



## PRESS RELEASE No 113/25

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Judgment of the General Court in Case T-625/22 | Austria v Commission

### **Austria's action against the inclusion of nuclear energy and fossil gas in the sustainable investment scheme dismissed**

*The Commission was entitled to take the view that certain economic activities in the nuclear energy and fossil gas sectors can, under certain conditions, contribute substantially to climate change mitigation and climate change adaptation*

In 2020, the EU legislature (namely the European Parliament and the Council of the European Union) adopted the Taxonomy Regulation, <sup>1</sup> by which it established a framework to facilitate sustainable investment. That regulation is aimed at channelling finance flows towards sustainable activities with a view to achieving a climate-neutral European Union by 2050. <sup>2</sup> To that end, the regulation lays down the criteria for determining whether an economic activity qualifies as environmentally sustainable for the purposes of establishing the degree to which an investment is environmentally sustainable.

In order to qualify as environmentally sustainable, an economic activity must, *inter alia*, according to the Taxonomy Regulation, contribute substantially to one or more environmental objectives without causing significant harm to any of those objectives, and comply with certain technical screening criteria to be established by the European Commission.

The EU legislature thus delegated to the Commission the task of establishing technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes significant harm to any of the other environmental objectives. On that basis, in 2021 the Commission adopted a delegated regulation establishing technical screening criteria for activities in the renewable energy sector. <sup>3</sup>

In 2022, the Commission adopted another delegated regulation, <sup>4</sup> by which it established technical screening criteria to include certain activities in the nuclear energy and fossil gas sectors in the category of activities contributing substantially to climate change mitigation or climate change adaptation.

Austria <sup>5</sup> brought an action before the General Court of the European Union, seeking the annulment of that delegated regulation.

**The General Court dismisses the action brought by Austria and thus upholds the Commission delegated regulation.**

According to the General Court, by including nuclear energy and fossil gas in the sustainable investment scheme, the Commission did not exceed the powers which the EU legislature properly conferred on it.

Specifically, the Commission was entitled to take the view that nuclear energy generation has near to zero greenhouse gas emissions and that there are currently no technologically and economically feasible low-carbon alternatives at a sufficient scale, such as renewable energy sources, to cover the energy demand in a continuous

and reliable manner.

The Commission took sufficient account of the risks associated with normal operation of nuclear power plants, serious reactor accidents and high-level radioactive waste. In particular, the Commission was under no obligation to require a level of protection going beyond the existing regulatory framework. The arguments put forward by Austria relating to the negative effects of droughts and climate hazards on nuclear energy are too speculative to be accepted.

Moreover, as in the case of other economic activities in the energy generation sector, the Commission was under no obligation to take into account extraction and processing of uranium ore, uranium refining, conversion and enrichment, and fuel assembly and transport, which are upstream or downstream activities, or armed conflicts, sabotage and risk of abuse and proliferation of civilian and military applications.

Lastly, the General Court endorses the view that economic activities in the nuclear energy and fossil gas sectors can, under certain conditions, contribute substantially to climate change mitigation and climate change adaptation. The approach taken by the 2022 delegated regulation is a gradual approach based on a reduction of greenhouse gas emissions in stages, while allowing for security of supply.

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

**NOTE:** An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

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The [full text and, as the case may be, the abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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<sup>1</sup> [Regulation \(EU\) 2020/852](#) of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment.

<sup>2</sup> [Regulation \(EU\) 2021/1119](#) of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality ('European Climate Law') sets out a binding objective of climate neutrality in the European Union by 2050 in pursuit of the long-term temperature goal set out in the Paris Agreement, namely holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels ([https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf)).

<sup>3</sup> [Commission Delegated Regulation \(EU\) 2021/2139](#) of 4 June 2021 supplementing Regulation (EU) 2020/852 by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives.

<sup>4</sup> [Commission Delegated Regulation \(EU\) 2022/1214](#) of 9 March 2022 amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities.

<sup>5</sup> Before the Court, Austria is supported by Luxembourg, while the Commission is supported by Bulgaria, the Czech Republic, France, Hungary, Poland, Romania, Slovenia, Slovakia and Finland.