

European energy and climate policy: looking at its progressive development in order to understand the challenges of today

It is today generally accepted that orientations and decisions taken in Brussels in terms of climate and energy policy have a major impact on these policies at national, regional and local level in the Member States. It follows then that elected officials, at different levels of responsibility, should have a general understanding of the issues, in order to be able to help them, in line with their powers, make decisions that will be best for the populations for whom they are responsible. The aim of this document is to give a brief overview of the evolution of the energy / climate file at European Union level, up to the most recent decisions setting extremely ambitious targets for reducing carbon dioxide emissions by 2030.

Energy, the lifeblood of the economy and growth, was the objective at the origin of the formation of the European Communities, with the ECSC (1951 European Coal and Steel Community) and the EAEC (1957 European Atomic Energy Community - also known as Euratom) preceding the EEC (1957 European Economic Community). The vision of the Fathers of Europe was to develop nuclear energy together for the common good, and the Euratom Treaty, a promotional treaty of which not a comma has been changed to this day, remains a well-thought-out model of European cooperation. However, it is often undermined by the anti-nuclear Member States or NGOs, who without legal basis deny it this promotional dimension. The Commission itself often tends to neglect this promotional aspect, which it is supposed to defend tooth and nail as guardian of the Treaties. Occasionally, however, the legal basis prevails over policy, as was fortunately the case in the decisions of the Directorate General for Competition, which recently relied on the Euratom Treaty to accept the funding mechanisms for the construction of new nuclear power plants in Hungary.

At the end of the 1980s, the European Single Act brought together the three Communities in what became the European Union, with its three main institutions: the Commission, responsible for proposing legislative texts (Directives, Regulations, Decisions, etc.) and for ensuring their implementation by the Member States; the Council, made up of these Member States who decide on the basis of the Commission's proposals; and the European Parliament, which over time has gained more and more importance with today a large number of areas of shared competence with the Council, including in particular the budget. Until the 1980s, energy policy was a relatively minor issue at European level.

During the 1990s, a paradigm shift took place with the launch of the liberalisation of the electricity market, pushed by the British (period of Reagan-Thatcher ultra-liberalism), transforming what was a common good into a commodity like any other. The promise was to reduce costs for consumers. The difficulties of implementing this liberalisation, in a sector of high technological and industrial value operating via a network, has since required multiple "corrections", which, coupled with the forced introduction of ENRis (Intermittent Renewable Energies - wind and solar), have made the system much more complex and fragile. One of these "corrections" was the requirement to separate

the production and transport functions that were previously vertically integrated. Another, in the case of France, was the implementation of an obligation for the incumbent producer (EdF) to sell part of its production, mainly nuclear, at cost price, to other operators to make them a place in the market (ARENH mechanism); an obligation that turned out to be ineffective for the purpose of reducing costs to consumers. It is still this same forced march towards the liberalised market that is generating discussions today on the future of EDF (Hercules Project).

The next important step was the recognition in Art 194 of the Lisbon Treaty (2007) of the unambiguous right for each Member State to choose its energy mix. As a result, energy became a shared competence between the Commission, the latter defining the main orientations and targets to be achieved, and the Member States choosing the means for implementation. It should be noted, however, that the major orientations and targets proposed by the Commission are approved by the Member States (and Parliament if applicable), before becoming guidelines or obligations to be achieved.

And these orientations and targets to be achieved have been defined for ten years in the context of climate change and the necessary reduction in carbon emissions. In 2010, the 3x20 target was at the heart of the Climate-Energy Package: 20% reduction in carbon emissions (compared to 1990), 20% share of ENRis and 20% improvement in energy efficiency, to be achieved by 2020. We have achieved this target overall, but at the cost of deindustrialisation, first in Eastern Europe, but also in France in particular. Note that this 3x20 approach mixes a decarbonisation objective with the means to achieve it (ENRis and energy efficiency). It should also be noted that the three targets were mandatory for the European Union and were also converted into mandatory national targets for each Member State. This approach was penalizing for France, which already had a very low-carbon electricity sector thanks to nuclear power, and opened a breach in the principle of subsidiarity which leaves to the Member States their choice of energy mix.

In 2011, the 2050 Energy Roadmap sets an 80-95% decarbonization target by the middle of the century - aiming to help limit the global temperature rise to 2 °C in 2100. It was followed in 2014 by the Energy 2030 Strategy, which sets a carbon reduction of 40%, a deployment of ENRis at 27%, an improvement in energy efficiency to 27%, and a level of cross-border electricity interconnection of 10%. All these targets were mandatory for the European Union as a whole but only the decarbonization target was converted into national targets for each Member State, which created the need to set up a transparent governance mechanism and an obligation for the Member States to establish their National Energy - Climate Plans.

2015 was the year of the COP21, chaired by France, which signalled the global decision to move forward towards deep decarbonization, and confirmed the orientations taken by the European Union. In 2018, the European Union, as part of its vision of "A Clean Planet for All", is aiming to increase the previous 2030

targets respectively to 40%, 32%, 32% and 15%. Note the use of the symbolic word "Clean".

And in 2019 it is the launch of the Green Deal which sets a goal of carbon neutrality by 2050 and a carbon reduction target of 55% for 2030. Note the use of the even more symbolic word "Green".

We can clearly see through this brief history that the energy issue, coupled with that of the climate, has taken a central place in European politics. In parallel with the energy / climate orientations and targets, the European Union is also providing itself with financial resources to help with implementation. The year 2020 saw the adoption of the "regular" Budget of 1000 billion euros for the period 2021-2027, increased exceptionally by the post-Covid plan of 750 billion. Each Member State has received its endowment of this windfall. They must now propose projects to the Commission, which are in line with European policies. In particular, 37% of the post-Covid endowment must be for projects that are in line with the Green Deal.

It is beyond the scope of this document to go into the details of these financing and investment aid tools. But it should be noted that most of the mechanisms give pride of place to ENRIs and exclude nuclear power, whereas both are mentioned as complementary in the vision of "a Clean Planet for All". To put it simply, as long as we are at the big picture stage we can mention nuclear, but once we get to the nitty-gritty it is excluded. This is due to an extremely strong stance on the part of the anti-nuclear Member States, well established for years, and to a Commission approach which anticipates problems in the Council and tries to avoid them by ignoring nuclear power during the proposal phase, which is contrary to its function as guardian of the Treaties.

European energy / climate policy: Taxonomy, a political battleground between European states over nuclear power

For the past two years, a "Sustainable Financing" Taxonomy has been under preparation within the European Institutions, the objective of which is to provide a set of criteria which will make it possible to judge what types of project will be eligible for "significant" funding, and therefore those which basically will not be entitled to it. We are talking here about a logic that will go much further than just European funding mechanisms, but would also concern those of other international financial institutions and even of private funding. We know how difficult it is to finance capital-intensive projects, such as the large refit of nuclear power stations or even more so the construction of new nuclear installations (see article by Jacques Percebois). It is therefore important that nuclear power is on the right side of the sustainability barrier.

The Taxonomy as proposed by the Commission is much too restrictive, in the sense that it only considers the environmental dimension of sustainability. Sustainable means "green". However, sustainability, in particular in the field of energy, must be assessed in terms of the three pillars of a sound energy policy: protection of the climate and the environment of course, but also the economy,

and finally reliability of supply, a concept which incorporates security of supply. It is the balance between these three pillars that makes it possible to obtain an energy mix that is sustainable in societal terms, that is to say positive for the present generation and not penalizing for future generations. The principle of this Sustainable Financing Taxonomy, proposed by the Commission, was approved by the Council and the Parliament at the end of 2019.

To prepare its Taxonomy proposal, the Commission called on a group of independent experts (TEG) in 2019, with an advisory mandate. This group felt that nuclear power could not be included in technologies which, a priori, could be considered as sustainable. The reason given was primarily that the long-term safety of nuclear waste management (the geological disposal of high-level waste) has not been demonstrated. This was debated in the Council and resulted in the Commission's decision to request a specific expert report on the sustainability of nuclear power. This work was attributed to the Joint Research Center of the Commission (one of its internal services) and was published on March 30, 2021. It is very positive for nuclear, which is furthermore recognized as the most efficient of the non-carbon energies for producing electricity alongside hydro power, even for producing heat. This report must now be evaluated by two other expert groups. The first is the group of radiation protection specialists mandated under the Euratom umbrella (Euratom Article 31 Group); the other is a group of health, environment and emerging risks specialists (SCHEER Group under the Directorate General HEALTH of the Commission). The positions of these two groups are expected for June 2021. After that the Commission, under the aegis of the Directorate General FISMA, will decide whether or not, or under what conditions nuclear will or will not be included in the Sustainable Financing Taxonomy. Their report is expected within three months and the position of the European Commission should be clarified around September 2021.

The problem is that in parallel, during this year 2021, the Commission continues to proceed with the implementation of the Taxonomy, in particular by establishing the precise criteria that will be used to judge the sustainability of a project or a technology. These criteria are grouped into two categories in the form of Delegated Acts. The first category relates to the contribution to climate protection (Climate mitigation and adaptation), the second to the criteria of no damage to the environment (DNSH - Do No Significant Harm).

The Commission intends to quickly table the first Delegated Act in front of Council and Parliament in April. The second Delegated Act should follow at the end of 2021. If indeed this schedule is followed, the first Delegated Act would be adopted BEFORE the Commission will have finalised its position on whether or not to include nuclear in the group of sustainable technologies. We cannot, however, fail to be concerned about the cumbersome European procedures and the relentless efforts to delay any decision in favor of nuclear power on the part of European countries resolved to ban its use, either through ideology or through a desire to reject an overly competitive production mix, thereby making clear space for renewable energies in combination with gas.

It would therefore seem reasonable on the one hand to ask the two groups of specialists to speed up the examination of the Joint Research Centre's text, and to produce clear and conclusive conclusions on a scientific basis, and on the other hand to require the Commission to adapt the schedule for the presentation of Delegated Acts to the Council and Parliament so that the conclusions of analyses relating to nuclear power are integrated.

The credibility of the Commission rests on the implementation of a vision that is fully clarified and justified on a scientific basis and not on ideology or politics. This is where the political echelon in the Member States in all its diversity has its role to play, to convey messages from the territories to the center, and from there to the European level. The time is right, now that President Macron has co-signed with six other European Heads of State a letter to the European Commission asking it to treat nuclear energy on an equal footing with the other forms of low carbon energy, that is to say without ideological and political discrimination.

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