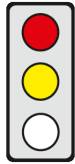


KEY ISSUES

Context: Under the “European Green Deal”, air, water, soil and consumer products pollution in the EU will be prevented, reduced, removed and more effectively monitored.

Objective of the Communication: Pollution in the EU is to be reduced by 2050 to the extent that it is no longer harmful to human health and the environment (“zero pollution ambition”). For this purpose, the Commission is announcing numerous measures relating to air, water and soil as well as the design and manufacture of products.

Affected parties: Virtually all areas of the economy.



Pro: Consistent implementation and enforcement of the existing EU legislation will increase the effectiveness of EU environmental protection and minimise distortions of competition in the internal market.

Contra: (1) The Commission should differentiate more precisely between the unattainable target of a “toxic-free” environment and the aim of a “low-pollution” environment.

(2) The simultaneous reduction of pollutants and greenhouse gases in production processes, under the Industrial Emissions Directive, will lead to regulatory duplication and could reduce both the efficiency of the measures and increase the administrative burden on companies.

The most important passages in the text are indicated by a line in the margin.

CONTENT

Title

Communication COM(2021) 400 of 12 May 2021: EU Action Plan: “Towards Zero Pollution for Air, Water and Soil”

Brief Summary

► Context and objectives

- Environmental pollution is [p. 1 et seq.]
 - the “direct or indirect introduction, as a result of human activity, of substances, vibrations, heat or noise into air, water or land” which is harmful to human health or the quality of the environment [Art. 3 (2) Industrial Emissions Directive 2010/75/EU];
 - one of the most common causes of diseases such as cancer;
 - one of the main reasons for the loss of animal and plant species (“biodiversity”).
- By 2050, environmental pollution should be so low as to be “no longer harmful” to human health or the environment thus giving rise to “a toxic-free environment” [“Zero Pollution Ambition”, p. 3 et seq.].
- Pollution must [“Zero Pollution Hierarchy”, p. 4]
 - as a priority, be prevented at source [“precautionary principle and the principle of preventive action”, Art. 191 (2) TFEU], or
 - at least minimised and
 - eliminated, and the resulting damage remedied.
- Between 2000 and 2017, the EU economy grew by 32% while individual air pollutants decreased by between 10% – e.g. ammonia – and 70% – e.g. sulphur oxide [p. 2].
- The Commission is announcing numerous sector-specific and cross-sectoral measures for the coming years in order to achieve the zero-pollution ambition. These will help to [p. 3 et seq.]
 - protect biodiversity [Biodiversity Strategy 2030, Communication COM(2020) 380; see [cepPolicyBrief](#)];
 - create a circular economy [Action Plan for a Circular Economy, Communication COM(2020) 98; see [cepPolicyBrief 5/2020](#)];
 - achieve climate neutrality in the EU by 2050 [EU Climate Law, Regulation (EU) 2021/1119; see [cepPolicyBrief 3/2020](#)].
- The proposed measures
 - relate to air, water, soil and the design and manufacture of products;
 - will improve the implementation of existing EU legislation;
 - will improve the monitoring of environmental pollution to facilitate the forecasting of future developments.

► **Air**

- As air pollutants annually result in premature deaths in the EU, the Commission wants [p. 5 et seq.]
 - the EU's air quality standards to be aligned “more closely” with the stricter World Health Organisation (WHO) recommendations;
 - the provisions on monitoring, modelling and air quality plans to be strengthened.
- The discharge of air pollutants will be prevented at source by measures [p. 5 et seq.]
 - in the industrial sector [Industrial Emissions Directive 2010/75/EU; see [cepPolicyBrief](#)];
 - in the agricultural sector [“Farm to Fork” Strategy, Communication COM(2020) 381; see [cepPolicyBrief](#)];
 - in the transport sector [Sustainable Mobility Strategy, Communication COM(2020) 789; see [cepPolicyBrief 9/2021](#)];
 - in the building sector [Renovation Wave Strategy, Communication COM(2020) 662; see [cepPolicyBrief 4/2021](#)].

► **Water**

- The Urban Wastewater Treatment Directive [91/271/EEC] and the Sewage Sludge Directive [86/278/EEC] will be reviewed. In future, they will [p. 8 et seq.]
- also include emerging pollutants such as microplastics and micropollutants which, even in small concentrations, as residues of pharmaceuticals, pesticides or other chemicals, can be harmful to human health and the environment;
 - help to create a circular economy in the agricultural sector by treating water and sewage sludge.

► **Soil**

- The Commission criticises the fact that, due to environmentally harmful activities, approx. 2.8 million sites are potentially contaminated by pollutants across the EU and approx. 390,000 “are expected to require remediation”. In 2018, approx. 65,500 sites were remediated. [p. 9]
- The Commission calls on Member States to develop “clear criteria to prioritise decontamination”. In addition, in its planned proposal for “legally binding EU nature restoration targets”, the Commission will address the restoration of soil ecosystems [Biodiversity Strategy 2030; see [cepPolicyBrief](#)]. [p. 9]

► **Product design and manufacture**

- Chemicals, materials and products will be designed to be “as safe and sustainable as possible” to ensure a “non-toxic” product life-cycle [see Chemicals Strategy, Communication, COM(2020) 667] [p. 11].
- The Industrial Emissions Directive regulates the discharge of air, water and soil pollutants [p. 10 et seq.].
 - The operators of industrial plants must restrict pollutant emissions during production processes according to the best available techniques (BATs). For this purpose, the Commission issues “BAT information sheets” whose emission limits must not be exceeded.
 - The Commission wants to revise the Industrial Emissions Directive in order to regulate additional sectors and support a simultaneous reduction in pollutants and greenhouse gases (GHGs).

► **Application of the polluter-pays principle**

- Assigning the “right price” to environmental pollution aims to highlight harmful economic activities and thus ensure that they are incorporated into the decision-making processes of economic operators. By contrast, until now – “despite numerous calls” to apply the polluter pays principle – environmental pollution is still mainly addressed through regulation. [p. 11]
- In order to promote “sustainable and efficient water consumption”, all water users – such as industry, agriculture and households – should be presented with a “socially fair water bill” in accordance with the polluter pays principle [Art. 191 (2) TFEU; see Water Framework Directive 2000/60/EC, Art. 9] [p. 8].

► **Implementation and enforcement of EU legislation**

Consistent implementation and enforcement of existing EU legislation aims to ensure “living within our planetary boundaries” and that pollutants are reduced at source. For this purpose, the Commission is setting “zero pollution targets for 2030” [see Zero Pollution Action Plan Communication COM(2021) 400, Annex 2].

- **Air pollution target:** Member States must implement the measures for the reduction of fine particulate matter and other air pollutants, announced in their “national air pollution control programmes” [Art. 5 NEC Directive (EU) 2016/2284; see [cepPolicyBrief 24/2014](#)] in order to reduce premature deaths resulting from air pollutants by 55% by 2030 as compared with 2005.
- **Biodiversity target:** Member States must implement the measures announced in their national air pollution control programmes together with initiatives under the “Farm to Fork” Strategy [Communication COM(2020) 381; see [cepPolicyBrief](#)] and the “Biodiversity Strategy 2030” [Communication COM(2020) 380; see [cepPolicyBrief](#)] so that by 2030 the number of ecosystems threatened by air pollution is reduced by 25% as compared with 2005.
- **Pesticide target:** Member States must implement the Pesticide Directive [2009/128/EC] together with initiatives under the “Farm to Fork” Strategy [Communication COM(2020) 381; see [cepPolicyBrief](#)] and the “Biodiversity

Strategy 2030” [Communication COM(2020) 380; see [cepPolicyBrief](#)] so that by 2030 the use of chemical pesticides is reduced by 50% as compared with the period 2011–2017.

- **Plastics target:** Member States must implement the existing EU legislation – such as the Waste Framework Directive [2008/98/EC; see [cepPolicyBrief 3/2016](#)] and the Single-use Plastic Directive [(EU) 2019/904; see [cepPolicyBrief 26/2018](#)] – so that by 2030, as compared with 2016, 50% less plastic waste enters the sea and 30% less microplastics enter the environment.

► **Monitoring environmental pollution**

- The Commission wants to develop a “Zero Pollution Monitoring and Outlook Framework” in order to monitor various types of pollutant and their effect on human health, the environment and the economy, as well as their social impact [p. 20].
- The first “Zero Pollution Monitoring and Outlook Framework” is to be published in 2022. This will facilitate [p. 20 et seq.]
 - long-term data collection on air, water and soil pollutants;
 - the analysis of synergies and trade-offs between different EU strategies and the identification of early warnings on pollutants “of increasing concern”.

Policy Context

Owing to their cross-border dimension and impact on the internal market, pollutant emissions were first regulated by the European Economic Community in 1973. According to the Commission’s proposal for the 8th EU Environment Action Programme, the zero pollution ambition is a “priority” [COM(2020) 652, p. 13]. The Zero Pollution Action Plan, together with the Chemicals Strategy [COM(2020) 667], will realise the zero-pollution ambition as part of the “European Green Deal” [COM(2019) 640, see [cepAdhoc](#)]. In addition, it will contribute to the implementation of the “UN 2030 Agenda for Sustainable Development”. [p. 3]

Options for Influencing the Political Process

Directorates General: DG Environment (leading)

Committees of the European Parliament: Environment, Public Health and Food Safety (leading), Rapporteur: TBA

ASSESSMENT

Economic Impact Assessment

Clean air, clean water and uncontaminated soil are of existential importance for human health and the environment. The availability of natural resources in sufficient quantity and quality is a requirement for many production processes in the economy. The discharge of pollutants and resulting exposure can lead to potentially adverse effects on human health and the environment (“negative externalities”). Market processes alone cannot, however, guarantee environmental protection because economic actors often have little incentive to avoid environmental damage of their own accord. Without government regulations, the costs of this damage are borne not by the economic operators who cause them but by the general public. Shifting the negative externalities onto the public can be minimised by applying the polluter-pays principle.

A completely “toxic-free” environment is unattainable both technically and at reasonable cost. The Commission itself has therefore defined the “zero-pollution ambition” not as an absolutely toxic-free environment but as a level of pollution that is “no longer harmful” to human health and the environment. Consequently, the – non-harmful – discharge of pollution will still be possible (“a low-pollution environment”). **The Commission should therefore differentiate more precisely between the unattainable target of a “toxic-free” environment and the aim of a “low-pollution” environment.**

A source-based approach to avoiding environmental pollution can render subsequent remediation measures unnecessary or at least reduce them. However, not all pollutants are equally damaging to human health and the environment. A risk-based analysis – which incorporates the dangers to humans and the environment arising from the respective pollutants – may enable ecological and economic aspects to be better coordinated. This will ensure that a balance is maintained between protection of health and the environment, on the one hand, and the international competitiveness of companies, on the other.

The envisaged simultaneous reduction of pollutants and greenhouse gases (GHGs) in production processes, under the Industrial Emissions Directive, poses the risk of cost burdens for the relevant industries. On the one hand, rendering pollutants non-harmful by means of incineration produces CO₂; on the other, without incineration, CO₂ emissions fall but the emission of pollutants increases. Thus, simultaneous reduction frequently involves both a high level of technical complexity and a correspondingly high level of costs. In addition, GHG emissions from certain industrial installations are already regulated via EU emissions trading [EU ETS; see [cepInput 3/2018](#)]. The EU ETS limits the total number of emission allowances and thus also the quantity of CO₂ emissions, thereby utilising the potential

for more cost-effective reduction options because the economic operators are responsible for deciding how the desired GHG reduction will be achieved. Regulating GHG emissions under the Industrial Emissions Directive, **will thus lead to regulatory duplication and could reduce both the efficiency of the measures and increase the administrative burden on companies.**

Applying the polluter-pays principle to achieve environmental targets – such as the reduction of environmental pollution and the use of natural resources – is appropriate. **The use of market-based instruments allows economic operators freedom to decide for themselves when choosing the method for achieving the targets and thus contributes to their cost-efficient implementation.** Unlike regulatory requirements, which directly restrict or prohibit ecologically harmful activities, market-based measures provide indirect incentives for the desired behaviour and thereby promote innovative, low-cost solutions. Thus, setting water charges based on the polluter-pays principle may give rise to demand patterns appropriate to the level of scarcity and thereby to the best possible use of water resources.

Consistent implementation and enforcement of the existing EU legislation, which is currently inadequate in some Member States, **will increase the effectiveness of EU environmental protection and minimise distortions of competition in the internal market** as it means that companies in the EU will not be subject to varying environmental obligations.

The “Zero Pollution Monitoring and Outlook Framework”, envisaged by the Commission, may create synergies and prevent conflicts of interest as well as facilitating efficient decisions. When implementing it, however, care should be taken to ensure that the administrative burden for companies and authorities due to the collection of data, is not excessive.

Legal Assessment

Legislative Competency

Unproblematic. The EU is empowered to issue environmental and climate policy measures [Art. 191 TFEU].

Subsidiarity

The discharge of pollutants has cross-border effects which justify EU-wide measures to tackle them. The emission of greenhouse gases is not only a cross-border problem but in fact a global one which cannot be solved by individual countries. Overall, EU action is therefore justified. In other respects, a further assessment is not possible until concrete legislative proposals have been submitted by the Commission.

Conclusion

The Commission should differentiate more precisely between the unattainable target of a “toxic-free” environment and the aim of a “low-pollution” environment. The simultaneous reduction of pollutants and greenhouse gases in production processes, under the Industrial Emissions Directive, will lead to regulatory duplication and could reduce both the efficiency of the measures and increase the administrative burden on companies. The use of market-based instruments allows economic operators freedom to decide for themselves when choosing the method for achieving the targets and thus contributes to their cost-efficient implementation. Consistent implementation and enforcement of the existing EU legislation will increase the effectiveness of EU environmental protection and minimise distortions of competition in the internal market.