



THE EEB'S

ASSESSMENT

OF THE ENVIRONMENTAL PERFORMANCE OF
THE **PORTUGUESE PRESIDENCY** OF THE EU



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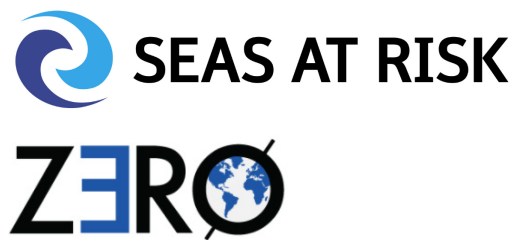
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We are Europe's largest network of environmental citizens' organisations. We bring together over 170 civil society organisations from more than 35 European countries. Together, we work for a better future where people and nature thrive together.

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Introduction

This is an assessment of the Portuguese Presidency of the Council of the European Union by the European Environmental Bureau (EEB), the largest network of environmental citizens' organisations in Europe, with thanks for inputs from Seas At Risk and ZERO, supported by other Portuguese EEB Members GEOTA, Quercus and LPN, and signed off by the EEB Board from across the EU. Our mandate encompasses all 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.

We view the six-month Council Presidencies as convenient periods over which to measure progress on the EU's environment-related policies and legislation. 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. Nonetheless, the Presidency can still have considerable impact and influence, for example through the priority and profile it gives to specific issues and through the way in which it chairs discussions, prioritises practical work and engages with other Member States to enable progress.

Success depends on the willingness of Member States to commit – as has been seen in the difficult decisions in the development of the National Recovery and Resilience Plans Package and earlier negotiations on the

-55% climate target – as well as on political will, ideas, and the use of political capital to achieve results. In addition, policy agendas are often highly affected by external events and new Commission priorities, as was the case with the Corona crisis. Our assessment therefore focuses both on effort and result.

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 direct bearing on the environment. On the other hand, the assessment is not 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, as well as the European Council, which is formally not under the Portuguese Presidency responsibility, but where the Presidency plays an important role. Our assessment is based on the [Ten Green Tests](#) we presented to the Portuguese Government at the start of its Presidency on 1 January 2021.

At the outset, we would like to acknowledge and express our appreciation for the open and cooperative approach adopted by the Portuguese Presidency. Its engagement with civil society has been welcome in these times where civil society roles have eroded in other parts of Europe



Jeremy Wates
Secretary General


Ten Green Tests for the Portuguese Presidency: Assessment

‘Good results on chemicals policy, while disappointing on agriculture, and, despite efforts, insufficient progress on climate.’

Politics is the art of the possible. However, if and where the possible does too little to avoid dramatic climate change, halt catastrophic biodiversity loss, reduce pollution exposure, or improve governance systems in a way that gives confidence in our governments, institutions and future, then we cannot assess the progress to be good, despite efforts. In times of climate and biodiversity crises, and stark evidence of pollution impacts on health, Council Presidencies (and other

leaders) need to make considerable additional efforts to change what is perceived as possible to align with what is needed. It is in this light of both effort and impact in the context of needs, that we have assessed the performance against the Ten Green Tests.

On the Portuguese Presidency’s performance against the Ten Green Tests, item-by-item, we reached the following conclusions:

		Effort	Outcome
	1 Drive a just transition to a sustainable and resilient Europe		
	2 Catalyse the green transition through tax reform and use of the MFF and Recovery Package		
	3 Address the climate emergency and promote sustainable mobility		
	4 Reverse the dramatic loss of biodiversity and invest in the resilience of our ecosystems		
	5 Initiate a transition towards sustainable food and agriculture		
	6 Promote a zero-pollution ambition - clean water and clean air for all		
	7 Clean up industrial production: towards a circular, decarbonised and zero pollution industry		
	8 Call for a toxic-free environment and an ambitious implementation of the Chemicals Strategy for Sustainability		
	9 Strengthen accountability and rule of law		
	10 Promote European solidarity, wellbeing, and social and environmental justice		



1 Drive a just transition to a sustainable and resilient Europe

The verdict

Mixed on effort

Mixed on outcome

The [first Green Test](#) asked the Portuguese Presidency to help implement a transformative European Green Deal (EGD) at the heart of the Corona crisis response; to strengthen the 8th Environment Action Plan (8EAP); to insist on sustainable trade that is EGD-compatible; to promote coherence with the EGD in EU Accession and Neighbourhood countries; and to implement the Sustainable Development Goals (SDGs).

Key developments

- During the six month period, there was an ongoing roll-out of EGD dossiers for attention by the Council Presidency, including the [Climate Adaptation Strategy on 25 February](#); the [Better Regulation communication on 29 April](#); the [Zero Pollution Action Plan \(ZPAP\) on 12 May](#); and the [revised Industrial Strategy on 5 May](#). These and others complemented dossiers already launched in 2020 (see thematic chapters for details). This created a significant workload for the incoming Portuguese Presidency.
- The Council advanced its positions on several EGD initiatives through the various Council formations, including the Environment Council (e.g. agreed Council Conclusions on the EU Chemicals Strategy for Sustainability and the EU Strategy on Adaptation to Climate Change), Agrifish Council (on the Common Agricultural Policy and Common Fisheries Policies), and Transport, Telecommunications and Energy Council (e.g. agreed Council conclusions on the EU Renovation Wave and ministers agreed on a general approach on the proposed revision of the Regulation on Trans-European Networks for Energy (TEN-E)).
- The Environment Council adopted its mandate for negotiations on the 8th Environment Action Programme on 17 March 2021.
- During the Portuguese Presidency, there were two rounds of negotiations to modernise the Energy Charter Treaty.
- On 22 June, the Council published conclusions on the Commission staff working document on the SDGs.

Good

- Member States asked the Commission to carry out a mid-term review of the 8EAP in 2024, followed by a legislative proposal in 2025, amending the 8EAP, in order to allow the co-legislators to add the necessary actions to be taken from 2025 to 2030. The Council also added a requirement for the Commission to annually take stock of the progress achieved and to present a list of actions it has taken and the actions it plans to take to implement the priority objectives. This will make it more of an action programme and less simply a monitoring EAP.
- The Council Conclusions on the SDGs had positive outputs, including calling on the Commission for the reinstatement of a formalised consultation mechanism and a comprehensive review at the 2023 High Level Political Forum.

Less good

- While the Energy Charter Treaty (ECT) was discussed by governments in the context of the modernisation process, Portugal was not proactive and failed to embrace the need to withdraw from the Treaty. The ECT gives unbalanced power to industry to challenge government regulation on climate and environment, which fundamentally contradicts the need for climate neutrality and the fulfilment of the EGD.
- While the Portuguese Presidency has advanced well with the EGD files, particularly given constraints through Covid-19, they often prioritised getting an agreement rather than the best agreement (see the Ten Tests below).

Overall, the Portuguese Presidency took its role in advancing the dossiers of the EGD, 8EAP and SDGs seriously, still enabling progress despite Covid-19 restricting the possibilities for physical meetings, but missed an opportunity for progress with the Energy Charter Treaty. Across the asks within the first of the Ten Tests, the effort was mixed and the result mixed.



2 Catalyse the green transition through tax reform and use of the MFF and Recovery Package

The verdict  Good on effort  Mixed on outcome

This [second test](#) called on the Presidency to reform taxation to guide the market towards carbon-neutrality and to lead by example in prioritising the EGD in the Partnership Agreements and in National Recovery and Resilience Plans (NRRPs).

Key developments

- Advances on the reform of taxation have largely been internal to the Commission in its preparation of the Fit for 55 package, though there has been a discussion by finance ministers on the Carbon Border Adjustment Mechanism (CBAM).
- The Council and the European Parliament reached a political agreement on revised road charging rules (Eurovignette Directive) on [16 June](#), *inter alia* addressing greenhouse gas emissions and other environmental impacts, congestion and road infrastructure financing.
- During the Portuguese Presidency, almost all Member States finalised their National Recovery and Resilience Plans (NRRPs) for submission to the European Commission. Governments finally approved the Own Resources Decision that will allow the European Commission to borrow money on financial markets for the Next Generation EU recovery plan.
- According to the [Green Recovery Tracker](#), many NRRPs risk missing the 37% climate spending target; this contrasts with the Commission assessment that all agreed NRRPs meet that requirement. Most recovery plans are not sufficiently aligned with the EU's new 2030 climate target, are not used to accelerate the climate transition in line with the new target, and missed opportunities to invest in nature protection and restoration. The civil society site [EU Cash Awards](#) also underlines very mixed practice, with many missed opportunities for progressive funding.
- While there have been some commitments to assess subsidies and have national green tax expert groups, the opportunity to commit to green tax reform and wider reforms of economic signalling through green public procurement has largely been missed.

Good

- **Carbon Border Adjustment Mechanism (CBAM)** was a topic of importance for the finance ministers in the Council and Portugal openly talked about the importance of the mechanism and the need for strong fiscal mechanisms to allow for EU competitiveness. A strong CBAM should make it easier to have higher ambition in the Fit for 55 measures.
- Political agreement was reached on revised road-charging rules under **the Eurovignette Directive**. A new EU-wide tool will be introduced, creating common rules to be adopted where Member States choose to use road pricing. If so, they have to vary infrastructure and user charges for heavy-duty vehicles based on their CO₂ emissions. Charges for air pollution will become mandatory for heavy-duty vehicles after a four-year transition period during which tolls are applied. Variation of tolls or user charges based on **environmental performance** will apply to vans and minibuses from 2026, where technically practicable.
- Despite significant drawbacks (see below), the **Portuguese NRRP** has the potential to make a positive contribution to the green transition, depending on its implementation. Good measures include investments for industrial decarbonization, public transport (within Portugal), and energy efficiency. There was a spending commitment for forest management and cultivation though this is less than what is needed. Overall, the public participation process in Portugal has been handled better than in other Member States as the government made the draft plan available on the internet and launched a two-week public participation. This was too short for full engagement, but better than many other Member States.

Less good

- Portugal presented its first recovery plan already in October 2020, alongside a broader 2030 National Investment Plan. Portugal's NRRP, with a total spending of €16.6bn (€13.9 bn grants and €2.7 bn loans), amounting to 8% of Portugal's GDP, states that €6.5bn is for the green transition. However, according to the [Green Recovery Tracker](#), Portugal only actually achieves a green spending share of 17% when looking closely at the targeted spending. This is significantly below the EU's 37% climate spending benchmark and a missed opportunity to lead by example as the Presidency.
- Furthermore, the plan includes some problematic investments, especially in road infrastructure, and has been criticized for this by the European Commission. It also missed the opportunity to fund international rail links (e.g. with Madrid and Paris) that could have been important to replace air travel and further supports new dam construction with serious [environmental and social risks](#).

Overall, the Portuguese Presidency has made efforts on carbon pricing and the NRRPs, achieved progress on road pricing and held an important high-level debate on the CBAM. It has also been, relatively speaking, decent on public participation in the NRRPs, and embraced a range of positive investment measures. However, the overall recovery funding contribution to the EGD and climate was too little, some funding to road infrastructure runs counter the Paris ambitions and the Portuguese NRRP could have been a better inspiration for other Member States. The overall verdict is therefore good on effort, mixed on outcome.



3 Address the climate emergency and promote sustainable mobility

The verdict



Good on effort



Poor on outcome

The third test called on the Presidency to agree on a Climate Law compatible with limiting warming to 1.5°C, to ensure an end to fossil fuel subsidies in the TEN-E Regulation, to future-proof the EU through the Climate Adaptation Strategy, to insist on a strong 2030 Climate and Energy Package, to promote sustainable mobility for climate, clean air and citizens, and to insist on a robust framework for climate action in the agricultural sector.

Key developments

- On 4 April, the EU institutions reached a political deal on the European Climate Law proposed by the European Commission in March 2020. The agreement has endorsed the target to step up the EU's ambition to 55% net greenhouse gas (GHG) emissions reductions by 2030.
- On 12 June, the Energy Ministers reached a general approach on the Commission's proposal on the revision of the Regulation on Trans-European Networks for Energy (TEN-E). The general approach will serve as the basis for the Council's position in the political trilogue negotiations.
- The Portuguese Presidency organised a policy debate on the EU Strategy on Adaptation to Climate Change at the Environment Council in March and succeeded in securing the Council's endorsement of the Strategy at the Environment Council meeting in June when the Council conclusions on Forging a Climate-resilient Europe were adopted.

Good

- The Portuguese Presidency team made a major effort to get agreement on the Climate Law in the face of opposition from a few recalcitrant Member States, arguing that this was the best achievable political compromise, despite not being consistent with the scientifically established needs (see below).
- The Council decided to include certain types of electrolysers that contribute to sustainability in the scope of the TEN-E Regulation and has set sustainability criteria for them. However, there were also severe shortcomings (see below).
- The Conclusions on the EU Strategy on Adaptation to Climate Change provide helpful political guidance to the European Commission as regards the implementation of the Strategy. They emphasize the importance of climate-resilient water management and the important role of nature-based solutions in building climate resilience and helping to maintain or enhance biodiversity while protecting and restoring ecosystems.

Less Good

- In the Climate Law, the Portuguese Presidency failed to make the 2050 target binding also at national level, to urge the Commission to set out climate neutrality roadmaps for all economic sectors, to set a date to phase out subsidies to fossil fuels in the EU, and to further reinforce access to justice provisions. Moreover, the revised 2030 GHG target (55% net), a hard-won step forward on the 40% target under the Juncker Commission, is not only well below what is required by science (65%) but it also includes 'carbon removals', therefore diminishing the contribution of actual emission reductions to the overall target.
- The Council agreement introduced a provision to allow fossil gas pipelines to be retrofitted to transport the 'blending of hydrogen' (a mix of hydrogen with fossil gas or biomethane) over the next 9 years, while financial support from the EU will be granted (up to 2028) upon proof that pipelines will become 'only hydrogen assets' by 2030.
- The agreement also allows for projects that support fossil fuel infrastructure and so-called 'smart gas grids' under the auspices of 'low carbon' gases which include a plurality of gases regardless of their climate impact, thus impairing the EU's prospects of achieving its 2030 and 2050 climate targets.
- With regards to the TEN-E Regulation and hydrogen, despite strong resistance by eleven Member States,

Overall, the Portuguese Presidency made significant efforts to advance and get agreement on the climate files, notably getting an agreement, despite opposition, on the Climate Law and passing Council Conclusions on the Climate Adaptation Strategy. While it progressed the TEN-E Regulation, it did so at the cost of allowing for funding of cross-border gas projects. Furthermore, the final Climate Law target falls far short of what is scientifically needed to address the climate crisis. The verdict for this test is therefore good on effort but unfortunately poor on outcome.



4 Reverse the dramatic loss of biodiversity and invest in the resilience of our ecosystems

The verdict — Mixed on effort — Mixed on outcome

This test focused on the Portuguese Presidency's role in implementing the EU Biodiversity Strategy to put biodiversity on a path to recovery, to safeguard freshwater ecosystems and to promote thriving marine and coastal ecosystems by strengthening the ocean dimension in the EGD.

Key developments

- The Portuguese Presidency continued the Council work on the post-2020 Global Biodiversity Framework under the Biological Diversity (CBD). Portugal is a Member of the High Ambition Coalition for Nature and People.
- The Portuguese Presidency co-organised two online meetings of the EU Nature Directors as well as a joint meeting of the EU Water and Marine Directors to discuss the governance and implementation of the EU Biodiversity Strategy for 2030 and the implementation of the EU Water Framework Directive (WFD) and Marine Strategy Framework Directive respectively.
- In May, during the preparation of the Council Conclusions on the EU's Strategy on Adaptation to Climate Change, the Presidency organised a ministerial debate at the informal meeting of the Ministers with a focus on climate-resilient water management and the international dimension of adaptation.
- On 11 June, the Council approved an EU-UK agreement on fishing opportunities.

Good

- The ministerial debate on climate-resilient water management helped to secure broad support for the new EU Adaptation Strategy and its water-related priority actions. Ministers emphasised the need for enhanced implementation of the WFD and requested further work on water scarcity and droughts in the framework of the Common Implementation Strategy of the WFD.
- The UK-EU fisheries agreement gives reasons to hope for sustainable fisheries management in the North-East Atlantic, though some measures do not follow science and fall short of ensuring the sustainable exploitation of common fish stocks.

Less good

- The Presidency demonstrated a mixed approach to transparency and engagement of NGOs and stakeholders. On the one hand, it is welcome that the ministerial debates on non-legislative items during the formal meetings were carried out publicly; on the other hand, no session with NGOs and stakeholders was organised by the Presidency for the informal meeting of the EU Nature and Biodiversity Directors on 29 June, despite initial plans to do so.
- The Presidency did not prioritise working with the European Commission on important policy files such as the upcoming Nature Restoration Law or tackling water pollution by substances of emerging concern.
- Portugal also failed to lead by example on the implementation of EU environmental legislation by e.g. delaying the start of public consultations on the draft River Basin Management Plans and on Flood Risk Management Plans, missing the opportunity to achieve synergies from the two consultations.
- Portugal led the EU in negotiations on shipping emissions at the International Maritime Organization but failed to deliver on key issues such as a timely Arctic heavy fuel oil ban, black carbon emissions and short-term reduction of GHG emissions from shipping.
- The Presidency did not move forward on a ban on deep sea mining and the EU will continue to fund deep sea mining technology research.

Overall, the Portuguese Presidency was not so active on biodiversity, working only on the CBD preparations and the integration of nature-based solutions in the climate adaptation conclusions as noted under Test #3. As a result, the verdict is mixed on both effort and outcome.



5 Initiate a transition towards sustainable food and agriculture

The verdict



Mixed on effort



Poor on outcome

This Test called upon the Presidency to promote sustainable agriculture that is aligned with the Farm to Fork and Biodiversity Strategies.

Key developments

- The Presidency organised two 'super-trilogues' to boost interinstitutional negotiations on the Common Agricultural Policy (CAP). approved by Agriculture Ministers on 28 June 2021.
- The Presidency brokered a political deal with the Parliament on the CAP reform on 25 June 2021,

Good

- Portugal demonstrated a strong commitment to finalise the CAP reform under its Presidency and showed willingness to compromise with the Parliament on some aspects (such as eco-schemes), despite strong resistance from Member States.
- There were some improvements in the transparency of the CAP trilogues as negotiating (so-called four-column) documents were made available to the public after each round of trilogue negotiations, for the first time in the history of the CAP.

Less good

- The Portuguese Presidency left contentious CAP issues for the end of the negotiations and rushed through premature political negotiations on issues requiring more technical discussions. The joint 'super-trilogue' and parallel Agrifish Council meeting format held at the end of May created a strong imbalance of power between co-legislators, leading to steps back in the green ambition of the reform and a failure to reach an agreement at the end of May.
- EU agriculture ministers displayed an unwillingness to adopt a more sustainable CAP and Portugal made little effort to reach a compromise with the European Parliament and the Commission which would move the CAP a little closer towards the EU Green Deal ambitions.
- The Portuguese Presidency held innumerable meetings with the big farming lobby, including in the middle of key CAP talks, while environmental stakeholders were not consulted.
- The outcome of the CAP reform achieved by the Portuguese Presidency is highly disappointing. A joint EEB, BirdLife Europe and Greenpeace assessment found the new policy ranked red on 8 out of 10 green tests and orange on the remaining 2 tests.

Overall, while the Portuguese Presidency provided leadership in moving the CAP reform negotiations forward, including by organising two 'super-trilogues', they failed to align the CAP with the Green Deal and stayed clear of contentious issues during the first half of their Presidency. Therefore, the verdict is mixed on effort and poor on outcome.



6 Promote a zero-pollution ambition - clean water and clean air for all

The verdict



Mixed on effort



Neutral on outcome

The sixth test called on the Presidency to promote a transformative Zero Pollution Action Plan for Water, Air and Soil, and to reduce air pollution at source, committing also to bold action against air pollution at the international level.

Key developments

- The European Commission published the long-awaited EU Action Plan: Towards Zero Pollution for Air, Water and Soil (the so called Zero Pollution Action Plan, ZPAP) on 12 May as a key deliverable of the European Green Deal and launched the Stakeholder Platform to support the delivery of the Action Plan during the EU's

Green Week dedicated to the zero-pollution ambition. The Portuguese Presidency organised a timely policy debate after the Zero Pollution Action Plan was published, but it missed the chance to inform the Commission's ZPAP drafting process by not organising a dedicated discussion ahead of publication.

Good

- The Portuguese Presidency was quick in organising the ministerial debate on the ZPAP and the debate provided the necessary policy orientation to the European Commission on the implementation of the Action Plan. This timely debate was especially important since the incoming Presidency does not appear to prioritise the elaboration of the formal Council

Conclusions on the ZPAP despite requests from several Member States for such formal Conclusions to be adopted.

- The Portuguese NRRP commitments included significant investments in local, regional and national rail, supporting improvements in air pollution.

Less good

- The Portuguese Presidency did not organise any meeting to inform the Commission's Zero Pollution Action Plan drafting process.
- The Portuguese Presidency did not take any official step to recommend the inclusion of the

revision of the Environmental Noise Directive or the full alignment of EU air quality standards with the upcoming World Health Organisation's guidelines in the Zero Pollution Action Plan.

Overall, the Portuguese Presidency did not prioritise pollution issues and did not engage with the European Commission to push for an ambitious Zero Pollution Action Plan. However, the policy debate organised on 10 June was a good initiative and Portugal made positive use of national recovery funding to support increased public transport, leading by example. The overall verdict is therefore mixed on effort and neutral on outcome



7 Clean up industrial production: towards a circular, decarbonised and zero pollution industry

The verdict — Mixed on effort — Mixed on outcome

This Test called upon the Presidency to ensure an ambitious Council position on the Waste Shipment Regulation, to progress on the revision of the Batteries Directive, to support the Consumer Empowerment Initiative, to provide ambitious input to the revision of the Industrial Emissions Directive (IED) and to promote ethical digitalisation for people and planet.

Key developments

- The Presidency was not able to properly progress the Waste Shipment Regulation or the Consumer Empowerment Initiative due to delays in the Commission's drafting and proposal process for these two files.
- The Portuguese Presidency organised a meeting on raw materials and mining, a topic of strategic importance, notably for the Batteries file.
- There has not been a Commission proposal on the IED review and the Portuguese Presidency did not take an active role in the process. Its position remains unclear and not transparently discussed with NGOs.

Good

- As reflected in the progress report on Batteries accompanying the communication of the Environmental Council of 10 June 2021, a sound facilitation of the Council discussion was ensured under the Portuguese Presidency.
- The Council was overall supportive of the innovative direction of the Commission's approach to the Batteries law, notably regarding the promotion of more durable batteries.
- Important issues such as the need to address batteries for light means of transport were relevantly raised during the debate.
- The Portuguese National Recovery and Resilience Plan identified explicit investments for industrial decarbonization as one key priority.

Less good

- The Council asked to delay the entry into force of some iconic provisions of the Batteries Law, such as the carbon footprinting, the recycled contents and the labelling of batteries. While acknowledging the technicalities of the proposed provisions, delays are not the most appropriate solution to secure a swift transformation of the market and a sound competition for the EU industry.
- The lack of support for due diligence criteria along battery supply chains is regrettable, as the sector will grow quickly, and there is a clear risk that the market pressure and fierce competition may lead to neglecting social and environmental due diligence aspects if not emphasized more prominently as an essential dimension of batteries manufacturing and sourcing.
- We regret that a high-level conference on raw materials and mining in May 2021 was above all a promotional event for the mining industry, aiming to increase the acceptability of mining projects in the EU, at the expense of a more neutral and critical outlook on the potential benefits but also drawbacks of mining new virgin ores for local communities, biodiversity protection and a greater priority set on prevention of resources use and urban mining.
- The Portuguese government has failed to lead by good practice in the context of the Waste Gas from Chemical Industry Best Available Technique Reference Document (BREF), the Textiles and the Ceramics Manufacturing BREFs, where the Portuguese Ministry was arguably unduly influenced by and sided with industry interests, enabling higher pollution levels.

The Presidency's efforts to progress the batteries file need to be praised, though with some reservations given the introduction of delays of entry into force of some iconic provisions. Portuguese support for mining unfortunately overlooked environmental and social concerns and opportunities for prevention of resource use and circular economy solutions. Therefore, the verdict is mixed on efforts and mixed on outcome.



8 Call for a toxic-free environment and ambitious implementation of the Chemicals Strategy for Sustainability

The verdict

Good on effort

Good on outcome

The [eighth Test](#) called on the Presidency to protect the public and the environment from hazardous chemicals through ambitious Council Conclusions on the Chemicals Strategy for Sustainability (CSS) and by taking a leadership role on the Minamata Convention on Mercury, also by advancing the implementation of the EU Mercury Strategy.

Key developments

- Based on an initiative from the Portuguese Presidency, the Council adopted Council Conclusions on the Chemicals Strategy on 15 March 2021.
- In April, an EU mandate to the Commission was adopted by the Council, allowing for EU proposals to be submitted to amend the Minamata Convention by [listing additional mercury-added products and processes to be phased out](#).
- In June, the Commission published the draft delegated acts under the Restriction of Harmful Substances (RoHS) Directive, proposing to phase out some fluorescent lamps.

Good

- The Council Conclusions, 'Sustainable Chemicals Strategy of the Union: Time to Deliver', clearly express Member States' support for the high ambition to move towards a toxic-free environment. The conclusions also call for a swift and ambitious implementation of the Strategy, in line with the prevention and precautionary principles. The Conclusions support substitution to contribute to the green transition and emphasise the need to promote and reward safety and sustainability by design. They further call on the Commission to explore ways to fund the European Chemicals Agency (ECHA), including by taking into account the polluter pays principle and the extended producer responsibility principle.
- The Presidency sent a strong political message on the EU's high level ambition regarding chemicals, both within and outside the EU, at the High level [Roundtable](#) conference in May 2021.
- The Commission and EU representatives are contributing to the work towards phasing out mercury-added products by supporting the work of the Minamata Convention and supporting the relevant intersessional work.
- The EU proposed amendments to the Minamata Convention towards phasing out mercury at global level, particularly from button cell batteries, some measuring devices and polyurethanes, and proposed to phase down dental amalgam, including through a ban on its use for children under 15 years and for pregnant or breastfeeding women.
- The phase out of mercury-added Compact Fluorescent Lamps (CFLs) and long fluorescent lamps was finally proposed under the RoHS Directive.

Less good

- The Portuguese Presidency did not address the proposal to include an absolute target to reduce chemical production to lower health and environmental exposure during its mandate.
- The Council watered down the initial Commission proposal on the position to be taken on behalf of the EU at COP4 of the Minamata Convention on Mercury regarding the adoption of decisions amending Annexes A and B on mercury-added products and manufacturing processes. The EU decision on the proposed lamp amendment was very weak and narrow, proposing only the phase-out of halo phosphate lamps at global level.
- Under the RoHS Directive, the proposed delegated acts still allow the use of mercury in many lamps for the next 3-5 years, including CCFLs which are practically not used any more. The whole process is [significantly delayed](#), not helped further by the Portuguese Presidency, as decisions on these were awaited since 2016.

Overall, the Portuguese Presidency adopted strong Council Conclusions on the Chemicals Strategy and contributed to the work towards phasing out mercury-added products through the Minamata Convention. The verdict is therefore good on effort and good on outcome.



9 Strengthen accountability and the rule of law

The verdict



Good on effort



Mixed on outcome

In [this test](#) we called upon the Portuguese Presidency to increase access to justice through the amendment of the Aarhus Regulation so as to ensure that the EU is in full compliance with the Aarhus Convention, to reform 'Better Regulation', to prioritise the implementation and enforcement of EU legislation and to increase accountability in corporate governance.

Key developments

- On 12 February, the Aarhus Convention Compliance Committee (ACCC) provided its [advice on the Commission's proposal to amend the Aarhus Regulation](#). The advice highlighted a number of significant respects in which the proposal would need to be improved in order for it to adequately address the findings of non-compliance from 2017. This implied the need for the Council to significantly revise its position that had been adopted in December 2020 under the German Presidency and which was broadly in line with the Commission proposal. In May, the European Parliament adopted its position on the Aarhus Regulation which took on board the advice from the ACCC and the trilogue negotiations between the Commission, Council and European Parliament began in June.
- The Commission's proposal on Sustainable Corporate Governance was postponed to after the summer. However, the Commission made a proposal for a Corporate Sustainability Reporting Directive in April to replace the Non-Financial Reporting Directive which also covers other aspects of corporate accountability.
- The Better Regulation communication came out on 29 April.

Good

- The Presidency started with limited engagement on the Aarhus Regulation file in the first couple of months. Over time, the Presidency took a leadership role to guide the Member States within the Council towards upholding the rule of law and ensuring that the EU complies with the Aarhus Convention, at least as far as the issues covered by the 2017 finding of non-compliance are concerned. Moreover, after being initially slow to engage, the Presidency was open to dialogue with NGOs.
- In May, the Council concluded that environmental crime is one of ten priorities to focus on in the fight against organised crime in the 2022-2025 European multi-disciplinary platform against criminal threats (EMPACT) framework.

Less good

- In the co-decision process for the revision of the Aarhus Regulation, the Portuguese Presidency, perhaps reflecting pressure from a number of Member States, failed to take on board recent findings of the ACCC that EU-level decisions on state aid should be subject to internal review, meaning that a further revision process would be needed after the Meeting of the Parties (MoP) unless this matter is resolved under the Slovenian Presidency.
- While the Presidency was open to dialogue with NGOs, it did not invite NGOs to a meeting at the margin of the Council Working Party meeting when the Aarhus Regulation was being discussed in March/April, though it did subsequently convene a meeting of the Presidency Trio and Commission with the NGOs in relation to the preparation of the Aarhus Working Group of the Parties.
- The Corporate Sustainability Reporting Directive was discussed at several meetings, although without any real advancement on the file. Due to the delay with the Commission's proposal on the Sustainable Corporate Governance initiative, there was no opportunity for the Council to discuss it during the Portuguese Presidency. This was a missed opportunity for the Presidency to put emphasis on the importance of corporate accountability, transparency in supply chains and due diligence, as was also a weakness in the Batteries file.
- There was little engagement by the Portuguese Presidency with the Better Regulation communication.

The Presidency started as less engaged on the Aarhus Regulation, but over time became open to hear NGO views and seems to have led the Council position in trilogues conscious of the importance of having the EU comply with its international commitments, even if it skirted the state aid issue. On the other files, there was limited opportunity for the Presidency to advance. The overall verdict is therefore positive on effort and mixed on result.



10 Promote European solidarity, wellbeing, and social and environmental justice

The verdict



Mixed on effort



Mixed on outcome

Our final test called upon the Presidency to promote wellbeing and social justice, to reform the European Semester, to promote civil society space and meaningful participation as well as to systematically consult and engage youth in decisions on their future.

Key developments

- The EU Covid-19 response has been coordinated, albeit after a slow start, with e.g. the joint procurement of vaccines to ensure all EU Member States are treated equally and through the Next Generation EU and a mix of grants and loans to support Member States (see also Test #2).
- The 8th Environment Action Programme (8EAP) has advanced, with a negotiating position agreed for the Council around a compromise text and there was a vote by the Parliament's ENVI Committee (see Test #1).
- The European Semester has integrated the National Recovery and Resilience Plans (NRRPs), a process linked to the wider Next Generation EU process, which underlines a commitment to the Just Transition.
- The Presidency organised a [Social Summit in May 2021](#) with the objective to mark the European agenda for the next decade, ensuring present and future challenges can be met while leaving no one behind.

Good

- The EU's Covid-19 response has shown a high level of Solidarity across the EU.
- The Portuguese Presidency made efforts to enhance further debates on how to transition towards a fairer society and wellbeing economy

by recognising the limitations of GDP and the need to build a fairer European society at the Social Summit and by engaging in a high-level event including the Portuguese Environment Minister on new approaches for wellbeing beyond GDP.

Less good

- There have not been significant Presidency efforts to encourage replacing the Stability and Growth Pact with a Sustainability and Wellbeing Pact, nor on more fundamentally integrating wellbeing into the European Semester or replacing GDP growth with indicators with a wellbeing focus.
- There has been no significant Presidency effort on transforming the debate on labour, turning for example temporary ad-hoc arrangements for reduced working time into lasting redistribution of the available amount of meaningful work.
- The unfortunate attempt to greenwash a push for more mining of raw materials in Europe undermines the wellbeing and social justice of Europeans. When the Green Deal becomes an excuse for a mining boom, a broadly supported backlash based on the social and environmental injustices that usually come from raw material mining can be expected.
- While the Portuguese Presidency committed to a focus on social rights and launched the Social Summit on 7 May, there was unfortunately insufficient integration of environmental considerations at the summit.
- Despite several efforts by European youth organisations to engage the Portuguese Presidency in Youth Dialogues as had been done successfully under the German Presidency, no response was forthcoming from the Portuguese. This was a missed opportunity for the Portuguese Presidency.

Overall, the Portuguese Presidency made some efforts towards exploring how to transition towards a fairer society and wellbeing economy but also missed opportunities to integrate social, wellbeing and environmental considerations in policy processes. There were differing levels of public participation across policy areas, Hence, the overall verdict is mixed on effort and mixed on outcome.



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The EEB and its members welcome continued engagement and cooperation with the Presidencies of the Council of the European Union.

We also develop a paper before each Trio Presidency. The 2020-2021 paper, addressed to the German, Portuguese and Slovenian Presidencies, can be read [here](#) and a more detailed memorandum to the Slovenian Presidency can be read [here](#).

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META

Keep up to date with the latest environmental news at the EEB's news channel meta.eeb.org