



Manual of European Environmental Policy

The following pages are a section from the Manual of European Environmental Policy written by the Institute for European Environmental Policy.

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This section is the text of the Manual as published in 2012. It is therefore important to note the following:

- The contents have not been updated since 2012 and no guarantee is given of the accuracy of the contents given potential subsequent developments.
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The EU institutions

The European Union (EU) differs from all other inter-governmental organizations in possessing institutions able to adopt legislation that is binding on the Member States without further review or ratification by national institutions. Indeed, the EU is much more than an inter-governmental organization which is why it is often referred to as a supra-national organization.

There are several EU bodies which in practice contribute to the development and implementation of environmental legislation, but only seven are formally designated by the Treaty of Lisbon as ‘Community institutions’. These are:

- The Commission.
- The European Parliament.
- The European Council.
- The Council (often referred to as ‘Council of Ministers’).
- The European Central Bank.
- The Court of Auditors.
- The Court of Justice of the European Union.

Their powers are set out in Part 6 of the Treaty (TFEU). Reforms to the working of these institutions have been negotiated in a series of inter-governmental conferences (IGCs) resulting, respectively, in the 1987 Single European Act, the 1993 Maastricht Treaty, the 1999 Treaty of Amsterdam, the 2003 Treaty of Nice and most recently in the 2009 Treaty of Lisbon. The Treaty of Lisbon amending the Treaty on EU and the Treaty establishing the European Community has resulted in a number of significant changes to the institutions and to decision making at the EU level. The accession of new Member States has also brought some changes to the composition of the institutions and to some decision-making procedures.

The European Commission

The Commission formally (and exclusively) initiates proposals for legislation, sometimes after they have been developed in a network of advisory committees and working groups. Such proposals are formally adopted by the college of 27 Commissioners who formally constitute ‘the Commission’. ‘The Commission’ is also frequently used to refer to the permanent, apolitical administration, known as the Commission's services, which are divided into a number of Directorates-General (DGs) and services.

Commissioners (formally called ‘Members of the Commission’) – currently one from each Member State – are appointed for five-year (renewable) terms. Candidates are put forward by their respective Member State and must be approved by all Member States collectively and by the European Parliament. Under the Lisbon Treaty, the one Commissioner per Member State arrangement stay in place until 31 October 2014. From 1 November 2014, the Commission is to consist of a number of members corresponding to two-thirds of the number of Member States, unless the European Council, acting unanimously, amends this number.

The College of Commissioners includes the ‘High Representative for Foreign Affairs and Security Policy’, a position created under the Lisbon Treaty. This function merges the earlier two posts of Secretary General of the Council/High Representative for the Common Foreign and Security Policy and Commissioner in charge of External Relations. The High

Representative is also a Vice President of the Commission, chairs meetings of the EU's Foreign Affairs Council instead of the six-monthly rotating general Presidency of the Council), and heads the new European diplomatic service known as the European External Action Service (EEAS). The current High Representative is Lady Catherine Ashton (UK).

The Commission is led by the President of the Commission whose role is to guide and advance the Commissioners' work and the European Commission as a whole. The President can assign responsibility for specific activities to the Commissioners, and has the power to reallocate responsibilities to Members of the Commission or to ask them to resign. The President also represents the Commission to other European institutions, for instance in the European Council, the Council of Ministers, and in major debates in the European Parliament. In addition, the President is the face of the European Commission in meetings outside the EU, for instance at G8/G20 meetings. The President of the Commission is appointed by the governments of the Member States, and must then be approved by the European Parliament. Like the Commissioners, the President of the Commission serves a five-year (renewable) term. The current President of the Commission is José Manuel Barroso (Portugal). He is currently serving his second term, having first been elected as President in 2004.

The European Parliament

Members of the European Parliament (MEPs) are directly elected by citizens of EU Member States every five years. The last election was in June 2009 and 736 MEPs were elected. Under the Lisbon Treaty, the overall size of the European Parliament is capped at 751 MEPs. An amendment to the Lisbon Treaty has been negotiated temporarily to increase the number of MEPs to 754 until the end of the current term of the European Parliament in 2014. This amendment became necessary as the June 2009 elections were held under the Nice Treaty provisions, which limited the number of MEPs to 736. Germany has also been allowed to keep its current total of 99 MEPs until 2014, when the number will be cut to 96 as foreseen by the Lisbon Treaty. The amendment has been ratified and 18 MEPs have joined the European Parliament as fully-fledged members.

MEPs sit according to political group, and not by nationality. [Table 1](#) gives a breakdown of the composition of the Parliament for the 7th parliamentary term. The Parliament gives its opinion on and proposes amendments to legislative proposals after the details have been examined in one of the Parliament's 20 committees.

Committees of special interest to the environment include:

- ENVI: Environment, Public Health and Food Safety
- AGRI: Agriculture and Rural Development
- PECH: Fisheries
- REGI: Regional Development
- TRAN: Transport and Tourism
- ITRE: Industry, Research and Energy
- BUDG: Budgets

Table 1. Membership of European Parliament by political group and Member State (legislative period 2009–2014)

Political groups:

- EPP Group of the European People's Party (Christian Democrats)
- S&D Group of the Progressive Alliance of Socialists and Democrats
- ALDE Group of the Alliance of Liberals and Democrats
- Greens/EFA Group of the Greens/European Free Alliance
- ECR European Conservatives and Reformists Group
- EFD Europe of Freedom and Democracy Group
- GUE/NGL Confederal Group of the European United Left/Nordic Green Left
- NA Non-attached

Country	EPP	S&D	ALDE	Greens/EFA	ECR	EFD	GUE/NGL	NA	Total
BE	5	5	5	4	1	1	0	1	22
BU	7	4	5	0	0	0	0	2	17
CZ	2	7	0	0	9	0	4	0	22
DK	1	4	3	2	1	1	1	0	13
DE	42	23	12	14	0	0	8	0	99
EE	1	1	3	1	0	0	0	0	6
EL	7	8	1	1	0	2	3	0	22
ES	25	23	2	2	0	0	1	1	54
FR	30	14	6	15	0	1	5	3	74
IE	4	3	4	0	0	0	1	0	12
IT	35	22	6	0	0	10	0	0	73
CY	2	2	0	0	0	0	2	0	6
LV	4	1	1	1	1	0	1	0	9
LT	4	3	2	0	1	2	0	0	12
LU	3	1	1	1	0	0	0	0	6
HU	14	4	0	0	1	0	0	3	22
MT	2	4	0	0	0	0	0	0	6
NL	5	3	6	3	1	1	2	5	26
AT	6	5	0	2	0	0	0	6	19
PL	29	7	0	0	11	4	0	0	51
PT	10	7	0	1	0	0	4	0	22
RO	14	11	5	0	0	0	0	3	33
SI	4	2	2	0	0	0	0	0	8
SK	6	5	1	0	0	1	0	0	13
FI	4	2	4	2	0	1	0	0	13
SE	5	6	4	4	0	0	1	0	20
UK	0	13	12	5	26	10	1	6	73
Total	271	190	85	58	52	34	34	30	754

The Parliament can also set up sub-committees and special temporary committees to deal with specific issues. For example, the Policy Challenges Committee (SURE) has been set up to prepare the Parliament's position on the post-2013 Multi-Annual Financial Perspective.

Under the Lisbon Treaty, the European Parliament won considerable new powers through the extension of the ordinary legislative procedure to a number of policy fields, including agriculture and fisheries, and through the establishment of a budgetary procedure which is similar to the ordinary legislative procedure– with a single reading plus conciliation – to decide the EU's annual budget. The latter extends the Parliament's influence to the whole budget for the first time (see section on [EU decision-making](#) processes)

The European Council

The European Council brings together the Heads of State or Government of the Member States and the President of the Commission at least twice a year, to define the Community's overall strategy and to provide impetus to its development. The Lisbon Treaty transformed the European Council into a full EU institution distinct from the Council of ministers. The Lisbon Treaty also provided for the election of the first permanent President of the European Council. The President is elected by the European Council by qualified majority vote for a two and a half year term (renewable once). The responsibilities of the President as set out in the Treaty are to chair and drive forward the work of the European Council, ensure the preparation and continuity of the work of the European Council, facilitate cohesion and consensus within the European Council, and present a report to the European Parliament after each meeting of the European Council (Article 15(6) of the Treaty on the EU). The scope and influence of the role will to a large extent be set by its first incumbent - Herman Van Rompuy (Belgium).

The Council of Ministers

The Council of Ministers (also referred to as the Council) directly represents the Member States in negotiations and has a central role in the EU legislative process. The Council meets in ten different 'formations' depending on the subject matter and is attended by appropriate national Ministers and the European Commissioners responsible for the areas concerned.

The Presidency, or chair, of the Council rotates every six months between Member States (new Presidencies starting in January and July). A list of past and future Presidencies can be seen in the table below (see [Table 2](#)). Member States responsible for three successive Presidencies are organised into groups and adopt an 18-month work programme setting priorities and objectives across the three Presidencies. The Presidency is responsible for chairing the meetings under the different Council formations (apart from those of foreign ministers which are chaired by the High Representative for Foreign Affairs and Security Policy) and can to some extent influence the agenda of the Council.

Council formations with particular relevance to the environment are:

- Agriculture and Fisheries Council
- Environment Council
- Transport, Telecommunications and Energy Council (TTE)

Each formation meets several times throughout the year in formal and informal meetings. Preparatory work for Council meetings is undertaken by the Member States' ambassadors to the EU, meeting in the Committee of Permanent Representatives (COREPER) and supported by numerous technical working groups comprising of experts from the Member States.

Table 2. Rotation of the Council Presidency, 2010–2020

Year	1st half	2nd half
2010	Spain	Belgium
2011	Hungary	Poland
2012	Denmark	Cyprus
2013	Ireland	Lithuania
2014	Greece	Italy
2015	Latvia	Luxembourg
2016	Netherlands	Slovakia
2017	Malta	United Kingdom
2018	Estonia	Bulgaria
2019	Austria	Romania
2020	Finland	

The Council takes Decisions either by unanimity, or by qualified majority vote (QMV), depending on the legal basis of the proposal. Under QMV Member States' votes are weighted roughly according to the size of their populations. QMV has become the standard procedure for environmental measures, with the requirement for unanimity retained only for provisions primarily of a fiscal nature; town and country planning; land-use (with the exception of waste management); the quantitative management of water resources; and measures significantly affecting a Member State's choice between different energy sources and the structure of its energy supply.

A qualified majority is currently 255 votes out of the total 345 (73.9 per cent) cast by a simple majority of Member States (see [Table 3](#)). A Member State may ask for confirmation that the votes in favour represent at least 62 per cent of the total population of the EU. The Council meets in public when deliberating or voting on legislative acts and the outcome of the voting can be reviewed on the [Council website](#).

Table 3. Weighting of votes in Council from 1 January 2010

Note: A qualified majority will be 255 votes out of 345 (i.e. 73.9 per cent), cast by a simple majority of Member States. Therefore, 90 votes (three big countries plus one small one) can block a Decision. Under the Lisbon Treaty, a double majority system will enter into force as of 2014 (see below).

Votes:								
29	27	14	13	12	10	7	4	3
Germany	Spain	Romania	Netherlands	Greece	Sweden	Slovakia	Latvia	Malta
UK	Poland			Czech R.	Austria	Denmark	Slovenia	
France				Belgium	Bulgaria	Finland	Estonia	
Italy				Hungary		Ireland	Cyprus	
				Portugal		Lithuania	Luxembourg	

				l		a	g	
TOTAL	345							
L								

The Lisbon Treaty also introduced a double majority voting system requiring the assent of 55 per cent of Member States (i.e. 15 Member States in a Union of 27) and 65 per cent of the EU population. A blocking minority must include at least four Member States. Double majority voting will only be applied from 2014, with a transition period from 2014 to 2017 during which a Member State can ask for the old QMV system to be used. A special clause also makes it easier to build a blocking minority during the transition period.

The European Central Bank

The European Central Bank (ECB) was established in 1998, under the Treaty on EU. Its job is to manage the euro – the EU's single currency, and to safeguard price stability for the more than two-thirds of the EU's citizens who use the euro. The ECB is also responsible for framing and implementing the EU's economic and monetary policy.

To carry out its role, the ECB works with the European System of Central Banks (ESCB), which cover all 27 EU Member States. However, only 17 of these Member States have so far adopted the Euro. The 17 collectively make up the 'euro area' and their central banks, together with the ECB, make up what is called the 'Eurosystem'.

The ECB works in complete independence. Neither the ECB, the national central banks of the Eurosystem, nor any member of their decision-making bodies can ask for or accept instructions from any other body. The EU institutions and Member State governments must respect this principle and must not seek to influence the ECB or the national central banks. The ECB, working closely with the national central banks, prepares and implements the Decisions taken by the Eurosystem's decision-making bodies – the Governing Council, the Executive Board and the General Council.

The Court of Auditors

The Court of Auditors is based in Luxembourg and audits income and past and current expenditure by the EU. It is in practice almost the only body that issues informed and accessible reviews and evaluations of EU expenditure programmes. The Court is small and its reviews, while thorough, are narrowly focused. However, since the process of auditing can include investigations of value for money, the Court can also comment on the implementation and effectiveness of policies. The Commission has an obligation to respond in writing to the Court's findings.

The Court of Justice

The European Court of Justice (ECJ) is based in Luxembourg and employs one independent judge from each Member State and eight Advocates General. The Judges and Advocates General are appointed by common accord of the governments of the Member States and are appointed for a six year (renewable) term. The ECJ ensures that EU legislation is interpreted and applied in the same way in all EU countries, and overlooks its implementation in the EU Member States and the EU Institutions. It rules on any cases brought before it concerning the

application or interpretation of Community law, that is, the Treaties and any legislative acts adopted pursuant to them.

The General Court, which is attached to the Court of Justice, was created to help the Court of Justice cope with the large number of cases brought before it, and to offer citizens better legal protection. The General Court is made up of at least one Judge from each Member State. The Judges are appointed by common accord of the governments of the Member States and are appointed for a six year (renewable) term. This Court is responsible for giving rulings on certain kinds of cases, particularly actions brought by private individuals, companies and some organisations, and cases relating to competition law.

Cases come before the European Court of Justice (ECJ) by a variety of procedures, including:

- Article 267 TFEU (previously Article 234): Where a question of interpretation of Community law arises in a case before a national court, that court may refer the matter to the ECJ, for a ruling. The proceedings will be halted until the ECJ's ruling has been given, and the national court will then be bound in that particular case to apply the ruling delivered by the ECJ.
- Article 258 TFEU (previously Article 266): The Commission may bring a defaulting Member State before the ECJ, e.g. where there has been a failure to implement a Directive.

For information about the impact of the European Court of Justice, see Box 1. Impact of the European Court of Justice.

Other relevant bodies

Apart from these formal EU ‘institutions’, the Treaty also establishes a European Economic and Social Committee composed of representatives of social and economic stakeholders, and a Committee of the Regions whose members are drawn from the Member States' elected local and regional representatives. Both have certain rights to be consulted, but their status is only advisory.

Other relevant bodies, not explicitly required by the Treaty, have been established specifically to contribute to the development of the Community's environmental policy. For example, the European Environment Agency ([EEA](#)) and its associated network, the European Information and Observation Network (EIONET), is responsible for the collection and dissemination of reliable and comparable data on the state of the environment, and on environmental trends and scenarios; contributing to the development of Member States' reporting obligations and analysing Member States reports. See section on [EU agencies](#) for further information on these bodies.

Box 1. Impact of the European Court of Justice

The ECJ has developed a number of principles which have considerable influence on national law and policies and on how EC policies apply. These include:

Supremacy of EC law

The provisions of the Treaty, together with Regulations enacted thereunder, automatically form part of the national law of each Member State, in other words, they are 'directly applicable' (Costa v ENEL case [6/64](#))*. Furthermore, they take precedence over national law so that no conflicting provisions, whether prior or subsequent to the Community rule, may be upheld by the national court (Amministrazione delle Finanze v Simmenthal case [106/77](#)). The application of Directives, however, is not automatic, in the same sense, although they are capable of having direct effect in the Member State as explained below.

Article 4(3) TEU (formerly Article 10) requires Member States to take all appropriate measures to give effect to their Treaty obligations. In Factortame no 2 case [C-213/89](#) UK legislation on fishing vessels was challenged before the English court as being contrary to the Treaty. Pending resolution of the dispute an application was made to suspend the operation of the legislation. The UK House of Lords held that it had no power to do this but referred the question to the ECJ which held that a national court must set aside any rule of national law which prevents it granting interim relief of the kind sought. In other words, where an argument arises as to the interpretation or application of Community law, the national court is obliged in appropriate circumstances to suspend the operation of its national legislation, even though it has yet to be ruled invalid.

Direct effect

A corollary of the principle of supremacy of Community law is that certain provisions are 'directly effective', that is, they give individuals rights which they can rely upon before a national court. In order to have this effect, provisions must be sufficiently clear and precise, unconditional, and leave no discretion to Member States in their implementation (Van Gend en Loos case [26/62](#)). This will almost certainly be the case for Treaty articles and Regulations. Where such provisions are directly effective, they will confer rights which can be relied upon both against the State and against other individuals or companies.

The question of direct effect of a Directive is more problematic and only arises where the Member State has failed to implement it properly or at all by the deadline given. Because Directives are binding only as to the result to be achieved it might appear that the third condition above could never be satisfied. However, in order to avoid a situation whereby a Member State may profit from its failure to implement, it was held in Pubblico Ministero v Ratti case [148/78](#), that once the time limit for implementation has expired the Member State no longer has discretion, so that a Directive is capable of having direct effect.

Few cases have arisen before the ECJ in which the question of direct effect of environmental directives has been considered. In Comitato di Coordinamento per la Difesa della Cava v Regione Lombardia case [C-236/92](#) the ECJ held that the [Waste Framework Directive](#) of 1975 was incapable of direct effect since it set out objectives to be aimed at in the disposal of waste and, as such, was insufficiently precise and unconditional. In the case of Luciano Arcaro [C-168/95](#), the Italian court referred questions arising in the course of a prosecution for unauthorized cadmium discharges. The relevant Directives had not been implemented in relation to existing plants. The ECJ declined to rule on the question of direct effect. The Advocate-General, however, considered whether the Directives were unconditional and sufficiently precise to have direct effect. He concluded they were not, principally because:

- the competent authority could set stricter emission limits than those set out in the Directive;

- they could allow higher discharges provided overall quality objectives for water, fish etc. National authorities were thus allowed ‘substantial discretion’.

A limitation on the doctrine is that Directives can be relied upon only against the State or ‘emanations of the State’ (Foster v British Gas case [C-188/89](#)) and cannot impose obligations on individuals until the Directive has been implemented. In other words, they only have ‘vertical’ but not ‘horizontal’ direct effect (Marshall v Southampton Area Health Authority case [152/84](#).) This is because they are addressed to, and therefore only bind Member States. In the case of Arcaro, the ECJ ruled that the relevant Directive, since it had not been implemented, was incapable of imposing obligations on an individual such as the defendant, least of all to aggravate his criminal liability. The status of a body may therefore become important in this context. In the English case of Griffin and others v South West Water Services Ltd (High Court 25 August 1994) it was held that a privatized water company was an ‘emanation of the State’ for the purposes of an unimplemented Directive on consultation of workers for redundancy. This decision could equally apply to environmental Directives.

Sympathetic interpretation

Even where a provision of EU law is not capable of direct effect, this does not mean that it is without relevance before a national court. In Von Colson and Kamann v Land Nordrhein-Westfalen case [14/83](#) the ECJ held that, because Member States were obliged to take all appropriate measures to fulfill their Treaty obligations, the national courts were obliged, where possible, to interpret national law in accordance with Community law. This will only be possible where national law is silent or ambiguous on a particular point. In Marleasing case [C-106/89](#), it was held that this obligation applied whether the national law in question was adopted before or after the EC legislation, and was not restricted to national legislation adopted with a view to implementation of the relevant EC provision. In Arcaro, the ECJ pointed out that sympathetic interpretation cannot result in the imposition upon an individual of an EC obligation which has not been correctly transposed, especially where this involves criminal liability. The Advocate-General stated, moreover, that where the national law is clear, the rule of interpretation ‘cannot be used contrary to its wording’.

Damages against the State

In Francovich and others v Italy cases [C-6/90](#) and [C-9/90](#), the ECJ held that as a matter of principle, a State which breaches its Treaty obligations by failing to implement a Directive in the time allowed, may be held liable to individuals for losses suffered by them as a result. This liability is subject to three conditions: (a) the result prescribed by the Directive should entail the grant of rights to individuals, (b) it should be possible to identify the content of those rights on the basis of the provisions of the Directive, (c) there is a causal link between the State’s breach of obligation and the loss and damage suffered. It has further been stated in Brasserie du Pêcheur SA v Germany and R v Secretary of State for Transport ex p. Factortame (cases [C-46/93](#) and [C-48/93](#)) that in order to give rise to a right to reparation, the breach must be ‘sufficiently serious’. This will depend on the circumstances of the case. For example, where a Member State is obliged to implement a Directive within a certain time, failure to do so will be a sufficiently serious breach per se. (Dillenkofer and others v Germany cases [C-178/94](#) etc.) In that case an argument that the time limit was too short was rejected. In other cases it will be relevant to consider factors such as the clarity and precision of the rule breached, whether infringement was intentional or inadvertent, whether the Community objected or contributed towards an omission, and so on. (see, for example, R v HM Treasury

ex p BT case [C-392/93](#) and compare R v MAFF ex p Hedley Lomas (Ireland) Ltd [C-5/94](#).)

Fines against Member States

Under Article 260 of the TFEU (previously Article 228), the Commission may bring the before the ECJ a Member State which has failed to comply with a previous judgement of the court. The court may then order the defaulting Member State to pay an appropriate penalty. In 1992, the court issued a judgement against Greece inter alia for breach of the 1975 Waste Framework Directive, relating to the uncontrolled tipping of waste at a site in Crete. By a judgement in July 2000 (Commission v Greece [C-387/97](#)) the ECJ ordered Greece to pay a fine of 20,000 Euros a day from the date of judgement until compliance with the Directive. Greece therefore had the dubious honour of being the first Member State to be fined in this way, and the judgement confirms the approach of the Commission in their calculation of suggested penalties.

Free movement of goods

In Procureur de la République v Association de défense des brûleurs d'huiles usagées case [240/83](#) the ECJ confirmed that the protection of the environment is one of the essential objectives of the Community which may justify certain limitations on the principle of free movement of goods. This approach was upheld in Commission v Denmark case [302/86](#) concerning a Danish system for ensuring that all containers for beer and soft drinks were returnable; although the ECJ went on to say that the scheme in question could not be upheld since the environment could be adequately protected by a similar, less restrictive regime. It was also upheld in Commission v Belgium case [C-2/90](#) concerning free movement of waste. In Hedley Lomas the UK ministry suspected that Spanish slaughter houses were breaching a Directive on the stunning of animals, and refused licences for the export of live sheep. The ECJ held that a Member State may not rely on the exclusions to free movement contained in the Treaty (protection of health etc.) if a Directive pursuing that objective has been adopted, even where there is no procedure for monitoring compliance or penalty for breach.

Proportionality

This principle provides that measures must be no more than are necessary to achieve the end desired. It is of general application and may apply in the context of challenges to the legality of Community legislation as well as to questions of compliance by Member States with Directives. In the Danish bottles case referred to above, it was held that measures to protect the environment may permit limitations on free movement, but only in so far as they are proportionate to the result intended. In Gourmetterie Van den Burg case [C-169/89](#), the ECJ held that a Dutch ban on the marketing of Red Grouse was out of proportion to the benefit, namely the preservation of stocks in the UK of a species which was not endangered. Similarly, in Commission v Germany [C-131/93](#), it was held that restrictions on the import of live crayfish were illegal. Although it was accepted by the court that restrictions on trade are allowed with the aim of preventing the spread of disease, in this case it concluded that less restrictive measures would have been able to achieve the same end. The proportionality principle may furthermore be relied on in challenging national laws where it is alleged that disproportionately harsh penalties lead to an infringement of Treaty provisions (Skanavi [C-193/94](#)).

Legitimate expectation

This principle concerns the rights of individuals or companies in Member States to rely on the law affecting them in a certain way. Provided such reliance is reasonable and in good faith, they should not be allowed to suffer loss as a result of a change in that law. A linked principle is that of non-retroactivity. In the absence of clear indication to the contrary, legislation will be presumed not to affect actions which took place before it was passed. A particular application of this general rule is that if an activity was not illegal when carried out, an individual may not thereafter be held criminally liable for it by a subsequent change in the law. Thus in *Pretore di Saló* case [14/86](#), the ECJ held that Directive 78/659/EEC concerning water standards for freshwater fish could not impose criminal sanctions on Italian nationals without having been properly implemented by the Italian authorities. When fulfilling their obligations for ‘sympathetic interpretation’ the national courts must take care not to violate these rights (*Kolpinghuis Nijmegen* case [80/86](#)). Arguments based on these principles were put forward by the motor industry during the development of the Directive on [end-of-life vehicles](#), in an effort to resist an obligation to recover and recycle older vehicles which were not designed with this in mind

Locus standi

Although the ability of environmental interest groups to bring actions before the court has been extensively discussed in the context of the recent white paper on civil liability, the court itself has adopted a restrictive approach to who may bring proceedings. In a 1978 case (*Greenpeace International v European Commission* [C-321/95](#)), Greenpeace brought an action attempting to annul the grant of funds to Spain to finance the building of two power stations on the Canary Islands, the building of which had commenced without carrying out appropriate environmental impact assessments. The Treaty provides that a decision addressed to another party (the grant of funds to the Spanish government) may only be challenged by a third party (Greenpeace) if it is of ‘direct and individual concern’ to them. It was held that Greenpeace had no attributes peculiar to them which meant that the decision affected them over and above anyone else, and therefore that they did not possess the necessary standing to challenge the decision.

* This Manual uses the numerical reference under which the cases are officially published (including on the web, see Appendix IV) e.g. *Commission v Italy* [C-154/85](#). Since the establishment of the Court of First Instance in 1989 cases decided by the ECJ (which retains jurisdiction for most cases likely to arise in relation to environmental policy) carry the prefix C, e.g. *Commission V UK* [C-246/89](#).