



With the new Regulation 2020/852, the European Union to facilitate sustainable investments runs the risk of opening up opportunistic routes for increasing GHG emissions.

A loose interpretation of the “technological neutrality” principle would classify most technologies as environmentally sustainable for the purposes of qualifying for funding, even if they emit Greenhouse Gases

Its ambiguity and complexity facilitate the practice of greenwashing, which devalues the term “sustainable” by associating it with a degree of sustainability.

We demand the creation of independent and public control bodies which do not allow these types of easy-pass filters to appear.

Madrid. Monday, 13 July 2020. The new European Union (EU) Regulation 2020/852, for the establishment of a framework to facilitate sustainable investments, which entered into force 12 July, **could increase the potential risk to slow down the increasingly necessary energy transition as its new taxonomy enables investments in polluting technology and non-compliance with the targets of the Paris Agreement.** Furthermore, **it directly questions the logic of the concept of sustainability, which as the European Parliament stresses is gradual rather than absolute, and it could even enter in conflict with the principles and articles of the European Union Treaty that refer to the environment and sustainability.** An **excessively ambiguous and complex text**, may enable gas, oil and nuclear companies to make investments labelled as environmentally sustainable thereby prolonging the European Union’s energy dependency on fossil fuels and its transition to decarbonisation.

At a time when it is more necessary to focus **investments on plans to develop renewables, energy efficiency, energy rehabilitation, sustainable mobility and distributed generation**, among other issues, the EU has incomprehensibly opted to head in the other direction, with the risk of classifying as sustainable what is actually unsustainable. This would mean **moving from the “Green New Deal” to” the “Grey New Deal”**, making it essential to **demand the creation of independent and public control bodies** within the regulatory framework **which do not allow the opportunistic routes opened up by the Regulation to be used.**

The new Regulation contains **several vague key points**, starting with **Article 3**, which grants the classification of **“environmentally sustainable”** to an investment which **“contributes substantially”** to one or several of the environmental targets established in

Article 9 and “does not significantly harm” any of these targets. The European Parliament itself asks the European Commission to propose a framework for grading this “significant harm”, which in any case may involve “marchandizing” environmental assets that have thus far been generally avoided by considering a large majority of environmental assets as non-replaceable, non-exchangeable and non-interchangeable. These ambiguities and possibilities for bartering environmental assets could undoubtedly clear a path to “Greenwashing” for companies which are already experts in this practice as they once exchanged real environmental impacts for projects that offered virtual socioeconomic benefits.

Countering “substantial” environmental contributions (why not “significant”?) with “non-significant” environmental harm (why not “non-substantial”?) is simply a fallacy, as is shown by their interchangeability, which would suggest a kind of net balance between non-comparable and non-exchangeable assets. Perhaps it would be sufficient to classify environmental harm differently as “non-acceptable” or “unacceptable” and, as consolidated by the Product Safety Directive, in simple terms “that which does not present unacceptable risks”.

Furthermore, **Article 16** on “enabling activities” contains a new taxonomy **based on a loose interpretation of the principle of technological neutrality**, which in all respects is not in line with the energy transition as it opens another opportunistic route for technologies that fights against climate change including polluting ones. In other words, reducing emissions to a lower level than yesterday in absolute terms, enables traditional and unsustainable businesses to be labelled as sustainable, even if they are only less unsustainable now, and even worse, **it entitles them to access to all types of European funds for sustainable financing**, including those of the European Investment Bank (EIB) and to national incentives.

In addition, **Article 19** establishes “the technical criteria” for determining the conditions under which an activity qualifies as contributing substantially to each of the targets”. The criteria include respecting technological neutrality, being based on conclusive scientific evidence and the precautionary principle (it does not say that this principle comes into play in the absence of such conclusive scientific evidence), without expressing who will draft them and if they are subject to accuracy and objectivity checks.

Therefore, the new EU Regulation 2020/852 could be interpreted in different ways. The opportunistic paths that it opens could be considered as a **victory for the undercover work of the pressure groups in Brussels**, with the gas companies being the standard bearers through the sale of the development of their biogas (renewable gas) business, trying to mask the continuity of natural, fossil and polluting gas.

Despite the necessary and laudable attempt of the Regulation to regulate the qualification of investments as environmentally sustainable, in light of the developing reality whereby this qualification is abused, it may probably ultimately **provide an orderly framework for this abuse or, in any case, one that is difficult to predict**. We hope that the European Commission is aware enough of it to be able to reverse this situation in the event that it occurs, proposing additional regulatory frameworks as required by the European Parliament and, if necessary, a review of the Regulation itself. The almost

doubling of the EU financial resources by 2021/2027, together with those which can be mobilised by business, and their “green” conditionality, require a regulation which does not allow for the reasonable doubts which have been raised.

The development of renewables, as well as a distributed electricity system, must continue to be the pillars of the **EU’s new energy policy, if possible, transformed into a common policy. The Regulation must consolidate the energy policy, not put it in doubt, and thus shake the foundations for the acceleration of a fair and social Energy Transition towards a decarbonised economy, which is without doubt the cornerstone of the necessary EU recovery and reconstruction.**