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Circular Economy & Industry in 2035

# Regulations

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# 1. Definitions

## 1.1. Defining the report topic

**Implementation of European legislation in member states**

**Regulations are legislative acts** directly applicable in all European Union (EU) member states without transposition into national law. They are binding in their entirety and obligatory for all member countries. Regulations have immediate effect and are generally used to harmonize national legislation in specific areas. **Directives establish common objectives** that member states must achieve but leave them to choose the means and methods for doing so. Unlike regulations, directives must be transposed into national law by each member state. Transposition requires a series of measures contributing to the directive's effective implementation[1], including information, training, incentives, and administrative, civil, and criminal penalties. **Decisions are legislative acts applying to specific individuals, companies, or member states.** They are binding in their entirety on those to whom they are addressed. Unlike regulations and directives, decisions are not intended to have a general effect on all member states.
Finally, **recommendations and opinions issued by the European Parliament are not binding** but can influence member states' policies in certain areas.
In summary, regulations are directly applicable and binding on all member states; directives establish common objectives but leave member states discretion over the means of achieving them; decisions apply to specific addressees and are binding on them; and recommendations and opinions are nonbinding but can guide member states' policies.

## 1.2. Relevance to the study and key questions for the future

At the European level, supporting the transition to a circular economy involves adopting regulations that promote more sustainable product design, waste reduction, and stronger consumer rights**. How important, then, will European legislation be in developing the circular economy?**

European legislation currently takes the form primarily of directives, which entail different implementation approaches—means and methods—across member countries. **This raises the question of standardizing practices within each country at the national level in connection with European circular economy legislation.**

Finally, consumers, increasingly aware of environmental issues, are expected to play a greater role in the European single market. However, several studies show a gap between the desire to consume more responsibly and purchasing decisions. **How can regulation influence consumer behavior?**

# 2. Retrospective analysis

## 2.1. Past developments (emergence and structuring of European circular economy legislation)

**At the European level, waste legislation as a first step toward a circular economy:**

The regulatory foundation for waste management, established by directives in 1975, 1991, and 1993, was strengthened by a new directive in 2008 introducing two important principles:

- The waste treatment hierarchy: prevention, reuse, recycling, recovery, and disposal

[1]https://fr.wikipedia.org/wiki/Directive_de_l%27Union_europ%C3%A9enne

- Extended producer responsibility: The "original waste producer"—manufacturer, importer, distributor, and so forth—is responsible for managing its products at the end of their lives.

In the early 2010s, the Europe 2020 Strategy aimed for "more sustainable growth and a Europe efficient in its use of raw materials."[2] The focus was therefore on resource efficiency.

However, it was not until 2015 that the European Commission actually referred to the term "circular economy," proposing a package of fifty-four measures explicitly intended to promote it. These applied to plastics, industrial equipment, ecodesign, and quality standards for recycled materials.

Finally, in 2020, the Circular Economy Action Plan[3] proposed as its centerpiece a new framework for sustainable product policy that would establish sustainability principles for all products and thereby help make European industry more competitive.

**The principles of primacy and subsidiarity: European environmental regulation is ultimately relatively nonbinding.** The principle of primacy, established by the Court of Justice's 1964 judgment in *Costa v. E.N.E.L.*, guarantees the superiority of European law over national law and is a fundamental principle of European Union law.[4] Primacy applies only to certain areas, such as the customs union, monetary policy, or common commercial policy.[5] Competences remain shared between the EU and member states in thirteen other areas, including the internal market, the environment, energy, and transportation. They are termed shared because, under the principle of subsidiarity, the EU takes priority only if its action is judged more effective than that of the states. Subsidiarity therefore governs the allocation of competences between the EU and national governments (Barroche, 2012). It reaffirms the role of national parliaments in European integration (Cooper, 2006; Peters, 2005) as the official guardians of the principle of subsidiarity (Barroche, 2012).

In summary, **the impact of European law on member states remains limited**, whether in areas of exclusive EU competence under the principle of primacy or shared competence under the principle of subsidiarity, including the environment, energy, and transportation. For example, in France, whether measured in laws or articles, European law's actual impact on national legislative activity is approximately 10%[6] to 20%[7], far below the mythical 80% often cited. However, this percentage varies substantially by sector. In agriculture and fisheries, a large share of laws—approximately 40%—is of European origin. The same is true of the environment, where European-level action is necessary to ensure coherent management. In education, housing, social protection, and defense, however, EU influence on national legislation is much more modest10.

**At the national level, gradual strengthening of the legislative framework**

In France, legislation supporting ecology and the environment began following the **Grenelle de l'environnement with the laws known as Grenelle I and Grenelle II**, adopted in 2009 and 2010, respectively. These laws established the first roadmaps for public action and future regulation.

**The Energy Transition for Green Growth Law**[8], intended to enable France to contribute more effectively to combating climate disruption and strengthen its energy independence while ensuring access to competitively priced energy, was enacted in 2015. It lays the foundations for combating wastefulness and

[2]Feuille de route pour une Europe efficace dans l'utilisation des ressources, COM(2011) 21.

[3]https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2020%3A98%3AFIN

[4]https://institutdelors.eu/publications/la-primaute-du-droit-de-lunion-europeenne-un-principe-cardinal-dans-la-tourmente/

[5]https://www.touteleurope.eu/fonctionnement-de-l-ue/souverainete-nationale-vs-union-europeenne-3-minutes-pour-comprendre/

[6]https://tnova.fr/site/assets/files/11324/mythe_0.pdf?10xn4

[7]https://france.representation.ec.europa.eu/informations/80-des-lois-francaises-sont-imposees-par-leurope-vraiment-2019-03-20_fr

[8]https://www.ecologie.gouv.fr/loi-relative-transition-energetique-croissance-verte-tepcv#:~:text=La%20loi%20de%20transition%20%C3%A9nerg%C3%A9tique,%C3%A9nergie%20%C3%A0%20des%20co%C3%BBts%20comp%C3%A9titifs.

reducing waste at source by establishing the objective of a transition to a circular economy and translating it into quantified targets for waste prevention and management, including sorting and recovery.

**The Circular Economy Roadmap** (2018)[9], which echoes the circular economy package adopted by the European Parliament in December 2017, is the latest step in placing this concept on the public policy agenda. It provided the basis for work on the Anti-Waste for a Circular Economy Law. Known as the **AGEC Law**[10], this law contributes to the transition to a circular economy and particularly promotes the functional economy through reuse and repair, with the overall objective of combating wastefulness.

Finally, the Climate and Resilience Law (2021), which addresses climate disruption and strengthens resilience to its effects, aims to initiate the French economy's transition toward a model that is both ecological and sustainable.

**The tangle of energy regulation**

Energy regulation comprises local, national, and international texts, including laws, regulations, requirements, sector-specific rules, and so forth (ATEE, 2024).[11] Energy is rarely the main subject of laws, regulations, and other texts; instead, it appears as an issue related to other themes, such as carbon neutrality, changes in housing, or combating wastefulness.

In France, **the Grenelle Environnement marked the French government's first recognition of the energy transition**. It was a series of political meetings held in late 2007, resulting in laws amending, among other things, the Construction and Housing Code to improve buildings' energy performance and the Environmental Code to address reduced energy consumption and renewable energy. Initially attached to fairly general laws—for example, the 2015 LTCEV Law, which expresses a desire to strengthen energy independence without necessarily specifying its scope or quantified objectives—energy has proved to be a cross-cutting theme linked to many issues, such as housing, green industry, and climate. However, objectives are increasingly stated in laws, with deadlines of varying proximity, from 2030 to 2050. The energy transition toward renewable sources should reduce companies' environmental impact. Nevertheless, the creation of a carbon market [EU ETS and CO2 allowances (2003–2023)] and the climate neutrality objective [European Climate Law (June 2021)] demonstrate that the government recognizes energy as indispensable to industrial development [Green Industry Law (October 2023)]. **Energy efficiency thus becomes the primary objective of French and European regulation** [recast Energy Efficiency Directive (September 2023)].

**Waste management institutionalized through extended producer responsibility sectors**

France was the first country to establish extended producer responsibility (EPR) sectors, beginning with household packaging in 1992.[12] Based on the polluter-pays principle[13], **this system meets the need to organize the management of specific waste streams** because of their quantity, as with packaging; their particular characteristics, as with end-of-life vehicles; or their hazardous nature, as with used oils.[14] Producers—that is, those responsible for placing certain products on the market[15]—can either (i) organize collectively to meet these obligations through government-approved nonprofit producer responsibility

[9]https://www.ecologie.gouv.fr/feuille-route-economie-circulaire-frec

[10]https://www.ecologie.gouv.fr/loi-anti-gaspillage-economie-circulaire#:~:text=Ce%20bonus%2C%20pr%C3%A9vu%20par%20la,%C3%A0%20travers%20toute%20la%20France.

[11]https://atee.fr/document/panorama-de-la-reglementation-relative-a-la-maitrise-de-lenergie-mise-a-jour-25-janvier

[12]https://www.hellocarbo.com/blog/reduire/responsabilite-elargie-producteur/

[13]https://www.ecologie.gouv.fr/sites/default/files/19049_Decryptons_Fili%C3%A8res_REP.pdf

[14]https://www.notre-environnement.gouv.fr/themes/economie/les-dechets-ressources/article/les-filieres-a-responsabilite-elargie-du-producteur-486

[15]https://www.ecologie.gouv.fr/cadre-general-des-filieres-responsabilite-elargie-des-producteurs

organizations to which they pay an environmental contribution or (ii) establish an individual system for managing waste from their products.

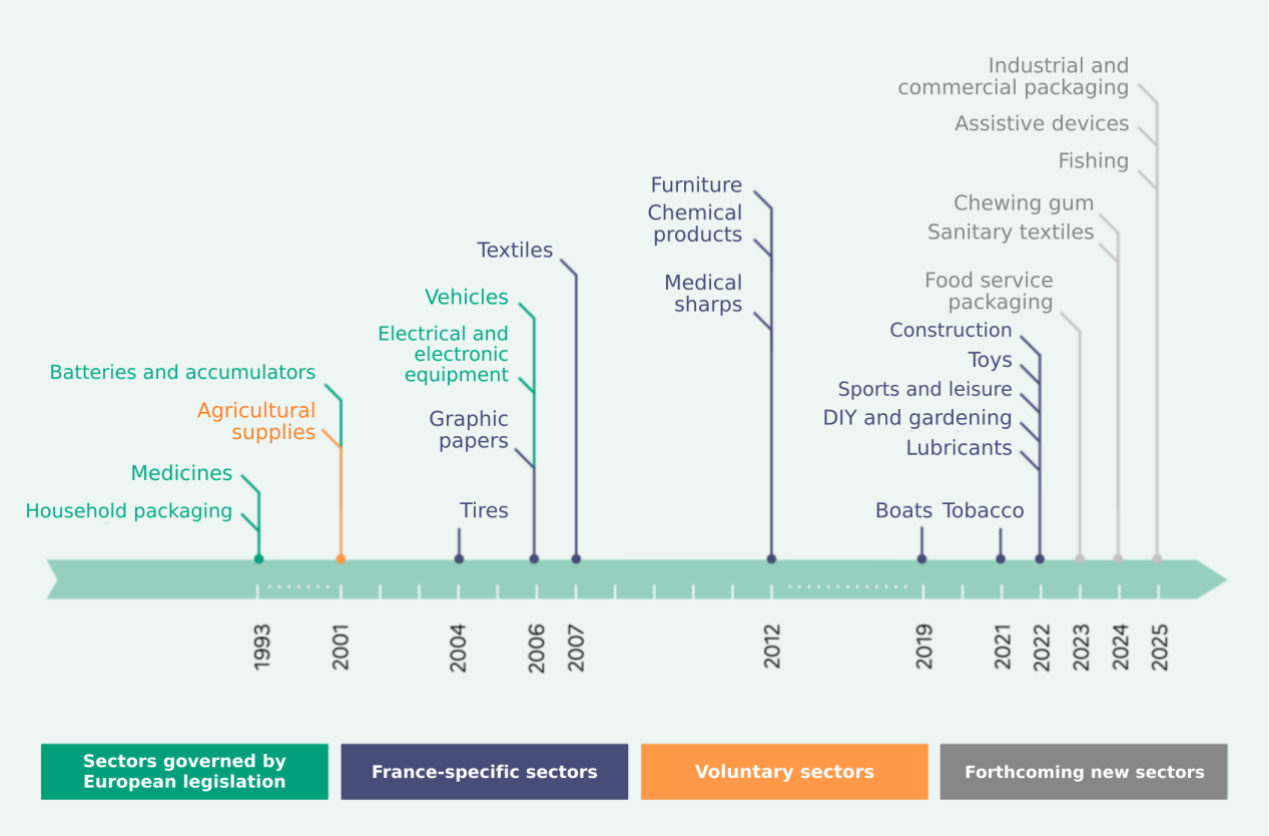



*Figure 1: EPR sectors and dates of operational implementation (source: ADEME, 2022)*

The Anti-Waste for a Circular Economy Law, known as the AGEC Law (No. 2020-105 of February 10, 2020), clarifies the definition of food waste and sets reduction targets. It extends the requirement for a waste prevention assessment to agrifood industries. It introduces a national "anti-food waste" label that can be awarded to anyone contributing to national food waste reduction targets. It strengthens the donation quality management plan by introducing procedures for monitoring and checking donation quality. Finally, it extends obligations under the Garot Law to food wholesalers, with a revenue threshold exceeding €50 million for donation agreements, and increases penalties for noncompliance. The AGEC Law also harmonizes the operation of EPR sectors, including their internal organization, stakeholder obligations, monitoring, and data availability (ADEME, 2022). France currently has twenty-four EPR sectors, implemented progressively (see figure 1). In 2020, 8.1 million metric tons of waste were recycled through EPR sectors[16] in France.

## 2.2. Current developments

### At the European level: Updating existing texts and the Green Deal's ambitious objectives

In December 2019, the European Commission presented its European Green Deal proposal.[17] The aim is to make Europe a climate-neutral continent and transform all economic sectors fundamentally to meet this challenge. It therefore includes a commitment to climate neutrality by 2050. To achieve this, the Commission proposed a new target of reducing net emissions by at least 55% by 2030, to be incorporated into the European Climate Law. The target was approved by the European Parliament and member states and became legally binding in June 2021.

[16]https://www.ecologie.gouv.fr/sites/default/files/19049_Decryptons_Fili%C3%A8res_REP.pdf

[17]https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_fr

The Commission emphasizes that achieving these objectives requires a radical transformation of the economy, society, and industry. The Green Deal rests on numerous elements:

- Its foundations are the principles of intergenerational solidarity, international solidarity, equity, efficiency, and competitiveness;
- Coordination of eight distinct public policies: (1) climate policy; (2) clean, affordable, and secure energy supply; (3) construction and renovation; (4) mobility; (5) organizing a fair, healthy, environmentally responsible food system; (6) biodiversity preservation; (7) combating toxic substances; and (8) developing the circular economy
- The necessary updating of a number of texts to meet the new targets, covering many issues, such as strengthening the European carbon market (EU ETS), introducing a Carbon Border Adjustment Mechanism (CBAM), the land-use regulation, the Renewable Energy Directive, and regulations for different types of fuel.
- The deployment of substantial financial instruments through the creation or strengthening of several funds for climate, innovation, and modernization.

The measures envisaged include pricing, target setting, standards, and support measures. The Commission considers that, given market failures and nonmarket barriers, pricing measures alone are insufficient.

The Green Deal thus extends a long-established European policy pursuing the transition to a circular economy through the conventional route of environmental law.[18] At the European level, this law is structured around three main themes: regulating waste and its management, regulating products, and progressively banning single-use plastics. However, the Green Deal also proposes a more novel ecological transition, this time based on consumer law. From this perspective, it heralds the emergence of substantive European sustainable consumption law (see the section “Protecting European consumers as a means of advancing the ecological transition”).

**At the European level, product ecodesign as a second step toward the circular economy**

Based on the premise that up to 80% of products’ environmental impact is determined at the design stage, the issue of waste tends to shift toward product ecodesign, presented in a 2020 draft European Parliament report on the circular economy.[19] Ecodesign considers environmental aspects at every stage of product development, striving to achieve the lowest possible environmental impact throughout the product lifecycle.[20] It translates into minimum energy-efficiency requirements.[21] EU manufacturers must already comply with ecodesign rules[22] for energy-related products, such as heaters, refrigerators, vacuum cleaners, and computers, reducing energy consumption and negative environmental effects from the design stage. In January 2024, the European Parliament’s environment committee adopted a new regulation on product ecodesign.[23]

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[18]https://www.observatoire-greendeal.eu/le-pacte-vert/green-deal-et-economie-circulaire-a-la-croisee-des-branches-du-droit/

[19]Draft report on the new circular economy action plan (2020/2077(INI)): https://www.europarl.europa.eu/doceo/document/ENVI-PR-652387_FR.pdf

[20]https://www.eea.europa.eu/help/glossary/eea-glossary/eco-design

[21]https://europa.eu/youreurope/business/product-requirements/compliance/ecodesign/index_fr.htm

[22]Directive 2009/125/CE du Parlement européen et du Conseil du 21 octobre 2009 établissant un cadre pour la fixation d’exigences en matière d’écoconception applicables aux produits liés à l’énergie

[23]https://www.novethic.fr/actualite/environnement/economie-circulaire/isr-rse/ecoconception-le-parlement-europeen-et-le-conseil-s-accordent-sur-un-nouveau-texte-151984.html#:~:text=Environnement-,Le%20nouveau%20r%C3%A8glement%20europ%C3%A9en%20sur%20l'%C3%A9coconception%20va,la%20destruction%20des%20invendus%20textiles&text=Tr%C3%A8s%20attendu%2C%20le%20r%C3%A8glement%20sur,et%20moins%20avides%20de%20ressources.

This regulation introduces two main measures: (1) a ban on destroying unsold items in certain product categories, favoring donation or recycling instead, and (2) a digital passport bringing together information on a product's environmental impact.

**Regulation at different speeds**

The distinction between regulations, directives, and decisions allows a degree of flexibility within member states. In particular, implementing directives sometimes encounters difficulties in member countries.

The Commission is concerned about a "layering of administrative levels locally," particularly in France, which further complicates the application of European regulations and directives. As early as 2013, France accounted for 40% of EU municipalities: 36,700 communes, with a median of 1,800 inhabitants per commune, compared with 5,500 in the EU.[24] The Commission consequently fears a negative effect on the use of European assistance, increased administrative formalities, and risks of double funding.

**Energy dependence and speculation**

The recent energy crisis triggered by Russia's invasion of Ukraine highlighted **the EU's energy dependence**, particularly for gas and electricity supplies. In March 2023, the European Commission proposed reforming electricity market organization to better protect consumers from price spikes while making EU industry cleaner and more competitive.[25] It proposed measures to reduce gas use progressively by accelerating renewable energy development, with the objective of guaranteeing a sustainable, independent energy supply for the EU. This objective is consistent with the European Green Deal and the REPowerEU plan.[26] The agreement ultimately reached in October 2023 establishes the Commission's proposals while allowing member states flexibility according to their own energy mixes. For example, this allows France to include nuclear power, which accounts for 70% of its energy mix.[27] Although the agreement still faces a lengthy legislative process, **the EU's stated ambition is to combine accelerated renewable energy development through investment security, consumer protection through mechanisms controlling price increases, and defense of the European market model in energy regulation**.[28]

At the same time, speculation affects energy, particularly the carbon market. A mechanism for carbon dioxide emission allowances, the European Union Emissions Trading System (EU ETS), has been implemented since the Kyoto Protocol was ratified. From 2021, the announcement of a new target to reduce EU emissions by 55% by 2030[29] contributed substantially to rising carbon prices, which crossed the symbolic €50-per-metric-ton threshold. Few commodities have risen as much in recent years as CO2 in Europe[30], and Bloomberg analysts now estimate that its price should exceed €100 per metric ton in 2030.[31] Some investors entered the carbon market, betting on future price increases. **This speculation, coupled with manufacturers' anticipation of tighter European regulation, increased electricity costs.** Manufacturers then pass higher

[24]https://www.euractiv.fr/section/all/news/bruxelles-critique-le-millefeuille-territorial-francais/

[25]https://ec.europa.eu/commission/presscorner/detail/%20fr/ip_23_1591

[26]https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/repowereu-affordable-secure-and-sustainable-energy-europe_fr

[27]https://www.sfen.org/rgn/decryptage-le-projet-de-reforme-europeen-du-marche-de-lelectricite-reconnait-la-place-du-nucleaire/

[28]https://www.leclubdesjuristes.com/societe/planete/reforme-du-marche-de-lelectricite-que-dit-laccord-entre-le-parlement-et-le-conseil-europeen-4542/

[29]https://france.representation.ec.europa.eu/informations/la-commission-presente-une-recommandation-pour-un-objectif-de-reduction-des-emissions-lhorizon-2040-2024-02-06_fr#:~:text=La%20loi%20europ%C3%A9enne%20sur%20le%20climat%20%2C%20entr%C3%A9e%20en%20vigueur%20en,rapport%20aux%20niveaux%20de%201990.

[30]https://www.lecho.be/entreprises/energie/la-speculation-sur-le-co2-fait-augmenter-la-facture-d-electricite/10304385.html

[31]https://www.lesechos.fr/finance-marches/marches-financiers/les-industriels-salarment-de-la-flambee-du-prix-des-quotas-de-co2-1312370

electricity prices on to their products, creating inflationary effects on other products unrelated to energy.[32] However, the European Securities and Markets Authority, responsible among other things for regulating the carbon market, found no evidence of manipulation or market abuse[33] and emphasizes only the need to increase transparency and oversight of that market.[34]

**Managing critical raw materials**

In an increasingly complex geopolitical context, including the wars in Ukraine and economic rivalry between the United States and China, the EU seeks to reaffirm its determination to strengthen European military, energy, and economic sovereignty through the Treaty of Versailles, adopted in March 2022.[35] In particular, **the EU wishes to reduce its strategic dependence on critical raw materials**, as President von der Leyen emphasized in her 2022 State of the Union address.[36] The objective is to ensure a secure, sustainable supply of critical raw materials and strengthen European manufacturing of technological products that emit no CO2.[37] Thirty-four critical raw materials are currently listed, including lithium, cobalt, copper, and nickel.[38] For some, the EU depends on a single country. China, for example, provides 100% of the EU's heavy rare earth supply. The EU therefore aims to diversify supply, with a 2030 objective of extracting within Europe 10% of its total annual consumption of critical raw materials, compared with 3% today; processing and refining 40%; and recycling 15%.[39] Diversifying European supply, principally by intensifying trade measures such as expanding sustainable investment facilitation agreements and free-trade agreements, should also improve the circularity and sustainability of critical raw materials.[40]

**Protecting European consumers as a means of advancing the ecological transition**

Since 1992, consumer protection has been based on Article 169 of the Treaty on the Functioning of the European Union, which states that "the Union contributes to protecting consumers' health, safety, and economic interests and to promoting their right to information, education, and organization to safeguard their interests."[41] **The European Union's 450 million potential consumers are thus protected by the precautionary principle**. According to the European Commission, "the precautionary principle may be invoked when a phenomenon, product, or process may have potentially dangerous effects identified by a scientific and objective assessment, if that assessment does not allow the risk to be determined with sufficient certainty." This European approach, directed toward consumers and no longer solely producers, has led to concrete advances in mandatory food labeling, air passenger rights, and mobile network roaming charges, abolished in 2017.

However, although a majority of European consumers say they want to consider environmental impact when purchasing, they still have limited reliable information. It was not until 2018 that **sustainable consumption law genuinely began to emerge**, with a European Commission communication linking consumption and the

[32]https://www.lecho.be/entreprises/energie/la-speculation-sur-le-co2-fait-augmenter-la-facture-d-electricite/10304385.html

[33]https://www.lesechos.fr/finance-marches/marches-financiers/marche-du-carbone-le-regulateur-europeen-veut-renforcer-la-surveillance-1396941

[34]https://www.euractiv.fr/section/energie-climat/news/aucune-anomalie-majeure-sur-le-marche-europeen-du-carbone-selon-laemf/

[35]https://www.consilium.europa.eu/media/54777/20220311-versailles-declaration-fr.pdf

[36]https://state-of-the-union.ec.europa.eu/state-union-2022_fr

[37]https://www.robert-schuman.eu/questions-d-europe/721-quelle-souverainete-europeenne-apres-la-declaration-de-versailles

[38]https://www.consilium.europa.eu/fr/infographics/critical-raw-materials/#0

[39]https://www.usinenouvelle.com/article/qu-est-ce-que-le-critical-raw-materials-act-le-plan-de-l-union-europeenne-pour-securiser-ses-approvisionnements-en-metaux.N210915

[40]https://ec.europa.eu/commission/presscorner/detail/fr/ip_23_1661

[41]https://www.touteleurope.eu/l-europe-et-moi/comment-l-union-europeenne-assure-t-elle-la-protection-des-consommateurs/

environment for the first time.[42] **Consumers were identified as key actors in achieving the ecological transition**. They therefore need both more information on product repairability and durability and better protection against misleading environmental claims, or greenwashing.[43] A 2020 Commission study identifying 230 sustainability labels and 100 green energy labels in the EU found that 53% of these economic claims provided vague, misleading, or unfounded information, while 40% were entirely unsubstantiated.[44] Sustainable consumption law is thus structured around three areas: (1) precontractual environmental information, (2) enforcement against unsustainable commercial practices, and (3) consumers' rights to durable goods. All three contribute to the transition to the circular economy. The right to sustainable consumption was recently strengthened by a European directive of February 20, 2024, intended to better inform and protect EU consumers.[45] It aims to enable informed purchasing decisions and, consequently, more sustainable consumption patterns. Before the June 2024 elections, other texts are expected to be adopted and implemented on the right to repair, mediation, combating greenwashing, and other issues.[46]

**In France: Ambitious objectives beyond European legislation**

Law No. 2015-992 of August 17, 2015, on the Energy Transition for Green Growth sets ambitious targets for 2030. These include renewable energy accounting for 33% of gross final energy consumption and a 40% reduction in greenhouse gas emissions between 1990 and 2030. It also provides for a substantial increase in renewable energy's share of each energy use, with specific targets for final heat consumption, fuel consumption, and electricity generation. Finally, by 2050, France aims to achieve carbon neutrality and halve final energy consumption compared with 2012.

Law No. 2015-992 of August 17, 2015, on the Energy Transition for Green Growth provides that by 2030 France should achieve a 33% renewable energy share of gross final energy consumption, reduce greenhouse gas emissions by 40%, and increase renewable energy's share by use. Renewables must therefore account for at least 38% of final heat consumption, at least 15% of final fuel consumption, and at least 40% of electricity generation.

Finally, Law No. 2020-105 of February 10, 2020, on Combating Waste and the Circular Economy is organized around several broad priorities: reducing waste and phasing out disposable plastics, better informing consumers, combating wastefulness, improving production, and combating illegal dumping.

**The first 3R implementing decree (2021–2025) under the Anti-Waste Law sets three objectives:**

● A 20% reduction in single-use plastic packaging by the end of 2025, at least half of which is to be achieved through reuse (réemploi and réutilisation);

● Progress toward a 100% reduction in "unnecessary" single-use plastic packaging, such as plastic blister packs around batteries and light bulbs, by the end of 2025;

● Progress toward recycling 100% of single-use plastic packaging by January 1, 2025, and, to achieve this, the objective that single-use plastic packaging placed on the market be recyclable, not disrupt sorting or recycling processes, and contain no substances or elements likely to restrict use of the recycled material.

[42]https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:52018DC0183&from=GA

[43]https://www.touteleurope.eu/environnement/thierry-libaert-faire-du-consommateur-europeen-un-levier-de-la-transition-ecologique/

[44]https://www.actu-environnement.com/ae/news/directive-ecoblanchiment-Europe-43062.php4

[45]https://www.consilium.europa.eu/fr/press/press-releases/2024/02/20/consumer-rights-final-approval-for-the-directive-to-empower-consumers-for-the-green-transition/

[46]https://www.afc-france.org/consommation/changements-consommateurs-europeens-2024/

# 3. Foresight exploration

## 3.1. Structural trends

**European layers of rules, standards, and laws applied unevenly across member states**

Driven by multiple crises, the EU continues to strengthen environmental protection regulation following its current approach: Regulations, directives, and national law accumulate in response to events and crises. This allows member countries to supplement the European legal foundation if they wish. **European regulation thus aims to harmonize member states' ecological transition policies** while supporting economic recovery at the European level.[47] Measures proposed for the ecological transition must therefore provide effective long-term solutions while ensuring short-term economic recovery.

However, agreement among member states is often difficult to achieve. For example, because the twenty-seven member states failed to agree on glyphosate, authorization for its use in the EU was renewed for ten years.[48] Each country can now decide individually to phase it out. Germany has already stated its intention to ban it domestically from early 2024, angering unions that denounce distorted competition with other countries. Luxembourg, which had withdrawn glyphosate-based plant protection products from the market in 2020, had to reverse course last April because it lacked sufficient legal grounds.

Moreover, transposing and implementing European directives within each member state is not without difficulty, and **disparities in applying European regulation emerge across member states**. France, for example, is ahead in consumers' right to sustainable consumption.

**Ecodesign is difficult to implement**

In 2023, the cumulative effect of existing European ecodesign and energy-labeling rules for certain products or sectors, including energy, household appliances, and packaging, already translated into a 10% reduction in annual energy consumption for the products concerned.[49] However, the global impact of the European single market and the behavior of its 450 potential consumers remains an issue. For example, the latest *Circularity Gap Report* (2024)[50] highlights a decline in the global circularity rate from 9.1% to 7.2% over five years. Material consumption remains high at nearly 500 billion metric tons, almost as much as during the entire twentieth century. **There is therefore a substantial gap between discourse and legislation promoting circularity and the measures actually implemented and their effects**. Finally, the recent December 2023 ecodesign agreement does not cover products sold online and imported from countries outside the European Union, creating unfair competition for European industry.[51]

**The "bureaucratization" of ecology**

Companies, particularly microenterprises and SMEs, sometimes struggle to navigate the approximately 340 existing ecological transition support measures.[52] In 2019, the French government proposed creating an Ecological Defense Council tasked with defining ecological transition priorities, particularly combating

[47]https://www.ecologie.gouv.fr/sites/default/files/CEDD%20-%20La%20transition%20%C3%A9cologique%20apr%C3%A8s%20la%20crise%20sanitaire.pdf

[48]https://www.lemonde.fr/planete/article/2023/11/16/glyphosate-la-commission-europeenne-annonce-le-renouvellement-pour-dix-ans-dans-l-ue-faute-d-accord-entre-les-pays-membres_6200450_3244.html

[49]https://www.linkedin.com/pulse/leurope-leader-de-l%C3%A9conomie-circulaire-accord-au-parlement-canfin/?originalSubdomain=fr

[50]https://www.circularity-gap.world/2024

[51]https://www.alternatives-economiques.fr/reparabilite-invendus-lue-avance-epargnant-certains-secteurs/00109414

[52]https://www.lesechos.fr/pme-regions/actualite-pme/transition-ecologique-ce-maquis-daides-qui-deroute-les-tpe-pme-2029982

climate change, preserving biodiversity, and protecting natural environments and resources.[53] Adding another council does not necessarily simplify matters when many already exist: the Higher Energy Council, the National Waste Council, and the Economic Council for Sustainable Development, with twenty-seven members and forty-five meetings since 2015, not to mention the National Council for the Ecological Transition, with fifty members and twenty-five meetings since 2015.[54]

Faced with proliferating regulations and directives that sometimes appear to overlap, **some denounce a "bureaucratization of ecology."**[55] Excessive bureaucracy in ecological policies discourages initiative and even innovation by making every action complex, lengthy, and costly. Moreover, it does not always showcase the wealth of grassroots initiatives in associations, municipalities, or regions.[56]

## 3.2. Uncertainties

**Toward new priorities?**

The European Union's strategic priorities are set before each new legislative term by the heads of state or government of all EU countries meeting in the European Council.

On the eve of the June 2024 elections, an IPSOS poll reveals **growing demand in all member countries for a more socially oriented Europe**: 64% of citizens want the EU to safeguard their social rights and call for a reduction in social inequalities, while voters' third priority is economic growth.[57] Social issues could conceivably take precedence over implementing the Green Deal and achieving carbon neutrality in 2050.

Moreover, **increasingly recurrent and sometimes permanent raw material shortages will create competition among uses**. In 2025, for example, the available copper will be insufficient to meet the needs of renewable energy, electric mobility, and electricity networks.

According to a recent study, one solution would be to "shift the priority of our circular economy regulations from the waste sector to the production sector, firmly requiring that, from now on, new goods be produced almost exclusively from recycled materials" (Grosse, 2023).

**Regulation held back by crises?**

The proliferation of current and future crises—geopolitical, climate-related, and social—sometimes affects the timetable for regulatory progress, whether adoption or implementation, or even requires regulation to be adjusted. The recent farmers' protest crisis affecting several European countries, including Germany and France, has reopened **debate over a pause in environmental rules**.[58] Starting from the same observation—that farmers are on the front lines of environmental disruption—two opposing views emerge:

- The first considers regulation the only way to protect the environment and argues that, given the urgency, it must go even further;
- The second considers regulation counterproductive because regulatory pressure is more a burden than a help to farmers.

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[53]https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000038475228#:~:text=Le%20conseil%20de%20d%C3%A9fense%20%C3%A9cologique%20a%20pour%20mission%20de%20d%C3%A9finir,de%20leur%20mise%20en%20%C5%93uvre.

[54]https://www.novethic.fr/actualite/energie/transition-energetique/isr-rse/infographie-s-y-retrouver-dans-la-jungle-des-comites-conseils-commissions-et-autres-instances-de-la-transition-ecologique-147233.html

[55]https://www.fondapol.org/etude/de-la-transition-ecologique-a-lecologie-administree-une-derive-politique/

[56]https://www.cairn.info/revue-mouvements-2007-2-page-42.htm

[57]https://fr.euronews.com/2024/03/25/elections-europeennes-quelles-sont-les-priorites-des-electeurs-de-lue

[58]https://www.touteleurope.eu/agriculture-et-peche/pour-contre-agriculture-faut-il-une-pause-en-matiere-de-regles-environnementales/

Similarly, the current housing crisis, reflected particularly in a severe shortage of rental properties, prompted measures to relax the Climate and Resilience Law's 2025–2034 timetable for renting energy-inefficient homes. These include reforming the energy performance assessment (DPE) by adjusting the rating system for homes smaller than forty square meters from July 2024 and adding new exceptions to renovation requirements for energy-inefficient homes.

**Introducing circular VAT**

On May 4, 2022, the minister responsible for the ecological transition and regional cohesion commissioned the Institut National de l'Économie Circulaire to study the relevance of and conditions for **introducing circular VAT as a potentially powerful means of stimulating repair and reuse**. The resulting report[59] makes seven recommendations for introducing circular VAT over the long term within the constraints of EU rules governing VAT:

- Adopt a 5.5% VAT rate on repairs to household appliances, shoes and leather goods, clothing, and household linens
- Measure the economic, social, and environmental impact of reduced VAT rates
- Clearly define refurbishment and remanufacturing so they can be included in circular VAT
- Reduce VAT rates in other repair sectors
- Introduce circular VAT for the functional economy
- Reduce VAT rates on ecodesigned manufactured products
- Extend circular VAT to refurbished products

At this stage, this remains only a bill whose enactment and implementation are still uncertain, even though the report's first recommendation calls for adoption in the 2024 Finance Law. If adopted, circular VAT would be more than a "simple" tax measure: It could also catalyze an ecological and economic revolution.

**Consumers' role and rights within the circular economy**

Although many consumers wish to consume more sustainably, **a gap exists between intentions and actual responsible consumption behavior**, with the cost of sustainable products the primary constraint.[60] For example, the surge in organic product sales in France during the COVID-19 lockdowns dissipated when the lockdowns ended[61], demonstrating that consumers had not permanently changed their habits. In an inflationary environment, consumers could turn away from products labeled "organic," even as the European target of having 18% of cultivated land farmed organically by 2027, set under the Common Agricultural Policy (CAP), may prove difficult to achieve.[62]

At the same time, **certain circular economy principles could call consumer rights into question**. For example, the right to repair has so far been addressed by a 2022 European resolution setting a direction and expectations for repairability, and a forthcoming directive will focus on promoting repairs after purchase. However, imposing repair instead of product replacement would represent an unacceptable erosion of consumer rights.[63]

[59]https://www.ecologie.gouv.fr/sites/default/files/rapport%20TVA%20Jacquillat%20Ledoux%20131023%20%281%29.pdf

[60]https://www.agriculture-strategies.eu/2021/02/lecart-entre-les-intentions-et-la-realite-des-comportements-de-consommation-responsable/

[61]https://france3-regions.francetvinfo.fr/nouvelle-aquitaine/gironde/bordeaux/baisse-des-ventes-de-produits-bio-ca-s-est-dissipe-quand-le-confinement-s-est-arrete-2696106.html

[62]https://www.publicsenat.fr/actualites/economie/crise-du-bio-quel-avenir-pour-la-filiere

[63]https://docs.google.com/document/d/1lMSfyQqKp4YZSDyH8aIA3hto0UJTj42IjCcdaqS6yHI/edit

**The environmental contribution: When consumers pay for producers**

The environmental contribution was introduced so that producers finance the management of their waste under the polluter-pays principle. Producer responsibility organizations in France collected €1.7 billion in 2020.[64] Producers therefore have an incentive to limit waste generation, since the contribution is calculated according to the product and its recycling cost.[65] In practice, however, consumers ultimately pay this contribution, more commonly called an environmental fee in consumer contexts. The financial burden of disposing of the waste consumers generate is thus shifted to them.[66] Specifically, the environmental contribution or fee is an amount added to the selling price that varies according to the product and the raw materials needed to manufacture it. The government then transfers the fee to organizations approved for waste management.[67]

## 3.3. Controversies

**An EU based on a common market?**

Although most member states have recognized the principle of primacy, some have repeatedly expressed reservations about European law's primacy over their national constitutions, which certain legal systems regard as the supreme norm. From this perspective, Brexit ultimately reflects a desire to restore the English Parliament's full authority.[68] Several European countries have chosen to copy Great Britain's agreement, and a new vision of the **EU based on a common market rather than a common government** is emerging. Some of these countries belong to EFTA—Norway, Switzerland, and Iceland are aligning their agreements with ours—others are farther afield, such as Serbia, Turkey, and Ukraine, and some have also left the EU: Denmark, Ireland, and the Netherlands.[69] If EU membership is not necessarily required to access its single market, questions arise about the EU's future, particularly member states' willingness to remain. Leaving the EU can sometimes offer greater flexibility in responding to crises, with more advantageous solutions for non-EU states and their citizens. For example, during the energy crisis, the United Kingdom was able to invest in inexpensive Chinese solar panels, something member states had been unable to do. This reduced English households' energy bills, increased purchasing power, and, in turn, stimulated the country's entire economy.

**Subsidiarity, really?**

For all EU member countries, the principle of subsidiarity remains ambiguous and debatable. Although it reaffirms the need to address issues as close as possible to local realities[70], its interpretation varies among member countries. Moreover, subsidiarity has so far largely been used in a downward direction, from Europe to member states, even though it also entails upward application, from member states to Europe, despite the tendency of this supranational dimension to put member states off.[71] This raises the question of coordination between European and national policies and of which level drives the creation and application of new laws, rules, and regulations.

[64]https://www.hellocarbo.com/blog/reduire/responsabilite-elargie-producteur/

[65]https://ecomaison.com/ecoparticipation-outil-financer-seconde-vie-produits/

[66]https://www.ecologic-france.com/citoyens/a-quoi-sert-l-eco-contribution.html

[67]https://www.e-dechet.com/deee/eco-contribution-deee

[68]https://www.lesechos.fr/idees-debats/cercle/brexit-le-choix-de-la-subsidiarite-130624

[69]https://legrandcontinent.eu/fr/2024/03/29/brexit-fantasmagorie-x/

[70]https://www.futuribles.com/la-subsidiarite-en-europe-un-principe-ambigu-et-di/

[71]https://www.contrepoints.org/2019/02/23/337800-la-subsidiarite-pourrait-redynamiser-lunion-europeenne

## 3.4. Disruptions

### A return to state sovereignty?

Successive financial crises, the COVID-19 pandemic, and the war in Ukraine seemed to show that common interests outweigh disagreements among member countries. However, the rise of nationalist parties both in the South, particularly Italy, and in Scandinavian countries—Finland, Sweden, and Denmark—joining the authoritarian, nationalist governments of Central Europe, particularly Hungary and Poland, could overturn this European order. They may seek to block the expansion of EU competences, return them to the national level, and perhaps eventually restore full state sovereignty.

### A French exit from the EU

Two months after Brexit, in 2016, British political scientist Simon Usherwood, a specialist in Euroskepticism, predicted that France was the country most likely to follow the British and withdraw from the European Union.[72] Although Frexit no longer seems topical today outside radical right and Euroskeptic parties, the French are among the Europeans most negative toward the EU.[73] Particularly among less advantaged social groups, Europe is perceived as a threat to national social protections. The desire to regain French sovereignty, hostility toward liberalism and free trade, and fears of an enlarged Europe are among the factors that could lead France to leave the EU if a Euroskeptic opposition party came to power.

### The "one in, one out" approach: Toward simpler European regulation

The "one in, one out" approach is an offsetting principle ensuring that any new regulatory burden is matched by the removal of equivalent burdens on citizens and businesses from EU legislation in the same policy area.[74] Its objective is to simplify European regulation.

In its current form, the "one in, one out" approach cannot yet serve as a better regulation tool because it does not incorporate assessment of regulations' potential effects. Additional work is needed to identify the regulatory objectives used to assess those effects. Over time, improving this approach could simplify the current layers of regulation.

### A national easing of environmental constraints

Some targets announced under environmental protection programs are not being achieved. France, for example, is already below the targets set for renewable energy's share of overall consumption—33% for 2030.[75] In addition, 2020 saw a sharp decline in environmental protection investment expenditure in France, down 8.5% from 2019. This decrease is explained by the COVID-19 crisis, which led economic actors to reassess investment decisions and postpone environmental protection expenditure until a more favorable period.[76] More recently, the French president also called for a "pause" in European environmental regulation in May 2023.[77] There appears to be a mismatch between regulatory objectives and the resources deployed to achieve them. Environmental regulatory constraints could therefore be eased, particularly when they are no longer a priority.

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[72]https://fr.euronews.com/2016/08/23/apres-le-brexit-le-frexit

[73]https://institutdelors.eu/publications/un-euroscepticisme-a-la-francaise/

[74]https://www.europarl.europa.eu/RegData/etudes/STUD/2023/753421/IPOL_STU(2023)753421_EN.pdf

[75]https://www.linfodurable.fr/entreprises/neutralite-carbone-nouvelle-etude-pointe-manque-de-credibilite-des-entreprises-38922

[76]https://www.statistiques.developpement-durable.gouv.fr/sites/default/files/2023-06/datalab_114_bilan_environnemental_ed2022_juin2023.pdf

[77]https://www.lemonde.fr/politique/article/2023/05/12/industrie-macron-appelle-a-une-pause-dans-la-reglementation-environnementale-europeenne_6173001_823448.html

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