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Fit for 55: approaching the finish line – ETS, EED, RED, and AFIR

- **ETS:** the provisional agreement reached by the Council and Parliament on 18 December 2022 has now been officialised, after both institutions formally adopted to vote the text – in Coreper I and in the plenary respectively on 19 April. The text will now be published in the Official Journal, and the revamped ETS will come into effect on 1 January 2024.
- **Energy efficiency (EED):** the final steps are also nearing for this key file, as the provisional agreement reached by the co-legislators on 10 March is up for formal approval in the European Parliament's ITRE committee today. The text will then still need to be voted on in the plenary and receive Member State ambassadors' seal of approval in Coreper I before being officially published.
- **Renewable energy (RED):** on 30 March, the co-legislators emerged from a difficult 17.5-hour long trilogue session with a deal. This final negotiation session involved several last-minute changes, for example including the controversial provision on counting low-carbon hydrogen (produced by nuclear) in the renewable hydrogen target for industry, or dropping specific requirements for 'primary woody biomass'. On CEDEC priority issues, however, the agreements mentioned in our last edition remain valid. Due to the complexity of the 30 March deal, the negotiators only started piecing together the final version of the text on 13 April, and no calendar for finishing the puzzle has yet been announced.
- **Alternative Fuels Infrastructure (AFIR):** despite the significant ground still to be covered in the run up to trilogue session on 27 March, negotiators emerged with a provisional agreement. While some details remain to be verified, as a consolidated version has yet to be published, CEDEC members can be reassured that several priority issues have been included in the final text. For example, no retrofitting of recharging stations will be required concerning smart charging requirements (although this will be the case for digital connectedness), and payment options have been broadened compared to the original EC proposal.

Gas Package: key points for the trilogues

On 28 March, Council finally adopted its general approach for the hydrogen and decarbonised gas markets package. Both institutions therefore now have their negotiating mandates ready to enter into trilogues, which are set to begin in the coming weeks.

Some key points to keep in mind in the upcoming interinstitutional negotiations:

- **Unbundling:** Parliament's negotiating mandate brings to the table the important distinction between the transmission and distribution level, including when it comes to unbundling rules for hydrogen. Regrettably however, the Council ultimately decided to maintain the Commission's approach, extending the unbundling requirements initially designed for TSOs to any DSOs involved in hydrogen. As an 'alternative', the Council instead focused on the rules for geographically confined hydrogen networks, with no real relevance for DSOs. It will therefore be essential to provide as much support as possible to the Parliament's position, for example by highlighting the key role played by the distribution grid in supplying industrial customers.
- **ENNOH or ENTSG&H:** related to the first issue, a central point of the negotiations will be to find an agreement on the status of the new European network for hydrogen network operators. Indeed, the Council favours maintaining the Commission proposal to have a separate entity set up for all hydrogen network operators (whether TSO or DSO), whereas the Parliament proposes to integrate it within the existing ENTSG, positively leaving out hydrogen DSOs.
- **Local heating and cooling plans:** another excellent addition to the text included in the Parliament's mandate – based on a CEDEC proposal – concerns local heating and cooling plans with a central role for DSOs. These plans involve a bottom-up approach to evaluate the needs in terms of heating and cooling at local level, as well as the energy infrastructures and resources available to meet them, with the involvement of all relevant stakeholders. Such plans are key to deliver solutions which fully consider the heterogeneity of situations at the local level and ensure that heating and cooling is decarbonised in the most efficient and socially inclusive manner. It will therefore be essential to ensure that this proposal is included in the final text.

Hot topic: the Ecodesign boiler ban

The Commission is set to propose new requirements under the Ecodesign Directive which would result in a **ban of stand-alone boilers (both fuel and electric resistance) by 2029**. This would be done by setting a minimum energy efficiency target unachievable for this technology (115%) to be placed on the market. After 2029, only hybrid systems (i.e. a boiler combined with a heat pump or solar thermal), micro-CHP, or heat pumps would be allowed. It can be noted that these requirements would **clash with Parliament's position on the Energy Performance of Buildings Directive (EPBD)**. Indeed, although the Parliament decided to ban fossil fuel boilers in new or substantially renovated buildings, it made an exception for those certified to run on renewable fuels. However, no such exception is made under the proposed Ecodesign requirements. The Commission proposal might also be problematic in light of the requirements being adopted on this issue at national level in several Member States. This would for example be the case for the recently announced measures in Germany, under which renewables-ready boilers are allowed. The Commission will collect feedback from Member State representatives and concerned stakeholders during a Consultation Forum held on 27 April. It will then have a few months to take the comments into account and publish a final proposal.

Post-2030 framework : a sneak preview on 2040

With the Fit for 55 Package negotiations closing bit by bit, very intensive years of negotiations are coming to an end, but be aware that EU executive is already working on the preliminary preparation of new EU energy initiatives on climate change, the defining challenge of the coming decades. Just recently, the EC presented its roadmap and launched a public consultation on the EU climate target for 2040. This initiative emerges from the European Climate Law which calls on the EC to make a proposal to set an intermediate Union-wide target for 2040 within 6 months of the global stocktake under the Paris Agreement in November 2023 (to be held in Dubai as the COP28). To this end, the EC will prepare an impact assessment in view of an amendment to the Climate Law, exploring sectoral transformations beyond 2030. Distributional impacts of the 2040 climate target proposal will be examined taking into account the changes in energy prices and looking at the ability to invest in more efficient consumption patterns across household income groups. The impact assessment is expected to be published in 2024 and will announce the future preparation of a post-2030 policy framework – something to already keep in mind for the approaching 2024-2029 legislative term.

Data Act and AI Act – updated state of play

A brief update – for those who need their regular digital flavour with their coffee – on the information given in our last (March 2023) issue: Just 10 days after the EP agreed on its negotiation position on the **Data Act**, the Council delivered its mandate for negotiations with the EP, which is less promising than the EP position, as it provides substantial changes to the EC proposal, providing the possibility for data holders to reject data access requests with a view to protecting trade secrets, a provision that could be used as a pretext to severely restrict the EC's initially contemplated access to data. With the table being set for negotiations, the first trilogue started on 29 March. Still under negotiations within the Parliament with several meetings having been postponed, the **Artificial Intelligence Act** continues to be tenacious and EP negotiators are under pressure to reach an agreement soon. The vote on the report in the co-responsible committees (IMCO and LIBE) has been moved from 8 to 11 May.

F-Gas Regulation: trilogues begin

Both co-legislators are now ready with their negotiating mandates on this file, as Parliament adopted its final position on 30 March in plenary, with Council following shortly after on 6 April with a general approach. A first political trilogue will take place on 25 April, after which regular technical discussions will take place until the next political meeting, likely not before June. For CEDEC members, the key issue in this file concerns the requirements on phasing out SF6 use in electrical switchgear – key components for the energy transition. An important divergence in this respect in the two institutions' positions concerns which SF6 alternatives will be allowed: Parliament is asking for a ban on all f-gases (only allowing solutions based on N2, O2, dry-air, or CO2), while Council provides more flexibility.

Spotlight on: Speedy Gonzales meets the Electricity Market Design reform

On the Electricity Market Design (EMD) reform, proposed by the Commission on 14 March, things are moving quickly in both the EP and the Council. The co-legislators want to swiftly agree, as the EU elections – to take place in the first half of 2024 – are coming closer and the timing for the conclusion of ongoing European files is pressing. In EP, the responsible committee for the EMD reform as well as the amendments to the REMIT Regulation will be the Energy Committee (ITRE), which already decided upon the key MEPs to lead the negotiations on the file on behalf of their political groups. The Spanish MEP Nicolas Gonzales Casares (S&D) was appointed to be in charge of drafting the report on the EMD reform and proposing concrete amendments to the EC proposals. Maria da Graça Carvalho (EPP, PT), Morten Petersen (Renew, DK), Michael Bloss (Green/EFA, DE), Zdzisław Krasnodębski (ECR, PL), Marina Mesure (GUE/NGL, FR) and Paolo Borchia (ID, IT) will represent their political group during the negotiations. The timetable in the EP looks as follows:

- 12 May: publication of draft report by rapporteur
- 23 May (17:00): deadline for tabling amendments
- 19 July: ITRE vote on draft report
- Week of 11 September: vote in Plenary

In Council, EU ministers held their first policy debate on the proposal during the 28 March Energy Council meeting and the Swedish Council Presidency reiterated its commitment to treat the file as a priority. Technical discussions are conducted at the level of the responsible Working Group on Energy which is already exchanging on individual articles of the proposal. The objective is to reach a General Approach – the mandate for negotiations with the EP – on 19 June at the last Energy Council under Swedish presidency before handing over to Spain.

CEDEC has progressed to defining its key priorities, which will have to be finalised together with its members in view of preparing common CEDEC recommendations and concrete amendments.

Ongoing consultations

- [Feedback to EC proposal on the Electricity Market Design reform](#) - deadline 17 May 2023
- [Exploratory consultation on the future of the electronic communications sector and its infrastructure](#) - deadline 18 May 2023
- [Public consultation on EU climate target for 2030](#) - deadline 24 June 2023

Reading of the month

- [Transition of the Dutch energy system: scenarios 2030-2050](#)

Upcoming meetings & Events

- CEDEC Working Group Digitalisation: 26 April
- CEDEC Working Group Electricity Market Design Reform: 3 May
- Madrid Forum: 11-12 May