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# Brussels to force implementation of EU green laws

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The European Commission is preparing an EU strategy to improve implementation of the bloc's environmental rules, with plans including stricter inspections on the ground and a greater role for national judges in promoting compliance.

## Background

As the guardian of the Treaties, the European Commission is in charge of making sure that member states apply EU legislation properly.

Most infringement cases launched by the EU executive are related to environmental legislation (20% of all cases). At the end of 2009, the Commission's Environment Directorate was investigating 451 infringement files.

The bulk of these infringements are related to non-conformity of national legislation with EU laws on nature conservation, water and waste.

The initiative is listed in the annex of the Commission's work programme for next year, adopted on 27 October.

The initiative will take the form of a 'Communication on implementing EU environmental law and policy'. It will "address the shortcomings in implementing environmental legislation" and proposes a "strategic way forward" to improve the current implementation gaps.

The EU executive said it would seek to improve the coherence of legislation, enhance compliance promotion, strengthen the effectiveness of inspections and enhance the role of national judges in supporting the implementation of EU legislation.

During his confirmation hearing at the European Parliament in January, EU Environment Commissioner Janez Potočnik said that implementation would be high on his agenda.

But he acknowledged that the "true power lies at member-state level" and therefore capacity would need to be built at national level to help governments do the job themselves.

## EU 'police' to carry out direct inspections?

Late last year a Commission study recommended establishing an EU agency to enforce implementation of the bloc's legislation on waste.

While waste officially ranks among the EU's top priorities, there is not much happening at national level. The Commission's infringement cases have little effect and national waste management plans are often just pieces of paper, according to Helmut Maurer, a Commission official, who was speaking a year ago.

If agreed, the EU waste agency would be given several enforcement tasks, such as reviewing member states' enforcement systems and coordinating checks and other inspection activities.

The study also identified the need to beef up the agency's operations with the creation of "a specific European body, possibly hosted by the European Commission, for carrying out direct inspections and controls of facilities and sites in serious cases of non-compliance".

### **EU directive on environmental crime**

An EU directive on the protection of the environment through criminal law will have to be transposed by all member states into national law before 26 December 2010.

The directive was adopted in 2008 after years of institutional discussions on the EU's competence in the area of criminal law.

It lays down a list of environmental offences that must be considered criminal offences by all EU countries, whether committed intentionally or with serious negligence. It does not create a list of new illegal acts, but requires member states to attach criminal sanctions to a number of existing prohibitions.

Addressing a conference of the EU Forum of Judges for the Environment (EUFJE) earlier this month, Doctor Ludwig Krämer, former head of the legal unit at the Commission's environment department, stressed that "criminal enforcement was, is and will be accessory to administrative enforcement".

There is no serious desire to change this situation, "neither from the side of the administration, nor from policy, nor from polluters," Krämer said. "As the administration's interest in proper enforcement is limited, this spills over to prosecutors and the police," he added.

### **UN global prosecutor to solve transnational crimes**

Barbara Ruis from the United Nations Environment Programme's (UNEP) regional office for Europe argued that "environmental crime, including of a transnational nature, poses a central barrier for the effective implementation of environmental law". According to her, a global body is needed "to assist national environmental law enforcement authorities to engage more effectively across national borders to combat transnational environmental crime".

She suggested conducting more research on transnational environmental criminal laws, developing international legal instruments and harmonising national laws in this regard.

UNEP hopes to launch a global initiative on public prosecutors & environmental law in 2012 at the Rio+20 Earth Summit.

### **Positions**

### **Next Steps**

### **Links**

## European Union

- Commission: [Commission's Work Programme for 2011](#) (27 October 2010) [FR] [DE] [Annex]
- Commission: [Environmental Crime](#)
- Commission press release: [Commission adopts strategic priorities for 2011](#) (27 October 2010) [FR] [DE]
- Commission: [Statistics on environmental infringements](#)

## EU Actors positions

- EU Forum of Judges for the Environment (EUFJE): [Annual Conference](#) (18-19 October 2010) [Presentations]

## International Organisations

- UNEP: [Environmental Law Programme - Judges programme](#)