



European Commission

Fifth Annual Survey on the implementation and enforcement of Community environmental law 2003





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Fifth Annual Survey

on the implementation and enforcement

of Community environmental law

2003

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FOREWORD

Looking back over my five-year term as Commissioner responsible for the environment, I am struck by the concerns that European citizens have about the state of the environment and the way in which Member States comply with European environmental law. During my term, the Commission has received large numbers of complaints from the general public and non-governmental organizations alleging that Member States have not implemented Community environmental law, or have applied it incorrectly. Cases of suspected non-compliance with EC environmental legislation have also been brought to our attention through the written questions and petitions tabled by the European Parliament.

This survey shows that citizen concerns are justified. Not all Community environmental legislation is implemented correctly or on time, nor is it always properly applied on the ground by the Member States.

As Commissioner responsible for the environment, I have consistently stressed the importance of ensuring that Member States comply fully with our laws. The Sixth Environmental Action Programme¹ clearly states that the full application, enforcement and implementation of all existing Community environmental legislation is a strategic priority for the European Union. This means that it is an essential task for the Commission to check that national implementing measures meet the requirements of environmental directives. If we want to achieve a high level of environmental protection, we must have effective and efficient legislation.

This is all the more important now that the EU has enlarged. We must ensure that the new Member States correctly transpose and implement all the existing legislation - the "acquis communautaire" - within the agreed timeframes. The new Member States have devoted considerable efforts to ensuring compliance with EC environmental legislation by the date of accession. These efforts should be maintained in order to ensure that the implementation of EC environmental law is not compromised by this greatest ever EU enlargement. Such a need is underlined by the fact that there are important environmental assets, such as nature conservation features, to be protected in these new Member States.

In line with the Communication on the better monitoring of application of Community law², we can improve implementation by developing new working methods with Member States at all stages of the implementation life-cycle. I expect full implementation of the Århus Convention³ to improve access to justice on environmental issues in Member States. To this end, proper application of Directive 2003/35/EC concerning public participation in environmental decision-making⁴ will certainly help.

I would also like to emphasize the need to improve transparency, and awareness of the state of implementation of our laws. For this, it is important to inform the public about the

¹ Decision No. 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the 6th Community Environmental Action Programme (OJ L 242, 10.09.2002, p. 1).

² COM(2002)725 final, 13.12.2002.

³ UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

⁴ Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (OJ L 156 of 25.06.2003, p. 17).

comparative compliance records of all Member States. That is why I particularly welcome this Fifth Annual Survey, which covers the year 2003. It follows on from previous editions⁵ by providing up-to-date information on the state of application of EC environmental legislation. This is in response to the Commission Communication on implementing Community environmental law⁶ and in response to the Resolutions of the Council⁷ and European Parliament.

I believe that publication of this survey will provide Member States with a useful source of information. It should also make them even more committed to ensuring that they implement Community environmental law on time and that they apply it fully and correctly.

Margot Wallström

Member of the Commission

⁵ First Annual Survey (1996/1997) SEC(1999) 592, 27.4.1999; Second Annual Survey (1998/1999) SEC(2000) 1219, 13.7.2000; Third Annual Survey (2000/2001) SEC(2002) 1041, 1.10.2002 and Fourth Annual Survey (2002) SEC(2003) 804, 7.7.2003.

⁶ COM(96) 500 final, 22.10.1996.

⁷ OJ C 321, 22.10.1997, p. 1.

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CHAPTER I

IMPLEMENTATION OF COMMUNITY ENVIRONMENTAL LAW IN 2003

The last few years have seen a growing difficulty in the timely and correct implementation as well as proper practical application of EC environmental legislation. This is reflected in the number of complaints received and infringement cases opened by the Commission every year. As in the earlier years, in 2003 the environment sector represented over a third of all complaints and infringement cases concerning instances of non compliance with Community law investigated by the Commission. The number of new complaints remains higher than 500 per year although there has been a slight decrease during the last two years⁸.

In 2003, 505 new complaints alleging breaches of Community environmental law were lodged with the Commission. The Commission brought 58 cases against Member States before the Court of Justice and issued 122 reasoned opinions on the basis of Article 226 of the EC Treaty.

During 2003, in the environment area, the Commission issued 17 letters of formal notice and 11 reasoned opinions under Article 228 to Member States for non-communication, non-conformity or incorrect application. One case under Article 228 was brought to the Court⁹. Further details are given in the discussion of the various sectors under Chapter I.

It is essential that the implementation of environmental legislation by Member States is improved. However, seeking improved implementation by initiating infringement proceedings pursuant to Articles 226 and 228 of the Treaty is not the only, nor often the most efficient way to resolve current problems. A substantial improvement will require efforts by the Commission to develop new working methods with Member States at all stages of the implementation life cycle. Such methods have also proved relevant in the pre-accession phase in order to ensure that new Member States transpose and implement correctly the “acquis communautaire” within the agreed timeframes.

In line with the Communication on better monitoring of application of Community law¹⁰, the Commission is taking a number of practical steps to assist Member States in their implementation of EC environmental legislation:

- The Commission strives to anticipate implementation problems when it is designing Community environmental legislation which has to be drafted in such a way as to make it “enforcement friendly”. Once the legislation has been adopted, the use of guidelines and interpretative texts agreed by the Commission and the Member States can be helpful. For example, the Commission has published a guidance document on the implementation of Directive 2001/42/EC¹¹ on the assessment of the effects of certain plans and programmes on the environment (“strategic environmental

⁸ From 1996 until 2001 the number of complaints continued to rise. The last two years this number has slightly decreased. 1996: 161, 1997: 242, 1998: 432, 1999: 453, 2000: 543, 2001: 587, 2002: 555, 2003: 505.

⁹ During 2003 the Commission brought Ireland to the Court under Article 228. This case was already decided in 2002, but the Court application was made during 2003.

¹⁰ COM(2002)725 final, 13.12.2002.

¹¹ OJ L 197, 21.7.2001, p. 30.

assessment” Directive) which seeks to help Member States and Candidate Countries fully understand the obligations contained therein and assist them in transposing the Directive into their national law.

- In order to increase efficiency and enhance the effectiveness of implementation of environmental legislation, there is a need to apply pro-active measures by bilateral contacts and meetings between the Commission and the Member States. Several seminars were held in 2003 in some Member States where the Commission’s views on the correct implementation of particularly complex environmental directives was explained to the competent authorities with a view to prevent, rather than correct, instances of bad application. Discussions on how to better implement Community environmental law were also held in the context of package meetings with most Member States¹² This approach has been confirmed by the Commission in its above mentioned Communication on better monitoring of application of Community law.
- Information exchange between implementing authorities is a tool for improving implementation. The informal EU network for the Implementation of Environmental Law (IMPEL) consisting of the Commission and the Member States has been, since its inception in 1992, a key instrument in discussing the practical application stage of existing legislation. In order to improve the environmental standards of inspection, the Commission follows up closely the implementation of Recommendation 2001/331/EC of the European Parliament and the Council on Minimum Criteria for Environmental Inspections. This Recommendation drew heavily on the work which had been done in previous projects under IMPEL and includes several tasks which IMPEL is specifically invited to undertake.

In addition, the following measures are expected to give incentives to Member States for a better implementation of EC environmental legislation:

- Programmes and projects can only be funded if they comply with Community policies and instruments including those concerning the environment and sustainable development. The Commission scrutinises requests for co-financing by the Cohesion Fund and Trans European networks (TENs) very thoroughly for compliance with environmental regulations. The same applies to various pre-accession funding mechanisms concerning the current candidate countries. During 2003, the Commission continued to set conditions in Structural Funds plans and programmes and rural development programmes requiring Member States to submit outstanding lists for the setting up of the Natura 2000 network in accordance with their obligations under Directives 79/409/EEC on the conservation of wild birds and 92/43/EEC on the conservation of natural habitats and of wild fauna and flora. The Commission has also maintained its strict policy with regard to the granting of Community funding for conservation of sites under the LIFE Regulation on sites being integrated or already integrated into the Natura 2000 network;
- There is a need to improve transparency and awareness on the state of implementation of EC environmental legislation. To this end, as did the Fourth Annual Survey on the implementation and enforcement of Community

¹² During 2003, package meetings were held with Austria, Belgium, Finland, France (2), Germany, Greece, Ireland, Italy, Portugal, Spain (2), Sweden and the United Kingdom.

environmental law¹³, this Fifth Annual Survey includes a Scoreboard, which details the comparative implementation record of each Member State in each sector of the environment;

- Effective reporting by Member States on the implementation of environmental legislation is key to monitoring the implementation process. The Commission is presently reviewing the current system of environmental reporting. One of the objectives is to ensure more coherent and effective reporting on implementation of environmental legislation;
- The relatively high number of complaints received by the Commission reflects the non-existence and/or the relative lack of efficiency of complaint mechanisms in Member States. In 2003, two Directives¹⁴ were adopted to align Community legislation with the provisions of the Århus Convention¹⁵ on public access to environmental information and on public participation. These Directives contain provisions on access to justice which are in line with the requirements arising out of the Århus Convention. In addition, on 24 October 2003 the Commission adopted a “package” of three legislative proposals to fully address the requirements of that Convention¹⁶.

Prior to the accession of the ten new Member States, the Commission initiated a proactive exchange of information with them to ensure that the authorities are aware of how EC law is enforced. *Inter alia*, a series of seminars has been organised in the new Member States’ capitals to inform their competent authorities about the complaint and infringement procedures and the most frequently occurring implementation problems in the existing Member States.

1.1. Freedom of access to information

Directive 90/313/EEC on freedom of access to information on the environment aims to make information that public authorities hold on the environment more accessible to the public, and to ensure that fair standards of access are applied across the Community. According to Directive 90/313/EEC Member States must ensure that environmental information is made available in response to a request from a member of the public, and any refusal must be based on a limited list of exceptions, which include national security, commercial confidentiality,

¹³ SEC(2003) 804, 7.7.2003.

¹⁴ Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41 of 14.02.2003, p. 26) and Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plan and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (OJ L 156 of 25.06.2003, p. 17).

¹⁵ UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

¹⁶ Proposal for a Directive of the European Parliament and of the Council on access to justice in environmental matters (COM(2003) 624 final, 24.10.2003), Proposal for a Regulation of the European Parliament and of the Council on the application of the provisions of the Århus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to EC institution and bodies (COM(2003) 622 final, 24.10.2003), Proposal for a Council Decision on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision making and access to justice regarding environmental matters (COM(2003) 625 final, 24.10.2003).

etc. The authority that receives the request must reply within 2 months of receiving it. Among the most common grounds of complaint brought to the Commission's notice relating to this Directive are: refusal by national authorities to provide the information requested, slowness of response, excessively broad interpretation by national government departments of the exceptions to the principle of disclosure, and unreasonably high charges.

As regards *non-conformity* of national transposition measures with the Directive, the Court ruled against France in 2003 (Case C-233/00) for its failure to fulfil its obligations under Articles 2(a) and 3(1), (2) and (4) of the Directive, since French measures did not ensure formal, explicit and correct transposition of several aspects of the Directive, including the obligation to automatically provide reasons following a refusal of access to the information.

During 2003 the Commission continued infringement proceedings against a few Member States for *bad application* of the Directive and in particular for refusing access to information for reasons not featuring among the list of accepted reasons detailed in the Directive.

The European Parliament and Council adopted a new directive on public access to environmental information¹⁷ which replaces Directive 90/313/EEC. The new Directive corrects the perceived shortcomings in its application in practice and brings it into line with developments in information and communications technology. It includes, in particular, information on genetically modified organisms as far as this is relevant to the contamination of the food chain. This issue was addressed in a preliminary ruling of 12 June 2003 in which the Court held that the name of the manufacturer and the product description of foodstuffs which have been the subject of administrative measures for controlling compliance with Regulation No 1139/98¹⁸, the number of administrative penalties imposed following those measures and the producers and products concerned by such penalties do not constitute information relating to the environment under Directive 90/313/EEC (Case C-316/01).

1.2. Environmental impact assessment

Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EC, is an important part of EU environmental legislation. The Directive requires Member States to carry out environmental impact assessments on certain public and private projects, before they are authorised, where it is believed that the projects are likely to have a significant impact on the environment. For some projects listed in Annex I to the Directive, such assessments are obligatory. For others listed in Annex II, Member States must operate a screening system to determine which projects require assessment.

The deadline for transposition of Directive 97/11/EC which amends Directive 85/337/EEC was 14 March 1999. While retaining the basic framework of the original Directive, the amendment reinforced many of the Directive's details. During 2003, the Commission opened infringement proceedings under Article 228 against Belgium and Luxembourg for not

¹⁷ Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 041, 14.02.2003, p. 26). The deadline for transposition is 14 February 2005.

¹⁸ Council Regulation (EC) No 1139/98 of 26 May 1998 concerning the compulsory indication in the labelling of certain foodstuffs produced from genetically modified organisms of particulars other than those provided for in Directive 79/112/EEC (OJ 1998 L 159, p. 4), as amended by Commission Regulation (EC) No 49/2000 of 10 January 2000 (OJ 2000 L 6, p. 13).

complying with earlier judgments condemning them for failure to *communicate* the necessary legislation giving effect to Directive 97/11/EC (Case C-319/01 concerning Belgium and Case C-366/00 concerning Luxembourg).

Problems with the *conformity* of national measures with Directive 85/337/EEC have persisted. Conformity problems are often related to national laws which do not ensure that all projects for which impact assessment must be carried out are made subject to the assessment procedure required by the Directive. During 2003, the Commission brought Ireland to the Court under Article 228 of the Treaty for not complying with a Court judgement from 1999 regarding proper transposition of certain provisions of the Directive, including especially, peat extraction projects (Case C-392/96). The Commission has also issued reasoned opinions to several Member States and decided to refer Germany, Ireland, the United Kingdom and Spain to the Court for incorrect transposition of the Directive.

Many complaints received by the Commission as well as oral and written questions tabled by the European Parliament and a large number of petitions presented to the Parliament relate, at least incidentally, to alleged instances of *bad application* by Member States' authorities of Directive 85/337/EEC. However, as regards complaints about the quality of impact assessments and the lack of weight given to them, it is extremely difficult for the Commission to assess these cases. The basically formal nature of the Directive provides only a limited basis for contesting the merits of such assessments and the choice taken by the national authorities so long as they have complied with the procedure laid down by the Directive. During 2003, the Commission has issued reasoned opinions to a number of Member States and has decided to refer some Member States to the Court for their failure to ensure that a project was subject either to screening and/or an environmental impact assessment.

According to Article 2 (3) of Directive 85/337/EC Member States may, in exceptional cases, exempt a specific project in whole or in part from the provisions laid down in this Directive under the condition that they strictly follow the obligations laid down herein. In this event, the Member States must inform the Commission, prior to granting consent, of the reasons justifying the exemption granted, and provide it with the information made available to their own nationals.

In 2002 and 2003 Italy and Portugal informed the Commission regarding the application of this provision for several projects¹⁹. All these cases are examined by the Commission in order to ensure full conformity with the obligations deriving from Article 2(3).

Directive 2001/42/EC of the European Parliament and of the Council on the assessment of the effects of certain plans and programmes on the environment was adopted on 27 June 2001²⁰. Member States must bring into force the national rules necessary to comply with this Directive before 21 July 2004. While Directive 85/337/EEC applies to projects, this new "strategic environmental assessment" Directive is of a procedural nature and aims to ensure that an environmental assessment is carried out for certain plans and programmes during their preparation and before their adoption. The Commission has published a guidance document

¹⁹ Italy informed the Commission with regard to the following projects: Area of Battipaglia, construction of an incinerator; Milan, waste water treatment; Marano Lagunare, dredging of the lagoon channels and management of sediment; Serradifalco, urban solid waste disposal. Portugal informed the Commission with regard to the following projects: Arriba de Pedrogão Sul, protection of a cliff; Herdade do Couto, extraction of sand.

²⁰ OJ L 197, 21.7.2001, p. 30.

“Implementation of Directive 2001/42/EC”²¹ which intends to help Member States and Candidate Countries fully understand the obligations contained in Directive 2001/42/EC and assist them in transposing the Directive into their national law.

Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment amends Directive 85/337/EEC with regard to public participation. This Directive has to be transposed into national law by 25 June 2005 at the latest.

1.3. Air

A relatively large amount of legislation has been adopted in the air sector recently. Thirteen Directives²² were to be transposed by Member States during 2001, 2002 and 2003. A number of infringement cases concerning *non-communication* of national implementing measures under these directives had to be opened or continued. Moreover, the Commission has decided to refer several Member States to the Court for non-communication of transposition measures for some of these Directives.

During 2003, the Court condemned Italy (Case C-348/02) and the United Kingdom (C-332/02) for failure to transpose Directive 1999/13/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations. By its judgement of 25 September 2003, the Court also condemned Germany for failure to communicate national transposition measures for Directive 1999/94/EC relating to the availability of consumer information on fuel economy and CO₂ emissions in respect of the marketing of new passenger cars (Case C-161/02).

²¹ More information under: http://europa.eu.int/comm/environment/eia/030923_sea_guidance.pdf

²² Directive 1998/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC, Council Directive 1999/13/EC of 11 March 1999 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations, Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air, Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC, Directive 1999/94/EC of the European Parliament and of the Council of 13 December 1999 relating to the availability of consumer information on fuel economy and CO₂ emissions in respect of the marketing of new passenger cars, Directive 2000/69/EC of the European Parliament and of the Council of 16 November 2000 relating to limit values for benzene and carbon monoxide in ambient air, Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste, Commission Directive 2001/63/EC of 17 August 2001 adapting to technical progress Directive 97/68/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery, Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants, Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants, Directive 2002/3/EC of the European Parliament and of the Council of 12 February 2002 relating to ozone in ambient air, Directive 2003/17/EC of the European Parliament and of the Council of 3 March 2003 amending Directive 1998/70/EC relating to the quality of petrol and diesel fuels, Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC.

Council Directive 89/369/EEC on the prevention of air pollution from new municipal waste incineration plants provides that prior authorisation is required to operate these plants and ensures that authorisation can only be given when prior preventive air pollution measures have been taken. The Commission has sent Spain a letter of formal notice under Article 228 of the Treaty, asking it to comply with the Court judgement condemning it for failure to adopt with regard to three incineration plants in La Palma the measures required to fulfil its obligations under this Directive (Case C-139/00).

During 2003, the Commission also took legal action against several Member States to ensure compliance with the reporting requirements imposed by certain directives in the air sector.

The Framework Directive for assessing and managing ambient air quality²³ requires Member States to send the Commission specific information and reports by specified deadlines. For the year 2001, the deadline for communication was 30 September 2002. As Italy has communicated this information only for some regions and not for its whole territory the Commission has decided to refer Italy to the Court.

Council Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels requires Member States to report by June of each year on the sulphur content of fuels used in their territory during the previous calendar year. During 2003, the Commission has decided to refer Austria to the Court for not providing the necessary information for the year 2001.

Regulation 2037/2000 on substances that deplete the ozone layer requires Member States to supply information on measures taken to promote the recovery, recycling, reclamation and destruction of controlled substances such as CFCs, HCFCs, halons and methyl bromide. Member States must also provide data on what steps have been taken to make organisations and users responsible for carrying out these activities. In addition, the Regulation obliges Member States to respect other reporting requirements. The Commission sent Spain, Greece and Portugal a reasoned opinion and has decided to refer Ireland to the Court for failure to fully implement these measures. Furthermore, the Commission sent letters of formal notice to Greece, Spain and Ireland for failing to indicate what penalties they have fixed for breaches of the Regulation. The Commission also decided to refer Italy to the Court for allowing the use of HCFCs in fire-fighting installations at levels that exceed the limits or fail to respect the conditions set down in the Regulation.

Directive 2001/81/EC on national emission ceilings for certain atmospheric pollutants requires that Member States report to the Commission the measures that they have taken to meet the Directive's requirements. In particular, by 31 December 2002, they must inform the Commission of their plans for meeting their emission ceilings, which must be drawn up by 1 October 2002. During 2003, the Commission opened a horizontal infringement proceeding²⁴ for failure to comply with the reporting requirements under the Directive.

Infringement action was taken due to problems of non-conformity and bad application in the air sector in a small number of cases.

²³ Directive 96/62 of 27 September 1996 on ambient air quality and management.

²⁴ i.e. a legal action undertaken against all or several Member States on the same grounds.

1.4. Water

Monitoring the implementation of Community legislation on water quality remains an important part of the Commission's work. This is due to the quantitative and qualitative importance of the responsibilities imposed on the Member States by Community law and by growing public concern about water quality.

Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy²⁵ was due to be transposed by 22 December 2003. In May 2001, a Common Implementation Strategy²⁶ was agreed upon involving all national, regional and local authorities of Member States, EEA countries, various stakeholders and NGOs. The strategy includes a large number of joint activities including the development of guidance documents on various technical issues, the testing of implementation aspects in pilot river basins and the sharing of knowledge and information. So far, seventeen guidance documents and several technical reports have emerged from this process. In addition, an extensive European implementation network has been established. The process will continue over the coming years.

Directive 75/440/EEC concerning the quality required of surface waters aims to protect and improve the quality of surface waters used in the abstraction of drinking water. In 2003 a reasoned opinion on the basis of Article 228 of the EC Treaty was sent to France for non-compliance with the judgment of 8 March 2001 (Case C-266/99). In that judgment, the Court ruled against France for its failure to comply with the 50mg/l limit for nitrates in surface waters in Brittany, as required by the Directive.

With regard to Directive 76/160/EEC concerning the quality of bathing waters, monitoring of bathing areas is becoming increasingly common and water quality is improving. Despite this progress, however, proceedings concerning *non-conformity and/or bad application* are still under way against many Member States since implementation still falls far short of the Directive's requirements. Most notably, by its judgement of 25 November 2003 (Case C-278/01) the Court has imposed a fine on Spain for non-compliance with its 1998 judgement. The Court held in 1998 (Case C-91/96) that Spain had not observed the limit values laid down by Directive 76/160/EEC as regards the quality of inshore bathing water. The Court has set a periodic penalty of EUR 624,150 per annum and per percentage of inshore bathing areas not complying with the limit values laid down by the Directive. The periodic penalty payment must be paid with effect from the time when the state of the bathing water during the 2004 bathing season is ascertained, until the year in which the 1998 judgement is fully complied with. By its judgment of 30 January 2003, the Court ruled against Denmark (Case C-226/01) for failing to take all necessary measures to ensure that the quality of its bathing water conformed to the limit values laid down in Directive 76/160/EEC and to adhere to the minimum sampling frequencies required by that directive. During 2003, the Commission also issued a letter of formal notice under Article 228 of the Treaty to France for non-compliance with the judgment of the Court concerning bathing water quality (Case C-147/00).

²⁵ OJ L 327, 22.12.2000, p.1.

²⁶ More information under <http://europa.eu.int/comm/environment/water/water-framework/implementation.html>

Details of Member States' performance concerning compliance with the parameters of water quality and sampling frequency set out in Directive 76/160/EEC is also provided by the annual reports on the quality of bathing waters²⁷.

The Commission has continued proceedings under Article 228 against a number of Member States for their failure to comply with earlier judgments of the Court over the *non-conformity* of their national legislation with Directive 76/464/EEC on dangerous substances discharged into the aquatic environment and of the directives setting levels for individual substances, particularly concerning the adoption of pollution reduction programmes under Article 7 of the Directive. By its judgement of 12 June 2003 (Case-130/01) the Court ruled against France for failing to adopt such programmes.

Directive 76/464/EEC is now integrated in Directive 2000/60/EC (Water Framework Directive). The Water Framework Directive sets out transitional provisions for the existing directive, including a list of priority substances that will replace an earlier list of substances intended for priority action under Directive 76/464/EEC (the "candidate list I"²⁸) and a review of the "specific" Directives regulating list I substances under Directive 76/464/EEC within 2 years after the Water Framework Directive's entry into force.

Concerning Council Directive 78/659/EEC on the quality of fresh waters needing protection or improvement in order to support fish life, the Commission sent a reasoned opinion to the United Kingdom for failure to designate waters and to adopt pollution reduction programmes.

Council Directive 79/923/EEC on the quality required of shellfish waters requires Member States to designate waters that need protecting or improving in order to support shellfish. During 2003, the Commission has continued a small number of infringement cases concerning the *bad application* of this Directive. The Commission sent Ireland a reasoned opinion for contravening the terms of this Directive by designating and protecting too few shellfish waters. By its judgement of 11 September 2003, the Court condemned Ireland for not adopting programmes for all of its designated shellfish waters in accordance with Article 5 of the Directive (Case C-67/02).

Council Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances requires Member States to apply a system of investigation and authorisation for waste disposal and other activities in order to ensure that groundwater is not polluted by dangerous substances. During 2003, the Commission opened a small number of infringement cases concerning the *bad application* of this Directive. The Commission has also decided to refer Ireland to the Court for failing to ensure groundwater investigations and authorisations in all the circumstances required by the Directive.

Concerning Council Directive 80/778/EEC relating to the quality of water intended for human consumption ("Drinking Water Directive"), the Commission initiated and continued a small number of infringement cases relating to *bad application* of the Directive, particularly concerning poor quality of drinking water. During 2003, the Commission decided to refer France to the Court for breaches of the quality standards for nitrates laid down in the Drinking Water Directive.

²⁷ The reports are available under http://europa.eu.int/water/water-bathing/index_en.html

²⁸ List of substances which could belong to List I of Council Directive 76/464/EEC (Communication from the Commission to the Council, OJ C176, 14.07.1982, p. 3).

Directive 80/778/EEC was repealed as from 25 December 2003 by Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption²⁹. Directive 98/83/EC was due to be transposed into national law by 25 December 2000. The Commission was able to close most infringement cases for *non-communication* of implementing measures for this Directive. Only Belgium (Walloon Region) has still not notified the necessary transposition measures and the Commission has sent it a reasoned opinion under Article 228 of the Treaty.

The Community has two legislative instruments aimed specifically at combating pollution from phosphates and nitrates and the eutrophication they cause.

The first, Council Directive 91/271/EEC, concerns urban waste water treatment. Member States are required to ensure that, from 1998, 2000 or 2005, depending on population size, all cities have waste water collection and treatment systems. Since this Directive plays a fundamental role in the campaign for clean water and against eutrophication, the Commission is particularly eager to ensure that it is implemented on time³⁰. During 2003, reasoned opinions were sent to several Member States because of *bad application* of the Directive and in particular, because of insufficient designations of sensitive areas or non compliance with the requirements for urban waste water treatment. The Commission has decided to refer France to the Court for failing to provide sufficient information on how the Directive is implemented, and in particular because of a lack of information on sensitive areas. The Commission also decided to refer Greece to the Court on account of the inadequate measures that it has taken in treating Athens' urban waste water. By its judgement of 15 May 2003 (Case C-419/01), the Court ruled against Spain for failing to identify sensitive areas under Article 5 of the Directive.

The second anti-eutrophication measure is Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources. The Commission has continued to place great importance on enforcing this Directive³¹. During 2003 the Commission issued a reasoned opinion to Germany because of *non-conformity* of its national legislation implementing the Directive. The Commission continued to take action over *bad application* of the Directive by a number of Member States concerning lack of, or insufficient designation of, vulnerable zones as well as the failure to establish action programmes as required by the Directive. One of these cases was decided by the Court in 2003 (Case C-322/00 against the Netherlands). In some cases, the Commission had to open infringement procedures under Article 228 in order to make Member States to comply with earlier judgments of the Court.

1.5. Nature

The two main legal instruments aimed at protecting nature are Directive 79/409/EEC on the conservation of wild birds ("Wild Birds Directive") and Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ("Habitats Directive"). The Wild Birds Directive is the EU's oldest piece of nature conservation legislation. It creates a comprehensive scheme of protection for the EU's wild bird species. The Habitats Directive is

²⁹ OJ L 330, 5.12.1998, p. 32.

³⁰ The implementation report for this directive is available under <http://europa.eu.int/comm/environment/water/water-urbanwaste/report2/report.html>

³¹ The implementation report for this directive is available under <http://europa.eu.int/comm/environment/water/water-nitrates/report.html>

the EU's flagship contribution to safeguarding global biodiversity. It provides a comprehensive protection scheme for a range of animals and plants, as well as for a selection of habitat types. The Habitats Directive also provided for the creation, by June 1998, of a network of protected sites known as Natura 2000, which embrace Special protection areas (SPAs) designated under the Wild Birds Directive and sites proposed by Member States under the Habitats Directive.

Regarding the transposition of the Wild Birds Directive, a small number of *conformity* problems remain unresolved. In 2003, the Commission had to continue infringement actions against some Member States, notably concerning hunting periods and practices not in line with the Directive. By its judgement of 27 February 2003 (Case C-415/01), the Court ruled against Belgium for lack of legislation defining the boundaries of SPAs and creating the necessary binding legal protection regime governing SPAs. The Commission has opened an infringement procedure under Article 228 of the Treaty against Belgium.

In recent years there has been a lot of controversy over the compatibility of hunting with certain requirements of the Wild Birds Directive. The controversy is often fuelled by differing interpretations of those requirements. Subsequently, during 2003 the Commission published a guidance document on hunting, with the purpose of clarifying the requirements of the hunting provisions of the Wild Birds Directive. Based on the best available scientific data, the guidance document is bounded by the overall conservation objectives of the Directive and fully respects the existing legal framework, as interpreted by the case law of the Court³².

It should be stressed that in a preliminary ruling of 16 October 2003 (Case C-182/02 *Ligue pour la protection des oiseaux and Others*) the Court declared that the Wild Birds Directive does not preclude national derogations allowing for the recreational hunting of wild birds during the periods when they receive particular protection. However, the Court has also clarified that a series of strict conditions must be fulfilled. In particular, there should be no other satisfactory solution to the use of the derogation; derogation must be strictly supervised and on a selective basis; they should be limited to small numbers of birds and not be detrimental to maintaining bird populations at a satisfactory level.

The deadline for notifying the implementing measures for the Habitats Directive expired in June 1994. In many cases transposition is still insufficient, particularly concerning Article 6 on the protection of habitats in the special conservation sites which are to be set up, and Articles 12 to 16 on the protection of species. During 2003, the Commission decided to refer Finland and the United Kingdom to the Court as a result of shortcomings in their national legislation implementing the Habitats Directive. The Court also condemned some Member States for failing to implement in national law some important provisions of this Directive (Case C-75/01 concerning Luxembourg and Case C-72/02 concerning Portugal). The Commission has opened an infringement procedure under Article 228 of the Treaty against Luxembourg for failure to comply with earlier Court judgements.

As in the past, the main problems with the implementation of the Wild Birds Directive and the Habitats Directive relate to its *bad application*. On the one hand, the classification of special protection areas (SPA) and selection of proposed sites of Community importance (SCI) for inclusion in the Natura 2000 network remain problematic. On the other hand,

³² More information under http://europa.eu.int/comm/environment/nature/guidance_restricted_version_en.pdf

insufficient protection of such sites from ongoing activities or new projects is becoming an important issue, which is also reflected in an increasing number of infringement cases.

Existing SPAs for birds in a number of Member States are still too few in number or cover too small an area. The Commission's strategy revolves around initiating general infringement proceedings, rather than infringement proceedings on a site-by-site basis. During 2003, the Commission decided to refer Spain and Ireland to the Court for their failure to designate a sufficient number of SPAs for wild birds. The Court also ruled against Finland (Case C-240/00) and against Italy (Case C-378/01) in this respect. The Commission has started infringement procedures under Article 228 of the Treaty against Italy.

As regards SCI, the Commission continued infringement proceedings against several Member States whose selection of sites is either not satisfactory or is under assessment subject to the results of bio-geographical seminars. The Commission had to start infringement proceedings under Article 228 against Germany for its failure to comply with an earlier Court judgment (Case C-071/1999).

Problems remain concerning the special protection regime under Article 4(4) of the Wild Birds Directive or Article 6(2) to (4) of the Habitats Directive, e.g. wrongly applying or setting aside the special protection regime in relation to various activities significantly affecting conservation objectives, habitats or species. In this respect, infringement actions against a number of Member States had to be initiated in the course of 2003 and the Commission decided to refer Austria and Greece to the Court.

Problems with the implementation of the Habitats Directive may also arise with regard to the protection, not of selected sites, but of species. Article 12 of the Directive establishes a strict protection scheme for species under Annex IV (a), from which Member States can derogate only under the conditions laid down in Article 16(1) and (2). During 2003, the Commission sent reasoned opinions to a number of Member States for not complying with the strict protection regime laid down in Article 12 of the Directive. The Commission decided to refer Spain to the Court with regard to the use of non-selective trapping methods, such as snares, to control foxes. The Commission is concerned that these methods also trap certain strictly protected species under the Directive, such as the Iberian lynx.

Council Directive 1999/22/EC relating to the keeping of wild animals in zoos, aims to protect wild fauna and conserve bio-diversity by providing for the licensing and inspection of zoos in the EU, thereby both safeguarding and strengthening the essential role that zoos have to play in animal conservation. The deadline for transposing the Directive into national law was 9 April 2002. During 2003 the Commission referred Italy, Germany and Greece to the Court for not having taken all necessary measures to implement this Directive.

1.6. Noise

Directive 2000/14/EC of the European Parliament and of the Council on the approximation of laws of the Member States relating to noise emission in the environment by equipment for use outdoors³³ was due to be transposed by 3 July 2001. This directive repeals, from 3 January 2002, nine directives concerning different types of equipment. During 2003 the Commission closed the infringement procedures pending against Italy, Greece and the United Kingdom as

³³ OJ L 162, 3.7.2000, p. 1.

these Member States adopted and notified their implementing measures. Directive 2000/14/EC is now transposed in all Member States.

1.7. Chemicals and biotechnology

Community legislation on chemicals and biotechnology covers various groups of directives relating to products or activities which have certain characteristics in common: they are technically complex, require frequent changes to adapt them to new knowledge, apply to both the scientific and industrial spheres and deal with risks for human health and environment.

Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions in relation to the classification, packaging and labelling of dangerous substances represents the EU's core legislation for dealing with chemicals. Since it was adopted in 1967, the Directive has been amended or adapted on numerous occasions to keep up with scientific and technical developments. Commission Directive 2001/59/EC adapting Directive 67/548/EEC to technical progress for the 28th time, had to be transposed by 31 July 2002. Most Member States have transposed this Directive in good time. However, during 2003, the Commission referred France to the Court for failing to *communicate* the transposition measures that are required to implement and amend the Dangerous Substances Directive. By its judgement of 16 October 2003, the Court also condemned France for failing to adopt all necessary measures to comply with Commission Directive 2000/21/EC concerning the list of Community legislation referred to in the fifth indent of Article 13(1) of Directive 67/548/EEC (Case C-307/02).

Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing on the market of biocidal products³⁴ was due to be transposed by the Member States no later than 14 May 2000. Most Member States have transposed the Directive, but on 10 April 2003, the Court ruled against France for failing to meet this deadline (Case C-114/02). As France has not informed the Commission of the steps taken to comply with the Court ruling, the Commission has sent it a letter of formal notice under Article 228 of the Treaty.

Animal experiments are covered by Directive 86/609/EEC on the approximation of laws, regulations and administrative provisions of the Member States regarding the protection of animals used for experimental and other scientific purposes. Certain problems with the *conformity* of the Directive persist. The Commission issued letters of formal notice under Article 228 to France and the Netherlands for not complying with earlier Court judgments which found that these Member States failed to adopt the necessary measures to correctly transpose several articles of the Animal Experiments Directive (Case C-152/00 concerning France and Case C-205/01 concerning the Netherlands).

Directive 2001/18/EC is a new directive revising the original framework for regulating the release of GMOs in the Community³⁵. It had to be transposed into national law by 17 October 2002. The original regulatory framework, which was established by the 1990 Directive³⁶, was

³⁴ OJ L 123, 24.4.1998, p. 1.

³⁵ Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC.

³⁶ Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms.

established in response to concerns that the release of GMOs might lead to irreversible damage to the environment. During 2003, the Commission decided to refer nine Member States to the Court for *non-communication* of transposition measures within the deadline.

Council Directive 98/81/EC substantially amends the original Directive 90/269/EEC on the contained use of genetically modified organisms to take account of technological advances made since 1990. National transposing legislation should have been adopted and communicated to the Commission by 5 June 2000 at the latest. On 13 March 2003, Belgium and Spain were condemned by the Court for failing to meet this deadline (Cases C-436/01 for Belgium and C-333/01 for Spain). By its judgement of 16 October 2003, the Court also condemned Luxembourg for transposing only part of some articles of the Directive (Case C-325/02). The Commission initiated infringement procedures under Article 228 of the Treaty against Belgium and Spain in order to make them comply with the Court judgements.

1.8. Waste

The Waste Framework Directive (Directive 75/442/EEC, as amended by Directive 91/156/EEC) lays down basic requirements for Member States regarding the handling of waste and sets out a definition of the term “waste”. Member States must ensure that the disposal and recovery of waste does not present a risk to water, air, soil, plants and animals. Furthermore, they must prohibit the dumping or uncontrolled disposal of waste and establish an integrated and effective network of waste disposal plants, prepare waste management plans and ensure that waste treatment operations receive a permit. Waste collectors must have special authorisation to operate or be registered, and companies carrying out waste collection or disposal must undergo periodic inspections. Member States still have problems in fully and correctly implementing the provisions of this Directive into national law.

In 2003, the Commission took a number of infringement actions, including some referrals to the Court, involving *bad application* of the Waste Framework Directive. Most difficulties in implementation concern the application of the Waste Framework Directive to specific installations. This is at the root of the large number of cases primarily concerned with local waste dumping problems (illegal landfills and/or uncontrolled treatment of waste, non-existent or insufficient environmental impact assessments, uncontrolled dumps, controversial location of planned controlled tips, mismanagement of lawful tips, water pollution caused by directly discharged waste).

In particular, the Commission has received a considerable number of complaints, petitions and parliamentary questions concerning the operation in several Member States (such as Spain, Greece, France, Italy) of illegal or uncontrolled landfills, where waste disposal endangers human health and harms the environment. After having initiated horizontal infringement procedures under Article 226 of the Treaty, the Commission decided in 2003 to lodge a Court application against Greece and Spain and issued reasoned opinions to Italy and France.

In addition, the Commission uses individual cases to detect more general problems concerning incorrect application of Community law, such as the absence or inadequacy of waste management plans, based on the assumption that an illegal dump may provide evidence of an unsatisfied need for adequate waste management. By its judgement of 12 June 2003, the Court condemned Spain for maintaining several illegal disposal sites which do not meet the requirements of Article 4 of the Waste Framework Directive (Case C-446/01).

Another category of *bad application* of waste legislation is made up of cases concerning inadequate waste planning. They cover a range of failings, relating variously to plans as required by Article 7 of the Waste Framework Directive, plans for management of dangerous waste as required by Article 6 of Directive 91/689/EEC, and special plans for packaging waste, as required by Article 14 of Directive 94/62/EC. During 2003, the Commission sent letters of formal notice under Article 228 of the Treaty to France and the United Kingdom for failure to comply with the Court's judgements condemning them for having breached Article 7(1) of the Waste Framework Directive, Article 6(1) of Directive 91/689/EEC and Article 14 of Directive 94/62/EC for insufficient waste management plans³⁷. In May 2003, the Commission published a methodological guidance note on preparing a waste management plan as required by these directives. The guidance is of a non-binding nature and should promote more coherent and appropriate planning practices in the Member States and Accession Countries³⁸.

The case-law on the definition of waste under the Waste Framework Directive was further developed by the preliminary ruling given by the Court on 11 September 2003 (Case C-114/01 AvestaPolarit Chrome Oy). The Court held that the holder of leftover rock and residual sand from ore-dressing operations from the operation of a mine, discards or intends to discard those substances, which must consequently be classified as waste within the meaning of Council Directive 75/442/EEC, unless he uses them lawfully for the necessary filling in of the galleries of that mine and provides sufficient guarantees as to the identification and actual use of the substances to be used for that purpose. In two separate cases, Italy was referred to the Court for inconsistencies with the definition of waste in Italian legislation. In each case, the Italian legislation's definitions excluded waste destined for re-use in a production cycle; such a definition is not in accordance with the Waste Framework Directive.

Regarding Directive 75/439/EEC on the disposal of waste oils, the Commission continued infringement proceedings during 2003 against several Member States for *non-conformity* and/or *bad application* of national legislation with several Articles of the Directive, particularly regarding the obligation to give priority to the processing of waste oils by regeneration, provided that technical, economic and organisational constraints so allowed. The Commission has decided to refer France and Belgium to the Court in this respect. By its judgement of 10 April 2003, the Court condemned Portugal for an incomplete and incorrect transposition of Directive 75/439 (Case C-392/99).

Directive 91/689/EEC on hazardous waste sets the framework for EU standards on the management of hazardous waste. In particular, it provides the key definitions of what constitutes hazardous waste, disposal and recovery. Some Member States still had problems in transposing the national legislation correctly. As regards the application of the Directive, the Commission commenced infringement proceedings in 1998 against a number of Member States which had failed to provide the Commission with particular information required in relation to establishments or undertakings carrying out the disposal and/or recovery of hazardous waste. The Commission sent Greece a letter of formal notice under Article 228 of the Treaty for not complying with an earlier Court judgement finding that Greece had failed to send the Commission, within the prescribed period, all the information required under Article 8(3) of the Directive (Case C-33/01).

³⁷ Case C-292/99 concerning France, Case C-35/00 concerning the United Kingdom.

³⁸ More information under: <http://europa.eu.int/comm/environment/waste/plans/index.htm>

As regards Directive 94/62/EC on packaging and packaging waste the Commission decided to refer Finland to the Court for its failure to transpose the requirement of the Directive that return, collection and recovery systems are open and non-discriminating. In a preliminary ruling of 19 June 2003 (Case C-444/00) the Court clarified the concept of recycling within the meaning of Article 3(7) of Directive 94/62. The Court held that recycling is to be interpreted as not including the reprocessing of metal packaging waste when it is transformed into a secondary raw material such as material meeting the specifications of Grade 3B, but as covering the reprocessing of such waste when it is used to produce ingots, sheets or coils of steel.

With regard to the disposal of PCBs and PCTs, two particularly dangerous substances, Directive 96/59/EC stipulates that Member States shall draw up, within three years of its adoption, namely by 16 September 1999, plans for the decontamination and/or disposal of inventoried equipment and PCBs contained therein and outlines for the collection and subsequent disposal of certain equipment under Article 11 of the Directive, as well as inventories under Article 4(1) of the Directive. However, some Member States have still not communicated the necessary measures to the Commission. Thus, in 2003 the Court ruled against Greece for the absence of the above information (Case C-083/02). The Commission also decided to send Luxembourg a letter of formal notice and Italy a reasoned opinion under Article 228 of the Treaty, for not complying with the 2002 judgements ruling against them for failure to provide this information (Case C-174/01 concerning Luxembourg and Case C-46/01 concerning Italy).

Directive 1999/31/EC on the landfill of waste³⁹ clarifies the legal framework in which landfill sites are authorised in the Member States. This Directive was to be transposed by 16 July 2001. For landfills coming into operation after, as well as those existing on, this date, requirements were tightened by this Directive. During 2003 the Commission has closed a number of infringement cases for *non-communication* of national transposition measures. However, some Member States have still not transposed the Directive. The Commission has decided to refer France to the Court because French legislation transposing the Landfill Directive is incomplete. By its judgement of 16 October 2003, the Court condemned the United Kingdom for its failure to adopt the necessary measures to transpose the Directive (Case C-423/02).

Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles lays down measures with a dual aim: to prevent waste from motor vehicles and vehicle components that have reached the end of their life-cycle, and to promote vehicle reuse, recycling and other forms of recovery. The Directive had to be transposed by Member States by 21 April 2002. During 2003 the Commission decided to refer France, Belgium, the United Kingdom, Ireland, Greece and Finland to the Court for their failure to adopt national legislation transposing the Directive. The Commission also opened infringement proceedings against a number of Member States for *non-conformity* of national legislation transposing Directive 2000/53/EC.

1.9. Environment and industry

Directive 96/61/EC concerning integrated pollution prevention and control (IPPC) is one of the EU's major pieces of environmental legislation. It is an example of modern legislation

³⁹ OJ L 182, 16.7.1999, p. 1.

that relies on authorisation to control environmental impacts. The Directive applies to a significant number of mainly industrial activities with a high pollution potential. It seeks to prevent or reduce pollution of air, water and land through a comprehensive permit system that assesses each environmental medium simultaneously. In addition, the Directive's scope covers the generation of waste, energy use, accident prevention and the cleaning-up of industrial sites. This approach ensures a high degree of environmental protection and is a change from the approach of older environmental legislation, which regulated each environmental medium individually.

The Directive was due to be implemented by 30 October 1999. A first comprehensive report on measures taken to implement the Directive, covering the period 2000 to 2002, became due on 30 September 2003. The Commission has sent letters of formal notice to a number of Member States because of their failure to submit the first report in accordance with the Directive. During 2003, the Commission also decided to issue a reasoned opinion to Ireland and to refer Austria to the Court for *non-conformity* of certain aspects of their national legislation with the Directive.

Directive 96/82/EC on the control of major accident hazards involving dangerous substances ("Seveso II"), replacing Directive 82/501/EEC from 3 February 2001 ("Seveso I"), was due to be transposed no later than 3 February 1999. The Seveso II Directive is aimed at preventing major accidents involving dangerous substances and at limiting their consequences on citizens' health and the environment. The notification of implementing measures by a few Member States is still incomplete, particularly as regards Articles 11 and 12 of the Directive. During 2003, the Commission issued reasoned opinions against the Netherlands, Ireland, Italy and Spain for incomplete or incorrect transposition of the Directive.

The European Parliament and the Council adopted on 16 December 2003 an amending Directive⁴⁰ to the Seveso II Directive. One of its main purposes is the extension of the scope of Directive 96/82/EC which was deemed necessary in light of recent major industrial accidents, such as the fireworks accident in Enschede in the Netherlands in May 2000 or the explosion of a fertiliser plant in Toulouse in September 2001.

⁴⁰ Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances, OJ L 345, 31.12.2003, p. 97.

CHAPTER II

IMPEL (EUROPEAN UNION NETWORK FOR THE IMPLEMENTATION AND ENFORCEMENT OF ENVIRONMENTAL LAW)

1.1. Background

IMPEL is an informal network of European regulators concerned with the implementation and enforcement of environmental legislation that has existed since 1992. It has as its primary objective to create the necessary impetus in the European Community to ensure a more effective application of environmental legislation. As of 1st January 2003, the two networks IMPEL and AC-IMPEL merged and the ten future Member States as well as the candidate countries Bulgaria, Romania and Turkey became full members of IMPEL. Norway is also a member of IMPEL and the network now consists of 29 countries.

Initially its main focus was the implementation and enforcement of environmental legislation, mainly as it affected large industrial processes. Since then it has gradually broadened the scope of its activities to cover other parts of the regulatory chain. The First Annual Survey gave a full description of the history of the network⁴¹. The Second Annual Survey described how the structure of IMPEL had developed up to June 1999 and how it had then been rationalised⁴². As a result, instead of the former standing committees and IMPEL Plenary Meetings there are bi-annual IMPEL meetings in addition to meetings held in connection with projects or clusters of projects. The Third and Fourth Annual Survey looked at how IMPEL worked as a result of these changes and what it had been able to achieve. This Fifth Annual Survey looks at IMPEL's main activities in 2003 and how IMPEL is preparing to ensure its continuing value and usefulness in the future.

1.2. Legal base

The IMPEL network has a formal legal base in Decision No. 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the 6th Community Environmental Action Programme⁴³. Article 3 "Strategic Approaches to meet environmental objectives" contains an explicit reference to IMPEL's work. Article 3.2 is about encouraging a more effective implementation and enforcement of Community legislation on the environment, which requires, amongst other things:

- Promotion of improved standards of permitting, inspection, monitoring and enforcement by Member States; and
- Improved exchange of information on best practice on implementation including by the IMPEL network within the framework of its competencies.

1.3. IMPEL's Activities

The essence of the IMPEL network is its projects. As a general rule, the projects look at how legislation is currently applied and enforced and good practice is subsequently defined.

⁴¹ paragraph 3.5.1, p.19.

⁴² paragraphs 4.2 and 4.3, pp 27-28.

⁴³ OJ L 242, 10.09.2002, p. 1.

The framework for IMPEL projects and activities is its multi-annual work programme⁴⁴. This programme aims at providing a structure for IMPEL's work for the years of 2002-2006. It is based on the 6th Environmental Action Programme with a particular focus on Recommendation 2001/331/EC on Minimum Criteria for Environmental Inspections. The multi annual work programme will be used in a flexible way and it will be kept under regular review to ensure that it is in line with future priorities and developments.

1.3.1. IMPEL's work on the Recommendation 2001/331/EC on Minimum Criteria for Environmental Inspections

In 2003, IMPEL continued its work on the Recommendation of the European Parliament and of the Council on Minimum Criteria for Environmental Inspections.

The sixth review of practices and procedures in environmental inspectorates ("IMPEL Review Initiative") was carried out in Galicia, Spain⁴⁵.

A working group has been set up to examine the results and lessons learnt from the six reviews and to consider whether the review process worked as well as to formulate recommendations for its continuation.

Furthermore, IMPEL finalised its Management Reference Book for Environmental Inspectorates. With examples on good practice compiled from many European countries the Reference Book illustrates practical management solutions to challenges faced by environmental inspectorates.

1.3.2. Impel Better Legislation Project

IMPEL carried out a project to examine the challenges that IMPEL members face in the practical implementation of EU legislation and to suggest recommendations for legislative improvement. It involved gathering information on the experience of implementing EU legislation from IMPEL members through a questionnaire, and discussing the results and developing conclusions through project meetings. It covered a range of issues relating to the practical implementation of legislation, such as clarity, coherence and proportionality. The main recommendations of the project include, amongst others:

- More individuals with practical experience should be involved in the law making process;
- Before drafting a new law it should be standard practice to review all related EU legislation, international Conventions and ECJ cases, including those from other policy fields;
- Issues such as coherence of legislation should be assessed during the Commission's extended impact assessment. The Council and European Parliament should also assess the consequences of their amendments, by comparing them to the Commission's original proposal and impact assessment;
- There is also a need for an overall, strategic approach to broad sectors of environmental policy, such as through the use of framework Directives;

⁴⁴ More information under: <http://europa.eu.int/comm/environment/impel>.

⁴⁵ See fourth Annual Survey for a description of the scheme.

- Definitions must be clear and unambiguous, especially in framework Directives, and particularly when they determine some key aspect of the scope of a measure or define the regulatory requirements. Technical definitions in different laws should be, as far as possible, identical in terms of units and scientific meaning;
- For current legislation, IMPEL projects may provide a route to compare and analyse implementation problems and make recommendations for improvement.

With new legislation IMPEL could be involved in examining drafts at an early stage and commenting from the point of view of enforceability and practicality.

1.3.3. IMPEL Conference 2003 “Impel at work”

The main IMPEL event in 2003 was the second IMPEL Conference “IMPEL at Work” in Maastricht from 6th to 8th October 2003. In total 218 participants from 31 countries and the European Commission attended the plenary meetings and parallel workshops that were held during these three days. The aim of the conference was to exchange information among the participants as well as share ideas and experiences towards improving the quality of the daily work. Practitioners from both national and regional levels in the fields of inspection, permitting and policy-making, thus representing the “three pillars” of IMPEL, took the opportunities that the conference offered them by discussing developments in their fields of work with colleagues and exploring ideas for new IMPEL projects.

The core of the conference was formed by four parallel sessions around the themes:

- New Instruments and improvement of the current instruments;
- The role of inspections and different approaches;
- Identifying and spreading good practice – getting the best out of networks like IMPEL;
- Capacity building – How can we manage our job?

This conference also marked the 10th anniversary of IMPEL. Participants and speakers from different perspectives stressed the importance of the IMPEL network in the implementation of European Environmental legislation. They challenged and encouraged the network to continue and extend its work and make the results more visible, both on the national as well as on the European level.

1.3.4. Activities of the future member states and candidate countries (AC-Cluster, former AC-Impel)

With the merger of the two networks IMPEL and AC-IMPEL, the new Member States and the candidate countries will progressively phase in all IMPEL projects, but they will still have the possibility to carry out projects and activities tailored to their specific needs under the umbrella of the AC-Cluster, with a separate funding mechanism until 2005.

This cluster covers various tasks, performed under the responsibility of a consultant, amongst which are included training, external assessment and support activities.

On the basis of a basic training manual, "training the trainer" courses were held in eight individual countries, for 3 days each. The total number of participants was 194⁴⁶.

An external assessment of implementation and enforcement procedures was performed in Slovakia and Bulgaria, which served as basis for the subsequent study tours in both countries.

Further, information for studies on the implementation and enforcement of key EU legislation was collected through a questionnaire procedure. The focus was on waste legislation (PCBs/PCTs, hazardous waste and trans-frontier shipments of waste).

1.4. Co-operation with other networks

IMPEL puts great emphasis on strengthening the collaboration and co-operation with other networks in order to build bridges and share its experience and working methods on a global level.

At the 22nd IMPEL Plenary Meeting in Rome, 26 – 28 November 2003, it was agreed that networks with a close link to IMPEL's scope could be invited to participate in the more general part of the first IMPEL Plenary Meeting of the year where new project ideas and issues related to network co-operation would be discussed in greater depth and occasionally in the second Plenary Meeting for specific agenda items, e.g. common projects. Furthermore, all IMPEL Conferences should be open to these organisations; participation in IMPEL projects would in principle be open but remain at the discretion of the project managers.

1.4.1. INECE

INECE is the International Network for Environmental Compliance and Enforcement. It is an international partnership established to promote effective compliance and enforcement of domestic environmental laws and international agreements (MEAs) through networking, capacity building and cooperation. It began its work in 1985 and is now a major international network of over 2500 enforcement practitioners from governmental agencies, NGOs and international organisations.

INECE is governed by its Executive Planning Committee (EPC) that defines INECE's cooperative efforts and makes decisions to realise the INECE mission. IMPEL, represented by the IMPEL Secretariat, is a member of the INECE Executive Planning Committee.

In October 2003, the IMPEL Secretariat participated in the INECE EPC meeting in London.

INECE presented its work at the IMPEL Conference in Maastricht.

1.4.2. NISECEN and BERCEN

IMPEL has played an important role in the development of the Compliance and Enforcement Network of the Newly Independent States (NISECEN, recently renamed REPIN) and the Balkan Environmental Regulatory Compliance and Enforcement Network (BERCEN) and maintains close co-operation with both networks.

⁴⁶ The countries concerned (with numbers of participants in brackets): Bulgaria (22), Estonia (24), Hungary (32), Latvia (23), Lithuania (22), Poland (39), Romania (18) and Slovenia (14).

In 2003, the co-ordinators of the NISECEN and the BERCEN networks participated in the two IMPEL Plenary Meetings in Athens and Rome and presented their networks during the IMPEL Conference in Maastricht.

1.5. IMPEL reports adopted in 2003

Reports adopted by IMPEL in 2003 have included the following⁴⁷:

- Implementing Article 10 of the SEA Directive 2001/42/EC;
- Best Practices concerning Training and Qualification for Environmental Inspectors;
- IMPEL Review Initiative 3: Testing of the Review Scheme: Review in the Netherlands;
- IMPEL Review Initiative 3: Testing of the Review Scheme: Review in France;
- IMPEL Review Initiative 3: Testing of the Review Scheme: Review in Spain;
- Report on Lessons Learnt from accidents, Seminar held in Bordeaux in 2002;
- Management Book for Environmental Inspectorates;
- Olive Oil Project;
- IMPEL Better Legislation Initiative – Effective Enforcement Needs a Good Legal Base;
- Report on the IMPEL Conference 2003 “IMPEL at Work”.

1.6. Budget during 2003

Since 1997, IMPEL projects have generally been co-financed by the Commission and the Member State leading the project. The proportion of funding originating from the Commission has ranged from 50-80%, though the Commission will only contribute towards eligible costs. This means, for instance, that Member States have to meet the full costs of employees in the public sector who work on IMPEL projects, a fact which should be borne in mind when looking at the investment made in IMPEL projects. The amount allocated to projects in 2003 was €345,000.

1.7. Conclusions and outlook for the future

IMPEL is continuing to deliver work of high quality. The multi-annual work programme (with its emphasis on the Recommendation on Minimum Criteria for Environmental Inspections and the 6th Environmental Action Programme) gives a clear focus to the work of the network and helps to ensure that its activities continue to be of high value and usefulness.

The number and quality of the reports that IMPEL has produced in 2003 illustrates the success of the network in achieving its objectives.

⁴⁷ These reports can be found under: <http://europa.eu.int/comm/environment/impel>.

The role of IMPEL should be developed further. The existing emphasis on inspections, enforcement and permit-making should be continued as should the relationship between permit-making and enforcement. Besides that, IMPEL should give more attention to making use of its considerable practical experience in the implementation of EU environmental legislation. IMPEL members are in a good position to identify and comment on aspects of the current legislation that hinder its practicality and enforceability. In this regard IMPEL could play an advisory role for the European Commission in the field of giving feed-back to the regulators by bringing in practical experiences.

The enlarged IMPEL network will play an important role in improving cross-border co-operation and bringing about a better understanding of EU environmental law in the new Member States and candidate countries. Through the exchange of information and experiences among Member States, new Member States and candidate countries, a greater consistency of approach in implementation and enforcement will be developed. As such, distortions of competition in the wider European area would be avoided.

CHAPTER III

DETAILS OF MEMBER STATES' TRANSPOSING MEASURES COMMUNICATED FOR COMMUNITY DIRECTIVES TO BE TRANSPosed DURING THE PERIOD COVERED BY THIS SURVEY (NOTIFICATIONS RECEIVED BY 31 DECEMBER 2003)

✚ **Directive 2003/17/EC of the European Parliament and of the Council of 3 March 2003 amending Directive 98/70/EC relating to the quality of petrol and diesel fuels (Text with EEA relevance)**

OJ L 76, 22.3.2003, p.10-19

Transposition date: 30.6.2003

Belgium	No notification received by 31 December 2003
Denmark	01. Bekendtgørelse nr. 884 af 3. november 2003 om kvaliteten af benzin, dieselolie og gasolie til brug i motorkøretøjer m.v.
Germany	No notification received by 31 December 2003
Greece	No notification received by 31 December 2003
Spain	No notification received by 31 December 2003
France	No notification received by 31 December 2003
Ireland	01. Air Pollution Act 1987 (Environmental Specification for Petrol and Diesel Fuels) Regulations 2003, <i>Statutory Instrument No 541 of 11.11.2003</i>
Italy	No notification received by 31 December 2003
Luxembourg	01. Règlement grand-ducal du 7 juillet 2003 modifiant - le règlement grand-ducal modifié du 21 février 2000 concernant la T-qualité de l'essence et des carburants diesel - le règlement grand-ducal modifié du 21 février 2000 concernant la teneur en soufre de certains combustibles liquides <i>Mémorial A n° 100 du 18.7.2003, p. 2232</i>
Netherlands	No notification received by 31 December 2003
Austria	No notification received by 31 December 2003
Portugal	No notification received by 31 December 2003

Directive 2002/3/EC of the European Parliament and of the Council of 12 February 2002 relating to ozone in ambient air

OJ L 67, 9.3.2002, p.14-30

Transposition date: 9.9.2003

Belgium	01. Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 18 avril 2002 relatif à la fixation d'objectifs à long terme, de valeurs cibles, de seuil d'alerte et de seuil d'information pour les concentrations d'ozone dans l'air ambiant, <i>Moniteur belge du 11.6.2002, p. 26710</i>
	02. Arrêté du Gouvernement wallon du 5 décembre 2002 modifiant l'arrêté du Gouvernement wallon du 23 juin 2000 relatif à l'évaluation et à la gestion de la qualité de l'air ambiant, <i>Moniteur belge du 10.2.2003, p. 6677</i>
	03. Arrêté du Gouvernement flamand du 14 mars modifiant l'arrêté du Gouvernement flamand du 01/06/1995 fixant les dispositions générales et sectorielles en matière d'hygiène de l'environnement, <i>Moniteur belge du 14.4.2003, p. 18707</i>
Denmark	01. Bekendtgørelse om mal- og graensvaerdier for luftens indhold af visse forurenade stoffer
Germany	No notification received by 31 December 2003
Greece	No notification received by 31 December 2003
Spain	No notification received by 31 December 2003
France	01. Arrêté du 17 mars 2003 relatif aux modalités de surveillance de la qualité de l'air et à l'information du public, <i>JORF du 22.7.2003, p. 12353</i>
	02. Arrêté du 11 juin 2003 relatif aux informations à fournir au public en cas de dépassement ou de risque de dépassement des seuils de recommandation ou des seuils d'alerte, <i>JORF du 24.6.2003, p. 10572</i>
Ireland	No notification received by 31 December 2003
Italy	No notification received by 31 December 2003
Luxembourg	01. Règlement grand ducal du 2 avril 2003 portant application de la directive 2002/3/CE du 12/02/2002 relative à l'ozone dans l'air ambiant, <i>Mémorial Grand Ducal n° 46 du 14.4.2003, p. 712</i>
Netherlands	No notification received by 31 December 2003
Austria	01. Bundesgesetz, mit dem ein Bundesgesetz über nationale Emissionshöchstmengen für bestimmte Luftschadstoffe (Emissionshöchstmengengesetz-Luft, EG-L) erlassen sowie das Ozongesetz und das Immissionsschutzgesetz-Luft geändert werden, <i>BGBI Teil I Nr. 34 vom 11.6.2003, S. 169</i>
Portugal	No notification received by 31 December 2003
Finland	01. Valtioneuvoston asetus alailmakehän otsonista, <i>4/9/2003, SSK 783/2003, s. 3016</i>
Sweden	No notification received by 31 December 2003

 **Directive 2002/3/EC of the European Parliament and of the Council of 12 February 2002 relating to ozone in ambient air**

OJ L 67, 9.3.2002, p.14-30

Transposition date: 9.9.2003

United Kingdom	01. Environmental Protection -England-The Air Quality Limit Values Regulations 2003, <i>Statutory Instrument No 2121 of 13.8.2003</i>
	02. Environmental Protection -The Air Quality Limit Values (Scotland) Regulations 2003, <i>Statutory Instrument No 428 of 10.9.2003</i>
	03. Environmental Protection -The Air Quality (Ozone) (Wales) Regulations 2003, <i>Statutory Instrument No 1848 (W198) of 16.7.2003</i>
	04. Environmental Protection -The Air Quality (Ozone) Regulations 2003 (Northern Ireland), <i>Statutory Instrument No 240 of 17.4.2003</i>

Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy

OJL 237, 22.12.2000, p. 1-72

Transposition date: 22.12.2003

Belgium	01. Decreet van de Vlaams Gewest, van 18 juli 2003 betreffende het integraal waterbeleid, <i>Moniteur belge du 14.11.2003, p. 55038</i>
Denmark	No notification received by 31 December 2003
Germany	01. Siebtes Gesetz zur Änderung des Wasserhaushaltsgesetzes, <i>BGBI. Teil I Nr. 37 vom 24.6.2002, S. 1914</i> 02. Neufassung des Wasserhaushaltsgesetzes, <i>BGBI. Teil I Nr. 59 vom 23.8.2002, S. 3245</i> <i>N.B. Noch keine vollständige Umsetzung!</i>
Greece	01. Νόμος 3199/2003, <i>Εφημερίδα της Κυβερνήσεως ΦΕΚ αριθ. 280/Α της 9.12.2003, σ. 4821</i>
Spain	No notification received by 31 December 2003
France	No notification received by 31 December 2003
Ireland	01. Water Quality (Dangerous substances) Regulations 2001 (30/01/2001), <i>Statutory Instrument No 12 of 2001</i> 02. The Quality of Shellfish Waters (Amendment) Regulations 2001, <i>Statutory Instrument No 456 of 2001</i> 03. European Communities (Protection of waters against pollution from agricultural sources) Regulations 2003, <i>Statutory Instrument No 213 of 29.5.2003</i>
Italy	No notification received by 31 December 2003
Luxembourg	No notification received by 31 December 2003
Netherlands	No notification received by 31 December 2003
Austria	01. Gesetz vom 3. Juli 2002 über die Regelung der Fischerei im Land Salzburg (Fischereigesetz 2002), <i>LBGL. Land Salzburg Nr. 81 vom 24.9.2002, S. 283</i> 02. Bundesgesetz, mit dem das Wasserrechtsgesetz 1959 und das Wasserbautenförderungsgesetz 1985 geändert werden sowie das Hydrografieggesetz aufgehoben wird, <i>BGBI. für die Republik Österreich Teil I Nr. 82 vom 29.8.2003, S. 1353</i>
Portugal	No notification received by 31 December 2003
Finland	No notification received by 31 December 2003
Sweden	No notification received by 31 December 2003
United Kingdom	No notification received by 31 December 2003

Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (Text with EEA relevance)

OJ L 275, 25.10.2003, p. 32-46

Transposition date: 31.12.2003

Belgium	No notification received by 31 December 2003
Denmark	No notification received by 31 December 2003
Germany	No notification received by 31 December 2003
Greece	No notification received by 31 December 2003
Spain	No notification received by 31 December 2003
France	No notification received by 31 December 2003
Ireland	No notification received by 31 December 2003
Italy	No notification received by 31 December 2003
Luxembourg	No notification received by 31 December 2003
Netherlands	No notification received by 31 December 2003
Austria	No notification received by 31 December 2003
Portugal	No notification received by 31 December 2003
Finland	No notification received by 31 December 2003
Sweden	No notification received by 31 December 2003
United Kingdom	01. The Greenhouse Gas Emissions Trading Scheme Regulations 2003, <i>Statutory Instrument No 3311 of 18.12.2003</i>

ANNEX

SCOREBOARD PER MEMBER STATE AND SECTOR SHOWING THE NUMBER OF NON-COMMUNICATION, NON-CONFORMITY AND HORIZONTAL BAD APPLICATION CASES

The Scoreboard builds upon the following typology of infringement cases:

- **Non-communication (Table 1)** = Member State fails to adopt the measures (national laws, regulations and administrative provisions) to transpose Directives and to communicate them to the Commission within the prescribed time limit.
- **Non-conformity (Table 2)** = Member State transposition measures do not conform with the requirements of the Directive.
- **Horizontal bad application (Table 3)** = Member State fails to implement certain derived or secondary obligations contained in the Community acts, such as setting out plans, classifying sites and designating areas, adopting programmes, submitting monitoring data, reporting etc.

Non-communication

The Commission automatically opens an infringement procedure for non-communication if a Member State has not adopted the national measures to transpose the Directive within a prescribed deadline. Non-communication may either be total, i.e. a Directive has not been transposed at all, or partial, i.e. only certain provisions of the Directive have been transposed and/or transposition measures do not cover the whole territory of a Member State. Once transposition is complete, the Commission closes the infringement procedure.

Table 1 shows that Member States are regularly late in communicating their transposition measures for Community environmental Directives. Thus, the number of non-communication cases at the end of 2003 tends to follow the number of legislative acts recently adopted in the sector concerned. For example, the high figure in the air, chemicals and waste sectors has to do with the fact that a relatively large number of Directives in those sectors were due to be transposed during the last one or two years.

Non-conformity

Table 2 shows that problems with non-conformity are concentrated in four areas: waste, water, nature and impact assessment. In the sector of waste, conformity problems mainly concern the incorrect transposition of the Waste Framework Directive⁴⁸ (e.g. national law defines 'waste' differently from the Directive, permit requirements are less stringent than those foreseen by the Directive), Waste Oils Directive⁴⁹ (e.g. national law does not require priority to be given to the regeneration of waste oils), Hazardous Waste Directive⁵⁰ and the Packaging Waste Directive⁵¹. In the sector of water non-conformity issues include non-

⁴⁸ Directive 75/442/EEC on waste.

⁴⁹ Directive 75/439/EEC on the disposal of waste oils.

⁵⁰ Directive 91/689/EEC on hazardous waste.

⁵¹ Directive 94/62/EEC on packaging and packaging waste.

compliance with the parameters of bathing water quality under the Bathing Water Directive⁵² and failure to adopt pollution reduction programmes under the Dangerous Substances Directive⁵³. In the sector of nature, non-conformity issues mainly include hunting periods⁵⁴ and hunting practices⁵⁵ not in line with the Birds Directive⁵⁶, as well as insufficient protection regimes for sites⁵⁷ and species⁵⁸ under the Habitats Directive⁵⁹. In the sector of impact assessment, conformity problems are often related to national laws which do not ensure that all projects for which impact assessment must be carried out are made subject to the assessment procedures required by the Directive, including public consultation.

Horizontal bad application

In addition to correct and timely transposition, the effectiveness of Community environmental law is largely dependent on the prudent application of certain horizontal secondary obligations included in the Directives. Most notably, Community environmental Directives frequently include obligations to classify, nominate or designate certain protection areas for the purposes of the directive.

Table 3 shows that horizontal bad application cases are concentrated in four sectors. In the water sector, a number of infringements are on-going concerning Member States who have not sufficiently designated nitrate vulnerable areas⁶⁰ as well as areas sensitive to urban waste water⁶¹. In the sector of waste, one of the most general problems is the absence of waste plans which are important tools of waste management. In the sector of nature many Member States face problems in submitting appropriate lists of proposed sites of Community importance⁶² as well as special protection areas⁶³. In the air sector infringement proceedings were opened against Member States which did not comply with the reporting requirements imposed by certain directives. The fulfilment of such obligations is an essential precondition for a full application and effectiveness of those Directives.

⁵² Directive 76/160/EEC concerning the quality of bathing water.

⁵³ Article 7 of Council Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community.

⁵⁴ Article 7 of Directive 79/409/EEC.

⁵⁵ Article 8 of Directive 79/409/EEC.

⁵⁶ Directive 79/409/EEC on the conservation of wild birds.

⁵⁷ Article 6 of Directive 92/43/EEC.

⁵⁸ Article 12 and 16 of Directive 92/43/EEC.

⁵⁹ Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

⁶⁰ Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources.

⁶¹ Council Directive 91/271/EEC concerning urban waste-water treatment.

⁶² Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

⁶³ Council Directive 79/409/EEC on the conservation of wild birds.

Open Infringements by sector (31/12/2003)

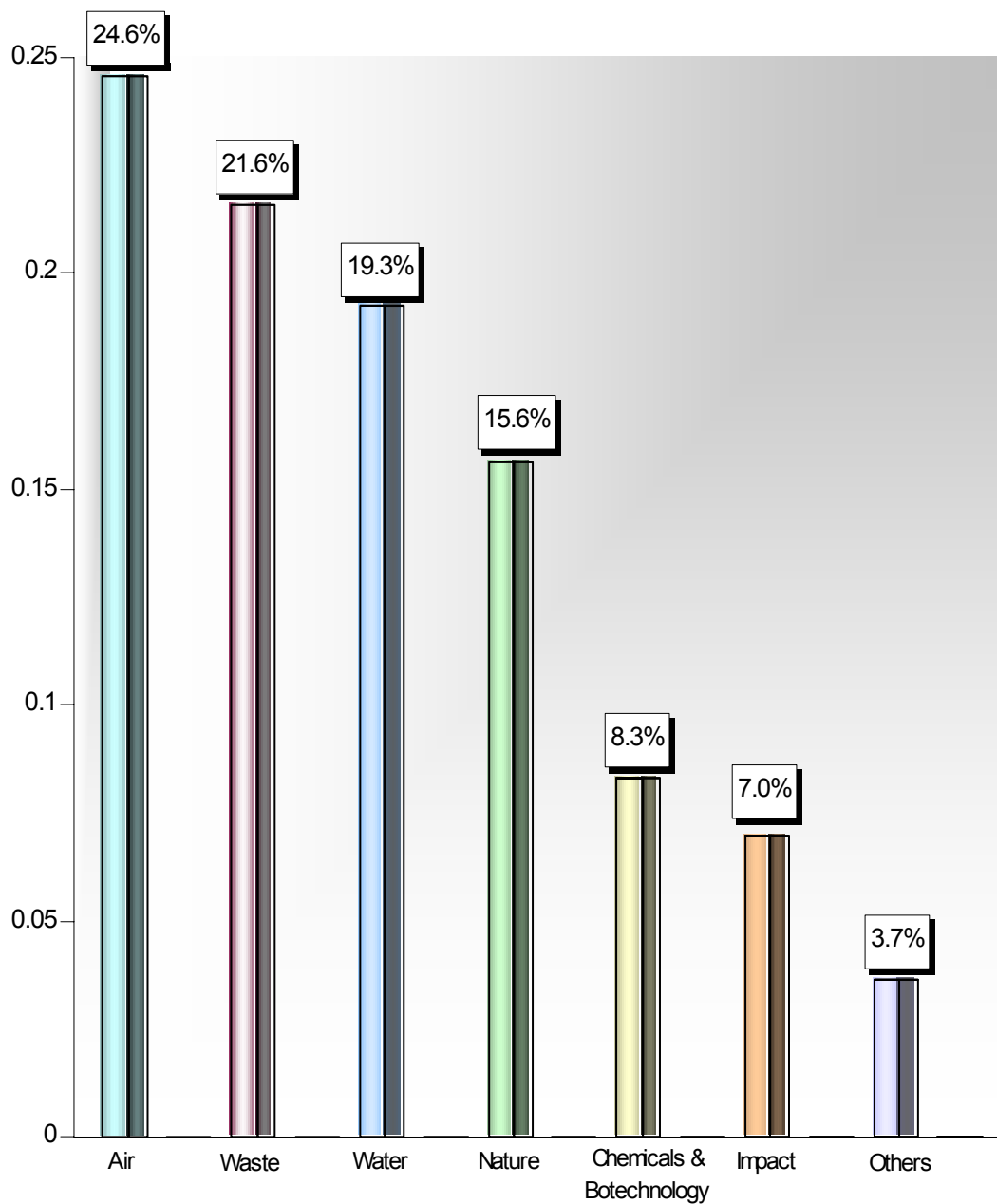


TABLE 1: NON-COMMUNICATION CASES (31/12/2003)

	BE	DK	DE	EL	ES	FR	IE	IT	LU	NL	AT	PT	FI	SE	UK		
Air	2	1	5	5	5	3	4	5	1	5	2	2	2	3	3	48	54.5%
Chemicals & Biotechnology	2	0	1	1	2	6	0	0	2	1	1	0	1	0	0	17	19.3%
Impact	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0	2	2.3%
Nature	1	0	2	1	0	0	0	1	1	0	0	0	0	0	0	6	6.8%
Others	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0%
Waste	2	0	1	2	0	2	1	1	0	1	1	1	1	0	2	15	17.0%
Water	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0%
Total:	8	1	9	9	7	11	5	7	5	7	4	3	4	3	5	88	100.0%

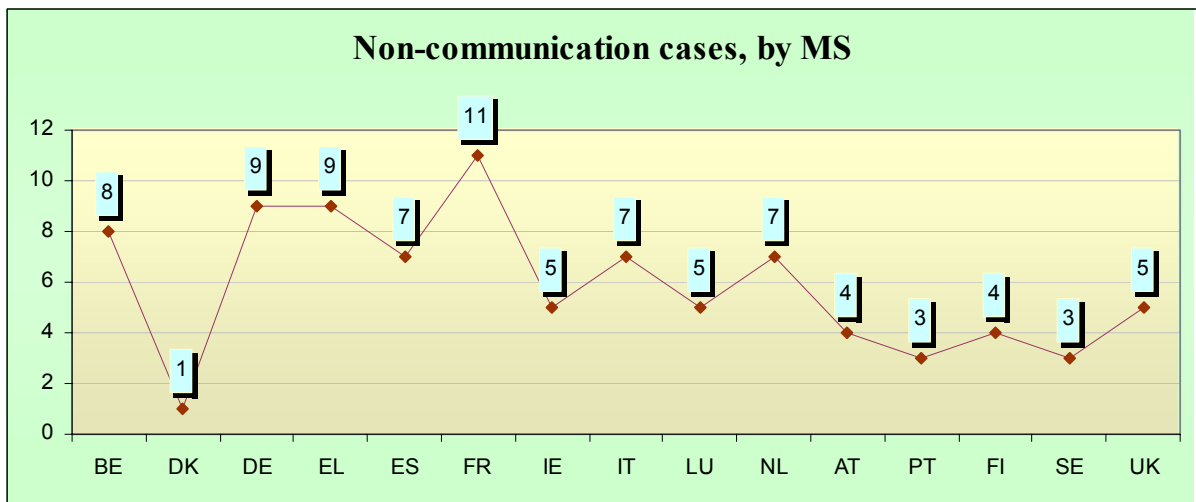
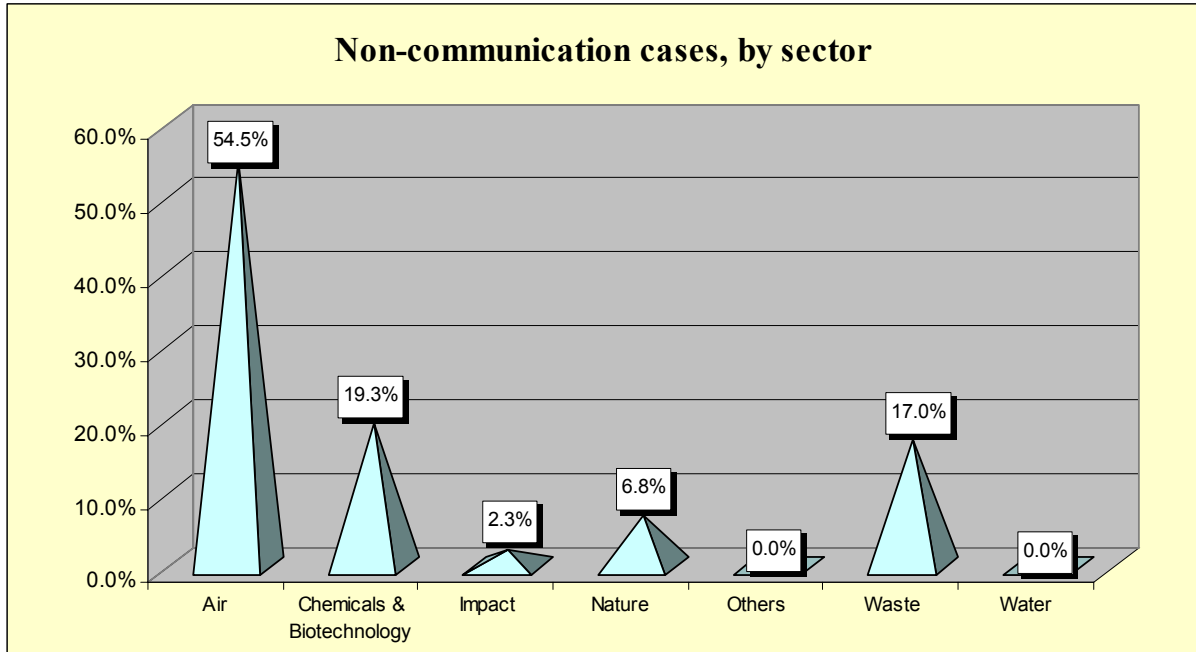


TABLE 2: NON-CONFORMITY CASES (31/12/2003)

	BE	DK	DE	EL	ES	FR	IE	IT	LU	NL	AT	PT	FI	SE	UK		
Air	0	1	1	1	1	1	0	0	1	1	2	0	0	1	0	10	8.5%
Chemicals & Biotechnology	0	0	0	0	1	1	1	1	0	3	1	0	0	0	0	8	6.8%
Impact	2	0	1	0	4	1	2	1	1	0	1	0	1	1	3	18	15.3%
Nature	0	1	2	1	1	8	2	1	1	0	2	1	3	0	1	24	20.3%
Others	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	2	1.7%
Waste	1	1	2	1	1	2	0	11	2	2	2	1	1	1	3	31	26.3%
Water	3	1	2	1	2	3	3	2	2	2	0	1	0	1	2	25	21.2%
Total:	7	4	8	4	10	17	8	16	7	8	8	3	5	4	9	118	100.0%

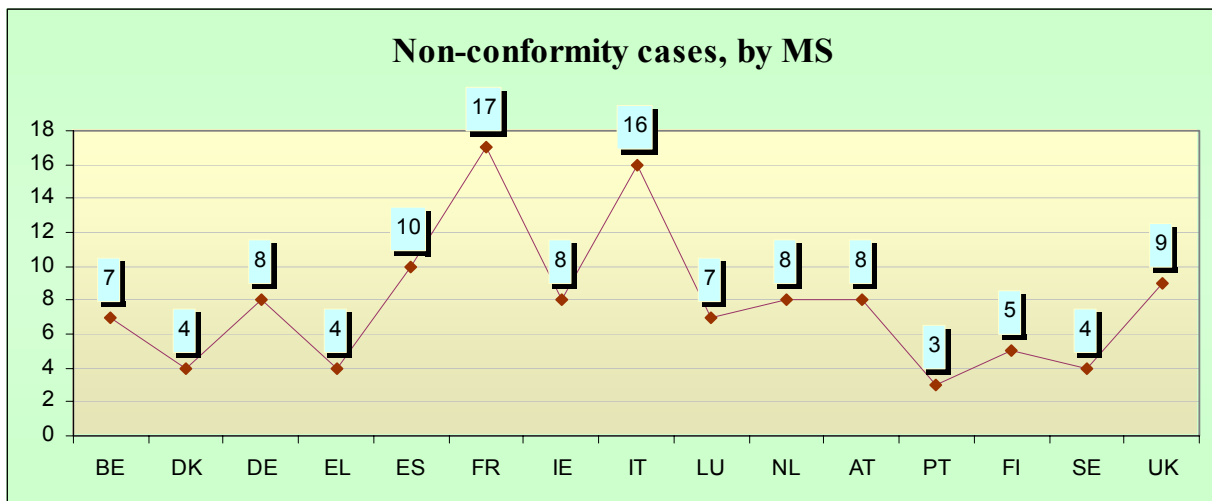
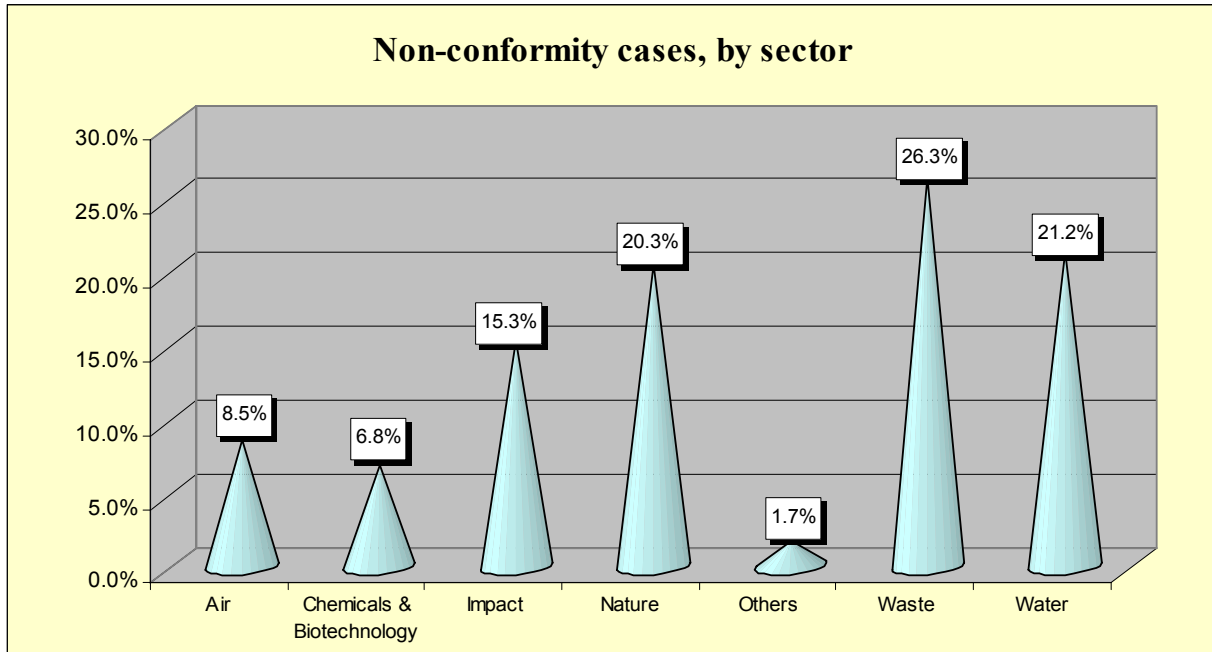
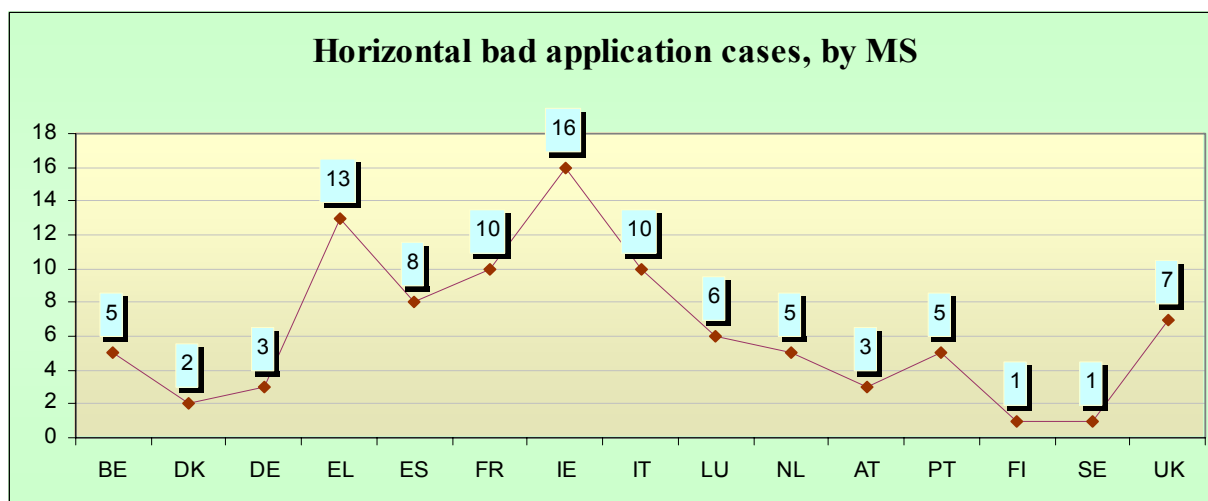
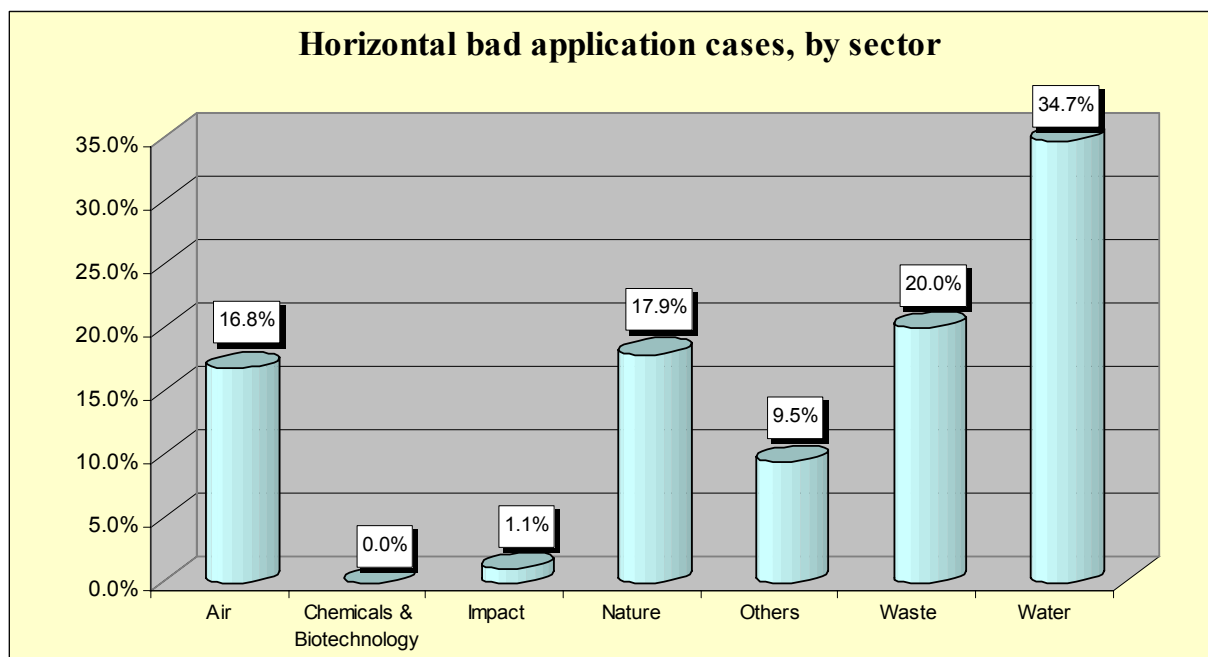


TABLE 3: HORIZONTAL BAD APPLICATION CASES* (31/12/2003)

	BE	DK	DE	EL	ES	FR	IE	IT	LU	NL	AT	PT	FI	SE	UK		
Air	1	0	0	5	2	1	3	2	1	0	1	0	0	0	0	16	16.8%
Chemicals & Biotechnology	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0%
Impact	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1	1.1%
Nature	1	1	2	1	1	2	1	1	1	0	2	1	1	1	1	17	17.9%
Others	1	1	0	1	2	1	1	0	1	1	0	0	0	0	0	9	9.5%
Waste	0	0	1	4	0	3	3	5	1	0	0	1	0	0	1	19	20.0%
Water	2	0	0	2	3	3	7	2	2	4	0	3	0	0	5	33	34.7%
Total:	5	2	3	13	8	10	16	10	6	5	3	5	1	1	7	95	100.0%



* Failure to implement certain derived or secondary obligations contained in Community acts, such as setting out plans, classifying sites and designating areas, adopting programmes, submitting monitoring data, reporting, etc.

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