



Proposal for a European Climate Law – Suggestions for Amendments

7 April 2020

Nils Meyer-Ohlendorf

Contact

Dr. Nils Meyer-Ohlendorf
Head, European and International Governance
Ecologic Institute
Pfalzburger Straße 43/44
10717 Berlin
E-Mail: nils.meyer-ohlendorf@ecologic.eu

About Ecologic Institute

Ecologic Institute is a private not-for-profit think tank for applied environmental research, policy analysis and consultancy with offices in Berlin, Brussels and Washington DC. An independent, non-partisan body, Ecologic Institute is dedicated to bringing fresh ideas to environmental policies and sustainable development. Ecologic Institute's work programme focuses on obtaining practical results. It covers the entire spectrum of environmental issues, including the integration of environmental concerns into other policy fields. Founded in 1995, Ecologic Institute is a partner in the network of Institutes for European Environmental Policy. Ecologic Institute acts in the public interest.

Acknowledgements

The European Climate Foundation funded this report. Ecologic Institute is appreciative of this support. Opinions expressed in this report represent the views of the author and do not necessarily represent the position of the European Climate Foundation. The responsibility for the content of this publication lies solely with the author.

1 Introduction

On 4 March 2020, the European Commission proposed the European Climate Law (ECL), officially called the “Regulation for Establishing the Framework for Achieving Climate Neutrality”.

This note suggests amendments to the Commission’s proposal – as a contribution to the debate on a European Climate Law that provides a robust framework for making the EU climate neutral. This note focuses on those parts of the Commission’s proposal that are particularly relevant for achieving climate neutrality and contributing adequately to global efforts to keep global warming well below 2°C. The note builds on previous papers by the Ecologic Institute.¹

¹ A European Climate Law – Draft (2020) <https://www.ecologic.eu/de/17170> ; Climate Laws in Europe (2020), <https://www.ecologic.eu/17233>; A European Climate Law – What Should It Look Like? (2019) <https://www.ecologic.eu/de/17046>; A Climate Law for Europe - Making the Paris Agreement Real (2018) <https://www.ecologic.eu/de/15658>

2 Suggestions for Amendments

Amendments in bold, deletions in ~~strike-through~~ mode

Article 1

Subject matter and scope

This Regulation establishes a framework for the irreversible, **immediate** and ~~gradual~~ **swift** reduction of greenhouse gas emissions and enhancement of removals by natural or other sinks in the Union.

This Regulation sets out a binding objective of climate neutrality in the Union by 2050, **and binding climate objectives set out in Article 2** in pursuit of the long term temperature goal set out in Article 2 of the Paris Agreement, and provides a framework for achieving progress in pursuit of the global adaptation goal established in Article 7 of the Paris Agreement

This Regulation applies to anthropogenic emissions and removals by natural or other sinks of the greenhouse gases listed in Part 2 of Annex V to Regulation 2018/1999).

Explanation

- The ECL calls for gradual reductions. The term is ambivalent and suggest incremental change. This is incompatible with the need of immediate and drastic reductions – in light of rapidly shrinking emission budgets and quickly accelerating climate change.
- Concerning the suggestions on interim targets see below Article 2

Article 2

Climate-neutrality objectives

- 1. Union-wide emissions of greenhouse gases regulated in Union law shall be reduced compared to 1990 levels:**
 - 1. by at least x percent by 2030.**
 - 2. by at least y percent by the year 2040.**
 - 3. by at least z percent by the year 2050.**
- 2. Union-wide emissions and removals of greenhouse gases regulated in Union law shall be balanced at the latest by 2050, thus reducing emissions to net zero by that date (climate neutrality). Climate neutrality shall be achieved by 2050 primarily by reducing emissions regulated in Union law as set out in paragraph 1 and – as an auxiliary means – by sequestering a maximum of y percent through primarily the enhancement of natural sinks. Removals of emissions regulated in Union through technical sinks shall be an eligible means of achieving climate neutrality if these technical sinks ensure sustainable, permanent and safe removals of greenhouse gas emissions**

regulated by Union law from the atmosphere. By x date, the Commission shall adopt a guiding document (alternative: delegated act) defining the technical sinks that are eligible for this purpose.

3. After 2050, removals of greenhouse gases shall exceed emissions.

4. The relevant Union institutions and the Member States shall take the necessary measures at Union and national level respectively, to enable the collective achievement of the climate-neutrality objectives set out in paragraphs 1 to 3, taking into account the importance of promoting fairness and solidarity among Member States.

5. To ensure that the Union effectively contributes to achieving the objectives of the Paris Agreement, the total amount of emissions regulated by Union law shall not exceed x Gt until 2050 (Union's emission budget).

~~3. By September 2020, the Commission shall review the Union's 2030 target for climate referred to in Article 2(11) of Regulation (EU) 2018/1999 in light of the climate-neutrality objective set out in Article 2(1), and explore options for a new 2030 target of 50 to 55% emission reductions compared to 1990. Where the Commission considers that it is necessary to amend that target, it shall make proposals to the European Parliament and to the Council as appropriate.~~

4. 6. By 30 June 2021, the Commission shall assess how the Union legislation implementing the Union's 2030 target would need to be amended in order to enable the achievement of 50 to 55 % emission reductions compared to 1990 and to achieve the climate-neutrality-objective set out in Article 2(1), and consider taking the necessary measures, including the adoption of legislative proposals, in accordance with the Treaties.

Explanation

Legally establishing the 2050 climate neutrality target is a milestone and marks significant progress. Despite this important progress, the proposed target system has shortcomings that the amendments above address:

- **Interim targets:** Interim targets are essential elements of a robust framework that helps implement the Paris Agreement. For this reason, most national climate laws feature interim targets.² The ECL proposal, however, does not include them; it only requires the Commission to explore options for a new EU 2030 target of 50 to 55% emission reductions compared to 1990, and to propose a new target as appropriate.

It is positive that the ECL lays the groundwork for including a legally binding 2030 target. It also makes sense that the Commission has not yet proposed a quantified target for 2030, because the planned impact assessment is not yet available. However, the proposal does not unequivocally determine that there will be a 2030 target in law. To this end, the ECL should clarify that

² Climate Laws in Europe (2020), <https://www.ecologic.eu/17233>;

there will be a targets for 2030 and 2040 in law. Given that the legislative process is very likely to be completed well after the Commission's impact assessment of the 2030 target, the actual target could be discussed and agreed upon during the legislative process, at an early stage.

- **Interim target in line with global efforts to keep global warming well below 2°C:** According to UNEPs last gap report, annual global reductions of 7.6% are necessary to limit global warming to 1.5°C. For the EU, this would mean a cut of 68% compared to 1990 levels. Other analysis estimates reductions of around 70 % by 2030.³
- **Priorities for emission reductions:** The ECL should stipulate clearly that emission reductions have priority over removals – simply because storing greenhouse gases in any type of sink are less safe than leaving gas, coal and oil in the ground. Because the restoration of degraded ecosystems has greater potential of sequestering large amounts of CO₂, and because it has many critical co-benefits for protecting biodiversity, water and soils, the ECL should focus on enhancing sinks through restoring degraded ecosystems, rather than afforestation or technical sinks. Technical sinks can equally play a role in combatting climate change, if they comply with criteria, such as sustainable, permanent and safe greenhouse gas removals.
- **Climate neutrality needs clear definition:** The term “climate neutrality” is ambiguous. The term could mean 100% domestic reductions and no removals but it could also signify large amounts of removals and – correspondingly – less domestic reductions. For this reason, the term would benefit from more clarity through quantifying the share of domestic reductions and removals by sinks. The 1,5 LIFE scenario under the EU Long Term Strategy provides an example of how to separate between domestic reductions and removals, as it envisages domestic reductions in the range of 95% and removals of 5%. The Swedish Climate Act is another example. It provides for domestic reductions of 85% by 2045, and 15% of removals and offsets.
- **Emission budget:** Currently, the EU has an emission budget only until 2030. This emission budget is not based on an assessment of the EU's share of the world's remaining emissions. It is the sum of emission budgets under the Emission Trading Scheme and the Climate Action Regulation. This is a major shortcoming of the EU's climate policy because it is non-transparent and hides the amount of the EU's overall emissions. It disguises the EU's share in the world's remaining emissions to stay well below 2°C and disconnects EU climate action with the temperature objectives of the Paris Agreement. An adequate EU emission budget would address this shortcoming. The emission budget would also clearly demonstrate the need for immediate reductions, and it would be honest about the EU's remaining emissions. The ECL's motives could explain the criteria applied for quantifying the emission budget.
- **No objective on negative emissions:** Climate scenarios that keep global average temperature increases well below 2°C rely on negative emissions. The ECL does not include a target on negative emissions and is silent on the period after 2050. A draft of the law leaked just prior

³ Meyer-Ohlendorf, Nils; Voß, Philipp; Velten, Eike; Görlach, Benjamin: EU Greenhouse Gas Emission Budget: Implications for EU Climate Policies (2018), <https://www.ecologic.eu/de/15403>

to publication contained such an obligation but was deleted from the published Commission proposal. This provision should be reinstated.

Article 3

Trajectory for achieving climate neutrality

1. The Commission is empowered to adopt delegated acts in accordance with Article 9 to supplement this Regulation by setting out a trajectory at Union level to achieve the climate-neutrality objective set out in Article 2(1) until 2050. At the latest within six months after each global stocktake referred to in Article 14 of the Paris Agreement, the Commission shall review the trajectory.

2. The trajectory shall start from the Union's 2030 target for climate referred to in Article 2 (3).

3. The trajectory shall cover five-year intervals. On the basis of the climate targets set out in Article 2 paragraph 1 and 2, these trajectories shall ensure that the total amount of emissions covered by this Regulation will not exceed the Union's emission budget as set out in Article 2 paragraph 6.

4. When setting a trajectory in accordance with paragraph 1, the Commission shall **also** consider the following:

- (a) cost-effectiveness and economic efficiency;
- (b) competitiveness of the Union's economy;
- (c) best available technology;
- (d) energy efficiency, energy affordability and security of supply;
- (e) fairness and solidarity between and within Member States;
- (f) the need to ensure environmental effectiveness and progression over time;
- (g) investment needs and opportunities;
- (h) the need to ensure a just and socially fair transition;
- (i) international developments and efforts undertaken to achieve the long-term objectives of the Paris Agreement and the ultimate objective of the United Nations Framework Convention on Climate Change;
- (j) the best available and most recent scientific evidence, including the latest reports of the IPCC.

Explanation

Trajectory setting through delegated acts has the potential **benefit of allowing the EU to respond more flexibly, rapidly and effectively to changing circumstances**. Avoiding burdensome negotiations in the Council, often dominated by a small number of Member States, would be an important

advantage of the new system. In addition, it is not uncommon to mandate the executive to set trajectories or emission budgets for sectors. This is, for example, an important feature of Germany’s climate law. As another advantage, the alignment of the post-2030 trajectory-setting with the five annual global stocktakes supports the implementation of the Paris Agreement.

Despite these advantages, it is questionable whether the Commission’s proposal is in line with the Treaty. According to **article 290 TFEU**, the “essential elements” of a legislative act must be reserved for the legislator. They may not be delegated to the Commission. Given the fundamental importance of the trajectory for post-2030 EU climate policies and the Commission’s wide discretion in setting the trajectory, it is hard to argue that trajectory setting by the Commission is “non-essential”, and therefore in line with the Treaty. It is also hard to argue that the proposed system does not equal target-setting because *de facto* the trajectory does exactly this: every point along the trajectory represents a target at this specific moment in time. It is also noteworthy that the endpoint of the trajectory – climate neutrality by 2050 – is ambivalent (see above), which broadens the Commission’s discretion in target setting further.

To bring the new system in line with the Treaty, the ECL should **restrict Commission’s discretion**. In other words, the legislator should take the “essential” decisions, while the Commission “only” executes them. To this end, the ECL could quantify the overall amount of emissions that the EU may emit until it reaches climate neutrality. The trajectory set by the Commission would ensure that the EU’s emissions until 2050 do not exceed the overall amount determined by the legislator. In addition, the ECL should specify the trajectory itself through determining that the trajectory covers a period of five years. Within these limits, the Commission could set a linear or non-linear trajectory, provided the EU’s overall emissions do not exceed its emission budget.

Article 4

Adaptation to climate change

1. The relevant Union institutions and the Member States shall ensure continuous progress in enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change in accordance with Article 7 of the Paris Agreement.

2. Member States shall develop and implement adaptation strategies and plans that include comprehensive risk management frameworks, based on robust climate and vulnerability base-lines and progress assessments.

No amendments suggested

Article 5

Assessment of Union progress and measures

1. By 30 September 2023, and every 5 years thereafter, the Commission shall assess, together with the assessment foreseen under Article 29(5) of Regulation (EU) 2018/1999:

(a) the collective progress made by all Member States towards the achievement of the climate-~~neutrality~~ objectives set out in Article 2(4) as expressed by the trajectory referred to in Article 3(1);

(b) the collective progress made by all Member States on adaptation as referred to in Article 4.

The Commission shall submit the conclusions of that assessment, together with the State of the Energy Union Report prepared in the respective calendar year in accordance with Article 35 of Regulation (EU) 2018/1999, to the European Parliament and to the Council.

2. By 30 September 2023, and every 5 years thereafter, the Commission shall review:

(a) the consistency of Union measures with the climate-~~neutrality~~ objectives set out in Article 2(4) as expressed by the trajectory referred to in Article 3(1);

(b) the adequacy of Union measures to ensure progress on adaptation as referred to in Article 4.

3. Where, based on the assessment referred to in paragraphs 1 and 2, the Commission finds that Union measures are inconsistent with the climate-~~neutrality~~ objectives set out in Article 2(4) **as expressed by the trajectory referred to in Article 3(1)** or inadequate to ensure progress on adaptation as referred to in Article 4, or that the progress towards either the climate-~~neutrality~~ objectives **as expressed by the trajectory referred to in Article 3(1)** or on adaptation as referred to in Article 4 is insufficient, it shall take the necessary measures in accordance with the Treaties, at the same time as the review of the trajectory referred to in Article 3(1). **The Commission shall publish its assessment under paragraph 2.**

4. The Commission shall assess any draft measure or legislative proposal in light of the climate-~~neutrality~~ objectives set out in Article 2(4) as expressed by the trajectory referred to in Article 3(1) before adoption, and include this analysis in any impact assessment accompanying these measures or proposals, and make the result of that assessment public at the time of adoption.

Explanation below (Article 6)

Article 6

Assessment of national measures

1. By 30 September 2023, and every 5 years, thereafter the Commission shall assess:

(a) the consistency of national measures identified, on the basis of the National Energy and Climate Plans or the Biennial Progress Reports or **national Long Term Strategies** submitted in accordance with Regulation (EU) 2018/1999, as relevant for the achievement of the climate-

~~neutrality~~ objectives set out in Article 2(4) with that objective as expressed by the trajectory referred to in Article 3(1);

(b) the adequacy of relevant national measures to ensure progress on adaptation as referred to in Article 4.

The Commission shall submit the conclusions of that assessment, together with the State of the Energy Union Report prepared in the respective calendar year in accordance with Article 35 of Regulation (EU) 2018/1999, to the European Parliament and to the Council.

2. Where the Commission finds, under due consideration of the collective progress assessed in accordance with Article 5(1), that a Member State's measures are inconsistent with ~~that~~ **climate objectives set out in Article 2** as expressed by the trajectory referred to in Article 3(1) or inadequate to ensure progress on adaptation as referred to in Article 4, it may issue recommendations to that Member State. The Commission shall make such recommendations publicly available.

3. Where a recommendation is issued in accordance with paragraph 2, the following principles shall apply:

(a) the Member State concerned shall take due account of the recommendation in a spirit of solidarity between Member States and the Union and between Member States;

(b) the Member State concerned shall set out, in its first progress report submitted in accordance with Article 17 of Regulation (EU) 2018/1999, in the year following the year in which the recommendation was issued, how it has taken due account of the recommendation. If the Member State concerned decides not to address a recommendation or a substantial part thereof, that Member State shall provide the Commission its reasoning;

(c) the recommendations should be complementary to the latest country-specific recommendations issued in the context of the European Semester.

Explanation

Suggested amendments are needed to bring the compliance system under Article 5 and 6 in line with the changes above regarding the target system. It must be stressed that the proposed compliance system alone would be considerably weaker than current system, which is based on legally binding reductions targets for individual Member States. For this reason, it is essential that the pre-2030 system continues after 2030.

Article 7

Common provisions on Commission assessment

1. In addition to the national measures referred to in Article 6(1)(a), the Commission shall base its assessment referred to in Articles 5 and 6 on at least the following:

(a) information submitted and reported under Regulation (EU) 2018/1999;

(b) reports of the European Environment Agency (EEA);

(c) European statistics and data, including data on losses from adverse climate impacts, where available; and

(d) best available scientific evidence, including the latest reports of the IPCC; and

(e) any supplementary information on environmentally sustainable investment, by the Union and Member States, including, when available, investment consistent with Regulation (EU) 2020/... [Taxonomy Regulation].

2. The EEA shall assist the Commission in the preparation of the assessment referred to in Articles 5 and 6, in accordance with its annual work programme.

No amendments suggested

Article 8

Public participation

The Commission shall engage with all parts of society to enable and empower them to take action towards a climate-neutral and climate-resilient society. The Commission shall facilitate an inclusive and accessible process at all levels, including at national, regional and local level and with social partners, citizens and civil society, for the exchange of best practice and to identify actions to contribute to the achievement of the objectives of this Regulation. In addition, the Commission may also draw on the multilevel climate and energy dialogues as set up by Member States in accordance with Article 11 of Regulation (EU) 2018/1999.

No amendments suggested.

Article 9

Exercise of the delegation

1. The power to adopt delegated acts referred to in Article 3(1) is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 3(1) shall be conferred on the Commission for an indeterminate period of time from ...[OP: date of entry into force of this Regulation].

3. The delegation of power referred to in Article 3(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 3 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

No amendments suggested

Entirely NEW Article 10 EU Advisory Council on Climate Policy

(1) An independent EU Advisory Council on Climate Policies is hereby established (Council). The Council shall consist of x experts from different disciplines. Members of the Council shall have outstanding scientific knowledge and experience in one of the areas of climate sciences, economics, law, environmental sciences and social issues. Equal representation of women and men shall be ensured. Members may not represent special interest groups.

(2) Following proposals by Member States and European based IPCC observer organizations for nominations, the Commission shall nominate the members of the Council. Based on the Commission's nomination, the European Parliament shall elect the members for a period of five years. Members may be re-elected only once. Following a request by the European Parliament, the European Court of Justice may dismiss a member of the Council in cases of continuous absence, conviction of a crime by a court, gross misconduct or serious conflict of interests.

(3) The Council shall elect from among its members, by secret ballot, a chairperson and a substitute for the chairperson. The Council shall adopt its own rules of procedure. The decisions and minutes of meetings of the Council shall be made public.

(4) The Council is only bound by the mandate established by this Regulation and is independent in its activity. Members of the Council shall act independently and objectively in the sole interest of the Union as a whole and shall neither seek nor take instructions from Union institutions or bodies, from any government of a Member State or from any other public body or private entity.

- (5) The Union bears the costs of the Council in accordance with the Union's budget.
- (6) The Council shall be assisted by a secretariat in the performance of its work.
- (7) The Council shall have the following tasks:
- a) The Council shall act to support the achievement of the fulfilment of the objectives of this Regulation.
 - b) On the basis of the data transmitted by the EEA, the Council shall submit an annual report on the implementation of the objectives of this Regulation to the European Parliament, the Commission and the Council of Ministers by 31 March of the following year. This report shall be made public.
 - c) On the basis of the data transmitted by the EEA, the Council shall provide independent advice on achieving of the climate objectives set out in Article 2 and measures designed to implement the objectives of this Regulation. The Council's advice shall be published.
 - d) The Council may submit reports to the Commission that may recommend the adjustments of objectives and the Union's emission budget. These reports may also recommend additional measures that the Council deems necessary for the implementation of existing and adjusted objectives and emission budgets. Within 2 months of receipt of these report, the Commission shall decide whether to endorse it and to propose those measures and/or target and emission budget adjustments as recommended in the report. Where the Commission does not endorse a report, it shall coordinate with the Council. If disagreement continues after coordination, the Commission shall publish its reasons for disagreement.
 - e) The Council shall support to ensure that all Union measures are consistent with the climate objectives set out in Article 2. By 31 March of the following year, the Council shall publish an annual report on the consistency of Union measures with the climate objectives set out in Article 2.
 - f) The Council shall, at the request of an organ of the Union or a Member State, provide advice, analysis, information or other assistance on climate change issues.
 - g) Member States should create equivalent advisory bodies at national level, as appropriate, unless they have not established such institutions.

Explanation

Experience from Member States shows that independent bodies can support consistency between long-term goals and short-term action, enhance the role of science in decision-making, help build and maintain the necessary political will to decarbonize economies and strengthen public confidence in climate policies.⁴ There are also numerous examples where the EU bases its policies on the review

⁴ Climate Laws in Europe (2020), <https://www.ecologic.eu/17233>;

and advice of independent bodies. The European Food Safety Authority and the European Chemicals Agency are examples. The European Securities and Markets Authority (ESMA) is another. The rules on the EU Ombudsman provide for an example of ensuring high levels of independence (article 228 of the Treaty on the Functioning of the EU).

Learning from these experiences, the ECL should establish the EU Advisory Council on Climate Policy that can act independently from other EU institutions and Member States. The Council's mandate should allow it to make meaningful contributions to the political debate. To this end, the Council should be mandated to recommend adjustments of EU climate objectives and policies. The Commission should be obliged to explain in public if it intends to deviate from these recommendations. The ECL should also state that Member States should establish similar institutions at national level. Given the principle of subsidiarity and different administrative circumstances, Member States should have wide discretion in establishing and designing such bodies.

Article 40 11

Amendments to Regulation (EU) 2018/1999

Regulation (EU) 2018/1999 is amended as follows:

(1) in Article 1(1), point (a) is replaced by the following:

‘(a) implement strategies and measures designed to meet the Union’s climate-neutrality objective as set out in Article 2 of Regulation .../... [Climate Law], the objectives and targets of the Energy Union, and for the first ten-year period, from 2021 to 2030, in particular the Union’s 2030 targets for energy and climate;’;

(2) in Article 2, point 7 is replaced by the following:

‘(7) ‘projections’ means forecasts of anthropogenic greenhouse gas emissions by sources and removals by sinks or developments of the energy system, including at least quantitative estimates for a sequence of six future years ending with 0 or 5 immediately following the reporting year;’;

(3) in Article 3(2), point (f) is replaced by the following:

‘(f) an assessment of the impacts of the planned policies and measures to meet the objectives referred to in point (b) of this paragraph, including their consistency with Union’s climate-neutrality objective set out in Article 2 of Regulation .../... [Climate Law], the long-term greenhouse gas emission reduction objectives under the Paris Agreement and the long-term strategies as referred to in Article 15;’;

(4) in Article 8(2), the following point (e) is added:

'(e) the manner in which existing policies and measures and planned policies and measures contribute to the achievement of the Union's climate-neutrality objective set out in Article 2 of Regulation .../... [Climate Law].';

(5) Article 11 is replaced by the following:

'Article 11

Multilevel climate and energy dialogue

(1) Each Member State shall establish a **permanent** multilevel climate and energy dialogue pursuant to national rules, in which local authorities, civil society organisation, business community, investors and other relevant stakeholders and the general public are able actively to engage and discuss the achievement of the Union's climate-neutrality objective set out in Article 2 of Regulation .../... [Climate Law] and the different scenarios envisaged for energy and climate policies, including for the long term, and review progress, unless it already has a structure which serves the same purpose. Integrated national energy and climate plans may be discussed within the framework of such a dialogue.';

(2) The dialogue platform shall provide for a holistic societal debate of climate policies, whereby citizens and stakeholders discuss the full range of policies to achieve climate objectives and not only specific instruments. To support implementing the objectives of this Regulation, the dialogue platform shall design discussions in a manner that requires participating citizens and stakeholders to discuss alternative instruments, if proposals for specific instruments were rejected.

(6) In Article 15(3), point (c) is replaced by the following:

'(c) achieving long-term greenhouse gas emission reductions and enhancements of removals by sinks in all sectors in accordance with the Union's climate-neutrality objective set out in Article 2 of Regulation .../... [Climate Law].';

(6a) In Article 15, add a new paragraph 10 as follows: (10) The Commission should, where necessary, update the Union's long-term strategy for greenhouse gas emissions reduction in accordance with the Paris Agreement every five years.

(7) Annex I, Part 1, is amended as follows:

(a) in section A, point 3.1.1., point (i) is replaced by the following:

'(i) Policies and measures to achieve the target set under Regulation (EU) 2018/842 as referred in point 2.1.1 and policies and measures to comply with Regulation (EU) 2018/841, covering all key emitting sectors and sectors for the enhancement of removals, with an outlook to the climate-neutrality objective set out in Article 2 of Regulation .../... [Climate Law].';

(b) in Section B, the following point 5.5. is added:

'5.5. The contribution of planned policies and measures to the achievement of the Union's climate-neutrality objective set out in Article 2 of Regulation .../... [Climate Law]';

(8) in Annex VI, point (viii) of point (c) is replaced by the following:

'(viii) an assessment of the contribution of the policy or measure to the achievement of the Union's climate-neutrality objective set out in Article 2 of Regulation .../... [Climate Law] and to the achievement of the long-term strategy referred to in Article 15;'

Explanation

Amendments regarding public participation

The EU already has a relatively strong legal framework for involving its citizens in decision-making.⁵ At the same time, the ECL should stipulate more clearly that the new energy and climate dialogues under the GR are permanent and holistic. A holistic approach ensures that the rejection of specific instruments will require agreement on alternatives, if the agreed emission reductions are to be achieved.

Amendments regarding review of 2050 objective and EU long term strategy

The ECL includes various rules on reviewing EU and national policies (see above), but it lacks a specific system to review the 2050 climate neutrality objective. It also lacks a dedicated system to review and update the EU Long Term Climate Strategy. According to the GR, only Member States should update their long-term strategies every five years. There is no such obligation on the EU. For a review system designed to implement the PA, the ECL should also include a specific mechanism for reviewing the EU's 2050 target and its Long Term Strategy.

Article 11 Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament For the Council The President The President

No amendments suggested

⁵ In this context, it should be noted that implementation of this framework is another matter. There are also some ambiguities in the legal framework itself. The Aarhus Compliance Committee noted that article 10 of the Regulation does not require Member States to carry out public participation on draft 2021-2030 NECPs prior to the draft NECPs' submission to the Commission on 31 December 2018. This is not in line with Article 7 of the Aarhus Convention. Accordingly, Member States did not consult the public in line with the requirements of the Aarhus Convention during the preparation of the 2021 – 2030 NECPs. These consultation problems, however, are specific to the preparation and adoption of the 2021-2030 NECPs.