



Council of the  
European Union

061171/EU XXVI. GP  
Eingelangt am 09/04/19

Brussels, 9 April 2019  
(OR. en)

8417/19

ENER 227  
CLIMA 114  
AGRI 208  
COMPET 327  
TRANS 267  
ENV 408  
ECOFIN 383  
RELEX 372  
TELECOM 172  
CONSOM 138

#### COVER NOTE

---

From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 9 April 2019

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

---

No. Cion doc.: COM(2019) 177 final

---

Subject: COMMUNICATION FROM THE COMMISSION A more efficient and  
democratic decision making in EU energy and climate policy

---

Delegations will find attached document COM(2019) 177 final.

---

Encl.: COM(2019) 177 final



Brussels, 9.4.2019  
COM(2019) 177 final

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL**

**A more efficient and democratic decision making in EU energy and climate policy**

## 1. Introduction

The Energy Union is one of the key priorities of the European Union. Its fundamental goal is to give Europeans – households and businesses – secure, sustainable, competitive and affordable energy. It is based on an integrated Union-wide energy system contributing to a European strategic long-term vision for a prosperous, modern, competitive, inclusive and climate neutral economy.<sup>1</sup>

In recent years, important progress has been made towards the Energy Union goals, in particular with the adoption of the Energy Security package<sup>2</sup>, the Clean Energy for All Europeans package<sup>3</sup>, which is the largest EU energy legislative package ever agreed, the EU climate legislation<sup>4</sup>, and the three Mobility Packages of 2017-2018<sup>5</sup>. In addition, in the context of the Clean Energy for All Europeans package, the Regulation on Governance of the Energy Union<sup>6</sup> will facilitate the delivery of all dimensions of the Energy Union, based on close cooperation between the EU and its Member States. The fourth State of the Energy Union report provides an overview of the progress made towards the Energy Union goals.<sup>7</sup>

As part of a forward-looking agenda on energy and climate policy, there are areas which will need to be further improved to achieve all the policy objectives. An important aspect of this forward-looking agenda on future energy policies involves examining how the Union takes decisions in this area. In his State of the Union address of 2017, President Juncker made clear that for important single market questions, decisions in the Council should be taken more often by qualified majority – with the equal involvement of the European Parliament. This latter issue is particularly relevant in the nuclear area where decisions under the Euratom Treaty do not involve the European Parliament on the same terms as foreseen in the ordinary legislative procedure of the Lisbon Treaty.

---

<sup>1</sup> COM(2018) 773 final of 28. November 2018 – A Clean Planet for All.

<sup>2</sup> Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply; Decision (EU) 2017/684 on establishing an information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy; COM(2016) 49 final of 16. February 2016 – An EU strategy for liquefied natural gas and gas storage; COM(2016) 51 final of 16. February 2016 – An EU Strategy on Heating and Cooling.

<sup>3</sup> COM(2016) 860 final of 30 November 2016 – Clean Energy for All Europeans.

<sup>4</sup> Directive (EU) 2018/410 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814; Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement; Regulation (EU) 2018/841 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework.

<sup>5</sup> COM (2017)283 final of 31. May 2017 – An agenda for a socially fair transition towards clean, competitive and connected mobility for all; COM (2017)675 final of 8. November 2017 – Delivering on low-emission mobility; COM (2018)293 final of 17. May 2018 – Sustainable Mobility for Europe: safe, connected, and clean.

<sup>6</sup> Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action.

<sup>7</sup> COM(2019) 175 of 3 April 2019 – Fourth report on the State of the Energy Union.

Over time, the EU has moved from unanimity to qualified majority voting, extended by the Single European Act<sup>8</sup> to most policy areas. In other areas, such as taxation, a shift in the decision-making process has not taken place. The reason for replacing unanimity by qualified majority is simple and compelling. Member States have recognised that when a certain level of ambition is needed in a particular policy area, a point is reached when the unanimity rule slows down progress and prevents the EU from adjusting to changing realities and to providing Europeans with the most appropriate means to defend their interests. In this sense, every move towards qualified majority has been a major step forward for the EU. Qualified majority voting is based on a culture of compromise. It creates greater space for discussion and pragmatic outcomes that reflect the interests of all. This flexible, efficient and quick approach to decision-making has allowed the Union to become a global reference and standard setter in policy areas such as environmental and consumer protection, employment and social standards, data protection as well as free and fair trade.<sup>9</sup>

A change of the Treaty is not necessarily needed to move from unanimity to qualified majority - this can be done with the so-called “passerelle clauses” in the current Treaties upon the approval of the Council or the European Council.

This Communication sets out the rationale for more efficient and democratic decision-making in some energy policy areas, including in the nuclear area. It examines options for

- enhanced qualified majority voting and ordinary legislative procedure under the Treaty on the Functioning of the European Union as already pointed out in the Communication “Towards a more efficient and democratic decision making in EU tax policy”.
- stronger democratic accountability under the Euratom Treaty.

## **2. Options for enhanced qualified majority voting under the Treaty on the Functioning of the European Union**

When examining the existing institutional set-up for the Energy Union, one of the main issues is whether the current EU decision-making procedures are fully fit for purpose in delivering the EU's energy and climate goals.

### **2.1 The current decision-making process for energy and climate policy**

---

<sup>8</sup> Single European Act, OJ L 169, 29.6.1987, p. 1–28.

<sup>9</sup> This is the third Communication on the issue of qualified majority voting. The previous Communications are: COM(2019) 8 final of 15. January 2019 – Towards a more efficient and democratic decision making in EU tax policy; and COM(2018)647 final of 12. September 2018 – A stronger global actor: a more efficient decision-making for EU Common Foreign and Security Policy.

The Lisbon Treaty establishes that the standard decision-making rule in the Union is the ordinary legislative procedure, whereby legislative acts are adopted, on a proposal by the Commission, by the European Parliament and by the Council, the latter acting with qualified majority. This principle applies to the title for energy in the Treaty on the Functioning of the European Union (TFEU).

The Treaty<sup>10</sup> explicitly provides for qualified majority voting for energy policy measures aiming at:

- ensuring the functioning of the energy market;
- ensuring security of energy supply in the Union;
- promoting energy efficiency and energy saving and development of new and renewable forms of energy;
- promoting the interconnection of energy networks.

In this context, the Treaty also explicitly recognises Member States' right to determine the conditions for exploiting their energy resources, their choice between different energy sources, and the general structure of their energy supply.<sup>11</sup>

In addition, the Treaty requires that in the field of energy the Council acts with unanimity, and after consulting the European Parliament, when adopting provisions that are primarily of fiscal nature.<sup>12</sup>

Similarly, the Treaty requires that in the field of environmental protection the Council acts with unanimity when adopting (i) provisions of primarily fiscal nature; (ii) measures affecting the urban and country planning, the management of water resources or the land use, and (iii) measures which significantly affect Member State's choice between different energy sources and the general structure of its energy supply.<sup>13</sup>

## **2.2 The need for more efficient decision-making procedures in taxation measures**

The Union is committed to achieving its energy and climate goals for 2030 and to continuing the transformation and modernisation towards a climate neutral economy in the future. One of the fundamental requirements is that the regulatory, financial and taxation policies in the fields of energy and climate are fully coherent and reinforce each other.

Taxation policy is an important instrument to ensure achievement of the Energy Union objectives, and in particular to facilitate the clean energy transition, while respecting the principles of subsidiarity and proportionality.

---

<sup>10</sup> Article 194 (1) of the Treaty on the Functioning of the European Union.

<sup>11</sup> Article 194 (2) of the Treaty on the Functioning of the European Union.

<sup>12</sup> Article 194 (3) of the Treaty on the Functioning of the European Union.

<sup>13</sup> Article 192 (2) of the Treaty on the Functioning of the European Union.

Progress towards the completion of the single energy market is on-going and energy taxation has an important role to play. Taxes and levies represent a significant share of energy prices and their share has been growing in key products such as electricity in some countries.<sup>14</sup> This increases the importance of the taxation framework for the functioning of the internal market and the growth benefits that come with it.

The current energy taxation framework<sup>15</sup> is based on Article 113 TFEU, which provides for a special legislative procedure with unanimity in the Council. This framework is not adapted to the Union's ambition on energy and climate. It fails to provide for policy coherence between the taxation framework and energy and climate policies and objectives. While reflecting Member States' taxation patterns, based largely on revenue raising needs, current taxation policies fail to integrate in a systemic manner the impact of fuel and electricity consumption on the achievement of the EU's energy and climate objectives as well as the health and environmental objectives. In that respect, the Commission proposed on different occasions the use of a tax on fossil fuels according to the carbon emissions associated with their use. Member States could not unanimously agree on the terms of these proposals. The recent call by some Member States to make use of border carbon tax adjustments would also require unanimity.

### **2.3 The *status quo* and the future of energy taxation**

The current European framework for energy taxation has remained unchanged since 2003 and is outdated. It hardly delivers on key objectives such as the diversification of energy sources and energy carriers or improvement of energy efficiency of production and consumption, as taxes are not based on the energy content but on the volume/weight of the energy products consumed.

The absence of an increase in minimum rates for more than a decade at EU level has eroded the tax-induced price signal that was supposed to encourage investment in energy-efficient technology and behaviour. Moreover, as some Member States have increased their national level of taxation since then while others have not, there is risk of growing distortion of competition in the Single Market and an erosion of the tax base in high-taxing countries, notably for motor fuels that can be easily and legally transported across borders. In spite of repeated calls for a shift in the taxation, the overall percentage of tax revenues from environmental taxes in the EU has remained relatively unchanged over the last decade<sup>16</sup>.

Also, the presence of sector-specific energy tax exemptions or reductions, notably in the aviation, maritime and road haulage and agricultural/fisheries sectors and for energy-intensive industries, in general substantially weakens incentives for investing in more energy efficient

---

<sup>14</sup> Total taxes represent 40% of the final electricity price for households according to COM(2019) 1 of 9 January 2019 – the Energy Prices and Cost report.

<sup>15</sup> Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity.

<sup>16</sup> Source: Eurostat - Environmental taxes in the EU: countries compared  
<https://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20190212-1>.

capital stock and production processes in these sectors. These tax exemptions or reductions constitute a burden for other sectors and/or private households that have to make up the revenue shortfalls triggered by them. Furthermore, they may distort competition between industrial sectors and may promote inefficient and polluting modes of transport<sup>17</sup>.

The taxation of fuels according to volume and not according to their energy content discriminates against renewable fuels in favour of conventional fuels, in particular diesel, thus contradicting an energy policy that aims at fuel switching and the promotion of renewable and other clean energy sources. Neither does it help rebalancing of diesel supply and demand in the European fuel market.

In 2011, a Commission proposal to amend the Directive 2003/96/EC restructuring the Community framework for the taxation of energy<sup>18</sup> proposed the introduction of a CO<sub>2</sub> component in the EU energy tax framework. CO<sub>2</sub>-based taxation was to be applied to the sectors not covered by the EU Emission Trading System, thereby applying a coherent economy-wide carbon price signal in the EU. Besides, it was proposed to base taxation of energy products on their energy content, and to simplify the system of tax reductions and exemptions. However, it proved impossible to achieve the required unanimity among Member States on the main elements of the proposal, and notably on the introduction of a CO<sub>2</sub>-based tax component. Therefore, in 2015, the Commission decided to withdraw its proposal. By consequence, the outdated 2003 framework has remained in place until today.

The Commission is currently evaluating the Energy Tax Directive, in view of its potential revision. The evaluation will look at the implementation of the different provisions, consider its effectiveness, its clarity, to what extent it has achieved its objectives, and identify possible shortcomings. It will also look at its coherence with other EU policies (e.g. energy, environment, competition and transport), initiatives or measures.

The future energy taxation regime should complement and reinforce EU energy legislation, as well as the enabling (financial/technological/social) framework, both at Member State and EU level. In that view, the Commission considers the following three aspects as crucially important.

#### *Energy taxation should support the clean energy transition*

Energy taxes should be designed in such a way that they provide notably for appropriate incentives to reduce emissions over time and improve resource efficiency, including through environmentally consistent tax rates across various energy carriers and fuels. They can also steer certain behaviour in a way that meets wider societal needs and objectives related to the clean energy transition and climate change.

---

<sup>17</sup> Some of these sectors are, however, subject to the ETS and hence a carbon price signal, notably energy-intensive industry and intra-EU flights.

<sup>18</sup> COM(2011)169 final of 13. April 2011 - Proposal for a Council Directive amending Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity.



Parallel to incentivising the use of clean energy sources, the taxation regime should also better reflect the full external costs of goods and services, in particular by the consistent application of the "polluter pays" principle. This objective has not yet been achieved. In particular, the 2018 energy prices and costs report<sup>19</sup> showed that fossil fuel subsidies, notably in the form of tax reductions or exemptions, remain in place, despite the objective set in the Energy Union Strategy to phase-out environmentally harmful subsidies. One way of addressing such objective could be the use of a carbon tax, which can change consumption and production structures making them less carbon and energy intensive, leading to greenhouse emission reductions and overall energy savings. It also incentivises investments in efficiency improvements and low-carbon technologies.

Energy taxation would therefore reflect both the contribution to sustainable growth and clean technologies potential developments, as well as the external damages of each fuel and its uses. In that regard, energy taxes would be used to enable a market situation where the least-taxed solutions are those, which also reduce our ecological footprint and pollution. A key issue is to ensure the coherence of the current framework both for transport and for heating fuels.

*Energy taxation should contribute to sustainable and socially-fair growth*

Together with other market-based policy instruments (such as charges, levies or emission quotas), taxation can be used to address specific environmental challenges, while at the same time promoting investment, jobs and growth. Economic studies show that certain types of taxes – such as those on labour and income – are more distortive, while others such as consumption and environmental taxes are growth-friendlier.

Energy taxes and other market-based instruments should be in line with the investment needs that prepare the future, for example by facilitating the deployment of key technologies that contribute to low carbon growth, which will be at the forefront of the clean energy transition.

Energy taxation also has an impact on the proper functioning of the single energy market. Today energy markets, such as electricity, gas and oil, are to a large extent integrated at EU level and energy flows freely across Member States. This is reflected by, among other things, the fact that national prices are gradually converging. The cost of electricity, for instance, have become 21% less spread out over the last decade.<sup>20</sup> The completion of the EU's internal energy market required robust legislation to remove numerous obstacles and trade barriers. The EU regulatory framework has progressively enabled the achievement of the Single Market. In contrast, energy taxation policy has not evolved at the same pace to promote better and further integration of the internal energy market. In other words, electricity, gas and motor fuel prices remain significantly impacted by policy support costs and tax instruments set at national level and to a varying degree across Member States.

---

<sup>19</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019DC0001&from=EN>.

<sup>20</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019DC0001&from=EN>.



The energy taxation regime should also minimize distortions deriving from different tax rates on competing fuels. There should be equal treatment of all energy sources, taking into account the contribution of each source towards the overarching Energy Union objectives. For instance, consistency across energy sources should be sought across users to ensure that the tax system does not unduly favour fossil-based solutions for consumers (for example encouraging use of coal in heating systems, which is often the least taxed heating fuel, but also most polluting).

#### *Energy tax reform should reflect social equity considerations*

Energy taxation policy could negatively affect the purchasing power of economically vulnerable consumers if the social impact of the tax system is not taken into consideration. While tax increases for fossil fuels in the transport or heating sector are powerful incentives towards behavioural change, in the short term, consumers may not be easily able to change their consumption patterns when an important share of their income is involved.

Therefore, carefully designed accompanying measures are necessary to ensure that tax shifts in line with the energy and climate policy objectives are also socially acceptable for all citizens. These social issues will need to be addressed through the social policy and welfare systems, the financing of which needs to effectively benefit from tax shifts and revenue recycling. This can be done not only by supporting vulnerable consumers through social policies, but also by using energy and environmental taxation revenues to favour the transition of economic sectors and/or regions towards environmental performance and by allowing a reduction of labour taxation as a result of increased environmental taxes revenues.

## **2.4 The “passerelle clauses” as a tool to adapt the decision-making procedure**

The Treaties provide for the possibility, through the general provision of Article 48(7) of the Treaty on European Union (TEU) and through specific provisions in the TFEU to unlock the policy areas subject to unanimity requirement and to shift the voting regime to that of qualified majority. This possibility is referred to as the “passerelle clauses” and offers a move from unanimity to qualified majority voting.

In the environment title of the TFEU, a specific passerelle clause<sup>21</sup> has been introduced, which gives the Council competence to decide that environmental measures of a fiscal nature could be adopted under an ordinary legislative procedure with qualified majority voting. In order to exercise this competence, the Council must unanimously agree on the basis of a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions.

The passerelle clause established in the environment title of the TFEU could be used for energy taxation measures that are primarily of an environmental nature. This could be

---

<sup>21</sup> Article 192 (2) of the Treaty on the Functioning of the European Union.

justified for environmental taxation measures aiming at reducing CO<sub>2</sub> and other polluting emissions or improving energy efficiency, which are key priorities of the EU's Energy Union strategy and of the Paris Agreement. Since energy production and use are responsible for more than three quarters of CO<sub>2</sub> emissions, environmental taxes on CO<sub>2</sub> emissions can only achieve their objective if energy production and use are covered by such taxation measures. Accordingly, CO<sub>2</sub> taxation measures on energy should benefit from the passerelle clause established in the environment title of the TFEU.

The triggering of this passerelle clause would not directly affect the current competences of Member States in the field of taxation but would only amend the way these competences are exercised. Such an approach would rather contribute to the efforts to enhance the institutional framework for taxation in general. Furthermore, using the passerelle clause would result in applying the ordinary legislative procedure, whereby the European Parliament and the Council as co-legislators represent on equal footing a broad range of interests. Indeed, the qualified majority voting is an expression of the fundamental idea of unified actions, based on compromise. This rationale is valid for the majority of policy decisions in the area of energy and climate, therefore the benefits of the qualified majority can be further explored in the area of environmental taxation as well.

Such a move would form part of the more general approach on the use of passerelle clauses, as outlined in the roadmap of the sectoral Communication "Towards a more efficient and democratic decision making in EU tax policy"<sup>22</sup>. The second step of this roadmap provides that moving to the ordinary legislative procedure, based on qualified majority voting in the Council and co-decision rights of the European Parliament, should cover measures primarily of a fiscal nature designed to support other policy goals including the fight against climate change. For this second step, the Commission has invited EU leaders to decide swiftly.

The Commission also underlined in this Communication that more efficient tax-related decisions in this area would make it possible to implement a more environmentally friendly energy policy, for example, to support the ambitious EU goals on climate change. The specific passerelle clause of Article 192(2) TFEU in the environment field, which in particular covers provisions of a primarily fiscal nature, offers a route to move from the special to the ordinary legislative procedure for a more environmentally friendly energy policy. As an alternative, the use of the general passerelle clause in Article 48(7) TEU would provide for qualified majority voting for tax measures primarily designed for energy goals.

### **3. Decision making under the Euratom Treaty**

Nuclear power is a reality in today's European energy mix. Half of the Member States use nuclear energy for their power generation, representing 27% of the EU's electricity generation.

---

<sup>22</sup> COM(2019) 8 final of 15.1.2019.

When the Euratom Treaty was signed in 1957, nuclear energy was seen as an energy resource for Europe's economic development. This Treaty provides extensive supranational powers at Community level. In practice however, the application of those powers has been selective and has evolved over time. At its origins, Euratom was primarily intended to provide a boost to nuclear energy; today, its activities are related to safety, security of supply, safeguards, waste management, radiation protection, research and medical applications. Euratom has played an important role in strengthening nuclear safety in new Member States and in the EU's neighbourhood. The potential cross-border impact of nuclear safety issues requires – even more today and in the coming years – a legal framework that goes beyond the borders of the Member States. This framework has been reinforced with the secondary legislation adopted since the Fukushima accident. Similarly, ageing power plants throughout the EU are raising issues of lifetime extension, timely phasing out, decommissioning, waste management and related investments. The importance of these issues will increase in the years to come.

There is a clear understanding that the use of nuclear energy is a national choice to be made by each Member State and this will continue to be the case. The Euratom Treaty provides the most advanced legal framework in the world in the areas of nuclear safety, waste management or radiation protection. There is, however, a recognised concern that the Euratom Treaty needs to evolve in line with a more united, stronger and democratic EU. This concern is reflected in the Declaration that five Member States made to the Treaty of Lisbon<sup>23</sup> noting that the core provisions of the Treaty establishing the European Atomic Energy Community have not been substantially amended since its entry into force and need to be brought up to date.

A central aspect is the democratic accountability of Euratom and in particular the involvement of the European Parliament and national Parliaments. The Treaty of Lisbon extended the ordinary legislative procedure to nearly all policy areas where the European Parliament previously only had a consultative role. While the ordinary legislative procedure also applies in general to the Euratom Treaty<sup>24</sup>, in practice the provisions of the Treaty regarding the adoption of legal acts do not foresee it. The European Parliament is only consulted on these provisions. Similarly, the Treaty of Lisbon introduced an enhanced role for the Parliament in the process for concluding international agreements, with Parliament's consent often necessary.<sup>25</sup> This is not the case under the Euratom Treaty where the European Parliament is not consulted on the conclusion of international agreements. Therefore, it may be useful to explore how to enhance the role of the European Parliament to improve the democratic legitimacy of decision-making under Euratom.

---

<sup>23</sup> Declaration 54 to the Treaty on the Functioning of the European Union by the Federal Republic of Germany, Ireland, the Republic of Hungary, the Republic of Austria and the Kingdom of Sweden.

<sup>24</sup> Article 106a of the Euratom Treaty lists the provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union that also apply to the Euratom Treaty. These include Articles 288 to 299 of the Treaty on the Functioning of the European Union, covering the legal acts of the Union and the procedures for the adoption of acts and other provisions.

<sup>25</sup> Articles 207 and 218 of the Treaty on the Functioning of the European Union.

An additional area where the Euratom Treaty does not reflect improvements in terms of transparency and democratisation achieved in the successive reforms of the EU Treaties is with regard to the role of national Parliaments. While Protocol No. 1 on the role of the national Parliaments in the European Union is part of the Euratom Treaty framework, there is no equivalent in the Euratom Treaty to Article 12 of the Treaty on EU that sets out the role of national Parliaments. Against this background, it may be useful to explore whether the role of national Parliaments under the Euratom framework can be reinforced further.

The Commission should also take initiatives to increase the involvement of civil society in nuclear policy making and raise EU-wide interest in relevant fora. On some nuclear matters, the availability of information can be understandably limited, especially in the field of nuclear security. While this is a legitimate concern, issues such as nuclear safety, the management of radioactive waste and emergency planning deserve to continue to be debated as openly as possible in line with existing rules.

These issues are central to citizens' concerns. The first step is rigorous implementation of recently agreed legislation. In the area of responsible and safe management of spent fuel and radioactive waste, it is of utmost importance that Member States continue to develop comprehensive plans for the management of nuclear waste and implement these plans. When cross-border impact is at stake, cross-border consultations between Member States should be promoted as well as stronger involvement of European Nuclear Safety Regulators Group (ENSREG). The EU's and Member States' collective ability to respond to nuclear accidents should be reinforced, in particular to clarify financial responsibility and ensure adequate financing in this respect.

The Euratom Treaty does not provide for a simplified procedure for its revision in the sense of Article 48(7) TEU. The passerelle clauses under the EU Treaties are also not applicable to the Euratom Treaty. Therefore, a revision of the Treaty, aiming at extending the use of the ordinary legislative procedure to the Euratom Framework, would require the use of the ordinary Treaty revision procedure under Article 48 TEU.

Consequently, a change of the Euratom Treaty to extend the use of the ordinary legislative procedure would need to be part of a broader process of Treaty reform using the ordinary Treaty revision procedure under Article 48 TEU and should be seen in the longer-term, post-2025 perspective. In the months to come, the European Commission will establish a High Level Group of Experts whose task will be to assess and report to the Commission on the state of play of the Euratom Treaty with a view to considering how, on the basis of the current Treaty, its democratic accountability could be improved.

#### **4. Conclusion**

As the Commission has recently stressed in its Communication “A Clean Planet for All”, the energy transition requires a comprehensive economic and societal transformation, engaging all sectors of the economy and society to achieve the transition to climate neutrality and sustainability by 2050.

Achieving this objective requires decisive action across policy areas and it is essential that the EU should be equipped with the tools to take the necessary decisions in a manner that is both efficient and democratic.

In this sense, significant progress has been achieved over the last years with the completion of the Energy Union policy framework. On the regulatory side, this progress is closely linked with the use of the ordinary legislative procedure. Full involvement of the European Parliament and the Council has played a positive role, both in terms of the democratic nature of the process, as well as for achieving an ambitious outcome on many important files.

This Communication has identified two areas where decision-making could be further enhanced to the benefit of achieving Energy Union objectives.

The Commission calls on EU leaders:

- In line with the earlier call,<sup>26</sup> to decide quickly on the use of the general passerelle clause (Article 48(7) TEU) in order to move to the ordinary legislative procedure and qualified majority voting. The European Council is invited to notify national Parliaments of its initiative and seek the consent of the European Parliament. Besides, the specific passerelle clause of Article 192(2) TFEU offers an obvious route to move to the ordinary legislative procedure for taxation matters in the environmental field;
- Together with the European Parliament, the Council and other stakeholders, to engage actively in the reflections of the High Level Group of Experts which the Commission would invite to assess how best to increase the democratic accountability and transparency in the framework of the Euratom Treaty.

---

<sup>26</sup> COM(2019) 8 final of 15. January 2019 – Towards a more efficient and democratic decision making in EU tax policy.