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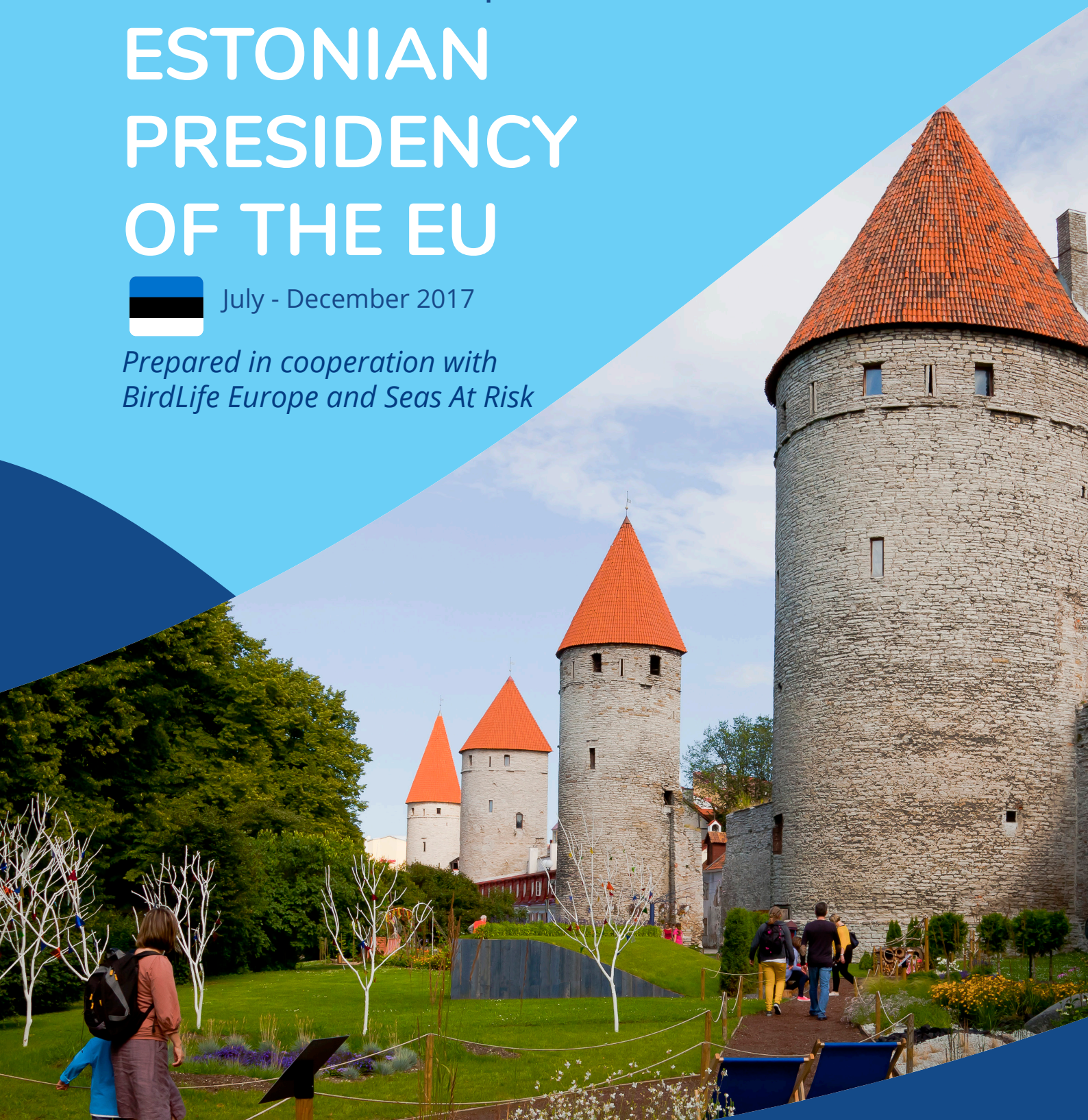
The EEB's assessment of the
environmental impact of the

ESTONIAN PRESIDENCY OF THE EU



July - December 2017

*Prepared in cooperation with
BirdLife Europe and Seas At Risk*























THE EEB'S ASSESSMENT OF THE ENVIRONMENTAL IMPACT OF THE ESTONIAN PRESIDENCY OF THE EU

July - December 2017

Based on the EEB's Ten Green Tests for the Estonian Presidency released in July 2017

*"Good on chemicals and Aarhus,
bad on climate and fisheries"*

Summary of the EEB's verdict on the ten green tests

	Effort	Outcome
1 - Make sustainable development central to the future of Europe		
2 - From better regulation to better governance		
3 - Fight Climate Change		
4 - Reform energy policy		
5 - Restore ecosystems and biodiversity		
6 - Transform agricultural policy		
7 - Support circular economy and waste policy		
8 - Protect the public from hazardous chemicals		
9 - Safeguard fisheries		
10 - Democratic governance		

INTRODUCTION

This is an assessment of the Estonian Presidency of the European Union by the European Environmental Bureau (EEB), the largest federation of environmental citizens' organisations in Europe, prepared in cooperation with BirdLife Europe and Seas at Risk

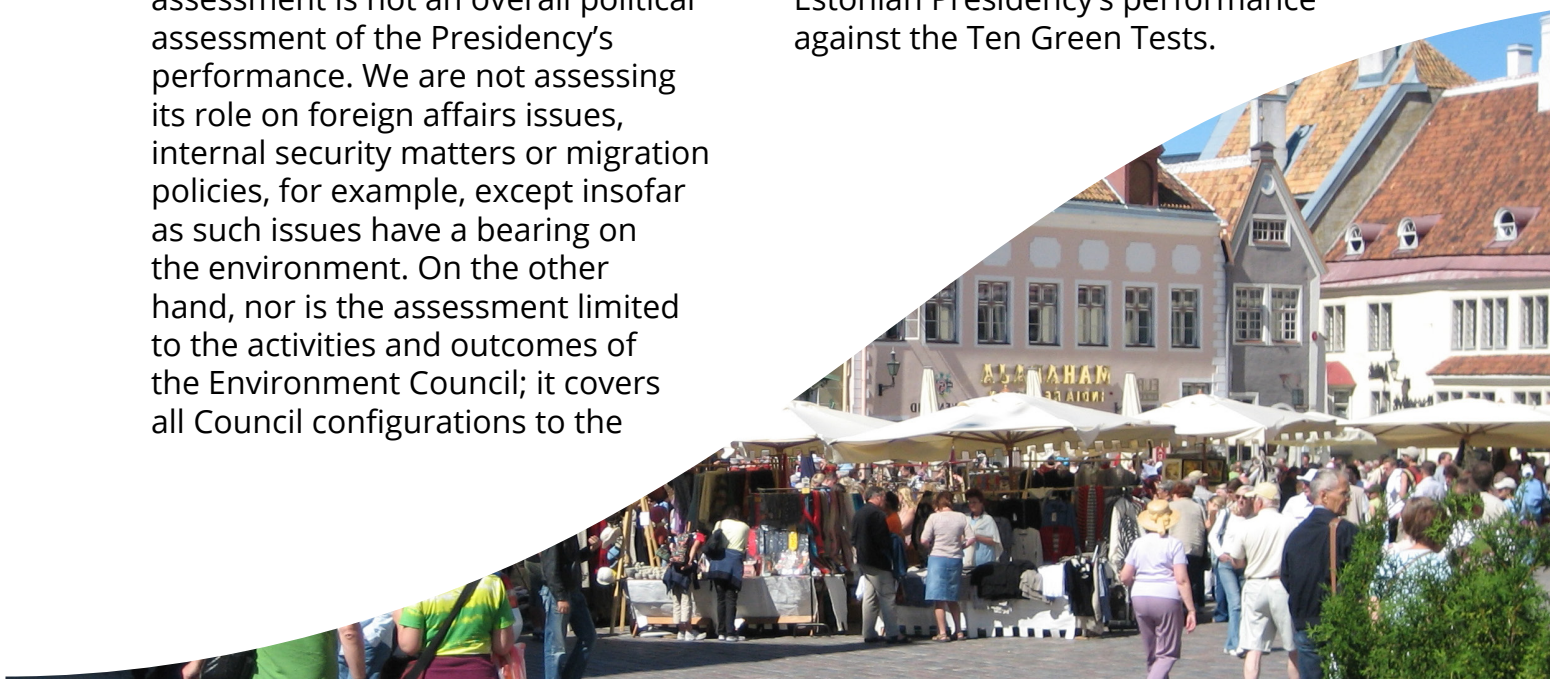
The six-month EU Presidencies are convenient periods over which progress on the EU's policies and legislation can be measured. We appreciate that a Presidency cannot make decisions on its own; it needs the cooperation of the European Commission, European Parliament and other Member States. But the Presidency can still have considerable impact and influence, for example through the way in which it chairs discussions, prioritises practical work and gives a profile to specific issues.

The assessment focuses on environment-related issues, a broad agenda comprising 'traditional' environmental issues as well as sectoral and horizontal policies with a direct or potential environmental impact, sustainable development and participatory democracy. Thus the assessment is not an overall political assessment of the Presidency's performance. We are not assessing its role on foreign affairs issues, internal security matters or migration policies, for example, except insofar as such issues have a bearing on the environment. On the other hand, nor is the assessment limited to the activities and outcomes of the Environment Council; it covers all Council configurations to the

extent that they deal with topics that affect the environment. Our assessment is based on the Ten Green Tests we presented to the Estonian Government at the start of its Presidency in June 2017.

At the outset, we would like to acknowledge and express our appreciation for the open and cooperative approach adopted by the Estonian Presidency, which was demonstrated among other things by the Environment Minister's willingness to meet the EEB Board in June within the first week of taking up his position and to proceed with the traditional meeting with the Green 10 in December despite the cancellation of the December Council meeting which it would normally precede.

In the following pages, we assess the Estonian Presidency's performance against the Ten Green Tests.





OVERVIEW

The Estonian Presidency pushed hard to complete the negotiations on legislative files in two important areas, namely waste and climate/energy, and for the most part succeeded, though with the content of the deals leaving much to be desired. While Estonia made good use of its Presidency to promote circular economy concepts, e.g. through Council Conclusions on eco-innovation, the outcome on the revision of the waste legislation was disappointing, with weak provisions on prevention, recycling and extended producer responsibility only being marginally offset by stronger provisions on mandatory separation of materials.

Concerning the 2030 climate package, the conclusion of the negotiations on the EU Emissions Trading System post-2020, the new rules for accounting of Land Use, Land Use Change and Forestry (LULUCF) and the provisional agreement on the Effort Sharing Regulation constituted important milestones in finalising the legal framework but their levels of ambition fail to live up to the requirements of the Paris Agreement. On the energy files of the Clean Energy for All Europeans Package, the Estonian Presidency achieved a positive outcome for the buildings sector but rushed through the general positioning in the rest of the files, leaving many questions and key decisions yet to be taken that are needed to bring our energy system on the right pathway to the energy transition.

The Estonian Presidency performed well in relation to chemicals and pollution, both externally (by coordinating the preparation of progressive input to Minamata CoP-1 and UNEA-3) and internally (e.g. by highlighting the interface between product, waste and chemicals policy and promoting transparency on hazardous substances in products). Less satisfactory was its performance in relation to fisheries, where the gap between current policies and what is required for sustainability remains large.

The Presidency deserves credit for its handling of a difficult situation with the Aarhus Convention. What should have been a relatively straightforward task of coordinating and representing the EU Member States at the sixth session of the Meeting of the Parties to the Aarhus Convention (MoP) turned into a politically charged exercise following the Commission's attempt to have a Compliance Committee finding of non-compliance by the EU rejected by the MoP. Although the outcome was far from satisfactory, Estonia's competent handling of the situation probably contributed to mitigating the damage, and its decision to keep the issue on its agenda by scheduling an informal follow-up meeting of Member State representatives was commendable.

The fact that Estonia made sustainability a priority of its EU Presidency was certainly positive and may have prevented back-sliding, but there is little evidence to suggest that this resulted in any shift in the top-level priorities of European leaders towards recognising sustainable development as the overarching principle for all development. The previously anticipated December Council Conclusions on the Future of the EU would have provided an opportunity to assess progress in that direction had they not been cancelled.

TEST BY TEST

1. PROMOTE A NEW VISION FOR EUROPE BASED ON SUSTAINABILITY

The test

- *Ensure that the December Council conclusions on the Future of the European Union promote a people-centred agenda of transformational change in the EU based on the global 2030 Agenda for Sustainable Development;*
- *Ensure that the Commission's Work Programme for 2018 follows up on the June 2017 Council conclusions on Agenda 2030 and implementing the SDGs by carrying out an in-depth gap analysis and putting in place a solid, transparent, participatory mechanism for implementing the Sustainable Development Goals within the planetary boundaries;*
- *Use available opportunities to ensure that in the preparation of the post-2020 multi-annual financial framework (MFF), the allocation of budgetary resources is fully consistent with the need to implement the 2030 Agenda for Sustainable Development, e.g. in formulating a position in relation to the Commission's recently published reflection paper on the future of EU finances;*
- *Share the Estonian experience in presenting a Voluntary National Review (VNR) at the UN High Level Political Forum (HLPF) on Sustainable Development last year, press the Commission to actively participate in this year's HLPF and to commit to present a first report on the EU's implementation of the SDGs in 2019 (in line with the June 2017 Council conclusions);*

The verdict

The current Commission's political priorities focus on issues such as security, borders, terrorism, jobs and growth without having a clear vision of how to achieve the transformational change needed to make Europe's future sustainable for all citizens within the planetary boundaries. The Council in its June conclusions has urged the Commission to elaborate, by mid 2018, an implementation strategy for Agenda 2030 with a timeline, objectives and concrete measures in all relevant internal and external policies and to identify existing gaps by mid-2018 to assess what more needs to be done on policy, legislation, governance structure for horizontal coherence and means of implementation. The fact that, more than two years after the adoption of 2030 Agenda, the EU still lacks both instruments is a clear reflection of the low priority given to sustainability issues. In his September State of the Union address, President Juncker again failed to even mention the 2030 SDG Agenda. The environmental pressures created by the EU's current economic model both inside Europe and on other parts of the world were not identified as key challenges to be addressed in the next years. The problem is not limited to the Commission: the Leaders' Agenda also neglects to refer to the 2030 Agenda or address environmental challenges with the exception of climate and energy.

The Estonian Presidency made sustainable development one of its priorities, namely to work towards "an inclusive and sustainable Europe" that "cares about and is committed to achieving a cleaner environment". Under the Presidency, the Council adopted a regulation establishing a European fund for sustainable development (EFSD) to make investments in African and neighbourhood countries. A series of events was held related to sustainable development such as the soil conference on sustainable food production, nature-based solutions to address various environmental

Positive on effort
Mixed on outcome



and social challenges as well as on smart solutions for sustainable and inclusive societies, and an informal multi-stakeholder workshop on implementing the 2030 Agenda and the SDGs in the EU.

Despite these efforts and achievements, the Estonian Presidency was neither able to add much momentum to the high-level political debate around Agenda 2030 nor to reach any new milestone. The Council conclusions on the Future of the European Union responding to Juncker's five scenarios that were expected to be adopted in December might have provided an opportunity to do so but were taken off the agenda.

Furthermore, it is not clear that the Estonian Presidency was able to exert much of a positive influence over the Commission with regard to sustainability issues. The Commission's Work Programme for 2018, adopted during the Estonian Presidency, does not adequately follow up on the June 2017 Council conclusions on the EU response to the 2030 Agenda. It neither foresees the much needed in-depth gap analysis nor a solid, transparent, participatory mechanism for the implementation of the Goals. It does foresee the issuing of a 'reflection paper' on the SDG follow-up within a 2025 perspective and continued work on sustainability within certain policy areas, such as circular economy or through an initiative on sustainable finance; however, the Work Programme is void of any new measure to take the various initiatives out of their silos and to start implementing Agenda 2030 through a holistic, inclusive and participatory approach.

So far, the Commission has not pledged to present a Voluntary National Review (VNR) at the UN High Level Political Forum (HLPF) on Sustainable Development on the EU's implementation of the SDGs in 2019 (in line with the June 2017 Council conclusions).

2. FROM BETTER REGULATION TO BETTER GOVERNANCE

The test

- *Ensure that the December Council Conclusions on the future of the European Union reflect a shift away from the current ideology-driven 'Better Regulation' agenda with its deregulatory bias and towards a balanced, evidence-based approach that fully recognizes the public benefits of regulatory action;*
- *Re-build confidence in Europe's regulatory systems by calling on the Commission to use the outcome of the environmental implementation review as the basis for developing new legislative and budgetary proposals aimed at strengthening inspection and enforcement capacities at EU and Member State level.*

The verdict

As mentioned above, the December Council Conclusions did not materialise and therefore the issue of better regulation could not be addressed in that context. However, in late November the Estonian Presidency succeeded in reaching a deal with the Parliament on the adoption of a decision repealing or amending outdated environmental legislation and clarifying environmental reporting obligations which is of obvious relevance here, though the impact of the deal will need to be monitored closely.

The Estonian Presidency does not appear to have given particular priority to promoting measures aimed at strengthening inspection and enforcement capacities, nor to the Environmental Implementation Review (EIR) process, e.g. by putting it on the Council agenda as the Maltese Presidency did. It has however addressed the issue at other levels. For example, it

Mixed on effort

Mixed on outcome

provided input to the Expert Group on Greening the Semester and EIR in September and to a European Parliament debate in November. In the EP debate, in an intervention that was broadly supportive of the EIR and the Council's structured engagement in it, the Estonian Presidency representative encouraged other countries to organise action-oriented country dialogues and to hold forward-looking debates on environmental challenges – Estonia having been one of a small number of Member States to have carried out national dialogues on the EIR in 2017. It urged that such dialogues be inclusive and that the relevant stakeholders have an opportunity to contribute as appropriate, while cautioning that a disproportionate administrative burden be avoided if broadening the scope of the EIR is considered.

3. FIGHT CLIMATE CHANGE

The test

- *Ensure the environmental integrity of the EU climate objective for 2030 having in mind the need to bring the EU's contribution in line with the Paris commitment to pursue efforts to limit global warming to 1.5°C above pre-industrial levels. This requires a push for strengthened targets of at least 60% greenhouse gas emission reductions, 40% energy savings and 45% renewable energy by 2030*
- *at the latest, and that EU upgrades its policies by setting out a path to net zero emissions by 2040;*
- *Support consistent, transparent and reliable climate action enshrined in the Emissions Trading System, the Effort-Sharing Regulation and a separate pillar for Land Use, Land Use Change and Forestry (LULUCF), which should ensure that efforts required by the agriculture sector are not watered down but rather lead to a strengthening of climate ambition.*

The verdict

The 2030 climate package closed the inter-institutional negotiations during the Estonian Presidency but the outcome fails Europe's commitment to the Paris Agreement and as a global leader on climate action, due both to the lack of ambition in the initial

Mixed on effort

Negative on outcome

Commission proposals and to the massive resistance from Member States to improve the ambition level.

The October Environment Council agreed the Member States' negotiation position (general approach)

for both the Effort Sharing Regulation and the greenhouse gas accounting concerning EU forest and land management (LULUCF).

Regrettably, the Council's position did not improve the Commission's proposal but rather watered it down by including a new loophole in the **Effort Sharing Regulation** which would allow some countries to carry over surplus allowances from the current commitment period. The Estonian Presidency swiftly started the trilogue on the Effort Sharing Regulation and reached a provisional political agreement by the end of the year. The Agreement means the EU has set out on a path missing the 2030 30% greenhouse gas reduction target by up to 5 percentage points because of the structural surplus created by the change of the starting point. The proposal by the European Parliament sought to reduce this surplus but was not fully taken on board. The formal acceptance of the agreement is due under the Bulgarian Presidency in early 2018.

Also on **the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry (LULUCF)** into the 2030 climate and energy framework, the Estonian Presidency has started and closed the inter-institutional negotiations in the trilogue after achieving the general approach in October. Also here, the Member States sought a weakening of the rules which underpin the need to agree on more stringent rules in the recast of the Renewable Energy Directive (REDII) as clearly the LULUCF regulation will not be able to effectively discourage an increase in emissions from biomass energy use, and other policies (like restricting subsidies from burning of whole trees) are needed to minimise negative impacts. The "no-debit rule" stipulating that the total emissions from forests and land-use must not exceed the CO₂

removals deriving from forest harvesting or land-use change can be seen as step forward, as well as the mandatory inclusion of managed wetlands, which will be phased in and become mandatory from 2026 onwards. Environmental civil society organisations and the scientific community will closely scrutinise the mandate for the Commission to make a proposal to ensure that the 40% reduction target is maintained as well as the delegated act defining the forest management reference levels.

On the reform of the **Emissions Trading System** the Estonian Presidency managed to close the trilogue negotiations after more than six months of discussions just in time for the UNFCCC international climate conference in Bonn (COP 23). The final agreement was carried by the majority of the Member States, with only three countries rejecting or abstaining on the final outcome.

Unfortunately, the agreement gives only partial hope for a stronger climate action framework. While future investments under the Modernisation Fund will not go into solid fuels, funds under the so-called Article 10c, which provide transitional investments for poorer EU member states, could still create climate-harmful funding for coal.

A welcome result is the mechanism to permanently delete surplus allowances within the market stability reserve. Due to this provision around 2-3 billion surplus allowances will be cancelled until 2030.

The reform is still failing to bring Europe's ETS system in line with the Paris Agreement and will fail to create the economic incentives for the heavy industry within the ETS to invest into accelerated decarbonisation in the next decade. It will be essential to develop additional measures at EU and national level to make up for this lost decade.

4. REFORM ENERGY POLICY

The test

- Put Energy Efficiency first in the revision of the Energy Efficiency Directive (EED) and the Energy Performance of Buildings Directive, taking into consideration the full body of evidence on the multiple benefits of energy efficiency and the position of the European Parliament as co-legislator calling for a binding 40% energy efficiency target with individual national targets, and ensure consistency and strengthened energy savings measures in Article 7 of the EED ;
- Guide the Council discussions on how to operationalise the objective of EU-wide nearly Zero Energy building (nZEB) stock by 2050 in the Energy Performance of Buildings Directive;
- Make sure that the ecodesign and energy labeling implementing measures for priority products, namely electronic displays, washing machines, dishwashers, refrigerators-freezers and lamps are finalized or at the very least ready to be voted/ adopted, and that unduly delayed measures on commercial refrigeration, motors, fans and pumps are effectively processed by the Commission and not stalled without valid justification and calendar commitments;
- Support measures that facilitate an energy transition to 100% renewable energy such as cutting all subsidies to fossil fuels, increasing the renewables target for 2030 to 45%, continuation of the current national binding targets also for 2030 with a linear trajectory and continuation of existing support provisions including priority dispatch and access to the grid for renewable energy, while ensuring that those renewable energy sources which are promoted are genuinely sustainable and are located and constructed in a way that minimises environmental impacts together with an interconnected and more flexible grid.

The verdict

Mixed on effort
Mixed on outcome

The Estonian Presidency was faced with a great challenge consisting of the need for in-depth discussions of key files of the Clean Energy Package, some in the early and some in the late stages of the EU lawmaking process. Unfortunately, the Estonian Presidency prioritised quantity over quality which led to ambiguous positions being adopted on key files like the Electricity Market Regulation. This led to an overall negative outcome for the majority of the files in the Clean Energy package. The last minute agreement on the Energy Performance of Buildings Directive in the trilogue, taking on board key elements of the European Parliament's position, gives hope for a positive outcome under the upcoming Bulgarian Presidency and justifies a mixed assessment of the outcome.

On Ecodesign and Energy labelling policy implementation, nothing happened during the Estonian Presidency. Though the power of initiative is not with the Presidency we could not notice any pressure by the Presidency to unlock the situation despite ecodesign and energy labelling policy fitting well with the eco-innovation agenda which the Presidency was promoting.

On the Energy Efficiency Directive, again nothing happened during the Estonian Presidency as the European Parliament decided to wait for the outcome of the vote in plenary before giving a mandate to the rapporteur.

On the Energy Performance of Buildings Directive, the Estonian Presidency was able to start the informal trilogue negotiations as the European Parliament gave a mandate to the rapporteur after the successful vote in the ITRE Committee in mid-October. The Presidency showed promise by facilitating both technical talks as well as discussion on COREPER and trilogue level, but relating to content provided very little support for finding balanced compromises. Key aspects like the long-term renovation strategies and the clarification of the energy needs in Annex 1 of the Directive have received insufficient attention and political priority. On these and many other aspects the European Parliament agreed on significantly more ambitious positions than the Council in its June General approach. Unfortunately, the Presidency lost time in the first meetings as the large disparity was not taken into consideration in the preparations. In the end, the deal struck in the last working days before the end of the Presidency incorporated key elements of the European Parliament's position such as the transition to a nearly-zero energy buildings stock by 2050 and a structured implementation taking into account national specific trigger points but failed on including binding milestones for 2030.

The agreement of the Council on its general approach

for the future of EU Electricity Markets did not reflect the urgency to act on climate change and the ongoing fast developments in the electricity sector. The Council's decision to allow a continuation of State subsidies for fossil fuels while holding back renewable energy deployment by citizens is at odds with the requirement of the Paris Agreement. It was worrying to see the Presidency among those countries including Germany, Italy, Spain and the UK to fail to speak up in opposition to coal subsidies.

On the recast of the Renewables Directive the Estonian Presidency worked on achieving a general approach at the December Energy Council. The Presidency did not take a strong enough position on renewable energy, allowing Member States to push back on the level of the 2030 target, national binding targets and priority dispatch. In particular, removing the binding targets at national level has simply resulted in a target that would not be enforceable. Current proposals in the Presidency compromise texts are not consistent with the EU's commitments under the Paris Agreement and would put the brakes on the transition to a clean, efficient and just energy system. There has been no discussion within the Council about minimising the environmental impacts of the energy transition (beyond biomass sustainability). There is a serious and urgent need to improve key elements of the Market Design Initiative, the Revised Renewable Energy Directive (REDII) and the Governance Regulation. The general approach achieved in December gives Member States too much leeway and possibility to delay a swift implementation by deviating from the linear trajectory. Also, the 'at least' 27% target constitutes a step backwards from the current speed of renewables deployment.

The Estonian Presidency's handling of the issue of bioenergy and the lack of provisions ensuring the sustainability of bioenergy could result in harmful outcomes for the environment and the climate. Some Member States continue to support targets for renewable heating and transport that could drive increased use of unsustainable biomass (such as certain crop-based biofuels or woody biomass). These targets should be avoided. Furthermore, there is a risk of a high cap (7%) being set on crop-based biofuels, which would allow far too high use of these feedstocks with consequent damage to the environment. Attempts by Member States to water down sustainability criteria on bioenergy are of great concern, whether around the threshold for requiring plant to be combined heat and power (which should be set as low as possible) or lowering the level of greenhouse gas emissions savings that bioenergy plant must achieve.

5. RESTORE ECOSYSTEMS AND BIODIVERSITY

The test

- Use the EU Action Plan for Nature, People and the Economy as an opportunity for scaling up efforts towards full and effective implementation of the nature directives, and take all measures needed to keep up momentum throughout and beyond its Presidency;
- Support any additional fast-track measures proposed by the Commission to meet the Biodiversity Strategy's headline target, such as an EU initiative on pollinators;
- Push for securing predictable, adequate, regular and targeted EU financing for biodiversity and Natura 2000 in the next multiannual financial framework (MFF) including through a ten-fold increase in the LIFE Fund;

The verdict

The Estonian Presidency hosted a conference on Nature-Based Solutions (NBS): From Innovation to Common-use in October, thus making a contribution to knowledge-sharing on such biodiversity-friendly approaches to achieving objectives such as flood water management and climate change mitigation and adaptation. Designed with biodiversity in mind, NBS can deliver benefits for nature, helping to avoid the additional pressures that their grey infrastructure alternatives would most likely have led to.

It is also worth noting that Estonia has agreed to a dedicated bilateral meeting with the Commission in Estonia in 2018 as part of an effort to address challenges in implementing the Birds and Habitats Directives (Action 5 of the EU Action Plan for Nature,

People and the Economy) thus showing its willingness to engage in the implementation of the Action Plan.

The Estonian Presidency does not seem to have undertaken sufficient activities to ensure a better financing of biodiversity in the next MFF despite the strategic timing of its Presidency with regard to the elaboration by the Commission of its proposals for the future MFF. While the Commission published the roadmap for its long-awaited pollinators initiative during the Estonian Presidency against the backdrop of mounting evidence that a dramatic decline in insect numbers has taken place in Europe over the last few decades, it is not clear whether the Presidency has played any specific role in this development.

Mixed on effort

Mixed on outcome

6. TRANSFORM AGRICULTURE POLICY

The test

- Continue the debate on the future of the CAP and EU food policy, taking into account the outcomes of the EC public consultation on the modernisation and simplification of the CAP, in a more inclusive manner, including by seeking input from environmental NGOs into discussions on the future CAP at the informal Agriculture Ministers' meeting;
- Focus the CAP simplification debate on outcome and what the new CAP delivers on the ground, including in relation to the achievement of nature conservation objectives, rather than on its administrative burden;
- Following the European Parliament's adoption of its position on the omnibus and in particular the agriculture part, ensure that the negotiations do not result in a further watering down of the existing greening and that they are limited to the scope of the Commission's proposals.

The verdict

The Estonian Presidency continued the debate on the future of the CAP but not with the same intensity as some of the previous Presidencies; it put the focus on risk management while not pursuing the idea of a food policy launched under the Dutch Presidency. The format of the Informal Meeting of Agriculture Ministers was very much business as usual and did not allow for stakeholders outside the usual European

farming unions to present their views ahead of the meeting. It also did not properly take into account the outcomes of the public consultation on the future of the CAP.

The Presidency organised an exchange of views on the SDGs and the future CAP in its October Council meeting but the debate was oriented around the current CAP architecture and did not really leave

Mixed on effort

Negative on outcome

space for a debate on a more modern forward-looking food policy. It is positive that the Presidency created informal platforms for discussions on future CAP and other agriculture-related issues, namely the conference “CAP 2020: Towards sustainable agriculture”, co-organised by the Estonian Fund for Nature and a “Soil for sustainable food production and ecosystem services” conference.

As regards simplification, unfortunately the Presidency did not manage to avoid the debate being solely focused on administrative burdens (without making the link to the delivery). On the omnibus legislative texts, it failed to limit the changes to the scope of the Commission's initial proposals, letting the greening be seriously further watered down and accepting a lot of the very damaging proposals from the Parliament.

7. SUPPORT THE CIRCULAR ECONOMY AND WASTE POLICY

The test

- *Finalise the waste policy revision, encompassing the setting of quantitative and qualitative waste prevention targets and measures with associated methodologies before 2020, the alignment with the preparation for reuse and recycling targets set by the Parliament, the harmonized minimum requirements for establishing extended producer responsibility (EPR) schemes, the setting of targets for commercial and industrial waste and the revision of ecodesign policy and essential packaging requirements to lever waste minimization through product and material design;*
- *Promote as part of the Presidency ‘eco-innovation’ initiative a proper implementation of the Circular Economy Action Plan, notably the design of a coherent product policy framework based on a set of criteria defined at the EU level to be applied in ecodesign, EPR, green public procurement (GPP) and Ecolabel policies, with binding targets for the implementation of GPP at the national level, and more emphasis on the role of Ecolabel in establishing benchmark products for a dynamic market transformation;*
- *Ensure that the Commission delivers on ecodesign implementing measures, notably those suffering from unjustified delays and presenting obvious resource-saving potential, such as electronic displays, white goods, commercial refrigeration, taps and shower heads;*

The verdict

Unfortunately the Estonian Presidency did not come up early enough with a solid and unified Council position regarding the Waste Legislative Package. While the attempt by the Estonian Presidency to reach compromises and avoid reinforcing the gap between more and less advanced Member States must be acknowledged, it did not involve the ministerial level in the debate, which could possibly have helped in solving divergent views at a more political level. This resulted in serious delays. However, the file was concluded and this is worth highlighting. We nonetheless regret that this happened through watering down the overall ambition compared to the European Parliament proposals, or even the initial Commission proposal. Notably, no strong binding provisions survive on prevention, and recycling targets have been watered down for packaging and postponed by five years for municipal waste. On the positive side, the new text includes stronger provisions on separated collection of different materials, including biowaste, textiles and waste oils. However, the Presidency failed to deliver on a more harmonized EU provision for full cost coverage by polluters under extended producer responsibility and neglected commercial and industrial waste reduction and recycling targets.

The Estonian Presidency brought high-level political attention to the topic of eco-innovation by putting the issue on the agenda of the Informal Environment Council and followed up by tabling ambitious

Mixed on effort

Mixed on outcome

proposals for Council Conclusions on eco-Innovation enabling the transition towards a circular economy. The finally adopted version calls on the Commission to present options and actions with a view to a more coherent product policy framework at EU level, emphasizes the need to apply product sustainability and circularity criteria across different instruments and acknowledges that information about substances of concern contained in products as well as better use of digital tools to increase information on product sustainability and circularity are needed. These directions are promising.

However, the Estonian Presidency did not have any significant impact on speeding up the delayed work of the Commission on product-related implementing measures under the Ecodesign Directive and consequently could not help unleash resource-saving potentials through product policy. 2017 ended as the first year without having any new or revised regulations being adopted to increase minimum energy and resource efficiency performance standards for energy-related products being sold on the European market.

Nor did the Estonian Presidency succeed in triggering EU wide initiatives on other sectors, beyond electric and electronic equipment (e.g. furniture, textiles), making their laudable proposals on product policy and circular economy unlikely to create any positive legacy.

8. PROTECT THE PUBLIC FROM HAZARDOUS CHEMICALS INCLUDING MERCURY

The test

- *Encourage the Commission to develop a new strategy for a non-toxic environment that builds on a strengthened implementation of REACH, fills regulatory gaps such as on nanomaterials and mixture effects, and sets out a way forward following the fitness checks of REACH and all other EU Chemical safety legislation;*
- *Ensure that the Commission develops scientific and horizontal criteria for the identification of endocrine-disrupting chemicals (EDCs) that are consistent with the EU identification system for CMRs (carcinogenic, mutagenic, or toxic for reproduction) and are protective enough to catch all EDCs to which the public and the environment are exposed;*
- *Maintain EU leadership in relation to the Minamata Convention on Mercury by working towards establishing an effective international operational framework to achieve significant mercury reductions, ensuring swift ratification of the Convention by the remaining EU Member States and promoting further actions to address mercury pollution in the EU;*

The verdict

At its meeting in October, the Council adopted conclusions on the EU priorities for the third meeting of the United Nations Environment Assembly (UNEA) where it reaffirmed its commitment to the 2030 agenda and its sustainable development goals (SDGs); recognized that pollution is a pressing global challenge; called on UNEA to increase hazardous chemicals knowledge, encourage the exchange of information on chemicals in products and replace hazardous chemicals with safer alternatives; and recalled and reaffirmed the need for the effective application of the precautionary and the polluter-pays principles. It called upon UNEA to decide upon concrete measures to deal with specific issues such as endocrine disruptors.

Within the Estonian Presidency's environmental priority on promoting eco-innovation, the Council was very good on setting a new agenda on product transparency to be used by consumers, explicitly mentioning transparency on hazardous substances in products, the plastics value chain and recycled materials. The Presidency also presented a concrete idea for product passports. This is an important step forward to achieving non toxic environment goal. Another important priority for the Estonians was the chemicals/products/waste interface within the circular economy.

The Estonian Presidency contributed to a high-level

Positive on effort

Negative on outcome



event on «Towards a Pollution-Free Planet» that took place on October in the European Parliament. The Presidency also hosted the live broadcast called “NonHazCity: key findings from the hazardous substance screening in the Baltic Sea region”. The Presidency organized a Risk Management Expert Meeting and was very active on negotiations on limiting cadmium in fertilisers.

However, the Estonian Presidency did not work on the regulatory gaps on nanomaterials, but rather encouraged its development as a new revolutionary technology in several events.

On mercury, the revised EU regulation on mercury was finally adopted and signed by the institutions on the 17 May 2017. The Council decision for the EU ratification of the Minamata Convention was also adopted in April. As a result the EU with seven Member States deposited the ratification instruments to the UN on 18 May, triggering the entry into force of the Treaty. We congratulate Estonia for also ratifying the Convention, leading the EU into the first COP in September. The EEB and the Zero Mercury Working Group welcomed the intervention of the EU at the meeting where it put forward and defended positions which were in line with our positions and that led them to be adopted by COP1.

9. SAFEGUARD SUSTAINABLE FISHERIES

The test

- *Ensure that the North Sea Multi Annual Plan supports the objectives of the reformed Common Fisheries Policy (CFP) and, in particular, that fishing rates are set below the maximum rate of fishing mortality FMSY in order to provide at least a chance to restore and maintain fish stocks above levels capable of producing the maximum sustainable yield;*
- *Ensure that the final agreed Technical Measures Regulation: is based on a European framework of principles and requirements; supports the objectives of the Natura 2000 network and other Marine Protected Areas; does not provide permission to conduct previously prohibited, destructive fisheries; leads to the avoidance or at least the minimisation of unwanted catches including through tactical selectivity measures; and minimises the ecosystem impact of fishing in general, including on seabirds;*
- *Ensure that the fishing opportunities for 2018 are set below the exploitation rate that corresponds with FMSY in order to achieve the main CFP objective to restore and maintain stocks above biomass levels that can deliver Maximum Sustainable Yield;*

The verdict

North Sea MAP: The Council General Approach was adopted in March 2017, before the Estonian Presidency. The agreement includes fishing mortality upper ranges that exceed FMSY and the MSY objective does not apply to all stocks included in the plan. The agreement contains references to the MSFD, but not to the Nature Directives or other environmental legislation. The trialogue only started in November 2017.

Technical Measures: The Council General Approach was adopted in April 2017, before the Estonian Presidency began. The Estonian Presidency did not try to improve the text. The agreed text does not set EU-wide targets for reducing catching of juvenile fish (i.e. the reduction of catches below minimum conservation reference size), does not ensure that management measures to tackle seabird bycatch will be identified and set in every sea basin, and has weakened the requirement to assess joint recommendations for innovative gear and general measures by the Scientific, Technical and Economic Committee for Fisheries (STECF). The trialogue has not started under

Negative on effort

Negative on outcome



the Estonian Presidency as the Parliament is set to only adopt its final position in plenary in January 2018.

Fishing Opportunities: The Fisheries Council decided on Baltic TACs for 2018 in October 2017. The Council did not follow the scientific advice for all stocks, agreeing on fishing limits above MSY for plaice and eastern Baltic cod. Further, the Council did not agree on closing the eel fishery as proposed by the Commission, but instead decided to postpone any decision to the December Council meeting. In December, a ban on eel fisheries was rejected again and only weak and insufficient measures were agreed. The December Council further agreed on 2018 TACs for the North-East Atlantic, and although the number of stocks for which the fishing limits are set at maximum sustainable yield levels increased from 44 to 53, this is still only two thirds of the MSY assessed stocks and less than half of the TACs agreed for the North-East Atlantic. In summary, progress was made on fishing opportunities, but too little to meet the 2020 objectives of the CFP.

10. STRENGTHEN DEMOCRATIC GOVERNANCE

The test

- *Seek to attempt to restore confidence in Europe's regulatory systems following the 'dieselgate' scandal by calling on the Commission to come forward with new legislative proposals on environmental compliance assurance, aimed at strengthening inspection and enforcement capacities at EU and Member State level;*
- *Push the Commission to come forward with ambitious interpretative guidance followed by a new legislative proposal on access to justice and to respond positively to the draft findings of the Aarhus Convention Compliance Committee issued in June 2016 to the effect that the EU is not in compliance with the Aarhus Convention by starting to prepare proposals to strengthen the Aarhus Regulation.*

The verdict

Positive on effort

Mixed on outcome

The key issue in this area was the EU's reaction to the Aarhus Convention Compliance Committee's finding in March 2017 that the EU was not in compliance with the Convention due to the insufficient access to justice at the level of the EU institutions. On the eve of Estonia taking over the EU Presidency, the European Commission dropped a bombshell with a formal proposal for a Council Decision calling on the Aarhus Meeting of the Parties (MoP), due to convene in Montenegro in September, to reject the Committee's finding of non-compliance – something completely unprecedented, as the Compliance Committee's findings of non-compliance have always been endorsed by the MoP since the Committee was established in 2002.

Member States had very little time to react, given the impending summer break. Two working days after the Commission proposal and on the first working day of its Presidency, Estonia chaired the Council Working Party on International Environmental Issues which included, during a break from the formal business, a meeting with the EEB, ClientEarth and others to debate the issue with the Commission. To its credit, over the following couple of weeks, the Estonian Presidency presided over the preparation and adoption of a Council Decision which effectively rejected the Commission position. Amending the Commission proposal required achieving unanimity

among the Member States, which was an impressive achievement, gained however at a high price, in that the resulting EU position was still very problematic and if accepted by the MoP would have seriously undermined the compliance mechanism and thus the Convention itself.

Fortunately the EU position was not supported by a single other Party or stakeholder at the MoP and the resulting stand-off led to the issue being postponed for four years. While this was hardly a good outcome, far worse outcomes (e.g. the Commission's initial position being supported by the Council or the EU position being imposed on the other Parties through forcing a vote at the MoP) were avoided and the efforts of the Presidency clearly played an important role in limiting the damage posed by the Commission's stance.

Furthermore the Estonian Presidency convened an 'informal Aarhus WPIEI workshop' in late November to look at lessons from the MoP in relation to the finding of non-compliance against the EU, review the current situation and then kick off discussions on next steps. Although there is no public summary of this meeting, the fact that the Presidency chose to convene such a meeting to try to move the process forward is again to its credit.



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