

XII. REPORTS ON INTERNATIONAL ORGANIZATIONS AND BODIES

3. European Union (EU)

A complete overview of the work of the EU in the field of environmental law this year would, as always, far exceed the limitations of this report. Therefore, this year's review will offer a view on a small selection of some of the issues the EU has dealt with, with a particular focus on pollution.

In regard to industrial emissions, the European Commission expressed its concern with regard to the implementation of existing rules, such as EU Directive 2010/75 on Industrial Emissions (Industrial Emissions Directive (IED)). Emissions are harmful not only for the national environment but also for human health. This is a particular concern in connection with the IED, which is the the most important regulatory tool at the EU level to address emissions from industrial pollution. The Commission created new tools to strengthen biodiversity governance in the EU as part of its Biodiversity Strategy for 2030. The strategy aims at increasing transparency and public awareness with regard to biodiversity protection and biodiversity governance in the union.

The EU announced an action plan towards zero pollution for air, water, and soil, and in this context, places particular emphasis on the fight against air pollution. It is estimated that every year in the EU alone, approximately four hundred thousand people die prematurely due to air pollution. It is the aim of the EU to cut this number by 55 percent in the coming years. This would save millions of lives within just a few years but requires significant efforts to reduce air pollution and its associates at harm for human health. For this purpose, the EU has adapted its air quality standard to the latest scientific knowledge, taking into account the recommendations of the World Health Organization. The EU will improve the legislative framework when it comes to air quality but also increase law enforcement, modeling of, and monitoring of air pollution. A legislative proposal is expected for 2022.

The World Health Organization's Air Quality Guidelines were updated in September for the first time since 2005. This new guidance document takes into account, for example, particulate matter, nitrogen dioxide, sulfur dioxide, and carbon monoxide. In light of the ongoing COVID-19 pandemic, discussions are underway on the question of how to improve the quality of indoor air in connection with airborne virus risks. It therefore seems likely that further updates aimed at protecting human health through cleaner air will be considered in the future as the lines between protecting human health and the natural environment are dissolving.

In December, the European Commission published a report on the enforcement of EU environmental law in regard to industrial emissions. Industrial emissions pose a threat not only to the natural environment but also to human health. The Commission clarified that it is committed to helping EU member states when it comes to implementing existing EU legislation targeting industrial emissions. Among the key issues identified in the context of the IED is access to information on issues such as pollution permits, including derogations from

the IED that allow emissions to exceed the limits contained in the directive. The ongoing work has to be seen in the wider context of the Pollution Action Plan and the European Green Deal. Currently, the Commission is revising the IED, and a revised version is likely to be announced in 2022.

Pollution was also a concern in the long-awaited new EU Arctic policy document that was published this year in the form of a joint communication. The EU's Arctic policy should not be seen in isolation or only as a foreign policy instrument. Through its member states Sweden and Finland, the EU is also located in the Arctic, and many Arctic residents are citizens of the EU. The EU member state Denmark includes Arctic Greenland and sub-Arctic Faroyar, which, although not part of the EU, are of special relevance for the EU. The Arctic nations of Norway and Iceland are closely linked to the EU through the European Economic Area, meaning that they are as close to full EU membership as states can be without fully joining the Union. The EU Arctic policy is particularly concerned with environmental degradation and the impact of climate change. One of the ideas hinted at in the joint communication was a potential import ban on oil, gas, and coal from the Arctic. It remains to be seen if and how this idea will be realized, but it is noteworthy that the EU's efforts under the European Green Deal are not limited to the territory of EU member states but that they also touch areas that are, at least to some degree, a matter of foreign policy.

Emissions are one way to measure pollution and the environmental footprint—for example, of industrial installations. The approach used by the European Commission in regard to industrial pollution is not limited to regulation. In addition, the Commission offers recommendations on the use of environmental footprint methods that were updated in late 2021. This recommendation is meant to support companies to better understand the environmental impacts of their activities. The recommendation helps to make decision-making processes more transparent by also making such information available to the public. The idea is to create incentives for companies to engage in business activities that are more friendly to the environment in principle. It is, therefore, a form of soft law that aims at nudging companies in the direction of more environment-compatible activities. While the recommendations do not have the binding force of hard law, the idea is to change the overall societal approach to emissions. Through this method, the Commission takes up development that has already been happening in European societies for the last half-century. While environmental activism has played different roles in different member states for several decades, the trend towards a greater protection of the environment in Europe is undeniable. A healthy natural environment is not only a human right but it is also part of the mindset of many European citizens that the environment should not be more polluted. Environmental awareness is reflected in support for newly introduced schemes such as waste separation, deposit schemes for plastic beverage bottles, or the end of single-use plastics. The European Commission, rather than merely imposing environmentalist ideas on the citizens of the Union, develops policies and strategies such as the Green Deal and the move towards a circular economy on the basis of what is happening already within the Union and what is supported by the citizens of the EU. The environmental footprint methods recommendation supports work that is already happening within companies to transition to cleaner forms of economic activities. Such soft law does not replace existing binding norms but adds a layer of governance opportunities that involve different actors and that require corporations to take a more active role.

The EU also created new rules regarding the importing and exporting of plastic waste, not only into and out of the EU but also in regard to the transportation between different member states of the EU. Already in the last days of 2020, EU Commission Delegated Regulation 2020/2174 on Shipments of Waste was adopted. Through this regulation, stricter rules on the export, import, and intra-Union transport of plastic wastes have been created. Plastic

waste from the EU remains an important challenge for the natural environment in destination countries. While the People's Republic of China banned the import of plastic wastes a few years ago, other countries, such as Turkey, rely on the import of plastic waste for the production of their own plastic products from recycled plastic waste. Unfortunately, large amounts of plastic waste that is exported from the EU to third countries are not fit for recycling. It often ends up polluting the natural environment in the destination country and contributes to the general pollution of the environment with microplastics that eventually enter the food chain. It is now illegal to export plastic waste from the EU to a country that is not a member of the Organisation for Economic Co-operation and Development (OECD), except in those cases where the plastic waste is intended to be recycled and there are adequate recycling facilities. This measure is aimed at limiting the impact of plastic waste outside of the EU, where it is often stored in inadequate conditions. This, in turn, leads to pollution—in particular, water pollution through plastic. But the impact of the export ban is not limited to countries outside of the EU. The EU will benefit as well because plastic pollution—in particular, pollution with microplastics—is a global problem. Plastics do not stay in one place but enter the soil, groundwater, waterways, rivers, and the seas. Today, microplastics are found in the food chain and in humans. A January 2021 study by Antonio Ragusa and others in the journal *Environment International* even found microplastics in the placentas of unborn children.

By limiting the exportation of plastic waste that is difficult to recycle, the EU also contributes to forcing plastic users in the EU to engage in recycling plastic waste. Plastic is no longer just a waste but a raw material for the creation of new plastic products. The ongoing transition to a circular economy makes it necessary to ensure that waste product's waste is seen, if not raw material, then at least as a starting point for new products. The new rules that entered into force at the beginning of 2021 cover different forms of exportation and important intra-EU transfer of plastic waste. It is now illegal to export hazardous plastic waste and plastic waste that is difficult to recycle in non-OECD countries. Plastic waste that may be exported is of such quality that it can be recycled easily. The new EU rules have to be seen in the wider context of international environmental law—in particular, in the context of the 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention). This international treaty was amended in 2019 to cover plastic wastes as well. The 2019 Plastic Waste Amendments to the Basel Convention are reflected in the Commission's Regulation 2020/2174. Similar to other international legal obligations undertaken by the EU, EU law now goes beyond the requirements of the amended Basel Convention. By creating a set of stricter rules, the EU has once more taken the lead in protecting the natural environment through a manner of implementing an international treaty that goes beyond existing legal obligations on the part of the EU.

Efforts are also underway to reduce pollution from end-of-life vehicles by creating binding rules that involve producers of vehicles right from the start. This takes up a general trend that producers are now expected to have the end of the life cycle of their products already in mind during the design phase. This highlights a more and more holistic approach to waste and pollution, including waste prevention and increased recyclability across different industries.

The EU also introduced a new economic reporting accounting framework that aims to take into account the relevance of ecosystems and of biodiversity for national economies. The value of biodiversity can now be said to also be expressed in a way that is compatible with traditional economic planning. The Commission will propose a revision of the regulation on European environmental economic accounts to include this new form of natural capital accounting. One of the next steps planned is to reduce subsidies that are deemed harmful

to the natural environment. Given the great importance of subsidies in the EU in general and the European agricultural sector in particular, such a measure would be seen as a landmark event. It remains to be seen how this will be realized in practice, but there is no shortfall of visionary ideas in Brussels when it comes to combating climate change and environmental degradation.

That these visions can be turned into reality against great odds is evidenced by the rather smooth transition to the ban of single use plastics this year through Directive 2019/904, as part of the transition to a circular economy, that required action on single use plastics by 3 July 2021. In particular, the vision of a circular economy is pursued not by the EU alone but in cooperation with global partners, such as the United Nations Environment Programme and the United Nations Industrial Development Organization.

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4. Global Environment Facility (GEF)

The GEF has been a pioneer international financial mechanism under the United Nations (UN) System working for global environment and sustainable development for the last thirty years. During the second wave of the COVID-19 pandemic this year, the GEF Council held its biannual meetings virtually to allocate and approve the funds for new projects in different focal areas, to follow up the progress of existing projects, and to consider the annual reports presented. In conjunction with this, GEF Replenishment meetings and Least Developed Countries Fund/Special Climate Change Fund (LDCF/SCCF) Council meetings were also held virtually to allocate and approve new funds and to follow up on the existing projects approved under these funds. At these meetings, the *GEF Monitoring Report 2021*, the *Annual Performance Report 2021*, the *Progress Report on the LDCF and the SCCF 2021*, and the *GEF Trust Fund Financial Report 2021* were discussed and reviewed. On this basis, this report has been prepared as an overview of major developments held this year under the GEF through its meetings, reports, projects, and partnerships.

The GEF is engaged in providing finance and facility to member states for their actions towards environmental protection and sustainable development. Established in 1992, its operation and administrative structure was outlined through the 'Instrument for Establishment of the Restructured Global Environment Facility,' adopted in 1994. The GEF is managed by a board of directors through the GEF Council and the trusteeship of the World Bank. Its organizational structure includes the GEF Assembly, the GEF Council, the LDCF/SCCF Council, the Scientific and Technical Advisory Panel, the Independent Evaluation Office, and the Secretariat in Washington, DC, United States (<<https://www.thegef.org/about/organization.html>>). It has been designated as the financial mechanism for several international environmental conventions, such as the UN Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa,