



A European Climate Law

Analysis of the European Commission proposal

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Summary

If adopted, the Commission's proposal for a "European Climate Law" (ECL) would **mark important progress**. It would set a legally binding EU target of reaching climate neutrality by 2050 – a milestone in EU climate policy making. It would determine that reductions can only be achieved domestically, excluding international offsets. The proposal also contains new processes on ensuring that all EU policies are consistent with the EU's new climate neutrality target. Despite various implementation problems, the EU has a relatively strong legal framework for involving its citizens in climate policies. The ECL would improve this framework further but additional strengthening of public participation is necessary.

To this extent, the ECL would improve EU climate policies considerably but it still has a **number of shortcomings** that could hamper the EU from achieving climate neutrality by 2050:

Target regime

- **Collective EU target and holding Member States to account:** EU climate neutrality is a collective target on the EU. It does not oblige Member States to achieve climate neutrality by 2050 themselves. In turn, this collective target is not ground for infringement against individual Member States but only subject to non-binding recommendations. This system alone would make it difficult to hold individual Member States to account. It needs to be complemented by a continuation of the EU Climate Action Regulation after 2030.
- **Specification of climate neutrality:** The term "climate neutrality" is ambiguous. The term could mean 100 % domestic reductions and no removals but it could also mean large amounts of removals and corresponding lower domestic reductions. The ECL only stipulate that the EU will reduce emissions to net zero but does not specify further details.
- **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.
- **Interim targets:** It 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 there will be targets for 2030 and 2040 in law. The suggested target increases of 50 % or 55 % are not in line with the necessary reductions to keep global warming below 1,5°C, as stated in UNEP's last gap report.
- **Innovative process to reduction trajectory but possibly open to legal challenges:** The ECL would empower the Commission to set the EU reduction trajectory towards the 2050 climate-neutrality objective through so-called delegated act. This proposal is one of the most important changes of the ECL. The proposed system has the potential benefit of allowing the EU to respond more rapidly and effectively to changing circumstances. At the same time, it is

questionable whether the Commission's proposal is in line with article 290 of the Treaty on the Functioning of the EU (TFEU). According to this provision, the "essential elements" of a legislative act must be reserved for the legislator; they cannot be delegated to the Commission. To bring ECL's innovative proposal in line with article 290 TFEU, the Commission's discretion in setting the trajectory should be limited – either through pre-defining the trajectory in the ECL and / or by including an EU emission budget in the ECL.

- **No EU emission budgets:** Currently, the EU has a quantified emission budget until 2030. This emission budget is the sum of emission budgets under the Emission Trading Scheme and the Climate Action Regulation. This system lasts only until 2050. It is non-transparent and makes it difficult to communicate the overall amount of permissible emissions until 2050. The ECL does not address this shortcoming.

Compliance and institutions

- **New compliance system:** If adopted, the ECL would expand the soft compliance system under the Regulation on Governance for the Energy Union and Climate Action to EU climate policies for the period 2030 - 2050. According to the ECL, the Commission may issue recommendations to Member State if it finds that this Member State's measures are inconsistent with the climate neutrality objective. These recommendations are not binding. Alone, this system would be considerably weaker than the current system.
- **No independent scientific advisory body:** All climate laws in Member States establish independent scientific advisory bodies, often called Climate Change Committee or Council. These bodies differ in design. Despite these differences, experience from Member States shows that these 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. In addition, there are numerous examples where the EU bases its policies on the review and advice of independent bodies. Despite these experiences, the ECL does not propose an advisory body.

Sinks

- **Only generic rules on sinks:** All scenarios that keep global temperature increase well below 2°C or even below 1.5°C rely on removals of emissions from the atmosphere, so-called negative emissions. Currently, the EU has no targets on removing CO₂. The EU only has the so-called "no debit rule". To address this gap to some extent, the ECL should include a robust commitment to strengthen sinks. To this end, the ECL could introduce a legally binding commitment to restore a certain number of hectares of degraded ecosystems in an effort to remove CO₂ from the atmosphere – and to protect biodiversity, water and soils. The ECL, however, only stipulates that the ECL would establish a framework for the enhancement of natural and other sinks in the EU.

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1 Background

On 4 March 2020, the European Commission proposed the “Regulation for Establishing the Framework for Achieving Climate Neutrality and amending Regulation (EU) 2018/1999”. Dubbed the European Climate Law (ECL), this proposal is a critical element of the European Green Deal as it sets unequivocally in law the EU’s direction of travel: by 2050 the EU will be climate neutral, will achieve net zero greenhouse gas emissions.

This objective is built on **broad political consensus in the EU**. The European Council endorsed the target on 12 December 2019 – noting that “one Member State, at this stage, cannot commit to implement this objective as far as it is concerned”¹. The European Parliament has been supporting the target since 2018.²

In addition to broad political support for its objectives, the **ECL can also build on many developments in Member States**. By the end of 2019, eleven Member States have climate laws, while six are in the process of adopting or considering them. These laws share a number of features, for example:

- legally binding reduction targets,
- monitoring and review systems
- rules on public participation,
- independent institutions to support decision making.

These features are essential to make climate laws effective. They are also crucial for the implementation of the Paris Agreement (PA).

This note presents the ECL’s main elements and analyses to what extent it would close gaps in existing EU rules that hamper reaching climate neutrality by 2050. This analysis draws on national climate laws, its main elements and shared experiences. It also builds on other elements that are not common in most national climate laws but are essential for the implementation of the PA. The note is structured along the provisions of the ECL proposal (chapter 2). It also discusses elements that are absent from the ECL but are common features in national climate laws or essential elements of robust frameworks that are suited for the implementation of the Paris Agreement (chapter 3).

¹ European Council, conclusions of 12 December 2019, para. 1

² European Parliament resolution of 25 October 2018 on the 2018 UN Climate Change Conference in Katowice, Poland (COP24) (2018/2598(RSP))

2 The European Climate Law – on the road to climate neutrality?

2.1 A new long-term target for the EU (Articles 1 and 2)

Content

As its key provision, the ECL sets out a **legally binding EU target of climate neutrality by 2050** – “in pursuit of the long-term temperature goal” of the Paris Agreement (Article 1). Specifying climate neutrality to some extent, the ECL determines that “Union-wide emissions and removals of greenhouse gases [...] shall be balanced at the latest by 2050, thus reducing emissions to net zero by that date” (article 2.1). In more general terms, the ECL establishes “a framework for the irreversible and gradual reduction of greenhouse gas emissions and enhancement of removals by natural or other sinks³” (Article 1, emphasis added).

This climate neutrality objective is a **collective target** of the EU. This means that the relevant EU institutions and Member States have to take the necessary measures to enable the collective achievement of this target. Because the ECL sets only this collective target, **it does not oblige Member States to achieve climate neutrality by 2050 themselves**. As a collective obligation on the EU, it is possible that the EU as a whole achieves climate neutrality but some Member States do not, i.e. some Member State continue to emit greenhouse gas emission in 2050 - provided other Member States compensate these emissions with negative emissions. This type of collective obligation is an important and specific feature of the ECL – rarely found in other EU rules. The Regulation on the Governance of the Energy Union and Climate Action (GR) is one example – it introduces a “Union-level binding target of at least 32 % for the share of renewable energy consumed in the Union in 2030” (Article 2.11 of the GR).

Analysis

The climate neutrality target in law is a **milestone and marks significant progress**. The term “Union-wide emissions and removals” means that reductions can only be achieved domestically. This can be interpreted to preclude the use of international offsets.

Despite this important progress, the proposed **2050 target system has shortcomings**:

- **Climate neutrality needs a clear definition:** The term “climate neutrality” is ambiguous. The term could mean 100 % domestic reductions and no removals but it could signify large amounts of removals and corresponding lower 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 from the Commission’s “Clean Planet for All” communication 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

³ The ECL applies to emissions and removals by natural or other sinks of the greenhouse gases listed in Part 2 of Annex V to Regulation 2018/1999).

Act is another example. It provides for domestic reductions of 85 % by 2045, and 15 % of removals and offsets.

- **Insufficient contribution to global efforts?** Depending on the size of the world's remaining emission budget and the EU's fair share of this budget, the climate neutrality target by 2050 might be consistent with the temperature goal of the PA – or not. If the EU's fair share is calculated largely based on equity considerations, the new EU target is not a “fair” contribution to global efforts to stay below 1.5°C or well below 2°C. The suggested 2030 targets of reductions of 50 % or 55% seem similarly insufficient. According to UNEPs 2019 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 2030.⁴
- **Gradual reductions sufficient?** The ECL calls for “gradual” reductions. This term is ambivalent but it suggests incremental change. This would be incompatible with the need of immediate and drastic reductions – in light of rapidly shrinking emission budgets and quickly accelerating climate change (see previous bullet point). In addition, the ECL does not set interim targets, which could delay and – in consequence – impede the implementation of the Paris Agreement (PA).
- **No objective on negative emissions:** Climate scenarios that keep global average temperature increases well below 2°C or even below 1.5°C rely on negative emissions, at the latest in the second half of the century. The ECL, however, does not include a target on negative emissions and is silent on the period after 2050. A draft of the law leaked just prior to publication contained such an obligation but was deleted from the published Commission proposal.

2.2 Interim targets for the EU (Article 2)

Content

The **ECL does not set interims targets for 2030 or 2040** or any other target year. Instead, the ECL determines that – by September 2020 –, the Commission reviews the EU's current 2030 target of 40 % – in light of the EU's 2050 climate-neutrality objective. More specifically, the Commission explores options for a new 2030 target of 50 to 55%. If the Commission deems amendments to the current EU 2030 target necessary, it makes proposals to Parliament and Council. In addition, the ECL stipulates that – by 30 June 2021 –, the Commission assesses how to amend relevant EU legislation in order to achieve higher EU 2030 targets of 50 or 55 %, and how to achieve the climate-neutrality-target. Based on this assessment, the Commission may take “the necessary measures, including the adoption of legislative proposals”.

⁴ 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>

Analysis

Interim targets are essential elements of a robust framework that helps implement the PA. For this reason, most national climate laws feature interim targets. In this sense, it is positive that the ECL prepares the ground for including a legally binding target for 2030 but – even at this point in time – it could determine clearer that it will contain legally binding interim targets for 2030 and, ideally, 2040. To this end, the ECL should clarify that there will be targets for 2030 and 2040 in law. In addition, the suggested target increases of 55 %, let alone 50 %, is **not in line with what UNEP has considered necessary to keep global warming below 1,5°C (see above)**.

2.3 Trajectory for achieving climate neutrality (Article 3)

Content

The ECL would empower the Commission to set the EU reduction trajectory towards the 2050 climate-neutrality objective through so-called delegated act.⁵ The trajectory would start from the EU's 2030 target and would end with achieving the EU's climate neutrality target in 2050. To set this trajectory, the ECL would require the Commission to “consider” a number of factors, such as cost-effectiveness, competitiveness, solidarity between Member States, and – last but not least – climate science. This is a non-hierarchical order of criteria. If Parliament objects with simple majority of its component members or if Council objects with qualified majority, the trajectory does not enter into force. In this case, the Commission would have to adopt a new trajectory, again through delegated act. The Commission reviews the trajectory within six months after each global stocktake under the PA. In consequence, it is possible that the EU would have more than one trajectory towards climate neutrality by 2050.

Analysis

This proposal is **one of the most important reforms of the ECL**. In formal terms, setting the trajectory from 2030 to 2050 through delegated act is not target setting but *de facto* it is the same. Depending on the trajectory chosen by the Commission – linear or non-linear –, the trajectory would entail *de facto* annual, biannual or five-annual interim targets. Obviously, the co-legislators are free to set new interim targets for 2040 or any other year after 2030 but the proposed system could replace the current practice of setting targets in the ordinary legislative process because the trajectory serves in real terms the same function as interim targets, making such targets redundant.

The proposed system has the **potential benefit of allowing the EU to respond more 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.⁶ In addition, it is not uncommon to mandate the executive to set trajectories or emission budgets for

⁵ According to Article 290 TFEU, delegated acts are non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act.

⁶ Since Parliament and Council would have to object to the trajectory, it is up to these institutions to organise a majority against the Commission's decision, which is – in political terms – more difficult than organizing a majority for a new cycle of national reductions targets.

sectors. This is, for example, an important feature of Germany's climate law. As another advantage of the proposed system, the alignment of the post-2030 trajectory-setting with the five yearly global stock-take supports the implementation of the PA. It also helps to ensure that the EU reduction efforts "progress" every five years, as required by Article 4.3 of the PA.

Despite these advantages, the proposed system needs to overcome a **number of problems**:

- **In line with the treaty?** 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.

One way of bringing the new system in line with the Treaty is to limit Commission's discretion, i.e. the legislator takes the "essential" decision and the Commission only executes or formalizes this decision. As one option, the ECL could establish an EU emission budgets and/ or could define the trajectory. To this end, the ECL could quantify the overall amount of emissions that the EU may emit until it reaches climate neutrality. The ECL could also set linear or non-linear trajectories through specifying annual, biannual or five yearly reductions of x % during a specific period and y % during another period. The trajectory could also take a stair-like shape – with several steps of possibly different size leading towards climate neutrality in 2050.

- **What is the relation to other EU climate rules?** It is clear that the co-legislators can set post-2030 targets under the Climate Action Regulation or a new linear reduction factor (LRF) under the emission trading scheme (ETS), requiring the Commission to adjust the trajectory accordingly. At the same time, it is not clear how the trajectory would relate to the ETS and its reduction factor, and to the Climate Action Regulation and its national targets: would the proposed system pre-define secondary law through tertiary law? What is the purpose of the trajectory if the system of nationally binding targets and ETS continues after 2030?
- **Unclear endpoint:** At this point, it is not clear when the trajectory starts – the target for 2030 is not set –, but it is also unclear where the trajectory will actually end. Climate neutrality is not a clear concept – it could mean domestic reductions of 100 % and no contributions from sinks, but could also entail large removals by sinks. Depending on the quantification of climate neutrality, the trajectory between 2030 and 2050 could differ considerably.

2.4 Compliance (Articles 5 and 6)

Content

To support achieving the EU's 2050 climate neutrality objective, the ECL establishes a compliance system. This system differentiates between EU level and Member State level.

- **EU level (Article 5):** Concerning the EU level, the ECL stipulates that - by 30 September 2023, and every 5 years thereafter –, the Commission assesses the consistency of EU measures

with the climate-neutrality objective, as expressed by the trajectory. The Commission also assesses the collective progress made by all Member States towards the achievement of the climate-neutrality, again as expressed by the trajectory. If the Commission finds that EU measures are inconsistent with the climate-neutrality objective or that progress towards the climate-neutrality objective 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)”.

- **Member State level (Article 6):** Regarding national level, the ECL proposes that – by 30 September 2023, and every 5 years, thereafter –, the Commission assesses the consistency of national measures⁷ with the EU’s climate neutrality objective as expressed by the trajectory. If the Commission finds – “under due consideration of the collective progress assessed” – that a Member State’s measures are inconsistent with the climate neutrality objective, it may issue recommendations to that Member State. These recommendations are public. Member State must take due account of the recommendation – “in a spirit of solidarity between Member States and the Union and between Member States”. The Member State concerned shall explain how it has taken due account of the recommendation. If the Member State does not address the Commission’s recommendations, it “shall provide the Commission its reasoning”.

Analysis

The GR introduced a **soft governance system** for EU energy policies until 2030, whereby the Commission assesses collective Member State progress towards the EU’s 2030 energy and climate targets. Inspired by this system, the ECL would expand this system to EU climate policies to the period 2030 - 2050. This is an important innovation. It is positive that the assessment of EU progress is aligned with the five-year timescale of the Paris Agreement.

This system **alone**, however, would be **considerably weaker than the current compliance rules**:

- **Benchmark:** Climate neutrality is delivered collectively by the Member States and the EU. The ECL does not establish an obligation on individual Member States to achieve climate neutrality by 2050. As such, it does not set specific criteria for assessing the performance of individual Member States. It only stipulates that the Commission assesses whether Member States’ measures are consistent with the collective EU climate neutrality objective - as expressed by the trajectory. This makes it difficult to hold individual MS accountable. It invites arguments such as “we cannot achieve climate neutrality, others have to go negative”. Furthermore, “climate neutrality” in itself is a fussy benchmark because there are various ways how to achieve it: 95 % domestic reductions plus 5 % sinks is one example, 90 % domestic reductions and 10 % removals is another.

⁷ As identified, on the basis of the National Energy and Climate Plans or the Biennial Progress Reports submitted in accordance with the GR, as Article 5

- **No legally 2050 binding target on Member States:** The collective obligation on the EU is not a legal obligation on Member States. In turn, it is not ground for infringement procedures but only subject to non-binding recommendations.
- **Non-binding recommendations:** The Commission's recommendations are non-binding. Member States have to take them into account but are free to implement them or not. Member States only have to explain how they have taken due account of the recommendation. Because the Commission's recommendations are public, Member States have to pay a political price if they decide not to implement the recommendation but this price is low – for two reasons. First, there are many ways to argue that recommendations were implemented, when in fact there were not. Second, Member States has to provide its reasoning only to the Commission, not necessarily to the public.

2.5 Policy Consistency (Articles 5 and 6)

Content

Ensuring consistency of EU policies and national policies with the climate neutrality objective is one of the most important functions of the ECL. In one way or another, it is a feature found in many national climate laws, and it is indispensable for the implementation of the PA:

In addition to the compliance system under Article 5 and 6, the ECL proposes that the Commission assesses any draft measure or legislative proposal before its adoption in light of the climate-neutrality objective - as expressed by the trajectory. This assessment is to be included in any impact assessments accompanying EU measures or Commission proposals. The ECL requires that the results of the assessment are made public at the time of adoption.

Analysis

As the implementation of the Paris Agreement requires fundamental changes in all policies, it is positive that the ECL **covers the entire EU acquis**, not only policies and legislation relating directly to climate and energy. The requirement on the Commission to address any inconsistencies identified is another positive feature.

At the same time, the proposal would benefit from a more detailed definition of 'consistency'. It would also benefit from rules preventing "inconsistent policies". Since effective climate protection is indispensably bound by immediate and drastic reductions, it is important that the consistency assessment occurs from 2021 onwards.

2.6 Public Participation (Article 8)

Content

The ECL proposal contains requirements on the Commission to consult the public. More specifically, Article 8 of the ECL requires the Commission to "engage with all parts of society to enable and empower them to take action towards a climate-neutral and climate-resilient society". To this end, 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”.

In addition, the ECL also proposes to amend public participation rules under the GR. Accordingly, the climate and energy dialogues under GR shall also discuss the EU’s new 2050 climate neutrality objective.

Analysis

The **EU already has a relatively strong legal framework** for involving its citizens in decision-making.⁸ The ECL would improve it further by including specific requirements on the Commission. It would clarify that energy and climate dialogues with citizens would be geared towards the EU’s new 2050 objectives.

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.

⁸ 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.

3 Which elements are missing?

National laws share a number of features, such as legally binding reduction targets, monitoring and review systems, rules on public participation or independent institutions to support decision-making. There are other elements that are not common to most national climate laws but are essential elements of an adequate framework for achieving climate neutrality and implementing the PA. These elements include, for example, robust rules on sinks or emission budgets.

The ECL misses some of these elements, notably independent institutions, emission budgets or robust rules on sinks. It also misses a specific review mechanism for the EU's long-term climate strategy.⁹

3.1 Independent scientific advisory body

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. There are also **numerous examples where the EU bases its policies on the review 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).

The **ECL does not establish such a body**, largely because the Commission and the EEA are considered to establish an adequate institutional framework that should not be inflated with additional institutions. However, the EU lacks an independent and largely science based institutional framework, which builds on the many experiences from Member States. The EEA – a possible candidate– is different from an independent climate advisory body. It is not independent because its board consists of Member State representatives. The board also includes representatives from non-EU countries. Equally, the Climate Change Committee as well as the Energy Union Committee under the Governance Regulation are not independent (they consist of Member States representatives) and have only a limited mandate (which does not even include contributions to reviewing the EU's climate policies).

3.2 Quantified EU emission budget until 2050

Reduction targets only require specific reductions at a certain point in time, but alone say nothing about the overall quantity of admissible emissions. Yet, it is this aggregated amount of emissions over time and corresponding concentration of greenhouse gases in the atmosphere that matter for the global climate.

Quantified emission budgets address this problem. Unlike reduction targets, they clearly limit the amount of admissible greenhouse gas emissions. For these reasons, emission budgets are an essential element for the implementation of the PA that can be found in some national climate laws to some

⁹ A Clean Planet for all - A European strategic long-term vision for a prosperous, modern competitive and climate neutral economy' (COM(2018)773)

extent – Germany, UK and France feature emission budgets for specific timespans or sectors but do not include overall emission budgets.

Currently, the **EU only has an emission budget until 2030**, which is – problematically – non-transparent and politically impossible to communicate. It is not based on an assessment of the EU's share of the world's remaining emissions. In fact, the existing EU budget is the sum of emission budgets under specific instruments, calculated on the basis of trajectories defined by political decisions – based on the achievement of near-term targets (2030). This is a major shortcoming of the EU's climate framework. It hides the need for immediate reductions behind a political focus on targets, and it is dishonest about the EU's remaining emissions.

The EU's emission budget should represent the **EU's 'fair share'** of the remaining global emission budget. A number of criteria, such as cost effectiveness and equity, and a combination thereof can define the EU's fair share of the remaining global emissions. To agree on the size of the Union's emission budget, the legislative process needs to decide which criteria apply.

3.3 Specifying sinks, priority for restoring natural sinks

All scenarios that keep global temperature increase well below 2°C or even below 1.5°C rely on removals of emissions from the atmosphere, so-called negative emissions. Currently, **the EU has no targets on removing CO₂**. The EU only has the so-called “no debit rule”, which stipulates that accounted LULUCF emissions may not exceed accounted removals. The “no debit rule” is not sufficient for the EU to achieve climate neutrality by 2050. If national climate laws contain objectives for sinks, they are usually qualitative and generic. The ECL only determines in a generic manner that it establishes a framework for the “enhancement of removals by natural or other sinks in the EU” (Article 1).

As one option to address this gap, the ECL could include a percentage share of removals in the overall reduction efforts. The ECL could also include a legally binding commitment to **restore a certain number of hectares of degraded ecosystems** in an effort to remove CO₂ from the atmosphere – and to protect biodiversity, water and soils. These restoration targets can be inspired by Target 2 of the Nagoya Biodiversity Plan and Target 2 of the EU Biodiversity Strategy. According to these targets, countries commit to restore at least 15% of degraded ecosystems by 2020.

Technical sinks are another possible option for CO₂ removal. However, at this stage, they are still deficient and incapable of sequestering very large amounts of CO₂. Restoring degraded ecosystems also holds many co-benefits for protecting biodiversity, water and soils.

3.4 Review the 2050 target and the 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 up-date 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 Strategy¹⁰.

¹⁰ Clean Planet for all - A European strategic long-term vision for a prosperous, modern competitive and climate neutral economy' (COM(2018)773)