



‘Do-No-Significant-Harm’ and its application to the RRPs

Recovery and Resilience Facility

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Disclaimer: This presentation is without prejudice to the final contents of the Commission's Technical Guidance on Do-No-Significant Harm.

I. Background and legal basis

What is ‘Do-No-Significant-Harm’ (DNSH)? (I)

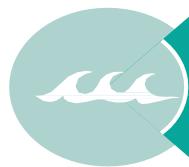
- DNSH in the RRF to be interpreted within the meaning of **Article 17** of the Taxonomy Regulation (adopted in 2020)
- **Six environmental objectives** to which no significant harm should be done:



climate change
mitigation



climate change
adaptation



sustainable use & protection
of water & marine resources



transition to a circular
economy



pollution prevention & control



protection and restoration
of biodiversity & ecosystems

What is DNSH? (II)

- Article 17 of the Taxonomy Regulation **defines harm to each of the six environmental objectives**
- **Delegated acts:** Under the Taxonomy Regulation, two delegated acts further specify technical screening criteria for each of the six environmental objectives, including on how to comply with DNSH
- The delegated acts have **not yet been adopted**
- According to the RRF Regulation, the entry into force of the delegated acts containing the technical screening criteria that supplement the high-level definition of DNSH in Article 17 **should not affect the application of DNSH to the RRF**

Why do MS need to assess DNSH in their RRPs?

- The **RRF Regulation** contains a number of references to DNSH:
 - **Article 4a:** RRF can only support measures that respect DNSH
 - **Articles 15 & 16:** RRPs should **explain** and **be assessed** in light of “*how the plan ensures that no measure for the implementation of reforms and investments included in the plan makes a significant harm to environmental objectives within the meaning of Article 17 of the Taxonomy Regulation.*”
- **And in:** Next Generation EU Communication of 27/05, Annual Sustainable Growth Strategy, Guidelines and template for Member States on their RRPs

Commission assessment of RRP in light of DNSH (I)

- **DNSH applies to each measure** (i.e. each investment and each reform) and is not limited to green or climate-related measures
- Annex II of the RRF sets out a number of assessment guidelines as a basis for the Commission to assess the proposals for RRPs as submitted by the Member States
- **Rating system, ranging from A to C**, for all assessment criteria listed in Article 16 (3) of the Regulation
- For the assessment of DNSH, the Commission has only two rating options, **A or C**

Commission assessment of RRP in light of DNSH (II)

- **Rating “A”** if no measure within a proposal for a RRP may lead to a significant harm to environmental objectives
- **Rating “C”** if one or more measures lead to a significant harm to environmental objectives
- The Annex stipulates that a RRP does not comply satisfactorily with the assessment criteria **as from the occurrence of a single “C”**. In such a case, the plan could not be endorsed by the Commission

This means in practice that all measures in the RRP need to comply with DNSH

II. DNSH Technical Guidance

Legal basis in the RRF Regulation

- **Article 16:** Commission should provide **technical guidance** for how the do-no-significant-harm criteria should apply to the RRF
- **Recital 11b:** the entry into force of the delegated acts referred to in Article 3d of the Taxonomy Regulation, containing the technical screening criteria, should not affect this guidance
- This technical guidance document, to be published soon, will supplement the initial guidance already provided by the Commission in the Annual Sustainable Growth Strategy 2021 and the accompanying staff working document (Parts 1 and 2, ‘Guidance’) and their updates

Selected guiding principles (I)

- **Assessment at the level of the measure:** Each individual measure needs to comply with DNSH. Hence, compliance is not assessed at the level of the RRP as a whole, nor at the level of a component, but at the level of the measure.
- **Applicability of the Taxonomy technical screening criteria:** not a legal requirement; not yet approved and often not fully applicable for the RRF. However, the draft criteria can be used as a point of reference in the DNSH assessment; but given the different scope of the RRF, their relevance has to be assessed on a case-by-case basis.
- **Cases where a measure is tagged with a 100% climate coefficient:** Where a measure is tracked as contributing to the climate target and a 100% coefficient has been applied, DNSH can be considered complied with for the relevant climate objective.

Selected guiding principles (II)

- **Use of sustainability proofing and EIAs or SEAs:**
 - Member States may carry out sustainability proofing, EIAs or SEAs for some measures in their plan.
 - These tools can support the DNSH assessment for those measures, but do not exempt Member States from carrying out the DNSH assessment.
 - This is because the requirements of EIAs/SEAs and proofing do not entirely correspond to the requirements of Article 17 of the Taxonomy Regulation (e.g. a new airport could be constructed on the basis of an EIA, but may not be compatible with Article 17).

III. The checklist, basis of the DNSH assessment

Structure of the checklist

- The checklist is a set of operational tables prepared by Commission services to facilitate the operationalisation of the DNSH.
- It should be used for **each measure** (i.e. each reform and each investment) in the RRP
- The DNSH checklist has **2 distinct parts** that need to be filled in by Member States:
 - **Part 1 sets out the six environmental objectives** that are relevant for the DNSH assessment. It invites Member States to indicate which of the six environmental objectives require a substantive DNSH assessment of the measure.
 - **Part 2 sets out high-level questions, tailored to each of the six environmental objectives** to be able to carry out substantive DNSH assessments for each measure in the (draft) RRP
 - Completion of Part 2 can be supported by **ancillary questions** that can help guide Member States in filling out Part 2 and/or further analyse key aspects to support the Commission's assessment, but do not have to be answered systematically

Content of the checklist | Part 1: Screening (I)

- For each measure, **as a first step**, Member States are invited to complete Part 1 of the checklist to indicate which of the six environmental objectives require a substantive DNSH assessment of the measure.
- For measures with clearly no environmental impact (a social reform, an education reform, etc) filling in this table will be fast **and all there is to do**. For obvious cases, the justification can be short.

Content of the checklist | Part 1: Screening (II)

Please indicate which of the environmental objectives below require a substantive DNSH assessment of the measure:	Yes	No	Justification if 'no' has been selected
Climate change mitigation			
Climate change adaptation			
The sustainable use and protection for water and marine resources			
The circular economy, including waste prevention and recycling			
Pollution prevention and control to air, water or land			
The protection and restoration of biodiversity and ecosystems			

- Where the answer is 'yes', Member States are invited to proceed to Part 2 of the checklist for the corresponding environmental objectives.

Content of the checklist | Part 2: Analysis (I)

- Part 2 of the checklist includes for each of the six objectives one or more related high-level question(s)
- For those environmental objectives that were tagged with a “yes” in Part 1, the Member State is invited to subsequently deepen the assessment on the basis of the corresponding high-level questions.
- Example for **climate change mitigation**:

Question	Yes	No	Detailed justification based on evidence
Is the measure expected to lead to significant GHG emissions?			

Content of the checklist | Part 2: Analysis (II)

- Example for the circular economy:

Question	Yes	No	Detailed justification based on evidence
<p>Is the measure expected to:</p> <ul style="list-style-type: none">(i) lead to a significant increase in the generation, incineration or disposal of waste, with the exception of the incineration of non-recyclable hazardous waste; or(ii) lead to significant inefficiencies in the direct or indirect use of any natural resource at any stage of its life cycle which are not minimised by adequate measures; or(iii) cause significant and long-term harm to the environment in respect to the circular economy?			

Content of the checklist | Ancillary questions

- Complementary questions to Parts 2 to be used where relevant; selected examples:
 - Climate change mitigation

Question	Yes	No	Detailed justification based on evidence
For measures developing CO2 capture and sequestration: Are appropriate leakage detection systems implemented to prevent release during operation?			

- Sustainable use and protection of water and marine resources

Question	Yes	No	Detailed justification based on evidence
Have or will environmental degradation risks related to preserving water quality and avoiding water stress been identified and addressed in accordance with a River Basin Management Plan, drawn up in accordance with the Water Framework Directive? If not done yet, please specify by when.			

Using the checklist | selected examples (I)

- **Reforms related to social policy (labour/education etc.):** It is likely that there is no risk of significant harm
- **Investments in hydropower:** (i) Climate change adaptation, (ii) protection of biodiversity, and, notably, (iii) protection of water and marine resources would be particularly relevant for the DNSH assessment.
- **Investments in waste management:** The DNSH assessment would need to at least consider the objectives of (i) pollution prevention and control and (ii) transition to a circular economy, but also others, depending on the type of measure.

Using the checklist | selected examples (II)

- **Investments in district heating and cooling:** The DNSH assessment would likely need to consider at least three of the six environmental objectives, notably (i) climate change mitigation, (ii) climate change adaptation, and (iii) pollution prevention and control, but likely also (iv) sustainable use and protection of water and marine resources and (v) protection and restoration of biodiversity and ecosystems.
- **Investments in building renovation,** complying with requirements for major renovations: The (i) circular economy objective would in particular need to be assessed (e.g. reduce / reuse / recycle construction waste, use of secondary raw materials; see mock component ‘Renovate’), but also (ii) climate change adaptation, (iii) pollution prevention and control, and (iv) sustainable use and protection of water and marine resources.

Thank you!