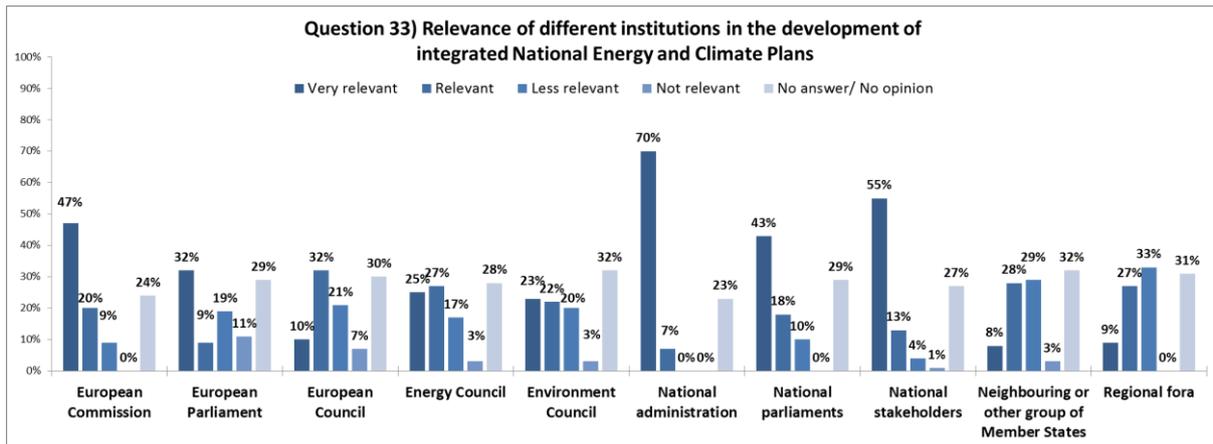
Question 33 was focusing on the importance of various institutions in the definition phase of the Plans. From the replies received, a clear agreement emerges on the **centrality of national administrations in the definition of the Plans** (those are considered "very relevant" for 70% of the respondents, including 68% of *public authorities*, 67% of *private companies and industry associations* and 87% of *NGOs*).

Replies received also put a strong emphasis on the role that could be played by the **national stakeholders and national parliaments** in the process leading to the establishment of the integrated Plans. More particularly, national stakeholders are considered as having a "very relevant" role in this process by 55% of overall stakeholders, including 21% of *public authorities*, 58% of *private companies and industry associations* and 87% of *NGOs*, whereas national parliaments are considered "very relevant" by 43% of the overall respondents, including 16% of *public authorities*, 40% of *private companies and industry associations* and 80% of *NGOs*).

The consensus around the role of national parliaments clearly demonstrates a clear preference of the respondents for a democratic and participatory process as well as their willingness to engage with national governments on the definition of national long-term energy and climate priorities. In the same vein, some suggests the creation of **stakeholders consultation mechanisms**, both at national level, to assess the draft Plans, and at EU level, for commenting Commission's evaluation. 32% of overall respondents see the European Parliament's role as "very important" in this phase, including 5% of *public authorities*, 31% of *private companies and industry associations* and 67% of *NGOs*.

From a different perspective, the role of the Commission in the development of the Plans is considered as "very relevant" for 47% of the overall respondents, including 31% of *public authorities*, 48% of *private companies and industry associations* and 80% of *NGOs*. The strong role to be played by the Commission is also fully acknowledged by 12 Member States out of 15 having replied to this consultation. According to a majority of stakeholders, the Commission should support Member States in the development of the integrated Plans, promote best practices, knowledge-sharing and regional cooperation.

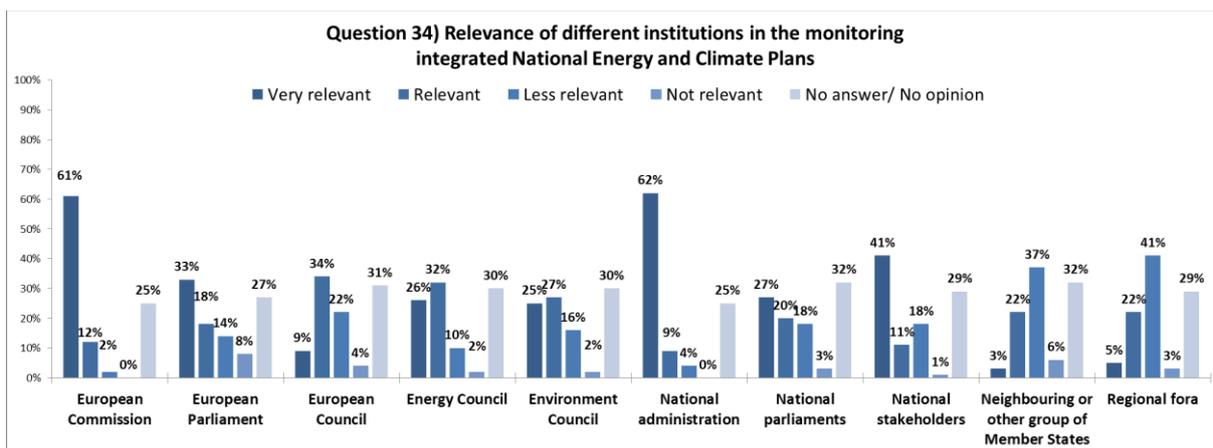
**While few respondents highlight the importance of regional fora or the necessity to involve neighbouring Member States** in the phase of definition of the Plans, there is nonetheless a **widespread consensus on the fact that regional cooperation should be a key element of the Governance process**.



Question 34 focuses on the role of various institutions in the subsequent monitoring phase of the adopted Plans. In this subsequent **phase of monitoring**, even more **emphasis is given to the role of the Commission in assessing progress made by Member States**. In this phase, the Commission is seen as "very relevant" by 61% of overall stakeholders, including 42% of *public authorities*, 63% of *private companies and industry associations* and 93% of *NGOs*

In this vein, the Commission's **State of the Energy Union** is seen as a central element of the new political process to be set by the Governance of the Energy Union. In their written replies, stakeholders however express somewhat divergent views on the opportunity of introducing a formal approval procedure by the Commission on the Plans as well as on the legal nature of policies recommendations that could be issued by the Commission on the implementation of the Plans.

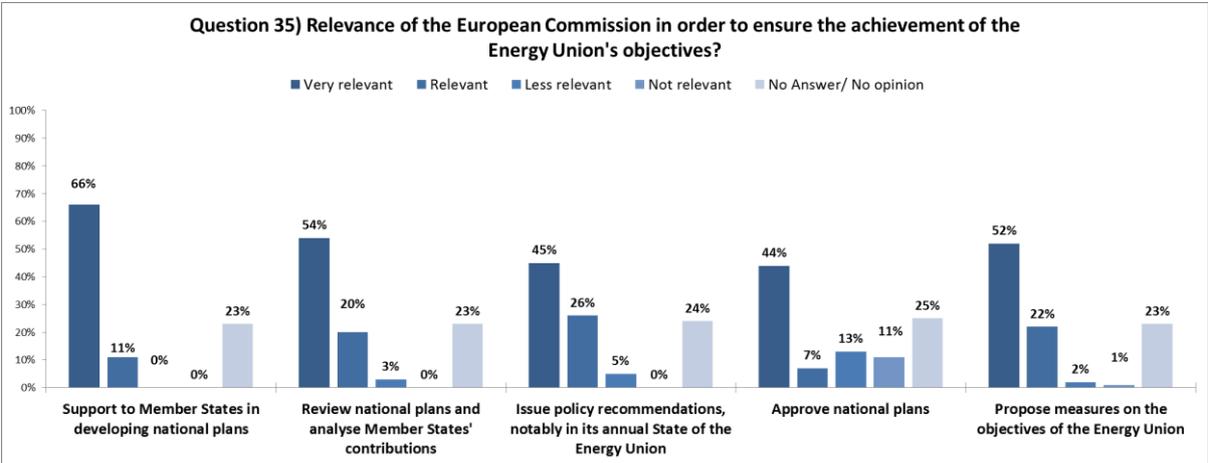
Also in this phase, the role and involvement of national administration is seen as crucial by 67% of respondents with again a small role for the European Parliament (seen as less relevant than national stakeholders and indicated as "very relevant" only by 33% of the stakeholders).



Replies received to question 35 on the role of the Commission the whole governance process confirm the assessments made in the two previous sections. Respondent confirm the **crucial role that the Commission** will have to play notably **i) by providing templates and technical support** to Member States during the preparations phase of the Plans (activity

perceived as "very relevant" by 66% of overall stakeholders, including 47% of *public authorities*, 72% of *private companies and industry associations* and 86% of *NGOs*); **ii) by reviewing Plans** submitted by Member States and engage in an iterative dialogue that should be conducive to higher level of ambition (activity perceived as "very relevant" by 54% of overall stakeholders, including 27% of *public authorities*, 58% of *private companies and industry associations* and 93% of *NGOs*); **and iii) by introducing EU level measures** supporting Member States in the attainment of the objectives of the Energy Union (activity perceived as "very relevant" by 52% of overall stakeholders, including 37% of *public authorities*, 48% of *private companies and industry associations* and 93% of *NGOs*);.

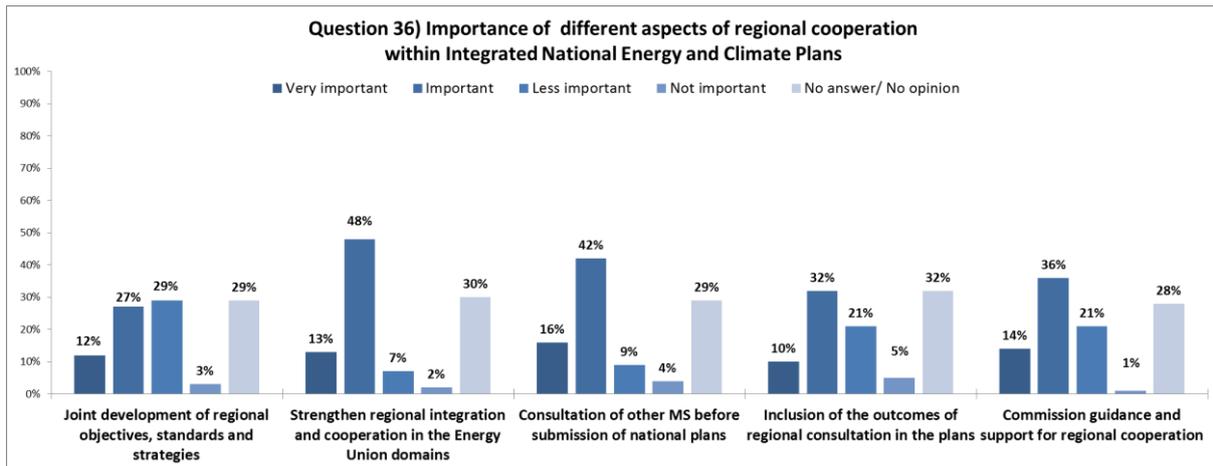
Finally, according to a majority of stakeholders the Commission should also play an important role by issuing policy recommendations on the Plans (aspect considered as "very relevant" by 45% of overall stakeholders, including 32% of *public authorities*, 40% of *private companies and industry associations* and 93% of *NGOs*).



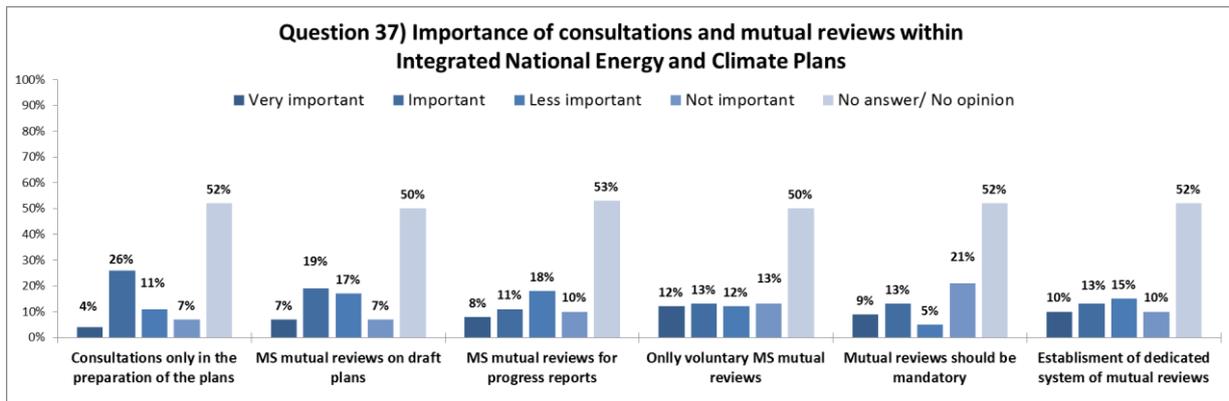
*Questions 36) and 37) on the role of regional cooperation and mutual reviews of Integrated National Energy and Climate Plans*

In accordance with the conclusions of October 2014 and March 2015 European Councils, the new Governance system should facilitate the coordination of national energy policies and foster regional cooperation. Within this consultation, 61% of overall stakeholders, including 5 Member States, agree that strengthening regional integration and cooperation in the Energy Union domains is an "important" or "very important" objective. There is also widespread consensus on the principle that Member States' consultations could play a role in the political process leading to the definition of the new Plans. More concretely, 58% of overall stakeholders consider consultations of other Member States in the preparation of the plans as "important" or "very important" In the same vein, 42% of overall respondents agree that **national Plans should adequately illustrate how the principles of regional integration** and cooperation were taken into account in the preparation of the Plans.

Stakeholders also agree that the **Commission should play an important role in guiding Member States and setting up process defining regional cooperation**. As a consequence, 50% of stakeholders consider the definition of Commission guidance on regional cooperation as "important" or "very important". While some stakeholders also propose the negotiation of **regional targets**, there no widespread support around this policy option.



Concerning consultations and mutual reviews of the Integrated National Energy and Climate Plan, there is a rising **agreement that these mutual reviews could play a role in the process of definition of the plan**. Respondents are **more divided on the importance of mutual review on the definition and evaluation of the progress report** related to the implementations of the Plans. Respondents are also somewhat **sceptical on the necessity for the Commission to create binding system requiring mutual reviews** between Member States on the Plans.



## Annex I: List of online survey participants

This list captures all participants who submitted contributions to the online survey as of 25 April 2016, and who consented to their submission being published under their provided name. The list therefore excludes all participants who explicitly stated that their contribution should not be published at all and only be subject to internal analysis within the European Commission. The list also excludes participants who only submitted non-online survey based responses. All names are presented as submitted by the participants themselves.

All online-based submissions by the below listed participants may be retrieved as an Excel file from the consultation website.

Organisation	Sector	Country
ACCIONA	Private company/ Industry association	Spain
AGFW   Der Energieeffizienzverband für Wärme, Kälte und KWK e.V.	Other interest group organisation/association	Germany
AIGET	Private company/ Industry association	Italy
Ålands landskapsregering	National public authority (central or local government)	Finland
ANIGAS	Private company/ Industry association	Italy
APREN - Portuguese Renewable Energy Association	Private company/ Industry association	Portugal
BDEW Bundesverband der deutschen Energie- und Wasserwirtschaft e.V.	Private company/ Industry association	Germany
BEUC, The European Consumer Organisation	NGO	Belgium
Bruxelles Environnement- Région de Bruxelles-Capitale.	National public authority (central or local government)	Belgium
Bundesministerium für Wirtschaft und Energie	National public authority (central or local government)	Germany
Carbon Capture and Storage Association	Private company/ Industry association	United Kingdom
CEEP (European Centre of Employers and Enterprises providing Public Services)	Other interest group organisation/association	Belgium
Central Europe Energy Partners (CEEP)	Private company/ Industry association	Belgium
ČEZ, a.s.	Private company/ Industry association	Czech Republic
ClientEarth	NGO	United Kingdom
Climate Action Network Europe	NGO	Belgium
Climate Alliance	Other interest group organisation/association	Germany
COGEN Europe	Private company/ Industry association	Belgium
Confederation of Industry of the Czech Republic	Private company/ Industry association	Czech Republic
Danish Ministry of Energy, Utilities and Climate	National public authority (central or local government)	Denmark
Deutscher Naturschutzring	NGO	Germany
DONG Energy	Private company/ Industry association	DK, DE, NL, UK
E3G	Other interest group organisation/association	Belgium
EDF S.A.	Private company/ Industry association	France
Electricity Authority of Cyprus (EAC)	National public authority (central or local government)	Cyprus
Enagás S.A.	Private company/ Industry association	Spain
Enel	Private company/ Industry association	Italy
Energie-Control Austria	National public authority (central or local government)	Austria
Energy Cities	Other interest group organisation/association	Belgium
Energy Norway	Private company/ Industry association	Norway
ENGIE SA	Private company/ Industry association	France

EURELECTRIC	Private company/ Industry association	Belgium
EuroACE (European Alliance of Companies for Energy Efficiency in Buildings)	Private company/ Industry association	Belgium
European Biogas Association (EBA)	Private company/ Industry association	EU
European Biomass Association (AEBIOM)	Private company/ Industry association	Belgium
European Federation of Energy Traders (EFET)	Private company/ Industry association	Netherlands
European Geothermal Energy Council	Private company/ Industry association	Belgium
European Insulation Manufacturers Association (Eurima)	Private company/ Industry association	Belgium
European Solar Thermal Industry Federation	Private company/ Industry association	Belgium
European Trade Union Confederation	Workers' organisation/trade union	Belgium
Fachverband Biogas / German Biogas association	Private company/ Industry association	Germany
Gas Infrastructure Europe	Private company/ Industry association	Belgium
German Renewable Energy Federation / Bundesverband Erneuerbare Energie e.V.	Private company/ Industry association	Germany
Green Budget Europe AISBL	NGO	Belgium
Greenpeace European Unit	NGO	Belgium
Groupe Avril	Private company/ Industry association	France
Ibec	Private company/ Industry association	Ireland
IBERDROLA S.A.	Private company/ Industry association	Spain
Inter-Environnement Wallonie	Other interest group organisation/association	Belgium
IOGP - International Associations of Oil and Gas Producers	Private company/ Industry association	United Kingdom
Ministry of Economic Affairs	National public authority (central or local government)	Latvia
Ministry of Economic Affairs and Communications	National public authority (central or local government)	Estonia
Ministry of Energy Ministry of Environment Ministry of Foreign affairs National Commission for Energy Control and Prices (NRA)	National public authority (central or local government)	Lithuania
Ministry of Industry and Trade of the Czech Republic	National public authority (central or local government)	Czech Republic
Nature Code	NGO	Austria
NORWEA - Norwegian Wind Energy Association	Private company/ Industry association	Norway
Ocean Energy Europe	Private company/ Industry association	Belgium
ORGALIME aisbl	Private company/ Industry association	Belgium
Polish Electricity Association (PKEE)	Private company/ Industry association	Poland
Polish Wind Energy Association	Private company/ Industry association	Poland
Regasificadora del Noroeste S.A.	Private company/ Industry association	Spain
Renewable Energy Systems Ltd (RES)	Private company/ Industry association	United Kingdom
Réseau Action Climat France	NGO	France
ROCKWOOL International A/S	Private company/ Industry association	Denmark
RSPB	NGO	United Kingdom
Slovak Office of Standards, Metrology and Testing	National public authority (central or local government)	Slovakia
Smart Energy Demand Coalition	Private company/ Industry association	Belgium
SolarPower Europe	Private company/ Industry association	EU
Som Energia sccl	Private company/ Industry association	Spain
Statkraft AS	Private company/ Industry association	DE, SE, UK
Swedish government offices	National public authority (central or local government)	Sweden
The Coalition for Energy Savings	Other interest group organisation/association	Belgium
The European Federation of Intelligent Energy Efficiency Services (EFIEES)	Private company/ Industry association	Belgium
UPEI: Union of European Petroleum Independents	Private company/ Industry association	Belgium
WindEurope	Private company/ Industry association	Belgium

WWF European Policy Office	NGO	Belgium
ZERO - Associação Sistema Terrestre Sustentável	NGO	Portugal
ZVEI - Zentralverband Elektrotechnik- und Elektronikindustrie e. V.	Private company/ Industry association	Germany
Anonymous.	Individual citizen	Spain
Anonymous.	Individual citizen	France
Anonymous.	National public authority (central or local government)	Slovakia
Anonymous.	National public authority (central or local government)	Slovakia
Anonymous.	National public authority (central or local government)	Cyprus
Anonymous.	National public authority (central or local government)	Latvia
Anonymous.	National public authority (central or local government)	Poland
Anonymous.	National public authority (central or local government)	Hungary
Anonymous.	NGO	Belgium
Anonymous.	NGO	Czech Republic
Anonymous.	NGO	Portugal
Anonymous.	NGO	France
Anonymous.	Other interest group organisation/association	Finland
Anonymous.	Private company/ Industry association	Austria;Bulgaria
Anonymous.	Private company/ Industry association	Belgium
Anonymous.	Research organisation/university	Germany
Anonymous	Private company/ Industry association	Spain

## **8.5. *Annex V: Methods and Analytical models used in preparing the Fitness Check***

The Fitness Check on the planning, reporting and monitoring obligations within the EU energy acquis was based on a sound methodology. First, the legislative obligations within the scope of the Fitness Check were identified by an internal screening exercise throughout 2015 and updated where necessary in 2016. The Fitness Check evaluation was launched in the beginning of January 2016 after the respective roadmap had been approved in December 2015 and undertaken for the first three quarters of 2016. The analysis basically took place on the basis of information and data gathering and on the assessment of the costs and benefits of planning, reporting and monitoring obligations:

First, the gathering of data on the existing reporting, planning and monitoring obligations was conducted and a theoretical assessment of these provisions in order to review the intervention logics of each of the obligations was undertaken. Further, their expected role and impacts was clarified including a general literature review. Second, an assessment of the costs and benefits of planning, reporting and monitoring obligations was undertaken and third, the existing obligations were evaluated along the five Better Regulation evaluation criteria and based on the information gathered in the first two steps.

In this undertaking, the Commission was supported by the results of a public consultation launched in January 2016 and lasting until April 2016. Additional information was gathered through two independent but interlinked studies commissioned by DG Energy and DG Climate Action (see annex III for more information on these studies) as well as through internal interviews conducted by the Commission.

Due to the horizontal and specific nature of this Fitness Check on planning, reporting and monitoring obligations in the EU energy acquis, no modelling was done in the framework of this Fitness Check. Therefore, also no baseline scenario was developed.