

ELNI forum-webinar

Cycle Green Deal – A way forward for EU environmental legislation?

The proposal for a EU Climate Law

23 June 2020

Memo

Prof. Marjan Peeters (Maastricht University) discussed the proposed EU climate law: key concepts (climate neutrality, trajectory & targets), scope (collective achievement v. national duties), delegation of powers (checks and balances), legal relevance of recommendations, enforceability, public participation, competence (re adaptation?), articulation and codification.

The debate, moderated Prof. Delphine Misonne (Université Saint-Louis Bruxelles, CEDRE, ELNI), brought an international audience together and highlighted essential topics/questions such as:

- The scope of climate neutrality
- Is national climate neutrality more ambitious than EU wide climate neutrality?
- The importance of context (domestic laws, domestic resistance, litigation and the issue of rights, Paris)
- Discretion in fixing targets – Is this ‘legal’ or ‘political’ ? – reference to essential elements (the realm of the lawmaker)
- Impact on domestic policies (art.2.2, art. 6.3 ‘due account’)
-and litigation
- Relation to carbon tax, border-tax adjustment (leakage)
- Could the trajectory be linear (like in ETS scheme: linear reduction)
- Soft governance and codification

Prof. Gerhard Roller (THBingen, ELNI) drew the main conclusions and announced the next event (Green deal and Aarhus, on July 14).

Slides & video of the conference by M. Peeters are available (https://youtu.be/ZacGDZP_Q1k) with addendum by the presenter on the question: **Is national climate neutrality more ambitious than EU wide climate neutrality?**

- In essence, there is no difference in terms of result between EU wide climate neutrality and national climate neutrality by 2050.
- In both cases, there should be a balance (of zero) when calculating emissions and removals.
- However, for reaching EU wide climate neutrality, inter-state arrangements are possibly needed so that an overshoot of emissions in one member state will be compensated with removals in one or more other member states

- Thus far, there is not yet much experience with such inter-state offsetting (also called burden-sharing, or effort-sharing), at least, such inter-state offsetting has yet to be examined more thoroughly.
- In that respect, from a legal perspective, true national climate neutrality seems to be a more trustworthy (and in that respect, more ambitious) regulatory approach than an EU wide approach. Moreover, achieving climate neutrality in each member states pushes governments even more, presumably, to consider how to reduce and to remove on their own territory. Nonetheless, financial reimbursements through inter-state trading may also provide (some) incentives for such considerations.
- The extent to which an EU wide climate neutrality will be (far more) cost-effective compared to national climate neutrality needs further exploration (at least I am not yet aware of studies that calculate the difference between EU wide climate neutrality and national climate neutrality until 2050, if that at all is possible to project).

D. Misonne & M.Peeters