



14.3.2023

NOTICE TO MEMBERS

Subject: Petition No 0461/2022 by Simion Eugen (Romanian) on objecting to the inclusion of natural gas and nuclear energy plants in the EU Taxonomy

1. Summary of petition

The petitioner objects to the Commission's qualification in the so-called Climate Complementary Delegated Act 2022-631 classifying nuclear energy and natural gas as 'green' energy sources under Regulation (EU) 2020/852 of the European Parliament and of the Council (the so-called 'Taxonomy Regulation'). The petition urges Parliament to reject the proposed extension of the EU Taxonomy based on the conviction that the inclusion of nuclear energy and natural gas as green energy sources exceeds the legally defined limits of the EU Taxonomy and also hampers, from a technical perspective, the achievement of the stated climate objectives. As, according to the legislative procedure, Parliament does not have the possibility to amend the delegated act, if it does not oppose the entire delegated act, it will be adopted in its entirety and undermine the achievement of scientifically setting the EU's climate objectives. The petitioner believes that the EU should put the climate first and make the EU Taxonomy the first multinational framework to set ambitious standards for green investments and he is convinced that not adopting the DA in its current form will have no adverse effects on an economic or social level. In his view, due to the inclusion of described points in the DA, the European Commission is not adhering to the powers conferred to it by the EU legislator in relation to the Taxonomy Regulation.

2. Admissibility

Declared admissible on 29 November 2022.

3. Commission reply, received on 14 March 2023

The EU Taxonomy is a transparency tool guiding private investment in activities that are needed to achieve climate neutrality. It is not a tool of EU energy policy; it does not mandate

investments and does not prevent any economic sector from receiving investments. Member States are fully competent to decide their energy mix, as established in the Treaty on the Functioning of the European Union (TFEU) Article 194, and the Commission does not impose any choices in this respect on the Member States.

The framework of the EU Taxonomy is set out in the Taxonomy Regulation¹. It recognises three distinct categories of activities that the EU Taxonomy can include where they substantially contribute to one of the environmental objectives², do no significant harm to the other objectives and meet specific minimum social safeguards:

- activities that directly deliver an environmental benefit (“low-carbon” activities for the climate objectives);
- enabling activities that directly enable other activities to make a substantial contribution to one or more of those objectives;
- in the case of the climate change mitigation objective, transitional activities that can contribute substantially to the objective of, in addition to other criteria, greenhouse gas emissions that are substantially lower than the sector or industry average and that they help phase out greenhouse gas emissions, in particular emissions from solid fossil fuels.

The Taxonomy Regulation empowers the Commission to adopt delegated acts in order to define the technical screening criteria under which activities can qualify under one of the above categories. Both the Parliament and the Council may object to delegated acts, in line with their internal procedures. The co-legislators approved the Complementary Delegated Act on gas and nuclear.

The Climate Delegated Act³, already in application, comprises 25 energy activities including renewable energy-based generation. All of the energy sector activities in this Delegated Act are either ‘low-carbon’ or ‘enabling’ activities. The Complementary Climate Delegated Act⁴ covers certain gas related and nuclear energy activities as transitional activities in the EU Taxonomy that - subject to strict cumulative criteria - can help accelerate the transition to the net-zero economy. This act recognises the role specific nuclear and gas activities can play, under strict conditions and only for a set period of time, in helping many Member States on their transition path. The gas and nuclear activities included in the Complementary Climate Delegated Act meeting these defined conditions are in line with the EU’s climate and

¹ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (Text with EEA relevance) PE/20/2020/INIT, OJ L 198, 22.6.2020, p. 13–43.

² Climate change mitigation; climate change adaptation; sustainable use and protection of water and marine resources; transition to a circular economy; pollution prevention and control; the protection and restoration of biodiversity and ecosystems.

³ Commission Delegated Regulation (EU) 2021/2139 of 4 June 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives (Text with EEA relevance), C/2021/2800, OJ L 442, 9.12.2021, p. 1–349.

⁴ Commission Delegated Regulation (EU) 2022/1214 of 9 March 2022 amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities (Text with EEA relevance) C/2022/631, OJ L 188, 15.7.2022, p. 1–45.

environmental objectives and will accelerate the shift from more emission-intensive energy sources (e.g. coal), towards a climate-neutral future, where Member States include nuclear and gas-based technologies in their energy mix.

The Commission's role in drawing up the criteria in the Complementary Delegated Act was to ensure that the requirements of the Taxonomy Regulation for qualifying activities as environmentally sustainable activities are met.

The Commission undertook a dedicated assessment of nuclear energy in the context of the work on the EU Taxonomy, based on the technical report of the Joint Research Centre on the 'do no significant harm' (DNSH) aspects of nuclear energy⁵, and its review by the Expert Group on radiation protection and waste management under Article 31 of the Euratom Treaty⁶ and the Scientific Committee on Health and Environmental Risks of the European Commission (SCHEER)⁷.

Based on this review process carried out by specific experts, the Complementary Climate Delegated Act sets out the highest achievable safety criteria for nuclear activities. These criteria ensure full compliance with DNSH requirements and go beyond requiring mere compliance with existing legislation. They include, for instance, sunset clauses to accelerate the transition to advanced technologies and definite dates for operational disposal facilities to be in place. Notably, disposal facilities for low- and intermediate-level waste must be operational already, and Member States should have a detailed plan in place to have a disposal facility for high-level radioactive waste in operation by 2050. The criteria also require the use of accident-tolerant fuel. This requirement is applicable from 2025 onwards to allow time for its certification in the EU.

Regarding the inclusion of fossil gas-based energy generation activities as transitional activities, this comes with clear criteria and conditions, in line with the Union's climate targets and with "do no significant harm" safeguards. For gas activities with emissions above 100gCO₂equivalent/kWh to be recognised as substantially contributing to climate change mitigation, cumulative criteria require meeting detailed emissions thresholds and targets, also taking into account that gas-fired power plants will increasingly shift towards provision of backup power, which is consistent with modelling underpinning the Commissions Fit-for-55 proposals⁸. The criteria include requirements to replace existing, high-emitting plants and delivering a set level of greenhouse gas emission savings and switching to hydrogen or other low-carbon gases by 2035 at the latest. This is all subject to regular independent verification to ensure that the activities are on track to meet these targets.

In addition, for transparency purposes and to help investors make an informed choice, the Complementary Climate Delegated Act includes specific disclosure requirements for companies in relation to their activities in nuclear and gas sectors.

Conclusion

⁵ <https://publications.jrc.ec.europa.eu/repository/handle/JRC125953>

⁶ https://finance.ec.europa.eu/system/files/2021-07/210630-nuclear-energy-jrc-review-article-31-report_en.pdf

⁷ https://finance.ec.europa.eu/system/files/2021-07/210629-nuclear-energy-jrc-review-scheer-report_en.pdf

⁸ https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal/delivering-european-green-deal_en#documents

The Complementary Climate Delegated Act has now cleared the scrutiny process by the co-legislators. It was published in the Official Journal on 15 July 2022. It applies from 1 January 2023. The impact of the EU Taxonomy and the criteria set out in Taxonomy Delegated Acts will be reviewed in the future.