FRENCH REPUBLIC

SÉNAT

EUROPEAN AFFAIRS COMMITTEE

Paris, 24 November 2021

POLITICAL OPINION

On the inclusion of nuclear in Delegated Regulation …/… supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council on establishing a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088

The Senate European Affairs Committee,

Having regard to Articles 194, in particular paragraph 2, and 290 of the Treaty on the Functioning of the European Union,

Having regard to the Treaty establishing the European Atomic Energy Community (Euratom), in particular Article 2 thereof,

Having regard to the Paris Agreement adopted on 12 December 2015 and ratified on 5 October 2016,

Having regard to 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 and amending Regulation (EU) 2019/2088, known as the Taxonomy Regulation,

Having regard to Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending

Regulations (EC) 401/2009 and (EU) 2018/1999, known as the European Climate Law,

Having regard to the Commission Delegated Regulation (EU) .../... of 4 June 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council 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, C(2021) 2800 final,

Having regard to Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste,

Having regard to Council Directive 2014/87/Euratom of 8 July 2014 amending Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations,

Having regard to the "Long-term low greenhouse gas emission development strategy" of the European Union and its Member States, notified by the European Council to the United Nations Framework Convention on Climate Change (UNFCCC) on 6 March 2020,

Having regard to the communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee (EESC) and the Committee of the Regions (CoR) of 11 December 2019 establishing "The European Green Deal", COM (2019) 640 final,

Having regard to the Commission communication of 21 April 2021 entitled: "EU Taxonomy, Corporate Sustainability Reporting, Sustainability Preferences and Fiduciary Duties: Directing finance towards the European Green Deal",

Having regard to the Commission communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee (EESC) and the Committee of the Regions (CoR) of 13 October 2021 entitled "Tackling rising energy prices: A toolbox for action and support", COM (2021) 660 final,

Having regard to the statement by the President of the Commission at the end of the European Council meeting on 21 and 22 October 2021,

Having regard to the report and its annex of the Technical Expert Group (TEG) on Sustainable Finance of March 2020 entitled “Taxonomy report: technical report” and “Taxonomy report: technical annex”,

Having regard to the Joint Research Centre (JRC) report of 29 March 2021 entitled “Technical assessment of nuclear energy with respect to the ‘do no significant harm’ criteria of Regulation (EU) 2020/852 (‘Taxonomy Regulation’)”,

Having regard to the report of the Scientific Committee on Health, Environmental and Emerging Risks (SCHEER) on the above-mentioned JRC report of 29 June 2021,

Having regard to the opinion of the Group of Experts referred to in Article 31 of the above-mentioned Euratom Treaty of 28 June 2021 on the same report,

Having regard to the special report of the Intergovernmental Panel on Climate Change (IPCC) of 6 October 2018 entitled “Global Warming of 1.5°C” and the first volume of the special report of 9 August 2021 on the physical science of climate change,

Having regard to the International Energy Agency (IEA) report of 10 November 2021 entitled “Nuclear Science and Technology for Climate Adaptation and Resilience”,

Whereas the taxonomy established under Regulation (EU) 2020/852 sets out a new framework for assessing economic activities qualified as environmentally sustainable according to technical criteria, in order to encourage the redirection of financial flows towards these activities;

Whereas the European environmental taxonomy is increasingly becoming a reference tool for financial products and European sustainable finance labels, but also eventually for public finance;

Whereas Articles 10 and 11 of Regulation (EU) 2020/852 on taxonomy provided for the adoption by the European Commission of a Delegated Act on, respectively, the climate change mitigation and adaptation components of the EU Taxonomy as regards the technical screening criteria, by 31 December 2020;

Whereas Commission Delegated Regulation (EU) .../... of 4 June 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council with technical screening criteria for determining under which conditions an economic activity may be considered to contribute substantially to climate change mitigation or adaptation and for determining that such economic activity does not cause significant harm to any of the other environmental objectives has regrettably failed to rule on the sustainability of the nuclear energy generation business, with the Commission referring to a complementary Delegated Act;

Whereas Article 194 of the Treaty on the Functioning of the European Union recognises that measures taken in the energy sector must not affect the right of a Member State to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply;

Whereas the European Council, in its "Long-term low greenhouse gas emission development strategy" notified to the United Nations Framework Convention on Climate Change (UNFCCC) on 6 March 2020, emphasised the right of Member States to decide on their energy mix and choose their technologies, stating that "some Member States have indicated that they use nuclear energy as part of their energy mix";

Whereas Article 19 of Regulation (EU) 2020/852 on taxonomy establishes that the technical screening criteria for assessing economic activities must respect the principle of equal treatment provided that they contribute to at least one of the environmental objectives, in order to avoid distorting competition in the market;

Whereas Article 2 of the Treaty establishing a European Atomic Energy Community (Euratom) provides for measures to promote investment and to ensure the construction of the basic installations required for the development of nuclear energy in the Community, in particular by encouraging initiatives by companies, and for the establishment and enforcement of uniform safety standards to protect the health of workers and the general public;

Whereas Council Directive 2014/87/Euratom of 8 July 2014 amending Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations contributes to the strengthening of nuclear safety in the European Union and requires each Member State to put in place a legislative

and regulatory framework including an independent regulatory authority;

Whereas Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste contributes to the strengthening of nuclear safety in the European Union and requires each Member State to have a legislative and regulatory framework to put in place national radioactive waste and spent fuel management programmes;

Whereas the 21st Conference of the Parties (COP21) of the United Nations Framework Convention on Climate Change (UNFCCC), meeting in Paris in December 2015, set the objective of reducing global warming to below 2 degrees by the end of the century, with this objective being set below 1.5 degrees by COP26 in Glasgow in November 2021;

Whereas Article 4 of the Paris Agreement, signed by France on 12 December 2015 and ratified by it on 5 October 2016, assigns to the more than 190 States Parties the need to achieve “carbon neutrality” by 2050, understood as a balance between anthropogenic emissions by sources and anthropogenic removals by sinks of greenhouse gases (GHGs);

Whereas the European Union has set itself the target of reducing its greenhouse gas (GHG) emissions by 55% by 2030 compared with 1990 levels and achieving carbon neutrality by 2050, in accordance with the European Climate Law, and whereas the energy sector accounts for 75% of these emissions, according to the European Commission;

Whereas the European Union has also set itself the target of reducing its primary energy consumption by 36% by 2030 and increasing the share of renewables in its energy consumption to 40%, in accordance with the European Climate Law, and whereas a doubling of electricity demand is expected by 2050, according to the European Commissioner for the Internal Market;

Whereas the Intergovernmental Panel on Climate Change (IPCC), in its special report of 6 October 2018 entitled “Global Warming to 1.5°C”, includes nuclear power, alongside renewable energy and CO_2 capture and storage, among the mitigation and sustainable development options assessed in the energy supply sector, and in the first volume of the special report on the physical sciences of climate change, of 9 August 2021, concludes that

climate change is of particular concern on a global scale and is occurring at a faster rate than previously thought;

Whereas the International Energy Agency (IEA), in its report "Nuclear Science and Technology for Climate Adaptation and Resilience" of 10 November 2021, calls for contributing to climate change adaptation efforts through research and technical cooperation in nuclear science and technology;

Whereas the conclusions of the Joint Research Centre (JRC) report, published on 28 March 2021, validated by two expert committees (the Scientific Committee on Health, Environmental and Emerging Risks (SCHEER) and the Group of Experts referred to in Article 31 of the European Atomic Energy Community (Euratom) Treaty) appointed by the European Commission, on the aspects relating to the DNSH (do no significant harm) principle, as defined in the Taxonomy Regulation, are that "there is no scientific evidence that nuclear energy is more harmful to human health or the environment than other electricity generation technologies already included in the taxonomy";

Whereas the statement of the President of the European Commission, following the European Council meeting of 21 and 22 October 2021, refers to the need for nuclear energy as a stable source, alongside renewable energies, to achieve the objectives that the European Union has set itself, and the European Commission's communication of 13 October 2021 on combating rising energy prices states that "the complementary Delegated Act will cover nuclear energy";

Emphasises that, according to the Treaties, the Member States of the European Union have sovereign power to determine the general structure of their energy supply;

Emphasises that, while seeking to promote the decarbonisation of energy, the European Commission must ensure that each Member State's sovereignty over its national energy mix is respected and that it supports all decarbonised technologies;

Emphasises that the European Union's commitment to end the use of fossil fuels and the increasing demand for energy require more decarbonised, stable and competitive electricity;

Considers that the European Union's fight against climate change must inevitably be based on a variety of decarbonised energy sources;

Considers that nuclear energy, which is already contributing to the decarbonisation of energy supply in almost half of Member States, must provide other Member States with the opportunity to move away from the use of fossil fuels in order to achieve the objective of carbon neutrality by 2050;

Notes that the conclusions of the various in-depth technical and scientific reports by EU experts, published in 2021, consider that nuclear power generation can contribute to the objective of climate change mitigation, that it does not undermine other environmental objectives and that it can therefore be considered a sustainable activity as defined in the Taxonomy Regulation;

Considers that, by encouraging the redirection of financial flows towards sustainable investments, the inclusion of nuclear power in the taxonomy contributes to the objectives set by the European Union in the "Green Pact for Europe". It ensures the most effective use of all energy sources needed for decarbonisation within the time frame set out in the Green Pact;

Takes note of the decision of the European Commission to adopt a complementary Delegated Act for the activities of certain energy sectors not yet covered by the Delegated Act relating to the climate component of the EU Taxonomy, including nuclear energy;

Requests that the Delegated Act provided for in Article 10 of Regulation (EU) 2020/852 on the taxonomy:

- include nuclear energy in the taxonomy, ensuring that economic activities related to the construction or operation of nuclear power plants are recognised as sustainable activities;
- maintain technological neutrality between hydrogen from nuclear energy and hydrogen from renewable energy sources;
- does not subject economic activities relating to the construction or operation of nuclear power plants to information requirements other than those applicable to any sustainable activity;

- be adopted before 31 December 2021, so that it enters into force at the same time as the other provisions of the taxonomy.