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Σχόλια

Workshop on principles on EU environmental law

a)The precautionary principle. This principle is detailed in article 191 of the Treaty on the functioning of the European Union. In practice the scope of this principle is far wider and also covers consumer policy, European legislation concerning food and human, animal and plant health.(Communication from the Commission of 2 February 2000 on the precautionary principle-COM (2000) 1 FINAL-Not published in the Official journal.

SUMMARY

The precautionary principle is detailed in Article 191 of the treaty on the Functioning of the European Union(EU).It aims at

ensuring a higher level of environmental protection through preventative decision-taking in the case of risk. However, in practice, the scope of this principle is far wider and also covers consumer policy, European legislation concerning food and human, animal and plant health. This Communication establishes common guidelines on the application of the precautionary principle. The definition of the principle shall also have a positive impact at international level, so as to ensure an appropriate level of environmental and health protection in international negotiations. It has been recognized by various international agreements, notably in the Sanitary and Phytosanitary Agreement (SPA) concluded in the framework of the World Trade Organization (WTO).

Recourse to the precautionary principle

According to the Commission the precautionary principle may be invoked when a phenomenon, product or process may have a dangerous effect, identified by a scientific and objective evaluation, if this evaluation does not allow the risk to be determined with sufficient certainty. Recourse to the principle belongs in the general framework of risk analysis (which, besides risk evaluation, includes risk management and risk communication), and more particularly in the context of risk management which corresponds to the decision-making-phase. The Commission stresses that the precautionary principle may be invoked in the event of a potential risk and that it can never justify arbitrary decisions. The precautionary principle may only be invoked when the three preliminary conditions are met:

Identification of potentially adverse effects, evaluation of the scientific data available, the extent of scientific uncertainty.

Precautionary measures

The authorities responsible for risk management may decide to act, depending on the level of risk. If the risk is high, several categories of measures can be adopted. This may involve proportionate legal acts, financing of research programs, public information measures, etc.

Common guidelines

The precautionary principle shall be informed by three principles: a) the fullest possible scientific evaluation, the determination, as far as possible, of the degree of scientific uncertainty, b) a risk evaluation and an evaluation of the potential consequences of in action, c) the participation of all interested parties in the study of precautionary measures, once the results of the scientific evaluation and/or the risk evaluation are available. In addition, the general principles of risk management remain applicable when the precautionary principle is invoked. These are the following five principles:

a) Proportionality between the measures taken and the chosen level of protection, b) non-discrimination in application of the measures, c) consistency of the measures with similar measures already taken in similar situations or using similar approaches, d) examination of the benefits and costs of action or lack of action, e) review of the measures in the light of scientific developments.

The burden of proof

In most cases, European consumers and the associations which represent them must demonstrate the danger associated with a procedure or a product placed on the market, except for medicines, pesticides and additives. However, in the case of an action being taken under the precautionary principle, the producer, manufacturer or importer may be required to prove the absence of danger. This possibly shall be examined on a case-by-case basis. It cannot be extended generally to all products and procedures placed on the market (last updated 12-4-2011).

b) Waste management. General framework.

1) Directive on waste, 2) Waste management statistics, 3) Landfill of waste, 4) Waste incineration, 5) Shipments of waste, 6) Strategy on the prevention and recycling of waste, 7) The management of bio-waste in the European Union.

C) Hazardous waste.

1) Basel Convention

2) Controlled management of hazardous waste

D) Waste from consumer goods.

1)Packaging and packaging waste,2)Disposal of polychlorinated biphenyls(PCBs)and polychlorinated terphenyls(PCTs)3)Disposal of spent batteries and accumulators,4)End-Of-life vehicles,5) The reusing,recycling and recovering of motor vehicles,6)Waste electrical and electronic equipment.

E)Waste from specific activities

1)Industrial emissions,2)Integrated pollution prevention and control(until 2013),3)Management of waste from extractive industries,4)A strategy for better ship dismantling practices,5)Removal and disposal of disused offshore oil and gas installations,6) Use of sewage sludge in agriculture,7)Port facilities for ship-generated waste and cargo residues.

F)Titanium dioxide

1)Disposal of titanium dioxide industrial waste,2)Surveillance and monitoring of titanium dioxide waste,3)Reduction of pollution caused by waste from the titanium dioxide industry.

G)Radioactive waste and substances

1)Shipments of radioactive waste:supervision and control,2) Shipments of radioactive substances,3)Situation in 1999 and prospects for radioactive waste management,4)Management of spent fuel and radioactive waste.

H)Directive on waste

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives.

Summary

The Directive establishes a legal framework for the treatment of waste within the Community.It aims at protecting the environment and human health through the prevention of the harmful effects of waste generation and waste management.It applies to waste other than:

1)Gaseous effluents,2)radioactive elements,3)decommissioned explosives,4)faecal matter,5)waste waters,6)animal by-products,7)carcasses of animals that have died other than by being slaughtered,8)elements resulting from mineral resources.

Waste hierarchy

In order to better protect the environment, the Member States should take measures for the treatment of their waste in line with the following hierarchy which is listed in order of priority:

1) prevention, 2) preparing for reuse, 3) recycling, 4) other recovery notably energy recovery and disposal.

Member States can implement legislative measures with a view to reinforcing this waste treatment hierarchy. However, they should ensure that waste management does not endanger human health and is not harmful to the environment.

Waste management

Any producer or holder of waste must carry out their treatment themselves or else must have treatment carried out by a broker establishment or undertaking. Member States may cooperate, if necessary, to establish a network of waste disposal facilities. This network must allow for the independence of the European Union with regard to the treatment of waste. Dangerous waste must be stored and treated in conditions that ensure the protection of health and the environment. They must not, in any case, be mixed with other dangerous waste and must be packaged or labelled in line with international or Community regulations.

Permits and registrations

Any establishment or undertaking intending to carry out waste treatment must obtain a permit from the competent authorities who determine notably the quantity and type of treated waste, the method used as well as monitoring and control operations. Any incineration or co-incineration method aimed at energy recovery must only be carried out if this recovery takes place with a high level of energy efficiency.

Plans and programmes

The competent authorities must establish one or more management plans to cover the whole territory of the Member State concerned. These plans contain, notably, the type, quantity and source of waste, existing collection systems and location criteria. Prevention programmes must also be drawn up, with a view to breaking the link between economic growth and the environmental impacts associated with the generation of waste. These prog-

rammes are to be communicated by Member States to the European Commission.

Context

The generation of waste is increasing within the European Union. It has therefore become of prime importance to specify basic notions such as recovery and disposal, so as to better organise waste management activities. It is also essential to reinforce measures to be taken with regard to prevention as well the reduction of the impacts of waste generation and waste management on the environment. Finally, the recovery of waste should be encouraged so as to preserve natural resources. This Directive repeals directives 75/439/EEC, 91/689/EEC and 2006/12/EC.

Key terms used in the Act

Waste: any substance or object which the holder discards or intends or is required to discard.

Waste management: the collection, transport, recovery and disposal of waste, including the supervision of such operations and the after-care of disposal sites, and including actions taken as a dealer or broker.

Prevention: measures taken before a substance, material or product has become waste.

Recovery: any operation the principal result of which is waste serving a useful purpose.

Recycling: any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes.

1) Environment

Water, food, oxygen, energy and much more the environment meets so many of our vital needs. We owe it to ourselves to protect our environment and to use it carefully, our health and our very survival are at stake. Since the early 1970s Europe has been firmly committed to the environment: protection of air and water quality, conservation of resources and protection of biodiversity, waste management and control of activities which have an adverse environmental impact are just some of the areas in which the EU is active, at both Member State level and internationally. Whether through corrective measures relating to specific

environmental problems or cross-cutting measures integrated within other policy areas, European environment policy, based on Article 174 of the Treaty establishing the European Community, aims to ensure the sustainable development of the European model of society.

Tackling climate change: General framework policy, Kyoto protocol, Reduction of green-house emissions, Energy, Transport, Enterprises, Agriculture, Innovation.

General provisions: Action programmes, Principles, Instruments, Application and control Sustainable development.

Waste management: Prevention and recycling of waste, Specific waste, Dangerous waste, Radioactive waste.

Air pollution: Air quality, Atmospheric pollutants, Transport, Industry.

Water protection and management: Water usage, Marine pollution, Inland waters, Discharge of substances.

Protection of nature and biodiversity: Biodiversity, Flora and fauna, Forests, Genetically modified organisms.

Soil protection: Management of specific soil types, Discharge of substances, Activities leading to specific risk.

Civil protection: Civil protection measures: their mechanism and financing, Environmental accidents.

Noise pollution: Noise management, Specific sources of noise pollution.

Environment: cooperation with third countries.

Enlargement, Cooperation with third countries, International conventions.

J) Environmental liability-Directive

The first EC legislation whose main objectives include the application of the "polluter pays" principle, this Directive establishes a common framework for liability with a view to preventing and remedying damage to animals, plants, natural habitats and water resources, and damage affecting the land. The liability scheme applies to certain specified occupational activities and to other activities in cases where the operator is at fault or negligent. The public authorities are also responsible for ensuring that the operators responsible take or finance the necessary preventive or

remedial themselves.(ACT 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage.

Summary

The Directive establishes a framework for environmental liability based on the “polluter pays” principle, with a view to preventing and remedying environmental damage.

Scope and liability scheme

Under the terms of the Directive, environmental damage is defined as: 1) direct or indirect damage to the aquatic environment covered by Community water management legislation, 2) direct or indirect damage to species and natural habitats protected at Community level by the 1979 “Birds” Directive or by the 1992 “Habitats” Directive, 3) direct or indirect contamination of the land which creates a significant risk to human health.

The principle of liability applies to environmental damage and imminent threat of damage resulting from occupational activities, where it is possible to establish a causal link between the damage and the activity in question. The directive therefore distinguishes between two complementary situations, each one governed by a different liability scheme: occupational activities specifically mentioned in the Directive and other occupational activities. The first liability scheme applies to the dangerous or potentially dangerous occupational activities listed in Annex III to the Directive. These are mainly agricultural or industrial activities requiring a licence under the Directive on integrated pollution prevention and control, activities which discharge heavy metals into water or the air, installations producing dangerous chemical substances, waste management activities (including landfills and incinerators) and activities concerning genetically modified organisms and micro-organisms. Under this first scheme, the operator may be held responsible even if he is not at fault. The second liability scheme applies to all occupational activities other than those listed in Annex III to the directive, but only where there is damage, or imminent threat of damage, to species or natural habitats protected by Community legislation. In this

case, the operator or will be held liable only if he is at fault or negligent. The directive provides for a certain number of exemptions from environmental liability. The liability scheme does not apply in the case of damage or imminent damage resulting from armed conflict, natural disaster, activities covered by the Treaty establishing the European Atomic Energy Community, national defence or international security activities or activities covered by the international conventions listed in Annex IV.

Preventing and remedying environmental damage

Where there is an imminent threat of environmental damage, the competent authority designated by each Member State will require the operator (potential polluter) to take the necessary preventive measures, or will take such measures itself and recover the costs incurred at the later day.

Where environmental damage has occurred, the competent authority will require the operator concerned to take the necessary restorative measures (determined on the basis of the rules and principles set out in Annex II to the directive), or will take such measures itself and recover the costs incurred at the later date.

Environmental damage may be remedied in different ways depending on the type of damage:

a) for damage affecting the land, the Directive requires that the land concerned be decontaminated until there is no longer any serious risk of negative impact on human health,
b) for damage affecting water or protected species and natural habitats, the Directive is aimed at restoring the environment to how it was before it was damaged. For this purpose, the damaged natural resources or impaired services must be restored or replaced by identical, similar or equivalent natural resources or services either at the site of the incident or, if necessary, at an alternative site. In Annex II to the Directive there is further information on the method that has to be taken into account in order to remedy environmental damage.

Costs of preventing and remedying damage

If the competent authority has carried out preventive and remedial actions itself, the authority may recover the costs it has bor-

ne from the operator responsible for the damage or imminent threat of damage. The same principle applies to environmental assessments carried out to determine the extent of damage and the action to be taken to repair it. The competent authority must initiate cost recovery proceeding within five years of the date on which the remediation and repair measures have been completed or the date on which the liable operator, or third party, has been identified, whichever is the later. If several operators are jointly responsible for damage, they must bear the costs of repair either jointly and severally or on a proportional basis. The Directive does not oblige operators to take financial security, such as in insurance, to cover their potential insolvency. However, Member States are required to encourage operators to make use of such mechanisms and the development of such services.

Request for action

Natural or legal persons who may be adversely affected by environmental damage and environment protection organizations may, subject to certain conditions, ask the competent authorities to act when faced with damage. Persons and organizations requesting action may bring legal action before a court or an ad hoc body for review of the lawfulness of the decisions and actions of the competent authority, or of its failure to act.

Cooperation between Member States

Where damage or threat of damage may affect more than one Member State, the Member States concerned must cooperate on the preventive or remedial action to be taken.

Reports

Member states must report to the Commission on the application of the Directive by 30 April 2013 at the latest. The Commission will present a report to the Parliament and the Council based on the national reports together with appropriate proposals, if necessary, by 30 April 2014 at the latest. Furthermore, the Commission must publish, by 30 April 2010, a report on the effectiveness of the terms of actual remediation of environmental damage, on availability at reasonable costs and on the terms of

insurance and other types of financial security for the activities covered by Annex III.

Background

The principle according to which the polluter pays when environmental damage occurs (the “polluter pays” principle) is already set out in the Treaty establishing the European Community. As it helps to deter breaches of environmental standards, it contributes to the achievement of objectives and the application of Community policy in this area.

K) Proportionality principle

Similarly to the principle of subsidiarity, the principle of proportionality regulates the exercise of powers by the European Union. It seeks to set actions taken by the institutions of the Union within specified bounds. Under this rule, the involvement of the institutions must be limited to what is necessary to achieve the objectives of the Treaties. In other words, the content and form of the action must be with the aim pursued. The principle of proportionality is laid down in Article 5 of the Treaty on European Union. The criteria for applying it is set out in the Protocol (No 2) on the application of the principle of subsidiarity and proportionality annexed to the Treaties.

L) Food and feed safety

This Regulation strengthens the rules applicable to the safety of food and feed circulating in the internal market. It establishes a framework for controlling and monitoring the production, prevention and management of risks. It also creates the European Food Safety Authority (EFSA), which is the reference point for the scientific control and evaluation of food and feed.

ACT

Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

Summary

This regulation ensures the quality of foodstuffs intended for human consumption and animal feed. It guarantees the free cir

ulation of safe food and feed in the internal market. In addition the European Union's (EU) food legislation protects consumers against fraudulent or deceptive commercial practices. This legislation also aims to protect the health and wellbeing of animals, plant health and the environment.

Safety standards

No food stuff dangerous to health and/or unfit for consumption may be placed on the market. To determine whether a food-stuff is dangerous, the following are considered:

1) the normal conditions of use, 2) the information provided to the consumer, 3) the probable immediate or delayed effect on health, 4) the cumulative toxic effects, 5) the specific sensitivity of consumers.

Where any food which is unsafe is part of a batch, lot or consignment, it is assumed that the whole batch, lot or consignment is unsafe. In addition, animal feed deemed to be unsafe cannot be placed on the market or feed to any food-producing animals.

Responsibilities of operators

Operators must apply the food legislation at all stages of the food chain, from the production, processing, transport and distribution through to the supply of food. In addition, operators are responsible for ensuring the traceability of products at all stages of the production, processing and distribution, including with regard to substances incorporated into the foodstuffs. If an operator considers that a food or feed is harmful to human or animal health, they immediately initiate the procedures to withdraw the product from the market and inform the competent authorities. Where the product may have reached the consumer, the operator informs the consumers and recalls the products already supplied.

Food risk analysis

The health risk analysis is carried out in several phases: assessment, management and communication to the public. This process is carried out in an independent, objective and transparent manner. It is based on the available scientific evidence. Where the assessment identifies the presence of a risk, the Member

States and the Commission may apply the precautionary principle and adopt provisional and proportionate measures.

International market

The legislation applies to foodstuffs exported or re-exported in the EU before being placed on the market of a third country, except if the importing country decides otherwise. The EU contributes to the development of international technical standards for food and feed, as well as for animal health and plant protection.

European food safety authority (EFSA)

A European Food Safety Authority provides scientific advice and technical support in all areas impacting on food safety. It constitutes an independent source of information on all matters in this field and ensures that the general public is kept informed. Participation in EFSA is open to EU Member States and to other countries applying EU food safety law. EFSA is also responsible for: 1) coordinating risk assessments and identifying emerging risks, 2) providing scientific and technical advice to the Commission, including in connection with crisis management, 3) collecting and publishing scientific and technical data in areas relating to food safety, 4) establishing European networks of organizations operating in the field of food safety.

Rapid alert system

The rapid alert system (RAPEX) involves the Member States, the Commission and EFSA. It enables information exchange concerning: 1) measures aimed at restricting the placing in circulation or withdrawal of food or feed from the market, 2) actions taken with professional operators for controlling the use of food or feed, 3) the rejection of a batch or consignment of food or feed by an EU border post.

In the case of a food-related risk, the information disseminated within the rapid alert network must be made available to the general public.

Emergencies

Where food or feed, including those imported from a third country presents a serious and uncontrollable risk to human health, animal health or environment, the Commission puts in place

protective measures and: 1) suspends the placing on the market or use of products originating from the EU, 2) suspends imports of products originating from third countries. However, if the Commission does not act after having been informed of the existence of a risk, the Member State concerned may take protective measures. Within a period of 10 working days, the Commission must refer the matter to the Standing Committee on the Food Chain and Animal Health with a view to extending, amending or revoking the measures.

Crisis-management plan

In the case of a situation entailing direct or indirect risks to human health not provided for by the Regulation, the Commission, EFSA and the Member States may establish a general crisis-management plan. Similarly, in the case of a serious risk, which under the existing provisions, the Commission must immediately set up a crisis unit, in which the Authority participates by providing scientific and technical support. The crisis unit is responsible for collecting and evaluating all relevant information and identifying the options available for preventing, eliminating or reducing the risk to human health.

M) Food safety - from the farm to the fork - Safeguard clause

A number of Member States (Austria, France, Greece, Hungary, Germany and Luxembourg) have invoked a so-called "safeguard clause" (Art. 23 Dir. 2001/18/EC). According to this clause, Member States may provisionally restrict or prohibit the use and/or sale of the GM product on its territory. However, the Member State must have justifiable reasons to consider that the GMO in question poses a risk to human health or the environment.

N) Aarhus Convention

The United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters was adopted on 25 June 1998 in the Danish city of Aarhus at the Fourth Ministerial Conference as part of the "Environment for Europe" process. It entered into force on 30 October 2001 and in Greece on 13-12-2005, under the law 3422/2005. The Aarhus Convention establishes a number of

rights of the public (individuals and their associations with regard to the environment. The Parties to the Convention are required to make the necessary provisions so that public authorities (at national, regional or local level) will contribute to these rights to become effective. The Convention provides for:

- 1) The right of everyone to receive environmental information that is held by public authorities ("access to environmental information"). This can include information on the state of the environment, but also on policies or measures taken, or on the state of the human health and safety where this can be affected by the state of the environment. Applicants are entitled to obtain this information within one month of the request and without having to say why they require it. In addition public authorities are obliged, under the Convention, to actively disseminate environmental information in their possession.
- 2) The right to participate in environmental decision-making. Arrangements are to be made by public authorities to enable the public affected and environmental non-governmental organisations to comment on, for example, proposals for projects affecting the environment, or plans and programmes relating to the environment, these comments to be taken into due account in decision-making, and information to be provided on the final decisions and the reasons for it (public participation in environmental decision-making).

The right to review procedures to challenge public decisions that have been made without respecting the two aforementioned rights or environmental law in general (access to justice).

O) Deliberate release of genetically modified organisms (GMOs)

The protection of human health and the environment requires that due attention be given to controlling risks from the deliberate release into the environment of genetically modified organisms (GMOs). The European Union (EU) has consequently adopted a legislative framework on the deliberate release of GMOs into the environment and the placing of GMOs on the market in accordance with the precautionary principle. This framework aims to improve the efficiency and transparency of the authorisation procedures. It also contributes to the establishment of a

common methodology for risk assessment and safety mechanism. The new legislative framework introduces mandatory public consultation and GMO labeling.

ACT

Directive 2001/18/EC of the European Parliament and of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC.

Summary

The main aim of this Directive is to make the procedure for granting consent for the deliberate release and placing on the market of genetically modified organisms (GMOs) more efficient and more transparent, to limit such consent to a period of ten years (renewable) and to introduce compulsory monitoring after GMOs have been placed on the market. It also provides for a common methodology to assess case-by-case the risks for the environment associated with the release of GMOs (the principles applying to environmental risk assessment are set out in Annex II to the Directive) common objectives for the monitoring of GMOs after their deliberate release or placing on the market, and a mechanism allowing the release of the GMOs to be modified, suspended or terminated where new information becomes available on the risks of such release. Public consultation and GMO labeling are made compulsory under the new Directive. The system of exchange of information in notifications, set up under Directive 90/220/EEC, is maintained. The Commission is obliged to consult the competent scientific committees on any question which may affect human health and/or the environment. It may also consult ethical committees. The Directive requires registers to be established for the purpose of recording information on genetic modifications in GMOs and on the location of GMOs. Rules on the operation of these registers are laid down in Decision 2004/204/EC. Every three years the Commission must publish a summary of the measures taken in the Member States to implement the Directive, and a report on experience with GMOs placed on the market. This report should include a separate chapter on the socioeconomic advantages and

disadvantages of each type of GMO authorized to be placed on the market, taking due account of the interests of farmers and consumers (the first report was due to be published in 2003). An annual report on ethical issues will also be published. The Directive invited the Commission to present a proposal for implementing the Cartagena Protocol on biosafety, which led to the adoption of Regulation (EC) No 1831/2003 on transboundary movements of genetically modified organisms. Directive 90/269/EEC on the deliberate release into the environment of genetically modified organisms will be repealed by the present Directive from 17 October 2002.

P) Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004, on environmental liability with regard to the prevention and remedying of environmental damage. The purpose of this Directive is to establish a framework of environmental liability based on the "polluter-pays" principle, to prevent and remedy environmental damage.

Definitions:

- 1) Environmental damage means:
 - a) damage to protected species and natural habitats, which is any damage that has significant adverse effects on reaching or maintaining the favourable conservation status of such habitats or species,
 - b) water damage, which is any damage that significantly adversely affects the ecological, chemical and/or quantitative status and/or ecological potential, as defined in Directive 2000/60/EC, of the waters concerned, with the exception of adverse effects where Article 4(7) of that Directive applies,
 - 3) land damage, which is any land contamination that creates a significant risk of human health being adversely affected as a result of the direct or indirect introduction, in, on or under land, of substances, preparations, organisms or micro-organisms,
 - 4) damage means a measurable adverse change in a natural resource or measurable impairment of a natural resource service which may occur directly or indirectly,
 - 5) protected species and natural habitats means a) the species mentioned in Article 4(2) of Directive 79/409/EEC or listed in Annex I thereto or listed in Annexes II and VI to Directive 92/43/EEC, b) the habitat of species mentioned in Article 4(2) of Directive 79/409/EEC or listed in Annex I thereto

or listed in Annex II to Directive 92/43/EEC, and the natural habitats listed in Annex I to Directive 92/43/EEC and the breeding sites or resting places of the species listed in Annex VI to Directive 92/43/EEC, c) where a Member State so determines, any habitat or species, not listed in those Annexes which the Member State designates for equivalent purposes as those laid down in those two Directives, 6) conservation status means a) in respect of a natural habitat, the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within, as the case may be, the European territory of the Member States to which the Treaty applies or the territory of a Member State or the natural range of that habitat, b) in respect of a species, the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations within, as the case may be, the European territory of the Member States to which the Treaty applies or the territory of a Member State or the natural range of that species, 7) waters means all waters covered by Directive 2000/60/EC, 8) operator means any natural or legal, private or public person who operates or controls the occupational activity or, where this is provided for in national legislation, to whom decisive economic power over the technical function of such an activity has been delegated, including the holder of a permit or authorization for such an activity or the person registering or notifying such an activity, 9) emission means the release in the environment, as a result of human activities, of substances, preparations, organisms or micro-organisms, 10) occupational activity means any activity carried out in the course of an economic activity, a business or an undertaking, irrespectively of its private or public, profit or non-profit character, 11) imminent threat of damage means a sufficient likelihood that environmental damage will occur in the near future, 12) preventive measures means any measure taken in response to an event, act or omission that has created an imminent threat of environmental damage, with a view to preventing or minimizing that damage, 13) remedial

measures means any action, or combination of actions, including mitigating or interim measures to restore, rehabilitate or replace damaged natural resources and/or impaired services, or to provide an equivalent alternative to those resources or services as foreseen in Annex II, 14) natural resources means protected species and natural habitats, water and land, 15) services and natural resources services mean the functions performed by a natural resource for the benefit of another natural resource or the public, 16) baseline condition means the condition at the time of the damage of the natural resources and services that would have existed had the environmental damage not occurred, estimated on the basis of the best information available 17) recovery including natural recovery means, in the case of water, protected species and natural habitats the return of damaged natural resources and/or impaired services to baseline condition and in the case of land damage, the elimination of any significant risk of adversely affecting human health, 18) costs means costs which are justified by the need to ensure the proper and effective implementation of this Directive including the costs of assessing environmental damage, an imminent threat of such damage, alternatives for action as well as the administrative, legal, and enforcement costs, the costs of data collection and other general costs, monitoring and supervision costs.

Scope

This Directive shall apply to: a) environmental damage by any of the occupational activities listed in Annex III, and to any imminent threat of such damage occurring by reason of any of those activities, b) damage to protected species and natural habitats caused by any occupational activities other than those listed in Annex III, and to any imminent threat of such damage occurring by reason of any of those activities, whenever the operator has been at fault or negligent. This Directive shall apply without prejudice to more stringent Community legislation regulating the operation of any of the activities falling within the scope of this Directive and without prejudice to Community legislation containing rules on conflicts of jurisdiction. Without prejudice to relevant national legislation, this Directive shall not give private pa

rties a right of compensation as a consequence of environmental damage or of an imminent threat of such damage. Exceptions. This Directive shall not cover environmental damage or an imminent threat of such damage caused by: a) an act of armed conflict, hostilities, civil war or insurrection, b) natural phenomenon of exceptional, inevitable and irresistible character. This Directive shall not apply to environmental damage or to any imminent threat of such damage arising from an incident in respect of which liability or compensation falls within the scope of any of the International Conventions listed in ANNEX IV, including any future amendments thereof, which is in force in the Member State concerned. This Directive shall not apply to such nuclear risks or environmental damage or imminent threat of such damage as may be caused by the activities covered by the Treaty establishing the European Atomic Energy Community or caused by an incident or within the scope of any of the international instruments listed in Annex V, including any future amendments thereof. This Directive shall apply to environmental damage or to an imminent threat of such damage caused by pollution of a diffuse character, where it is possible to establish a causal link between the damage and the activities of individual operators. This Directive shall not apply to activities the main purpose of which is to serve national defence or international security nor to activities the sole purpose of which is to protect from natural disasters.

Workshop on Implementation of Community environmental legislation

In the past 30 years the EU has adopted a substantial and diverse range of environmental measures aimed at improving the quality of the environment for European citizens and providing them with a high quality of life. Our environment can only be well protected if Member States properly implement the legislation they signed up to. Implementation of Community environmental legislation is to be ensured in the first place by Member States. In addition to any implementation and enforcement

taken at national level, the European Commission fulfils the role of “Guardian of the treaty”: according to Article 211 first indent of the EC Treaty, the Commission is to ensure that the provisions of the Treaty and the measures taken by the institutions pursuant thereto are applied. In performing that function, the Commission may open infringement procedures. Close cooperation between national authorities and the European Commission contribute to a better implementation. The European Union Network for the Implementation and Enforcement of Environmental Law is a network for the Implementation and Enforcement of Environmental Law is a network of the environmental authorities of EU Member States, acceding and candidate countries, and Norway. It provides a framework for policy makers, environmental inspectors and enforcement officers to exchange ideas, and encourages the development of enforcement structures and best practices. Next to administrative authorities, judges in the Member States have to play a very important role since rights and obligations deriving from Community law are enforced on daily basis by national courts and tribunals. The European Union Forum of judges for the Environment contributes to promote the enforcement of national, European and international environmental law by contributing to a better Knowledge by judges of environmental law. To support the implementation and enforcement of Community environmental legislation the Community has adopted the Directive on environmental liability, the recommendation providing for minimum criteria for environmental inspections and the directive on the protection of the environment through criminal law. Whatever the means used, the overall objective of the Commission is to ensure that EU environmental legislation is implemented in full, correctly and on time. This is important because legislation which is not or incorrectly implemented will not achieve the desired effect on the environment.

Legal Enforcement

It is the Commission’s responsibility under Article 171 of the Treaty on European Union to ensure that both the Treaty on European Union and the Treaty on the Functioning of the Euro

pean Union as well as measures adopted pursuant to them are correctly applied. The Commission is therefore often referred to as the “Guardian of the Treaties”. With over 200 legal acts to monitor in 27 Member States, this is a major task in the environmental field. These legislative measures cover all environmental sectors, including water, air, nature, waste, noise, and chemicals, and others which deal with cross-cutting issues such as environmental impact assessment, access to environmental information, public participation in environmental decision making and liability for environmental damage. Over the last 40 years, the body of law which makes up the European environmental acquis has steadily expanded although in more recent years it has been reaching maturity. Nevertheless, this body of law is continually under assessment with significant developments having taken place in the chemical sector, but also in the waste, air and water sectors. The Commission has adopted a Communication on implementing European Community Environmental Law which sets out plans to improve the implementation of the European Union’s environmental protection laws. This fits within a wider Commission strategy for improving implementation of EU law announced in a previous Communication: A Europe of Results - Applying Community Law of 2007.

Environmental Protection

Priority of Greek Ministry in the field of environmental policy is the protection of biodiversity, the reduction of the effects of pollution to human health and the ecosystems, the sustainable use of natural resources taking into account the predictions on the effects of climate change and the adoption of a new growth model. In the field of environmental policy, the following issues are covered: Protection of nature, waste management and recycling, Protection of aquatic environment and the sustainable management of water resources, protection from air pollution, protection from the adverse effects of noise and radiation, environmental permitting installations and the protection from industrial pollution, risk management, environmental management of spatial environmental data, facilitation of public access to environmental information.

Inspectorate

The Special Secretariat for the Environment and Energy Inspectorate has been established under Law 3818/2010 “on the protection of forests and forest areas in Attica Prefecture”. The Secretariat is responsible for monitoring and coordinating the involved central, regional and local services in order to secure law enforcement in the areas of environment and energy and secure compliance with the relevant provisions. The Special Secretariat for the Environment and Energy Inspectorate consists of: The Hellenic Environmental Inspectorate. Its main responsibility is to undertake inspections in order to monitor compliance with the environmental permits for projects of the private and public sectors.

The Office for Demolition of Illegal Constructions, reporting to the General Inspector of the Hellenic Environmental Inspectorate. This Office, with the technical assistance of “Ktimatologio S.A.” (Hellenic Cadastre) is responsible for locating illegal constructions in specific areas in the Attica Prefecture (areas destroyed by the fires in August 2009, as defined under article 1-par, 1 of law 3818) and implementing the relevant demolition Acts for any illegal building. The Independent Coordination Office for the Implementation of Environmental Liability, established through Presidential Decree 148/2009 on environmental liability (harmonization to the Directive 2004/35/CE of the European Parliament and the EU Council on environmental liability with regard to the Prevention and remedying of environmental damage).

The Hellenic Energy Inspectorate. Its mission is to monitor the achievement of the objectives of the national energy policy on energy saving and energy efficiency and to implement articles 1 to 12 of law 3661/2008 on “Measures for the reduction of energy consumption in buildings” (harmonization to the Directive 2002/91/EC of the European Parliament and EU Council on the energy performance of buildings).

Workshop on

Directive 2008/98/EC of the Parliament and of the Council.

Subject matter and scope

The Directive lays down measures to protect the environment and human health by preventing or reducing the adverse impacts of generation and management of waste and by reducing overall impacts of resource use and improving the efficiency of such use.

Exclusions from the scope

1) The following shall be excluded from the scope of this Directive: a) gaseous effluents emitted into the atmosphere, b) land (in situ) including unexcavated contaminated soil and buildings permanently connected with land, c) uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in its natural state on the site from which it was excavated, d) radioactive waste, e) decommissioned explosives, f) faecal matter, if not covered by paragraph 2(b) straw and other natural non-hazardous agricultural or forestry material used in farming, forestry or the production of energy from such biomass through processes or methods which do not harm the environment or endanger human health.

2) The following shall be excluded from the scope of this Directive to the extent that they are covered by other Community legislation: a) waste waters, b) animal by-products including processed products covered by Regulation (EC) No 1774/2002, except those which are destined for incineration, landfilling or use in a biogas or composting plant, c) carcasses of animals that have died other than by being slaughtered, including animals killed to eradicate epizootic, and that are disposed of in accordance with Regulation (EC) No 1774/2002, d) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the

working of quarries covered by Directive 2006/21/EC of the European Parliament and the Council of 15 March 2006 on the management of waste from extractive industries.3) Without prejudice to obligation under other relevant community legislation, sediments relocated inside surface waters for the purpose of managing waters and waterways or of preventing floods or mitigating the effects of floods and droughts or land reclamation shall be excluded from the scope of this Directive if it is proved that the sediments are non-hazardous.

Definitions.

For the purpose of this Directive, the following definitions shall apply: 1) waste means any substance or object which the holder discards or intends or is required to discard, 2) hazardous waste means waste which displays one or more of the hazardous properties listed in Annex III, 3) waste oils means any mineral or synthetic lubrication or industrial oils which have become unfit for the use for which they were originally intended, such as used combustion engine oils and gearbox oils, lubricating oils, oils for turbines and hydraulic oils, 4) bio-wastes means biodegradable garden and park waste, food and kitchen waste from households, restaurants, caterers and retail premises and comparable waste from food processing plants, 5) waste producer means any one whose activities produce waste (original waste producer) or activities or anyone who carries out pre-processing, mixing or other operations resulting in the nature or composition of this waste, 6) waste holder means the waste producer or the natural or legal person who is in possession of the waste, 7) dealer means any undertaking which acts in the role of principal to purchase and subsequently sell waste, including such dealers who do not take physical possession of the waste, 8) broker means any undertaking arranging the recovery or disposal of waste on behalf of others, including such brokers who do not take physical possession of the waste, 9) waste management means the collection, transport, recovery and disposal of waste, including the supervision of such operations and the after-care of disposal sites, and including actions taken as a dealer or broker, 10) collection means the gathering of waste, including the preliminary storage

of waste for the purposes of transport to a waste treatment facility,11)separate collection means the collection where a waste stream is kept separately by type and nature so to facilitate a specific treatment,12)prevention means measures taken before a substance,material or product has become waste,that reduce :a)the quantity of waste,including through the re-use of products or the extension of the life span of products,b)the adverse impacts of the generated waste on the environment and human health,or c)the content of harmful substances in materials and products13)re-use means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived,14)treatment means recovery or disposal operations,including preparation prior to recovery or disposal,15)recovery means any operation the result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function or waste being prepared to fulfil that function, in the plant or in the wider economy.Annex II sets out a non-exhaustive list of recovery operations,16)prepare for re-use means checking,cleaning or repairing recovery operations,by which products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing,17)recycling means any recovery operation by which waste materials are reprocessed into products,materials or substances whether for the original or other purposes.It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations,18)regeneration of waste oils means any recycling operation whereby base oils can be produced by refining waste oils,in particular by removing the contaminants,the oxidation products and the additives contained in such oils,19)disposal means any operation which is not recovery even where the operation has a secondary consequence the reclamation of substances or energy.Annex I sets out a non-exhaustive list of disposal operations,20)best available techniques means a best available techniques as defined in Article 2(11)of Directive 96/61/EC.

In accordance to the “polluter pays” principal Member States shall take the necessary measures to ensure that any original waste producer or other holder carries out the treatment of waste himself or has the treatment handled by a dealer or an establishment or undertaking which carries out waste treatment operations or arranged by a private or public waste collector in accordance with Article 4 and 13. The costs of waste management are to be borne by the original waste producer or by the current or previous waste holders. Member States may decide that the costs of waste management are to be borne partly or wholly by the producer of the product from which the waste came and that the distributors of such product may share these costs.

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