Further principles of EU environmental law (source & safeguard)
Introduction

- **Article 3(3) TEU** defines the objectives of the EU:

  “The Union shall work for **sustainable development** of Europe based on balanced economic growth and price stability (...) and a **high level of protection and improvement of the quality of the environment**”

- **High level of protection**

- **Proportionality** (even applied to the precautionary principle)

- **Subsidiarity**
The “source” principle

- Article 191(2) TFEU: “Union policy on the environment shall (...) be based on the principles that environmental damage should as a priority be rectified at source.”

- The source principle implies that damage to the environment should NOT be prevented by using ‘end-of-pipe’ techniques

- Preference for emission standards rather than environmental quality standards
The “source” principle

- Case Commission v Grece C-364/03: Commission attacking Greece on the grounds of non compliance with Article 13 of Directive 84/360/EEC on combating air pollution from industrial plants by not adapting to the BAT the power plant installations (Linoperamata)

- ECJ: Environmental directives requiring the Member States to reduce the emissions is not dependent on the general environmental situation of the region in which the emissions occur!
The presentation aims at presenting the legal system of the EU: 2 possibilities for ensuring compliance (1) through action of the Commission and (2) through action in national Courts.

The objective of the presentation is to make clear that both approaches are to be seen as complementary.

The message delivered to judges is that they play an essential role in implementation of EU law.
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Safeguard clauses

- **Article 191(2)**: harmonisation measures shall include, where appropriate, a safeguard clause allowing MS:

  - To take provisional measures;
  - For non-economic environmental reasons, and
  - Subject to a Union inspection procedure.
Safeguard clauses

- Safeguard clauses are particularly relevant in environmental legislation which has strong link with internal market

- Possibility for the MS to limit the free movement of a given product (for example food or GMOs...) on its territory if a potential risk is assessed

  Safeguard clauses are to be interpreted in the light of the precautionary principle!