

30 November 2021

**SUBJECT:       Concerns on the leaked draft of the Upcoming EU Methane Legislation**

Dear Executive Vice-President Timmermans,

We thank you for your leadership at the 26th Conference of the Parties (CoP26) to the United Nations Framework Convention on Climate Change (UNFCCC), including the Global Methane Pledge for which your steadfast advocacy was critical. As we now turn our attention toward implementation, we write to express our deep concern about the leaked draft on the EU Methane Regulation—set to be proposed in December.

The EU Methane Regulation is a key component of the EU Strategy to Reduce Methane Emissions. In October, the European Parliament adopted an own initiative report (INI) for which we, the undersigned MEPs, served as rapporteurs.

In this regard, we would like to bring to your attention our following concerns:

In our report, we welcome the Commission initiative to propose a legislative act to reduce methane emissions in the energy sector. We would like to underline that a dual legal basis on Articles 192 TFEU and 194 TFEU is appropriate.

Numerous examples exist of the environmental purpose underlying the legislation that fall squarely within the remit of Article 192 TFEU. For example, monitoring and mitigating methane emissions in the energy sector—via measures on monitoring, reporting, verification (MRV), leak detection and repair (LDAR), venting and flaring and unused wells and mines—relate to preserving, protecting and improving the quality of the environment. As the Court of Justice of the European Union (CJEU) has repeatedly noted, the determination of legal basis is an impartial analysis based on objective criteria amenable to judicial review, considering the aim and content of the measure and its predominant purpose or components.<sup>1</sup> It is a legal question for which substantial case law exists.<sup>2</sup>

We believe that, at a minimum, a dual legal basis is appropriate and urge the Commission to consider addressing the issue prior to proposal.

In addition, we called on the Commission to extend the new rules on monitoring, reporting, verification (MRV), leak detection and repair (LDAR) and routine venting and flaring (RVF) to imports of oil, gas and coal, thereby making them applicable to the entire supply chain up to and including production. This is in recognition of the fact that over four-fifths of oil and gas and two-fifths of coal consumed in the EU are imported, and most methane emissions associated with these fossil fuels occur outside the EU. According to our report, the EU Methane Regulation should extend its measures across the supply chain.

All closed and abandoned oil and gas wells should be capped and filled, not just monitored. Member States should also be required to report the results of their survey to the Commission, and make it publicly available. We also emphasize in our report the need to establish a fund to support Member States dealing with wells where ownership cannot be identified.

Last but not least, we would also like to underline that in our report we urge to the Commission to set EU binding Methane Emissions target, and to include the petrochemicals to the sectors that need to be addressed.

The policies we put in place today will have significant implications for our children and grandchildren and the habitability of our planet. For these reasons, the EU Methane Regulation must go beyond a few simple transparency measures on imports to secure concrete reductions of methane emissions associated with our consumption. This is the critical decade that will determine our ability to stay within 1.5°C and we

cannot fail to deliver. We therefore reiterate our call to the Commission to extend the measures on MRV LDAR and RVF across the supply chain in its upcoming legislative proposal for an EU Methane Regulation. As you said in Glasgow, “time is running out, but it's not too late, so let's get cracking.”

Thank you for your attention to this matter.

Yours sincerely,  
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Marcos ROS SEMPERE (S&D)  
Martin HOJSÍK (Renew)  
Jutta PAULUS (Greens/EFA)  
Mick WALLACE (GUE/NGL)

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<sup>1</sup> Case C-300/89 *Commission v Council "Titanium dioxide"*, Paragraph 10.

<sup>2</sup> Case C-187/93 *Parliament v Council*, Paragraph 28. Case C-178/03 *Commission v Parliament and Council*, Paragraph 42. Case C-155/07 *Parliament v Council*, Paragraph 35. Case C-411/06 *Commission v Parliament and Council*, Paragraph 77. Case C-81/13 *United Kingdom v Council*, Paragraph 36.