

# Sustainability Outlook

September 2021



## European Commission outlines priorities for the year ahead in the State of the Union speech.

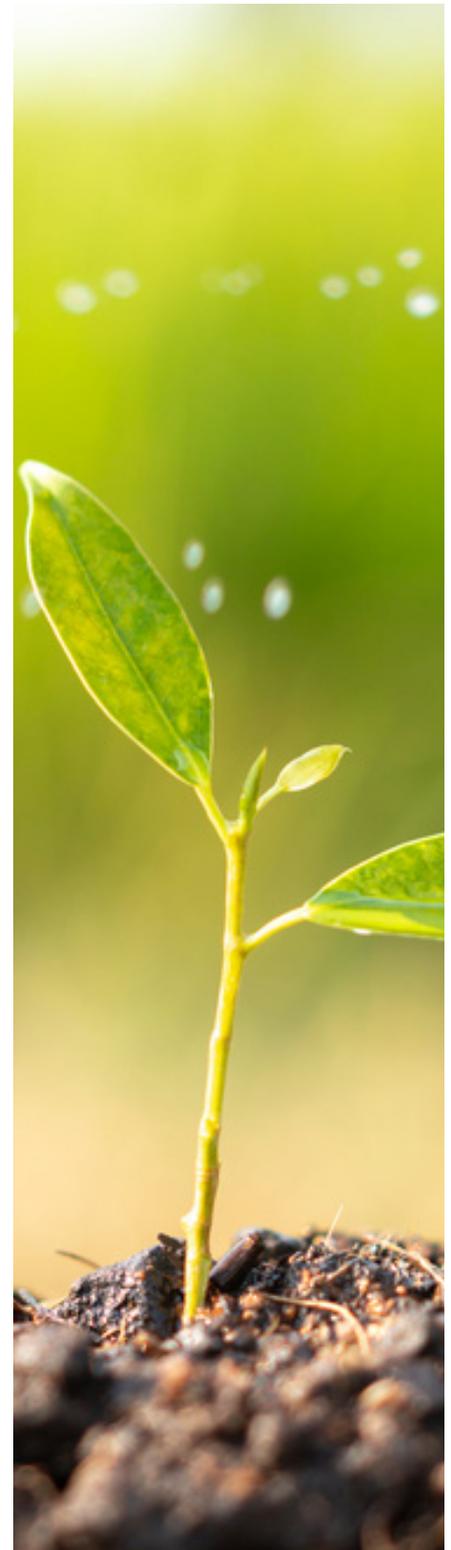
Ursula von der Leyen, the President of the European Commission, delivered her yearly State of the Union speech on 15 September. Referring to the [achievements](#) of the past year, she highlighted the gravity of **climate change**, and how the [European Green Deal](#) is crucial in tackling its devastating effects, in particular the 55% emission reduction target by 2030, which the EU Climate law [Regulation 2021/1119](#) has made legally binding.

The President highlighted the importance of EU action in the global context, in particular regarding the UN Framework Convention on Climate Change Conference of the Parties (COP26) in Glasgow in October and the intention to commit to investments in Africa to create a market for green hydrogen.

In a [letter of intent](#) to the President of the European Parliament and the Prime Minister of Slovenia, which is currently the Presidency of the Council, von der Leyen listed some of the new initiatives that the Commission proposes. This non-exhaustive list would be complemented by the upcoming Commission Work Programme, inter-institutional dialogue and the Joint Declaration of Legislative Priorities of the three EU institutions. The list features a legislative proposal to reduce the release of microplastics into the environment and to **restrict the addition of microplastics to products**. This initiative is not entirely new, as it is mentioned in the [new Circular Economy Action Plan \(CEAP 2.0\)](#). Other legislative initiatives that the letter highlighted address **integrated water management, carbon removal certification, the right to repair and harmonised measurement of transport and logistics emissions**.

Unlike the US Constitution, the EU Treaties do not foresee a State of the Union address by the Commission President. Their basis is a 2010 Framework Agreement between the European Parliament and the Commission. They tend to be consensual, though not apolitical, in order to seek the broadest possible support for the Commission's work programme, which is presented one month later.

The Commission also issued its 2021 [Strategic Foresight Report](#) as a forward-looking and multidisciplinary perspective on the EU's capacity and freedom to act in the coming decades. Structural **global trends** highlighted by the report are climate change, but also environmental challenges that will extend well beyond, with a particularly alarming situation regarding biodiversity loss and change in the nitrogen cycle. According to the report, pressure on the EU's natural ecosystems comes not only from climate change, but also from pollution, land use, resource extraction, invasive species and the loss of pollinators. Moreover, human activities have substantially changed the nitrogen cycle, mainly due to its agricultural use. Securing a sufficient supply of decarbonised and affordable energy is key on the path to a greener and more digital Europe. Reaching the **climate neutrality** objective by 2050 could help the EU to reduce its energy dependency. This should be supported by significant progress on the **circular economy**.





## European Commission publishes a roadmap on carbon removals.

The Commission described a [roadmap](#) towards a **communication on restoring sustainable carbon cycles**, which it wants to adopt in Q4 2021. The EU Climate Law ([please see frESH Law Horizons April 2021](#)) requires that EU-wide greenhouse gas (GHG) emissions and removals are balanced within the EU at the latest by 2050. Additionally, the proposal to amend LULUCF Regulation 2018/841 on land use, land use change and forestry ([please see Sustainability Outlook European Union July 2021](#)) sets out a new 2030 EU target of net GHG removals in that sector. Both the [Circular Economy Action Plan \(CEAP 2.0\)](#) and the Farm to Fork Strategy announced initiatives on the certification of carbon removals and on carbon farming, aiming at promoting the development and deployment of natural and technological carbon removal solutions at scale.

According to the roadmap, the objective of the communication is to **develop a long-term vision for sustainable carbon cycles in a climate-neutral EU economy**. This would include carbon capture, storage and use (CCS and CCU). It will discuss a range of options for carbon removal and storage solutions, and for recycling carbon from biomass, waste and directly from air to replace fossil carbon in the production of fuels, materials and food. It will also address the viable options to foster the research and deployment of new technologies while creating a competitive market, and will focus on the interplay with other pieces of policy and regulation. The Commission also intends to clarify how a regulatory framework for the **certification of carbon removals** can complement current climate policies. However, the proposal for a regulatory framework **will not be part of the communication** as such, but constitute a **separate forthcoming initiative**.

At a [recent event](#) on carbon removal strategy, a Commission official said that a **legislative proposal will be tabled next year**. This is also confirmed in the [letter of intent](#) outlining the EU executive's legislative plans for 2022. A green paper or strategy document would likely precede the legislative initiative.

The roadmap is open for feedback until 7 October 2021.

## European plastic manufacturers' support for mandatory recycled content targets causes controversy.

PlasticsEurope, the association of European plastic manufacturers, [announced](#) that it supports the Commission's "proposal" for a **mandatory EU recycled content target** for plastics packaging, and called for a target of **30% for plastics packaging** by 2030. Recycled content would need to be derived from all "waste materials" through a technology-neutral approach that includes **both mechanical and chemical recycling**, whose ramping up was essential, with a credible **mass balance** framework. PlasticsEurope defined the mass balance approach as a "set of rules that enables traceability between feedstock input and product output, and along the value chain *to the producer of a final article* [emphasis added]". The announcement marks a significant shift of the association from an earlier [key recommendation](#) to ensure that decisions to include recycled content remain a market choice, which it had made after the Commission adopted its [European Plastics Strategy](#) in 2018.

The association of European plastics converters (**EuPC**) swiftly [responded](#) to PlasticsEurope, **warning** the other organisation **of the consequences of placing risks unilaterally on plastic converters** (the customers of PlasticsEurope's member companies). That threatened supply bottlenecks, as was already the case with rPET, and seriously jeopardised the economic existence of thousands of medium-sized plastics processors and packaging users. EuPC **also called for the recognition of chemical recycling**, which offered opportunities, above all, where waste streams are so heavily mixed and contaminated that they cannot be sorted and mechanically recycled, and to close the supply gap, for example, for recycled polyolefins. However, EuPC said that it **mainly relies on the further expansion of established mechanical recycling**, and that under no circumstances should efforts to expand separate collection and design for recycling be pushed back in the hope that new technologies will make them obsolete in the foreseeable future (implicitly referring to chemical recycling). EuPC also (correctly) pointed out that the Commission has actually not yet put forward a proposal for recyclate use quotas (which PlasticsEurope says it supports).

The European **Recycling Industry Confederation (EuRIC)** [strongly welcomed](#) PlasticsEurope's "major step forward" (without referring to chemical recycling on this occasion). However, one of its members, the German national recycling association **bvse**, [came out hard against chemical recycling](#): The **European plastics industry** was launching a new **greenwashing campaign**, demanding to equate the "chemical treatment" of plastic waste with recycling. That treatment was actually an "**old hat**," currently "**hyped**" **under the label of chemical recycling**, although none of the processes were yet available at industrial scale. There was no doubt that material recycling has a significantly better ecological balance, including CO<sub>2</sub>, than chemical recycling, which required a "chemical cocktail". The actual obstacle to plastic recycling could be solved: The key was design for recycling, which was only applied to "a fraction of the packaging". It was, therefore, regrettable that the plastics industry was now relying on a technology that had been lagging behind for decades, in order to avoid the solution. Today's approaches to chemical recycling were based on the use of material flows that had been successfully used in material recycling for many years, as both focused on the separately collected and sorted polyolefin packaging waste fractions. Chemical recycling, comparable to waste incineration, ended the material flow instead of recycling it. Only a fraction of its output was available for the production of plastics. It was completely incomprehensible why the plastics industry focuses on the plastic packaging waste stream, while chemical recycling could actually develop into a better alternative to incineration of WEEE and ELV components. However, in these fields, there were surprisingly few players in chemical recycling, because they were technically demanding. Bvse concluded that one can get the impression that the **plastics industry is actually still not interested in the circular economy**, but in solutions for simple and cheap disposal that affect its business model as little as possible.

After that statement, PlasticsEurope Germany [announced](#) the publication of a joint paper on '[Research policy recommendations on chemical recycling](#)' with the German chemical industry associations VCI and DECHEMA. PlasticsEurope Germany stressed that depending on the quality and composition of the plastic, different technologies, including mechanical and chemical recycling, can be advantageous. In order to identify the best recycling routes, the waste management and the chemical industry had to work closely together. However, there are still some hurdles to overcome for large-scale/industrial use of chemical recycling that require research, especially at the **interface with hydrogen** technologies, as chemical recycling required hydrogen that is obtained using electricity from renewable energies.





## European Commission discusses revision of the implementation of the End-of-Life Vehicles (ELV) Directive.

The Commission [made available](#) the summary record of the most recent meeting of its Expert Group on Waste, held in June 2021. The Commission discussed with representatives of the Member States the **review** and **implementation** of the ELV Directive 2000/53. The current Directive was **not fully adapted** to address challenges and opportunities posed by the evolution in the production of vehicles. The Commission would consider **extending the scope** to vehicles not currently covered, specific **targets for recycling** per material and for **repair and remanufacturing**, among others. The study to support the impact assessment had been launched in January 2021 for a duration of 12 months. Its main topics were missing vehicles, illegal export and trade of ELV and enhanced circularity. During the meeting, the Joint Research Centre (JRC) presented an ongoing study on **recycled plastic content**, whose finalisation is foreseen for January 2022. It would include technical proposals on **potential targets on the mandatory recycled plastic content in vehicles**. The Commission informed Member States about the state of play of the amendments to exemptions of **Annex II** of the ELV Directive. The next meeting of this group on ELV would be scheduled in 2022.

The Commission has launched a [public consultation](#) on the review of this legislative text, which will run until 26 October 2021. It plans to present the proposal for a revised ELV Directive in Q4 2022.

## European Commission presents calculation rules for sorted waste.

The Commission adopted a [delegated decision](#) with harmonised rules for the calculation, verification and reporting of the weight of materials or substances removed after a sorting operation and not subsequently recycled, based on **average loss rates for sorted waste**.

Waste Framework Directive 2008/98 (WFD) tasked the Commission with adopting this act by March 2019. The WFD provides that only the input to the recycling operation shall be taken into account when calculating the attainment of recycling targets. Member states must establish an effective system of quality control and traceability of municipal waste to ensure that they can calculate the weight of the waste generated and prepared for re-use or recycled. **Average loss rates** may only be used where reliable data cannot be obtained otherwise. The Packaging and Packaging Waste Directive 94/62 (PPWD) applies the same rules.

The delegated decision provides that the average loss rate must be calculated as the amount of losses in relation to the amount of sorted waste, and only for specific types of sorted waste with specific characteristics resulting from common practices in preliminary treatment. The losses are calculated as the sum of the amount of non-targeted materials removed from the sorted waste between a measurement point at the output of a sorting operation and the calculation point for the sorted waste or its fractions. If sorted waste contains targeted and non-targeted materials, the losses of a specific non-targeted material may be excluded from the amount of the losses under certain conditions: if this material does not constitute more than 5% of the total amount of the sorted waste or more than 5% of the amount of the fraction resulting from further sorting operations preceding the calculation point. The decision is **addressed to the Member States**.

The Council and the European Parliament have two months to **scrutinise** the delegated act. If neither raise objections, the decision will be published in the Official Journal and enter into force.

## European Commission consults on extended producer responsibility (EPR) in online sales.

Consultancy firm Eunomia is carrying out research for the Commission to consider ways of improving compliance with EPR obligations and tackling “free-riding” in the case of **online sales**. Its [survey](#) seeks to gather the views of producers and retailers of **electrical and electronic equipment (EEE)** and **batteries**. Stakeholders can also [register their interest](#) in the study. These recommendations will inform the European Commission’s work on developing EPR policy.

## European Commission launches a study on the unintentional release of microplastics.

The [study](#), “Cost-benefit analysis of policy measures reducing unintentional releases of microplastics”, aims to identify policy options that could reduce these releases in the environment. It will support the Commission’s work on a possible legislative initiative in the field. Stakeholders can **register their interest** in the study. The new [Circular Economy Action Plan](#) (CEAP 2.0) already addressed the intention of the Commission to develop an [initiative](#) with regard to labelling, standardisation, certification and regulatory measures on the unintentional release of microplastics.

The Commission plans to launch a **public consultation** in this field that will focus, as the study, on the release of microplastics from **synthetic textiles** and **tyre abrasion**, and of pre-production **plastic pellets**. The proposal for a regulation is planned for Q4 2022.

## ECHA updates authorisation formats to conform with recent court rulings.

The European Chemicals Agency (ECHA) published an [updated format for applications for authorisation](#), which is required to use substances of very high concern that have been included in REACH Annex XIV (the so-called Authorisation List).

The opinion format for the Committees for Risk Assessment (RAC) and for Socio-Economic Analysis (SEAC) was revised as well, to reflect the judgments of the EU General Court in two authorisation cases ([T-837/16](#) and [T-108/17](#) – please see [frESH Law Horizons November 2019](#) and [August 2020](#)). The judgments concerned situations where suitable alternatives are available and the applicants need to submit a substitution plan. The court established that where there remain uncertainties regarding the **lack of availability of alternatives**, it must be concluded that the applicant for authorisation has not discharged the burden of proof and, therefore, no authorisation may be granted. However, the court also ruled that where the information gathered suggests that suitable alternatives are available in general, but that they are not technically or economically feasible for the applicant, this does not necessarily mean that authorisation must be refused. In such a case, and if it is shown that **socio-economic benefits outweigh the risk to human health or the environment** arising from the use of the substance, the authorisation may be granted if the applicant for authorisation submits a **substitution plan**. The new format combines the analysis of alternatives, the socio-economic analysis and, when relevant, a substitution plan into a single document. As [requested by the European Commission](#), the opinion format also includes a conclusion on whether or not the applicant has shown that the benefits for society from using the substance outweigh the risk to human health or the environment.

ECHA informed that applicants for authorisation, as well as RAC and SEAC, should start using these formats immediately. However, applications may be submitted in the old format until the end of 2021 if applicants have already finalised, or are close to finalising, the content of their application.





### European Commission intends to refuse some REACH authorisations for pitch, coal tar, high temperature.

The Commission submitted a draft [implementing decision](#) to its REACH Committee, which is composed of representatives of the EU Member States. The decision **would refuse authorising the use of pitch, coal tar, high temperature (CTPht)** as a binder in the production of clay targets, which the Czech Company DEZA has applied for. According to REACH, an authorisation must be granted if the risk to human health or the environment is adequately controlled, or it may be granted if it is shown that socio-economic benefits outweigh the risk to human health or that there are no suitable alternative substances or technologies. On the basis of the opinions of the ECHA committees (RAC and SEAC), the Commission concludes that the applicant has failed to demonstrate that socio-economic benefits outweigh the risk arising from the continued use of the substance, and significantly underestimated the risk to human health and the environment. The Commission acknowledges that there are suitable alternatives available in the EU for the use applied for, even though some of them may not be economically feasible. The applicant was, therefore, required to submit a substitution plan, but the Commission finds that its substitution plan is not credible.

The Commission also submitted a draft [implementing decision refusing an authorisation](#) for the same use of CTPht applied for by Bilbaina de Alquitranes, on similar grounds. However, it drafted **partial authorisations** for uses of CTPht to [Industrial Quimica del Nalon](#), and for a use of anthracene oil (AO) to [Koppers Denmark](#), [Rain Carbon](#) and Bilbaina de Alquitranes. The applications for these uses differ from those that the Commission rejected, insofar as the uses applied for only cover formulations for intermediate uses in industrial settings or other industrial uses that are outside the scope of the authorisation requirement set out in REACH. In light of this, the Commission considers it appropriate to adapt the description of the authorised uses and limit the placing on the market of the mixtures resulting from the authorised uses accordingly.

The REACH Committee discussed the draft implementing decisions in September; it is expected to opine on them during one of the following meetings. Depending on the opinions of the Committee, the Commission may adopt the decisions.

### ECHA presents a database of hazardous chemicals in products.

According to the European Chemicals Agency, the [database](#) of substances of very high concern (SVHC) in products (**SCIP**) currently contains more than four million article notifications. As provided in the revised Waste Framework Directive 2008/98, **companies** supplying articles placed in the EU market that contain more than 0.1% weight by weight of SVHCs **must notify** it to the ECHA, providing information on how to use the article safely, to identify the article, the SVHC, its location and the type of material in which it is contained. This obligation has applied since January 2021, but ECHA formally opened the SCIP database for submitting notifications in October 2020 (please see [frESH Law Horizons September 2020](#)). Since September 2021, the information submitted in the notification has been publicly available. The aim of the requirement is to promote the reduction of the content of hazardous substances in materials and products, and to make the information available to consumers and waste operators to help them make their purchasing choices or decisions on the recycling of materials. ECHA also published [support materials](#) and [tools](#) to help companies comply with their obligation.

## ECHA committee does not find sufficient evidence for risks from single-use baby diapers.

The European Chemicals Agency [announced](#) that its Committee for Risk Assessment (RAC) opined on a [proposal for a REACH restriction](#) of formaldehyde, polycyclic aromatic hydrocarbons (PAHs), dioxins, furans and polychlorobiphenyls (PCBs) in **single-use baby diapers** or nappies, submitted by the French Agency for Food, Environmental and Occupational Health & Safety (ANSES) in October 2020. In its opinion (which is not yet publicly available), RAC found that **there is not enough scientific evidence** to conclude that the levels at which these chemicals are found in single-use diapers or nappies pose a risk. RAC found that the data on the amount of some of the substances in diapers, particularly for PAHs, is inconclusive. The chair of RAC commented: "RAC takes the health of small children very seriously. The restriction proposal does not provide sufficient scientific evidence of a risk at EU level. However, it also **does not allow the committee to completely rule out risks from some of the substances**. It is important to note that none of the chemicals seem to be deliberately added during the manufacture of diapers but are rather background residues from raw materials or contaminants from ambient air. We highlight that, in any case, these chemicals should be kept to the lowest possible levels in diapers." RAC's opinion will be available on ECHA's website shortly after administrative checks have been completed.

In addition, the ECHA Committee for Socio-Economic Assessment (SEAC) agreed on its [draft opinion](#) on the societal costs and benefits of the restriction proposal. SEAC did not find sufficient justification for the restriction. The key points from the opinions are in the [Q&A document](#).

A 60-day consultation of SEAC's draft opinion will run until 14 November. ECHA is expected to publish and send the combined final RAC and SEAC opinions to the Commission by the end of 2021. The Commission will then take a decision on the restriction proposal.

## ECHA issues new guidance on the classification and labelling of titanium dioxide (TiO<sub>2</sub>).

The [guide](#) is meant to help companies and national authorities understand **how mixtures containing TiO<sub>2</sub> need to be classified and labelled**, following its classification as carcinogenic if inhaled. The guide was developed by ECHA in cooperation with the German competent authority (BAuA), the Commission and the network of national helpdesks (HelpNet), and addresses the classification of the substance, classification of mixtures containing the substance and labelling requirements. In February 2020, [Delegated Regulation 2020/2017](#) (the 14th Adaptation of the CLP to Technical Progress) changed the classification and labelling requirements under Regulation 1272/2008 on the classification, labelling and packaging of substances and mixtures (CLP) with effect from October 2021 ([please see frESH Law Horizons February 2020](#) and [September 2019](#)). It classified TiO<sub>2</sub> as a carcinogen by inhalation only in mixtures in powder form containing 1% or more TiO<sub>2</sub> in the form of, or incorporated in, particles with an aerodynamic diameter of  $\leq 10 \mu\text{m}$ . Mixtures containing TiO<sub>2</sub> must be labelled with the supplemental label element "Hazardous respirable dust may be formed when used. Do not breathe dust" (EUH212).



## European Parliament calls for phasing out animal testing.

The Parliament adopted a [resolution](#) titled “**Plans and actions to accelerate a transition to innovation without the use of animals in research, regulatory testing and education**”, with 667 members of the European Parliament (MEPs) voting in favour and four against. The resolution acknowledges that past use of animal-based research has contributed significantly to advances in the treatment of many human health conditions and played a role in animal health, and that non-animal methods are not yet available across all scientific research areas. However, it **calls for an EU action plan** with ambitious and achievable objectives and timelines to this end. It also demands that the Commission improves coordination to achieve the goal set out in Directive 2010/63 on the protection of animals used for scientific purposes by establishing a high-level inter-service taskforce, with the aim of driving the active phase-out by reducing, refining and replacing procedures on live animals for scientific purposes. The Commission, Council and Member States should make sufficient funding available to ensure the fast development, validation and introduction of alternative testing methods, particularly for key toxicological endpoints. In particular, the Parliament calls on the Commission to set reduction goals in consultation with relevant agencies, in particular ECHA and EFSA, through a more proactive implementation of the current regulations on the safety of chemicals and other products, and to support the reduction goals by using a fully connected and interoperable EU chemical safety database. It recalls that Article 13 of **REACH** (Regulation 1907/2006) tasks the Commission with **updating** the requirements for **test methods** as soon as non-animal methods become available.

## European Commission plans an environmental implementation review.

The Commission published the [roadmap](#) for the next 2022 Environmental Implementation Review (EIR). The Commission carries out the EIR every two years in collaboration with the Member States and other stakeholders. It will be the third [EIR](#) after 2017 and 2019. It aims to address the **causes of implementation gaps** in EU environmental law and policy. The roadmap recalls a [study](#) that the **economic costs** associated with the **failure to implement the EU environmental norms** were around **€55 billion a year** in 2018, including costs related to legal procedures against Member States (infringement cases). The 2022 EIR will consist of 27 **country reports** (Staff Working Documents) on the progress by each EU Member State in complying with the main environmental obligations. It will also include a **communication** presenting the Commission’s recommendations and conclusions.

Stakeholders may provide comments on the roadmap until 18 October 2021. The Commission plans to finalise the EIR in Q3 2022.



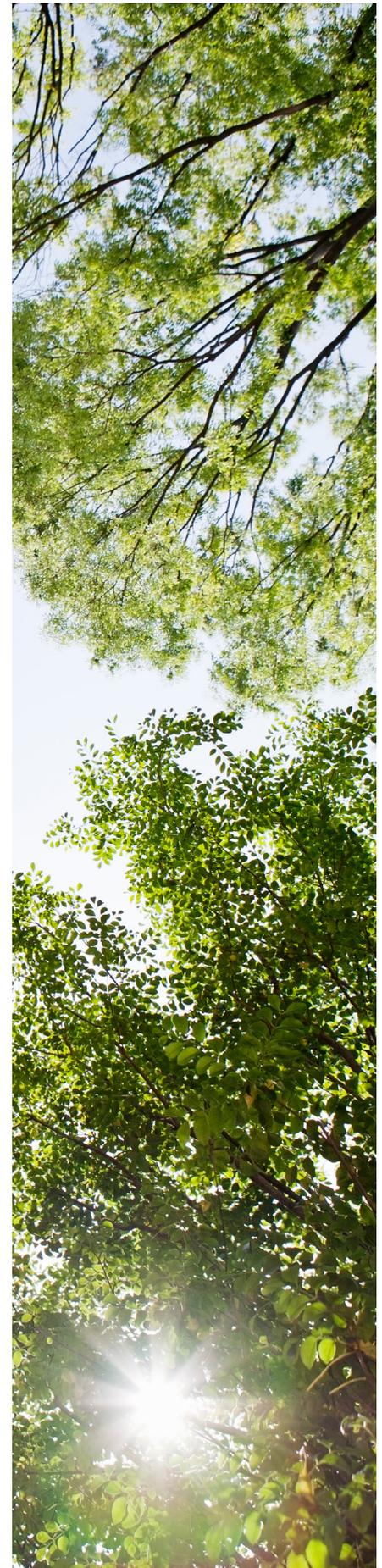
## European Commission presents examples for greening the competition policy.

The Commission issued a [policy brief](#) on how **EU competition rules can complement environmental and climate policies more effectively**. It summarises the key points taken from the debate launched in September 2020 by Commission Executive Vice-President Margrethe Vestager. The policy brief provides **examples** of concrete **policy reform** across all areas of competition law antitrust, merger control and state aid. Vestager also addressed these issues in her [keynote speech](#) at the 25th IBA Competition Conference earlier this month.

With regard to **antitrust**, the Commission wants to assess **sustainability benefits in cooperation agreements** and clarify whether and how these benefits can outweigh the restrictive effect on competition. The consideration of environmental benefits as efficiencies will lead to the exemption of the agreement from competition rules, stressing that each agreement needs to be assessed individually. First, an agreement to replace a non-sustainable product with a sustainable one may increase the value that consumers attribute to it. Second, an agreement may benefit consumers when knowing that the products are helping to preserve the environment. Another possibility is that the Commission considers a benefit when an agreement benefits society as a whole, and the consumers of the product get a fair share of the benefits they produce. In this context, the Commission is **revising** its **rules on horizontal agreements** between companies, and will [consult](#) on them until 5 October 2021. Currently, the Commission does not have a mandate to intervene in **mergers** solely because they are likely to harm the environment. The policy brief proposes strengthening enforcement concerning possible **harm to innovation**, including **green “killer acquisitions”**, i.e. when a company with a strong market position that does not pursue environment-friendly strategies acquires an undertaking active in green innovation, which is usually a smaller player. In the area of **state aid**, the Commission recalls that it recently [consulted](#) on a set of draft **guidelines** on state aid for climate, energy and environmental aid (CEEAG). The new rules would expand the scope of using state aid to help reach the goals of the [European Green Deal](#). The guidelines propose discouraging governments from using State aid to support fossil fuels like coal, lignite or oil. The adoption of the guidelines is scheduled for the end of 2021, and they are set to enter into force at the start of 2022.

## European Commission replies to questions on limiting the environmental impact of the ICT sector.

Margrethe Vestager, the Executive Vice-President of the Commission for “A Europe Fit for Digital Age”, [replied](#) to a [letter](#) sent in April 2021 by more than 50 Members of the European Parliament (MEPs; correspondence made public by news service Politico). The MEPs had called on the Commission to **limit the environmental impact** of the information and telecommunications technology (ICT) sector. They asked to take the necessary steps in the upcoming **Non-Financial Reporting Directive**, the so-called [Data Act](#) and to present **legislation for sustainable and circular data centres** to ensure that the digital transition promotes and does not hamper the green transition. In its reply, the Commission recognised that the sector must undergo its own green transition. The Commission commented on key developments in the areas addressed by the MEPs, including a proposal for a **Corporate Sustainability Directive**, initiatives to address **greenwashing** and the Commission ambition to achieve “climate-neutral, highly energy-efficient and sustainable data centres by no later than 2030”. It would review the **Energy Efficiency Directive** or the **Taxonomy Regulation 2020/852**.



## European Court of Auditors recommends more sustainable finance.

The European Court of Auditors (ECA) [published](#) a [special report](#) on **sustainable finance**, opining that the EU is not doing enough to channel public and private investments into sustainable activities that help to transition to a net-zero emission economy. The report mainly focuses on whether the Commission's 2018 [Sustainable Finance Action Plan](#) was comprehensive and implemented on time. According to the report, the Commission needs to apply consistent science-based criteria to determine the sustainability of **EU financial support**. The ECA states that the EU is falling short in its commitment to net-zero emissions across its expenditure by, for example, **supporting conventional fossil fuel projects** under the cohesion policy or the [Recovery and Resilience Facility](#) (RRF). The Commission had not accompanied the Sustainable Finance Action Plan with a specific action to address the issue of **environmental and social costs of unsustainable activities**. In order to address these challenges, the ECA recommends that the Commission identify additional measures that aim to ensure that the **pricing of greenhouse gas emissions** better reflects their **environmental cost**. The ECA also recommends that the **"Do No Significant Harm"** (DNSH) principle of the EU Taxonomy (please see [Sustainability Outlook August 2021](#)) should be applied across the EU budget and included in the proposal for a revised Financial Regulation. This means that selected economic activities not only need to make a **substantial contribution** to one or more of the six **environmental objectives**, but also **do no significant harm** to any of the others. In its [reply](#) to, and included in, the non-binding report, the Commission states that the DNSH principle has been incorporated into the RRF. The Commission accepts all of the recommendations, adding it cannot commit to the exact content of the future legislative proposal for a Financial Regulation on the EU budget.



## Italy is set to implement the EU Single-use Plastics Directive (SUPD) with exceptions for bioplastics.

The Italian legislature recently published the [draft decree](#) transposing the SUPD into Italian law and an [accompanying report](#).

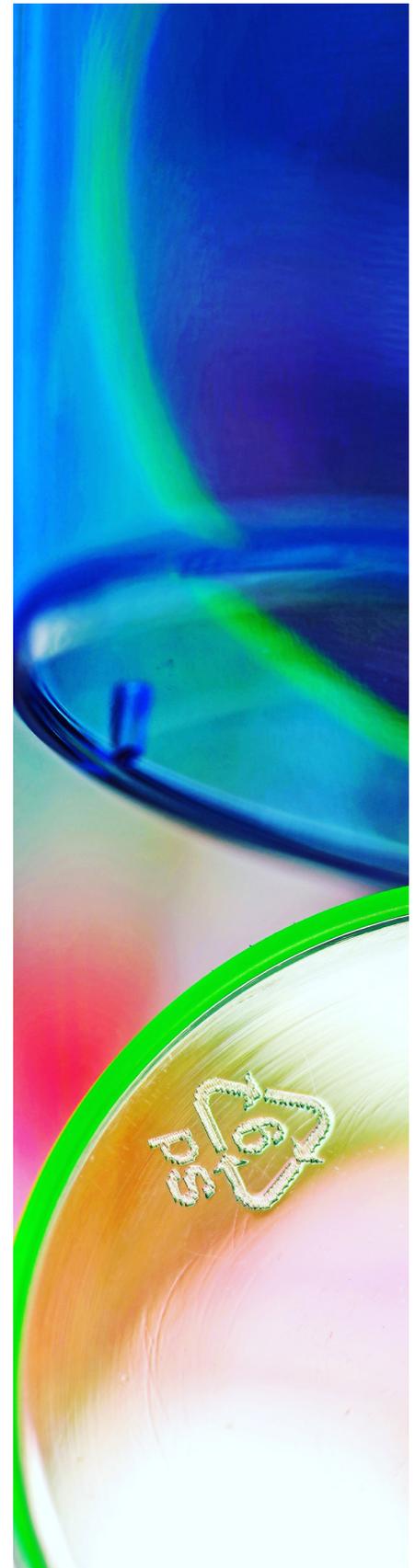
The **definition of plastic** in the draft decree does not include materials such as paints, inks, adhesives or plastic coatings weighing less than 10% of the total weight of the product, which are not its main structural component.

To achieve a quantifiable **consumption reduction** of certain single-use plastics (SUP) products by 2026, as required by the SUPD, the decree foresees **voluntary, cooperative measures**, such as specific sector plans and awareness raising, as well as **incentives** for alternatives, rather than restrictive measures. The law would grant a tax credit of a maximum of €3 million per year in total for the years 2022 to 2024 to businesses that buy reusable, biodegradable or compostable (EN 13432:2002) alternatives to SUP products for which bans or consumption reduction are foreseen (20% of documented expenses for purchases of such alternatives, up to €10,000 per year and beneficiary).

The draft decree foresees, in principle, the **restriction** of placing on the market, i.e. bans, of the same product categories as the SUPD. However, contrary to the EU law, it foresees an **exception** for SUP products made from **biodegradable** and **compostable** plastic (EN13432 or EN14995), with percentages of **renewable** raw material of at least 40% (60% from 2024), in the following cases:

- a) When it is not possible to use reusable alternatives to SUP food contact products
- b) If use takes place in controlled environments, which ordinarily and permanently deliver waste to public collection services, e.g. canteens and health facilities
- c) When alternatives do not give any guarantee in terms of hygiene and safety because of situative and local circumstances
- d) Depending on the particular type of food or drink
- e) If the particular circumstances involve a multitude of people
- f) If the environmental impact is worse than single-use alternatives, based on a lifecycle analysis

**Discussions are ongoing** in both Parliamentary Chambers, which both want to opine on the draft after hearing from the Conference of Regions. Once both chambers adopt their position, the Council of Ministers will adopt the final decree and it will be enacted, published and enter into force. The **approval by the legislature is expected**, as in April, [it had tasked](#) the government with transposing the SUPD into the Italian system, specifying some key aspects that the government was to follow. These included an exception to the ban of certain SUP food contact products, with a “gradual” restriction, allowing SUP products to be placed on the market when made of biodegradable or compostable plastic, and with increasing percentages of renewable raw material. Greenpeace Italia had [released](#) a report on the transposition of SUPD, warning that this exception would **clearly contradict the Directive**, whereas Legambiente, another environmental NGO, is [reportedly](#) in favour of it.



## France launches a national circular economy strategy.

The government [strategy](#) focuses on the recyclability, recycling and the reincorporation of recycled materials, while also aiming at reinforcing the industrial sovereignty of France. The strategy includes eight **priorities** emphasising five streams: **plastics, composites, textiles, strategic raw materials**, as well as **paper and cardboard**. France plans to recycle up to 2 million tonnes of plastic per year in order to achieve a 100% recycling rate of plastics by 2025. The strategy calls for establishing a regulatory framework for the development of **chemical recycling** as a complement to mechanical recycling for those plastics that cannot be recycled. To increase the demand for recycled plastic, products should be designed as easily recyclable and integrate **recycled content** in products. Mechanical and chemical recycling technologies for **composite waste** should be developed or adapted. The strategy calls for structuring a recycling channel for **textiles**, to recycle four times more textiles by 2025. The strategy proposes securing the supply of these **strategic raw materials** (e.g. gold, cobalt, aluminium, copper and rare earths) by recycling them. It also proposes developing a voluntary collection channel for end-of-life hydrogen equipment (electrolysers and fuel cells) for industrial and heavy mobility applications. France plans to have sufficient industrial capacity to recycle all electric vehicles batteries by 2030. Another priority is developing new outlets for recovered **paper and cardboard** with alternatives to mineral inks and a process to remove inks from paper and cardboard paper in order to increase its recyclability. The French government wants to support public and public-private research of recycling technologies, the development of competences and education and the support to research and development in the field of collection and sorting technologies with €370 million (in addition to €200 million already in the *France Relance* plan for the period 2021 to 2022). On the latter, it has opened a call for projects that will be [open](#) until 26 July 2022.



If you are interested in UK as well as EU environment, safety and health law, procedure and policy, please take a look at our [frESH blog](#).

## Contacts



**Ken Huestebeck**  
Senior Associate, Brussels  
T +322 627 1102  
E [ken.huestebeck@squirepb.com](mailto:ken.huestebeck@squirepb.com)



**Anita Lloyd**  
Director, Birmingham  
T +44 121 222 3504  
E [anita.lloyd@squirepb.com](mailto:anita.lloyd@squirepb.com)



**Francesca Zuccarello Cimino**  
Associate, Brussels  
T +32 2 627 1108  
E [francesca.zuccarellocimino@squirepb.com](mailto:francesca.zuccarellocimino@squirepb.com)



**Josep Bellot**  
Public Policy Assistant, Brussels  
T +32 2 627 1109  
E [josep.nicholasbellot@squirepb.com](mailto:josep.nicholasbellot@squirepb.com)

SQUIRE   
PATTON BOGGS  
[squirepattonboggs.com](http://squirepattonboggs.com)