



The EEB's  
**ASSESSMENT** of the  
Environmental Performance of the  
Spanish Presidency of the EU



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**EEB**  
European  
Environmental  
Bureau

The EEB is Europe's largest network of environmental citizens' organisations. We bring together 180 member organisations from 40 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 Spanish 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 and EEB Council 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 Spanish Presidency came at a critical juncture of the European Green Deal (EGD) as the last full Council Presidency before the EP elections in June 2024. The window for completing the EGD files is shrinking given that only part of the next Council Presidency – Belgium – will be available for advancing trilogues. Significant progress during the Spanish Presidency has therefore been essential. The Presidency faced both growing calls for halting regulatory progress from some voices, while the flooding, forest fires and droughts, plus the growing evidence of health and pollution impacts and biodiversity loss called for more ambition.

During the Spanish Presidency there have been unprecedented efforts by anti-regulation ideologues, political power interests, and lobbying by short-term vested interests to drop, delay or degrade environmental and social protections. Pressure to resist change by a range of Member States also runs counter to their and the EU's medium and long-term needs for a just transition. The nature of the lobbying also raises a growing concern on the use of disinformation and fake news and false "science", misrepresenting the truth, the personalisation of attacks, and a slippery slope in governance, where yes-sayers replace those democratically elected and where their own judgement may run counter to leadership positions. This risks undermining the trust in the "community method" and hence in EU institutions and the EU project. This erosion of trust in the process doesn't have to be accepted as a new norm.

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.

The assessment is not an overall political assessment of the Presidency's performance, nor is it an assessment of the Spanish 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 Spanish Presidency responsibility, but where the Presidency plays an important role. Our assessment is based on the [Ten Green Tests](#) we presented to the Spanish Government just before the start of its Presidency on 1 July 2023.

We recognise and applaud the many important efforts made by the Spanish Council Presidency team to obtain agreement on a range of EGD files and maintaining ambition levels and recognise the difficult political context. However, we are critical of many of the results achieved – in Council positions and trilogue results – 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. While there has been some progress, hopes for a big step forward in intergenerational justice have been undermined.

The Spanish national elections also took place during the Spain's Council Presidency. Praise is due for to the Presidency team in advancing on so many files, as well as the essential UNFCCC COP28 negotiations, in a short space of time and not letting national politics undermine commitment and progress.

We are grateful for the openness and collaboration of the Spanish Presidency team on the environmental files, for the continuous support for civil society and citizens voices and the role of science, and for the level of engagement of Teresa Ribera, Vice-President of the Government of Spain and Minister for the Ecological Transition and the Demographic Challenge. Her personal commitment and energy to advance on legislative files and international commitments have made a difference.



Patrick ten Brink  
Secretary General

# Ten Green Tests for the Spanish Presidency: Assessment

*Good effort and impacts on circular economy. Despite many good efforts, mixed results on climate, biodiversity, pollution, toxics, and on the rule of law. Mixed efforts and poor results on water and zero pollution industry. Poor effort and poor results on sustainable food and agriculture.*

This is the fourth time in Spain's history that it has the responsibility of the Council Presidency. The first was in 1989, following Spain's accession to the EU in 1986.

Politics is the art of the possible. However, if and where the possible does too little to avoid climate breakdown, 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 progress to be good, despite efforts.

NGOs are often criticised as being “unrealistic” for insisting on progress and communicating disappointment with watered-down “wins”. However, how realistic will it be to adequately deal with climate collapse as the 1.5-degree target is ignored and a 3-degree future is more likely? How

realistic is it that society will be able to weather the floods, storms, droughts and heatwaves? How realistic is it to improve human health, when needed chemicals legislation is blocked? How realistic is it to deliver the commitment to stop biodiversity loss and promote a regenerative, nature positive future when certain political forces and short term vested interests systematically jeopardise progress?

It is against needs for climate justice, health, biodiversity and resilient ecosystems, and for today and tomorrow's young who will inherit the earth, not short-term political “realism”, that both effort and impact are assessed to determine the Presidency performance against the [Ten Green Tests](#). We reached the following conclusions:

		Effort	Outcome
	1 Advance the European Green Deal as a transformative peace project and create a vision for the next EGD		
	2 Strengthen accountability and the rule of law and promote environmental justice		
	3 Ensure energy security while tackling the climate emergency		
	4 Reverse the dramatic loss of biodiversity and put EU on a pathway to healthy soils		
	5 Tackle pressure on surface and groundwater and ensure clean water for all		
	6 Drive a transition towards sustainable food and agriculture		
	7 Ensure clean air towards zero environmental and health impacts		
	8 Fast track negotiations on the REACH and CLP Revisions to promote a toxic-free environment		
	9 Shift towards a zero-pollution industry		
	10 Grasp the full potential of the circular economy		



# 1 Advance the European Green Deal as a transformative peace project and create a vision for the next EGD

## The verdict

on effort on outcome

The [first Green Test](#) called upon the Spanish Presidency to finalise and advance the remaining EGD files; promote the green reconstruction and recovery of Ukraine; promote a follow up of the Beyond Growth conference; Advance discussions on the just transition, gender and social justice and push forward a reform of the EU's international trade policy.

## Key developments

- The Presidency held the [informal meeting of environment and energy ministers at Valladolid](#) on the 10-12 July, discussing: the integrated management of soil, water, forests and biodiversity; Measures to reduce marine litter; deployment of renewable energies and biodiversity; and expectations for COP28.
- **Environment Council Meetings** held on [16 October](#) reached [Council Conclusions on the UNFCCC COP 28](#), a general approach on [CO2 emissions standards for heavy goods vehicles and on urban wastewater treatment](#). A [general approach was reached on the regulation on packaging and packaging waste on 18 December](#).
- Finance ministers agreed on a poor compromise on the reform of the **Stability and Growth Pact (SGP)** on 20<sup>th</sup> December which will form the basis for negotiations with the European Parliament.
- **Ursula von der Leyen's State of the Union Speech** on 13 September 2023 reiterated a commitment to the EGD, but key policy files were sidelined and/or weakened.
- [The Granada Declaration](#) was made at the informal meeting of Heads of State on the 6 October 2023. This set up a first basis to prepare for the Strategic Agenda to guide the next Commission mandate.
- The **Heads of State at the December European Council** decided on 14 December 2023 to **greenlight the accession talks with Ukraine and Moldova**, and the European Parliament passed a decision on the draft **Ukraine Facility Regulation** on 17 October.
- On **trade**, there was no **EU-Mercosur** agreement. On 18 December the EU and Kenya signed an [Economic Partnership Agreement](#).

## Good

- At the **informal meeting of ministers in Valladolid** in July, the Presidency made a clear commitment to the EGD, demonstrated through the clear efforts to advance many EGD files and commitments during the six months. The Presidency also underlined the importance of scientific evidence, civil society voice, and good governance, building on the "nexus approach" – of engaging decision makers across areas affected by a policy, moving beyond mere "integration" and "silo approaches".
- While outside the formal Council Presidency, the Spanish Presidency engaged in the **Granada Declaration** that was strengthened from a very weak start. The [final text](#) included reference to climate and environment risks, circular economy, energy and resource efficiency, resilience and adaptation.
- The Presidency stressed, at different occasions, the need for a **Just Transition and gender and social justice**.

## Poor

- The EU finance ministers hastily agreed [on a poor compromise](#) on **EU fiscal rules** which is very disappointing and concerning. It is barely an improvement on current fiscal rules and will prevent most Member States from reaching their climate targets and may undermine the resilience of European economies and societies. The Spanish Presidency failed to push for a [reform of rules that serve EU climate, environmental and social goals](#).
- While outside the formal Council Presidency, the **Granada Declaration** did not present a clear and strong vision on environmental, climate and social justice goals
- - it was deeply weak on biodiversity and pollution/toxics, neither of which received even a mention despite being recognised as key environmental crises.
- The Spanish Presidency did not prioritise the **green reconstruction and recovery of Ukraine**. It didn't manage to start trilogues on the **Ukraine Facility Regulation**, leading to political turmoil just before the heads of state summit. Furthermore, discussion on green conditionalities for the funds did not generate the needed momentum in recent months. The release of EUR 50 billion is in limbo after Hungary's lack of support.

**Overall:** The Spanish Presidency kept the flame of progress of the European Green Deal alive, but couldn't progress in practice as much as hoped or needed given the political blockage of two key EGD files (REACH revision and SFS law), the considerable opposition to any files affecting biodiversity or agriculture in the EP. While there were considerable efforts made in some, but not all areas, even in those areas of effort these faced unprecedented resistance, and progress was far less than needed, hence overall mixed on effort and mixed on impact.



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

### The verdict



on effort



on outcome

The second Test called on the Presidency to Ensure full compliance by the EU with the Aarhus Convention, agree on an ambitious revised Environmental Crime Directive; lead the Council in the discussions related to the evaluation of the Environmental Liability Directive; lead the Council to an ambitious position during the trilogues on the Corporate Sustainable Due Diligence Directive; promote civil society space and meaningful participation in decision-making for democratic legitimacy and lead by example by including and empowering civil society.

### Key developments

- The co-legislators came to a provisional agreement on the **Environmental Crime Directive**.
- The Parliament and Council reached a political agreement on the Directive to combat **SLAPPs**.
- An agreement was also reached on the **Corporate Sustainability Due Diligence Directive**.
- Both Parliament and Council adopted negotiation positions on the **Ambient Air Quality Directive** and the **Urban Waste Water Treatment Directive**, both include provisions on access to justice and compensation rights.
- The Presidency failed to put pressure on the Commission on the **polluter pays principle** and related civil liability issues.

### Good

- The Presidency was receptive to constructive proposals for the provisional agreement on the **Environmental Crime Directive**. Hinting at the crime of ecocide in the text and expanding the toolkit for national prosecutors were major steps forward in the fight against environmental crime.
- While leading the Council towards reaching an agreement on the **Directive on Strategic Lawsuits against Public Participation**, the Presidency negotiated with good faith towards protecting activists and journalists but was unfortunately unable to make up for damage done to the file during the previous Presidency.
- The Presidency managed to maintain the bare minimum for access to justice wording in positions on the **Urban Waste Water Treatment Directive** and the **Ambient Air Quality Directive**. Albeit not revolutionary, this was a positive move compared to previous presidencies.
- The Spanish Presidency resisted that anti-regulation pressures and focussed on finalising files ahead of the 2024 end of this legislative cycle.
- The Spanish Presidency remained receptive to Civil Society input, reiterating the importance of civil society at the informal meeting of ministers in Valladolid, and cooperated actively with the EEB.

### Poor

- In negotiating the provisional agreement on the **Environmental Crimes Directive**, the Spanish Presidency undermined the role of NGOs in detecting, reporting on, and representing interests in environmental criminal proceedings. It also failed to agree to sanctions for companies which would reflect the true scale and detriment of the crimes committed.
- The Spanish Presidency attacked compensation rights and penalty obligations in both the **Urban Waste Water Treatment Directive** and the **Ambient Air Quality Directive**, seriously limiting chances for civil liability against public authorities and companies.
- During the trilogue negotiations of the **Corporate Sustainability and Due Diligence Directive**, the Presidency circulated and pushed for a proposal to fully exempt the financial sector from the Directive, adopting a more restrictive approach than even the Council General Approach had towards the sector. This exemption is unjustifiable and inexcusable and undermines the purpose of enabling a level playing field for sustainability due diligence across the EU.
- The Spanish Presidency did not lead by example with new infringement developments being taken against Spain on e.g. **Natura 2000 and water management**. It also did not work towards increased transparency of the infringement process and did not push the Commission to step up its enforcement work.

Overall, the Presidency's output on environmental rights and environmental justice was prolific but the quality took a toll. The Presidency failed to stand up for victims of environmental damage, their rights to go to court and their right to be compensated. While acknowledging some role for private enforcement in certain files, the Presidency completely neglected public enforcement and upheld the inequality of arms in favour of companies and public authorities. The verdict is therefore good on effort and mixed on outcome.



## 3 Ensure energy security while tackling the climate emergency

### The verdict



on effort



on outcome

The third Test called on the Spanish Presidency to Complete Council trilogue negotiations on the remaining Fit for 55 Package items, notably the EPBD; lay the ground for a swift and decisive transition towards 100% renewable energy; advance on sustainable mobility; ensure that the Energy Taxation Directive (ETD) is coherent with the other EU's climate goals and the REPowerEU; lead the Council discussions on energy savings; and lead the Council discussions on the importance of phasing out highly climate-impactful gases such as Fluorinated Gases.

### Key developments

- The Presidency continued and concluded interinstitutional negotiations on the **F-Gas Regulation**.
- The Presidency progressed/finalised the technical negotiations on **Energy Performance of Buildings Directive (EPBD)**, paving the way for a formal adoption.
- The Presidency promoted the adoption of the **Renewable Energy Directive**
- The Presidency continued and concluded interinstitutional negotiations on the **EPBD**.
- The Presidency continued and concluded interinstitutional negotiations on the **gas package**.
- Council conclusions on the **UNFCCC COP28** were agreed at the 18 October Environment Council, informed by discussions at the Informal meeting of environment and energy ministers, 10-12 July 2023 in Valladolid, and the [COP28](#) held 30 November to 12 December 2023.

### Good

- The **F-Gas regulation** was approved with ambitious ban on climate harmful gases and aligned with the carbon neutrality target, which could pave the way for a global agreement.
- Secured an agreement on the **EPBD** including a mention for whole life carbon reporting for new buildings, stringent standards for non-residential buildings and a solar roof obligation for some buildings.
- Restarted the process of finding consensus in Council on the revision of the **Energy Taxation Directive (ETD)**, though so far without reaching a final agreement.
- The Presidency proposed a satisfactory compromise on the **governance of the gas and hydrogen grids** that keeps ownership and management separated to prevent oligopoly and extra costs for consumers.
- The **UNFCCC COP28** agreed early on a **Loss and Damage** and **countries committed to a tripling of renewable energy capacity by 2030 and doubling of average energy efficiency improvements from 2% to 4% per year by 2030**, in line with EU asks. The Spanish Presidency and Commission made huge efforts to get a final deal that, despite its many weaknesses, was far better than it would have been without this engagement.

### Poor

- The Presidency did not manage to embed the greatest and necessary ambition with regards **MEPS and the fossil fuels phase out under the EPBD**, increasing the risk of high ETS2 carbon prices and high fuel prices.
- Despite striving for a more ambitious language, the Spanish Presidency finalised a declaration that calls for the **phase out of fossil fuels at global level at COP28** but only talks of “unabated” hence leaving much ground for a technology, **CCS**, that should only be considered for industrial tailpipe offsetting. It also failed to ask for coal phase out and only request no new coal power plants.
- The **RED** contains provisions to accelerate the uptake of renewables but fails to address the core issue of **citizens' participation** in projects.
- **UNFCCC COP28**: the political pro-nuclear lobby got traction, with 22 countries calling for a **tripling of nuclear by 2050**. This risks being an expensive venture that could siphon money and political attention away from renewable energy and energy efficiency solutions, needed grid investments for decentralised production and leads to a delay in emissions reductions and increase radioactive waste liabilities. A further weakness is that the level of funds allocation to **Loss and Damage**. Spain was not “leading by example” here, committing only [20 million EUR to the adaptation fund](#), i.e. less than 50 cents per Spanish citizen. The funds offered from countries in the global North such as the US and the EU are similarly meagre – with US\$225 million for the EU combined. This amount falls far short of the needs of the countries that suffer most from the consequences of climate change.
- The **EPBD** fails to address the needed urgency of **buildings renovation** and hence betrays the energy efficiency first principle enshrined in the EED. Besides, it only contains very weak provisions on the phase out of fossil fuels.
- The Council position on the **Net Zero Industry Act** – while better than the Parliament position – particularly regarding permitting provisions – nevertheless weakens the strategic focus of NZIA by expanding the scope of technologies. Including nuclear is completely contrary to the evidence on the extremely limited contribution nuclear can make to decarbonize the EU in time to reach climate targets, while the unfocused approach on Carbon Capture and Storage will distract public resources away

from other proven technologies able to displace fossil fuels in the short term, as well as slow down the

electrification of carbon-intensive industrial sectors such as steelmaking.

Overall, the Presidency made progress in closing important climate files and reducing the number of open files of the Fit-for-55 package, as well as reaching a historic agreement to phase out climate-harming F-gases. However, the challenge set by Commission President von der Leyen, to propose alternative instruments to reach climate targets where legislators weaken the Commission's proposal, has not been honoured, most notably in the EPBD. This means that reaching -55% relies strongly on high carbon prices (in those sectors where applicable) and member states' own initiative. The verdict is thus positive on efforts and mixed on outcome.



## 4 Reverse the dramatic loss of biodiversity and put the EU on a pathway to healthy soils

### The verdict



on effort



on outcome

This Test called on the Spanish Presidency to finalise the negotiations both in the Council and in the trilogues on a strong Nature Restoration Law; ensure the success of the pledge and review process towards establishing a truly coherent Trans-European Nature Network; actively lead the discussions in the Council and in Trilogues for a reliable and trustworthy Carbon Removals Certification Framework; ensure that the Council negotiations on the Soil Health Law start without delay; prioritise negotiations on the Forest Monitoring Law; and reverse the increasing degradation of marine and coastal ecosystems.

### Key developments

- The Spanish Presidency engaged in earnest in the trilogue negotiations on the **Nature Restoration Law** and reached a provisional agreement on 9 November 2023. It was then swiftly endorsed by the EU Ambassadors on 22 November and supported by the Parliament's Environment Committee on 29 November;
- The Presidency organised a timely discussion on the **Nature Restoration Law** as well as **integrated approaches in implementation of the biodiversity, soil and water policies across the EU** at the informal meeting of the EU Environment Ministers on 10 July.
- The Presidency organised fruitful meetings of the EU Nature Directors on 21 and 22 of September focusing on issues related to **nature restoration, financing of biodiversity policies and good practices to reconcile the roll out of renewable energies with biodiversity conservation**. The Presidency also discussed **forest protection and management priorities on the Council's political agenda** at the meeting of the EU Forest Directors on 18–20 October. Both meetings allowed participation of the stakeholders and NGOs;
- Five bio-geographical seminars were held in autumn 2023 to review Member States pledges to **establish a truly coherent Trans-European Nature Network** including improving status of the protected habitats and species and effectively protect 30% of EU's land and seas;
- The Agrifish Council discussed the agricultural aspects of the **Soil Monitoring Law** on 18 September and the Environment Council held a policy debate on this crucial Green Deal file on 18 December;
- The European Commission published its long-awaited proposal for the **Forest Monitoring Law** on 22 November and the Presidency swiftly organised a policy debate at the Environment Council on 18 December;
- Both Parliament and Council adopted their positions on the **Carbon Removals Certification Framework**, and trilogues kicked off.

### Good

- The Spanish Presidency was instrumental in securing the deal on the **Nature Restoration Law**. This was especially important in the context of significant pushback and misinformation campaigns against the nature pillar of the European Green Deal in general, and the NRL in particular, orchestrated by the conservative politicians and vested interests; The provisional agreement on the NRL includes several positive elements, and the Spanish Presidency was instrumental in assuring better coherence with the Common Fisheries Policy through supporting the introduction of an additional article, filling the gap in the Commission's initial proposal.
- The Spanish Presidency organised the Council's work on the negotiations on the **Soil Monitoring Law** without delay, culminating in the policy debate at the Environment Council on 18 December, during which a large majority of EU environment ministers committed to continue harmonizing soil monitoring across the bloc and to set goals to improve their health in line with the EC proposal.
- The Spanish Presidency encouraged the EU environment ministers to discuss the Commission proposal on **Forest Monitoring Law** only a few weeks after the EC finally published its proposal, which allowed the Ministers to discuss whether the Environment Council should be closely involved in the deliberation of the Council position on this file, recognising that it primarily aims to harmonise environmental monitoring of the EU's forests.

### Poor

- Despite significant efforts by the Presidency to reach the deal on the Nature Restoration Law, the provisional agreement on the **Nature Restoration Law** is significantly weaker than the Commission's proposal or the Council's position and will make its implementation challenging;
- The progress in the negotiations in the Council on the **Soil Monitoring Law** has not been sufficient and adopting a general approach on the file under the Belgian Presidency will be challenging;
- The Presidency has not prioritised the Council's support to the **establishment of a truly coherent Trans European Nature Network**, even though Spain is one of the few Member States that had prepared its pledge for meeting both the protected area as well as the status improvement targets;

- The Council adopted the general approach on the **Carbon Removals Certification Framework** which does not address the concerns raised by the EEB and wider civil society, by still allowing for offsetting and double counting, and even weakening the crucially important biodiversity co-benefits safeguard.
- Under the Spanish Presidency, the Council continued to adopt a “business as usual” approach when **setting fishing quota**, and thus actively contributed to the further deterioration of marine ecosystems and its fish stocks, going against EU fisheries law.

Overall, the Presidency is to be congratulated on the significant efforts put in securing the deal on the Nature Restoration Law, however, the provisional agreement it has negotiated is less ambitious than the EC proposal and Council position and is below expectations expressed by EU citizens, civil society, scientists, cities and progressive business. Overall, the verdict is therefore good on effort, mixed on outcome.



## 5 Tackle pressure on surface and groundwater and ensure clean water for all

### The verdict



on effort



on outcome

This Test called upon the Presidency to prioritise Council negotiations on the Commission's proposal to update the list of water pollutants of surface and groundwater; finalise the Council negotiations on the recast of the Urban Wastewater Treatment Directive; organise Council's work towards EU's strategic approach to ecological and climate resilient water management.

### Key developments

- The Presidency concluded Council's negotiations on the recast of the **Urban Wastewater Treatment Directive** and the Environment Council adopted the general approach on 16 October, paving way for trilogue negotiations to start in November 2023;
- The European Parliament's plenary adopted its position on the on the recast of the **Urban Wastewater Treatment Directive** on 5 October;
- The European Parliament adopted its position on the EC proposal to **revise the lists of surface water and groundwater pollutants** on 12 September, making several improvements on the EC proposal;
- After initial delay, the Presidency was able to organise several meetings at the technical level discussing the EC proposal to **revise the lists of surface water and groundwater pollutants**;
- The Presidency held a meeting of the Water Directors on 13-14 November providing a platform to take stock in the **implementation of the Water Framework Directive**.

### Good

- The Presidency succeeded in reaching an agreement on the Council position on the recast of the **Urban Wastewater Treatment Directive**, and consequently engaged in the trilogue negotiations;
- The Presidency made some progress in the Council negotiations on the EC proposal to **revise the lists of surface water and groundwater pollutants**.

### Poor

- Although the Presidency managed to achieve the agreement on the Council's general approach on the **Urban Wastewater Treatment Directive**, the Council introduced several loopholes, including a new opt-out from meeting the obligations of the Water Framework Directive, and in some regards, the Council's text is less ambitious than the existing 1991 Directive;
- The progress in the negotiations on the EC proposal to **update the list of water pollutants of surface and groundwater** has not been sufficient to reach the agreement in the Council, which means that this crucial zero pollution revision of water legislation will not be concluded under this legislative mandate, further delaying action to tackle water pollution.

Overall, the Presidency prioritised advancing the Council negotiations on the Urban Wastewater Treatment Directive and succeeded in securing the agreement on the Council's position. However, the Council's position is weaker than the Commission's proposal in several regards and even backtracks on several important requirements under the existing Directive. The Presidency also advanced the Council negotiations on the update of the list of pollutants of surface and groundwater but failed to reach the agreement on the Council's position, which will further delay adoption of this crucial and already delayed legislative update. Overall, the verdict is therefore mixed on effort, poor on outcome.



## 6 Drive a transition towards sustainable food and agriculture

### The verdict



on effort



on outcome

The sixth Test called on the Presidency to increase the dialogue between the Agriculture and Fisheries Council and Environment Ministers and stakeholders; uphold the ambition and commitments of the Farm to Fork Strategy; support a transformative Sustainable Food Systems (SFS) Law; prioritise the Sustainable Use of Pesticides Regulation (SUR); respond to the Commission's Integrated Nutrients Management Action Plan; and to lead by example in continuously improving the environmental and climate ambition of the Spanish CAP Strategic Plan.

### Key developments

- The impacts of the Russian war in Ukraine and of extreme weather events in Summer 2023 on the agri-food sector are clear reminders to the need to transform our food system to make it more sustainable and resilient, requiring urgent crisis measures as well as 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.

### Good

- No evidence of good efforts or results could be found in the areas presented in the EEB's Ten Tests for the Spanish Presidency.

### Poor

- At a time when political support to the Farm to Fork Strategy was crucial, the Spanish Presidency showed a **disproportionate focus on 'techno-fixes' and made little effort to advance the Green Deal agenda in the agri-food sector**. The wholesale support to the new Regulation on plants produced by certain new genomic techniques (NGTs) demonstrated how high-level political backing can streamline legislative processes, but it is very unfortunate that such political sway was invested in a legislative proposal with questionable evidence-base and added value and which brings serious concerns with regards to farmers' rights and access to seeds.
- The Spanish Presidency did not provide leadership in the Council to advance negotiations on the **SUR proposal**, which has remained stalled despite the Commission delivering the additional data requested by Council. This puts a key cornerstone of the Green Deal at risk.
- No improved **dialogue with environmental stakeholders** was held or sought by the Presidency.
- Instead of pushing for more ambition in **CAP Strategic Plans**, the Presidency facilitated continued pushes by the Agriculture Council for further unjustified derogations to conditionality rules.

Overall, the Presidency made little effort to concretely progress the delivery of the Green Deal in the agriculture and food sector. Therefore, the verdict is poor on effort and poor on outcome.

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

### The verdict



on effort



on outcome

The seventh Test called upon the Presidency to promote Member States engagement towards an ambitious revision of the Ambient Air Quality Directives; lead on the definition of EU legislation and policies which are fully coherent with the need for reducing air pollution; support the needed revision of the Gothenburg Protocol to the UNECE Long-Range Transboundary Air Pollution Convention; and to lead by example by swiftly revising Spanish's National Air Pollution Control Programme.

### Key developments

- Following the publication of the Commission's proposal for a revised **Ambient Air Quality Directive (AAQD)**, the process for defining co-legislators' positions started.
- The Parliament conducted negotiations following the ENVI Committee vote on the file on 27 June. It adopted its position on 12 September 2023, securing a swift and smooth continuation of the co-decision process.
- The Council adopted its **AAQD** position on 9 November 2023, contributing to the quick start of the trilogues.
- The Council and the European Parliament negotiated in parallel the text for a revised **Industrial Emissions Directive** and for a revised **Euro 7 Regulation**.
- **The Clean Air Forum**, organised by the Commission, took place in Rotterdam on 23-24 November.
- The Commission advanced on infringement procedures launched in January 2023 in relation to failure to implement the **National Emission Ceilings Directive**.

### Good

- Member state representatives continued the exchanges on the **AAQD** revision during the several Working Party on Environment meetings that had been organised by the Spanish Presidency.
- The Spanish Presidency has secured the adoption of the **Council's position on AAQD** during its semester, so to

allow the starting of the trilogues and, hopefully, the definition of a revised Ambient Air Quality Directive under this European Commission and European Parliament's mandates.

### Poor

- **The Council's position on the AAQD** was adopted during a COREPER meeting, making it impossible for the public to understand and assess Member States specific positions on the text. Very little information was made available to the general public and interested stakeholders to understand the stage and the content of the discussions in the Council ahead of the adoption of its position on the AAQD on 9 November 2023. The Presidency also did not meet with EEB representatives to discuss the AAQD revisions. **The Council's position is very poor in ambition:** it calls for extremely dangerous flexibility mechanisms to be introduced (postponement of the date for achieving the new air quality standards from 2030 to 2040, also in case of energy poverty and modelling results; transboundary air pollution and orographic conditions should be as well considered as an excuse to not achieve compliance with the new air quality standards within the identified timeline) and extremely lenient timelines for the adoption of air quality plans (the tool which should ensure that additional effort is made to be back into compliance once a breach is in place). The position does not make any reference to the need to align with WHO Air Quality Guidelines. Compensation rights, in the view of the Council, should also be made basically impossible to exercise. The Council's position on AAQD was adopted on 9 November: with the European Commission's Clean Air Forum taking place on 23-24 November, participants were looking forward to hearing
- from the Council representative (Spanish Presidency) during a panel debate, as indicated in the agenda and announced at the beginning of the discussion. Regretfully, the Council representative was not present. Hopefully a new public occasion can be found to present and share the Council's views with the public and interested stakeholders.
- No steps forward were made during the semester regarding the explicit positioning of the European Member States in favour of the revision of the **UNECE Gothenburg Protocol** to expand its scope (to include mercury, black carbon and methane) and to also increase the reduction objectives for the already covered pollutants (including ammonia).
- No updated version of the **Spanish National Air Pollution Control Programme** had been made available (by November); it is demanded by the National Emission Ceilings Directive, and it was expected by 1 April 2023.
- The **General approach adopted by the Council on Euro 7** will do almost nothing to improve air quality and the health of European citizens. It does not include any improvement in ambition compared to the previous Euro 6 standards, besides the inclusion of non-tailpipe emissions. Instead, it will allow the automotive industry to greenwash cars as 'clean Euro 7' while still running on highly polluting Euro 6 technology.

Overall, having in mind the urgency to tackle air pollution, the Spanish made good effort in prioritising the topic within the Council, securing the adoption of the Council's position within a meaningful timeline, allowing to hopefully reach a deal before the end of this Parliament and Commission mandate. The organisation of the different Working Parties on the Environment meetings allowed Member States to hold meaningful discussions, but no information was shared with the general public. The Spanish Presidency did not prioritise the implementation of the NECD at national level and, unfortunately, no steps were made to secure the revision of the Gothenburg Protocol. Therefore, the verdict is positive on effort and mixed on outcome.



## 8 Fast track negotiations on the REACH and CLP Revisions to promote a toxic-free environment

The verdict



on effort



on outcome

This Test called upon the Presidency to seek to advance towards a general approach on the revision of the REACH Regulation; adopt a general approach on the revision of the Classification, Labelling and Packaging (CLP) Regulation; promote EU leadership in strengthening the Minamata Convention on Mercury; ensure that the revised EU Mercury Regulation has a wide scope and to promote a Product Liability Directive and a Cosmetics Regulation.

### Key developments

- The previous Swedish Presidency managed to adopt a general approach on the legislative proposal to revise the **CLP** in the very last days of its Presidency, allowing the Spanish Presidency to promptly initiate the inter-institutional negotiations. However, the Council general approach not only lacks ambition but severely undermines protection.
- The European Parliament's position on CLP revision improved the level of protection of the Commission's proposal.
- The European Commission cancelled the legislative proposal for revision of **REACH regulation**, hampering the possibility of Spain to advance towards a general approach.
- The Commission published their proposal to review the **EU Mercury regulation** on the 14 July 2023 and a delegated act aligning the EU law with the Minamata Convention was adopted on the same day.
- Preparations and the fifth Conference of the Parties (COP5) of the **Minamata Convention** took place on 30 October – 3 November 2023.

### Good

- The Spanish Presidency successfully sped up negotiations on the **CLP revision** by quickly initiating the trilogue process and organized an important number of technical and political meetings. Spain managed to reach agreement in the very first political trilogue in December, hence managed to conclude negotiations within two months, something rare for such complex files.
- Although content-wise the Council's CLP general approach position was rather weak. Spain managed to facilitate negotiations that assured a higher level of protection.
- The Spanish Presidency was open to consultations with the NGOs, mainly in preparation for the **Minamata Convention COP5**.

### Poor

- The Presidency didn't succeed in ensuring in the final **CLP** agreement access to justice to civil society and allowed derogations to multi constituent substances of natural origin.
- Since European Commission decided to delay and lately not to deliver the revision of **REACH**, the Spanish Presidency could have called the Commission to urgently adopt a legislative proposal and express willingness and readiness to give high priority to starting those negotiations as soon as the proposal was received.
- No event on key chemicals policy topics was organised.
- No specific initiatives took place to accelerate discussions on the Review of the **EU Mercury regulation** in the Council, despite different communications and letters sent by the EEB and other NGOs, something which could delay the process of adoption.

On chemicals, the Spanish Presidency successfully prioritized, accelerated and concluded negotiations as well as improved the CLP regulation revision proposal. Although the Council could not have advanced on the REACH revision proposal given its absence, the Spanish Presidency could have been more vocal about its need. Despite not all our demands were delivered on, we consider that the overall verdict is good on effort and good on outcome since the outcome of the Presidency was rather positive. On Mercury, while progress was made at the global level, no effort seems to have been made to accelerate the review of the EU Mercury regulation. As a result while effort and outcome are positive at the global level, they are poor at the EU level, hence mixed overall for mercury.



## 9 Shift towards a zero-pollution industry

### The verdict



on effort



on outcome

In [this Test](#) we called upon the Spanish Presidency to commit to clean up industrial production and generate transformative change to zero pollution industry; lead discussions in the Council in Trilogue negotiations on the IED; and represent the Council at Trilogue negotiations for an ambitious reform of the IEP-R.

### Key developments

- The Presidency organised several Council working group meetings on the **Industrial Emissions Directive (IED)** clustered by different topics building on the general agreement adopted on 16 March 2023.
- Several Council working groups were held to reach an agreement with the European Parliament as well as on the **Proposal for a Regulation establishing the Industrial Emissions Portal (IEP-R)**. The final trilogue meeting took place on 28 November 2023.

### Good

- **IED:** the use of information generated by **Environmental Management Systems**, the **substitution assessment of hazardous and minimisation of other concern pollutants** is enhanced. Member States shall ensure permits conditions and **general binding rules** are considered; performance with best achievable performance (strict range), however with long transition deadlines; BREFs will have to address decarbonisation and biodiversity; further monitoring of effects in the environment will apply in case of granting derogations from BAT ranges; **stronger rules for water protection** will apply, in particular for indirect discharges; an **e-permit system shall be put in place**, but with very long transition deadline up to 2035.
- Regarding the **Regulation establishing the Industrial Emissions Portal**: reporting on inputs (energy, water and “key” raw materials) will be mandatory; reporting on operation hours will be mandatory; a **zero reporting threshold** for substances displaying a particularly high hazard to the environment or human health combined with goal of capturing at least 90% of releases of each pollutant to air, water and land during upcoming reviews of the pollutants (expected only in 2026); reporting is to be made at installation level; and the current scope on aquaculture has been reduced from the current 1000t/yr threshold to 500t/yr but is still far too high (Commission proposed 100t/yr (referring to “feed based” aquaculture).

### Poor

- Regarding the **IED: transitional periods** for stricter emission limits values consistent to the strictest end of the levels achieved using Best Available Techniques (BAT) up to 14 years, up to 2030 for livestock, provisions do not refer to technical non-feasibility and most effective BAT(s); **Further derogation options got added: to BAT associated performance levels, a derogation for supply chain interruptions (“crisis situation”) added and retroactive 10 years extra derogation to stricter limits to air pollutants from Large Combustion Plants located on islands; The compensation right is an empty shell and sanctions provisions have been severely weakened; Only water related performance levels will be binding**, other resource (energy and materials) related standards declared “indicative”; **No meaningful climate action:** the limitation article 9(1) of the EU-ETS preventing the setting of GHG limits has been maintained, installation level transformation plans will remain indicative as to commitments; **Cattle are excluded** (mainly due to European Parliament), **regulatory backtracking on poultry and pigs; Backtracking on current practice of treating NGOs**
- **equally to the other non-competing stakeholders in the Sevilla Process and transparency as to industry claimed “confidential business information”; Mineral mining excluded; and life-cycle environmental impacts of the supply chain removed from permit conditions**
- Regarding the **Regulation establishing the Industrial Emissions Portal**: The Spanish Presidency has failed in providing for effective and early participation of the public in the elaboration of amendment to the review of the E-PRTR, despite legal requirements to the contrary. On substance the Presidency failed to improve the ambition, mainly due to resistance from governments of France and Germany, on the following: the Portal is not made fit for purpose of benchmarking with BAT uptake and compliance promotion; the review of pollutants did not add any further pollutants except PFOA and PFOS, whilst the European Parliament proposed the total PFAS group; and no further clarification as to what contextual information means (i.e. enabling comparability of permit conditions) concretely has been provided.

The Spanish Presidency made good efforts to find a quick deal with the European Parliament on the IED, but the rush came with the expense of quality to uphold any remaining ambition on both files. For the IEP-R no efforts were made by the Spanish Presidency to make it more fit for purpose, no pro-active outreach with NGO were carried out when discussing proposals of trilogue compromises. The outcome is very bad for the IED whilst overall the IEP-R will not help compliance promotion and benchmarking on environmental performance.



# 10 Grasp the full potential of the circular economy

## The verdict



on effort



on outcome

Our final Test called upon the Presidency to finalise the trilogues for the Ecodesign for Sustainable Products Regulation; finalise the Trilogues for the Energy Performance of Buildings Directive (EPBD); finalise the revision of the Waste Shipment regulation; reach a general approach for the Green Claims Directive and finalise the trilogues for the Directive on Empowering Consumers for the Green Transition; advance the Trilogues for the Construction Product Regulation; reach a General Approach for the Packaging and Packaging Waste Regulation; define a general approach for the Directive on common rules promoting the repair of consumer goods; and start negotiations and define a general approach for the Critical Raw Materials Regulation.

## Key developments

- Three trialogues, including the final one, have been conducted by the Spanish Presidency on the **Energy Performance of Buildings Directive**.
- The Spanish Presidency successfully managed to find an agreement (general approach) on the **Packaging and Packaging Waste Regulation** in the Environment Council.
- The Spanish Presidency managed to conclude negotiations on the **Empowering the Consumer for the Green Transition** initiative.
- The Spanish Presidency reached an agreement on the **Waste Shipment Regulation**
- Three trialogues, including the final one, have been conducted by the Spanish Presidency for the **Construction Products Regulation**.
- A negotiating mandate has been established for the **Directive on common rules promoting the repair of goods**
- An agreement was reached on the **Critical Raw Materials Act**.

## Good

- The Presidency finalised the agreement on the **Ecodesign for Sustainable Products Regulation**, setting a strong framework for Europe's product policy.
- The Spanish Presidency has played a positive role in ensuring that progress has been made on the **Energy Performance of Buildings Directive** trialogues for an agreement to be reached before the end of the year, including provisions on mandatory assessments and limits of whole life carbon for new buildings.
- The Presidency played a constructive role in ensuring a final deal on the **Construction Products Regulation**.
- The Presidency struck a deal on **Waste Shipment Regulation**, restricting further the export of EU waste to non-OECD countries, enhancing the transparency on shipments, and requiring a Prior Informed Consent for export of all plastics to OECD countries.
- On **Empowering Consumers**, the Presidency obtained a robust agreement including restrictions on **green washing and misleading claims** on climate neutrality.
- The Spanish Presidency has reached a position for the **Directive on common rules promoting the repair of goods**, increasing the chances that the file will be concluded before the elections next year.
- On the **packaging regulation** the Spanish Presidency played a decisive role in advancing very difficult negotiations and largely resisted the lobbying pressures to dilute the reuse and waste prevention provisions. Although exemptions for paper and cardboard may have unforeseen risks.

## Poor

- The Presidency has failed to increase ambition from the Council General Approach on the **Energy Performance of Buildings Directive** recast, including by finding compromises on the approach on Minimum Energy Performance Standards (MEPS) for residential buildings proposed by the Commission and the Parliament.
- The Spanish Presidency failed to raise the ambition of the Council in the negotiations for the **Construction Products Regulation**, in particular concerning provisions on implementation which are too vague and without clear targets or deadlines for action, resulting in a text failing to set mandatory EU requirements to eliminate the worst-performing construction products.
- The Presidency did not prioritise progress on the **Green Claims Directive** and did not reach a general approach.
- The Spanish Presidency did not align the intra EU shipments of waste with the **Basel Convention** on plastic waste and level of contamination, and notably still allows the export of PVC under green list within EU (EU B3011), which is contradicting the recent assessment by ECHA on this polymer. The allowance to trade PTFE waste, a well-known PFAs, under green list within EU is also at odds with efforts to restrict these eternal pollutants.
- While the **Critical Raw Materials Act** ended up with a recital excluding Deep-Sea Mining from Strategic Projects, it missed the opportunity to align the wording according to international norms on "harmful effects", thus making the recital practically ineffective.

The Spanish Presidency should be praised for its efforts to progress on a number of key circular economy legislative files despite an incredibly challenging number to cover in a limited amount of time. The finalisation of at least five circular economy legislative files in trilogues is a clear demonstration of success of the Presidency. In general, the Council have presented less ambitious negotiating mandates than the Commission's original proposal and the Parliament's mandate. This is particularly noticeable on aspects such as enforcement (e.g. in the context of ecodesign for sustainable products regulation), where Council was incredibly insistent on avoiding compromises. To finish on a very positive note, the Presidency's role in securing a general approach for the Packaging and Packaging Waste Regulation deserves particular praise. For packaging there are diverse and diverging national interests at play which made for challenging negotiations, nevertheless the final agreement secured in Environment Council retains key measures and ambition. Overall, the verdict on the Spanish Presidency's work on the circular economy is positive on effort and outcome.

# Abbreviations

AAQD	Ambient Air Quality Directives
BREFs	Best Available Techniques Reference Documents
CAP	Common Agricultural Policy
CCS	Carbon Capture and Storage
CLP	Classification, Labelling and Packaging of substances and mixtures
COREPER	Committee of the Permanent Representatives of the Governments of the Member States to the European Union
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
ETD	Energy Taxation Directive
ETS	Emissions Trading System
IED	Industrial Emissions Directive
IEP-R	Industrial Emissions Portal
MEPS	Minimum Energy Performance Standards
NECD	National Emission Ceilings Directive
NGOs	Non-Governmental Organisations
NGTs	New Genomic Techniques
NRL	Nature Restoration Law
PRTRs	Pollutant Release and Transfer Registers
REACH	Registration, Evaluation, Authorisation and Restriction of Chemicals
RED	Renewable Energy Directive
SGP	Stability and Growth Pact
SLAPPs	Strategic Lawsuits Against Public Participation
SUR	Sustainable Use Regulation (Pesticides)
UNECE	United Nations Economic Commission for Europe
UNFCCC	United Nations Framework Convention on Climate Change
WFD	Water Framework Directive



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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 Memorandum addressed to the Belgian Presidency can be read [here](#).

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