



**EEB**

European  
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Bureau

# THE EEB'S **ASSESSMENT**

OF THE ENVIRONMENTAL PERFORMANCE OF  
THE **CZECH PRESIDENCY OF THE EU**



JULY - DECEMBER 2022





# EEB

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The EEB is Europe's largest network of environmental citizens' organisations. We bring together 180 member organisations from 38 countries. Together, we work for a better future where people and nature thrive together.

The EEB is an International non-profit association / Association internationale sans but lucratif (AISBL).  
EC register for interest representatives:  
Identification number 06798511314-27  
BCE identification number: 0415.814.848  
RPM Tribunal de l'entreprise francophone de Bruxelles

**Published December 2022**  
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With thanks to marine input from Seas at Risk



With thanks also to the EEB Board for input and endorsement.



With the support of the LIFE Programme of the European Union.



*This communication reflects the authors' views and does not commit the donors.*



# Introduction

This is an assessment of the Czech 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 signed off by the EEB Board with members from across Europe. The assessment 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.

The Czech Presidency comes halfway through the roll out and negotiations of the European Green Deal (EGD) and it had considerable opportunity and responsibility for helping to make the EGD the transformative agenda it was promised to be and needs to be. The Presidency had to face the ongoing challenge of dealing with the Russian war in Ukraine, a war between authoritarianism and democracy that is an attack on Europe more widely, as well as pressures instrumentalising the war to undermine the EGD.

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 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 has been and still is the case with the Covid-19 crisis, and with the Russian war in Ukraine that is leading to a turning point in European history. This is a key moment for the EU itself – the European Project is again recognised as an essential project of peace for Europe and for the EGD

itself, given its potential to help push for energy and materials independence from Russia and support of wider social and economic resilience. The EGD should be seen as a peace project as it sets a basis for future energy and resource independence.

There have been major efforts by anti-regulation ideologues and lobbying by short-term vested interests to drop, delay or degrade environmental and social protections, and pressure to resist change by a range of Members States. We see this as running counter to their and the EU's medium and long term needs for a just transition.

The assessment is not an overall political assessment of the Presidency's performance, nor is it an assessment of the Czech national political or environmental situation or its domestic policies, except to a limited degree linked to its role in leading or failing to lead by example. 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 Czech Presidency responsibility, but where the Presidency plays an important role. Our assessment is based on the [Ten Green Tests](#) we presented to the Czech Government at the start of its Presidency on 1 July 2022.

While we are critical of many of the results achieved, which we assess as inadequate in light of the challenges Europe and the planet faces, and insufficient to give youth confidence that they will inherit a liveable world, we would like to acknowledge and express our deep appreciation for the cooperative approach and openness to civil society adopted by the Czech Presidency.



Patrick ten Brink  
Secretary General

# Ten Green Tests for the Czech Presidency: Assessment

*Good effort on biodiversity and clean air, but disappointing effort and outcomes on agriculture, water, chemicals and the rule of law*

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, biodiversity and pollution crises, Member States' governments, under the leadership of the Council

Presidency, 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 Czech Presidency's performance against the Ten Green Tests, item-by-item, we reached the following conclusions:

		Effort	Outcome
	1 Ensuring energy security while addressing the climate emergency		
	2 Reverse the dramatic loss of biodiversity and invest in the resilience of our ecosystems		
	3 Initiate a transition towards sustainable food and agriculture		
	4 Ensure clean air towards zero environmental and health impacts		
	5 Tackle surface and groundwater pollution and ensure clean water for all		
	6 Call for a toxic-free environment and the ambitious implementation of the Chemicals Strategy for Sustainability		
	7 Shift towards a zero-pollution industry		
	8 Grasp the full potential of the Circular Economy through improved products policy, waste reduction and transparency for consumers		
	9 Strengthen accountability and the rule of law and promote environmental justice		
	10 Mainstream a transformative Green Deal, foster social, environmental and economic justice, and improve governance		



# 1 Ensuring energy security while addressing the climate emergency

## The verdict

— on effort — on outcome

The first Green Test called upon the Czech Presidency to integrate the REPowerEU ambition in the Fit for 55 package; lead an ambitious revision of the F-gas Regulation; promote the phase out of fossil heating in the Energy Performance of Buildings Directive; and lead a strong EU position at the November UN Framework Convention on Climate Change (COP27).

## Key developments

- The prolongation of the Russian war in Ukraine led the Council to the adopt EU-wide emergency measures by to tackle the effects of the energy crisis. Several extraordinary meetings of the Energy Council were held.
- The EC published an updated **impact assessment of the Energy Efficiency Directive (EED)**, which stated that given the current and expected price of energy, the target for Energy Efficiency could be raised to at least 13%.
- At the 26 July extraordinary Energy Council, Member States adopted an **Emergency Regulation to reduce their natural gas demand** by 15% for winter 2022.
- At the 30 September extraordinary Energy Council, Member States agreed on common measures to reduce electricity demand and to collect and redistribute the energy sector's surplus revenues to final customers.
- At the 25 October Energy Council, Member States adopted their general approach on the **Energy Performance of Buildings Directive (EPBD)**.
- The UNFCCC COP27 reached agreement on 20 November in Sharm El-Sheikh after extensive negotiations.
- At the 19 December Energy Council, Member States agreed an **Emergency Regulation to speed up renewables deployment** as a bridge solution before the Renewables Energy Directive revision comes into force.

## Good

- The Presidency worked intensely on approving emergency measures to tackle the energy crisis. The agreement on a **windfall tax** for energy companies is a positive step to protect the most vulnerable consumers.
- The Presidency managed to include valuable elements in the **Emergency Regulation to accelerate the deployment of renewables**: quick permitting provisions for small-scale solar, repowering, and heat pumps.
- The Presidency avoided including funds from the EU-ETS's **Market Stability Reserve** in the REPowerEU proposal to amend the Recovery and Resilience Facility Regulation
- The Czech Presidency, with the European Commission, worked hard to ensure a united front at **COP27** and helped secure the breakthrough on **loss and damage** and **maintain the commitment to 1.5 degrees**.

## Poor

- The Presidency and Member States failed to agree on **compulsory measures to reduce energy consumption**, opting instead for arguably insufficient voluntary measures to respond to the energy crisis.
- The Presidency did not align the **Renewable Energy Directive (RED III)** with REPowerEU's 45% 2030 renewables target. During trilogues on the RED, the Presidency also failed to gain support for stronger criteria for the phase-down of woody biomass use.
- The provisional Council position on the Renewable Energy Directive revision under **REPowerEU (RED IV)** includes highly impactful biomass and hydropower in 'go-to areas' and dilutes the EC's proposal by extending the timeframes for mapping and designating 'go-to areas'.
- The Presidency diluted the already low ambitions of the **Energy Efficiency Directive EED** during trilogue and key proposals of the EC might be lost, including the exclusion of fossil fuels from the scope of savings. The chance to use energy efficiency to help Europe cut ties with Russia and other fossil producers may be lost, as the Council suggests aiming for 9% savings and only indicative national targets.
- The Council's **Energy Performance of Buildings Directive (EPBD)** position drastically reduces the ambition of the Commission's proposal, particularly on the harmonisation of minimum requirements for Zero Emission Buildings and the implementation of Minimum Energy Performance Standards. No minimum requirements for whole life carbon emissions of buildings nor circularity are proposed.
- The Presidency accelerated the discussions on the **F-gas Regulation** but despite it being a key piece of legislation for the EGD and REPowerEU, the Council position avoids swiftly eliminating climate wrecking gases and resists the necessary ban on their use in many applications.
- The **COP27 conclusions** were far too weak on increasing commitments for climate mitigation, raising doubts on the 1.5 degrees despite reiteration of commitments.

Responding to the energy crisis in the short-term was clearly the top priority of the Czech Presidency and it pushed more for concluding Fit for 55 files than prioritising ambition. While the Presidency was able to steer Council discussions on emergency legislation, it was unable to secure agreement on the compulsory nature of energy consumption reduction measures. A lack of ambition in the revision of both the Renewable Energy and the Energy Efficiency Directives also constitute another missed opportunity. Therefore, the overall verdict is mixed on effort and poor on outcomes.



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

### The verdict



on effort



on outcome

The second Test called on the Presidency to lead the Council for a timely position on a strong Nature Restoration Law; agree a Council position on a strong Deforestation Regulation; promote nature-friendly renewables; demonstrate CBD COP15 leadership; organise a Council debate on the EU biodiversity strategy for 2030; and to promote the thriving of marine and coastal ecosystems; while also leading the adoption of Council Conclusions on the new EU Soil Strategy for 2030.

### Key developments

- The Commission proposal for the **Nature Restoration Law (NRL)** was published on 22 June and the Czech Presidency held a Ministerial policy debate on 20 December. The Czech Presidency supported a conference on the NRL in September.
- The Presidency organised a **meeting of EU Nature Directors** and a meeting of **EU Forest Directors** with a focus on restoration in September and October.
- The Presidency led the discussions on the EU negotiating mandate for the **UN biodiversity summit in Montreal (CBD COP15)** and secured the adoption of the Council Conclusions for CBD COP 15 at the Environment Council meeting in October. The **Kunming-Montreal biodiversity framework** was adopted on 19 December.
- The Presidency secured the preliminary political agreement on the **Deforestation Regulation**.
- The Presidency organised several policy workshops including on **forest monitoring** in September and on **light pollution** in October.
- The Energy Council adopted the **Emergency Regulation on accelerating permitting for renewables** projects on 19 December.
- An increasing number of EU Member States support a **moratorium on Deep Sea Mining**.

### Good

- **The Czech Presidency took a positive lead on the NRL proposal**, trying their best to progress the Council position as much as possible with a good steer of the discussions, while seeking to find compromises that aligned with the spirit of the proposal.
- The Nature Directors meeting with civil society participation, as well as the NRL conference, **provided a good opportunity for exchanges on the NRL**.
- The EEB was also invited to the meeting of Forest Directors which was welcomed as a **good opportunity to discuss the concerns Forest Directors** have on the NRL and the upcoming **Forest Monitoring Law**.
- The **Deforestation Regulation** that the Presidency fostered the agreement on is the first law in the world to tackle global deforestation under which the EU will no longer allow products that are linked to the destruction of forests onto the EU market.
- On behalf of the EU, the Presidency helped secure the **Kunming-Montreal Agreement** which offers hope for increased international cooperation to protect and restore nature by 2030.
- The Presidency drew **attention to light pollution at the international workshop on light pollution**, emphasising the importance of a European approach.

### Poor

- The Presidency was **not able to achieve a partial agreement or progress report on the NRL** mainly due to the limited progress Member States made on agreeing their national positions.
- The **Emergency Regulation on accelerating renewables permitting** was adopted with back-door amendments to the Nature Directives without any involvement of the Parliament, setting a dangerous precedent and creating legal uncertainty.
- The Presidency failed to extend the scope of **the Deforestation Regulation** to immediately include other wooded land and failed to secure full recognition of human rights, particularly of indigenous peoples and local communities.
- Key elements of **the global biodiversity framework**, such as the link to drivers of biodiversity loss and the implementation mechanism, are weak. In addition, some reporting from Montreal highlighted a lack of leadership from some EU governments.
- The Presidency was not able to terminate the long overdue trilogue negotiations on the **EU Fisheries Control Regulation**.
- No efforts were made to prepare the Council for the upcoming proposal on the **EU Soil Health Law**.

Overall, the Presidency successfully co-led the EU in securing an agreement on the Kunming-Montreal global biodiversity framework at the CBD COP 15, was also instrumental in reaching an agreement on the Deforestation Regulation and made progress with Council deliberations on the Nature Restoration Law. However, a holistic approach to the biodiversity crisis was missing, as evidenced by the poor integration of biodiversity in the efforts to accelerate permitting for renewables and poor outcomes on the agricultural policy (assessed separately in test 3). Overall, the verdict is therefore good on effort, mixed on outcome.



# 3 Initiate a transition towards sustainable food and agriculture

## The verdict



on effort



on outcome

The third Test called on the Czech Presidency to stand firm in support of the Farm to Fork Strategy; insist on an ambitious framework for climate action in the agriculture sector; galvanise Council support for an ambitious revised Sustainable Use of Pesticides Regulation (SUR); and demonstrate leadership on sustainable food systems.

### Key developments

- The Russian attack on Ukraine has caused havoc in the agri-food sector. Increases in fertilisers, fuel, and feed prices hit farmers hard, and disruption to cereals markets threaten the ability of vulnerable populations to access food. This crisis calls for urgent but also systemic solutions. However, the policy response has so far focused on short-term fixes and many political and private actors have seized the crisis to undermine the Farm to Fork Strategy.
- After the publication of the Commission proposals for the **Sustainable Use of Pesticides Regulation (SUR)** in July, negotiations started in the Council.
- The Czech Presidency led the Council into the final phase of trilogue negotiations on climate legislations relevant to the agriculture sector, notably the **Effort Sharing and the Land Use, Land Use Change and Forestry Regulations**. On 30th November, the publication of the Commission's proposals for a **Carbon Removals Certification Framework** also brought a new relevant piece of legislation onto the agenda.
- The Commission adopted all 28 **CAP Strategic Plans** over the duration of the Czech Presidency.

### Good

- No evidence of good effort or impact could be found.

### Poor

- In the wake of the Russian war on Ukraine, the Presidency focused disproportionately on actions to increase food production, at the expense of the EU's environmental objectives and without due attention to the fundamental drivers of food insecurity. The Presidency allowed a productivist narrative to shift the focus of Council discussions away from the urgent transition to sustainable food systems and focus entirely on a counter-productive supply-focused vision of food security.
- The Czech Presidency did not stand behind the **SUR proposal**, which has been heavily attacked in the Council, with almost no progress, and even the risk of the proposal being postponed or totally withdrawn.
- The Presidency did not engage with civil society but maintained close ties with the agricultural lobbies. Only agricultural representatives were invited to the Informal Council, the EEB's request for meetings before Agriculture Councils was left unanswered, and efforts to organise a civil society dialogue event between the Presidency and the EU Food Policy Coalition failed.
- The outcome of trilogue negotiations on **agriculture-related Fit for 55 files** show a strong lack of ambition. Despite some improvements to the current **Effort Sharing and LULUCF Regulations**, the loopholes and structural issues which have left agricultural emissions unaddressed for the past decade remain. Agricultural GHG emissions will likely continue unabated for another decade.
- The Presidency has spearheaded Member States' calls for "adapting" **CAP Strategic Plans** due to the Ukraine war, meaning mostly a reduction in environmental ambition.

Overall, the Presidency showed very little interest in defending and advancing on the pathway to sustainability set out by the Farm to Fork Strategy. By making "food security" central to its agricultural policy agenda, it played into the hands of those seeking to instrumentalise the war in Ukraine to slow or even reverse the transition to sustainability. Therefore, the verdict is poor on effort and poor on outcome.

## 4 Ensure clean air towards zero environmental and health impacts

### The verdict

 on effort

 on outcome

This Test called on the Czech Presidency to promote Member States' engagement towards an ambitious revision of the Ambient Air Quality Directives (AAQDs); lead on the definition of EU legislation fully coherent with a reduction in air pollution; support the revision of the Gothenburg Protocol to the UNECE Long-Range Transboundary Air Pollution Convention, and lead by example at the national level on revisions to the Czech National Air Pollution Control Programme.

### Key developments

- The European Commission has published its proposal for a revised **Ambient Air Quality Directive** (recast) on 26 October 2022.
- The Czech Presidency led an exchange on the proposal for a revised **Ambient Air Quality Directive (AAQD)** during a Council's Working Party on the Environment meeting, held on 18 November 2022.
- A conference titled '*Multi-country Workshop on Future challenges in the air protection in Europe*' was co-organised by the Czech Presidency and the European Commission in Prague on 24 November 2022.

### Good

- Once the European Commission's proposal on the **AAQD** was published, the Czech Presidency swiftly promoted the Council's engagement on the topic.
- The EEB has been invited to speak at the Prague conference; the invitation was warmly welcomed as it provided civil society with an opportunity to present its views on the proposal and the main points for improvement. These include: a level of ambition which is aligned with science - achieving WHO Air Quality Guidelines by 2030; the recognition of the leading role of Limit Values as the key type of standard; the definition of clear rules for the preparation of air quality plans, both serving the objective of preventing breaches of the legislation (delivery air quality plans) and ensuring swift compliance once the violation has happened (remedial air quality plans); detailed and reinforced rules on monitoring and modelling, properly covering black carbon, ultra-fine particles and ammonia, and investigating pollution levels in hotspots (e.g. ports, areas close to industrial installations including intensive farms); and effective rules on penalties.

### Poor

- The revision of the **AAQD** was unfortunately only included as an AOB in the 20 December Environment Council meeting agenda. This has postponed the first official exchange among country representatives open to public scrutiny until March 2023, the date of the next Environment Council meeting.
- During the Executive Body meeting of the Long-Range Transboundary Air Pollution Convention, despite the review being completed, no decision was taken on the need to revise the 2012 **Gothenburg Protocol**. Additional analysis will be carried on during the year 2023 through an *ad hoc* working group; with the decision on a possible revision being postponed till the next Executive Body meeting in December 2023. NGOs had been reassured about their involvement in the work of this *ad hoc* working group.
- No public consultation has yet been launched regarding the revision of **Czechia's National Air Pollution Control Programme** (National Emission Ceilings Directive or NECD), to be delivered to the European Commission by 1 April 2023.

Overall, with the European Commission proposal for a revised Ambient Air Quality Directive coming relatively late in the semester, Czechia made good efforts to promote the prioritisation of the topic within the Council but did not prioritise the implementation of the NECD at national level. The timely organisation of the Prague conference also helped in promoting the active engagement of different stakeholders on the revision process. Unfortunately, no decision was taken in Geneva regarding the revision of the Gothenburg Protocol, this being postponed to December 2023. Therefore, the verdict is good on effort and mixed on outcome.





## 5 Tackle surface and groundwater pollution and ensure clean water for all

### The verdict



on effort



on outcome

This Test called upon the Presidency to ensure an ambitious roll out of the Zero Pollution Action Plan (ZPAP); lead the Council negotiations on the revision of the Urban Wastewater Treatment Directive (UWWTD); swiftly begin Council deliberations on the update of the water pollutants; support the global water agenda; and ensure Member States step up the implementation of the Water Framework Directive (WFD), including leading by example on this in Czechia.

### Key developments

- The Presidency organised the **Conference on Designing Climate Resilient Landscapes** dedicated to sharing best practice on adaptation to climate change in September.
- The Presidency put an information point on **drought management at the EU level** on the agenda of the Environment Council in October.
- The European Commission published its **proposals for a revised UWWTD** and the **update of the regulatory standards for water pollutants** (Directive on priority substances in surface and ground water) on 26 October 2022, as part of the zero-pollution package updating the EU's water and air quality laws.
- The Presidency organised physical and online meetings of **Water and Marine Directors in November where implementation challenges of the WFD were discussed**. However, the meeting was behind closed doors with no involvement of civil society.
- The Presidency continued preparations for agreeing an **EU mandate for the UN Water Conference** in March 2023.

### Good

- The Presidency **organised the presentation of proposed updates of the water laws without delay**, including during the Environment Council in December, however, it did not have time to further advance negotiations and handed over the files to the Swedish Presidency.
- The Prague Appeal adopted at the Presidency Conference on adaptation to climate change **called for climate change and biodiversity loss to be tackled together** and highlighted mutual benefits between climate change mitigation and adaptation, including emphasis on water retention.

### Poor

- The Presidency **failed to organise the Council's support for the Zero Pollution Action Plan** with very little focus on setting overarching zero-pollution agenda for the EU during its term.
- The Presidency **discussed the delays in adopting 3<sup>rd</sup> generation river basin management plans** at the Water Directors meeting (behind closed doors), however, it failed to draw political attention to the start of the **3<sup>rd</sup> implementation cycle of the WFD and the need to step up its implementation and funding**. The NGO assessment of river basin management plans concluded that unless WFD implementation is improved, including exceptional use of exemptions, most EU rivers, lakes and groundwater aquifers will remain unhealthy in 2027.

Overall, the Presidency did not prioritise water issues during its six months at the helm of the EU Council. Some of it was due to delayed publication of EC proposals to update water laws, some of it was due to the busy legislative agenda under other policy areas. Recognising the missed opportunities to set the agenda for the WFD implementation at the start of the 3<sup>rd</sup> implementation cycle, the verdict is poor on effort and poor on outcome.



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

### The verdict



on effort



on outcome

The sixth Test called on the Presidency to promote the ambitious and timely delivery of chemicals law reforms (REACH and CLP); ensure the EU leads by example in banning the export of hazardous and legacy chemicals; finalise the POPs Regulation revision by adopting stringent Low POPs Content Levels; promote EU leadership in strengthening the Minamata Convention on Mercury and the EU Mercury Regulation; promote a General Product Safety Regulation (GPSR); and Encourage the Commission to widen the review of the EU Mercury Regulation.

### Key developments

- The Commission's 2023 work programme delayed the **REACH reform** proposal to Q4 2023 and does not include the commitment to ban the exports of chemicals already banned in the EU.
- The Presidency finalized the **POPs revision**, adopted by the Council in November 2022.
- The process of negotiating a new legally binding **global agreement on plastics** was launched.
- The review process of the **EU Mercury Regulation** continued with focus groups and a final stakeholder workshop organised in September 2022.
- Discussions are still ongoing on the **General Product Safety Regulation (GPSR)**, and the Commission's proposal on Product Liability was published at the end of September 2022.

### Good

- Under the auspices of Czech Presidency, an interesting event was organized on 9 November 2022 by the Masaryk University on how science

can improve the legislation on **harmful chemicals**.

### Poor

- Chemicals were not one of the Presidency's priorities, not even in the programme. There was no discussion on any of the Chemicals topics highlighted in our sixth test.
- During the Environment Council of 24 October 2022 and the General Affairs Council on 18 November 2022, the Presidency organised discussions on the Commission's Work Programme, where several ministers expressed concerns regarding the delayed **REACH reform**. However, the Presidency organised a debate on the issue as an AOB point.
- Despite the Presidency succeeded in adopting the **POPs regulation revision** in November 2022, the revision included disappointing Low POPs Content Levels. Although these low levels were already agreed in June 2022, the Presidency didn't invest any effort in improving them. At the POPs competent authorities meeting, there was

no intervention, nor any role played by the Czech Presidency.

- So far, no consideration has been made to open the scope of the review of the **EU Mercury Regulation**. Furthermore, at the stakeholder meeting on 15 September 2022, it was announced that the assessment on the **EU Mercury Regulation** review may not include the scenario for a 2025 dental amalgam ban. There was no special involvement from the Presidency during those meetings and process.
- In November, and under the **GPSR**, a blocking majority of Member States put together a proposal to push for ex-ante product tests to be performed by online marketplaces, strengthening the regulation. The Presidency was not part of this initiative, which is still in progress.

Despite the delay of the reform of REACH which was debated, and the POPs revision being adopted, these were already foreseen by the legislative calendar. Overall, the Presidency has not really been involved or taken any initiative on any work to strengthen chemicals or mercury related initiatives. Therefore, the verdict on effort is poor for both chemicals and mercury. For outcome, the result is mixed to poor for chemicals and poor for mercury. Therefore, the overall result is poor.



## 7 Shift towards a zero-pollution industry

### The verdict



on effort



on outcome

The seventh Test called upon the Presidency to lead discussions in the Council to ensure an ambitious overhaul of the Industrial Emissions Directive (IED); encourage policy initiatives for an integrated industrial transformation in all relevant EGD files; ensure that the EU introduces digital reporting obligations to serve progress on environmental performance; and to ensure the Presidency sends a strong signal regarding the improvement of the UNECE PRTR Protocol Development, the E-PRTR and associated IED review.

### Key developments

- The Presidency organised several Council working group meetings on the **Industrial Emissions Directive (IED)** clustered by different topics. A “state of play” file was presented for the 20 December EU Environment Council. No

progress was made on the **Regulation establishing the Industrial Emissions Portal (IEP)**.

### Good

- Regarding the **IED**, the comparability of the information generated under the **Environmental Management Systems** and other information and documents beyond the permit summaries is enhanced.
- The content and scope of the operating rules regarding **intensive livestock** has been improved, whilst compliance with those new rules has been delayed by a further 6 months those should be subject to a multi-stakeholder

participation process including environmental NGOs.

- The countries making use of general binding rules should take account of **best achievable performance**.
- NGOs promoting environmental protection are equal to public servants when **accessing information** considered as confidential business information (CBI).

### Poor

- Regarding the **IED**, transitional periods for the suggested permitting practice (strictest possible emission limits values consistent to the strictest end of the levels achieved using **Best Available Techniques**) are not clearly rejected, provisions do not refer to technical non-feasibility and most effective BAT(s).
- Another Art 15.4 derogation type provision was extended to **BAT associated performance levels**.
- A significant weakening of the provisions on the compensation rights for citizens and sanctions.
- A registration regime for **intensive livestock activities** is kept.

- The outdated **Annexes of the IED** have not been tightened, the review clause has been deleted.
- **Article 9(1)** has been kept unchanged, undermining the combined approach on climate protection.
- **Non-metalliferous mining** activities are covered but a tentative 50 tonnes / day threshold is proposed.
- Production of **green hydrogen** through hydrolysis is exempted if the electrical input is below 20MW.
- The **assembly of batteries** is excluded, but the scope is no longer restricted to lithium-ion types.

Overall, the Czech Presidency's engagement on zero-pollution industry is relatively limited. Member States seem more concerned about administrative burden, possible workload of their competent authorities and are complacent with polluters' attitudes instead of a pollution prevention at source permitting culture, aligned to the spirit of the Directive, aiming to safeguard human health and provide a high general level of environmental protection. Considering the high level of opposing voices from the industry, the verdict is good on effort and poor on outcome.



## 8 Grasp the full potential of the Circular Economy through improved products policy, waste reduction and transparency for consumers

### The verdict



on effort



on outcome

This Test called upon the Presidency to finalise the negotiations with the EU Parliament on Batteries policy; lead the Council Discussion and engage in trilogue negotiations on Waste Shipment Regulation and the revised Energy Performance of Buildings Directive; progress the Council position on new Ecodesign for Sustainable Products, the Construction Product Regulation, and the Empowering Consumers for the Green Transition; and to ensure that the environmental and Competitiveness Council approves the strategy for circular and sustainable textiles; alongside the implementation of the Single Use of Plastics Directive.

### Key developments

- Discussions on the proposals for the **Ecodesign for Sustainable Products Regulation (ESPR)** and the Directive on **Empowering consumers for the green transition** began in the Council. The Council published a Presidency compromise text on the ESPR.
- The initiative **Sustainable Consumption of Goods – Promoting Repair and Reuse** was delayed to Spring 2023, following a negative decision by the Regulatory Scrutiny Board.
- The Commission launched a call for evidence for the **Raw Materials Act**.
- Council adopted a general approach for the **Energy Performance of Buildings Directive** and started to discuss the **Construction Products Regulation**.
- The second circular economy package published on 30 November includes a revision of the **Packaging and Packaging Waste Directive** and the framework for **Bio-based Products**. The Commission has announced its intention to publish the proposal for a Green Claims Directive, which was expected in this package, in early 2023. The Presidency is expected to finalise the work on the **European Battery Regulation** before the end of the Presidency.
- The Presidency continued discussions on the **Waste Shipment Regulation** but is yet to prepare a General Approach.

### Good

- The Presidency has played a decisive role in ensuring significant progress has been made on the **European Batteries Regulation**. Despite remaining issues, the legal clarity and ambition level have improved during the trilogue discussion lead by the Presidency resulting in an agreement with the EU Parliament. The agreement sets a benchmark for a systematic approach to product policy, covering circularity aspects including durability, repairability and recycled content, as well as carbon footprint, product passport and due diligence.
- The Presidency presented a compromise text on the **Ecodesign for Sustainable Products Regulation** in Competition Council, showing a willingness to make progress on this important file.

### Poor

- The Czech Presidency has significantly slowed down progress on the **Waste Shipment Regulation**. The development of a common position is now behind in the Parliament.
- The Presidency adopted a general approach for the **Energy Performance of Buildings Directive (EPBD)** on 25 October 2022. However, while ministers committed to introduce minimum performance standards for existing buildings, the design of the measures was imperfect and will fail to drive building renovations in line with Europe's climate objectives. A group of six Member States openly criticised the text in a common declaration calling for more ambition. Due to a delay in the Parliament, trilogues are not expected to commence until spring 2023.
- Little progress was made on the revision of the **Construction Products Regulation** and the Directive on **empowering consumers for the green transition**.

Overall, on circular economy policies there was limited interaction between the Presidency and civil society. Except for the Batteries Regulation, which had already inherited a general approach from the French Presidency, progress on circular economy files has been slow and the results have been less ambitious than hoped for. The verdict is therefore mixed on effort and mixed on outcome.





## 9 Strengthen accountability and the rule of law and promote environmental justice

### The verdict

 on effort

 on outcome

In [this Test](#) we called upon the Czech Presidency to: promote an ambitious Council position on the Environmental Crime Directive; promote a strong Council position and improve the Commission proposal on the Corporate Sustainable Due Diligence Directive; to promote an ambitious Council position on the legislative proposal for a new anti-SLAPP Directive; to protect the rule of law and civil society consultation processes, and to avoid the backdoor watering down of the environmental acquis through the REPowerEU permitting proposal.

### Key developments

- [The general approach](#) on the **Environmental Crime Directive** was adopted on 9 December.
- On 1 December the Council agreed on [a general approach](#) to the **Corporate Sustainable Due Diligence Directive**. While coming to an agreement is a success, the Council position is weak on access to remedies, does not extend liability to as many companies in the value chain as it should – by excluding financing institutions, for instance – and excludes directors' duties to tackle climate degradation.
- The trilogues on the **Emissions Trading System**, the **Land Use, Land Use Change Framework Regulations**, and the **Effort-Sharing Regulation** took place. The Parliament's position included strong calls for improved accountability and access to justice mechanisms. Ultimately, access to justice was not enshrined in the operative part of the legislation but reduced to a recital plus a Commission declaration.

### Good

- The Presidency made significant progress on key elements of the **Environmental Crime Directive** including the list of offences, the data collection and implementation duties for Member States, and a set of legal definitions.

### Poor

- Reflecting the majority Council Position, the Czech Presidency blocked the inclusion of access to justice provisions in the **Emissions Trading System** and the **Land Use, Land Use Change Framework** regulation. While the Commission proposal for the two regulations did not include adequate accountability mechanisms, the Parliament's negotiation position called for specific access to justice articles to fulfil the **Aarhus Convention** obligations. Through the leadership of the Presidency, the Council did not agree to strengthen citizen's rights to enforce the regulations in national courts.
- In advancing the **REPowerEU package**, the Presidency failed to secure the continued application of the Do No Significant Harm principle as a criterion for spending under the Recovery and Resilience Fund, thereby undermining the EU's commitment to climate protection. The fossil infrastructure that can now be financed will weigh heavily on future decarbonisation efforts of the Union.
- The Presidency did not facilitate a discussion on an EU-wide **definition of ecocide** and failed to achieve a sufficiently strong position on jurisdiction, rights for the public concerned, and criminal sanctions for legal persons in the **Environmental Crime Directive**.
- There has been no official progress on securing a negotiating mandate for the EU in the **UN open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights**. In the context of an increasingly polarised set of options in the text for the new instrument, it is essential that the EU and the Member States proactively engage in these negotiations, in line with their obligations under Article 3(7) of the **UNECE Aarhus Convention**.

Overall, the Presidency failed to meet expectations for the maintenance of adequate accountability and rule of law guarantees in environmental policy. It prioritised expediency and economic interests over environmental protection and environmental rights. The verdict is therefore poor on effort and poor on outcome.



# 10 Mainstream a transformative Green Deal, foster social, environmental and economic justice, and improve governance

## The verdict

 on effort  on outcome

Our final Test called upon the Presidency to lead efforts to build consensus for an ambitious reform proposal as part of the EU Economic Governance Review; secure ambition in the ongoing development and application of the Sustainable Finance Taxonomy; promote a total overhaul of the European Semester; debate the outcomes of the Conference on the Future of Europe; promote debate and explore policy options on digitalisation for a green transition; and lead by example in the use of National Recovery and Resilience Plans (NRRP).

## Key developments

- The Commission launched its orientation paper on the **EU Economic Governance reform** which sets out the reform direction for the **Stability and Growth Pact (SGP)**, EU fiscal rules, and the wider EU economic governance.
- In December, the three institutions with the Czech Government representing the Council, organised a high-level feedback event to follow up on the recommendations emerging from the **Conference on the Future of Europe (CoFoE)** in the European Parliament.

## Good

- The Czech Presidency made efforts to follow up on the **CoFoE process**. The Czech Minister for European Affairs joined the feedback event with citizens and stakeholders organised in the European Parliament in early December in person.

## Poor

- The orientation paper on **EU economic governance** proposes some welcome reforms focusing on simplification and stronger enforcement of fiscal rules, but these are merely updates of the existing rules. The Presidency failed to take a leading role to start building consensus among Member States for a more ambitious reform.
- At the beginning of the Presidency, the Council failed to reject the Commission's proposal to include gas and nuclear power as sustainable investments under the **EU Taxonomy** (the deadline for the Council to object to the Commission proposal was 11 July 2022). The adoption of this greenwashed act, where the Commission chose to ignore science and expert advice from the Platform on Sustainable Finance, seriously damaged the credibility of the EGD, undermining the transparency of the process, and raised serious questions about the governance of the EU Taxonomy development.
- It was much appreciated that the three institutions – the European Parliament, the Council represented by the Czech Government and the European Parliament organised a high-level feedback event in the European Parliament to follow up on the recommendation that emerged from the **Conference on the Future of Europe**. However, it seems that neither the EC's nor the Council's political decisions have been inspired or changed by the recommendations presented by citizens. While the CoFoE report clearly shows that citizens are in favour of stronger environmental and health protections, many Member States have put the brakes on stronger environmental regulation and so has the Commission, by delaying important proposals such as REACH or those on pesticide use.

Overall, the Czech Presidency made efforts in following up on the CoFoE process; however, citizen's recommendations do not seem to have influenced the political agenda and decisions taken on the environment. There has been no progress on pushing ambitious reform discussions of EU trade and investment policies, the EU Semester and Stability and Growth pact, let alone advancing discussions on intersectional perspectives of environmental policies. Therefore, the overall verdict is mixed on effort and poor on outcome.

# Abbreviations

AAQD	Ambient Air Quality Directives
CAP	Common Agricultural Policy
CBAM	Carbon Border Adjustment Mechanism
CBD	Convention on Biological Diversity
CLP	Classification, Labelling and Packaging of substances and mixtures
CoFoE	Conference on the Future of Europe
COP	Conference Of Parties
CRC	Carbon Removals Certification
EC	European Commission
EEB	European Environmental Bureau
EED	Energy Efficiency Directive
EGD	European Green Deal
EPBD	Energy Performance of Buildings Directive
E-PRTR	European Pollutant Release and Transfer Register
ETS	Emissions Trading System
GHG	Greenhouse Gases
GSPR	General Product Safety Regulation
LULUCF	Land Use, Land-Use Change and Forestry
NECD	National Emission Ceilings Directive
NRL	Nature Restoration Law
NRRPs	National Recovery and Resilience Plans
POPs	Persistent Organic Pollutants
PRTRs	Pollutant Release and Transfer Registers
REACH	Registration, Evaluation, Authorisation and Restriction of Chemicals
RED III	Renewable Energy Directive III
RED IV	Renewable Energy Directive IV
SGP	Stability and Growth Pact
SLAPP	Strategic Lawsuit Against Public Participation
SUR	Sustainable Use of Pesticides Regulation
UWWTD	Urban Wastewater Treatment Directive
UNECE	United Nations Economic Commission for Europe
WFD	Water Framework Directive
WHO	World Health Organisation
ZPAP	Zero Pollution Action Plan



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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 Presidency Trio. The 2022-2023 paper, addressed to the French, Czech and Swedish Presidencies, can be read [here](#).

**META**

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