

France's Climate Law: Europe's Laggard?

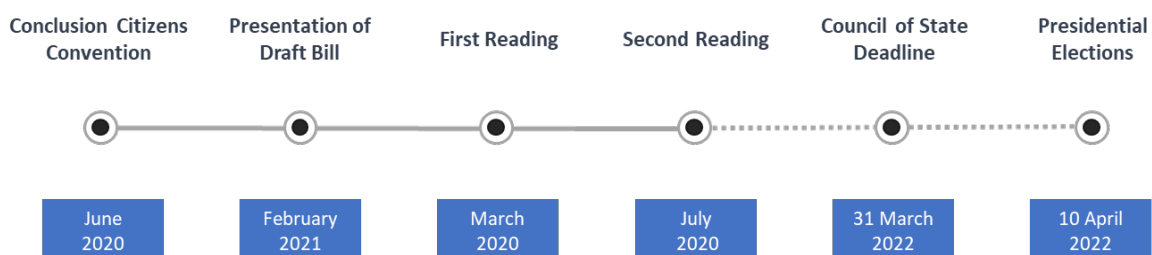
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Highlights

- On 20 July, after protracted discussions, France's National Assembly and Senate approved the Climate and Resilience Bill that seeks to move the country closer to climate neutrality.
- The bill falls far short of expectations, with several of its climate commitments having been reduced and Parliament introducing a series of exemptions and transition times.
- As a result, France is currently expected to fall short of its target to reduce greenhouse gas (GHG) emissions by 40% by 2030, compared to 1990 levels. The target is already well below the recently updated German and EU targets of 65% and 55% reductions by 2030.
- Despite the bill's modest impact on GHG emissions, it creates additional costs and red tape for specific sectors that may see new and potentially snowballing industrial action.
- At the same time, the bill does provide an opening to companies that have made early investments in lowering their climate and environmental footprint and contributes to bolstering the emergence of innovative Greentech that could be attractive to investors.
- A recent ruling by France's Council of State giving the government nine months to revise its measures, as well as an effective pressure campaign from NGOs, are expected to force the government to launch further action ahead of the 2022 Presidential elections.

Background

The adoption of the Climate and Resilience Bill comes after a protracted debate in the right-leaning Senate that saw the tabling of 2,000 amendments, over 200 hours of discussions in various parliamentary committees and commissions, and after holding the Citizen's Convention on Climate (CCC). The CCC, which was billed as an unprecedented democratic experiment, brought together 150 randomly selected French citizens from all walks of life, tasked with advising the government on how to tackle climate change in a socially responsible manner. Through the CCC, Macron hoped to ensure broad popular buy-in for the much-contested climate change measures, and avoid triggering another round of nationwide yellow vest protests. In the end, only 13 of the 149 proposals of the CCC were integrated in the law, which largely consists of the detailing of existing laws and a few innovative changes.



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Key Provisions

Ecocide Offense: The law introduces a new ecocide offense, punishing the most serious cases of environmental damage “at national level” with up to 10 years in prison and a €4.5 million fine. The law will be limited to “intentional pollution” and will exclude cases of negligence or recklessness.

Airports: The bill prohibits the construction of new airports, as well as the expansion of existing ones.

Domestic Flights: Domestic flights on routes served by a train ride of under 2.5 hours will be outlawed, unless they connect to an international flight. Airlines will also be required to compensate emissions for all domestic flights from 2024 by purchasing carbon credits. The provision comes after Air France announced that it would cut 40% of its domestic routes by the end of 2021 in any case.

Climate Labeling: Producers will be forced to share more information on the carbon footprint of their products through a new “eco-score”. However, the new rules will initially only apply to the clothing industry, with a 5-year plan envisaged for developing a scoring system for other products. Moreover, companies claiming to “trade fairly” will have to apply for a new label at an additional cost.

Advertisement: Contrary to initial demands, there will be no outright ban on advertising climate polluting substances. Instead, limiting such advertisement will be “tested” over a 36-months period.

Public Tendering: There will be a new obligation for public tenders to take into considerations aspects linked to the environment in relation to the commission of works, services, or equipment.

Road-Freight: A tax break for the use of diesel fuel by truckers will be gradually eliminated, starting in 2023. Furthermore, regional governments are now able to impose an ‘eco-tax’ on the transportation of merchandises with the aim to incentivize the use of alternative transportation.

Housing: Landlords will be prohibited from renting out poorly insulated properties through a gradual increase in energy efficiency requirements from 2025.

Property development: The expansion of commercial activities in city suburbs is being limited, but exemptions have been introduced for commercial spaces of less than 10,000 sqm.

Car Emissions: Cars emitting more than 95 grammes of CO₂ per kilometer will be banned from 2030. A subsidy for e-bicycles and an interest-free loan for the purchase of small e-cars is extended.

In addition, the climate law introduces a hodgepodge of other small-scale climate protection measures, such as outlawing gas heaters on terraces and restaurants from 2023.

Impact

In 2017, President Macron grabbed international headlines by profiling himself as a global climate leader, following the exit of the United States from the Paris Climate Agreement. Since then, he has built up the new Climate and Resilience Bill as a pinnacle of his presidency, with the aim of cementing France's global leadership role on the issue. In the end, the bill remains far behind expectations and risks having a negative impact across various levels:

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Climate

In its assessment of the bill, France's High Council on Climate expects that the law will only contribute between half and two-thirds of the French climate commitments until 2030. The French Government has acknowledged the shortfall, but promises that other measures, such as investments coming from its post-pandemic recovery fund will close the gap.

Political

The limited nature of the bill clearly indicates that President Macron considers the right, and not the Greens, as his major competitors in next year's Presidential elections, despite the fact that the Greens have made in-roads in some major French cities. However, by trying to check the right, Macron risks losing support amongst progressives and those disillusioned by his politics, which may result in low voter turnout.

Legal

Despite the introduction of an 'ecocide offense', it is not expected that the bill will lead to a surge of lawsuits, given the difficulty of successfully proving the gravity of an offense over a period of 10 years. On this front too, France falls short of other European countries.

European

On a European level, the modest impact of the bill will see France lose the mantle of climate leader. Moreover, by failing to carry its share of the burden, France pushes the costs for meeting the EU's joint climate target to countries in Central and Eastern Europe using coal power, which it argues need to focus on adjusting their climate polluting power stations (compared to French nuclear power). At the same time, France counts on the EU's post-pandemic recovery fund to trigger investments in climate protection and renewable energy in France.

Business

Despite its limited climate impact, the bill creates new costs and red tape for parts of the French business community. In particular, the biggest emitters of greenhouse gases in France, including property owners and developers, the chemical and automobile industries, as well as the aviation industry and road freight, will be affected and have voiced their anger over some of the provisions. Coupled with a global pandemic that particularly weakened the transport sector, further cost cutting measures are to be expected, particularly by airlines which could lead to renewed strikes and service disruptions. French truckers are also expected to feel unjustly targeted and hurt by the gradual removal of fuel subsidies at a time when alternative fuels, such as hydrogen, are not readily available. As such, strikes are to be expected. At the same time, the bill provides a potential opening for innovative businesses and start-ups that have streamlined climate into their operations and are at the forefront of green innovation, thereby providing interesting opportunities for investors.

Social

In spite of the genuine hope that meaningful reform would result from the CCC, the bill implements few of the CCC's suggestions. As a result, the opening of the parliamentary debate in March was accompanied by marches of some 110,000 protesters across France with similar gatherings marking the beginning of the review of the law by the Senate at the beginning of May. According to an EU-wide YouGov survey in April 2021, 61% of French respondents want to see greater measures from their government to reverse climate change. In this context, further demonstrations can be expected ahead of the upcoming Presidential elections in April 2022.

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Outlook

The widespread disillusionment and perceived breach of trust resulting from the bill is likely to cost President Macron some support in next year's elections and can be expected to play into the hands of the Greens, who will be able to reclaim leadership on the issue from Macron.

On 1 July, France's Council of State, the country's supreme administrative court, gave the government nine months to take "all necessary measures" to meet France's commitment towards the Paris Accords. The ruling states that the proposed text of the Climate Bill is insufficient and that France has to correct its trajectory. Corrective measures taken by the government, including the rapid enforcement of the Climate Bill, will be evaluated on 31 March 2022, a mere two weeks before the first round of the Presidential election.

In this context, a scenario that saw the German Constitutional Court rule in May 2021 that the Federal Climate Change Act ("Klimaschutzgesetz" – KSG) is partly unconstitutional may repeat itself in France. Earlier this year, following a complaint by a coalition of four French NGOs called "L'Affaire du Siècle", the Paris Administrative Court ruled illegal the French state's inaction regarding its GHG emissions during 2015-2018. The NGOs are now hoping to obtain a ruling on the measures that the French state will have to take to ensure that it complies with its climate obligations, putting yet more pressure on the government to act.

All of this suggests that the French government may be forced into adopting more radical reforms after all, even if, for the time being, it had to abandon earlier plans to hold a referendum to enshrine the fight against climate change in the French Constitution.

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