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Commission unveils vision for single market for CO2 - Industrial Carbon Management strategy

The announcement for the 2040 climate target came paired with the unveiling of another important document for the next mandate's energy and climate framework: the Industrial Carbon Management strategy. This document sets out the Commission's vision for providing the regulatory and investment framework to develop technologies to capture, store, transport and use CO₂, as well as remove it from the atmosphere. Indeed, according to scenarios developed by the Commission as well as bodies such as the [Intergovernmental Panel on Climate Change](#) or the [International Energy Agency](#), wide-scale deployment of these technologies is inevitable in any sub-2°C warming scenario.

The recently agreed Net Zero Industry Act sets a carbon capture target of 50 Mt annual injection capacity for 2030, with a requirement on oil and gas producers to contribute to its development. This already represents a huge endeavour, as recognised by the strategy: 50 Mt of CO₂ is equivalent to the emissions of Sweden in 2022. There are currently no operational CO₂ storage sites in the EU, and only one has taken a final investment decision so far. Nevertheless, the strategy foresees that carbon storage capacity will have to ramp up to 280 Mt by 2040, and 450 Mt by 2050.

To achieve these targets, the strategy highlights the need to develop an EU-wide market for carbon capture, storage and utilisation, enabled by an extensive transport network including pipelines and shipping routes. It estimates that building such a network will require investments of up to 16 billion euro by 2040. The Commission therefore announced that it will begin work on a proposal for a possible future CO₂ transport regulatory package, as well as an EU-wide transport infrastructure planning mechanism.

The strategy mentions the need to work in close cooperation with the electricity, gas and hydrogen sectors when planning this network, particularly with regards to the possibility of re-purposing existing infrastructure. However, given the uneven distribution of CO₂ storage sites and capacities across Europe, it can be expected that the future framework would focus on long-distance transport and therefore be of more relevance for TSOs.

Little explicit mention is made of the relevance of carbon capture for the power sector in the strategy, which instead focuses on hard-to-abate industrial processes.

However, a very heavy emphasis is placed on the need for carbon removals, with a significant share from capture of biogenic CO₂ from power plants ('BioCCS'). The idea here is to produce energy using wood or other organic material which draws CO₂ from the atmosphere, and to then capture the CO₂ released and store it permanently. Such an approach however raises questions about the sustainability of the feedstock used, and would require modifications to the Emissions Trading System framework to take negative emissions into account.

Gigabit Infrastructure Act : Parliament and Council agree on broadband law

In the framework of the third trilogue that concluded last week on 6 February 2024, Council and Parliament agreed on new rules that are supposed to accelerate the deployment of high-capacity communication networks. This should be achieved through enhanced coordination of civil works between network operators and the right to access existing physical infrastructure of other operators, either of electronic communications networks or of other types of networks, such as gas or electricity.

The political agreement marks the end of the trilogue negotiations but further technical meetings are required to cast the compromise into the final legal text. Once entered into force, the Gigabit Infrastructure Act will replace the currently applicable Broadband Cost Reduction Directive (Directive 2014/61/EU).

Network operators will be given the possibility to refuse access to their existing infrastructure if they can provide a viable alternative means of open wholesale active access, subject to specific conditions. Such an additional ground for refusal preserves the incentive for publicly-owned network operators to deploy broadband infrastructure at local and regional level and avoids inefficient duplication of networks. The agreement also includes welcomed exemptions for critical infrastructure from the strengthened information obligations, providing for a better balance between demands for transparency and ensuring the proper functioning of the systems. Co-legislators also managed to agree on the provisions concerning permit granting processes, in particular the question whether the 'tacit approval' principle as introduced by the Commission proposal – to avoid lengthy and protracted procedures, due to the competent authorities' failure to grant (or refuse) a request within a given deadline – should be part of the final deal or not. As a compromise, Member States can either compel their permit-granting authorities to compensate applicants or give applicants the right to file a complaint in court.

Before publication in the EU's Official Journal and entry into force, the political agreement will have to be formally approved by both institutions. The act will apply 18 months after its entry into force with some specific provisions coming into force at a later stage. For more information, please refer to the press releases of the [Council](#) and the [European Parliament](#).

Artificial Intelligence Act: final steps before becoming law

There have been many legislative files in the last four years that kept the EU bubble in suspense, but one that certainly stands out is the Artificial Intelligence (AI) Act. Being the first of its kind legislation in the world, it is expected to set a global standard for AI regulation in other jurisdictions (similar to the General Data Protection Legislation – GDPR). The AI Act will regulate Artificial Intelligence systems based on their capacity to cause harm, following a risk-based approach.

As reported in our [December 2023 issue](#), co-legislators managed to strike a deal, despite increasing tensions over the issue of general purpose AI. After the deal was done, several meetings at technical level were necessary to work out the details of the political agreement of this complex law.

The final version of the text was presented to the Council Working Party on 24 January 2024, but several Member States had reservations on the final text. Some of the big Member States, such as France, Germany and Italy, resisted parts of the provisional agreement on the extent to which general purpose AI models should be regulated, with the three countries asking for a lighter regime than foreseen. On 2 February, nevertheless, EU ambassadors greenlighted the AI Act, which entails improvements compared to the Commission proposal on the definition of AI systems, providing a clear distinction of AI systems from traditional software systems and simpler algorithms, as advocated for by CEDEC in the legislative process.

Although the legislative process for the AI Act is closed, the implementation of some of the provisions will still depend on the Commission, which is tasked to issue around 20 delegated or implementing acts as well as guidelines in the future. The AI Act will enter into force 20 days after publication in the EU's Official Journal. The regulation will be directly applicable two years after entry into force, but bans will apply already after six months and the rules for general-purpose AI models after 12 months.

Data Act: new rules on better data availability enter into force

Following the formal adoption by the Parliament and the Council in November 2023, one of the key pillars of the European data strategy, the European Data Act, [entered into force](#) on 11 January 2024. It provides horizontal rules for access to and use of data by consumers and businesses collected by connected products (i.e. Internet of Things – IoT) and related services.

The new framework brings new potential for the use of data in the energy sector, contributing to more data being made available, which up until now was almost exclusively in the hands of manufacturers.

Data plays a key role in the work of local energy companies for optimising processes or opening up new business models. The use of data generated in the context of energy generation, distribution and use of energy also offers particular potential for the society, as it makes it possible for local public companies to strengthen security of supply and increase efficiency.

Moreover, the Data Act establishes an obligation for data holders to make available certain data to public sector bodies (business-to-government, B2G) in emergency situation, such as public health emergencies, natural or human-induced disasters, or cybersecurity incidents. The new rules also regulate the compensation for making data available in business-to-business relations, which will be further specified by Commission guidelines, including on model contract clauses for fair data-sharing contracts.

Some questions still remain as regards the protection of critical infrastructure in the context of business-to-business and B2G data sharing, in particular whether infrastructure providers are obliged to make available data relating to critical infrastructure and whether the entities receiving such data are technically equipped and authorised for proper data handling. Most of the rights and obligations of the regulation will apply as from 12 September 2025. The access requirements will apply to connected products and related services placed on the market one year later.

Spotlight on: 2040 climate target communication

On 6 February, the European Commission published its [communication](#) and [impact assessment](#) on a 2040 climate target, aiming for a 90% net reduction in GHG emissions by 2040 compared to 1990 levels. The announcement was made in a tense political environment, amid farmers' protests in several Member States and mounting backlash from conservatives and industry complaining against excessive environmental regulation.

However, the communication does not come as a surprise. Indeed, under the EU Climate Law, the Commission is required to make a legislative proposal for a 2040 target, as an intermediary between the existing 55% emissions reduction target for 2030 and the climate neutrality goal for 2050. The communication is a first step in this process. Following the EU elections in June, the task of bringing forward the legislative proposal itself will be left to the next Commission, the Council and the new Parliament. Given the predicted shift to the right in upcoming elections at national and EU level, it is doubtful whether these negotiations would lead to increased ambition.

The proposed 90% reduction target was also to be expected. Indeed, it aligns with the recommendations made by the EU Scientific Advisory Board on Climate Change. A different question is what lies behind this number. The communication indeed emphasises the need for stability and full implementation of the 2030 climate and energy framework as a precondition for reaching the 2040 target, while noting that extending the existing policy framework towards 2040 would already result in emissions reductions of 88%. The communication therefore proposes that to reach the 2040 target, the post-2030 framework should build upon existing policies with measures aimed at ensuring a just transition for all citizens and competitive sustainability (including through access to finance, skills, affordable energy). However, the target also relies heavily on staggeringly fast deployment of carbon capture and removal solutions (see our next article).

For the energy sector, the Communication notes that full decarbonisation should be achieved by 2040, based on all zero and low-carbon energy solutions, including renewables, nuclear, energy efficiency, storage, carbon capture and storage (CCS), carbon capture and utilisation (CCU), carbon removals, geothermal and hydropower. Electrification is identified as a main driver in this process, with the share of electricity in total energy consumption doubling to 50%, with 90% of electricity produced coming from renewables and nuclear. The strategy therefore calls for substantial investments in grid expansion and upgrading, while noting that a key regulatory objective will be to avoid this resulting in excessive grid tariffs for end users. In relation to gas, the Communication foresees an increasing role for low-carbon and renewable liquid fuels and gases, with a corresponding need to adapt infrastructure to decentralised production. Fossil gas would continue to play a role in 2040 for industry, buildings, and the power system, but consumption would reduce by 80% and would be paired with carbon capture.

Upcoming meetings & Events

- [CEDEC Working Group Digitalisation – 15 February 2024](#)
- [CEDEC Working Group Energy & Climate – 21 February 2024](#)
- [CEDEC Board of Directors – 28 February 2024](#)
- [CEDEC Platform Local Broadband – 5 March 2024](#)
- [CEDEC Working Group Grid Tariffs – 20 March 2024](#)