

The French Climate and Resilience Law

A lack of ambition exacerbated by the EU “Fit for 55” Package

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On 13 July 2021, the French Parliament reached agreement on the “Climate and Resilience Law”, which should make it possible to achieve a 40% reduction in greenhouse gas (GHG) emissions by 2030 compared to 1990 levels. The following day, the European Commission published the “Fit for 55” climate package, containing its proposals for achieving the new EU climate target for 2030.

Key Propositions/Findings:

- ▶ As part of the European Green Deal, the EU has recently adopted the “European Climate Law” with the binding targets of reducing GHG emissions by 55% by 2030 compared to 1990 and achieving climate neutrality by 2050. The “Fit for 55” proposals for achieving the 2030 EU climate target are ambitious.
- ▶ The measures contained in the French Climate and Resilience Law are, at best, capable of enabling France to reach its current 40% reduction target, but they are largely insufficient to contribute to the new EU 2030 climate target.

Content

1	Introduction	3
2	EU Background	3
2.1	The EU 2030 Climate and Energy Framework.....	4
2.2	The French Climate Roadmap	4
2.3	The European Green Deal	5
2.3.1	The 2030 Climate Target Plan and the European Climate Law	5
2.3.2	The Fit for 55 Package	6
3	French National Context	7
3.1	Public Acceptability of Climate Measures	7
3.2	The French Recovery Plan	8
4	The French Climate and Resilience Law	8
4.1	Opinions of Advisory Bodies: a Draft Law Lacking Ambition.....	9
4.2	Assessment of the Main Measures from the Final Text.....	9
5	Conclusions on the French Climate Ambition	11

1 Introduction

The French highest administrative Court (Conseil d'État) issued a decision on the 1 July 2021 – described as “historic” – in the dispute between the French municipality of Grande-Synthe and the French Government over France's climate inaction.¹ After giving the Government three months to justify its refusal to adopt additional measures to reduce greenhouse gas emissions (GHG), the Conseil d'État was not convinced by the arguments put forward, and “order[ed] the Government to take additional measures by 31 March 2022 to achieve the target of reducing [GHG] emissions by 40% by 2030”.²

This decision emerges in a particularly interesting context: The same week, the French High Council for Climate (HCC) published its annual report, stressing that “current efforts are insufficient to ensure that the 2030 objectives are met”,³ the French Senate completed its first reading of the so-called draft “Climate and Resilience” law⁴ and the EU formally adopted the “European Climate Law”⁵. This particularly intense week in terms of climate policy is ultimately a reflection of the discussions that have been taking place for several months, both at national level in France and at EU level. The need for action is widely recognised – no institution wants to be the one that is blocking climate action – but it was not until the “Fit for 55” climate package was presented by the European Commission on 14 July 2021 that ambitious measures were actually proposed. In view of the constant changes being reported in the news, an assessment of the state of play will help to explain French climate policy – which since 2019 includes the binding objective of achieving carbon neutrality by 2050.⁶

This **cepInput** analyses the Climate and Resilience Law in the EU context. The measures proposed by the European Commission in the Green Deal are particularly relevant for understanding the debates surrounding France's climate policy (Section 2). The national context also helps to explain the framework in which the Climate and Resilience Law is being implemented (Section 3). The draft law's lack of ambition has been severely criticised but MPs reached an agreement during the conciliation procedure, which was adopted by the French Parliament on 20 July 2021 (Section 4). We will then conclude by looking at France's lack of ambition from the EU perspective (Section 5).

2 EU Background

As climate change is a global issue, French climate policy is closely linked to its commitments on the international and EU stage. In December 2020, the EU and its Member States upgraded their nationally determined contribution (NDC)⁷ – i.e. their efforts, within the framework of the Paris Agreement, to reduce national emissions and adapt to the impacts of climate change – from a 40% reduction between 1990 and 2030 to a 55% reduction.⁸ The climate and energy framework adopted at EU level in 2018 (2.1), the French climate roadmap for the next ten years (2.2), and the European Green Deal, whose envisaged measures were presented at the end of 2019 (2.3), are all therefore relevant for a better understanding of France's Climate and Resilience Law.

¹ See articles published in the press, in particular: Les Echos ([11/06/2021](#)), Actu.fr ([01/07/2021](#)), Le Monde ([01/07/2021](#)).

² Conseil d'État, Press Releases of [19/11/2020](#), on decision No 427301 and of [02/07/2021](#), on Ordinance No 427301.

³ Haut Conseil pour le Climat (HCC), [Rapport annuel 2021](#), Renforcer l'atténuation, engager l'adaptation, p.5.

⁴ Adoption in first reading by the French Senate (Sénat) on [29/06/2021](#).

⁵ Adoption by the European Parliament on [24/06/2021](#) and Adoption by the Council on [28/06/2021](#).

⁶ With a reduction in GHG emissions of more than six times between 1990 and 2050. Loi n° [2019-1147](#), Art. 1 (II).

⁷ United Nations Framework Convention on Climate Change (UNFCCC), [Paris Agreement](#), Art. 4(2).

⁸ European Union (2020), [Update of the NDC of the European Union and its Member States](#).

2.1 The EU 2030 Climate and Energy Framework

Before the measures of the European Green Deal were presented, the EU's 2030 minimum targets as adopted in 2018 – were to reduce GHG emissions by 40% compared to 1990 levels, to achieve a 32% share of renewable energy (RE) in its energy mix and to improve energy efficiency by 32.5%.⁹ To achieve the EU's energy efficiency and RE targets, Member States must provide an indicative national contribution.¹⁰ In addition, all sectors have been required to contribute to achieving the EU's 40% emissions reduction target, whether through the EU Emissions Trading Scheme (EU ETS) for electricity, industry and intra-EU aviation sectors;¹¹ through GHG emissions and removals from Land Use, Land Use Change and Forestry (LULUCF);¹² or through the Effort Sharing Regulation¹³ (ESR) between EU Member States for non-ETS sectors. The EU has changed this 40% reduction target, based on 1990 emissions levels, into reduction targets based on 2005 levels, – date of set up of the EU ETS –, which are split between sectors covered by the EU ETS (43%) and sectors not covered by the EU ETS (30%).¹⁴ In order to achieve the 30% reduction target in the non-ETS sectors, each Member State was assigned a binding national target under the ESR – the French national target is to reduce by 2030 its GHG emissions by at least 37% of 2005 levels.¹⁵

2.2 The French Climate Roadmap

A governance mechanism was established at EU level in 2018, *inter alia*, to “implement strategies and measures” to achieve the 2030 targets with, as its cornerstone, integrated national energy and climate plans (NECPs), i.e. climate roadmaps of each EU Member State for a ten-year period.¹⁶ The French NECP for 2020-2030 includes the measures adopted in two national documents:¹⁷ the National Low Carbon Strategy (stratégie nationale bas carbone, SNBC), which sets the trajectory for achieving carbon neutrality by 2050, and the Multiannual Energy Programme (programmation pluriannuelle de l'énergie, PPE), the instrument for steering France's energy policy.¹⁸ The GHG emissions reduction trajectory is determined in the SNBC by five-year “carbon budgets” which France must not exceed if it wants to achieve its objectives.¹⁹ However, France did overrun its first carbon budget (2015-2018) of 441 megatons of carbon dioxide equivalent (Mt CO₂eq) and had to revise upwards its second carbon budget (2019-2023) in order to take into account the “structural” difficulties in reducing emissions from the transport and building sectors.²⁰ While this revision does not yet prevent France from meeting its EU commitments, it does postpone the effort to a later date, which will make the targets harder to achieve by the due date. France's current carbon budgets are as follows: 422 Mt CO₂eq emitted annually between 2019 and 2023, 359 Mt CO₂eq for 2024-2028 and 300 Mt CO₂eq for 2029-2033; while overall

⁹ European Commission (2021), [2030 climate and energy framework](#); European Council (2014), Conclusions of [24/10/2014](#).

¹⁰ Regulation (EU) [2018/1999](#) on the Governance of the Energy Union and Climate Action, Art. 4.

¹¹ Directive [2003/87/EC](#); European Commission (2021), Climate Action: [EU ETS](#).

¹² Regulation (EU) [2018/841](#).

¹³ Regulation (EU) [2018/842](#).

¹⁴ European Commission (2021), Climate Action: [Effort Sharing](#).

¹⁵ Regulation (EU) [2018/842](#), Art. 1, Art. 4 and Annex I.

¹⁶ Regulation (EU) [2018/1999](#), Art. 1, Art. 3; see also cepInput No [11/2019](#) Carbon Pricing in France & Germany.

¹⁷ France's National energy and climate plan, March 2020 version ([French NECP](#)), p. 4.

¹⁸ Ministère de la Transition Écologique et Solidaire (MTES) (2020), SNBC: la transition écologique et solidaire vers la neutralité carbone ([SNBC 2](#)); Stratégie française pour l'énergie et le climat, [PPE 2](#); Décrets [2020-456](#) et [2020-457](#), 21/04/2020.

¹⁹ Code de l'énergie, Art. [L.100-4](#); Code de l'environnement, Art. [L.222-1 A](#); [SNBC 2](#) p. 37 et seq.

²⁰ MTES (2020), [SNBC 2](#), pp. 38-43.

French emissions (excluding LULUCF) were 546 Mt CO₂eq in 1990, 553 Mt CO₂eq in 2005 and 458 Mt CO₂eq in 2015.²¹

France's current climate objectives for 2030, as updated by the 2019 “Energy and Climate Law”, are to reduce overall GHG emissions by 40% compared to 1990, to reduce final energy consumption by 20% and primary energy consumption of fossil fuels by 40% compared to 2012, and to increase the share of renewable energy to 33% of gross final energy consumption.²² Achieving these targets should enable France to meet its EU commitments, but they will have to be revised upwards following the adoption of measures at EU level under the European Green Deal.

2.3 The European Green Deal

As soon as she was elected in July 2019, European Commission President Ursula von der Leyen made it a priority to submit an ambitious environmental roadmap.²³ The measures envisaged by the “European Green Deal” were unveiled on 11 December 2019, just after the new Commission took office.²⁴ These measures aim to achieve climate neutrality in Europe, a goal which the Commission proposed to make binding in March 2020 for the EU and its Member States.²⁵ The European Parliament and the Council have also approved the objective of making the EU climate neutral by 2050.²⁶

2.3.1 The 2030 Climate Target Plan and the European Climate Law

Among the measures of the Green Deal, the “European Climate Law” was one of the first to be translated into a proposal. The Commission – which has a monopoly right of initiative in the EU legislative process – proposed a regulation “establishing the framework for achieving climate neutrality” by 2050, in particular by enshrining this objective “in legislation”.²⁷ In September 2020, to strengthen the EU's climate ambition, the Commission also presented the “2030 Climate Target Plan” which aims to reduce GHG emissions by at least 55% compared to 1990 levels.²⁸ The Commission subsequently proposed including this new target in the planned regulation establishing the European Climate Law.²⁹ The European Parliament was in favour of a more ambitious reduction target of at least 60% by 2030,³⁰ but the European Council agreed on a binding reduction target of 55%.³¹ France is one of the Member States willing to adopt more ambitious commitments.³² An institutional agreement on the Commission's proposal was reached on 21 April 2021 and the regulation establishing the European Climate Law entered into force on 29 July 2021³³ – the final version provides for a 55% reduction by 2030; this reduction can be increased to 57% through carbon sinks.³⁴ This new binding target – agreed by France

²¹ MTES (2020), [SNBC 2](#), p. 41.

²² Loi n° [2019-1147](#) du 8 novembre 2019 relative à l'énergie et au climat ; Code de l'énergie, Art. [L.100-4](#).

²³ von der Leyen, Ursula (2019), [Political Guidelines](#), pp. 5-7.

²⁴ Commission Communication [COM\(2019\) 640](#), The European Green Deal; cepAdhoc of [26/11/2019](#).

²⁵ Commission Proposal [COM\(2020\) 80](#), for a Regulation establishing a European Climate Law.

²⁶ European Parliament, Resolution of [14/03/2019](#) on climate change, § 1; European Council, Conclusions of [12/12/2019](#), §1.

²⁷ Commission Communication [COM\(2019\) 640](#), Annex; Commission Proposal [COM\(2020\) 80](#), pp. 3-4.

²⁸ Commission Communication [COM\(2020\) 562](#), Stepping up Europe's 2030 climate ambition.

²⁹ European Commission (2021), [Climate Target Plan 2030](#); Commission Amended Proposal [COM\(2020\) 563](#).

³⁰ European Parliament amendments, adopted on [8/10/2020](#), on the proposal for a European Climate Law.

³¹ European Council, Conclusions of [11/12/2020](#), § 12.

³² See for instance: Élysée, Actualités du [11/12/2020](#); Ambassade de France au Royaume-Uni, Communiqué de presse du MTES du [16/11/2019](#) ; Réseau Action Climat France (2020), [L'Europe du climat : le temps de l'ambition ?](#).

³³ Adoption by the European Parliament on [24/06/2021](#) and Adoption by the Council on [28/06/2021](#); European Commission (2021), [Commission welcomes provisional agreement on the European Climate Law](#); Regulation (EU) [2021/1119](#)

³⁴ Regulation (EU) [2021/1119](#) ('European Climate Law'), Art. 4.

at the December 2020 meeting of the European Council – renders the national 40% reduction target insufficient and therefore obsolete, as well as many of the measures previously in place at EU level.

2.3.2 The Fit for 55 Package

To reach its new 55% target, the EU must adapt its legislation. The Commission has been examining all relevant policy instruments for several months and, on 14 July 2021, published a climate package proposing the adoption of regulations and directives adapted to this objective (“Fit for 55”).³⁵ Among the “set of inter-connected proposals”, five are new initiatives and eight amend existing instruments.³⁶ The Commission is mainly proposing revisions to the EU ETS – putting carbon pricing at the heart of its strategy – but is also proposing new targets for Member States, as well as standards and support measures.³⁷ On the basis of the Commission's proposals, discussions can now begin in the European Parliament and the Council, and then between these two institutions, with a view to adopting the instruments by 2023.³⁸ Regarding the EU ETS, the Commission proposes to accelerate the reduction of the emissions cap, extend the scheme to include shipping emissions, and reduce free allocation in the aviation sector.³⁹ The Commission also proposes to phase out emission allowances allocated for free in the industry sector, and to introduce in parallel a carbon border adjustment mechanism (CBAM) – a mechanism which France has been proposing for years.⁴⁰ Based on the observation that emissions are still too high in the building sector, and that they have even increased in the road transport sector, the Commission proposes the establishment of a separate ETS (EU ETS II) for these sectors.⁴¹ The establishment of a Social Climate Fund has been proposed in parallel, to take social justice aspects into account.⁴² In addition, the new targets proposed in the package for 2030 are to improve energy efficiency by 36-39%, increase the share of RE in the energy mix to 40%, and increase the absorption capacity of natural carbon sinks to 310 Mt CO₂eq from the current 268 Mt CO₂eq.⁴³ Regarding effort sharing, the proposed target for the EU is a 40% reduction of GHG emissions compared with 2005 levels.⁴⁴ Other measures include a revision of the Energy Taxation Directive to take better account of the carbon content of energy, and a gradual transition to “zero-emission mobility” with a ban on the sale of internal combustion and hybrid cars by 2035.⁴⁵

The Commission's proposal to set up a separate EU ETS II for the road transport and building sectors is the most criticised measure in the package, in particular by France – due to its experience with the “gilets jaunes” crisis.⁴⁶ Still, the measures regulated in the French Climate and Resilience Law fall far short of the new targets being discussed at EU level. The timing is particularly relevant: the French Parliament reached an agreement on 13 July 2021 to adopt measures enabling France to meet its current targets, while the very next day, the Commission proposed that the French target for reducing emissions in sectors not covered by the EU ETS be increased from 37% to 47.5%. While the specific figure for the new national target has yet to be negotiated and adopted at EU level, France and the

³⁵ Commission Communication [COM\(2021\) 550](#), ‘Fit for 55’: delivering the EU's 2030 Climate Target on the way to climate neutrality; see also European Commission, press release of [14 July 2021](#); [2030 Climate Target Plan](#).

³⁶ Commission Communication [COM\(2021\) 550](#), p. 3.

³⁷ European Commission (2021), Statement by Timmermans [14/07/2021](#); Commission Communication [COM\(2021\) 550](#), p. 3.

³⁸ Treaty on the Functioning of the EU (TFEU), Articles 289(1) and 294.

³⁹ Commission Proposals [COM\(2021\) 551](#), pp. 18 et seq. and [COM\(2021\) 552](#), p. 9.

⁴⁰ Commission Proposals [COM\(2021\) 551](#), p. 32 and [COM\(2021\) 564](#); cepStudy of [13/07/2021](#), CBAM.

⁴¹ Commission Proposal [COM\(2021\) 551](#), p. 21; Statement by President von der Leyen of [14 July 2021](#).

⁴² Commission Communication, [COM\(2021\) 550](#), pp. 4-5 and Proposal [COM\(2021\) 568](#).

⁴³ European Commission (2021), [Delivering the European Green Deal](#); [COM\(2021\) 550](#).

⁴⁴ Commission Proposal, [COM\(2021\) 555](#), p. 38.

⁴⁵ Commission Communication, [COM\(2021\) 550](#), pp. 10 and 12; Proposals [COM\(2021\) 563](#) and [COM\(2021\) 556](#).

⁴⁶ *France sceptical about extending carbon pricing to buildings, transport* in Euractiv [16/07/2021](#).

other Member States have already accepted the overall target of a 55% reduction by 2030 compared to 1990 levels, which became binding with the entry into force of the European Climate Law.

3 French National Context

The French national context is also relevant to understanding the Climate and Resilience Law, both in terms of the acceptability of the measures to citizens (3.1) and regarding the recovery plan “France Relance” recently validated by the European Commission (3.2).

3.1 Public Acceptability of Climate Measures

In 2014, France incorporated, into its energy taxation system, a tax component linked to the carbon content of fuels (Contribution Climat-Énergie, “CCE”).⁴⁷ The amount of the CCE was to increase gradually in order for France not to overrun its carbon budget. The French Government planned to increase the amount of the CCE to €55 on the 1 January 2019,⁴⁸ which provoked numerous protests among French citizens, who denounced the social injustice of the measure during the “gilets jaunes” movement – modest households being the most affected by this contribution.⁴⁹ Faced with the scale of the protest, the amount of the CCE was frozen at its 2018 level of €44.60. Subsequently, the French President established a High Council for Climate (HCC) to improve the governance of French climate policy.⁵⁰ So far, the HCC has highlighted numerous shortcomings in the measures taken or planned by the Government regarding their stated ambition.⁵¹ With the aim of improving public involvement, particularly in France's ecological transition,⁵² the French President also launched a national “Grand Débat” and decided to increase the acceptability of environmental measures by creating a Citizens' Climate Convention (“Convention”). Composed of 150 citizens, and based on “a spirit of social justice”, the Convention's mission was to propose measures to achieve the national objective of a 40% reduction in GHG emissions by 2030 compared to 1990 levels.⁵³ The French President undertook to then – depending on the relevant level of action – either to submit the propositions “without filter” to Parliament or a referendum, to adopt them by regulation or to promote them on the international or EU stage.⁵⁴ The 150 citizens presented their 149 proposals to the French President in June 2020.⁵⁵ In February 2021, the Government gave an assurance that that, of the 146 measures selected, one hundred had already been implemented or were about to be, notably via the “France Relance” recovery plan⁵⁶ and the finance laws⁵⁷.

⁴⁷ Loi n° [2013-1278](#) du 29 décembre 2013 de finances pour 2014, Art. 32; MTES (2015) SNBC de 2015: la transition énergétique pour la croissance verte ([SNBC 1](#)), p. 60. See ceplnput No [11/2019](#), p. 8 et seq.

⁴⁸ Provision initially provided for by Loi n° [2017-1837](#) du 30 décembre 2017 de finances pour 2018, Art. 16.

⁴⁹ See in this regard « *Gilets jaunes* » : *Macron admet que la taxe sur les carburants était une « erreur » vis-à-vis de la « classe moyenne*», in *Le Figaro* [18/04/2021](#).

⁵⁰ Décret n° [2019-439](#); See also the [missions](#) of the HCC : its role is to “provide an independent insight on government climate policy”, by publishing opinions and recommendations to enable France to achieve its objectives.

⁵¹ See the [reports](#) published by the HCC in this regard.

⁵² The measures do not only concern the environment, see Élysée (2019), [Les annonces après le Grand Débat national](#).

⁵³ Convention Citoyenne pour le Climat (CCC) (2020), [La Convention Citoyenne pour le Climat, c'est quoi ?](#).

⁵⁴ Macron, Emmanuel (2019), Conférence de presse du 25/04/2019 à l'issue du Grand Débat national - [Propos liminaire](#).

⁵⁵ CCC (2020), [rapport final](#). Transmitted to the government on 21/06/2020, 146 measures were retained on [29/06/2020](#).

⁵⁶ The French economic recovery plan to after the Covid-19 pandemic is called “[France Relance](#)”.

⁵⁷ Gouvernement français (2021), [Exposé des motifs](#) et [Étude d'impact](#) du projet de loi Climat et Résilience.

3.2 The French Recovery Plan

The “France Relance” recovery plan aims to address the Covid-19 crisis and thus “build the France of 2030”. It was presented on 3 September 2020 by Prime Minister Jean Castex.⁵⁸ With a budget of €100 billion –€40 bn of which is financed by the EU as part of the “NextGenerationEU” programme⁵⁹ – the priorities of “France Relance” are ecology, competitiveness and cohesion.⁶⁰ For the “ecology” component, the plan devotes €30bn to four sectors identified as key to achieving carbon neutrality in 2050: energy-efficient renovation of buildings, transport, agricultural transition and energy.⁶¹ The funding will support the development of a “green hydrogen” industry (€7bn), the energy renovation of public and private buildings (€6bn), the improvement of rail transport (€4.7bn), the preservation of biodiversity (€2.5bn), the decarbonisation of industry (€1.2bn) and the development of public transport and cycling (€1.2bn).⁶² The financing of the measures was approved by the French Parliament by way of finance laws in July and December 2020, as well as by the EU Ecofin Council as regards the part of the plan financed by the “NextGenerationEU” programme.⁶³

Among the “France Relance” measures, two schemes are already beginning to pay off. On the one hand, the extension of the eligibility criteria for the “MaPrimeRénov” scheme – which offers financial support to households for the energy renovation of private buildings – has made it possible to accelerate the rate of energy renovation in France; 700,000 renovations are expected for 2021.⁶⁴ On the other hand, the bonus and the conversion premium, that both encourage the purchase of clean vehicles⁶⁵, have tripled the number of electric vehicle registrations in two years.⁶⁶ However, as the Conseil d’État pointed out in its ruling of 1 July 2021, the measures in the recovery plan are not sufficient for France to meet its climate objectives.⁶⁷ The Climate and Resilience Law was thus designed to complement the recovery plan so that France is able to reduce its emissions by 40% by 2030.⁶⁸

4 The French Climate and Resilience Law

The measures in the Climate and Resilience Law must contribute to achieving by 2030 the 40% reduction target for French territorial GHG emissions, compared to 1990 levels, according to the trajectory determined by the carbon budgets – and “concretise the legislative proposals” of the Convention.⁶⁹ Thus, on 10 February 2021, the French Government submitted its “draft law to combat climate change and strengthen resilience to its effects”, to the National Assembly, using the accelerated procedure.⁷⁰ The accelerated procedure made it possible to use a conciliation process between the National Assembly and the Senate after a single reading in Parliament,⁷¹ as the versions of the law adopted by the two

⁵⁸ Gouvernement français (2020), Présentation du plan France Relance, [03/07/2020](https://www.gouvernement.fr/info-media/2020-07-03-03-07-2020).

⁵⁹ Ministère de l’économie des finances et de la relance [MEFR](2021), [L’UE valide le plan français de relance et de résilience](https://www.mefr.fr/actualites/2021-02-10-l-ue-valide-le-plan-francais-de-relance-et-de-resilience).

⁶⁰ Gouvernement français (2020), [France Relance](https://www.gouvernement.fr/info-media/2020-07-03-03-07-2020).

⁶¹ MEFR, (2021), Tableau de bord, [Volet Ecologie](https://www.mefr.fr/actualites/2021-07-02-volet-ecologie).

⁶² Chambre de commerce et d’industrie (2021), [Plan « France Relance »](https://www.cci.fr/actualites/2021-07-02-plan-france-relance).

⁶³ Loi n°2020-935 du 30/07/2020 de finances rectificative pour 2020 ; Loi n°2020-1721 du 29/12/2020 de finances pour 2021 ; MEFR (2021), [L’Union européenne valide le plan national de relance et de résilience de la France](https://www.mefr.fr/actualites/2021-02-10-l-union-europeenne-valide-le-plan-national-de-relance-et-de-resilience-de-la-france).

⁶⁴ MEFR (2021), [Volet Ecologie](https://www.mefr.fr/actualites/2021-07-02-volet-ecologie); *France to capitalise on ‘resounding success’ of green renovation*, in Euractiv, [22/07/2021](https://www.euractiv.com/fr/news/france-to-capitalise-on-resounding-success-of-green-renovation).

⁶⁵ The “green bonus” and the “conversion premium” are financial aids.

⁶⁶ MEFR (2021), [Volet Ecologie](https://www.mefr.fr/actualites/2021-07-02-volet-ecologie); *En France, la vente de véhicules électriques a triplé en deux ans*, in Euractiv, [22/07/2021](https://www.euractiv.com/fr/news/en-france-la-vente-de-vehicules-electriques-a-triple-en-deux-ans).

⁶⁷ Conseil d’État, Décision N° 427301 du 1^{er} juillet 2021, [FR:CECHR:2021:427301.20210701](https://www.conseil-etat.fr/decisions/2021-07-01-427301-20210701), § 5.

⁶⁸ Climate and Resilience draft law, [Étude d’impact](https://www.mefr.fr/actualites/2021-07-02-etude-d-impact), pp. 10-11.

⁶⁹ Code de l’énergie, Article [L.100-4](https://www.legifrance.gouv.fr/codes/section/l100-4), Code de l’environnement, Art. [L. 222-1 A](https://www.legifrance.gouv.fr/codes/section/l-222-1-a) ; PjL Climat et Résilience, [Exposé des motifs](https://www.mefr.fr/actualites/2021-02-10-expose-des-motifs).

⁷⁰ The draft law consisted of 69 articles divided into six titles, including the [thematic areas](https://www.mefr.fr/actualites/2021-02-10-expose-des-motifs) of the Convention’s work.

⁷¹ Constitution du 4 octobre 1958, [Art. 45](https://www.legifrance.gouv.fr/codes/section/art-45).

chambers were different.⁷² The lack of ambition of the proposed measures was, however, highlighted in the various opinions delivered by the advisory bodies.

4.1 Opinions of Advisory Bodies: a Draft Law Lacking Ambition

Despite a “war of ambition” between the French Government, the National Assembly and the Senate, – each claiming to make the text more ambitious, while accusing the other two of weakening it⁷³ – many observers are of the opinion that the draft Climate and Resilience law was neither up to the ambitions of the Convention, nor capable of enabling France to reach its 40% target. According to the impact assessment accompanying the initial draft law, the 40% reduction can be achieved by combining the measures under discussion with legislative and regulatory measures already adopted – particularly those relating to the recovery plan.⁷⁴ A reduction of 112 Mt CO₂eq per year between 2019 and 2030 would be necessary to reach France's target, to which this draft law would contribute “between half and two thirds”.⁷⁵ However, the Convention's citizens do not seem to agree with this assessment and gave the Government very low marks at their final working session in February 2021, describing as unsatisfactory both the consideration of their proposals (score of 3.3/10) and the decisions to move towards the 40% reduction target (score of 2.5/10).⁷⁶

These scores echo the opinions of various bodies that are highly critical of the draft law. The National Council for Ecological Transition (CNTE) expressed concern about the “insufficient reduction in GHG emissions brought about by this law”⁷⁷ and the Economic, Social and Environmental Council (CESE) emphasised that the measures “often remain limited, deferred, or subject to conditions, such that their implementation in the near future is uncertain”⁷⁸. For its part, the Conseil d'État was scathing of the draft law presented by the Government, noting, for example, the “significant shortcomings” of the impact study.⁷⁹ Finally, the HCC, in its opinion of February 2021, is also quite critical of the Climate and Resilience draft law, particularly regarding the “stated ambition of the draft law” and the “relevance of the measures to the SNBC”. The HCC remarks that France has not respected its first carbon budget (2015-2018) and that “the current emissions reduction momentum continues to be insufficient”.⁸⁰

4.2 Assessment of the Main Measures from the Final Text

The two Chambers of Parliament initially adopted different versions of the draft Climate and Resilience law, so the Government convened a joint committee on 12 July 2021 to find a compromise text. A text containing 311 articles was adopted by both houses of Parliament on 20 July 2021.⁸¹ The Constitutional Council has ruled that 14 Articles do not conform to the French Constitution, as they are unrelated to

⁷² Text adopted by the National Assembly on [04/05/2021](#), Text amended by the Senate on [29/06/2021](#).

⁷³ See in particular *Le Sénat vote la loi Climat sous le feu des critiques du gouvernement* in Euractiv [29/06/2021](#) ; Sénat (2021), Conférence de presse du [04/06/2021](#).

⁷⁴ Climate and Resilience draft law, [Étude d'impact](#), pp. 10-11.

⁷⁵ Climate and Resilience draft law, [Étude d'impact](#), p. 11.

⁷⁶ CCC (2021), [Avis](#) sur les réponses apportées par le gouvernement à ses propositions, pp. 161-163; *La convention citoyenne pour le climat se sépare sur une note sévère au gouvernement*, in Le Monde, [28/02/2021](#).

⁷⁷ Conseil national de la transition écologique (2021), Délibération [2021-01](#), § 13.

⁷⁸ Conseil Économique Social et Environnemental (2021), Projet de loi climat : [le CESE a adopté son avis](#).

⁷⁹ Conseil d'État (2021), [Avis](#) sur un projet de loi portant lutte contre le dérèglement climatique et ses effets, § 4.

⁸⁰ HCC (2021) [Avis](#) sur le PJJ Climat et Résilience, p. 5.

⁸¹ Assemblée nationale (2021), [adoption du texte issu de la CMP](#) ; Sénat (2021), [PJJ Climat et Résilience](#) ; [Infographie](#).

the original draft law, but has refused to censure the whole law for “insufficiency”.⁸² The law was published on the 24 August 2021.⁸³ The adopted measures cover many areas such as advertising, consumer information, vegetarian menus in canteens, heated terraces, education and penalties for environmental damage.⁸⁴ However, measures that will reduce emissions in the transport and building sectors, or increase the share of renewable energy in the energy mix – i.e. where France is furthest behind in meeting its 2030 targets⁸⁵ – remain limited.

In the field of transport, the law aims to “promote alternatives to individual car use and the transition to a more environmentally friendly vehicle fleet”.⁸⁶ One of the key measures is the creation of low-emission mobility zones (“ZFE-m”) from 2025 in urban areas with more than 150,000 inhabitants.⁸⁷ In concrete terms, it will be forbidden to drive the most polluting vehicles in these zones; the traffic restrictions will be applied gradually from 2023 for Crit'Air 5 until 2025 for Crit'Air 3 vignettes.⁸⁸ The testing of an interest-free loan is planned for the purchase of an electric or hybrid vehicle in these zones. In addition, domestic flights will be discontinued (except for connecting flights) if there is an alternative train route of less than 2.5 hours.⁸⁹ This measure will therefore only affect a very small number of routes, whereas the Convention initially proposed a threshold of four hours.⁹⁰ With regard to buildings, the main measure is the gradual ban on housing with poor energy performance.⁹¹ Initially, in 2022, it will no longer be possible to increase the rent for buildings in energy class F and G ; then, as from 2025, there will be a ban on renting out G-class buildings – around 600,000 housing units.⁹² The measure will then be extended to the 1.2 million F-class housing units from 2028. The Climate and Resilience Law does not provide for measures to catch up France's lag in terms of the share of RE in its energy mix: local consultation is strengthened in order to improve the acceptability of RE installations, the obligation of vegetation or photovoltaic installations on roofs is extended and France's quantitative targets for the development of RE exploitation will be divided amongst the industrial sectors.⁹³

Some measures will only come into effect after 2030 and will not therefore contribute to achieving the 40% reduction target. For instance, the law provides for a ban on the sale of vehicles emitting more than 95g CO₂/km from 2030, without adjusting the deadline of 2040 for banning the sale of internal combustion engine passenger cars – which the Commission proposes to do from 2035, including hybrid vehicles.⁹⁴ However, the law extends the ban to heavy-duty vehicles, also from 2040. The ban on renting out buildings in energy class F – i.e. 2.6 million housing units – will only come into effect from 2034.⁹⁵ As for the measures aimed at directly regulating emitting practices, their scope, as the HCC observes,⁹⁶ is reduced by the long implementation deadlines, the limited area of action and will also depend on implementation measures. It is also difficult to anticipate the impact of measures aimed at

⁸² Constitution de 1958, [Art. 61](#); Conseil constitutionnel, Décision n° [2021-825 DC](#) du 13 août 2021, §4, 36.

⁸³ Loi n° [2021-1104](#) du 22 août 2021 portant lutte contre le dérèglement climatique et renforcement de la résilience face à ses effets.

⁸⁴ MTE (2021), *Projet de loi Climat & Résilience - Vote définitif à l'Assemblée nationale et au Sénat: l'écologie dans nos vies*.

⁸⁵ HCC (2021), *Rapport annuel, Résumé exécutif*, p.5 ; CITEPA (2020), EnR : [12 États membres ont atteint leurs objectifs 2020](#).

⁸⁶ Loi n° [2021-1104](#), Titre IV.

⁸⁷ Loi n° [2021-1104](#), Art. 119.

⁸⁸ MTE (2021), *Loi climat et résilience: l'écologie dans nos vies, calendrier de mise en œuvre*.

⁸⁹ Loi n° [2021-1104](#), Art. 142.

⁹⁰ CCC (2020), *Les propositions de la Convention Citoyenne pour le Climat, rapport final*, p. 259, Proposal SD E2.

⁹¹ Loi n° [2021-1104](#), Art. 159, 160.

⁹² MTE (2021), *Loi climat et résilience: l'écologie dans nos vies, calendrier de mise en œuvre*.

⁹³ Loi n° [2021-1104](#), Titre III, Chapitre IV « favoriser les énergies renouvelables ».

⁹⁴ See section 2.3.2: [COM\(2021\) 550](#), p. 10 and [COM\(2021\) 556](#); Loi n° [2021-1104](#), Art. 103.

⁹⁵ MTE (2021), *Loi climat et résilience: l'écologie dans nos vies, calendrier de mise en œuvre*.

⁹⁶ HCC (2021) [Avis](#) sur le PJJ Climat et Résilience, p. 8.

influencing consumer behaviour, such as environmental labelling or the banning of certain advertisements.

5 Conclusions on the French Climate Ambition

The Government has just missed the last opportunity of the 2017-2022 mandate to prove its climate ambition. The proposed measures will, at best, be just enough for France to meet its 40% emissions reduction target by 2030, but they fall far short of the Commission's ambition. In fact, the measures proposed in the Fit for 55 package are widely regarded as ambitious – in contrast to the Climate and Resilience Law. Making measures more ambitious and implementing them sooner will facilitate the transition to an even more ambitious target.⁹⁷ The Climate and Resilience Law will not allow France to achieve the “structural” changes needed to catch up with its carbon budgets in the transport and building sectors before 2030.⁹⁸ Truly ambitious measures at national level would, however, make it possible to bring France's national action into line with its climate rhetoric – both at international and EU level. In this respect, the Senate wants to “make France's commitments credible at EU level”.⁹⁹ The inclusion of an article, underlining the fact that France will respect its EU commitments¹⁰⁰, is – as the Minister of Ecological Transition underlined¹⁰¹ – unnecessary in view of the primacy of EU Law over national law, but it does have the merit of bringing the EU dimension into the debate. Despite the rhetoric calling for climate action, and although France was one of the first countries to incorporate the objective of climate neutrality into its law, concrete and rapid measures are needed to achieve the stated objectives: whether it is the 40% reduction in French emissions by 2030 or the French contribution to the 55% reduction in EU emissions – particularly a 47.5% reduction in non-ETS sectors. In its latest annual report, the HCC stressed that “current efforts are insufficient to ensure that the 2030 targets will be met, especially in the context of the new European Climate Law”.¹⁰² France is also lagging far behind in terms of the share of RE in its energy mix – achieving the 33% target by 2030 is also hampered by the level of acceptance of renewables in the regions.¹⁰³ However, in a study recently published by the energy manager RTE, all the scenarios envisaged for achieving climate neutrality involve “a strong increase” in RE.¹⁰⁴ As France prepares to take over the Presidency of the EU Council in the first half of 2022, it will have a role to play in the dynamics of the discussion on adopting the Fit for 55 package. It is crucial for France not to miss this opportunity to be among the Member States that support the Commission's climate ambition.

A look at environmental litigation, both at national and EU level, confirms the inadequacy of current measures to meet various targets: the Court of Justice of the EU¹⁰⁵ and the French Conseil d'État¹⁰⁶ have both condemned France for non-compliance with air quality standards; the Paris Administrative Court ruled that the French State is responsible for the partial failure to meet its GHG emission reduction targets;¹⁰⁷ and after asking the French Government to justify its refusal to adopt additional measures to reduce GHG emissions in the “Grande-Synthe” case, the Conseil d'État gave it nine months

⁹⁷ The HCC recommends accelerating the implementation of measures to increase their effectiveness, [Avis](#), p. 6.

⁹⁸ See in this sense MTES (2020), [SNBC 2](#), p. 40.

⁹⁹ Sénat, Conférence de presse du [04/06/2021](#), Jean-François Longeot - at 10.36.00 of the video.

¹⁰⁰ Art. 1^{er} AA (nouveau) of the text amended in first reading by the Senate on [29/06/2021](#); Loi n°[2021-1104](#), Art. 1.

¹⁰¹ Barbara Pompili, quoted by Laurent Radisson, in *Actu-Environnement* [16/06/2021](#).

¹⁰² HCC, [Rapport annuel 2021](#), Renforcer l'atténuation, engager l'adaptation, p. 5.

¹⁰³ *France trailing behind EU renewable energy goals*, in Euractiv [06/05/2021](#).

¹⁰⁴ Réseau Transport Électricité (RTE) (2021), *Futurs énergétiques 2050*, [Résumé exécutif](#), p. 16.

¹⁰⁵ Judgment of the Court of Justice of the EU of 24 October 2019, Case C-636/18, [EU:C:2019:900](#).

¹⁰⁶ Décision du Conseil d'État du 4 août 2021, N° 428409, [FR:CECHR:2021:428409.20210804](#).

¹⁰⁷ Jugement du Tribunal Administratif de Paris du 3 février 2021, relatif à « [l'Affaire du siècle](#) »

to take additional measures.¹⁰⁸ France is not the only Member State in this situation: Germany – following a ruling by its Constitutional Court¹⁰⁹ that requires the legislator to specify how the GHG emission targets are to be adjusted after 2030¹¹⁰ – has recently undertaken the adoption of a 65% reduction target of its GHG emissions by 2030, compared to 1990 levels.¹¹¹ It is thus becoming inevitable that Member States will have to strengthen their measures to reduce GHG emissions, whether under pressure from their national jurisdictions or in order to meet their recently reinforced EU commitments.

¹⁰⁸ Décision du Conseil d'État N° 427301, [FR:CECHR:2020:427301.20201119](#), [FR:CECHR:2021:427301.20210701](#).

¹⁰⁹ BVerfG, Beschluss des Ersten Senats vom 24. März 2021, [DE:BVerfG:2021:rs20210324.1bvr265618](#).

¹¹⁰ BVerfG, Pressemitteilung Nr. [31/2021](#), Verfassungsbeschwerden gegen das Klimaschutzgesetz teilweise erfolgreich.

¹¹¹ *German cabinet agrees more ambitious CO₂ cuts before September election*, in Reuters [12/05/2021](#).



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