

# EU Climate Taxonomy

## Delegation of Power to EU Commission, Art. 290 TFEU

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Centrum für Europäische Politik | 8 February 2022



- **Taxonomy Regulation, Art. 23: delegation of power**

**EU legislator** (European Parliament and Council / Member States):

**delegation of power to European Commission to decide by delegated act**

⇒ **delegated act**, Article 290 TFEU:

Was the **European Commission** empowered  
to decide by **delegated act**

to determine whether **nuclear energy and gas**  
are “**environmentally sustainable**” economic activities?

- **Article 290 TFEU: Delegated Acte**

- (1) A legislative act [here: Taxonomy Regulation] **may delegate to the Commission the power** to adopt non-legislative acts of general application [“delegated acts”] to **supplement or amend** certain **non-essential elements** of the legislative act. [...]

The **essential elements** of an area shall be **reserved for the legislative act** and accordingly **shall not be the subject of a delegation of power**.

⇒ **“essentiality”?**

- **Delegated Acts, Article 290 TFEU:**

**Delegation of power**

from **EU legislator** (Parliament/Council) to **European Commission**

**institutional balance:**

↔ pole 1: **relief of EU legislator**

↔ pole 2: **democracy / participation / legitimisation**

- Delegated Acts, Article 290 TFEU:  
Delegation of power to decide  
from EU legislator (Parliament/Council) to European Commission
- **Criteria** for determination of “**essentiality**”
  - **unpolitical issues: technical details**
  - **political issues:**
    - values
    - Fundamental rights
    - **potential for conflict**



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