

THE EUROPEAN UNION'S CLEAN ENERGY PACKAGE

WILL IT REALLY BE A GAME CHANGER FOR ENERGY TRANSITION IN FRANCE?

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Against a backdrop of radical transformation in the global energy landscape, something which affects countries in a multitude of ways, in November 2016, the European Commission put forward a legislative package entitled "Clean Energy for all Europeans - unlocking the growth potential of Europe"—a series of proposals also known as the "Winter Package" or the "Clean Energy Package." The European Union (EU) is considering its future approach to the energy transition.

Moreover, the French government wants France to become the lead player in this energy transition. So, what are the key measures in the Clean Energy Package in terms of energy transition? How do they fit into France's current political landscape? And, we take a closer look at the Renewable Energy and Energy Efficiency Directives.

THE CLEAN ENERGY PACKAGE: ANOTHER STEP TOWARD AN ENERGY UNION

The Clean Energy Package, a bundle of legislative measures aimed at facilitating the energy transition in Europe, is another step toward creating an Energy Union. It also enables the EU to pursue the sustainability commitments it has undertaken in recent years, such as those made at COP 21, as well as position itself as a leader in the area.

A package that fits within the historical direction of travel

The Clean Energy Package fits within a context of global thinking about the raft of climate and environmental impacts caused by current patterns of production and consumption. The EU wants to position itself as a leader by pursuing initiatives that combine strong growth with safeguarding the environment—both for Europe's citizens and the world's population. The Lisbon Treaty, which sets out the fundamental objectives of European energy policy (security of supply, competitiveness, and sustainability) is complemented by the objectives and strategies set out in the 2020¹ and 2030² energy and climate change packages, whose

main objectives are to ensure competitive and sustainable energy.

Aside from sustainability issues, the European Union is also thinking in terms of an Energy Union, something that would enable it to strengthen its role in the global energy market, in particular by diversifying its energy sources and supply routes, with the aim of reducing dependence on foreign production and guaranteeing security of supply.

Eight major legislative proposals

The Commission's Clean Energy Package comprises a range of proposals to amend current legislation or introduce new measures—mainly centered on energy-market and climate-related issues. In total, there are eight legislative proposals (four regulations and four directives) as well as several communications and reports. These proposals must enable the energy sector to move toward greater **sustainability**, by assuring its **stability** while safeguarding **competitiveness**. They cover issues of energy efficiency, renewable energies, the energy performance of buildings, energy governance, the design of the electricity market, and the European Agency for the Cooperation of Energy Regulators (ACER).

Four regulations:

- **Proposal for a Regulation of the European Parliament and of the Council on the internal electricity market for electricity** (recast) of 23 February 2017 (COM [2016] 861 Final/2);
- **Proposal for a Regulation of the European Parliament and of the Council establishing a European Union Agency for the Cooperation of Energy Regulators** (recast) of 23 February 2017 (COM [2016] 863 Final/2);
- **Proposal for a Regulation of the European Parliament and of the Council on the Governance of the Energy Union** of 23 February 2017 (COM [2016] 759 Final/2), amending Directive 94/22/EC, Directive 98/70/EC, Directive 2009/31/EC, Regulation (EC) No 663/2009, Regulation (EC) No 715/2009, Directive 2009/73/EC, Council Directive 2009/119/EC, Directive 2010/31/EU, Directive 2012/27/EU, Directive 2013/30/EU and Council Directive (EU) 2015/652, and repealing Regulation (EU) No 525/2013;
- **Proposal for a Regulation of the European Parliament and of the Council on risk preparedness in the electricity sector** and repealing Directive 2005/89/EC of 30 November 2016 (COM [2016] 862 Final);

1- The European Commission's 2010 communication

2- Whose objectives were decided upon by the European Council in 2014

/ **Four directives:**

- **Proposal for a Directive of the European Parliament and of the Council on the promotion of the use of energy from renewable sources** (recast) of 23 February 2017 (COM [2016] 767 Final/2);
- **Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/27/EU on energy efficiency** of 30 November 2016 (COM [2016] 761 Final);
- **Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/31/EU on the energy performance of buildings** of 30 November 2016 (COM [2016] 765 Final);
- **Proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity** (recast) of 23 February 2017 (COM [2016] 864 final/2);

Two of these legislative proposals have caught our attention, especially in the light of their ambitions, French political developments, and the potential impacts on energy suppliers. These two proposals in particular illustrate the EU's desire to assert its positions on the energy transition, and their impact on French energy companies needs to be assessed. They are, the **proposal for a directive on the promotion of the use of energy from renewable sources** (RES) and the **proposal for a directive on energy efficiency** (EE). Here, we decode them and compare them with France's current political ambitions.

"The EU, which has been mainly focused on building the European energy market is using the Clean Energy Package to reinforce its positions on the core issues of the energy transition."

JEAN-BAPTISTE BLONDEL,
SENIOR MANAGER, ENERGY,
AT WAVESTONE

FOCUS ON

A PACKAGE THAT FOLLOWS AN ESTABLISHED EUROPEAN LEGISLATIVE PROCESS

The Clean Energy Package follows the **ordinary legislative procedure**, which is currently the main decision-making process in the European Union. This involves the joint adoption by the Parliament and Council of legislative acts that are initially proposed by the European Commission and usually take the form of a regulation, directive, or decision. Each proposal is presented simultaneously to the co-legislators. A maximum of three readings is envisaged within the framework of the procedure, with the possibility, at the end of each, to agree a common text. If, at the end of the first two readings, no agreement has been reached, a conciliation committee is convened for a third reading. If, then, at the end of this final reading, no common legislative proposal has been adopted, or if the legislative proposal is rejected before this stage, the procedure ends without the proposal being adopted. It should be noted that, in addition to meetings that are part of the formal procedure, the parties can hold tripartite discussions and meetings with the aim of reaching agreement more quickly. While there is no official definition of what form these should take, their part in the decision-making process is a very real one: there were some 144 tripartite discussions in 2016, and about 230 in 2015³.

3- *EUObserver*, 2017

Legislation with a multitude of impacts on Member States

The Clean Energy Package brings together legislative proposals from different areas of EU law, and their impact on Member States varies. **European regulations represent binding legislation because they are compulsory, must be applied universally and without delay, and take precedence over national law**—if the latter is incompatible with the provisions of the former. This means that each regulation needs to be implemented in full by the parties it applies to—usually the Member States—as soon as it enters into force. It is therefore essential for Member States, let alone the numerous stakeholders that a specific regulation affects, to understand the relevant issues as soon as possible.

In contrast with regulations, **EU Directives establish an obligation to achieve a common result** in all the Member States to which they apply, but each Member State is free to choose how it will achieve the objectives set. The process of application in national law—transposition—generally takes place within a time limit set by the EU when it adopts the directive. The usual time frame is two years⁴.

Lastly, the Commission’s communications represent a plan of action, and sometimes include concrete options for legislative proposals, but are not binding in a legal sense.

⁴ If a Member State fails to transpose a directive, or takes too long to do so, the Commission may decide to begin infringement proceedings.



THE PROPOSAL FOR A DIRECTIVE ON THE PROMOTION OF THE USE OF ENERGY FROM RENEWABLE SOURCES (RES)

The RES directive is broken down into three parts:

- / The construction **of a stable framework that encourages rational investments**;
- / The **harmonization of the role of biofuels** in transport;
- / The **integration of renewable energies (REs) into heating and cooling sector activities**—to raise awareness of renewable energies among consumers.

The directive's aim is to increase the proportion of renewable generation in the energy mix. And its proposals have been

guided by a purposely clear philosophy. It is based on three key threads: the ambition to bring predictability to investors (an aim shared by the French government); the requirement for subsidiarity; and the desire to take proportionate action (action that doesn't automatically entail additional measures that require funding at the EU level).

The directive is in the process of being adopted by the EU, while the French government has begun consulting publicly on its *Programmation Pluriannuelle de l'Energie* (Multi-Year Energy Plan [PPE]). Public consultation on this began on March 19, 2018 and will end on June 30, 2018. The PPE, a roadmap for the 2019-2023 energy mix, must be adopted by the end of 2018, and could therefore be strongly influenced by the objectives set by the EU.

Construction of a stable framework that encourages rational investments

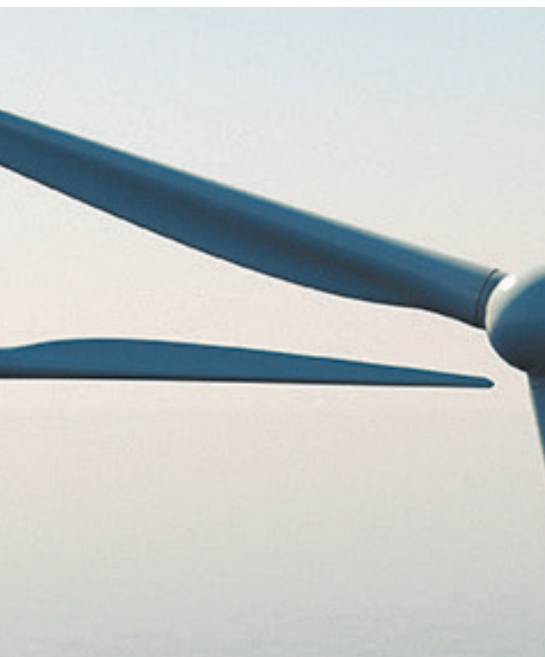
THE MAIN PLAYERS INVOLVED

Producers/investors
(Transporters)
Regional and local authorities
Consumers



The proposed legislative framework should result in a uniform market that, by its very nature, should encourage more rational renewable energy projects (for example, by encouraging proposals in areas with higher potential). First, this involves a **measured removal of the concept of borders**. A number of proposals are put forward to achieve this:

- / A **mandatory partial opening of transboundary participation aid schemes** is envisaged. This will allow the progressive opening of physical interconnectors;
- / A **European financial instrument** is to be introduced to improve the use of funds;
- / A **simpler administrative framework** will be put in place for RE projects, in particular by limiting the length of procedures through the adoption of European best practices (a one-stop-shop approach). At the 2018 French Energy Transition Forum (FTE 2018), government minister Nicolas Hulot, also announced a similar ambition to simplify administrative procedures at the national level.



ENERGY PRODUCED FROM RENEWABLE SOURCES (RES):

Energy produced from renewable, non-fossil sources comprising wind, solar, aerothermal, geothermal, hydrothermal, marine and hydroelectric, biomass, landfill gas, gas from wastewater treatment, and biogas.

The concept is defined in Article 2 of Directive 2009/28/EC

It should be noted that the term "renewable energy" (RE) is also used in the document. We consider this as equivalent to energy produced from RES.

The second leg of the framework concerns **the stability and predictability of national and European policies**, which aims to clarify the rules of the game as early as possible and create a climate of trust for investors. The following measures have been recommended:

- / **National targets to 2020⁵ should be retained** and considered as base scenarios for the construction of new objectives;
- / The **trajectory between the 2020 and 2030 targets must be linear**;
- / A **review of the ambitions of national plans** and a **revision clause** that will allow the addition of European-level measures to ensure that there is a minimal gap with Europe's ambitions and avoid a shortfall in implementation.

This second phase reinforces the importance of French thinking on the PPE, whose initial horizon is 2019-2023. On this part of the Clean Energy Package, the PPE may partially constrain the objectives France sets for 2030.

TAKE AWAY FINDING #1

The regulatory framework set out in the Clean Energy Package aims to **make investment in renewable energy more rational** (i.e. driving investing in areas with higher potential) by creating a more uniform market (through the removal of national disparities) and to promote long-term investments by providing predictability. A similar desire for predictability is palpable in France.

The harmonization of the role of biofuels in the transport sector

THE MAIN PLAYERS INVOLVED
Producers
The automotive sector



Transport is a key sector—accounting for a third of total European energy demand. The Clean Energy Package addresses this central issue with a desire to **protect the role played by biofuels**. To do this, it recommends a number of actions:

- / There's a need to **strengthen activities aimed at developing the potential of advanced biofuels**;
- / **Member States will be able to invest in other EU States** to ensure achievement of the overall objective;
- / **Advanced renewable fuels for transport** (including advanced biofuels) will need to be **obligated at EU level**.

BIOFUEL:

A liquid or gaseous fuel used for transportation and produced from biomass.

BIOMASS:

The biodegradable fraction of products, wastes, and residues of biological origin arising from agriculture (including plant and animal substances), forestry and related industries—including fisheries and aquaculture, as well as the biodegradable fractions of industrial and municipal wastes.

These concepts are defined in Article 2 of Directive 2009/28/EC

"Today, 7% of all vehicle fuel is biofuel, and we hope to increase that to 10% in the near future."

PIERRE CUYPERS,
LES RÉPUBLICAINS SENATOR
(Interview with Wavestone, March 14, 2018)

Out of these proposals comes a **strong European conviction on advanced biofuels**, which, according to the EU, will have the advantage of offering companies security in terms of the development of the market and reducing the share of biofuels derived from food crops (an objective presented in the July 2016 Strategy for Low-Emission Mobility). However, the **future of Europe's approach to mobility remains unclear**. This directive does not differentiate between different types of mobility: the term biofuel includes both liquid and gaseous fuels, and electric mobility is not addressed.

In France, the discourse is somewhat different. To an extent, France goes further with the idea of "irreversibility", a concept now used by its institutions, which involves

⁵ These objectives are set by Directive 2009/28/EC of the European Parliament and of the Council of April 23, 2009, on the promotion of the use of energy produced from renewable sources.



a number of measures aimed at achieving **carbon neutrality by 2050**. Several milestones were set by Nicolas Hulot at FTE 2018, including the end of the **exploration and exploitation of hydrocarbon sources** and an **end to greenhouse-gas-emitting vehicles by 2040**. There is, therefore, a gap to be filled by alternative fuels. Pierre Cuypers, a member of the French Senate's Energy Study Group, stresses the desire to give more prominence to liquid biofuels.

However, he expressed some skepticism about second and third-generation biofuels (terms roughly equivalent to the idea of "advanced biofuels" used in the Clean Energy Package). Current thinking around the role of the agricultural transition in energy transition could shed light on the role of advanced biofuels in transport. And, in general, in both France and in Europe, the question of gas is still to be addressed.

"Having been electricity-oriented so far, the EU is now focusing on the use of gas in the context of mobility."

CLÉMENT LE ROY,
SENIOR MANAGER, ENERGY,
AT WAVESTONE

TAKE AWAY FINDING #2

The EU and France share the desire to reduce the share of fossil fuels by relying more on biofuels. However, the **future of mobility remains uncertain** — and the Clean Energy Package doesn't take a strong position in this area.

What's more, the Clean Energy Package sets out **no clear ambition for gas**, with Member States left to pursue their own policies.

Heating and Cooling: a first step toward responsible consumers

THE MAIN PLAYERS INVOLVED
Suppliers
Consumers



Another key sector is heating and cooling, which accounts for 50% of the EU's energy consumption; and 75% of the energy used in this sector is fossil fuel. The objective of the measures in the Clean Energy Package is to **decrease the share of fossil fuels by focusing on renewable energy, bioenergy, and geothermal energy:**

- / Member States will have to **impose the need to meet heating and cooling requirements from renewable energy sources on a majority of fuel suppliers;**
- / **Consumers will be able to produce heat locally** from renewable energy sources, and to use district heating and cooling systems powered by renewable energies.

It should be noted that **self-consumption is more broadly addressed** in the "RES" directive to strengthen the position of consumers and to boost their potential to play a part in energy production. In this same vein, the EU wants to make guarantees of origin mandatory for renewable fuels and electricity produced from renewable sources. When it comes to self-consumption, France is ahead of the ambitions set out in the Clean Energy Package, something evidenced by current deliberations within the CRE (the French energy markets regulator).

Other options are also proposed in the directive, such as the creation of a European market for heating and cooling sector activities, the development of geothermal energy (25% of the European population lives in a suitable area), and exploiting the potential offered by waste recovery. These last two options seem to be areas envisaged in French policy, although it does not see them as priorities.



THE PROPOSAL FOR A DIRECTIVE ON ENERGY EFFICIENCY

THE MAIN PLAYERS INVOLVED

Distributors
Suppliers
Consumers



The development of REs alone would not be sufficient to ensure an energy transition that would meet the objectives of the Paris Agreement. This is why it's **essential to deploy the lever of energy efficiency** and aim to reduce consumption in the most energy-intensive sectors: in France, **domestic usage and transport account for almost 78% of final energy consumption.**

The European Union wants to encourage the development and strengthening of national energy efficiency policies by setting out an **ambitious framework that is developed in an entirely separate directive from the Clean Energy Package.**

Currently, the EU's energy policy is to achieve a **20% increase in energy efficiency by 2020**, and the 2030 target was initially set to raise this to 27%. **The Clean Energy Package aims to amend this directive to bring in a new 30% energy efficiency target for 2030.**

This would create a favorable climate for overall energy reduction in the EU:

- / A **fall in consumption in primary energy of 23%⁶** (which is 1321 Mtep);
- / A **decrease in final energy consumption of 17%⁶** (which is 987 Mtep).

The directive sets a binding framework at EU level: **but Member States are free to set their own energy efficiency targets as long as the overall objective is met.**

In concrete terms, Member States will have to apply the following measures to achieve or create the conditions needed for these energy savings:

- / **Achieve savings equal to 1.5% of the annual volume of energy sales, calculated on the basis of the previous 3 years' consumption;**
- / Ensure that **meters are installed which provide consumption figures for customers remotely and in real time;**
- / Ensure that **individual consumptions are available** for consumers supplied by district heating schemes;
- / Ensure that **customer billing is based on actual consumption.**

"The first pillar of energy or ecological transition is a reduction in the final consumption of energy and, therefore, electricity. This comes mainly from improving energy efficiency."

JEAN-BAPTISTE GALLAND,
DIRECTOR OF STRATEGY, ENEDIS
(in an interview with Wavestone
on January 18, 2018)

6- Compared with 2005 levels

The effects on the energy landscape then are numerous and are partly present already in the national energy strategy. Building on initiatives like the installation of Linky and Gazpar smart meters that enable data to be gathered on consumer habits, **Europe's desire is to make consumers aware of their real energy consumption.** If customers can measure the impact of their habits on consumption (and therefore their bills), they are likely to feel more motivated to make energy savings; and this transformation of habits will lead to **"energy moderation"**.

In addition, the objective of making energy savings at Member-State level must be pursued, **in particular, by energy suppliers.** More and more supply companies are offering **energy efficiency services and modifications**, which, aside from companies' regulatory obligations, provide a **lever to diversify their activity in an increasingly competitive environment.**

In concrete terms, in France, it is **Energy Savings Certificates** that will enable energy suppliers—who are "obliged" to do so by the regulator—to ensure the savings required by legislation are achieved. Energy suppliers must make use of several levers: **save energy within their own businesses; encourage their customers to take energy-saving actions; or, buy energy savings certificates from other players.** The energy saving obligations are defined by the regulator over set periods; and, at the end of each period, **the players under the obligation must be able to present the number of certificates corresponding to their respective targets.** However, Energy Savings Certificates schemes, although in use in several Member States, haven't seen general, EU-wide adoption. Spain, for example, has put in place a sales tax on electricity suppliers whose revenue is diverted to a dedicated fund that finances energy efficiency programs.

TAKE AWAY FINDING #3

The **Clean Energy Package won't bring about a revolution in energy efficiency**, but it nevertheless strengthens the place of this lever in the energy transition by extending and **reinforcing energy saving ambitions.** The stated objective is clear: to reduce energy consumption in the EU, by **empowering its citizens** as a result of everyone having the means of measuring their own individual energy consumption in (close to) real time.



OVERALL CONCLUSION: AN INITIAL, BROAD FRAMEWORK THAT LEAVES AUTONOMY FOR FRANCE ON ITS ENERGY TRANSITION

In conclusion, there are real synergies between the EU's ambitions and French policy aims. A desire has emerged to **set a clear course** for energy players by **offering clarity to businesses**, which is one of the keys to a successful energy transition—as Nicolas Hulot reminded us at the FTE in March 2018.

The European Union hopes that the Member States will assume their responsibilities and **define the trajectories of their energy transitions**—with renewable energies an essential feature. In this respect, and ahead of most policy in the area, the French government incorporates a number of the principles of the Clean Energy Package in its long-term energy plan (the PPE), published early 2019. It stands out by its greater desire to place citizens at the core of the debate. **The third energy revolution is a "historic democratic opportunity"** (N. Hulot, FTE, March 2018).

The Clean Energy Package doesn't directly address the issue of gas. It offers both RES and biofuel options: **the trajectory for reducing gas consumption is left in the hands of the Member States**. In France, the issue of gas is currently being addressed through **hydrogen technology** and the **agricultural transition**.

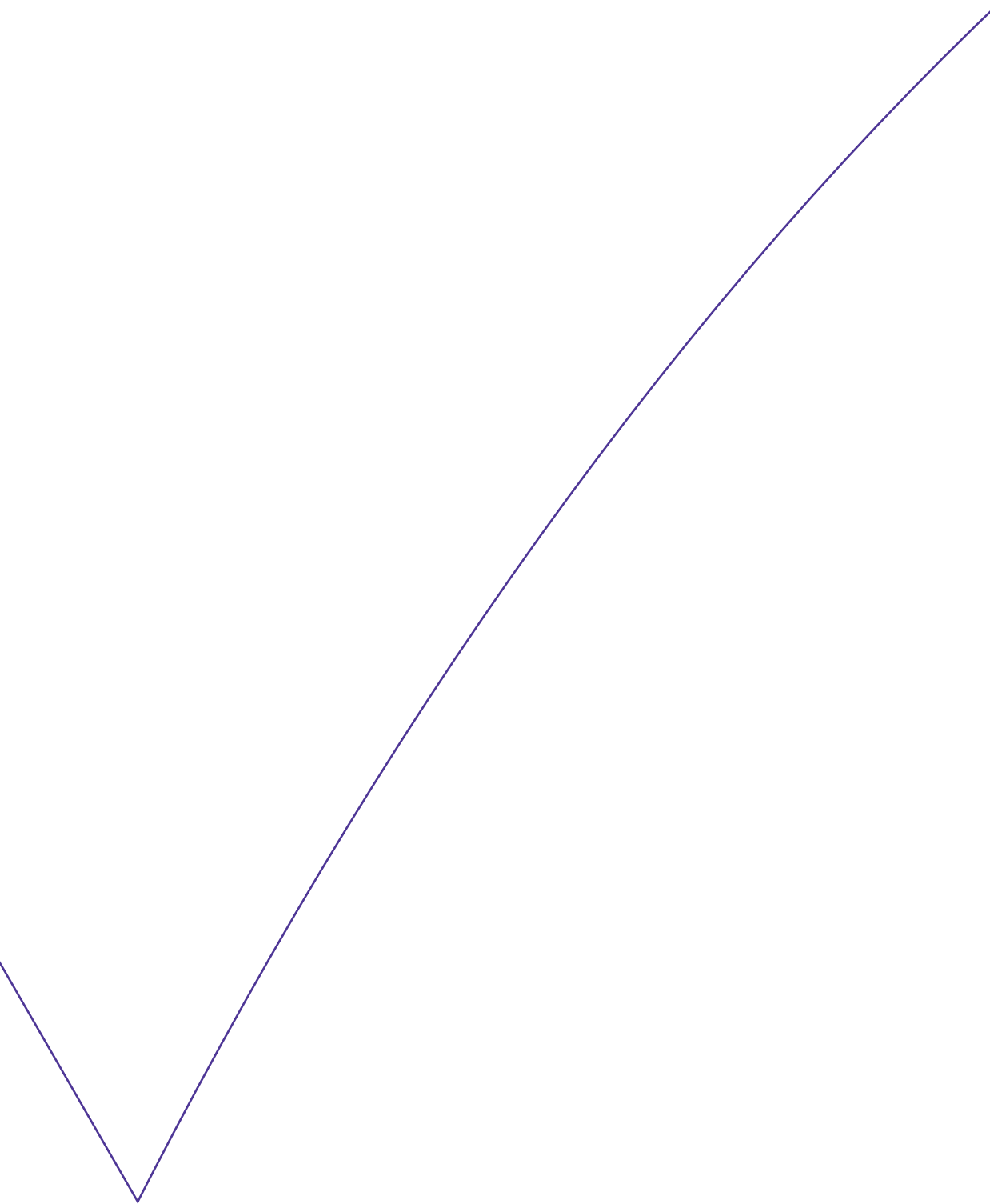
And, conspicuous by its absence from the European measures, there is no clarity on the future of nuclear. The debate seems to end at the French border, with the government agreeing on a reduction in the share of nuclear power—from 75% to 50%. The deadlines have not yet been announced, and the question raises a parallel need for a review of the sustainability of certain technologies, such as energy storage. The European Union has taken a position of **not addressing the issue of storage in the Clean Energy Package**.

With respect to transport, while **the need to reduce the share of fossil fuels is present, there are no clear objectives on the future of mobility**. Meeting European objectives on this issue could perhaps be achieved simply by an overall reduction in the consumption of fossil fuels—thanks to the emergence of

forms of mobility based on electricity and gas.

Finally, we should note that, although the role of renewable energy in heating and cooling is being discussed at European level, the area is currently much less a topic of debate in France. On this, it seems France has chosen to take a more reactive stance.

In energy efficiency, **competition between energy companies in the area of energy savings is likely to intensify**, as European requirements increase in scope. On the other hand, services that are, at present, hugely centered around the renovation of dilapidated housing will have to reinvent themselves to allow those with "obligations" to meet their objectives in an increasingly competitive context. **The diversification of energy efficiency services** progress, in particular by the **mastery of data** gathered from housing, through the development of a **domestic IoT**.



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