



# Contribution to the consultation on the DNSH technical guidance for the Social Climate Fund

*Climate Action Network (CAN) Europe is Europe's leading NGO coalition fighting dangerous climate change. With over 185 member organisations active in 38 European countries, representing over 1,700 NGOs and more than 40 million citizens, CAN Europe promotes sustainable climate, energy and development policies throughout Europe.*

## 1. Horizontal comments on the core guidance

### 1.1. Need for common implementation criteria

As already mentioned in [CAN Europe's response](#) to the "Call for evidence on application of the "do no significant harm" principle to the Social Climate Fund", a key issue with the implementation of DNSH in EU funds is its scattered approach, with respective EU funds using different definitions and approaches (e.g. RRF, Cohesion Policy funds, InvestEU) whilst not being aligned with the Taxonomy Technical Screening Criteria. This holds even for sectors that are classified as "substantial contributors" to environmental objectives, and hence covered by the Taxonomy regulation. This plethora of approaches to implementation results in non-uniform criteria and, unfortunately, the draft technical guidance on DNSH in the Social Climate Fund is no exception.

***CAN Europe's position is that there is an a priori urgent need for a robust, uniform approach to the implementation of DNSH across all EU funds. As already developed in CAN Europe's response to the call for evidence, for activities and sectors that are already covered by the EU Taxonomy, the European Commission should horizontally (across EU funds): (1) fully align eligible investments with "substantial contribution" criteria of the EU Taxonomy; (2) using existing DNSH screening criteria for those sectors; (c) for energy, buildings, mobility and transport investments whose "substantial contribution" and DNSH criteria have already been flagged as not science-based by environmental CSOs, the Commission should instead use the [Independent Science-Based Taxonomy criteria](#).***

## 1.2. Imprecise definitions and terminology undermine DNSH implementation

Despite positive improvements compared to the DNSH implementation guidance of other EU funds (see below) a key lesson from previous implementation examples is not addressed: namely the risk of DNSH assessments becoming no more than a box-ticking exercise through self-assessment, as is evident in section 2.2 of the technical guidance. A key lesson from the RRF is that this approach risks resulting in dubious self-assessment of impacts in Member States, resulting in projects deemed “DNSH compliant” by abiding to the letter but not the spirit of DNSH implementation. This problem has already been documented by several CSOs [at both EU and national level](#) when evaluating specific projects financed through the RRF and cohesion policy funds.

This problem is compounded by the use of loose and imprecise terminology in respective regulations, which gives room for legal interpretation. Unfortunately, the draft DNSH technical guidance for the SCF does not fully avoid this problem. To give three crucial examples:

In annex 1 on buildings, the DNSH technical guidance deems “hybrid heating systems with a considerable share of renewable energy” eligible for financing, without however defining a concrete threshold and definition of the term “considerable”, hence leaving room for interpretation (30%? 50%? 80%?) and potentially paving the way for projects that could in fact harm climate mitigation objectives. To ensure clarity and precision in defining a considerable share of Renewable Energy Sources, we recommend that the RES share be set at a minimum of 65% for hybrid systems financed through the SCF.

In annex 2 on transport, the DNSH technical guidance deems “low emission vehicles compliant [...] when corresponding zero-emission vehicles are not affordable or deployable”, without defining specific criteria through which “affordability” and “deployability” will be assessed. Hence, Member States may select sub-optimal solutions to transport by invoking a “lack of viable alternatives” when, in fact, those may be available.

Although the technical guidance mentions (rightly) that “measures compliant with the DNSH principle should not lead to lock-in effects inconsistent with the EU climate objectives (e.g., carbon lock-in relating to the use of fossil fuels) or effects that undermine long-term environmental goals, considering the economic lifetime of those activities or assets” (section 1.3.3), the guidance lacks an operational definition of “lock-in” leaving once more room for interpretation notably for investments in the “installation of hybrid heating systems” and “low emission vehicles”.

***CAN Europe consequently urges the Commission to clarify definitions through concrete and measurable criteria to avoid room for legal interpretation in the DNSH assessments of individual investment streams in Social Climate Plans.***

## 2. Comments on DNSH and fossil fuel investments

We welcome that the DNSH guidance for the SCF goes a step further than the DNSH guidance for the RRF, by eliminating loopholes for the financing of standalone gas boilers and other fossil gas investments (e.g. fossil gas distribution) and fully excluding them from eligibility on DNSH grounds.

However, as aforementioned the technical guidance fails to fully exclude direct and indirect support for fossil fuels by rendering eligible both “hybrid heating systems” (Annex 1) and “low emission vehicles” (Annex 2) as well as “efficient district heating” (Annex 2) which, as per existing legal definitions, does not preclude fossil-based district heating.

Despite the preconditions listed for those to be deemed DNSH-compliant, these investment streams are contradicting the self-proclaimed aims of the guidance of:

- 1) “Avoiding lock-in effects” (1.3.3): in fact the aforementioned eligible investments could lock energy poor households (targeted by the SCF) into assets that maintain their dependence on fossil fuels, albeit partially.
- 2) “Considering direct and indirect impacts” (1.3.2): indirectly, the aforementioned eligible investments could indirectly contribute to maintaining the consumption of fossil fuels, instead of minimising and eliminating the dependence of energy poor households on fossil fuel consumption.
- 3) “Best available levels of environmental and climate performance” (1.3.4): given the technical availability of zero emission vehicles, making “low emissions vehicles” eligible does not consist in promoting commercially available best performing techniques and technologies.
- 4) “Consistency with overarching climate and environmental objectives in the EU legislation” among which “sustainability objectives [...] listed in the 8th Environment Action Programme” (1.3.5): subsidising investments that would directly or indirectly support the continuous use of fossil fuels contradicts article 3(h) of the 8th Environment Action Programme which requires “phasing out environmentally harmful subsidies, in particular fossil fuel subsidies, at Union, national, regional and local level, without delay”.

***CAN Europe welcomes the full exclusion of fossil gas related infrastructure eligibility on DNSH grounds, but considers that the aforementioned activities risk contributing to fossil fuel lock-in for energy poor households whilst perpetuating the provision of fossil fuel subsidies in EU funds. As such, these activities should not be considered eligible; if they remain eligible, the European Commission should at minimum set strict, concrete and measurable pre-conditions (see point 1.2 above) for their eligibility, including the dates for phasing out of fossil fuels in given installation.***

### 3. Comments on other DNSH screening criteria

Although EU Taxonomy-aligned investments are a priori automatically eligible (section 2.2), the proposed screening criteria are in several aspects inferior to the EU Taxonomy's [Technical Screening Criteria](#) without an obvious justification.

For example, no DNSH screening is required for any eligible (renewable) energy investments (Annex 3). This is incompatible with the Technical Screening Criteria of the EU Taxonomy whereby RES investments are required to demonstrably avoid harming e.g. climate adaptation, circular economy, or biodiversity objectives through defined and specific criteria. Presumably, the draft technical guidance classified those possible impacts as “insignificant” across the board (section 2.2) without, however, a strong justification.

The same holds for investments related to zero (tailpipe) emission vehicles which, unlike in the EU Taxonomy's Technical Screening Criteria, are not required to demonstrate DNSH vis-à-vis the circular economy. This notably runs counter to the Technical Guidance itself, which stipulates that “life cycle impacts” should be considered in the DNSH screening – which would entail, among others, examining the life-cycle impacts of zero emission vehicles on circular economy objectives.

Finally, the implementation of the DNSH principle must contribute to drastically cutting emissions from biomass-based heating systems by blocking the financing of the most polluting options in the EU, and by conditioning the support to enhanced environmental, market, quality and performance controls in countries where ambient air quality objectives are not met. Additionally, SCF funding for biomass as a heat source within a country should be contingent on no current infringement of the air quality directive, and that the use of biomass is accounted for within air quality plans to ensure that use of biomass does not contribute to a breach in future. This should go hand in hand with ensuring the possibilities to source sustainable biomass, if needed, for citizens, at an affordable price.

***CAN Europe considers there is no obvious reason why DNSH criteria should be tighter for private investments alignment (DNSH in the Taxonomy Technical Screening Criteria) compared to public investments through EU funds (DNSH technical guidance for the SCF). In fact, the opposite may be the case: public finance should set the bar higher. As such, we consider that (at minimum) for activities already covered by the EU Taxonomy (RES and related technologies, sustainable transport activities), the same DNSH screening criteria should apply, to ensure, inter alia, RES deployment with the highest environmental standards. Furthermore, for sectoral investments whose “substantial contribution” and DNSH criteria have already been flagged as not science-based by environmental CSOs, such as “the production of heating/cooling through biomass”, the Commission should instead use the [Independent Science-Based Taxonomy criteria](#).***

## CONTACTS

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