



ENVIRONMENT POLICY: GENERAL PRINCIPLES AND BASIC FRAMEWORK

European environment policy rests on the principles of precaution, prevention and rectifying pollution at source, and on the ‘polluter pays’ principle. Multiannual environmental action programmes set the framework for future action in all areas of environment policy. They are embedded in horizontal strategies and taken into account in international environmental negotiations. Last but not least, implementation is crucial.

LEGAL BASIS

Articles 11 and 191 to 193 of the Treaty on the Functioning of the European Union (TFEU). The EU is competent to act in all areas of environment policy, such as air and water pollution, waste management and climate change. Its scope for action is limited by the principle of subsidiarity and the requirement for unanimity in the Council in the fields of fiscal matters, town and country planning, land use, quantitative water resource management, choice of energy sources and structure of energy supply.

ORIGINS AND DEVELOPMENT

European environment policy dates back to the European Council held in Paris in 1972, at which the Heads of State or Government (in the aftermath of the first UN conference on the environment) declared the need for a Community environment policy flanking economic expansion, and called for an action programme. The Single European Act of 1987 introduced a new ‘Environment Title’, which provided the first legal basis for a common environment policy with the aims of preserving the quality of the environment, protecting human health, and ensuring rational use of natural resources. Subsequent treaty revisions strengthened the Community’s commitment to environmental protection and the role of the European Parliament in its development. The Treaty of Maastricht (1993) made the environment an official EU policy area, introduced the codecision procedure and made qualified majority voting in the Council the general rule. The Treaty of Amsterdam (1999) established the duty to integrate environmental protection into all EU sectoral policies with a view to promoting sustainable development. ‘Combating climate change’ became a specific goal with the Treaty of Lisbon (2009), as did sustainable development in relations with third countries. Legal personality now enabled the EU to conclude international agreements.

GENERAL PRINCIPLES

EU environment policy rests on the principles of precaution, prevention and rectifying pollution at source, and on the ‘polluter pays’ principle. The precautionary principle is a risk management tool that may be invoked when there is scientific uncertainty about a suspected risk to human health or to the environment emanating from a certain action or policy. For instance, should doubts arise about the potentially harmful effects of a product, and should — following an

objective scientific evaluation — uncertainty persist, instructions may be given to stop the distribution of the product or to remove it from the market. Such measures must be non-discriminatory and proportionate, and must be reviewed once more scientific information is available.

The ‘polluter pays’ principle is implemented by the [Environmental Liability Directive](#), which aims to prevent or otherwise remedy environmental damage to protected species or to natural habitats, water and soil. Operators of certain occupational activities such as the transport of dangerous substances, or of activities that imply discharge into waters, have to take preventive measures in case of an imminent threat to the environment. If damage has already occurred, they are obliged to take the appropriate measures to remedy it and pay for the costs. The scope of the directive has been broadened three times to include the management of extractive waste, the operation of geological storage sites, and the safety of offshore oil and gas operations respectively.

Furthermore, integrating environmental concerns into other EU policy areas has become an important concept in European politics since it first arose from an initiative of the European Council held in Cardiff in 1998 (the ‘Cardiff process’). In recent years, environmental policy integration has made significant progress, for instance, in the field of energy policy, as reflected in the parallel development of the EU’s climate and energy package or in the Roadmap for moving to a competitive low-carbon economy by 2050. It shows how the sectors responsible for Europe’s emissions — power generation, industry, transport, buildings and construction, as well as agriculture — can make the transition to a low-carbon economy over the coming decades.

BASIC FRAMEWORK

A. The Environment Action Programmes

Since 1973, the Commission has issued multiannual Environment Action Programmes (EAPs) setting out forthcoming legislative proposals and goals for EU environment policy. In 2013, the Council and Parliament adopted the 7th EAP for the period up to 2020, under the title ‘Living well, within the limits of our planet’. Building on a number of strategic initiatives, the programme sets out nine priority objectives, including: the protection of nature; stronger ecological resilience; sustainable, resource-efficient and low-carbon growth; and the fight against environment-related threats to health. The programme also stresses the need for better implementation of EU environment law, state-of-the-art science, investment, and integration of environmental aspects into other policies.

B. Horizontal strategies

In 2001, the EU introduced its Sustainable Development Strategy (SDS), thus complementing the earlier Lisbon Strategy for promoting growth and jobs with an environmental dimension. Renewed in 2006 to combine the internal and international dimensions of sustainable development, the [revised EU SDS](#) strives for the constant improvement of the quality of life through fostering prosperity, environmental protection and social cohesion. In line with these goals, the [Europe 2020 strategy](#) for growth aims at shaping ‘smart, inclusive and sustainable growth’. Under its umbrella, the ‘[flagship initiative for a resource-efficient Europe](#)’ points the way towards sustainable growth and supports a shift towards a resource-efficient, low-carbon economy. Furthermore, in 2011 the EU committed itself to halting the loss of biodiversity and ecosystem services by 2020 ([EU biodiversity strategy](#)).

C. Environmental impact assessment and public participation

Certain projects (private or public) that are likely to have significant effects on the environment, e.g. the construction of a motorway or an airport, are subject to an environmental impact assessment ([EIA](#)). Equally, a range of public plans and programmes (e.g. concerning land use, transport, energy, waste or agriculture) are subject to a similar process called a strategic environmental assessment ([SEA](#)). Here, environmental considerations are already integrated at the planning phase, and possible consequences are taken into account before a project is approved or authorised so as to ensure a high level of environmental protection. In both cases, consultation with the public is a central aspect. This goes back to the Aarhus Convention, a multilateral environmental agreement under the auspices of the United Nations Economic Commission for Europe (UNECE) which entered into force in 2001 and to which the EU and all its Member States are parties. It guarantees three rights to the public: public participation in environmental decision-making, access to environmental information held by public authorities (e.g. on the state of the environment or human health where affected by the latter), and the right of access to justice where the other two rights have been disregarded.

D. International environmental cooperation

The EU plays a key role in international environmental negotiations. It is a party to numerous global, regional or sub-regional environmental agreements on a wide range of issues, such as nature protection and biodiversity, climate change, and transboundary air or water pollution. For instance, at the 10th Conference of the Parties to the Convention on Biological Diversity, held in Nagoya (Japan) in 2010, the EU made a major contribution to achieving an agreement on a global strategy to halt the loss of biodiversity by 2020. Likewise, the Union participated in the decision to develop the global Sustainable Development Goals (SDGs) for all countries which emerged from the Rio+20 conference on sustainable development held in 2012. Traditionally, the EU has also set standards during international climate negotiations under the United Nations Framework Convention on Climate Change (UNFCCC). The EU also acceded to the Convention on International Trade in Endangered Species (CITES) to pursue its fight against wildlife crime at the international level.

E. Implementation, enforcement and monitoring

EU environmental law has been built up since the 1970s. Several hundred directives, regulations and decisions are in force today in this field. However, the effectiveness of EU environmental policy is largely determined by its implementation at national, regional and local levels, and deficient application and enforcement remain an important issue. Monitoring is crucial — both of the state of the environment and of the level of implementation of EU environmental law.

To counteract the wide disparity in the level of implementation among Member States, in 2001 the European Parliament and the Council adopted (non-binding) [minimum standards for environmental inspections](#). In order to improve the enforcement of EU environmental law, Member States have to provide for effective, proportionate and dissuasive [criminal sanctions](#) for the most serious environmental offences. These include, for instance: the illegal emission or discharge of substances into the air, water or soil; illegal trade in wildlife; illegal trade in ozone-depleting substances; and illegal shipment or dumping of waste. The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is an international network of the environmental authorities of EU Member States, accession and candidate countries, as well as Norway, created to boost enforcement by providing a platform for policymakers, environmental inspectors and enforcement officers to exchange ideas and best practice.

In May 2016, the Commission launched the [Environmental Implementation Review](#), a new tool designed to help reach full implementation of EU environmental legislation, which goes hand in hand with its fitness check (Regulatory Fitness and Performance-programme, or for short ‘Refit’) of monitoring and reporting obligations under existing EU legislation so as to make it simpler and less costly.

In 1990, the European Environment Agency ([EEA](#)), based in Copenhagen, was established to support the development, implementation and evaluation of environment policy and to inform the general public on the matter. This EU agency (open to non-EU members) is responsible for providing sound and independent information on the state of and outlook for the environment. It therefore collects, manages and analyses data and coordinates the European environment information and observation network ([Eionet](#)). To help policymakers take informed decisions and develop environmental legislation and policies, the EU also runs the European Earth Observation Programme ([Copernicus](#)), which addresses, among other concerns, land, marine, atmosphere and climate change. With regard to pollutants released into air, water and land as well as off-site transfers of waste and of pollutants in waste water, the European Pollutant Release and Transfer Register ([E-PRTR](#)) provides key environmental data from more than 30 000 industrial facilities in the EU, as well as in Iceland, Liechtenstein, Norway, Serbia and Switzerland. The register is available to the public free of charge on the internet.

ROLE OF THE EUROPEAN PARLIAMENT

The European Parliament plays a major role in shaping EU environmental law. During its current term, it is dealing with legislation deriving from the circular economy action plan (on waste, batteries, end-of-life vehicles, landfilling, etc.), climate change issues (ratification of the Paris Agreement, effort sharing, accounting for land use, land-use change and forestry in the Union’s climate change commitments, ETS reform, etc.) and more.

Parliament has repeatedly recognised the need for improved implementation as a key priority. In a 2013 resolution on ‘improving the delivery of benefits from EU environmental measures: building confidence through better knowledge and responsiveness’, it criticised the unsatisfactory level of implementation of environmental law in the Member States, and made several recommendations for a more efficient implementation, such as dissemination of best practices between Member States and between regional and local authorities. In its position on the current environmental action programme (running until 2020), Parliament also underlined the need to enforce EU environmental law more rigorously. It furthermore called for greater security for investments that support environmental policy and efforts to combat climate change, and for taking more and better account of environmental concerns in other policies.

In its resolution on the mid-term review of the EU Biodiversity Strategy, Parliament called on the Commission to review the framework for environmental inspections in order to better detect and prevent breaches.

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