

Brussels, 2 July 2025
(OR. en)

Interinstitutional File:
2025/0524 (COD)

11184/25
ADD 1

CLIMA 243
ENV 649
ENER 342
COMPET 678
IND 245
MI 500
CODEC 957

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	2 July 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	SWD(2025) 524 final
Subject:	COMMISSION STAFF WORKING DOCUMENT Subsidiarity Grid <i>Accompanying the document</i> Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2021/1119 establishing the framework for achieving climate neutrality

Delegations will find attached document SWD(2025) 524 final.

Encl.: SWD(2025) 524 final



EUROPEAN
COMMISSION

Brussels, 2.7.2025
SWD(2025) 524 final

COMMISSION STAFF WORKING DOCUMENT

Subsidiarity Grid

Accompanying the document

**Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Regulation (EU) 2021/1119 establishing the framework for achieving climate
neutrality**

{COM(2025) 524 final}

Subsidiarity Grid

1. Can the Union act? What is the legal basis and competence of the Unions' intended action?
1.1 Which article(s) of the Treaty are used to support the legislative proposal or policy initiative?
The legal basis for this proposal is Article 192 of the Treaty on the Functioning of the European Union (TFEU). In accordance with Articles 191 and 192(1) TFEU, the European Union shall contribute to the pursuit, inter alia, of the following objectives: preserving, protecting and improving the quality of the environment; promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.
1.2 Is the Union competence represented by this Treaty article exclusive, shared or supporting in nature?
In the case of environment, the Union's competence is shared.
<i>Subsidiarity does not apply for policy areas where the Union has exclusive competence as defined in Article 3 TFEU¹. It is the specific legal basis which determines whether the proposal falls under the subsidiarity control mechanism. Article 4 TFEU² sets out the areas where competence is shared between the Union and the Member States. Article 6 TFEU³ sets out the areas for which the Unions has competence only to support the actions of the Member States.</i>
2. Subsidiarity Principle: Why should the EU act?
2.1 Does the proposal fulfil the procedural requirements of Protocol No. 2⁴:
<ul style="list-style-type: none"> - Has there been a wide consultation before proposing the act? - Is there a detailed statement with qualitative and, where possible, quantitative indicators allowing an appraisal of whether the action can best be achieved at Union level?
<p>The initiative is informed by the broad debate following the 2040 climate target Communication. Both in the European Parliament and in the Council, discussions have taken place on the Communication.</p> <p>The amendment of the European Climate Law builds upon the feedback received during the preparation and presentation of the 2040 climate target Communication. The Commission carried out a public consultation, running from 31 March 2023 to 23 June 2023. In total, 903 responses were received. In addition, stakeholders had the opportunity to share general remarks and feedback on the policy initiative through a call for evidence, which received 579 contributions. Another opportunity for feedback was a stakeholder event the Commission hosted on 9 June 2023. The event was attended by 34 stakeholder representatives in person, and 48 participants online. The results of the consultation activities are reported in the impact assessment accompanying the 2040 climate target Communication.</p>

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E003&from=EN>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E004&from=EN>

³ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E006:EN:HTML>

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016E/PRO/02&from=EN>

The amendment of the European Climate Law is informed by the advice of the European Scientific Advisory Board on Climate Change (ESABCC). In 2023, the ESABCC published advice on the 2040 climate target and GHG budget⁵. The ESABCC's advice is reflected throughout the Impact Assessment and comparisons with the ESABCC's analysis are made where appropriate. The outcomes of Horizon 2020 and Horizon Europe projects related to climate science and mitigation pathways provided important contribution and evidence base for the Impact Assessment. The ESABCC also adopted a report in which it assesses progress and policy consistency⁶, and the report 'Scientific advice for amending the European Climate Law - Setting climate goals to strengthen EU strategic priorities'⁷.

Articles 191 to 193 of the TFEU confirm and specify EU competencies in the area of climate change. Climate change is a trans-boundary problem. For trans-boundary problems, individual action is unlikely to lead to optimal outcomes. Instead, coordinated EU action can effectively supplement and reinforce national and local action. Coordination at the European level enhances the effectiveness of climate action. EU action is justified on grounds of subsidiarity as set out in Article 5 TFEU. Since 1992, the European Union has worked to develop joint solutions and drive forward global action to tackle climate change. Through coordinated action it will be possible to take the different capabilities of Member States and regions to act into account and to use the power of the EU single market as a driver for cost-efficient change.

The European Climate Law sets the Union 2050 climate-neutrality objective and a Union target for 2030, and the amendment is to include a Union target for 2040. By its nature, a Union target cannot be established at national level.

2.2 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the conformity with the principle of subsidiarity?

The explanatory memorandum of the proposal, and the impact assessment under section 3, contain sections on the principle of subsidiarity. They explain that climate change is a trans-boundary problem where individual action is unlikely to lead to optimal outcomes. Coordinated EU action can effectively supplement and reinforce national and local action and enhances the effectiveness of climate action. They also explain that a Union-wide climate target for 2040 will have implications across the entire EU economy, is needed to guide a wide range of EU policies and will require EU level policy responses, beyond climate policy. Coordinated EU policies and support measures have a much bigger chance of leading to a true transformation. Through coordinated action it will be possible to take the different capabilities of Member States and regions to act into account and to use the power of the EU single market as a driver for cost-efficient change.

2.3 Based on the answers to the questions below, can the objectives of the proposed action be achieved sufficiently by the Member States acting alone (necessity for EU action)?

The proposal aims to set a Union climate target for 2040 to provide much needed predictability for Member States, stakeholders, investors, and EU decision makers for the decisions needed to achieve

⁵ ESABCC, Scientific advice for the determination of an EU-wide 2040 climate target and a greenhouse gas budget for 2030–2050. DOI: 10.2800/609405.

⁶ ESABCC, Towards EU climate neutrality: progress, policy gaps and opportunities, Assessment Report 2024, DOI: 10.2800/216446.

⁷ ESABCC, Scientific advice for amending the European Climate Law – Setting climate goals to strengthen EU strategic priorities, DOI: 10.2800/1978453.

climate neutrality by 2050. This objective cannot be achieved by the Member States alone as it requires EU level action, a Union target cannot be set by Member States acting alone.
(a) Are there significant/appreciable transnational/cross-border aspects to the problems being tackled? Have these been quantified?
The problem tackled, i.e. the absence of an EU-wide, economy-wide ambition level for 2040, in terms of net greenhouse gas emission reduction, as an interim target to climate neutrality in 2050, is inherently of a transnational/cross-border nature.
(b) Would national action or the absence of the EU level action conflict with core objectives of the Treaty ⁸ or significantly damage the interests of other Member States?
Urgent economy-wide emission reductions to combat climate change are necessary to fulfil the objectives of Article 192 TFEU, of preserving, protecting and improving the quality of the environment, protecting human health, as well as to promote measures at international level to deal climate change. The absence of EU level action could lead to ‘environmental dumping’ between the Member States, where Member States compete for the least stringent climate change measures to benefit their own economies, damaging the internal market and weakening climate action. An urgent climate transition requires a high degree of investments. As a result, foregoing the benefits of economies of scale and the possibility of reducing emissions where they are more cost-effective, would result in a slower climate transition.
(c) To what extent do Member States have the ability or possibility to enact appropriate measures?
The role of Member State action is crucial to achieve the overall EU ambition. The proposal aims to provide a direction by further defining the path to climate neutrality. It does not prescribe specific policies and measures, leaving Member States flexibility, taking into account the regulatory framework to achieve greenhouse gas emission reduction targets.
(d) How does the problem and its causes (e.g. negative externalities, spill-over effects) vary across the national, regional and local levels of the EU?
The problem and its causes are present across national, regional and local levels throughout the EU.
(e) Is the problem widespread across the EU or limited to a few Member States?
The need to address climate change and reduce greenhouse gas emissions and enhance removals is widespread across the EU.
(f) Are Member States overstretched in achieving the objectives of the planned measure?
The proposal is based on a thorough impact assessment, that looked in detail at the implications of different levels of net greenhouse gas emissions in 2040 and the associated sectoral pathways bridging 2030 to climate neutrality by 2050. Delivering the 2040 target will depend on the full implementation of the 2030 framework and calls for the development of a post-2030 policy framework. This must be complemented with a broad enabling framework, as explained in the 2040 climate target Communication.

⁸ https://europa.eu/european-union/about-eu/eu-in-brief_en

(g) How do the views/preferred courses of action of national, regional and local authorities differ across the EU?
Most public authorities welcome the process of setting an EU-wide climate target for 2040.
2.4 Based on the answer to the questions below, can the objectives of the proposed action be better achieved at Union level by reason of scale or effects of that action (EU added value)?
The objectives of the proposed action can be better achieved at Union level by reason of the cost-efficiency of emissions reductions, coherence of EU action, preserved functioning of the internal market and strengthened EU position to foster global action on climate change.
(a) Are there clear benefits from EU level action?
The benefits from EU level actions relate to the explanations below.
(b) Are there economies of scale? Can the objectives be met more efficiently at EU level (larger benefits per unit cost)? Will the functioning of the internal market be improved?
The reduction of greenhouse gas emissions across the European Union benefits from coordination at the EU level given the EU's single market, impacting all sectors. The impacts of the 2040 climate target on economic activity, employment, cohesion, environment, energy, transport, food security, health, affordability, distributional effects, trade, and international relations are examples of elements that can be better considered at EU level. Coordinated EU policies have a much bigger chance of leading to a true transformation, particularly in light of the global dimension of the challenge.
(c) What are the benefits in replacing different national policies and rules with a more homogenous policy approach?
The objective of the amendment is to set a Union 2040 target. It does not impose a homogenous policy approach in terms of what measures and policies should be adopted. The benefits are highlighted in point 2.4(b) above. Through coordinated action it will be possible to take the different capabilities of Member States and regions to act into account and to use the power of the EU single market as a driver for cost-efficient change.
(d) Do the benefits of EU-level action outweigh the loss of competence of the Member States and the local and regional authorities (beyond the costs and benefits of acting at national, regional and local levels)?
Reducing GHG emissions is fundamentally a trans-boundary issue that requires effective action at the largest possible scale. The EU, as a supranational organisation, is well-placed to establish effective climate policy in the EU. Member States do not lose competencies on which measures should be taken in order to reduce greenhouse gas emissions.
(e) Will there be improved legal clarity for those having to implement the legislation?
The proposal is setting a Union 2040 climate target.
3. Proportionality: How the EU should act
3.1 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the proportionality of the

proposal and a statement allowing appraisal of the compliance of the proposal with the principle of proportionality?
The explanatory memorandum explains that the proposal complies with the proportionality principle. The proposal aims to provide a direction by further defining the path to climate neutrality. It does not prescribe specific policies or measures, leaving Member States flexibility, taking into account the regulatory framework to achieve greenhouse gas emission reduction targets. Proportionality is also analysed in the impact assessment report accompanying the 2040 climate target Communication.
3.2 Based on the answers to the questions below and information available from any impact assessment, the explanatory memorandum or other sources, is the proposed action an appropriate way to achieve the intended objectives?
The proposal is the appropriate way forward to further define the path to climate neutrality, setting a Union 2040 climate target. It sets the ambition level, without prescribing specific policies or measures, leaving Member States flexibility, taking into account the regulatory framework to achieve greenhouse gas emission reduction targets.
(a) Is the initiative limited to those aspects that Member States cannot achieve satisfactorily on their own, and where the Union can do better?
The setting of a Union target cannot be done by Member States on their own.
(b) Is the form of Union action (choice of instrument) justified, as simple as possible, and coherent with the satisfactory achievement of, and ensuring compliance with the objectives pursued (e.g. choice between regulation, (framework) directive, recommendation, or alternative regulatory methods such as co-legislation, etc.)?
The proposal sets out amendments to an existing Regulation. This instrument is suitable for achieving the objective of setting a Union 2040 climate target.
(c) Does the Union action leave as much scope for national decision as possible while achieving satisfactorily the objectives set? (e.g. is it possible to limit the European action to minimum standards or use a less stringent policy instrument or approach?)
The proposal further defines the path to climate neutrality but does not prescribe specific policies or measures, leaving Member States flexibility, taking into account the regulatory framework to achieve greenhouse gas emission reduction targets.
(d) Does the initiative create financial or administrative cost for the Union, national governments, regional or local authorities, economic operators or citizens? Are these costs commensurate with the objective to be achieved?
The scope of the current initiative – setting a Union 2040 climate target - focusses on the ambition level of a 2040 climate target only. The accompanying post-2030 policy implementation framework will be designed and proposed in a later stage. As such, in absence of this post-2030 policy implementation framework, it is not possible yet to calculate the administrative costs, regulatory fees and charges, and enforcements costs for businesses and citizens. All these elements of the ‘one in, one out’ approach will depend on the changes in the implementation of the post-2030 policy implementation framework, in comparison with the current 2030 policy framework. The implementation of the current 2030 policy framework is supported by the 30% minimum climate

mainstreaming in the MFF, and the 37% minimum climate requirement of the Recovery and Resilience Facility (RRF).

(e) While respecting the Union law, have special circumstances applying in individual Member States been taken into account?

Under the European Climate Law, the relevant Union institutions and the Member States are to take the necessary measures at Union and national level, respectively, to enable the collective achievement of the climate-neutrality objective, taking into account the importance of promoting both fairness and solidarity among Member States and cost-effectiveness.

The initiative is for setting a 2040 climate target at Union level only. The impact assessment did not assess specific aspects at the level of Member States. National budgets will nevertheless need to contribute to the investment needs either via direct public sector investment, or via support for private investment, subject to the State aid rules where applicable. The extent to which the public sector will support the transition will vary widely across Member States, depending on national policy choices. The extent to which Member States have fiscal space to fund the transition also varies significantly, depending on their current level of indebtedness and the level of indebtedness that they will have by the start of the next decade.

The EU enabling framework to support the transition to climate neutrality has been expanding. The EU Emissions Trading System (ETS) reduces emissions and generated more than EUR 150 billion in auction revenues⁹, which Member States are to use to support climate action. At least 30% of the EU's multiannual financial framework' for 2021-2027 and of NextGenerationEU (potentially, over EUR 670 billion) are to be spent on climate related investments. Increasing provisions to address the needs of the most vulnerable include the Just Transition Fund for the most affected territories that must cease fossil-fuel related activities, transform and restructure carbon-intensive industries, and invest in future-proof jobs opportunities and training. The Social Climate Fund supports social cohesion and will mobilise EUR 86.7 billion from 2026 to 2032 using revenues from the ETS2, alongside the Modernisation Fund that supports clean energy investments in lower-income Member States and the Innovation Fund, one of the world's largest funds for the demonstration of innovative net-zero technologies, with revenues from the EU ETS.

⁹ Revenues from the ETS calculated in the period 2012-2022 and until 31 August 2023 (COM(2019) 557 final/2, COM(2020) 740 final, SWD(2021) 308 final, and EEX for most recent data).