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CLIMATE LAW AND EUROPEAN GREEN DEAL DELIVERY

THE CHOICE FACING THE EU ON THE EUROPEAN CLIMATE CHANGE COUNCIL

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EU institutions are currently negotiating a European Climate Law, intended as the central legislative vehicle to drive delivery of the European Green Deal (EGD). No one is pretending that EGD delivery will be easy. Life will change for everyone – what they eat, how they travel, and the work they do. Managing these changes in the required timescales and in ways that improve the lives of citizens will be a massive challenge.

Over the past decade, several member states have moved ahead of the EU and adopted their own Climate Laws. The concept of an independent expert advisory body has emerged as a key element of these national climate laws. The EU must now decide if such a body should be established at EU-level as part of the EU Climate Law.



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The proposal

Motivated by the success of independent bodies at national level, the European Parliament has proposed that a European Climate Change Council (ECCC) should be established as part of the EU Climate Law. It also proposes that member states who have not already done so, should be encouraged to establish similar independent bodies at the national level. Existing bodies with a strong mandate to provide timely and independent expert advice on policy options are already playing a crucial role in fostering and maintaining political leadership to take ambitious climate action.

The proposed ECCC would be composed of up to 15 senior experts in relevant policy making disciplines and be supported by a management board. The ECCC would be an advisory body without decision-making authority and, therefore, would not change, dilute, or interfere with the authority invested in member state governments or other EU institutions. However, it would represent a new and visible ‘independent voice’, able to hold EU lawmakers to account for the consistency of policy measures with EGD delivery in addition to monitoring and advisory activities.

The European institutions will soon be called upon to take a position on this proposal. The extent of the new challenge associated with delivering the EGD is beyond dispute. The questions facing EU policy makers are simple. Do they believe that existing institutions would be able to adapt and ‘up their game’ to address a radically different set of challenges? Or does the new context demand new delivery structures, specifically designed to meet the challenges ahead?

The following sections identify the needs and challenges on the journey to 2050. The paper outlines how the ECCC could contribute to addressing issues based on experiences at national level.

Maintain high internal and international credibility for climate action

Climate change is a long-term challenge requiring a long-term policy response. Politicians will inevitably face pressures that risk stalling or slowing the transition – such as the Covid-19 public health crisis and the economic ravages to be faced in the years ahead. Europe does not lack opportunities for convening or for networks of scientists to meet and share new scientific knowledge. What is missing is an entity responsible for advising policymakers on how to turn science into appropriate policy decisions.



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Countries that have pioneered independent climate advisory bodies have found that a completely non-political expert body can be extremely useful in providing the scientific and economic arguments to help citizens and politicians alike understand the importance of maintaining policy consistency with the long-term objective and to promote stability in the long-term direction of travel for the economy¹. These bodies have given governments the cover needed to move beyond incrementalism and embrace transformational policy making, thereby fostering the political leadership that will be crucial to achieving the EGD's objectives.

An independent advisory body would be valuable for the EU, not only in building trust from EU citizens, but from the wider international community. Independent evidence that EU policy actions remain robustly aligned with international commitments will be critical in building the EU's leverage to play a leading role in promoting the global effort that is required to tackle climate change.

> **The proposed ECCC must be mandated to advise EU policy makers**

EGD delivery requires that the EU takes big decisions in a fast-moving situation where the future is highly uncertain. Independent expertise cannot provide the answers that will guarantee that the right decisions are always taken. However, it can do two important things. Firstly, it can identify the key assumptions that will be needed to make good decisions (technical, behavioural, etc.) and ensure the latest best knowledge on these assumptions is adopted by the EU and applied consistently across all decisions. Second, it can establish the best methodologies for using this information to make good policy decisions given the inherent uncertainty involved.

The ECCC would act as a nimble and responsive learning body - unhindered by political constraints and responsible for knowledge sharing to ensure that the latest information is available to all. An effective ECCC would be constantly monitoring progress with research, innovation and deployment of technologies that could be important in decarbonising member state economies across the EU and building economic resilience. This information, and the associated best practices, would be available to all member states to inform their plans and policies.

¹ Many governments have found the support of independent science advisors very helpful during the current coronavirus crisis. Other parallels exist with the strong independent institutions that countries have established to safeguard public finances, such as Courts of Auditors. Protecting the climate is a public good of at least equivalent importance to protecting public finances.



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The ECCC would also be able to identify where action is required to support the deployment of developed technologies and where innovation will be required to solve challenges for which there are currently no cost-effective solutions. This focus on innovation would help ensure that EU funds are spent effectively on solving the challenges that matter.

The ECCC would, therefore, be able to take a long-term view on the technology risks and opportunities to recommend actions that are necessary now to avoid the need for disruptive and expensive future changes.

Strengthen the accountability of EU policymaking by monitoring progress

Policy measures that can deliver the required radical transformation will have significant impacts and should be backed by robust independent assessment. At present, the EU lacks completely non-political climate institutions. Although the Commission may convene groups of independent experts to support its thinking on policy options, their reports are not always published, and the Commission is not required to explain whether it intends to accept the advice provided and, if not, why. Other technical climate advisory bodies which exist within the EU regime are composed of experts from national governments and thus cannot yield the same dividends in terms of public and political trust in their analysis.

Examples from national experiences show that independent bodies can provide a valuable contribution that boosts the accountability of policy decisions by becoming a strategic partner of national governments. These benefits require the independent body to have the authority to openly question Government decisions.

It has been suggested that the European Environment Agency (EEA) could fulfil the tasks suggested for the ECCC. However, the Commission is heavily involved in the governance of the EEA, proposing the funding envelope and steering the work programme as a leading client. Also, the management board is composed of representatives from member states. Whilst the EEA retains much of the required expertise, it lacks a high-profile independent voice and the mandate and resources to initiate an independent analysis of climate policy issues. Therefore, although an expert body, the EEA could not alone deliver the improvement in trust provided by a truly independent expert advisory body.



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> **The proposed ECCC must have the authority to hold EU institutions to account**

The ECCC would provide an authoritative independent voice that would add credibility to EU policy making. The ability to take a pan-European perspective will allow the identification of risks being created by the actions (or inaction) of one member state on delivery strategies elsewhere, thereby enabling corrective measures to be implemented at an early stage. This will enable the EU to unlock the greatest decarbonisation potential by ensuring that investment is directed to where it will be most impactful.

Importantly, the ECCC would be able to speak frankly and publicly about the risks that are faced and the quality of EU and member state risk management strategies. This will ultimately protect the EU from blame for failing to properly anticipate risks. It will enable policy action to be taken which will better protect societies and economies from disruptions and shocks and help them take advantage of emerging opportunities. The European institutions and governments should be required to respond to ECCC's opinions.

To successfully carry out these crucial tasks, clear provisions for independent and well-defined membership are needed. The ideal solution is an independent panel of experts representing a diversity of backgrounds (behavioural, social sciences, sectoral expertise). A network approach would not allow the effective delivery of the required tasks.

Ensure a coherent approach to support an effective single market

The EU single market has created an inter-dependent system in which the actions and choices made by each member state will have a direct impact on their neighbours. This is particularly important for the internal energy market. National policies should be based on a consistent understanding of the technology landscape and deployment potentials, and any differences should arise from local circumstances rather than differences in knowledge. This will ensure that the infrastructure backbone of the EU will be derived from a common set of assumptions about future needs, and money will not be wasted catering for multiple and inconsistent visions.

The ECCC would need to establish a clear expert view on future technology costs and deployment potentials to assess the effectiveness of policies in delivering carbon reduction targets. This would recognise inherent uncertainties and highlight where the deployment of low carbon technologies and approaches should be progressed now and where options should be created to take



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advantage of future opportunities. Establishing and constantly updating a common set of underlying technology assumptions would, therefore, support the development of an effective single market. It would help to allow member states to build upon the initiatives of others and leverage the resources available in neighbouring countries rather than spend additional money creating inconsistent and purely national solutions.

> **The ECCC can level-up knowledge among Member States**

Many member states have world-class expert resources already advising on national climate policy, whilst others have limited capacity to retain the required expertise at the national level. Establishing an ECCC presents the opportunity to level-up knowledge and understanding of the technical issues across the EU. Those member states that do not have the necessary capacity would be able to access the EU-wide pool of independent scientific expertise and technical support through knowledge networks established by the ECCC to inform their own policy decision processes.

Conclusions

The challenge of delivering the EGD is significant. The EU can learn from the institutional innovation that has happened in some member states and globally by creating an independent expert advisory body as part of the Climate Law legislation. This would create a new and important ‘independent voice’ that could improve trust in EU climate policies by citizens and the wider international community, help manage the risks associated with EGD delivery, and level-up knowledge and understanding across the EU.

The EU must soon decide on this important issue.

Annex: Key features of a successful Independent Climate Change Advisory Body



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Source: Averchenkova A, Lazaro L (2020) The design of an independent expert advisory mechanism under the European Climate Law: What are the options?

About E3G

E3G is an independent climate change think tank accelerating the transition to a climate-safe world. E3G builds cross-sectoral coalitions to achieve carefully defined outcomes, chosen for their capacity to leverage change. E3G works closely with like-minded partners in government, politics, business, civil society, science, the media, public interest foundations and elsewhere.

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