

Recent developments of EU environmental law

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Riga
7 September, 2017

What is European environmental law?

- ▶ EU environmental law covers EU legislation which contributes to the pursuit of the objectives, set out in Article 191 of TFEU:
 - ✓ preserving, protecting and improving the quality of the environment,
 - ✓ protecting human health,
 - ✓ prudent and rational utilisation of natural resources,
 - ✓ promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

What is European environmental law?

Proposal for a Directive of the European Parliament and of the Council on access to justice in environmental matters

Article 2 Definitions

g) "environmental law" means Community legislation and legislation adopted to implement Community legislation which have as their objective the protection or the improvement of the environment, including human health and the protection or the rational use of natural resources, in areas such as:

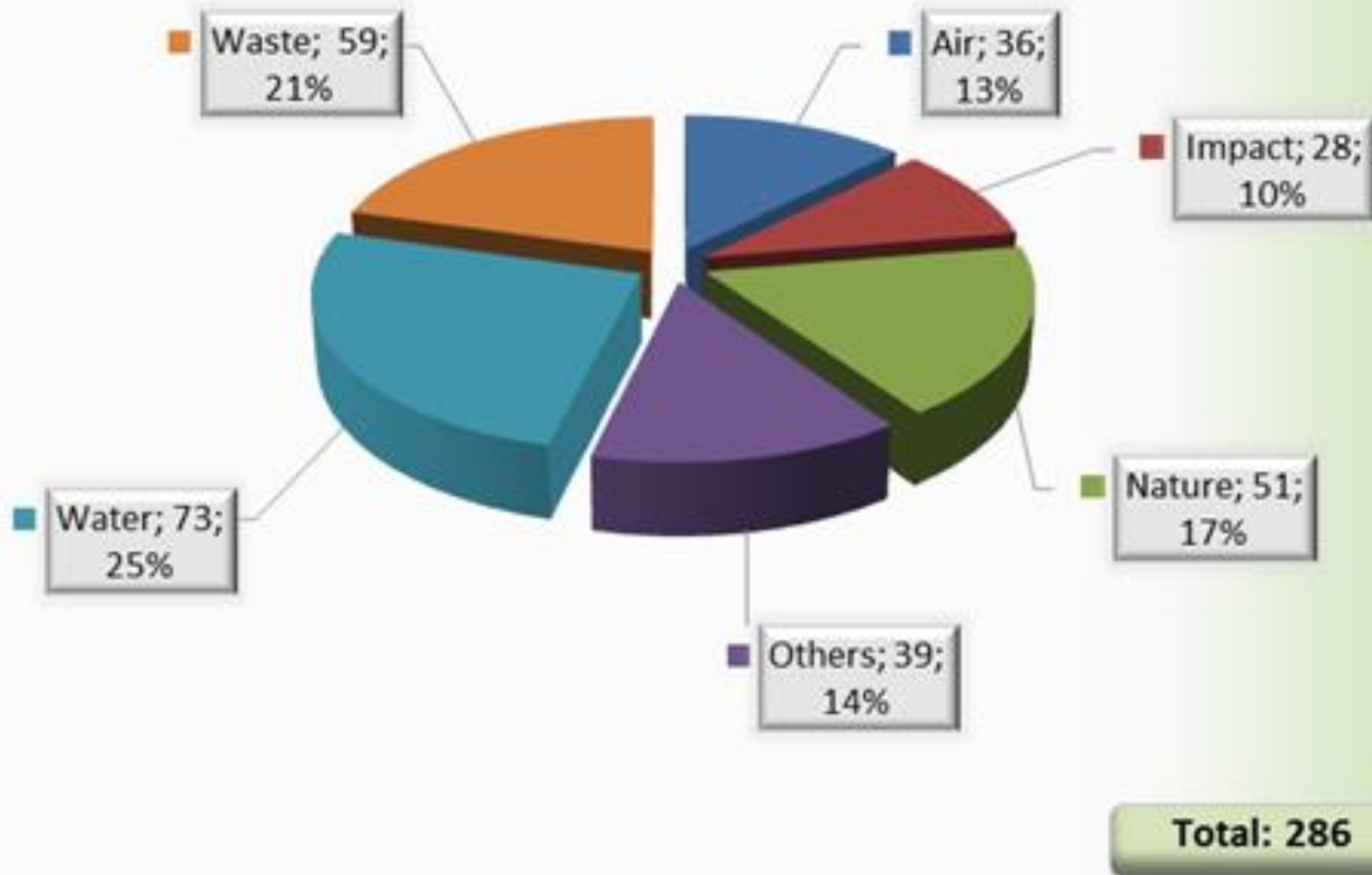
- ▶ i) water protection
- ▶ ii) noise protection
- ▶ iii) soil protection
- ▶ iv) atmospheric pollution
- ▶ v) town and country planning and land use
- ▶ vi) nature conservation and biological diversity
- ▶ vii) waste management
- ▶ viii) chemicals including biocides and pesticides
- ▶ ix) biotechnology
- ▶ x) other emissions, discharges and releases in the environment.
- ▶ xi) environmental impact assessment
- ▶ xii) access to environmental information and public participation in decision-making.

The 7th Environment Action Programme

Priority objectives:

- ▶ (a) to protect, conserve and enhance the Union's natural capital;
- ▶ (b) to turn the Union into a resource-efficient, green and competitive low-carbon economy;
- ▶ (c) to safeguard the Union's citizens from environment-related pressures and risks to health and well-being;
- ▶ (d) to maximise the benefits of Union environment legislation by improving implementation;
- ▶ (e) to improve the knowledge and evidence base for Union environment policy;
- ▶ (f) to secure investment for environment and climate policy and address environmental externalities;
- ▶ (g) to improve environmental integration and policy coherence;
- ▶ (h) to enhance the sustainability of the Union's cities;
- ▶ (i) to increase the Union's effectiveness in addressing international environmental and climate-related challenges.

Infringements by sector in 2015



Evaluation of the EU environmental legislation - Nature directives

- ▶ On 16/12/2016 the Commission has published the 'Fitness Check' evaluation of the EU Birds and Habitats Directives (the 'Nature Directives') and concluded that, within the framework of broader EU biodiversity policy, they remain highly relevant and are fit for purpose.
- ▶ However, full achievement of the objectives of the Nature Directives will depend on substantial improvement in their implementation in close partnership with local authorities and different stakeholders in the Member States to deliver practical results on the ground for nature, people and the economy in the EU.

Evaluation of the EU environmental legislation - ELD

- ▶ The Multi-Annual Work Programme (MAWP) 2017 – 2020 '**Making the Environmental Liability Directive more fit for purpose**' has been developed in response to the REFIT evaluation which showed clear knowledge gaps and implementation deficiencies that need to be tackled in a more structured and systematic way.

Evaluation of the EU environmental legislation - Environmental Noise Directive

- ▶ The Directive remains highly **relevant** for EU policy-making as **noise pollution still constitutes a major environmental health problem** in Europe.
- ▶ As a result of delays in implementation, the Directive has not yet delivered all its potential EU added value.

Review of the Environmental Impact Assessment (EIA) Directive

The main amendments are:

- ▶ The new **definition of EIA**.
- ▶ Member States now have a mandate to **simplify their different environmental assessment procedures**.
- ▶ **Timeframes** are introduced for the different stages of environmental assessments.
- ▶ The **screening procedure** is simplified.
- ▶ **EIA reports** are to be made more understandable for the public.
- ▶ The **quality and the content of the reports** will be improved. Competent authorities will also need to prove their objectivity to avoid **conflicts of interest**.
- ▶ The grounds for **development consent decisions** must be clear and more transparent for the public.
- ▶ For projects with significant adverse effects on the environment - **monitoring**.

Communication EU law: Better results through better application

- ▶ Working with Member States in enforcing EU law
- ▶ A more strategic approach to the Commission's enforcement actions
- ▶ Bringing the benefits of the EU law to citizens: advice and redress

Commission Notice on Access to Justice in Environmental Matters

- ▶ The Notice is based on provisions of EU law, including the Charter of Fundamental Rights, and the case-law of the CJEU.
- ▶ It addresses how the public can challenge decisions, acts or omissions of public authorities before a court of law or similar body, covering:
 - ▶ legal standing,
 - ▶ scope of judicial review
 - ▶ effective remedies
 - ▶ costs
 - ▶ time limits, timeliness and the efficiency of procedures
 - ▶ practical information

However...

- ▶ The Compliance Committee has confirmed that **the EU is breaching the access to justice provisions** of the Aarhus Convention by preventing individuals and NGOs bringing cases in EU courts. The Committee also found that the EU's internal review procedure does not compensate for the lack of court access.

(Findings and recommendations of the Aarhus Convention Compliance Committee concerning compliance by the European Union with the Aarhus Convention (ACCC/C/2008/32(EU)) - 17 March 2017)

Useful information

- ▶ **Environmental Implementation Review** - a tool to improve implementation of EU environmental law and policy.

http://ec.europa.eu/environment/eir/index_en.htm

- ▶ **Leading judgements on environment**

- ▶ Environmental Impact Assessment (EIA) of Projects - Rulings of the Court of Justice 2013
- ▶ Nature and Biodiversity Cases - Rulings of the European Court of Justice 2006

http://ec.europa.eu/environment/legal/law/cases_judgements.htm

Useful information

- ▶ **EU Environmental Law Training Package**

http://ec.europa.eu/environment/legal/law/training_package.htm