



Introduction

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Protection of the environment is a well-established policy in the European Union. Following closely on from the development of Europe's Internal Market and starting in 1967 with the Directive for harmonised classification and the labelling of dangerous chemicals, environmental protection objectives and principles were finally given their own chapter in 1987, in the Treaty establishing the European Union. Today the vast majority of national environmental policies and laws have their origins in EU law.

Despite this development, environmental protection largely happens at national level. Most EU environmental laws setting minimum standards then leave it up to Member States on how to achieve them. Increasingly, however, EU environmental laws are based on internal market rules, which seriously restrict Member States from going beyond a prescribed level of protection. Together with the general domination of internal market rules in the EU, national environmental policy initiatives are quite restricted. Thus governments wanting to introduce new environmental protection often seek to influence and promote the development of EU policies. They remain the main initiators of EU environmental policies and laws in order to achieve their desired level of protection via the EU. "Brussels" is thus a trading and negotiation place for policies rather than the "real" initiator.

National environmental politics change quite frequently, with changes in government, but the EU has provided continuity, with a steady output of and increasing volume of environmental laws. Policy approaches nevertheless have changed in response to specific environmental challenges, conflicts with national sensitivities, in specific economy developments and policies, and failure to adapt to administrative challenges and to achieve set targets.

In response to the growing influence and ambition of EU environmental policies and their own failure to deliver, Member States have, on several occasions, initiated attempts to renationalise environmental competencies and to introduce greater flexibility into EU laws - with varying results. Many important new laws, setting environmental targets and deadlines, were passed in the 1990s, but have since become rather complex and descriptive, due to an increasing emphasis on process rather than on setting measurable targets.

With the 2004 enlargement of the EU involving 10 new Member States, and a general slow-down in economic growth coupled with high unemployment, European environmental policies have come under increasing attack from many sides. The Sustainable Development Strategy launched in 2001 in Gothenburg by heads of states and governments recently became marginalised under the Economic Growth Strategy established in Lisbon in 2000. The post-enlargement Commission - which took office at the end of 2004 - has been reluctant to make proposals for new environmental laws, emphasising the need to focus on increasing the competitiveness of Europe's economy and simplifying existing EU legislation. This one-sided and imbalanced agenda has already faced criticism from heads of states and governments, who instead placed the economic dimension together with the social and environmental dimensions, in the context of sustainable development, and highlighted the important contribution of environment policy to growth and jobs (*EU Presidency 2005*).

While this EU orientation discourse goes on, the Commission itself notes "*the worsening of unsustainable trends, notably, the growing pressure on natural resources, biodiversity and the climate...*" and that environmental policy integration "*has been limited so far*" (*CEC 2005a and 2005b*). This is a diplomatic way of saying that Europe is not meeting one of its core objectives and econom-

ic and fiscal policies continue to pave the way for the relentless transfer of environmental damage and health risk costs from the individual business to the general public.

It is clear that with currently 25 Member States, any EU decision making process takes more time and the outcome might be less predictable. Any attempt to simplify existing rules might result in even more complex requirements or deregulation following the lowest common denominator. In light of the growing environmental problems there is no time to become complacent and leave environmental issues on the back-burner. A lot has to be done - and can be done. Firstly, the market must be made to work for the environment. Today's main economic drivers are labour costs, while costs of natural resource use is marginal. A substantial shift of taxes on labour to natural resource use is necessary. Environmentally harmful subsidies must be abolished. Such measures have the potential to achieve an absolute decoupling of environmental damage from economic growth and at the same time provide higher employment. This can be encouraged by EU institutions, but the real action has to happen at national level. Secondly, the EU must close the biggest gaps in environmental protection, like stock-taking and controlling of chemical risks, setting soil protection standards and putting in place a marine protection strategy – all of which are already in progress and could be delivered in forthcoming years. Finally, existing EU law must be fully applied and respected.

9

Many important environmental laws from the last 10-15 years are starting to 'bite': deadlines are approaching, many objectives have still not been achieved and measures have been put in place too late or not at all. Laws are often not properly understood, badly transposed into national law and the administration ill-equipped to deliver. National authorities and courts are often unable to interpret EU law and fail to provide citizens and their organisations - and thus the environment for which they are a voice - with their proper rights. Nothing could be more devastating for Europe's acceptability among, and accountability towards, its citizens than failing to apply and enforce EU environmental law. Any environmental law which is not respected by a majority of Member States over some time risks becoming obsolete and is a wasted opportunity.

Quite rightly, the Commission President has identified the correct application of EU laws on the ground as a top priority for meeting his aims of achieving long-term prosperity, sustaining solidarity and social justice, and achieving tangible practical benefits in relation to the quality of life of EU citizens (*CEC 2005c*).

This book presents an overview and assessment of Europe's environmental policies and legislation, aiming to make them more accessible for environmental citizens' organisations (ECOs) and regional initiatives, environmental and other affected authorities, and decision-makers at EU and national levels.

It focuses on environmental legislation and policies over the last 15 years and sets a framework for appreciating and improving the understanding of the manifold interrelations and linkages between the many different laws. Its aim is to encourage the integration of different environmental policies and the widening of narrow sectoral views. It helps with the identification and use of synergies of the different policies, in order to increase their effectiveness with a view to achieving better application and enforcement of existing laws.

Therefore, a conceptual framework has been chosen to allow a logical access to, and linkages with, the different laws. Thirty years of environmental policy history is presented, following the progression and development of the 6 European Environmental Action Programmes. Then the main environmental objectives for nature, air, waste and water are explained and assessed. This is followed by EU laws providing instruments and tools to achieve environmental objectives. These horizontal laws are further subdivided into laws setting rules for industrial production, administrative planning and management and laws setting rules for products. All chapters offer an explanation of the main elements of the legislation, provide a critical assessment and conclude with suggestions for action.

I hope that this book will encourage better application and use of the many and important environmental laws which exist in today's EU.

The selection of legislation covered and political priorities closely follow the EEB's work agenda and 30 years of experience of working on environmental policies. Some laws are of course better designed or more ambitious than others in protecting the environment, but overall they present a unique opportunity to make further progress. It all depends with what energy, accuracy and intelligence they are transposed and enforced on the ground. Only when the positive elements of these laws are used and defended do they have a chance of surviving.

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