

EU Environmental Law (content of education)

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The principles

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Article 174 (2) EC provides that: "The Community's environmental policy aims at a high level of protection, taking into account the diversity of situations in the different regions of the Community. It is based on the principles of precaution and preventive action, corrective action by according priority to the source of the threats to the environment and as well as the "polluter-pays principle".

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The precautionary principle can be invoked when there is a need for urgent action in the event of a possible danger to the protection of the environment, particularly when the scientific data do not allow a complete risk assessment. [\[15\] Commission Communication of 2 February 2000 on](#) In fact, although it is mentioned only in the context of environmental policy, this principle is mainly implemented in case of danger to public health.

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The “polluter-pays principle” is applied in many environmental texts. The Framework Waste Directive provides that the cost of disposing of waste must be borne by the holder who has the waste handled by a waste collector or by an undertaking and / or by previous holders or the producer of the waste-generating product. However, the best example is the Environmental Liability Directive mentioned below.

[28](#)

Finally, under Article 6 EC, the requirements of environmental policy must be integrated into the definition and implementation of Community policies and activities.

The instruments

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Article 175 (3) provides for the adoption of “general action programs setting out the priority objectives to be achieved” by the Council and the Parliament under the co-decision procedure and after consulting the Economic and Social Committee and the Committee of the Regions. Those are of purely political value and announce future measures. The sixth action program covers the period 2002-2011. [\[16\] Decision No 1600/2002 / EC of the European Parliament and of ...](#) It targets four priority areas: the fight against climate change, the protection of nature and halting the loss of biodiversity, improving environmental quality and the reducing environmental impacts on health and, finally reversing the unsustainable management of natural resources and waste.

[30](#)

Leaving aside non-binding acts, EU environmental law is essentially based on directives. This has the advantage that Member States are allowed to integrate measures aimed at achieving the objectives set out in these Directives in the pre-existing national law. However problems arise, when they are not properly transposed. Regulations are more rare. They are often adopted to transpose into Community law international agreements concluded by the Community and / or the Member States.

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Finally, although Article 249 EC does not mention it, certain areas of environmental law may be covered by agreements between economic operators [17] See Commission Communication on Agreements For instance, Directive 2004/12/EC on packaging waste provides that recycling targets can be achieved through environmental agreements [18] Directive 2004/12/EC of the European Parliament and of the Council The most important of these agreements is the one concluded by the federations of the automobile industry with regard to the reduction of CO² emissions. However, it has proved insufficient and in early 2007, the Commission expressed the intention to legislate, triggering a lobbying campaign under the fierce pressure of the car industry.

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Despite the programs, environmental law is characterized by its lack of homogeneity. Acts have been for long adopted and modified, as problems kept emerging. In order to remedy this situation, the sixth framework program provided for the adoption of strategies in various fields which led to the adoption of recast texts.

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In order to avoid establishing a long catalog of heterogeneous acts, the most important ones are listed below according to the type of regulation that they introduce.

Typology of European Union environmental actions

Harmonization, minimum requirements and mutual recognition

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Regulation (EC) No 1829/2003 harmonized the labeling and traceability requirements for gmo products. The presence of gmo in food products, including animal feed, should be indicated in the labeling. Each gmo may be identified by a single code [19] Regulation (EC) No 1829/2003 of the European Parliament and ...

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The *reach* regulation includes a chapter regarding the restrictions on the use or placing on the market of chemical substances. It lays down the prohibition of the use of certain substances (sometimes beyond certain concentrations) in products or categories of products identified in the Annex [20] Regulation (EC) No 1907/2006 of Parliament European and

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Regulation (EC) No 2037/2000 which implements the Montreal Protocol prohibits the use of ozone-depleting substances, in particular chlorofluorocarbons (CFCs) found in aerosol cans and refrigerators, and methyl bromide, used as a pesticide. The use of hydrochlorofluorocarbons (HCFCs), which had initially replaced CFCs, has also been gradually restricted. [21] Regulation (EC) No 2037/2000 of the European Parliament and ...

Autorisations or licences

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There are currently many texts regarding waste, but the basic one is Directive 2006/12/EC of the European Parliament and of the Council on waste [22] Directive 2006/12/EC of the European Parliament and of the Council ... It constitutes a codification of Directive 75/442 / EEC, which has been amended several times. It lays

down the principle of prohibiting waste dumping and provides that undertakings or establishments that process, store or deposit waste must obtain a permit

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It should be noted that the very notion of waste, defined in the Directive as “any object which the holder discards or has the obligation to discard”, gave rise to a serious dispute, which led the Commission in adopting an interpretative communication on the concept of waste and by-products [23] COM (2007) 59 final.

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A proposal for a Framework Waste Directive, which would replace the current Framework Directive as well as the hazardous Waste Directive and the Directive on Waste Oils, is currently being discussed in Parliament and Council [24] Proposal Directive of the European Parliament and of ...

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The *reach* regulation provides that certain substances of particular concern will be prohibited from production, placing on the market or use, subject to obtaining an authorization issued by the Commission. It is not a general authorization of this substance, but an authorization granted to a specific user for an identified use and for a limited time.

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GMOs are subject to a harmonized authorization procedure managed by the European Food Safety Agency [25] Regulation (EC) No 1829/2003 of the European Parliament and Approval is valid for a period of ten years and shall be renewable.

Directive 85/337/EEC grants authorization to certain projects, having an impact on the environment, under the condition that the competent national authority makes an evaluation [26] Council Directive 85/337 / EEC of 27 June 1985 concerning ... The Directive on Strategic Environmental Impact Assessment extends this obligation to plans and programs [27] Directive 2001/42 / EC of the European Parliament and of the Council

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The European network of protected natural areas is made up of “sites of community importance” [28] Council Directive 92/43 / EEC of 21 May 1992 concerning ...Member States must adopt management measures for these sites and activities, that may affect a protected area are subject to authorization. The grant of the authorization depends on the prior completion of an impact environmental assessment. If the assessment is negative, the authorization must be rejected. This is a fundamental difference compared to the impact assessments conducted under Directive 85/337, which does not condition the issue of the permit.

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Directive 2008/1 / EC on Integrated Pollution Prevention and Control provides that industrial and agricultural activities with high pollution potential subject to authorization [29] Directive 2008/1 / EC of the European Parliament and of the Council Authorization can be granted only when certain conditions are fulfilled, such as the use of all measures to combat pollution and in particular through the application of best available techniques.

Environmental Liability Directive

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The Environmental Liability Directive only covers damage to animals, plants, natural habitats and water or soil resources and the imminent threat of such damage [57] Directive 2004/35 / EC European Parliament and the Council It foresees two distinct liability regimes. On the one hand a strict liability regime applying to the hazardous occupational activities, listed in Annex III, and on the other hand a second regime of dependent liability on an act of fault or negligence applying to all other professional activities.

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In contrast to the original Commission’s proposal, the public authority is not obliged to prevent or repair the damage. The operator is responsible for this task and must

bear the cost. The law that will transpose this directive is currently being adopted in France, while the deadline for transposition was set for 30 April 2007.