



Reports of Cases

Case T-575/22

**2 Celsius and Robin Wood – Gewaltfreie Aktionsgemeinschaft für Natur und Umwelt eV
and
Skydda Skogen, Protect the forest and Zero – Associação Sistema Terrestre Sustentável
and
Stowarzyszenie Pracownia na rzecz Wszystkich Istot
and
Päästame Eesti Metsad MTÜ
and
Stichting Comité Schone Lucht
v
European Commission**

Judgment of the General Court (Sixth Chamber, sitting with five Judges) of 18 March 2026

(Environment – Aarhus Convention – Rejection of a request for internal review – Article 10(1) of Regulation (EC) No 1367/2006 – Delegated Regulation (EU) 2021/2139 – Forest management – Activities relating to the production of fuels and bioenergy from forest biomass – Taxonomy – Requirements for technical screening criteria – Article 19 of Regulation (EU) 2020/852 – Substantial contribution to climate change mitigation and adaptation – Significant harm to environmental objectives)

- 1. Approximation of laws – Framework to facilitate sustainable investment – Determination of the environmental sustainability of economic activities – Technical screening criteria – Establishment by the Commission – Criteria established for forest management activities – Climate benefit analysis – Use of an ‘as against a business-as-usual’ baseline – No quantitative threshold for achievement of the climate change mitigation objective – Whether permissible – No manifest error of assessment – Commission not exceeding its competence – No infringement of the precautionary principle (Arts 191(2) and 290 TFEU; European Parliament and Council Regulation 2020/852, Arts 10(1)(f) and (3), and 19(1)(c), (f) and (k); Commission Regulation 2021/2139, Annex I, Section 1.3; European Parliament and Council Directive 2018/2001, Art. 29(7)(b))*

(see paragraphs 52-64, 68, 70-83, 90-97)

- 2. Approximation of laws – Framework to facilitate sustainable investment – Determination of the environmental sustainability of economic activities – Technical screening criteria – Establishment by the Commission – Criteria established for forest management activities – Climate benefit analysis – Operators of forest holdings under 13 hectares exempted from the*

obligation to carry out that analysis – Whether permissible – No manifest error of assessment – Commission not exceeding its competence – No breach of the principle of proportionality

(Art. 290 TFEU; European Parliament and Council Regulation 2020/852, Arts 10(1)(f) and (3)(a), and 19(1)(c), (d) and (f) and 21(1), last sentence; Commission Regulation 2021/2139, Annex I, Section 1.3; European Parliament and Council Directive 2018/2001, Art. 29(6))

(see paragraphs 107-116, 121-134, 138-140)

3. *Approximation of laws – Framework to facilitate sustainable investment – Determination of the environmental sustainability of economic activities – Technical screening criteria – Establishment by the Commission – Criteria established for forest management activities – Prohibition on causing significant harm to climate change adaptation – Establishment of criteria aimed at preventing an increase in adverse climate impact related to economic activities – No manifest error of assessment*

(European Parliament and Council Regulation 2020/852, Arts 11(1), 17(1)(b) and 19(1)(b); Commission Regulation 2021/2139, Annex I, Appendix A)

(see paragraphs 148-152)

4. *Approximation of laws – Framework to facilitate sustainable investment – Determination of the environmental sustainability of economic activities – Technical screening criteria – Establishment by the Commission – Criteria established for forest management activities – Prohibition on causing significant harm to the transition to a circular economy – Establishment of criteria aimed at maintaining a sustainable supply of forest biomass – No manifest error of assessment*

(European Parliament and Council Regulation 2020/852, Art. 17(1)(d)(i); Commission Regulation 2021/2139, Annex I, Section 1.3)

(see paragraphs 163-176)

5. *Approximation of laws – Framework to facilitate sustainable investment – Determination of the environmental sustainability of economic activities – Technical screening criteria – Establishment by the Commission – Criteria established for forest management activities – Prohibition on causing significant harm to climate change mitigation – Failure to make express reference to the need to avoid destruction of forest carbon sinks – Failure to specify a time period for recovery of the carbon lost as a result of clear-cutting – Whether permissible*
(European Parliament and Council Regulation 2020/852, Arts 17(1)(a) and 19(1)(b); Commission Regulation 2021/2139, Annex II, Section 1.3; European Parliament and Council Directive 2018/2001, Art. 29(6))

(see paragraphs 185-193)

6. *Approximation of laws – Framework to facilitate sustainable investment – Determination of the environmental sustainability of economic activities – Technical screening criteria – Establishment by the Commission – Criteria established for forest management activities –*

Prohibition on causing significant harm to the protection and restoration of biodiversity and ecosystems – Economic activity in accordance with conservation objectives in protected or designated areas – No conversion of habitats specifically sensitive to biodiversity loss – Whether permissible

(European Parliament and Council Regulation 2020/852, Arts 17(1)(f) and 19(1)(a) to (c); Commission Regulation 2021/2139, Annexes I, Section 1.3, and II, Section 1.3)

(see paragraphs 216-231)

7. *Approximation of laws – Framework to facilitate sustainable investment – Determination of the environmental sustainability of economic activities – Technical screening criteria – Establishment by the Commission – Criteria established for bioenergy activities – Reduction of greenhouse gas emissions – Reference to other provisions of EU law – Taking into account of relevant existing EU legislation – Whether permissible – Insufficient accounting of forest biomass carbon emissions – No manifest errors of assessment (European Parliament and Council Regulation 2020/852, Arts 10(1)(a), and (3)(a), and 19(1)(d); Commission Regulation 2021/2139, Annex I, Sections 4.8, 4.13, 4.20 and 4.24; European Parliament and Council Directive 2018/2001, Arts 1, last sentence, and 29(6) and (7), and Annex VI; European Parliament and Council Regulation 2018/841)*

(see paragraphs 251-270, 275-281)

8. *Approximation of laws – Framework to facilitate sustainable investment – Determination of the environmental sustainability of economic activities – Technical screening criteria – Establishment by the Commission – Criteria established for bioenergy activities – Prohibition on causing significant harm to climate change mitigation – Broadening of the requirement of criteria usability – Whether permissible – Obligation to use conclusive scientific evidence as a basis – Requirements of policy coherence taken into account – Scope – No infringement of the precautionary principle (Arts 17(1), third sentence, and 191 TFEU; European Parliament and Council Regulations 2018/841 and 2020/852, Arts 10(1) and (3), and 19(1)(d), (f) and (k); European Parliament and Council Directive 2018/2001)*

(see paragraphs 288-293, 298-301 and 306-310)

9. *Approximation of laws – Framework to facilitate sustainable investment – Determination of the environmental sustainability of economic activities – Adoption by the Commission of a delegated regulation establishing technical screening criteria for bioenergy activities – Obligation to use conclusive scientific evidence as a basis – Scope – No infringement of the precautionary principle (Art. 191 TFEU; European Parliament and Council Regulation 2020/852, Art. 19(1))*

(see paragraphs 324-333)

10. *Approximation of laws – Framework to facilitate sustainable investment – Determination of the environmental sustainability of economic activities – Technical screening criteria – Establishment by the Commission – Criteria established for*

bioenergy activities – Prohibition on causing significant harm to pollution prevention and control – Prohibition on causing significant harm to biodiversity – Adequacy of the criteria – No manifest error of assessment

(European Parliament and Council Regulation 2020/852, Arts 10(3)(b) and (17)(1)(d)(i); Commission Regulation 2021/2139, recital 31; European Parliament and Council Directive 2018/2001)

(see paragraphs 396-408, 429)

11. *Approximation of laws – Framework to facilitate sustainable investment – Determination of the environmental sustainability of economic activities – Adoption by the Commission of a delegated regulation establishing technical screening criteria for bioenergy activities – Use of a step-by-step approach – Whether permissible*

(European Parliament and Council Regulation 2020/852, Art. 10(3)(b) and (17)(1)(d)(i); Commission Regulation 2021/2139, recital 31; European Parliament and Council Directive 2018/2001)

(see paragraphs 396-408, 429)

12. *Approximation of laws – Framework to facilitate sustainable investment – Determination of the environmental sustainability of economic activities – Technical screening criteria – Establishment by the Commission – Criteria established for bioenergy activities – Criteria ensuring a significant contribution by those activities to climate change adaptation – No error of law or error of assessment by the Commission*

(European Parliament and Council Regulation 2020/852, recital 3 and Art. 11(1) and (3)(a); Commission Regulation 2021/2139, Annexes I, Sections 4.7, 4.8, 4.13, 4.19, 4.20, 4.23 and 4.24, and II, Sections 4.7, 4.8, 4.13, 4.19, 4.20, 4.23 and 4.24)

(see paragraphs 421-427, 432-435)

13. *International agreements – European Union agreements – Paris Agreement on Climate Change – United Nations Framework Convention on Climate Change – Effects – Primacy over secondary legislation of the European Union – Examination of the lawfulness of an act of secondary EU legislation in the light of the provisions of those agreements – Conditions – Provisions not unconditional and sufficiently precise – Conditions not fulfilled (Art. 216(2) TFEU; European Parliament and Council Regulation No 1367/2006, recitals 19 and 21 and Arts 10(1) and 12)*

(see paragraphs 442-459)

Résumé

The General Court upholds the decision of the European Commission to reject a request for internal review of Delegated Regulation 2021/2139¹ supplementing Regulation 2020/852 on the establishment of a framework to facilitate sustainable investment.²

The Taxonomy Regulation establishes a unified classification system in order to harmonise, at EU level, the criteria for determining whether an economic activity qualifies as environmentally sustainable in the light of various environmental objectives, such as climate change mitigation and adaptation.³

In that context, the Commission adopted the Delegated Regulation to supplement the Taxonomy Regulation by establishing technical screening criteria for determining the conditions under which certain economic activities contribute substantially to the environmental objectives pursued by that delegated regulation.

The applicants, Robin Wood – Gewaltfreie Aktionsgemeinschaft für Natur und Umwelt eV and other persons, submitted to the Commission, pursuant to the Aarhus Regulation,⁴ a request for internal review of the Delegated Regulation. They took the view that some of the technical screening criteria established by that regulation in relation to forest and bioenergy economic activities infringed the Taxonomy Regulation and certain Treaty requirements.

The Commission rejected the request for internal review by decision of 6 July 2022 ('the contested decision'), which is the subject of the present action.

Findings of the Court

In support of their action, the applicants argued, inter alia, that the Commission's response to their request for internal review was vitiated by errors of law in relation to the compliance of the forest management technical screening criteria with the principle of 'do no significant harm' to the objective of climate change mitigation provided for in Article 17(1)(a) of the Taxonomy Regulation. To that end, they submitted that that provision requires that forest stocks and sinks be maintained at least at their current levels.

The Court notes that Article 17(1)(a) of the Taxonomy Regulation does not contain that requirement, with the result that the technical screening criteria need not contain a specific reference to the need to avoid destruction of forest carbon sinks. It adds that that provision already regulates the scenario of the removal of existing carbon forest sinks, as it could be regarded as causing significant harm to climate change mitigation.

¹ Commission Delegated Regulation (EU) 2021/2139 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 (OJ 2021 L 442, p. 1; 'the Delegated Regulation').

² 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, (OJ 2020 L 198, p. 13; 'the Taxonomy Regulation').

³ Articles 9 and 10 of the Taxonomy Regulation.

⁴ Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13), as amended by Regulation (EU) 2021/1767 of the European Parliament and of the Council of 6 October 2021 (OJ 2021 L 356, p. 1) ('the Aarhus Regulation').

According to the applicants, the Commission also erred in referring, in the contested decision, to the forest sustainability criteria laid down in Article 29(6) of the RED II Directive,⁵ without however providing a convincing justification for not specifying the time period for recovery of the carbon lost as a result of clear-cutting.

However, the Court notes that the Taxonomy Regulation and, in particular, Article 17(1)(a) thereof, does not require a level of detail to the point of encompassing the fixing of time periods for recovery of the carbon lost as a result of clear-cutting. It adds that, under a direct application of Article 29(6) of the RED II Directive, clear-cutting is not an economic activity liable to be considered ‘environmentally sustainable’, with the result that the reference to that provision on the contested decision is not incorrect.

The Court further dismisses as ineffective the applicants’ argument to the effect that the Operational Guidance Regulation⁶ is of no use in the context of establishing the technical screening criteria in question, since it could not impose more stringent requirements than those found in other acts of primary or secondary EU legislation.

The applicants further argue that the Commission found, incorrectly, referring to the RED II Directive and the LULUCF Regulation,⁷ that the ‘greenhouse gas emission savings’ criteria were adequate to ensure the contribution of forest bioenergy activities to climate change mitigation in accordance with Article 10(1)(a) of the Taxonomy Regulation.

On that point, the Court notes that that provision refers to the RED II Directive, Article 29(7) of which refers to ‘the LULUCF criteria’. Those criteria are essentially linked to the parameters referred to in the LULUCF Regulation, which defines the Member States’ commitments in the land use, land-use change and forestry sector. Moreover, the Taxonomy Regulation requires the Commission, during the establishment of the technical screening criteria, to take into account ‘any relevant existing Union legislation’. Hence the Commission cannot be criticised for having stated, in the contested decision, that it took into account the provisions of the RED II Directive and the LULUCF Regulation.

Furthermore, contrary to what the applicants claim, the Commission did not state or imply that the accounting of forest biogenic emissions under the LULUCF Regulation is a substitute for emissions reduction. What is apparent from the contested decision is that the use of forest biomass contributes to emission reduction where certain criteria are met, which is, moreover, the premiss formulated by the legislature itself in the RED II Directive.

The Court also rejects the applicants’ argument to the effect that the Commission ought to have explained how emissions from the harvesting and burning of forest biomass are supposed to be ‘compensated’ under the LULUCF Regulation.

⁵ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ 2018 L 328, p. 82; ‘the RED II Directive’).

⁶ Commission Implementing Regulation (EU) 2022/2448 of 13 December 2022 on establishing operational guidance on the evidence for demonstrating compliance with the sustainability criteria for forest biomass laid down in Article 29 of [the RED II] Directive (OJ 2022 L 320, p. 4).

⁷ Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU (OJ 2018 L 156, p. 1; ‘the LULUCF Regulation’).

In that regard, it observes that the RED II Directive is based on the principle that, if the conditions laid down for that purpose are satisfied, the biomass, which has been turned into fuel, may be categorised as renewable energy. That is also a premiss established by the legislature from which the Commission may not depart as it sees fit. Moreover, the LULUCF Regulation requires the Member States to maintain their natural carbon sinks. Thus, in so far as the emissions compensation scheme, at which the applicants' argument is directed, results from the LULUCF Regulation, the Commission was not required to explain that compensation.

Similarly, the applicants are incorrect in arguing that the Commission could not rely on the LULUCF criteria, since the LULUCF Regulation does not include all biomass carbon emissions in the accounting, but only changes in forest carbon sinks in relation to a baseline that relies on a projection of forest carbon sink levels based on historical harvesting levels. Although the relevant technical screening criteria had exceeded the parameters laid down in the RED II Directive and the LULUCF Regulation, *inter alia* by including in the accounting emissions arising from the burning of forest biomass in the energy sector, that could have led to double accounting of greenhouse gas emissions.

Lastly, the Court rejects the applicants' argument to the effect that, in essence, the emissions included in the accounting under the LULUCF Regulation cannot be included in a sufficiently targeted manner to determine the extent to which biomass harvesting is responsible for over-exploitation. It notes in that regard that, under that regulation, the forest reference level for the Member States is based on the assumption that the ratio between solid and energy use of forest biomass, as observed between 2000 and 2009, remains constant. That assumption, which ensures that the increase in harvests for bioenergy use is included in the accounting as a debit in the LULUCF sector, is sufficiently targeted.

The Court further holds that the Commission did not err in dismissing the applicants' argument to the effect that the Delegated Regulation infringes Article 2 of the United Nations Framework Convention on Climate Change ('the UNFCCC') and Article 2(1) of the Paris Agreement on Climate Change, approved on 12 December 2015 ('the Paris Agreement'). In order to do so, it examines whether those provisions have direct effect.

In that regard, it recalls that, under Article 216(2) TFEU, international agreements concluded by the European Union are binding upon its institutions and consequently prevail over its own legal acts. However, the provisions of an international agreement to which the European Union is a party can be relied on in support of an action for annulment of an act of secondary EU legislation or an exception based on the illegality of such an act only where, first, the nature and the broad logic of that agreement do not preclude it and, secondly, those provisions appear, as regards their content, to be unconditional and sufficiently precise.

The Court states that those conditions under which the provisions of an international agreement concluded by the European Union may be relied on also hold true in the context of a request for internal review under the Aarhus Regulation, which is a prerequisite procedural stage which may provide a basis, as the case may be, for a subsequent action brought before the EU Courts.

In the present case, provisions relied on of the UNFCCC and of the Paris Agreement do not appear, as regards their content, to be unconditional and sufficiently precise to have direct effect or, therefore, to be relied on by the applicants.

Next, the Court examines whether those provisions come within one of the two exceptions as developed in the case-law of the Court of Justice, enabling the EU Courts to review the lawfulness of an EU act in the light of an international agreement, even where there is no direct effect. Under the first exception, it is necessary to be able to deduce from the specific provision of EU law contested that it seeks to implement, in the EU legal order, a particular obligation stemming from the World Trade Organization (WTO) agreements. The second exception presupposes, in essence, that that provision refers directly and explicitly to the specific provisions of the international agreement in question.

In the present case, however, the applicants have not identified a specific provision of the Delegated Regulation specifically aimed at implementing, in the legal order of the European Union, a specific obligation resulting from Article 2 of the UNFCCC or Article 2(1) of the Paris Agreement. Moreover, those latter provisions merely set out objectives and general rules, but without defining any specific means and leaving broad discretion to the parties, including the European Union, to define the detailed rules for their implementation.

The Court adds that nor does the Taxonomy Regulation refer to the UNFCCC and that only one recital thereof contains an explicit reference to a specific provision of that agreement. That recital is not part of the actual provisions of the Taxonomy Regulation and thus has no binding effect on its own. It follows that neither of the two abovementioned exceptions is applicable in the present case.

Lastly, the Court finds that the case-law relied on by the applicants,⁸ according to which the fact that an international agreement contains provisions which do not have direct effect, does not preclude review by the courts of compliance with the obligations incumbent on the European Union as a party to that agreement, was an isolated case and was not followed in the subsequent case-law of the EU Courts. Thus, the Commission was correct in finding, in the contested decision, that the lawfulness of the Delegated Regulation could not be examined in the light of the provisions of international law relied on by the applicants.

The Court, having rejected all of the applicants' arguments, dismisses the action in its entirety.

⁸ Judgment of 9 October 2001, *Netherlands v Parliament and Council* (C-377/98, EU:C:2001:523, paragraph 54).