



THE ENVIRONMENT PROTECTION THROUGH CRIMINAL LAW IN EUROPE

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Abstract:

Increased mortality and morbidity (disease) related to temperature variations, the damage caused by frequent floods and rising sea levels, increasing desertification in southern countries and decline of freshwater variety show negative consequences of climate change on populations, ecosystems and resources and the infrastructure and quality of life. Benefits related to climate change will not be limited to European borders. Similar benefits are indeed expected in other countries, especially in terms of energy security and air quality if they take measures similar to those adopted in Europe.

Keywords: climate security; environmental protection; European action.

Climate Change Strategy 2020 and beyond

Official Document: Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Limiting global climate change to 2 degrees Celsius - The way ahead for 2020 and beyond [COM (2007) 2 final - Not published in the Official Journal].

There is strong scientific evidence that demonstrates the need for urgent intervention to combat climate change: recent research has confirmed that climate change is real, and some evidence indicates an acceleration of this trend. Impact assessments begin to accurately quantify the cost of inaction or mere continuation of current policies.

In 2005 the Commission set up the strategy the European Union (EU) climate. In this Communication, the Commission proposes more concrete actions to limit climate change and reduce the likelihood of massive and irreversible disruption globally. These short and medium term measures aimed at the same time developed countries (EU and other industrialized countries) and developing countries. EU and EU Member States confirmed the objective of limiting average global temperature increase to 2°C compared to pre-industrial levels, the threshold beyond which climate change impacts would increase dramatically. Research shows that stabilizing concentrations of greenhouse gases at 450 ppmv (parts per million by volume in air - CO₂ equivalent) would make the 2° to have

a chance to hit two (compared to one in six if the concentration would reach 550 ppmv and from sixteen to a higher concentration of 650 ppmv).

Costs and benefits of future policy options

Research conducted recently, especially PESETA study - study in progress under the Joint Research Centre of the European Union - or the Stern report indicates very high economic and social costs of the lack of sufficient action to combat climate change. As rated by the Stern Review, the cost is between 5 and 20% of global GDP.

Increased mortality and morbidity (disease) related to temperature variations, the damage caused by frequent floods and rising sea levels, increasing desertification in southern countries and decline of freshwater variety show negative consequences of climate change on populations, ecosystems and resources and the infrastructure and quality of life. PESETA study refers mainly to the impact of Europe on agriculture, human health, tourism, river basins and coastal areas. Based on the analysis of the impact made by the Commission, the investment required to maintain the concentration of greenhouse gases at 450 ppmv would amount to approx. 0.5% of global GDP for the period 2013-2030. Global GDP growth would decrease only by 0.19% per year by

2030, which represents only a small fraction of the estimated annual growth rate of GDP (2.8%). Commission notes, moreover, that the overall cost required is overestimated because it takes into account the benefits of climate change. Appropriate action on climate change would, indeed, considerable benefits, including avoiding damage materialized.

Thus, reducing the consumption of fossil fuels (especially oil and gas) will lead to a decrease in the costs of importing these fuels and significantly enhance energy security. Similarly, reduction of CO₂ emissions will contribute to improving air quality, thus creating enormous health benefits. In addition, most studies show that climate policy will have positive effects on employment, for example in the renewable energy sector and high tech. Benefits related to climate change will not be limited to European borders. Similar benefits are indeed expected in other countries, especially in terms of energy security and air quality if they take measures similar to those adopted in Europe.

Action in the EU

The internal action so far, the EU has already proven that emissions of greenhouse gases can be reduced without compromising economic growth. The Commission states that still can make significant reductions in emissions and

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recalls the EU's commitment to continue and intensify measures and get new ones.

The Commission proposes that the EU adopt emission reduction targets for greenhouse gases. The Commission calls on the EU to set international negotiations aimed at reducing emissions of greenhouse gases in developed countries by 30% (compared to 1990 levels) by 2020.

Until an international agreement and without prejudice to the position to be taken in international negotiations, the EU should already now to take a firm independent commitment to reduce emissions by at least 20% by in 2020.

At the European Council in March 2007, Member States have also committed to fulfill these objectives firmly. In accordance with the Strategic EU Energy Review, the Commission recommends the following energy measures:

- Improve energy efficiency in the EU by 20% by 2010;
- Increasing the share of renewable energy to 20% by 2020;
- Developing a policy for geological storage without environmental impacts.

The Commission believes that consolidating the EU Emissions Trading Scheme (EU ETS) measures such as:

- increased allocation period emissions over five years, as is currently the case;

- extending the scheme to other gases and other sectors;
- harmonization of allocation between Member States;
- linking the EU ETS and other compatible mandatory schemes in other countries (California and Australia, for example).

To reduce emissions from the transport sector, the Commission calls on the Council and Parliament, as appropriate, to adopt its proposals to include aviation in the EU ETS and car taxation based on their CO₂ emissions.

There are also plans to reduce CO₂ emissions from passenger cars, especially to reach the target of 120 grams of CO₂ per kilometer (g CO₂/km). Commission notes, moreover, that action should be intensified among consumers has reduced emissions from road freight transport and maritime transport and encourage the use of biofuels.

The Commission also suggests a reduction in CO₂ emissions in other sectors, for example by improving the energy efficiency of residential and commercial buildings.

The Commission also recommends reducing other gases, in particular through the implementation and strengthening measures for agriculture and forestry by establishing limits for methane emissions from industry and from gas engines and

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incorporate these sources of emissions in the EU ETS by further restricting fluorinated greenhouse gases, as well as initiating actions of nitrous oxide emissions from combustion and the major important instalații. Este also be quickly mobilized financial resources for research on environment, energy and transport of the șaptelea under the Community Framework Programme research budget to be increased by 2013 to promote clean technologies and knowledge on climate change. Energy Technology Action Plans and green technologies should be implemented in full.

Strategic Guidelines on cohesion, which contributes to the development of transport and energy systems and promote sustainable organic techniques will be implemented.

Protection of the environment through criminal law rules

Official Document: Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law.

The Directive defines a minimum set of serious environmental offenses and obliges Member States to provide for criminal penalties with a deterrent effect more pronounced for this type of offense, when committed intentionally or grossly negligent.

The objective of this Directive is to oblige Member States to impose criminal penalties behaviors that are serious environmental offenses. This minimum harmonization enable better implementation of environmental legislation, in line with the environmental protection provided for in Article 174 of the Treaty establishing the European Community (EC Treaty).

Sanctioned behaviors

Member States will have to criminalize the following conduct, if they violate European rules on environmental protection and are committed with intent or gross negligence:

- unlawful discharges into air, soil or water of a quantity of materials or ionizing radiation that causes or could cause death or serious injury to any person or substantial damage to the environment;
- the collection, transport, processing or disposal of waste contrary to the law causing or likely to cause death or serious injury to any person or substantial damage to the environment;
- illegal shipment of waste, in an amount which can not be neglected;
- operation, contrary to the law, a plant in which a dangerous activity is carried out or in which they are stored or used dangerous

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Therefore the Commission adopted a new proposal on 12 February 2007, which led to the adoption of this Directive.

The Community eco-management and audit scheme (EMAS)

Official Document: Regulation (EC) no. 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organizations in a Community eco-management and audit scheme (EMAS) and repealing Regulation (EC) no. 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC .

The Community EMAS aims to encourage European organizations or private companies or public bodies to improve its performance on average. This new regulation aims to develop the existing system and to encourage a greater number of organizations to participate in the program. The system represents a considerable asset. It offers organizations additional benefits in terms of regulatory control, cost savings and public image when they can demonstrate an improvement in their environmental performance.

The Community eco-management and audit scheme (EMAS) is a voluntary participation open to organizations located inside or outside the Community.

Its objective is to promote the improvement of environmental outcomes

on these organizations in all sectors of economic activity, by:

- analysis of all environmental aspects;
- development and implementation of environmental management systems based on the results of the environmental review;
- the systematic, objective and periodic evaluation of these systems;
- exchange of information on the results achieved;
- consultation with the public and other stakeholders;
- active involvement of employees and relevant training activities.

Registration of organizations

Organizations in a Member State shall submit its application to the competent body of that Member State. Bodies designated by Member States. You can submit a single application for registration. If the organization has other locations in the Community or in third countries, filed an application to register the collective.

Before submitting the application for registration, an organization must:

- carry out an analysis of all environmental aspects (see Appendices I and II A.3.1);
- Review, develop and implement an environmental management system (see Annex II);

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- carry out an internal audit (see Annex II and Annex III A.5.5);
- Develop an environmental statement (see Annex IV);
- to demonstrate compliance with all applicable legal requirements relating to the environment;
- to submit verification by an accredited environmental verifier, environmental analysis, environmental management system, audit procedure and its implementation, and validated by the same verifier environmental statement.

Application for registration include:

- environmental statement validated by an environmental verifier;
- environmental verifier statement (see Annex VII);
- form containing the information required for registration (see Annex VI);
- proof of payment of applicable fees, if applicable.

Obligations of registered organizations

At least once every three years, all organizations must:

- to conduct a review of their environmental management system and audit program and its implementation;

- update the environmental statement and to have it validated by an environmental verifier;
- competent body forward and validated updated environmental statement;
- authority to submit a form that contains the information required for registration (see Annex VI);
- competent Body to pay a fee for renewal of registration, if applicable.

Every year intermediate organizations were recorded to perform an internal audit of their environmental performance and compliance with applicable legal requirements relating to the environment and maintain environmental statement, after validation, to be submitted to the competent body, by paying shall, if necessary, to keep the registration fee. Environmental statement prepared by organizations must be made public.

The use of the EMAS logo

Organizations are authorized only during their registration is valid, use the EMAS logo (see Annex V). The logo must be accompanied by the registration number of the organization, if not used for promoting EMAS.

The logo can be used on environmental information validated by an environmental verifier.

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However, it can not be used on products or their packaging or with comparative claims concerning other activities and services or in a way that may create confusion with environmental product labels.

Tasks verifiers

Environmental verifiers shall assess the compliance of environmental analysis, environmental policy, management system, audit procedures and implementing organizations, as well as the environmental statement.

Also, environmental verifiers examine compliance with applicable legal organization environmental, continuously improve its environmental performance and reliability of relevant data and information. Environmental verifiers shall at intervals not exceeding twelve months any updated information in the environmental statement.

To obtain accreditation or licensing, the environmental verifier shall submit an application to an accrediting or licensing body of his choice.

Penalties

Member States shall take appropriate legislative or administrative measures if they do not comply with this regulation.

They may use the provisions established in accordance with Directive 2005/29/EC on unfair commercial practices.

Information

Shall update and make publicly available:

- a register of environmental verifiers and a register of EMAS registered organizations;
- a database containing environmental statements;
- a database of best practices on EMAS;
- a list of community resources to finance EMAS.

Context

This Regulation replaces Regulation (EC) no. 761/2001 which opened EMAS participation of all public and private economic sectors.

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