Pázmány Law Working Papers
2026/5

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http://jak.ppke.hu
http://www.plwp.eu/
ISSN: 2062-9648

Sustainability of the forest biomass energy: lessons learned from the CJEU's Robin Wood judgment

Vivien Köböl-Benda*

1. Introduction

On 11 December 2019, the European Commission adopted the European Green Deal,[1] a comprehensive policy roadmap to achieve an ambitious goal by 2050: net climate neutrality, meaning there are no net greenhouse gas (GHG) emissions and economic growth is decoupled from resource use.[2] This is in line with the European Council's conclusions,[3] which were adopted the next day. While these documents were shaping the climate and decarbonization strategy, they were not legally binding. However, the Green Deal introduced the idea of the first European Climate Law,[4] which was adopted in 2021, giving legally binding force to the 2050 target.[5] The act also set an intermediate target to 2030 to reduce the GHG emissions by 55% compared to the 1990 level.[6] The regulation originally also referred to the subsequent decision on the 2040 target,[7] which was later incorporated into the text in 2026, setting a 90% reduction goal.[8]

These climate goals are strongly based on the EU's commitment to implement the United Nations Framework Convention[9] and the Paris Agreement.[10] The latter does not include a specific GHG reduction target but a temperature goal[11] that could be achieved, among others, through efficient climate mitigation. The Commission declared before the European Green Deal that the EU's climate and energy policy will be shaped by new directions promoting the Paris

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[1] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: *The European Green Deal* COM/2019/640 final. Brussels, 11.12.2019. [hereinafter: European Green Deal].

[2] Ibid, introduction.

[3] European Council meeting (12 December 2019) – Conclusions. Brussels, 12 December 2019. EUCO 29/19. para 1.

[4] Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') *OJ L 243, 9.7.2021., 1–17. o.*

[5] European Climate Law, Article 1.

[6] European Climate Law, Article 4, para 1.

[7] European Climate Law, Article 4, paras 3-4.

[8] European Climate Law, amended Article 4, paras 3-4. Amended by Regulation (EU) 2026/667 of the European Parliament and of the Council of 11 March 2026 .

[9] United Nations Framework Convention on Climate Change, adopted in New York, 9 May 1992. United Nations, *Treaty Series* , vol. 1771, p. 107. [hereinafter: UNFCCC]

[10] United Nations, Paris Agreement, adopted on 12 December 2015 in Paris. United Nations,*Treaty Series*,vol. 3156, p.79 [Paris Agreement].

[11] Paris Agreement, Article 1, para 1 (a): *'Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;'*

Agreement's temperature goal and the UN Sustainable Development Goals,[12] which entailed the above-mentioned amendments to the previous reduction targets.[13] To achieve these targets, the Commission introduced new legal acts and modifications. Moreover, it identified strategic areas and issues, such as promoting sustainable finance and increasing transparency regarding the classification and disclosure of relevant economic activities. The Robin Wood case[14] concerns this regulation and primarily raises technical questions about the sustainability criteria for forest biomass.[15]

2. Legal background

Several non-governmental organizations filed the complaint.[16] It primarily concerned the implementation of the EU Taxonomy Regulation, which is part of the EU's sustainable finance framework under the European Green Deal. The Commission's roadmap identified the private sector as a key stakeholder to finance the green transition;[17] therefore, the EU's sustainable finance strategy needed to be renewed. Before that, the Taxonomy Regulation was adopted. According to the new sustainable finance strategy,[18] the Taxonomy Regulation – a classification system for sustainable activities – is the 'first building block'[19] of the EU's sustainable finance framework, alongside the rules on financial disclosure[20] and other tools.[21]

In this light, the Taxonomy Regulation sets the criteria for environmentally sustainable economic activities. It applies to relevant measures adopted by Member States and by the EU,

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[12] The Sustainable Development Goals mean a comprehensive UN strategy of action with 17 goals regarding the three aspects of sustainable development (social, environmental, and economic) by 2030. In.: UN General Assembly decision 70/1: *Transforming our world : the 2030 Agenda for Sustainable Development.* 21 October 2015, A/RES/70/1.

[13] Communication from the Commission: *A Clean Planet for all - A European strategic long-term vision for a prosperous, modern, competitive and climate neutral economy.* Brussels, 28.11.2018. COM(2018) 773 final.

[14] Case T-575/22, Robin Wood – Gewaltfreie Aktionsgemeinschaft für Natur und Umwelt eV and Others v European Commission, Judgment of the General Court (Sixth Chamber, Extended Composition), 18 March 2026, ECLI:EU:T:2026:197. [hereinafter: Case T-575/22].

[15] It should be mentioned that the Court previously examined a partially similar application, in which the applicants alleged that the Commission had made manifest errors of assessment regarding the classification of forest bioenergy activities, which the Court rejected. See: Judgment of the General Court (Sixth Chamber, Extended Composition) of 10 September 2025, ClientEarth v Commission, Case T-579/22, ECLI:EU:T:2025:862.

[16] Robin Wood (Germany), Save Estonia's Forests (Estonia), Clean Air Committee (Netherlands), Workshop for All Beings (Poland), ZERO (Portugal), 2Celsius (Romania), and Protect the Forest (Sweden). Forest Litigation Collaborative: *Court rules Europe can keep classifying forestry and forest biomass projects as "green" climate investments.*
https://forestlitigation.org/press/court-rules-europe-can-keep-classifying-forestry-and-forest-biomass-projects-as-green-climate-investments/

[17] Ibid. para 221.

[18] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: *Strategy for Financing the Transition to a Sustainable Economy*. COM/2021/390 final. Strasbourg, 6.7.2021. [hereinafter: Sustainable Finance Strategy].

[19] Ibid. Introduction.

[20] Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector. Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (Text with EEA relevance)*OJ L 322, 16.12.2022., 15–80. o.*

[21] Regulation (EU) 2019/2089 of the European Parliament and of the Council of 27 November 2019 amending Regulation (EU) 2016/1011 as regards EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks. *OJ L 317, 9.12.2019., 17–27. o.*

available financial products of financial market participants, and undertakings subject to non-financial reporting obligations under the Accounting Directive.[22] Under the Regulation, financial market participants shall disclose information in pre-contractual disclosures and periodic reports on how their investments contributed to relevant environmental goals.[23] One of the main purposes of the regulation is to prevent greenwashing,[24] an unfair competitive advantage based on false or misleading marketing strategies about the products' or services' environmental impact.[25]

An economic activity can be considered environmentally sustainable if it contributes significantly to at least one of the environmental objectives identified in Article 9 and does not harm these objectives significantly.[26] The objectives under Article 9 are the following:

- climate change mitigation;[27]
- climate change adaptation;[28]
- sustainable use and protection of water and marine resources;
- pollution prevention and control;
- protection and restoration of biodiversity and ecosystems;[29]

The Regulation also requires compliance with technical screening criteria and minimum safeguards,[30] such as the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights, the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work, and the International Bill of Human Rights.[31] It should be mentioned that the Commission can adopt delegated acts on various issues, like the content, the form, and the methodology of the taxonomy disclosure, and technical screening criteria regarding climate mitigation and adaptation, protection of water and marine resources, promoting the circular economy, preventing and controlling pollution, protecting and restoring biodiversity and ecosystems.[32]

3. Questioning the sustainability of forest bioenergy activities

The applicants claimed that Article 10 (1) and (3) of the Taxonomy Regulation on the substantial contribution to climate change mitigation were violated by the Commission's delegated act of

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[22] Taxonomy Regulation, Article 1.
[23] Ibid Article 5.
[24] The term was first used by an American ecologist, Jay Westerveld, in 1986, referring to the hotel industry's practice regarding reusing towels to protect the environment, while their general environmental strategies were missing or limited, so this practice only served financial goals. See: Becker-Olsen, K., Potucek, S. (2013). Greenwashing. In: Idowu, S.O., Capaldi, N., Zu, L., Gupta, A.D. (eds): *Encyclopedia of Corporate Social Responsibility*. Springer, Berlin, Heidelberg. https://doi.org/10.1007/978-3-642-28036-8_104
[25] Taxonomy Regulation, Preamble, recital (11).
[26] Ibid. Article 3. (a)-(b).
[27] According to Article 2 (5) of the Taxonomy Regulation, this means: *'the process of holding the increase in the global average temperature to well below 2 °C and pursuing efforts to limit it to 1,5 °C above pre-industrial levels, as laid down in the Paris Agreement'.*
[28] According to Article 2 (6) of the Taxonomy Regulation, this means: *'the process of adjustment to actual and expected climate change and its impacts'.*
[29] Taxonomy Regulation Article 9.
[30] Ibid Article 3 (c)-(d).
[31] Ibid Article 18.
[32] Ibid Articles 8 (4), 10 (3), 11 (3), 12 (2), 13 (2), 14 (2), 15 (2).

4 June 2021, which classified forest bioenergy activities as sustainable investments.[33] They argued that the Commission applied a 'business-as-usual' baseline to assess the activities' contribution to climate change and assumed it is necessarily positive for climate change mitigation. The applicants found this approach insufficient as neither the technical screening criteria nor other provisions required the maintenance of the forest's carbon sinks,[34] which would enhance the realization of the Paris Agreement's goals.[35] Meanwhile, the Commission, in its response, referred to Article 29 (7)(b) of the RED II directive,[36] which requires the economic operators to establish a forest management system, including forest management plans, that serves the purpose of maintaining or restoring carbon sinks. However, the applicants argued that these management provisions lack the criteria for strengthening carbon sinks and increasing forests' carbon removal capacity, which would be essential to meet the Paris Agreement's targets.[37] Furthermore, the applicants claimed that the Commission incorrectly interpreted the law when it refused to establish fixed criteria for assessing the contribution of forestry activities to climate change, referring to geographical variety in this field. The applicants suggested that the Commission could have established criteria that would result in an improvement exceeding the minimum level compared to standard practice.[38]

It is noteworthy that the scientific community is not unequivocal about the sustainability of forest bioenergy. For example, a study examined several natural and intensively managed forests in Germany and the United States, considering several factors, such as carbon capture and storage capacity. The results showed that forest biomass energy is not necessarily carbon positive. Its sustainability depends on various factors, and in several cases, its use leads to higher GHG emissions than fossil natural gas.[39] Another analysis shows that the sustainability of forest bioenergy significantly depends on the specific nature of the activities involved. In some cases, biodiversity protection and climate mitigation can be realized consistently, like collecting slash – residues left behind after logging – can generate energy without endangering the forest's ecosystem. In contrast, removal of coarse woody debris (CWD) – such as large trunks and fallen branches – can harm ecosystems, as CWD is essential for several species' survival and provides nutrients to the land during decomposition.[40] Other research criticizes the EU's forest bioenergy policy because carbon sinks are weakening, and the sustainability criteria are insufficient to prevent biodiversity loss and GHG reductions from burning wood. Moreover,

[33] Case T-575/22, para 2.
[34] According to Article 3, para 1 (1) of the Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework [hereinafter: LULUCF regulation]: *'sink' means any process, activity or mechanism that removes a greenhouse gas, an aerosol, or a precursor to a greenhouse gas from the atmosphere;*
[35] Ibid paras 34-39.
[36] Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast). *OJ L 328, 21.12.2018., 82–209. o.*
[37] Ibid paras 40-43.
[38] Ibis paras 44-45.
[39] Searchinger, T. D., Peng, L., Russi, D., & Canham, C. (2026). Decades of increased emissions from forest-fuelled BECCS. *Nature Sustainability*. https://doi.org/10.1038/s41893-026-01817-8
[40] Aggestam, F., et al. (2022). The quest for sustainable forest bioenergy: Win–win and lose–lose pathways for bioenergy with the forest-based sector. *Renewable and Sustainable Energy Reviews*, 162, 112448. https://doi.org/10.1016/j.rser.2022.11244 12-14.

the research finds it concerning that Member States can subsidize private bioenergy companies in the name of sustainability and bioeconomy, while using forest bioenergy can undermine the realization of the EU's climate goals. They recommend phasing out the qualification of forest biomass as renewable and sustainable, and ending subsidies for these activities.[41]

4. The main considerations of the CJEU's judgment

The applicants claimed that the Commission stated in its response that – in light of Article 10 (1) (f) of the Taxonomy Regulation on the requirement of strengthening land carbon sinks[42] – forestry activities necessarily contribute positively to climate mitigation. According to the Court, Article 10 (1) (f) proves that the EU legislature means that forestry-related measures can facilitate strengthening land carbon sinks, taking into account the principle of avoiding deforestation, forest degradation, and the requirement to restore forests. The Commission did not declare that forest management activities, per se, make a substantial positive contribution to mitigation, as it depends on certain scenarios, and the contested technical screening criteria are intended to decide this.[43] Regarding the obligation of preparing forest management plans, the CJEU pointed out that strengthening carbon sinks can be realized in two ways: on the one hand, with measures intended to increase carbon sinks, and on the other hand, with measures aimed at avoiding deforestation and degradation. Overall, the requirement of forest management plans in line with the relevant technical screening criteria is consistent with this concept.[44]

The applicants also referred to Article 29 (7) (b) of the RED II Directive regarding the insufficiency of the forest management plans' criteria. The Court confirmed the Commission's interpretation that this provision requires a climate benefit analysis of the economic activity that should prove the GHG emissions and the removals' net balance over 30 years, is lower than the business-as-usual baseline. The Court pointed out that the applicants cannot sufficiently prove why this requirement cannot lead to the strengthening of carbon sinks.[45] The applicants' argument that the Commission should adopt fixed criteria to determine a forest activity's substantial contribution to climate mitigation was not founded, according to the Court. The CJEU emphasized that the technical screening criteria have two aspects: quantitative and qualitative, and the Commission can decide which methodology is the most suitable in certain cases. The Court accepted the Commission's argument that due to the diversity of the EU's forests, it is scientifically not possible to determine a unified threshold, and the applicants were not able to provide sufficient evidence on how such a requirement could be identified.[46] Regarding the applicants' argument that the Commission's response manifested errors of assessment regarding the prevention of pollution and the protection and restoration of

[41] Booth, M. S., & Giuntoli, J. (2025). Burning up the carbon sink: How the EU's forest biomass policy undermines climate mitigation. *GCB Bioenergy*, 17(5), e70035. https://doi.org/10.1111/gcbb.70035 14-15.
[42] According to Article 10 (1) (f) of the Taxonomy Regulation an economic activity contributes substantially to climate change mitigation among others if it amis to 'strengthening land carbon sinks, including through avoiding deforestation and forest degradation, restoration of forests, sustainable management and restoration of croplands, grasslands and wetlands, afforestation, and regenerative agriculture;'
[43] Case T-575/22, para 54.
[44] Ibid, paras 59-60.
[45] Ibid, para 64.
[46] Ibid, paras 70-78.

biodiversity and ecosystems, the Court noted that using the 'best available technique'[47] as a 'gold standard' is in line with the principle of do no significant harm.[48]

It is a noteworthy part of the judgment where the CJEU examined the possible direct effect of provisions of the Paris Agreement and the UNFCCC. According to settled case law, international agreements forming part of EU law may have direct effect where, in light of their wording, purpose, and nature, their provisions contain a clear, precise, and unconditional obligation that does not require any further implementing measures.[49] These two cumulative conditions shall be met to assess the legality of an EU act in light of the particular provision of the international agreement.[50] In the current case, the applicants relied primarily on Article 2 of the UNFCCC[51] and Article 2 (1) of the Paris Agreement,[52] both setting the legal acts' objectives. According to the CJEU, these are general goals without definitions of specific means or parameters to achieve them. Therefore, it can be concluded that the provisions' realization requires further implementing acts, so the two conditions were not met to establish their direct effect. This means that the concerned persons cannot refer to these provisions directly before a national court or question the legality of certain EU acts based on them.[53]

5. Reflections on the Judgment

The case considered primarily the technical aspects of the Taxonomy Regulation regarding forest bioenergy activities. Therefore, the Court did not decide whether the use of forest bioenergy is sustainable per se or not; it focused on the technical screening criteria defined by the Commission. In this light, the relevant criteria are sufficient, because the CJEU found it clear that the EU's forests are so diverse that there is no universal threshold for their protection. Moreover, the Commission has a wide margin of appreciation regarding qualitative and quantitative methods, which is appropriate to protect the forest carbon sinks without any further specific requirement for their strengthening. The Court also declared that the main objectives

[47] As defined in Article 3 (10) of the Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions.
[48] Case T-575/22, paras 376-378.
[49] Case 12/86, *Meryem Demirel v Stadt Schwäbisch Gmünd*, Judgment of the Court, 30 September 1987, ECLI:EU:C:1987:400. paras 2, 14.
[50] Case T-575/22, para 444.
[51] *'The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.*
[52] *'This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:*
(a) Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;
(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production; and
(c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.'
[53] Case T-575/22, paras 446-447.

of the UNFCCC and the Paris Agreement are not clear and unconditional enough to have direct effect or to serve as a basis for the direct review of EU legal acts. This means that the general international climate goals themselves are not appropriate foundations for future climate litigation, even where the contested EU act seeks to implement those goals.[54]

From the perspective of the applicants, the case shows that extended scientific evidence should be provided in technical sustainability cases like this. As the case was initiated by NGOs,[55] it is not surprising that the judgment generated the strongest reactions from these organizations. The Robin Wood expressed in a press release their strong disappointment that the CJEU leaves too much margin of appreciation for the Commission to declare a forest bioenergy project as sustainable, which can be a barrier to preventing harmful practices like clear-cutting. They also emphasized that, considering the relevant global climate goals, the EU should not choose a simple regulatory but a forward-looking, prevention-based approach. The NGO pointed out that the CJEU imposed an excessively heavy burden of proof on the organization, which can hinder efficient civil advocacy.[56] While the Court found the examined legal basis and the technical screening criteria sufficient to determine the sustainability of a forest bioenergy activity, from a practical perspective, it is concerning that forest carbon sinks are declining in the EU. According to the European Environment Agency (EEA), over the past decades, the carbon sinks – symbolizing the net carbon removal – have been weakened as the forests are aging, tree felling has increased, and the adverse effects of climate change have affected this sector negatively.[57] This shows that the Court examined the legality of the criteria but not their environmental integrity. However, this does not mean the issue will not remain relevant in the future, particularly if forest carbon sinks continue to decline and climate change's impacts increase, or if further developments occur regarding best available techniques, the scientific background, and other relevant circumstances. The case may also continue because the applicants had appealed[58] at the time of writing this analysis.

[54] More about the international agreements' direct effect see: Daniele Gallo–Clara H. L. Labus: The direct effect (or lack thereof) of international law in the EU legal order, today. *Yearbook of European Law*, yeaf007 (2025).
[55] More about the issue's connection to the Aarhus Convention and the relevant EU law see: Mario Pagano: Climate Legal Mobilization Under the New Aarhus Regulation. German Law Journal (2024), 25, pp. 919–934 doi:10.1017/glj.2024.61
[56] Robin Wood: *Gerichtsurteil zur Taxonomie: EU darf Forst- und Biomasseprojekte weiterhin als „grüne" Investitionen einstufen.* https://www.robinwood.de/pressemitteilungen/gerichtsurteil-zur-taxonomie-eu-darf-forst-und-biomasseprojekte-weiterhin-als
[57] European Environment Agency (2025): *Enhancing Europe's land carbon sink: status and prospects.*
[58] C-573/26 P - Robin Wood and Others v Commission – Appeal. 28/05/2026.