



Newsletter

May – June 2020

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Next Generation EU

On 27 March, the European Commission has published its proposal for a Covid-19 recovery plan. To ensure the recovery is sustainable, even, inclusive and fair for all Member States, the European Commission is proposing to create a new recovery instrument, Next Generation EU, embedded within a revamped long-term EU budget. The Commission has also unveiled its adjusted Work Programme for 2020, which will prioritise the actions needed to propel Europe's recovery and resilience. Next Generation EU of €750 billion as well as targeted reinforcements to the long-term EU budget for 2021-2027 will bring the EU budget in total to €1.85 trillion.

The proposal also includes a 25 Percent target for EU budget to be spent on climate investments and additional funding for Horizon Europe.

The proposal explicitly acknowledges the importance of the transport sector and stresses that there will also be a focus on "accelerating the production and deployment of sustainable vehicles and vessels as well as alternative fuels. The Connecting Europe Facility, InvestEU and other funds will support the financing of the installation of one million charging points, clean fleet renewals by cities and companies, sustainable transport infrastructure and enable the shift to clean urban mobility."

The Commission further emphasizes that "public investment to relaunch the recovery of the transport sector should come with a commitment from industry to invest in cleaner and more sustainable mobility."

Objectively speaking, the Commission has managed to strike a difficult balance between crisis recovery and sustainability without giving up on the Green Deal as it was demanded by various industries including car manufacturers. It is a powerful proposal that now has to be discussed and amended if necessary. With regard to transport, the proposal remains relatively vague as it does not further define "climate spending" or "sustainable vehicles". Are modern combustion engines sustainable or does the proposal specifically target zero-emissions

technologies? The Commission is also preparing an EU hydrogen strategy and has presented ideas in a roadmap, before the strategy's publication in June. Hence, it can be expected that the stimulus package also aims at promoting clean hydrogen energy.

The crisis can be a catalyst for good or for bad, which in itself also depends on the view. So far, the Commission seems to be willing to use the crisis as a chance to promote a green, sustainable change. The European Commission itself is claiming that it is the biggest green stimulus package in history, but it is up to debate and remains to be seen how green the package is, when it's being adopted.

Frans Timmermans, the First Vice President of the European Commission and European Commissioner for Climate Action, was quite clear about this point. He stressed that "not a single Euro should be spent on propping up dirty industry."

The proposal still remains a proposal and will certainly be subject to change as it will need everyone's support. The EU heads of governments will debate the Commission's proposal at a virtual summit on 18 June.

Further Links:

- [Commission press release](#)
- [Commission proposal](#)
- [Parliament Press Release: Response to pandemic is vital for the sustainable future of the transport sector](#)
- [BBC: Climate change: Could the coronavirus crisis spur a green](#)

Biofuels (RED II)

According to a report from Euractiv.com the European Commission has launched a stakeholder consultation to expand the list of the so-called advanced or second-generation biofuels of the Renewable Energy Directive (RED II). This step is generally seen as quite controversial from environmentalists as well as parts of the industry. On the one hand, it is feared that previously banned unsustainable biofuels could,

supported by respective lobbying, find their way back on the list. One the other hand, the constantly changing EU legislation creates immense business uncertainties which counteract the years of necessary heavy investments.

Further Links:

- [Euractiv: Commission re-opens controversial advanced biofuel list in transport](#)

Diesel scandal

Since 5th April an action brought by a car buyer against the car manufacturer Volkswagen was heard before the highest German court, the Federal Supreme Court in Karlsruhe. The proceedings concerned possible claims for damages by the plaintiff against VW. The plaintiff had purchased a used diesel vehicle of the manufacturer from a dealer in early 2014. Since the VW diesel vehicle is equipped with a cut-off device, the plaintiff wants to return the used car and get back the full purchase price of approximately 31,500 euros. Specifically, the question is whether the purchase of cars with the EA189 diesel engine could already be considered a concrete damage to customers. The Federal Supreme Court has now ruled and described VW's actions as deliberately immoral. The presiding judge, Stephan Seiters, justified the decision by stating that the "switch-off device had been installed in the engine control system over many years, not only in the defendant's company itself, but also in several subsidiaries in various vehicle models [...] to influence the exhaust gas recirculation, whereby if the software used had been discovered, operation could have been restricted or prohibited." The aim was to "increase their profit" and the plaintiff was thereby deliberately harmed. The plaintiffs can now in principle demand a refund of the purchase price. However, they must make the vehicle available to VW and accept use-related deductions.

With its ruling, the Federal Supreme Court has now clarified the legal position of the car owners

for the first time and set a precedent for the lower courts, which are dealing with some 60,000 pending cases. However, it remains to be seen whether a wave of lawsuits will follow.

A ruling in the emissions scandal is also expected from the European Court of Justice in the coming months. Already at the end of April, Advocate General Eleanor Sharpston published her opinion. In her opinion, a device that upwardly regulates the operation of the exhaust gas purification system of vehicles with diesel engines during the registration test of these vehicles is a "shut-off device" prohibited under EU law. In most cases, the rulings of the ECJ follow the opinions.

VW is also threatened with further proceedings and fines in the USA. Although settlements have already been reached and VW has been held accountable for violations of the Clean Air Act, an appeal court has now ruled that regional authorities can impose further sanctions. It is to be expected that VW will not accept this and will take legal action against the ruling.

Further Links:

- [Court ruling \(DE\)](#)
- [Advocate General's Opinion in Case C-693/18 CLCV and Others \(defeat device on a diesel engine\)](#)
- [US court ruling](#)

Calendar

Meeting Dates

Council

Transport, Telecommunications and Energy Council	04-05/06/2020
Competitiveness Council	28/05/2020
Council of Justice and Home Affairs	04/06/2020
Council of Environment	22/06/2020

<u>Plenary</u>	tba
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Committees

Environment (ENVI)	tba
Internal Market / Consumer (IMCO)	tba
Justice & Home Affairs (LIBE)	tba
Transport (TRAN)	tba

Events (Brussels)

23/09/2020	<u>High Level Conference - Skills and transformation of the EU's automotive sector</u>
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EAC-Events

27/10/2020	EAC Autumn Meeting in Brussels
28/10/2020	EAC Lunch Debate