



EUROPEAN COMMISSION

Second annual survey on the implementation and enforcement of Community environmental law

January 1998 to December 1999



WORKING DOCUMENT OF THE COMMISSION SERVICES

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on the implementation
and enforcement of Community
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Directorate-General for the Environment

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Executive summary

The first annual survey, covering the period 1996/1997, was presented in April 1999 ⁽¹⁾ and was prepared in response to the Commission's communication on implementing Community environmental law ⁽²⁾ and resolutions of the Council and European Parliament, which envisaged the annual survey providing supplementary information to that contained in the Commission's annual report on monitoring the application of Community law.

This second annual survey covers the calendar years 1998 and 1999 and follows on from the first annual survey in providing up-to-date information on the state of application of Community environmental law. It comprises five main parts: continuing follow-up actions to the Commission's communication on implementing Community environmental law; other specific horizontal actions; the work carried out by IMPEL during the period covered by the survey and its work programme for 2000; and details of Member States' transposing legislation communicated for Community environmental directives to be transposed during the period of the survey. Finally, it includes the chapter on the environment from the Commission's 16th annual report on monitoring the application of Community law ⁽³⁾.

Continuing follow-up action arising from the Commission's communication on implementing Community environmental law: The Commission's proposal for a Council recommendation providing for minimum criteria for environmental inspections in the Member States was adopted by the Commission in December 1998. The Council, rejecting, with the Commission, the European Parliament's amendments to change the form of the proposal to a directive, adopted the common position on 30 March 2000.

Work continued on promoting knowledge of Community environmental law with the magistrates' training courses and the establishment of a pilot project for teaching Community environmental law at five universities in different Member States (Belgium, Denmark, Greece, France and Italy).

Other specific actions included the simplification of the previous draft text of the White Paper on environmental liability and an indication that a framework directive could be a final outcome after consultation on the White Paper in due course. The year 1998 also saw the signature of the UN/ECE Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (the Aarhus Convention) in Aarhus, Denmark.

⁽¹⁾ SEC(1999) 592, 27.4.1999.

⁽²⁾ COM(96) 500 final, 22.10.1996.

⁽³⁾ COM(1999) 301 final, 9.7.1999.

All Member States are signatories and work is proceeding apace to prepare for ratification of the Convention. The EC has signed; before the Community can ratify, it must ensure that all relevant Community legislation is aligned to the provisions of the Convention. Amongst this work is the revision of Directive 90/313/EEC on the freedom of access to information on the environment.

The Environment Directorate-General is committed to ensuring that information on its activities is widely available and the second annual survey lists the various publications relating to its work which have appeared during 1998 and 1999.

In December 1998, the Commission adopted a communication entitled 'The review clause: Environmental and health standards, four years after the accession of Austria, Finland and Sweden to the European Union'. It shows that the review process foreseen in the Accession Treaties of these three countries has resulted in higher protection standards for health and the environment across the EU.

Work carried out by IMPEL: Since the last annual survey, IMPEL (the European Union network for the implementation and enforcement of environmental law) has rationalised its structure and many of its longer term projects have been completed. This has enabled an evaluation of its work to be undertaken. Undoubtedly, its greatest achievement has been its work in relation to environmental inspections. Also those projects of a practical nature which it has undertaken can be regarded as successes. The Commission has concluded that Commission co-financing of the network should continue.

The second annual survey again lists those environmental directives which Member States should have transposed during 1998 and 1999, with details of the national transposition measures. It also indicates those Member States which have failed to transpose the relevant directives by the due date.

Finally, in order to provide a comprehensive reference work in relation to the application of Community environmental law, the annual survey contains as an annex the environment chapter from the Commission's 16th annual report on monitoring the application of Community law.

The annual survey does not set out new policy and, accordingly, is in the form of a working document of the Commission services.

The Commission hopes that this second annual survey will continue to increase awareness and improve transparency of the application of Community environmental law in the Member States, and demonstrate how the Commission, with the assistance of all the main stakeholders, is putting into effect the main suggestions contained in the 1996 communication, enabling all the main actors involved to continue to participate fully, contributing to an improved environment.

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Introduction

1.1. Background to and aim of the second annual survey on the implementation and enforcement of Community environmental law

This survey is the follow-up to the *First annual survey on the implementation and enforcement of Community environmental law* ⁽⁴⁾, which had its origins in the adoption by the Commission of its communication on implementing Community environmental law on 22 October 1996 ⁽⁵⁾ ('the communication'). The communication recognised the need to provide up-to-date and reliable information on the state of application of Community environmental law in the Member States and an annual summary and overview of the progress of infringement proceedings against Member States for failing to implement Community directives, both in transposition and in practical application.

In order not to duplicate or overlap too much with other Community publications relating to the environment, the second annual survey concentrates on follow-up actions from the communication, other specific, horizontal actions, the work carried out by IMPEL during the period of the survey, IMPEL's work programme for 2000 and details of Member States' transposing legislation communicated for Community environmental directives coming into force during the period of the survey. In order to provide a comprehensive reference work, it also includes the expanded chapter on the environment from the Commission's 16th 'Annual report on monitoring the application of Community law' ⁽⁶⁾.

The annual survey does not set out new policy and, accordingly, is in the form of a working document of the Commission services.

1.2. Period covered by the annual survey

This second annual survey covers the period from January 1998 to December 1999.

1.3. Contents of the annual survey

The survey contains five main parts:

- Continuing follow-up action from the Commission's communication on implementing Community environmental law and the related resolutions of the Council and Parliament.

⁽⁴⁾ SEC(1999) 592 final, 27.4.1999.

⁽⁵⁾ COM(96) 500 final, 22.10.1996.

⁽⁶⁾ COM(1999) 301 final, 9.7.1999.

- Other specific actions, including the White Paper on environmental liability, the UN/ECE Convention on Access to Information, Public Participation in Environmental Decision-Making and Access to Justice in Environmental Matters, the review of Directive 90/313/EEC on the freedom of access to information on the environment; Commission publications on implementing Community and international environmental law, the INECE conference and the review clause.
- The background to and work of IMPEL during the period covered by the survey, an evaluation of its work to date, and its work programme for 2000.
- Details of Member States' transposing legislation communicated for environmental law directives to be transposed during the period covered by the survey.
- The expanded environment chapter from the 16th 'Annual report on monitoring the application of Community law'.

Follow-up action from the Commission's communication on implementing Community environmental law and from the related resolutions of the Council and European Parliament

2.1. Member States' inspection tasks — minimum criteria for environmental inspections

The first annual survey mentioned that the Commission was considering the further action to be taken in relation to the paper prepared by IMPEL in November 1997, on minimum criteria for environmental inspections. During 1998, careful consideration was given by the Commissioner and the Commission services as to how best to progress further the work of IMPEL in this area. After hearing representations from NGOs and IMPEL, the Commission decided to come forward with a legislative proposal for a non-binding instrument, namely a Council recommendation. The proposal is largely based on the IMPEL paper and was adopted by the Commission on 16 December 1998 ⁽⁷⁾.

The purpose of the proposal is to establish guidelines for minimum criteria in environmental inspections of industrial installations and other enterprises and facilities ('controlled installations') whose air emissions, water discharges or waste activities are subject to authorisation, permit or licence under Community law. The guidelines relate to the organisation and carrying out of such inspections as well as follow-up and publicity for the results of inspections. Its aim is to strengthen compliance with, and contribute to a more consistent implementation and enforcement of, Community environmental legislation in all Member States.

The Commission's original proposal also proposed that it should cover nuclear inspections but this reference was removed in the Council working group (see below). It does not extend at this stage to inspections for pollution from diffuse sources.

Community action is needed in order to ensure that minimum standards of environmental inspection are applied across the Community to controlled installations. However, in recognition of the fact that there is a wide disparity in the inspections systems and mechanisms among Member States, the proposal is in the form of a non-binding instrument, and leaves to Member States the choice of the inspections' administrative structure and systems and the level at which such structures and systems are established, whether national, regional or local.

⁽⁷⁾ COM(1998) 772 final, 16.12.1998.

Furthermore, as it is assumed that some Member States may have concerns about their capacity to operate the minimum criteria effectively, Community co-financing could be envisaged for eligible areas or Member States under existing Community instruments such as those relating to the Cohesion Fund or the ERDF.

The Economic and Social Committee and Committee of the Regions both gave favourable opinions on the proposal on 28 April ⁽⁸⁾ and 16 September 1999 ⁽⁹⁾ respectively. The European Parliament gave its opinion ⁽¹⁰⁾ on the proposal at its plenary session on 16 September 1999, the main thrust of which was to the effect that the form of the proposal should be a directive rather than a recommendation. On 3 December 1999, following the Parliament's opinion, the Commission adopted an amended proposal accepting some of the amendments as to substance. However, the Commission could not accept that the form of the proposal should change to that of a directive.

Several meetings of the Council working group took place under the Finnish presidency in the second half of 1999, culminating on 13 December with the Council reaching a political agreement with a view to agreeing a common position. The agreed text did not include in its scope the reference to nuclear inspections which the Commission's original proposal had contained as, in the course of discussions in the Council working group, the majority of Member States considered that a separate instrument under the Euratom Treaty would be more appropriate to deal with these inspections. The agreed text included, albeit in a slightly different form, several of the amendments which the Parliament had proposed in its opinion. The common position was reached on 30 March 2000.

This is the first step in an ongoing programme in relation to inspections and enforcement. In the light of the experience gained in the operation of the recommendation and on the basis of further consultations with interested parties, including IMPEL, consideration will be given to subsequent stages to broaden the nature, scope and application of the minimum requirements, in particular to move beyond the point source emission controls for which these guidelines are tailored, so as to cover diffuse pollution sources and general inspections of industrial installations, enterprises and facilities based on the best available practice in the Member States. In due course, and in the light of all this experience, consideration will be given to the possibility of adopting a comprehensive directive relating to environmental inspections generally and consolidating all this work.

2.2. Access to justice in Member States' courts and tribunals and complaints and investigations procedures in the Member States

As stated in the first annual survey, access to information and access to justice in matters concerning the environment are of paramount importance in ensuring

⁽⁸⁾ OJ C 169, 16.6.1999.

⁽⁹⁾ OJ C 374, 23.12.1999.

⁽¹⁰⁾ OJ C 54, 25.2.2000.

effective implementation of Community environmental law. With this in mind, a two-part study was launched, concerning non-judicial ways of solving conflicts and access to justice. It was carried out by the Conseil européen du droit de l'environnement (CEDE) with a consolidated report by Professor Prieur of the University of Limoges, France, under the umbrella of IMPEL, and was delivered in May 1998.

The study revealed a great divergence in the complaint and investigations procedures in the Member States. It will provide a useful starting point for any further action (possible guidelines/recommendation) particularly in the context of the preparatory work leading to ratification of the Aarhus Convention (see below, paragraph 3.2) and it is hoped that, despite the wide differences, a uniform approach to complaints handling mechanisms and access to justice can eventually be agreed upon. IMPEL will be asked to assist further in this work.

A workshop on the study was held at the IMPEL meeting in Helsinki in December 1999 and it was also used as the basis for a project on complaints handling and access to justice organised by the Netherlands, culminating in a workshop in The Hague in May 2000.

2.3. Promoting knowledge of Community environmental law

(a) Magistrates' training

Training magistrates in Community environmental law is an essential element of the access to justice issue in the field of the environment and an important component of the follow-up to the Commission's communication.

The programme of courses for magistrates, which was started in 1996/97, continued in 1998 with a seminar being held in Stockholm, Sweden in September 1998, where a total of 38 judges, prosecutors and government officials with responsibility for environmental matters participated. All Member States, with the exception of Germany and Luxembourg, were represented. Norway, as a member of the European Economic Area, was also represented. Leading experts from Belgium, Denmark, Germany, the Netherlands and Sweden gave lectures on the most topical issues of the day.

The seminar was designed to be of practical use rather than purely theoretical. All the lecturers tried to focus on the implementation of Community environmental law and the practice of national courts and the European Court of Justice. The participants, who were mostly high ranking judges and senior administrators, took an active part in the seminar. The seminar was so successful that Sweden continued the course for Swedish judges, at national level.

No courses were held in 1999: a course planned in Louvain-la-Neuve, Belgium was cancelled for administrative reasons, and the course in Thessaloniki, Greece was cancelled because of the resignation of the Commission in March 1999. It is hoped to hold a course in Belgium in 2000.

(b) Pilot project for teaching Community environmental law at universities

A pilot project was launched in 1997 to promote knowledge of and education in Community environmental law at universities, with the intention of ensuring that courses in Community environmental law and policy be given at various universities in the Member States through chairs known as 'Green Chairs' (see first annual survey, paragraph 2.3(b)).

This is an experimental project, and is initially limited to three academic years (1998, 1999 and 2000) at five universities in different Member States, to assess the capability of university circles to respond effectively to such an initiative. The universities are:

- University of Aarhus, Denmark
- University of Padua, Italy
- University of Nantes, France
- Fondation Universitaire Luxembourgeoise, together with Université Catholique de Louvain in Belgium
- University of Athens, Greece.

A seminar to exchange experiences, evaluate the first year of the project's operation and explore how it might be improved in the years to come was held in Padua, Italy in September 1999. Overall, all participating universities had had a very enthusiastic response from students. At this seminar, the following experiences in the operation of the 'Green Chair' project were reported:

In Nantes, the establishment of the Chair enabled the University to expand the scope of its traditional course in international environmental law now to include European Community environmental law. About 100 students followed the course. In addition, the university used the network to improve its research facilities for its doctorate students by drawing on the expertise of the foreign professors participating in the project.

In Padua, the project was integrated into the programmes offered by the Department of Comparative Law in the Political Sciences Faculty. The project enabled the university to respond to a real need and cover an area which had previously been neglected, namely the training of both professionals and students. About 20 people participated in the course which was of about 70 hours' duration and it also attracted the participation of professors from other Italian universities. The course terminated with a 'round table' debate devoted to a specific case — the environmental problems affecting the lagoon around Venice and how they might be resolved by recourse to Community law. This part of the course was found to be particularly useful. It is anticipated that the number of applicants for the year 1999/2000 will be higher due to a better publicity campaign and thanks to the favourable reception the first course received. The university also greatly appreciated the guidance it received from other academics participating in the project particularly in relation to course content. Some students were fortunate enough to be awarded travelling scholarships to enable them to visit other participating universities, deepen their research and make further useful contacts.

In Athens, the project had been integrated into the Master's degree course, more particularly, at the level of the diploma of postgraduate studies in international and Community law. The programme was optional for these students and 30 enrolled for it. Teaching was carried out not only by university staff but also by experts from the public and private sectors. The course revealed a keen enthusiasm for the subject and filled a previously existing gap. Although the course was optional, almost all the doctorate students decided to follow it. As with Padua, it is anticipated that there will be an even greater take-up for the year 1999/2000.

At the Belgian universities (the Université Catholique de Louvain (UCL) at Louvain-la-Neuve and the Fondation Universitaire Luxembourgoise (FUL)) it was decided to set up a joint programme which would be common to the two universities. Hitherto there had not been any environmental law course at UCL. The 20 or so students who followed the course were studying for the Special Diploma in European Studies or the Diploma in Law. FUL, on the other hand, is a university for postgraduates, devoted entirely to environmental matters. The students come from various European countries and have already obtained a first qualification. The course provided in the context of the 'Green Chair' project formed one of the optional subjects in the Master's course in the environmental sciences. Again, about 20 people followed the course. Twelve hours of teaching under the 'common' course took place at UCL and 12 hours at FUL. In addition, further lectures were held at each university. The collaboration between the two universities was very successful and certain features (for example, the residential arrangements, practical workshops and the presence of professors from other participating universities in other Member States) contributed to what was universally regarded as a most fruitful exercise.

The University of Aarhus also had a very positive experience with the project. It had carried out its programme between spring and autumn 1998 and was limited to those students undertaking a Master's degree in law. The course comprised 42 lessons and attracted a very high number of participants — about 25 — meeting an obvious demand. One of the beneficial by-products of the course was the decision to publish a working document (text book and case book).

In evaluating the project carried out during the 1998/99 academic year, the participants in the evaluation seminar in Padua unanimously agreed that it had been an enormous success. The number of participants had been much greater than expected despite the rather late publicising of it. Ideally, it should be publicised before the summer break. Certainly, with the total take-up of around 200 students, the original target number had been reached.

For the future, it was agreed that:

- the network should intensify its collaboration in the area of research;
- student exchanges should be encouraged, with the possibility of travelling scholarships;
- the network should make the necessary contacts with a view to putting the project on a more stable financial footing in the medium to long term;

- the publication of a text book and case book (as the University of Aarhus had done) should be pursued.

In conclusion, it can be said that the pilot project has been extremely fruitful and consideration should be given to its continuation in the future.

Other specific horizontal actions

3.1. White Paper on environmental liability

The preparation of the White Paper on environmental liability continued throughout 1998 and 1999. However, with the resignation of the Commission in March 1999, work on the draft itself virtually ceased, as this was regarded as a matter of new policy which the 'acting' Commissioners were not allowed to deal with under the operational guidelines set up until a new Commission could be appointed.

With the appointment of the new Commission in September 1999, work on the draft started again. It was decided that the White Paper should be re-drafted to make it shorter and more comprehensive. The resulting text was less technical and legalistic and left open many matters, leaving the choice of solutions to the outcome of the future consultations and studies. The general conclusions were, however, more specific than in the previous draft, to the extent that a preference for a framework directive in due course is expressed.

Public interest in the development of the draft continued throughout 1998 and 1999. Officials of the Environment Directorate-General participated in many conferences and workshops, primarily as speakers, before audiences of different interested parties.

The White Paper was finally adopted in early 2000.

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

3.2.1. Background

The UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the so-called 'Aarhus Convention') was signed by the Community and 14 Member States at the interministerial conference from 23 to 25 June 1998 in Aarhus, Denmark. Germany signed on the deadline of 21 December 1998. There was a total of 35 signatories to the Convention, amongst which are the majority of the applicant countries.

The Convention is of major legal and political significance in that it is the first legally binding instrument applying explicitly to Community institutions. High political priority is being given to its ratification. (Sixteen ratifications are needed for the Convention to enter into force.) The Convention is split into three so-called

‘pillars’: access to information (first pillar), public participation in environmental decision-making (second pillar) and access to justice (third pillar).

3.2.2. Ratification by the Community

Before the Community can ratify the Convention it must ensure, in accordance with normal practice, that all relevant Community legislation is aligned to the provisions of the Convention. The Convention carries legal implications for both the Member States and for the Community under all three pillars and in certain areas it will be necessary to amend existing or propose new Community legislation. In summary, the necessary actions under each of the three pillars are as follows:

(i) First pillar (access to information)

Member States’ obligations — Directive 90/313/EEC on access to information is in the process of being revised and will take account of the relevant Aarhus provisions (see paragraph 3.3 below).

Community obligations — Article 255 of the EU Treaty gives all European citizens and residents the legal right to access to documents from the Parliament, the Council and the Commission. This right will be enacted through a regulation proposed by the Commission and adopted under the co-decision procedure by the Parliament and the Council. On 26 January 2000, the Commission adopted the proposal ⁽¹¹⁾ for a regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents. Article 255 also provides that each institution should adopt implementing provisions in the form of rules of procedure.

(ii) Second pillar (public participation in decision-making)

Member States’ obligations — insofar as Aarhus goes beyond what is in the existing EC environmental directives or legislative proposals, those instruments will have to be amended to ensure they are fully aligned to Aarhus. An appraisal has been carried out in relation to EC environmental legislation where there already exist express provisions on public participation and other sectoral legislation. It is likely that the Commission will come forward with a proposal for an instrument to amend any directives, as necessary, during 2000.

(iii) Third pillar (access to justice)

Member States’ obligations — there is no ad hoc Community legislation in this area at present although a recommendation had been envisaged in the Commission’s communication on implementing environmental law ⁽¹²⁾. It will be considered further whether legally this recommendation is still necessary or whether the concluding Council act to ratify the Aarhus Convention will suffice to incorporate the Access to Justice provision into Member States’ law.

⁽¹¹⁾ COM(2000) 30 final/2.

⁽¹²⁾ COM(96) 500 final.

Community obligations — consideration is being given to whether it is necessary to amend the Treaty to comply with the provisions of the Convention, although such action would, of course, require the approval of an intergovernmental conference.

3.2.3. Timetable for ratification

The work needed to align EC legislation under the first and second pillars should be completed, at the earliest, in about three years, taking account of the fact that any amending proposals will need to go through the co-decision procedure. The timetable for work under the third pillar on access to justice against Community institutions is less predictable at this stage.

3.3. Review of Directive 90/313/EEC on the freedom of access to information on the environment

Article 8 of Directive 90/313/EEC provides that by 1 January 1997, 'Member States shall report to the Commission on the experience gained in the light of which the Commission shall make a report to the Parliament and to the Council together with any proposal for revision it may consider appropriate'.

The Commission has now received reports from all Member States and has almost finalised the report referred to in Article 8, together with a proposal to revise the directive. The national reports indicated that, since its entry into force, individuals and organisations throughout the European Union had made use of legislative provisions for access to environmental information arising from the directive. In the reports, Member States themselves raised questions about the scope and interpretation of the directive and made some suggestions for improvement. In some cases, for example, with respect to the definition of the authorities required to supply information, time limits and exceptions, some Member States had adopted legislation which marked an advance on the strict provisions of the directive.

The national reports show that the implementation of the directive has brought positive results. In many cases, few practical problems were encountered. Nonetheless, experience gained in the application of the directive, not only by the Member States but also by the Commission by way of the complaints it has received, has enabled the identification of a number of concrete difficulties encountered by Member States, NGOs and those requesting access to environmental information. The main problems were found to be in the following areas (which are also the areas where provisions of the Aarhus Convention (see paragraph 3.2 above) improve on the provisions of the directive):

- the definition of the information required to be disclosed and of the public authorities and other bodies required to disclose it;
- the practical arrangements for ensuring that information is made effectively available;
- the exceptions from the duty to provide access;

- the obligation to ‘respond’;
- the time limits for fulfilling the duty;
- the obligation to give reasons for a refusal;
- the procedure for review of decisions to refuse access to documents;
- charges;
- the active supply of information.

On 26 January 1998, the European Union network for the implementation and enforcement of environmental law (IMPEL) organised a workshop on the implementation and application of the directive. It was attended by representatives of IMPEL, of the Commission and of public authorities and NGOs concerned with the environment in the Member States and in the applicant countries. It thus provided an opportunity for an open exchange of views in the light of experience gained by the participants in the application of the directive. A report on the workshop was published in May 1998 containing recommendations for the revision of the directive.

A report had earlier been published which drew on the discussions at that workshop and also on work done over a five-year period in conjunction with experts in the Member States. This report made a number of recommendations for the revision of the directive. Due account will be taken of all these recommendations in the review process of Directive 90/313/EEC.

At the end of 1999, the Environment Directorate-General distributed to all interested stakeholders a working document setting out the main principles on which the new proposal for a directive on access to environmental information might be based. The Environment Directorate-General proposes to hold consultation meetings with the stakeholders on this document in early 2000. The Commission will then come forward with a proposal to amend or replace the existing directive on access to environmental information, probably in the first half of 2000. The proposal will aim to correct the shortcomings identified above and so lead to strengthened legislation. It will also aim to align Community legislation with the provisions of the Aarhus Convention (see paragraph 3.2 above) to enable the Community to ratify the Convention.

3.4. Commission publications on implementing Community and international environmental law

3.4.1. Official publications

The Commission strives to have a proactive role as regards important pieces of environmental legislation, in helping and giving guidance to Member States to ensure satisfactory implementation. This guidance can take the form of ‘guidelines’ developed by the Environment Directorate-General and adopted by the Commission. Such ‘guidelines’ are already common practice in the area of radiation protection, where the Commission has issued communications to help the

Member States in transposing the directives into national law ⁽¹³⁾. Furthermore, the Commission has adopted recommendations concerning application of the requirements of the Euratom Treaty. These are prepared together with the group of scientific experts established under Article 31 of the Euratom Treaty.

On the initiative of the Environment Directorate-General, the Commission has published two official guidelines on implementation and application of the Community law during the period of 1998–99:

- Communication from the Commission concerning the implementation of Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of the workers and the general public against the dangers arising from ionising radiation, published on 30 April 1998, OJ C 133, 30.4.1998, p. 3.
- Commission recommendation 1999/829/Euratom on the application of Article 37 of the Euratom Treaty, issued on 6 December 1999 and published on 16 December 1999, OJ L 324, 16.12.1999, p. 23.

As part of its commitment to ensuring the transparency of its activities and to making available as much information on environmental matters as possible to the authorities in the Member States, industry, NGOs and the general public, the Commission issues specific publications from time to time. The following publications (all of which are available from the Environment Directorate-General Documentation Centre ⁽¹⁴⁾ or from the Office for Official Publications of the European Communities ⁽¹⁵⁾) have either been issued in relation to activities carried out during (or, in some cases, before) the period covered by this survey or issued during the period covered by this survey.

3.4.2. General publications

- Agriculture and sustainability. Principles and recommendations from the European Consultative Forum on the Environment and Sustainable Development. (Published in February 1999)
- Caring for our future: Action for Europe's environment. (Published in July 1998)

Water

- EU focus on clean water. (Published in August 1999)
- Implementation of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment, as amended by Commission Directive 98/15/EC of 27 February 1998. (Published in April 1999)

⁽¹³⁾ Examples of earlier documents are communication 85/C347/03 from the Commission concerning the implementation of Directives 80/836/Euratom and 84/467/Euratom on Basic Safety Standards and Commission communication 91/C103/03 on the implementation of Directive 89/618/Euratom on informing the public.

⁽¹⁴⁾ Rue de la Loi/Wetstraat 200, B-1049 Brussels, Belgium (Fax (32-2) 299 61 98).

⁽¹⁵⁾ 2, Rue Mercier, L-2985 Luxembourg (Fax (352) 48 85 73).

- Measures taken pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources. Report of the Summary of reports submitted to the Commission by Member States under Article 11. (Published in June 1998)

Air

- EU focus on clean air. (Published in August 1999)
- CO₂ emissions from cars. The EU implementing the Kyoto Protocol. (Published in October 1998)
- The Forum's input to the European Union climate policy strategy. The European Consultative Forum on the Environment and Sustainable Development. (Published in August 1999)

Industry

- Study on the impact of EU environmental regulation on selected indicators of the competitiveness of the EU chemical industry. Final report (revised), 3 Volumes: 1 – Synthesis, 2 – Databases, 3 – Graphs. (Published in March 1999)
- The notification of new substances in the European Union. (Published in July 1997)
- Classification, packaging and labelling of dangerous substances in the European Union. 2 volumes. (Published in June 1997)
- Technical guidance document on development of risk reduction strategies. (Published in June 1998)

Nature protection and biodiversity

- Convention on International Trade in Endangered Species of Wild Fauna and Flora. EC Annual Report 1996. (Published in June 1999)
- NATURA 2000. Implementing the habitats directive in marine and coastal areas. Proceedings of a seminar held at Morecambe Bay, United Kingdom, 22–24 June 1997. (Published in March 1999)
- First report on the Implementation of the Convention on Biological Diversity by the European Community. (Published in May 1998)

Law

- A guide to the European Union network for the implementation and enforcement of environmental law ('IMPEL'). (Published in November 1998)

Radiation protection, nuclear safety and civil protection

- Radiation Protection 89: Recommended radiological protection criteria for the recycling of metals from the dismantling of nuclear installations. (Published in 1998)
- Radiation Protection 94: Environmental radioactivity in the European Community, 1993. (Published in 1999)
- Radiation Protection 95: Reference levels for workplaces processing materials with enhanced levels of naturally occurring radionuclides — A guide to assist

implementation of Title VII of the European basic safety standards directive (BSS) concerning natural radiation sources. (Published in July 1999)

- Radiation Protection 102: Implementation of the 'Medical exposure directive' (97/43/Euratom). Proceedings of the international workshop held in Madrid on April 1998. (Published in March 1999)
- Radiation Protection 104: Radioactive effluents from nuclear power stations and nuclear fuel reprocessing plants in the European Community, 1991–95. (Published in April 1999)
- Radiation Protection 105: EU food restriction criteria for application after an accident (Published in 1999)
- Radiation Protection 106: Technical recommendations on measurements of external environmental gamma radiation doses. (Published in 1999)
- Radiation Protection 107: Establishment of reference levels for regulatory control of workplaces where materials are processed which contain enhanced levels of naturally-occurring radionuclides. (Published in August 1999)
- Radiation Protection 108: ALARA and decommissioning — Proceedings of the first European ALARA network workshop. (Published in 1999)
- Radiation Protection 109: Guidance on diagnostic reference levels (DRLs) for medical exposures. (Published in 1999)
- Community cooperation in the field of civil protection. (Published in May 1999)

All the above publications are described on the Commission's Internet site 'Europa' at the following address:

<http://www.europa.eu.int/comm/environment/pubs/home.htm>

In addition to the above, seven volumes of all European Community environment legislation up to June 1994 are available in nine language versions. The volumes gather together official texts published in the Official Journal between 1 October 1991 and 30 June 1994. Legislation before 1 October 1991 is also available in seven separate volumes.

In addition, there exists a compilation of radiation protection law with title 'Radiation Protection — Community radiation protection legislation', Doc. XI-3539/96, which is available in English, French and German. The book includes the legislation published until August 1996.

3.4.3. Reports prepared during 1998 and 1999 in accordance with Directive 91/692/EEC standardising and rationalising reports on the implementation of certain directives relating to the environment

- The report on the application of Directive 82/501/EEC (Seveso I directive) was published in OJ C 291, 12.10.1999.

- The interim report according to Article 6(3)(a) of Directive 94/62/EC on packaging and packaging waste was adopted by the Commission on 19 November 1999: Ref. COM(1999) 596 final.
- The report according to Directive 91/692/EEC on the implementation of Directives 75/442, 91/689, 75/439 and 86/278 is currently in the process of being formally adopted.
- The report on the shipment regulation (259/93) covering 1994–96 was adopted on 28 July 1998 as COM(1998) 475 final.
- The annual report EUR 18166 concerning the quality of bathing waters was published in May 1998, covering the 1997 bathing season.
- The annual report EUR 18831 concerning the quality of bathing waters was published in May 1999, covering the 1998 bathing season.
- The report entitled ‘The implementation of Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources’ was adopted by the Commission on 1 October 1997 (COM(97) 473 final) and was published by the Office for Official Publications of the European Communities, Luxembourg in 1998. ISBN 92-828-1934-5.
- The report entitled ‘Measures taken pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources’ was adopted by the Commission on 20 January 1998 (COM(1998) 16 final) and was published by the Office for Official Publications of the European Communities, Luxembourg in 1998. ISBN 92-828-3118-3.
- The report entitled ‘The implementation of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment, as amended by Commission Directive 98/15/EC of 27 February 1998’ was adopted by the Commission on 15 January 1999 (COM(98) 775 final) and was published by the Office for Official Publications of the European Communities, Luxembourg in 1999. ISBN 92-828-5869-3.

3.5. INECE conference

3.5.1. Background

From 16 to 20 November 1998, INECE (the International Network for Environmental Compliance and Enforcement) held its fifth Global Conference in Monterey, California, USA. A representative from the Commission and a representative from the IMPEL Secretariat attended, together with delegates from the Member States. Over 250 participants from some 125 countries and international organisations/NGOs attended the conference.

The conference is held every two years. This was the fifth such conference. INECE is a partnership of environmental professionals from government, international organisations and NGOs. It is committed to promoting compliance and strengthening enforcement of domestic requirements and international environ-

mental agreements through networking, capacity building and enforcement cooperation. The INECE partnership seeks to foster the formation and effectiveness of regional enforcement networks.

INECE is co-chaired by the Assistant Administrator for Enforcement and Compliance Assurance from the United States' Environmental Protection Agency (EPA) and the Dutch Environment Ministry's (VROM's) Inspector-General for the Environment in cooperation with the United Nations' Environment Programme. This joint chairing reflects the roots of INECE which began as part of a formal bilateral exchange between VROM and the US EPA but which has steadily expanded into the international collaboration it is today. The Commission is a member of the Executive Planning Committee (EPC) of the Conference and also a co-sponsor of the event. It contributed ECU 140 000 to it in 1998. Membership of the EPC has grown in relation to international interest and support.

3.5.2. Programme

The conference took on a very full programme taking the form of an introductory plenary session each day followed by workshops on topics related to the plenary theme. Each workshop was chaired by two 'co-facilitators' and had a rapporteur assigned to it, the latter being responsible for drawing up a report on the workshop.

As holder of the then presidency of the EU, the Austrian representative gave a paper on IMPEL to the plenary session. The Commission representative gave a report to the plenary session on the outcome of the Europe (western Europe, central and eastern Europe and NIS) regional meetings which had been held from 18 to 19 November 1998.

3.5.3. Keynote address

The keynote address to the Conference was given by Carole M. Browner, Administrator of the United States' Environmental Protection Agency (EPA). She gave an impressive account of the successes of the EPA under her leadership, concentrating on the challenge of protecting the environment against the pressure to create jobs from the polluting industries, the fact that there was no competitive disadvantage for compliance, the challenge of building an enforcement culture, the power of information and role of the citizen and international enforcement cooperation. She stressed the importance the US government attached to cooperating with industry whilst not forgetting that effective and deterrent enforcement was an essential tool which the US did not hesitate to use in the fight against pollution.

3.6. Accession of Austria, Finland and Sweden — The 'review clause'

On 11 December 1998, the Commission adopted a communication to the Council and the European Parliament entitled 'The review clause: Environmental and health standards, four years after the accession of Austria, Finland and Sweden to

the European Union' ⁽¹⁶⁾. It shows that the accession of Austria, Finland and Sweden to the European Union has resulted in strengthened EC protection standards for health and environment.

When Austria, Finland and Sweden joined the European Union on 1 January 1995, a special provision — 'the review clause' — in the Act of Accession ⁽¹⁷⁾ allowed the three new Member States to keep certain different provisions, which were more protective for the environment and national health, for four years. This period ended on 31 December 1998. During that time, the European Union reviewed its own health and environmental standards, in close cooperation with the three most recent Member States.

In almost all cases, the review process resulted in the adoption of higher environmental standards throughout the EC, for example on sulphur in petrol, mercury in batteries and labelling of dangerous substances. In other cases, Austria, Finland and Sweden will keep their standards for a further period of time.

The review process demonstrates that the European Union has been able to ensure a high level of environmental protection and health standards for the citizens of Austria, Finland and Sweden. This was a key concern of the citizens of those countries and a very important part of the accession agreements. The citizens of the other Member States have also benefited from this process, as the Commission's approach in most cases has been to strengthen EU protection standards. This success was achieved through excellent cooperation between the Commission, the European Parliament, the Council and Member States.

In detail, the situation for the three Member States is as follows:

Austria

As a result of the review, Austria is keeping its high environmental and health standards and the EU has raised its own standards in many cases.

The maximum sulphur content of 0.1 % of gas oil in Austria corresponds to 0.2 % in EC legislation. The Austrian norm will become applicable throughout the EU via a new directive in the framework of the acidification strategy.

The limit value of benzene in petrol is 3 % in Austria whereas it is 5 % in EC legislation. A new directive in the framework of the auto oil programme will allow only 1 % of benzene in petrol on an EU-wide basis.

Austrian alkaline manganese batteries are allowed a mercury content of 0.001 % whereas EC legislation allows 0.05 %. Now the EC has banned mercury in almost all batteries.

Austria had specific requirements for the classification and labelling of about 50 dangerous substances and a number of dangerous preparations, as well as pesticides and plant protection products. In the review, almost all Austrian proposals

⁽¹⁶⁾ COM(1998) 745 final of 11.12.1998.

⁽¹⁷⁾ OJ C 241, 29.8.1994, p. 9.

on safety-phrases (indicating what to do to avoid health or environmental risks related to dangerous substances) were taken on board in Directive 67/548/EEC on dangerous substances.

Austria also had specific restrictions on the marketing and use of cadmium, pentachlorophenol (PCP) and organostannic (tin) compounds.

The Commission adopted Directive 99/51/EC adapting Directive 76/769/EEC to technical progress concerning PCPP, tin and cadmium (fifth adaptation) on 26 May 1999. Directive 99/51/EC regulates the issues under review according to the lines of the new Member States, except for cadmium and some organostannic compounds used as anti-fouling paints for ships. For these issues, Austria and Sweden continue to have a derogation until 31 December 2002.

Two of the Directives adopted during the review process, namely Directive 98/97/EC amending Directive 76/116/EEC on cadmium in fertilisers, published in OJ L 18, 23.1.1999, and the above-mentioned Directive 99/51/EC, adapting Directive 76/769/EEC, include provisions on a specific review concerning the Community provisions on cadmium and organostannic compounds. The Commission will continue this specific review until 31 December 2001 in relation to Directive 98/97/EC and until 31 December 2002 in relation to Directive 99/51/EC, as provided for in the directives.

Finland

As a result of the review, Finland will keep its high environmental and health standards and those of the EU are being raised in many cases.

Finland applies specific requirements for the classification and labelling of pesticides and plant protection products. In this respect, the Commission proposed to review all existing Community legislation on dangerous preparations. At the same time, the scope of this legislation was expanded and it now covers plant protection products and pesticides, providing for modernisation and thereby meeting the aspirations of Austria, Finland and Sweden.

Finland has stricter limitations on the marketing and use of PCP (pentachlorophenol) than the EC. After a preliminary review of PCP, risk assessments and analyses of advantages and drawbacks were carried out, then the legal provisions of the EC were re-examined. This has resulted in the adoption of Directive 99/51/EC adapting Directive 76/769/EEC to technical progress (see above under 'Austria'). With regard to the cadmium content of fertilisers, the Commission has adopted Directive 98/97/EC amending Directive 76/116/EEC (see above under 'Austria').

Sweden

As a result of the review, Sweden will keep its high environmental and health standards and those of the EU were strengthened in a number of cases.

Previously, EC legislation allowed alkaline manganese batteries with a higher mercury content than in Sweden. As a result of the review, EC legislation was

adopted which raised the standards throughout the EU and totally banned mercury in almost all kind of batteries.

Sweden had specific requirements for the classification and labelling of about 67 dangerous substances and dangerous preparations, as well as pesticides. Following the review, criteria for classification and labelling considered as being satisfactory were agreed upon, and new risk-phrases (warning sentences by which producers have to label products containing dangerous substances) have been taken on board in Directive 67/548/EEC on dangerous substances. Sweden will keep only two risk-phrases. In certain areas, the activities for the global harmonisation of classification and labelling of dangerous substances and preparations were put forward by Sweden to discuss further adaptation of Community legislation.

Sweden has stricter limitations on the marketing and use of cadmium, arsenic, PCP and tin compounds than the EC. After a preliminary review, risk assessments and analyses of advantages and drawbacks were carried out and the Commission adopted Directive 99/51/EC adapting Directive 76/769/EEC to technical progress (see above under 'Austria'). With regard to the cadmium content of fertilisers, the Commission has adopted Directive 98/97/EC amending Directive 76/116/EEC (see above under 'Austria').

IMPEL (European Union network for the implementation and enforcement of environmental law)

4.1. Background

IMPEL has been in existence since 1992 and is an informal network of the environmental authorities of the Member States and the Commission. Its objective is to create the necessary impetus in the European Community to ensure a more effective application of environmental legislation. The network promotes the exchange of information and experience and the development of a greater consistency of approach in the implementation, application and enforcement of environmental legislation, with special emphasis on Community environmental legislation. A full description of the history of the network can be found in the first annual survey (paragraph 3.5.1, p. 19).

Since the publication of the first annual survey, IMPEL has undergone several changes. Its structure has been rationalised and many IMPEL projects have been completed or are nearing completion. This second annual survey describes the new structure of IMPEL, attempts to provide a detailed evaluation of those projects and also gives details of the allocations of funding for the various projects during 1997, 1998 and 1999 (Annex 1). Finally, it sets out IMPEL's work programme for 2000.

4.2. Role and structure of IMPEL up to June 1999

Until 1997, IMPEL had focused on the regulatory chain in connection with industrial installations and their impact on the environment, reflecting the fact that its founding members were inspectors and enforcers in the Member States. In 1997, in line with the Commission's communication and related Council and EP resolutions, IMPEL took decisions on a modified structure and a wider role and scope. This entailed two standing committees (SCs), one concerning legal policy and implementation and the other concerning inspection, practical application and enforcement issues. The latter included technical issues, and environmental management (which included training and exchanges of inspectors within the EC and with applicant countries). The SCs could set up ad hoc working groups to consider specific issues, in which not all Member States necessarily had to participate. Such working groups had only a limited duration and were dissolved upon completion of the task. The SCs drew up terms of reference for these ad hoc working groups, containing tasks and 'products', participants, chairmanship and secretariat, meetings (number, duration, location, languages), and financial arrangements.

IMPEL was managed by a bi-annual plenary meeting which brought together representatives from all the Member States and the Commission (the Environ-

ment Directorate-General). It was jointly chaired by the Commission and the Member State holding the EU Presidency at the time.

The plenary meeting was the main body for strategic discussions and final decisions as well as the forum which was formally responsible for IMPEL activities and products. The plenary meeting approved the work programmes of the SCs, approved reports and decided on their dissemination. It also agreed on how IMPEL would use the funds available to it.

4.3. New structure for IMPEL

During 1997 and 1998, it became apparent that the existing structure of IMPEL, which consisted essentially of meetings of the two standing committees, (SC1 Legal and SC2 Technical) and one or two plenary meetings per year, was not wholly efficient. There was much duplication between the agendas of the meetings of the two standing committees. At the Vienna plenary meeting in December 1998, it was agreed that a new format should be tried out in 1999, under which the meetings of the standing committees would be abandoned and the work normally carried out by them dealt with in two 'plenary' meetings per year.

Thus, at the IMPEL plenary meeting in Berlin in June 1999, the new format was tried out and it was agreed that henceforth 'IMPEL meetings' (combining the original functions of the two SCs and plenary) would take place twice a year (usually in June and December) and that there would be much more flexibility concerning the items to be discussed. It was also agreed that the secretariat would play a more proactive role, in particular in assisting with requests for funding and ensuring work projects were proceeding according to their terms of reference and in due time. This enhanced role has been welcomed and is already having an impact on the timeliness of the projects and their quality. The most recent IMPEL meeting under the new structure took place in Oporto in May 2000.

4.4. The IMPEL Secretariat

The Secretariat is the backbone of the IMPEL network. It maintains the contacts with the national coordinators and other members of the network. It has a supportive role towards the chairmen of the IMPEL meetings and the working groups. It provides the network with information stemming from the Commission and liaises with the Commission. As mentioned above, since June 1999 it has taken on a more proactive role, ensuring that work projects are completed in time and according to their terms of reference. It has also assisted greatly with applications for funding for IMPEL projects which encountered difficulties during 1999 (see paragraph 4.7. below) due to the reform of the co-financing procedure.

The Commission hosts the Secretariat in Brussels and it is normally staffed by one full-time national expert on detachment (END) from a Member State's administration. From time to time, depending on availability, a structural *stagiaire* [a young person working in a temporary training placement within the Commis-

sion] from a Member State assists the END for six-month periods. The first full-time END was from the Dutch Environmental Inspectorate (1996–99) and the present incumbent (from 1999 for three years) is British, from the Environment Agency for England and Wales. The six-month *stagiaire* post was taken up by a Swede in January 2000.

4.5. Participation of other countries

(a) Central and eastern European countries, Cyprus and Malta/ Cooperation with AC-IMPEL

The parallel network for the 12 candidate countries, called AC-IMPEL, was established in May 1998 in Vilnius, Lithuania. It works in close cooperation with IMPEL in order to support the candidate countries in addressing issues related to the implementation and enforcement of EU environmental legislation during the pre-accession phase. It differs from IMPEL in that the member countries are not yet operating the environmental *acquis*. As and when they accede to the EU, they will become full members of IMPEL, so the network, once all applicant countries become members, will disappear. AC-IMPEL is also assisted by a secretariat based in the Commission.

Although they do not participate in IMPEL meetings, officials from the candidate countries are invited to participate in seminars and workshops, or on an ad hoc basis in working groups, if deemed appropriate. They have participated in the inspections exchange programmes (see below) and found them to be of great assistance.

Special training programmes on implementation and enforcement issues are being set up for the 12 candidate countries in the coming years in order to assist them in approximating their environmental legislation to that of the Community. An AC-IMPEL exchange programme has also been set up in which IMPEL members may also participate.

The outputs from AC-IMPEL so far have included the following:

- assessment of environmental enforcement structures and practices in Estonia and Poland;
- assessment of permitting, monitoring and enforcement capacity of the Czech environmental administration;
- mini-library covering the most important and relevant IMPEL reports and papers;
- in-country training of inspectors in the framework of AC-IMPEL (three reports: Poland, Hungary and Latvia).

(b) Other European countries (EEA)

The European Economic Area (EEA) countries (Norway, Iceland and Liechtenstein) are invited to participate in working groups, if their specific contribution is considered desirable. Norway has already participated in the working group on

transfrontier shipment of waste. Given that the EEA countries also operate the environmental *acquis*, at the Berlin IMPEL meeting in June 1999 it was agreed that the EEA countries should also be invited to attend IMPEL meetings as participating observers. Norway and the EFTA Secretariat attended the Helsinki IMPEL meeting in December 1999. Norway also attended the Oporto IMPEL meeting in May 2000.

4.6. Work projects and budget during 1997, 1998 and 1999

Until 1997 all IMPEL projects were funded by the Member States themselves. With IMPEL's enhanced role following the Commission's communication and EP and Council resolutions thereon, Commission funding was made available. However, even with those projects which were co-financed by the Commission, the Member States still bore some of the costs themselves. Indeed, some projects are financed wholly by the Member States as can be seen from the tables in Annex 1 below.

In 1997, for the first time, it was agreed to make available ECU 500 000 for IMPEL work from the Environment Directorate-General's budget of which, in the event, a total of ECU 437 346 was allocated to projects. In 1998 the amount available was also ECU 500 000, of which ECU 374 100 was allocated; and of the EUR 400 000 available in 1999, EUR 383 000 was allocated to projects. The tables in Annex 1 below summarise the financing by the Commission from that budget in 1997, 1998 and 1999 together with the work projects for which the financing was used.

4.7. Budgetary problems and procedures

Various problems have been encountered in obtaining the Environment Directorate-General's allocations set aside for IMPEL projects annually since 1997. A major problem arose in 1998 as a consequence of the judgment of the European Court of Justice of 12 May 1998 (*United Kingdom and Ireland v Commission*, case C-106/96) which meant that any funding for projects including those carried out by IMPEL had to have a legal basis to justify such expenditure. This meant that many projects put forward for 1998 had to be re-thought, or terms of reference redrafted, with the result that funding in individual cases was often considerably delayed. This is one explanation for the fact that in 1998 only approximately ECU 374 100 was actually allocated out of the ECU 500 000 available.

From 1997 to 1999, the system inherited for seeking joint funding from the Commission was the one used for ad hoc projects. The system was slow, and the form to be completed was complex.

A different way of operating the system for IMPEL projects has been agreed for 2000 and the intention is to have a similar system in the future.

4.8. Summary evaluation

4.8.1. The 1996 communication and Council and EP resolutions thereon foresaw various areas of activity for IMPEL and it has tried since then to concentrate on these areas in deciding on its work projects. Reports produced so far by IMPEL have included the following:

- minimum criteria for inspections:
 - general principles,
 - frequency of inspections,
 - operator self-monitoring,
 - planning and reporting of inspections;
- report on the interrelationship between the IPPC, EIA and Seveso directives and the EMAS regulation;
- IMPEL reference book for environmental inspections;
- report of a workshop on licensing and enforcement practices in a cement plant using alternative fuel;
- report on lessons learnt from accidents.

These reports can be found on the IMPEL website at <http://europa.eu.int/comm/environment/impel/>

4.8.2. IMPEL's greatest achievement to date has undoubtedly been its work in relation to inspections, which is not surprising given its origins and the fact that its membership comes predominantly from the inspecting ranks. The inspectors' exchange programme had been held in all 15 Member States by the end of 1999 and has provided an insight into the different systems in operation in the Member States. It has also enabled valuable contacts to be made between inspectors not only from the Member States but the AC-IMPEL countries as well. It has assisted the AC-IMPEL countries in developing their inspections systems which are, for the most part, underdeveloped (and has also assisted those Member States having less developed systems).

Another aspect of the inspections work has been the production of four reports relating to inspections. The paper on minimum criteria for environmental inspections (November 1997) has formed the basis for the Commission's proposal for a Council recommendation on the subject for which, in mid-2000, the common position in the Council will be the subject of a second reading in the European Parliament (see para 2.1 above). Without the knowledge of the IMPEL experts on the ground, the Commission would not have had the expertise necessary to come forward with such a proposal and this is a good example of cooperation between the Commission and the Member States in sharing responsibility for the drafting of Community law. It is possible that the three other reports on inspections will also be used as the basis for a legislative Act (possibly a comprehensive directive on inspections) encompassing the recommendation and all the subsequent work, in due course.

4.8.3. Several projects of a more 'legalistic' nature (the CEDE/Prieur report on access to justice, the 'Metro' report on criminal enforcement and the workshop

on access to environmental information) have provided results which are of particular benefit to the Commission in its follow-up work to the 1996 communication. The CEDE/Prieur Report will be useful in providing a starting point for streamlining complaints procedures in the Member States and as a basis for any action in the area of access to justice, particularly in relation to preparatory work leading to ratification of the Aarhus Convention. The report on Directive 90/313/EEC following the workshop in Utrecht was also useful for the Commission in preparing its report and proposal to amend Directive 90/313/EEC.

4.8.4. Projects of a practical nature, such as the Austrian workshop on licensing and enforcement practices in a cement plant using alternative fuel, PEEP and IMPEL Inspect can also be regarded as successes, particularly in providing assistance and guidance to the inspector on the ground. Quality projects of their nature are to be encouraged.

4.8.5. Other achievements have included creating a website (connected to the Environment Directorate-General's website) for IMPEL. This enables IMPEL to promote its activities to a wider audience as well as ensuring that its reports are available to a greater number of people. IMPEL reports have generally been of good quality (for example, the four reports in the Inspection series) and one of the problems has been in making sure that those affected by them are able to have access to them. The website will be a useful way of overcoming this problem.

4.9. Conclusion and outlook for the future

Undoubtedly the majority of achievements of the IMPEL network can be seen as a success and the funding provided by the Commission can be regarded, for the most part, as money well spent in improving enforcement of Community environmental law in the Member States.

However, since 1997, difficulties over funding procedures have contributed to some work projects being delayed and understandable frustration and disappointment on the part of the Member States.

Fresh impetus is now needed to provide new ideas and work projects for the future. The start of the new Commission provided a timely opportunity for this fresh impetus and the opportunity to focus on work projects in the future which will have a stronger added value for the Commission.

4.10. IMPEL's work programme for 2000

The conclusions of the IMPEL meeting of 1–3 December 1999 on the IMPEL work programme for 2000 can be found at the end of Annex 1.

Details of Member States' transposing legislation communicated for Community directives which had to be transposed during the period covered by the survey

Community directives are usually applied in the Member States on the basis of transposing national legislation. Timely and correct transposition is crucial to the practical application of a directive. In order to achieve maximum transparency in the implementation of Community environmental law and thus assist the citizen in knowing exactly how a Community directive has been transposed into his own national legal system, the annual survey includes details of Member States' transposing legislation communicated for directives which have to be transposed during the period covered by the survey. Thus, Annex 2 contains tables showing details of Member States' legislation communicated for the Community directives, or parts thereof, which had to be transposed between January 1998 and December 1999, namely:

- Directive 96/54/EC, 22nd adaptation of Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (deadline 31.5.1998);
- Directive 96/56/EC on the modification of Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (deadline 1.6.1998);
- Directive 96/59/EC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls PCB/PCT (deadline 16.3.1998);
- Directive 96/61/EC concerning integrated pollution prevention and control (deadline 31.10.1999);
- Directive 96/62/EC on ambient air quality assessment and management (deadline 21.5.1998);
- Directive 96/82/EC on the control of major-accident hazards involving dangerous substances (deadline: 3.2.1999);
- Directive 97/11/EC amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (deadline: 14.3.1999);
- Directive 97/49/EC modifying Directive 79/409/EEC on the conservation of wild birds (deadline 30.9.1998);

- Directive 97/68/EC on emissions of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery (deadline 30.6.1998);
- Directive 97/69/EC, 23rd adaptation of Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (deadline 16.12.1998);
- Directive 98/15/EC modifying Directive 91/271/EEC on urban waste water (deadline 30.9.1998);
- Directive 98/70/EC of the Parliament and the Council, of 13 October 1998, on the quality of petrol and diesel oil, modifying Council Directive 93/12/EEC (deadline 1.7.1999);
- Directive 98/73/EC adapting to technical progress for the 24th time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (deadline: 31.10.99);
- Directive 98/101/EC adapting to technical progress Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances (deadline 31.12.99).

It is apparent from the tables in Annex 2 that not all Member States have communicated to the Commission transposing legislation of these directives or, where they have, may have notified later than the deadline for transposition. If Community environmental law is to be properly implemented and enforced, it is essential that Member States comply with their obligations in this regard, not only by transposing by the due date but also by giving clear details of the transposing legislation when notifying the Commission. The Commission will continue its policy of bringing proceedings under Article 226 of the Treaty against those Member States which fail to transpose directives in time or transpose them incorrectly.

Extract from the 16th 'Annual report on monitoring the application of Community law' (environment chapter)

In order to provide a comprehensive reference work, the annual survey contains the environment chapter from the Commission's 16th 'Annual report on monitoring the application of Community law' ⁽¹⁸⁾ which can be found in Annex 3.

The extract from the 16th annual report describes how the Commission monitors the application of Community environmental law, essentially by taking account of three aspects: monitoring the notification of national transposing measures, scrutinising national measures for conformity with the directives they transpose and monitoring the practical application of directives and regulations. If a Member State is found to be lacking, proceedings are instituted under Article 226 (ex-Article 169) of the Treaty.

The problems in all three areas of monitoring remain similar to those in previous years. Delays in notifying the Commission of transposing measures are generally the result of delays in enacting them which are caused usually by internal institutional and administrative structures of the Member States, transposal techniques, specific difficulties in particularly sensitive areas (e.g. chemicals, biotechnology) etc. Many infringement proceedings for non- or late transposition could be avoided if Member States determined exactly how much of the Community instrument needed to be transposed. In some cases, existing provisions may already suffice.

In the area of bad application of directives and regulations, the Commission is often made aware of the possible infringement through complaints from NGOs, the general public or Members of the European Parliament. The number of such complaints is increasingly difficult for the Commission to deal with effectively and rose again in 1998, having fallen during the two previous years. An analysis of the complaints registered in 1998 by broad categories, reveals that one in every two complaints was concerned with nature conservation and one in every four with environmental impact assessment, while waste-related problems were raised in only 1 in 10 cases, as were air pollution and water pollution.

In the light of all these problems, the Commission sought to reform its internal rules for handling infringement proceedings, with the aim of improving their speed and effectiveness.

⁽¹⁸⁾ COM(1999) 301 final, 9.7.1999.

In 1998 the Commission, employing the procedure laid down in ex-Article 169 of the Treaty, referred 15 cases against Member States to the European Court of Justice (one of them on the basis of Article 228 (ex-Article 171)) and sent 118 original or supplementary 'reasoned opinions' (four of them on the basis of ex-Article 171). These figures compare with 37 cases referred to the Court and 69 'reasoned opinions' sent in 1997.

In 1998, the Commission continued to refer environmental cases to the European Court of Justice in accordance with ex-Article 171 of the Treaty, which enables the Commission to bring a Member State before the Court again, when it has failed to comply with a judgment delivered under ex-Article 169, requesting that financial penalties be imposed. Ex-Article 171 has again proved to be a most effective tool as, of the cases started, most were settled (7 of the 10 cases in which the Commission applied for financial penalties since January 1997).

In the period between the preparation of this working document and its official adoption as SEC(2000) 1219, the 17th 'Annual report on monitoring the application of Community law' was adopted by the Commission (COM(2000) 92). It can be found on the Europa website at http://www.europa.eu.int/comm/secretariat_general/sgb/infringements/report99_en.htm. The Environment chapter (2.12) begins on page 59.

Conclusion

The work described in the first annual survey has continued to be built upon during 1998/99 and many of the recommendations contained in the Commission's 1996 communication have been achieved. The progress made on the proposal for the Council recommendation on minimum criteria for environmental inspections in Member States is particularly gratifying, as an early implementation of the guidelines will lead to a more even application of Community environmental law in the Member States.

It is apparent from the assessment of the results of the Community's fifth environmental action programme that, despite some positive results, in general the quality of the environment is not improving, despite 30 years of environmental legislation. One of the reasons for this is that the implementation of environmental legislation is often wanting. This is clearly reflected in the high number of infringement procedures against Member States. For the future, whilst new legislation is certainly required, the key focus should be on implementation — it must be ensured that the national administrations in the Member States fulfil their legal obligations to the European Union and their moral obligations to their citizens. Citizens, industry and NGOs also have their roles to play. With this in mind, the Commission will continue to attempt, through the various means described in this survey (including recourse to IMPEL for assistance where necessary) to ensure that implementation of existing Community environmental legislation is achieved, that the public's awareness of environmental matters is raised and that the public participate as fully as possible in the debate as to how environmental policy can be improved and built upon for the future. The main principles of the fifth environmental action programme still remain valid — the need for integration, the need to broaden the range of instruments and involve actors at all levels have lost nothing of their importance. This approach must now be consolidated in the sixth action programme, which is under consideration, in order to create more ownership in and responsibility for the environment.

ANNEX 1

IMPEL work programmes for 1997, 1998, 1999 and 2000

IMPEL work programme 1997

(State of play as at December 1999)

(Projects retain the same numbering in each of the 1997, 1998 and 1999 work programmes)

Project name	Allocation from IMPEL budget 1997 (ECU)	Beneficiary of funding	Comments
1. Interrelationship between IPPC, EIA and Seveso directives and EMAS regulation	29 087 (not taken up because of a delay in starting)	Italy	Start of project delayed until 1998. The report was adopted in December 1998 and subsequently published.
2. The evolution of integrated permitting and inspections of industrial installations in the European Union (the 'Bohne' project)	40 096	University of Speyer (D)	This project has involved detailed consultations with MS, authorities, operators and Commission officials. An interim report has been published and the final report should be ready in early 2000.
3. Practical guide on implementation of EC environmental law	29 211	Consultant	This project was to have received 100 % financing from the Commission. It had to be cancelled because of the bankruptcy of the consultant.
4. Workshop on access to environmental information	27 448	NGO	The workshop resulted in a report used as one of the sources for the report 'Recommendations for the review and revision of Directive 90/313/EEC.'
5. Study/Seminar on access to justice	36 566	Consultant	100 % Commission financing. The report was written for the Commission but amendments to it are to be adopted as IMPEL papers.
6. Complaints	39 598	Consultant	
7. Legal standing in Community law	23 658	University	
8. IMPEL inspect (reference book for inspectors)	31 435	Netherlands	The report was adopted in June 1999 and will be published shortly.
9. Project on environmental enforcement practices (PEEP) (complementary to the inspectors' exchange programme)	40 520	Netherlands	The pilot phase and first phase have been completed and the report adopted in June 1999. The second phase is about to begin and the report will be produced in due course, dependent on appropriate TORs being given at Helsinki.
10. Inspectors' exchange programme – EU MS	84 254	Netherlands	Continuation of the series of exchange programmes started pre-1997 in other MS. It will finish with the Greek programme in November 1999.

Project name	Allocation from IMPEL budget 1997 (ECU)	Beneficiary of funding	Comments
11. Good practice guide for enforcement	13 602	Eurocities/ Rotterdam (NL) (Consultant)	
12. Criminal enforcement of environmental law (the 'Metro' project)	12 991	Denmark	Meetings of the group took place in April 1997 and September 1998. The report (the 'Metro' report) is nearing completion and should be adopted in Helsinki in December 1999.
13. Workshop on licensing and enforcement practices in a cement plant using alternative fuel	22 765	Austria	The workshop was held in May 1998 and a report has been adopted and published.
14. SMEs and the environment	6 115	Luxembourg	Meeting held in Luxembourg leading to the UK conference on SMEs in 1998.
TOTALS	437 346		

NB. Several important projects, for example the inspections' cluster minimum criteria for inspections project and the inspectors' exchange programme, were started before 1997 and were continued or completed during 1997.

IMPEL work programme 1998

(State of play as at December 1999)

(Projects retain the same numbering in each of the 1997, 1998 and 1999 work programmes)

Project name	Allocation from IMPEL budget 1998 (ECU)	Beneficiary of funding	Comments
1. Interrelationship between IPPC, EIA and Seveso directives and EMAS regulation	34 061	Italy	Workshops 4–5 June, 17–18 September, and 26–27 November. Report adopted in December 1998 and then published.
2. The evolution of integrated permitting and inspections of industrial installations in the European Union (the 'Bohne' project)	44 000 (second stage) 41 586 (third stage)	University of Speyer (D)	Second and third stage combined. Interim report supplied. Final report due to be completed in early 2000.
12. Criminal enforcement of environmental law (the 'Metro' project)			A meeting of the group took place in April 1998 in Helsinki.
15. Seminar on sustainable industrial development	25 000	France	Seminar took place 26–27 May.
16. Inspectors' exchange programme (in the series of exchange programmes)	40 000	Spain	Exchange programme took place 22–28 March.
17. Inspectors' exchange programme (in the series of exchange programmes)	39 761	Sweden	Exchange programme took place 14–18 June.
18. Inspections cluster (includes minimum criteria, planning, monitoring and reporting, frequency of inspections and guidelines for the use of operator self-monitoring)	50 000	United Kingdom	By 1998 the report on 'Minimum criteria...' had been adopted. This contribution helped finance the start of work on other reports in the series.
19. SMEs: information and education	3 000	United Kingdom	A workshop on SMEs was held in June 1998 as a follow-on from the Luxembourg project above.
20. Inspectors' exchange programme (in the series of exchange programmes)	39 887	Italy (ANPA)	Exchange programme took place on 4–9 October 1998.
21. Diffuse emissions	29 305 (not taken up)	Netherlands	Start of project delayed until 1999.
22. Lessons learnt from accidents	27 500	France	Withdrawn because of lack of participants. Project carried forward to 1999 when the seminar was held at the expense of the French Government.
TOTALS	374 100		

IMPEL work programme 1999

(State of play as at December 1999)

(Projects retain the same numbering in each of the 1997, 1998 and 1999 work programmes)

Project name	Allocation from IMPEL budget (EUR)	Beneficiary of funding	Comments
2. The evolution of integrated permitting and inspections of industrial installations in the European Union (the 'Bohne' project)	No further allocation	University of Speyer (D)	The report is due to be completed in early 2000.
12. Criminal enforcement of environmental law (the 'Metro' report)			A final meeting of the working group took place in October 1999. The report is due to be adopted in Helsinki in December.
18. Planning and reporting of inspections	5 600	UK	The report was adopted in June and has been published.
21. Diffuse emissions	No further allocation	Netherlands	Draft report in December 1999 for discussion in January.
23. 'Access to Justice' workshop	Project funded entirely by Netherlands		Experts' meeting in January will finalise country reports contained in the Prieur Report — see Projects 5, 6 & 7; final workshop in April.
24. Changes of industrial operations (in the context of the IPPC directive)	14 000	Finland	Questionnaires circulated and workshop to be held in December. Report due early 2000.
25. Application of general binding rules (IPPC directive allows MS to use general binding rules at their discretion)	40 000	UK	The project is due to begin in December and the report will be produced for December 2000.
26. Public participation in the field of the environment	46 000	Italy	The working group is due to meet later this month and in spring 2000.
27. Workshop on integrated permitting	16 800	Ireland	A questionnaire has been circulated and applications for fictitious IPPC permits are being prepared. Workshop in April 2000.
28. Fact sheets for SMEs: Printing industry	10 000	Sweden	Questionnaire about to be circulated. Workshop will be held in April 2000 with the fact sheet to be ready by June.
29. Workshop on use of chlorinated hydrocarbons	35 000	Austria	The workshop is due to be held in March 2000.
30. Best practice in compliance monitoring	9 600	UK	Meeting to define the scope of the project to be held in December.
31. Inspectors' exchange programme (last in the series of exchange programmes)	86 000	Greece	The exchange programme is due to take place in mid-November.

Project name	Allocation from IMPEL budget (EUR)	Beneficiary of funding	Comments
32. Comparison projects for inspectors (this is the follow-on from the exchange project — see 10, 16, 17, 20 and 31 above)	20 000	Denmark and Netherlands	Danish programme was held in October: the Dutch one is postponed until April (so a new funding application will be submitted next year).
33. Lessons learnt from accidents (2)	Project funded entirely by France		Seminar was held in April: report due to be adopted in Helsinki in December.
34. Conference on compliance and enforcement	100 000	Austria	Work has begun on this conference due to be held in Austria in October.
TOTALS	383 000		

Conclusions of the IMPEL meeting, 1–3 December 1999, for the IMPEL work programme in 2000

(Projects in italics are carried over from 1999)

No	MS	TITLE	FINANCIAL REQUIREMENT FROM 2000 IMPEL BUDGET (EUR) Figures in bold are total project cost
1	NL	<i>Access to Justice</i>	
2	FIN	<i>Changes in industrial operations/supervision of environmental protection</i>	
3	UK	<i>Application of general binding rules/supervision of environmental protection</i>	
4	I	<i>Public participation</i>	
5	I	<i>Seminar on interrelationship of different instruments</i>	
6	IRL	<i>Workshop on integrated permitting</i>	
7	D	<i>The evolution of integrated permitting</i>	
8	A	<i>Conference on compliance and enforcement</i>	
9	S	<i>Fact sheet for SME sector</i>	
10	A	<i>Workshop on use of chlorinated hydrocarbons</i>	
11	UK	<i>Best practice in compliance monitoring</i>	
12	S	<i>Exchange and training</i>	
13	NL	<i>Diffuse emissions</i>	
14	NL	<i>Training syllabus</i>	
15	NL	TFS	Both existing and proposed TFS projects, but no funding sought from IMPEL budget.
16	NL	Comparison project for inspectors	36 000 60 000
17	I	Permitting and enforcing at the land-side of airports	TOR to be redrafted in the light of expansion of scope of project.
18	UK	Project on environmental enforcement practices (PEEP)	30 000 50 000
19	GR	Compliance and enforcement of EU environmental legislation for industries of the food production/processing sector	66 000 110 000
20	FIN	Comparison project for Inspectors	25 000 42 000
21	F	Lessons learnt from accidents	
22	NL	Seminar on four instruments (jointly with AC IMPEL)	
23	To be decided	Training and qualifications of inspectors	TOR to be drafted by Cluster 1 (training and exchange)
24	UK	Voluntary scheme for review of inspection practice	
TOTAL OF COMMISSION FUNDING TO BE REQUESTED			157 000

ANNEX 2 (1998)

Details of Member States' transposing measures communicated for Community directives to be transposed during the period covered by the survey (notifications received by 30 March 2000)

Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)

OJ L 243, 24.9.1996, pp. 31–35

Transposition date: 16.3.1998

Belgium	<ol style="list-style-type: none">01. Besluit van de Vlaamse regering van 24 maart 1998 tot wijziging van het besluit van de Vlaamse regering van 1 juni 1995, Belgisch Staatsblad van 30 april 199802. Arrêté du gouvernement wallon relatif à l'élimination des polychlorobiphényles et des polychloroterphényles. Référence: <i>Moniteur belge</i> du 22.5.1999, p. 18254. SG(1999)A/1599803. Arrêté du gouvernement de la Région de Bruxelles-Capitale relatif à la planification de l'élimination des polychlorobiphényles et des polychloroterphényles. Référence: <i>Moniteur belge</i>, 4.8.1999, p. 29104. SG(1999)A/1599804. Arrêté ministériel établissant un plan régional d'élimination et de décontamination des PCB/PCT05. Besluit van de Vlaamse regering van 17 december 1997 tot vaststelling van het Vlaams reglement inzake afvalvoorkoming en -beheer (VLAREA), Belgisch Staatsblad van 16 april 1998, blz. 11299
Denmark	<ol style="list-style-type: none">01. Bekendtgørelse nr. 718 af 9. oktober 1986 om begrænsninger i anvendelse af pcb og pct. Miljøministeriet, j.nr. D 86-27001-14. Lovtidende A 1986, hæfte nr. 78, udgivet den 25. Oktober 1986 s. 277402. Bekendtgørelse af 13. december 1998 om pcb, pct og erstatningsstoffer herfor. Miljø- og Energiministeriet, j.nr. 3014-0012. Lovtidende A, hæfte udgivet den 28. december 1998.03. Bekendtgørelse om håndtering af affald af elektriske og elektroniske produkter. Statstidende nr. 1067 af 22. December 1998. SG(99)A/1229204. Bekendtgørelse om affald. ref: Statstidende nr. 299 af 30. april 1997. SG(99)A/12292
Germany	No notification to date
Greece	No notification to date
Spain	<ol style="list-style-type: none">01. Real Decreto 1378/1999, de 27 de agosto, por el que se establecen medidas para la eliminación y gestión de los policlorobifenilos, policloroterfenilos y aparatos que los contengan
France	<ol style="list-style-type: none">01. Loi n° 96-151 du 26 février 1996 relative aux transports, Journal officiel du 27 février 1996, p. 309402. Arrêté ministériel du 10 octobre 1996 relatif aux installations spécialisées d'incinération et aux installations de coïncinération de certains déchets industriels spéciaux, Journal officiel du 16 octobre 1996, p. 1509803. Décret n° 87-59 du 2 février 1987 relatif à la mise sur le marché, à l'utilisation et à l'élimination des polychlorobiphényles et polychloroterphényles, Journal officiel du 4 février 1987, p. 127204. Décret n° 92-1074 du 2 octobre 1992 relatif à la mise sur le marché, à l'utilisation et à l'élimination de certaines substances et préparations dangereuses, Journal officiel du 4 octobre 1992, p. 13806

Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)

OJ L 243, 24.9.1996, pp. 31–35

Transposition date: 16.3.1998

	05. Décret n° 97-503 du 21 mai 1997 portant mesures de simplification administrative, Journal officiel du 22 mai 1997, p. 7690
Ireland	01. The Waste Management Act, 1996, No 10 of 1996 02. The Waste Management (Licensing) Regulations, 1997, Statutory Instruments No 133 of 1997 03. The Dumping at Sea Act, 1981
Italy	01. Legge, disposizioni per l'ademimento di obblighi derivanti dalla appartenenza dell'Italia alle Comunità europee (legge comunitaria 1995-1997) del 24 aprile 1998 n. 128, Supplemento ordinario n. 88/L alla Gazzetta ufficiale, serie generale, del 7 maggio 1998, n. 104 02. Decreto legislativo 22 maggio 1999, n. 209. Attuazione della Direttiva 96/59/CE relativa allo smaltimento dei policlorodifenili e dei policlorotrifenili. In GURI, serie generale, n. 151 del 30 giugno 1999.
Luxembourg	01. Règlement grand-ducal du 24 février 1998 — concernant l'élimination des polychlorobiphényles et des polychloroterphényles (PCB et PCT) — portant septième modification de l'annexe 1 de la loi modifiée du 11 mars 1981 portant réglementation de la mise sur le marché et de l'emploi de certaines substances et préparations dangereuses, <i>Mémorial A</i> , p. 400
Netherlands	01. Regeling van de minister van Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer van 30 juli 1998 houdende implementatie van Richtlijn 96/59/EG van de Raad van de Europese Unie betreffende de verwijdering van polychloorbifenylen en polychloorterfenylen (PCB's/PCT's) (PB L 42) (Regeling verwijdering PCB's).
Austria	01. Verordnung des Bundesministers für Umwelt, Jugend und Familie über das Verbot von halogenierten Biphenylen, Terphenylen, Naphthalinen und Diphenylmethanen, Bundesgesetzblatt für die Republik Österreich, Nr. 210/1993 ausgegeben am 23. März 1993 02. Bundesgesetz vom 6. Juni 1990 über die Vermeidung und Behandlung von Abfällen, mit dem das Chemikaliengesetz, BGBl. Nr. 326/1987, das Bundesstatistikgesetz, BGBl. Nr. 91/1965, die Gewerbeordnung 1973, BGBl. Nr. 50/1974, das Altlastensanierungsgesetz, BGBl. Nr. 299/1989, das Umwelt- und Wasserwirtschaftsfondsgesetz, BGBl. Nr. 79/1987, und das Umweltfondsgesetz, BGBl. Nr. 567/1983, geändert werden (Abfallwirtschaftsgesetz – AWG), Bundesgesetzblatt für die Republik Österreich, Nr. 325/1990 03. Bundes-Abfallwirtschaftsplan
Portugal	01. Decreto-lei n° 277/99, de 23 de Julho. J-170, 23.7.1999, p. 4604
Finland	01. Valtioneuvoston päätös PCB:n ja PCT:n käytön rajoittamisesta/Statsrådets beslut om begränsning av användningen av PCB och PCT (1071/89) 30.11.1989 SG(1999)A/16022 02. Valtioneuvoston päätös pentakloorifenolin sekä monometyylitetraklooridifenyylimetaanin, monometyylidiklooridifenyylimetaanin ja monometyylibromidifenyylimetaanin markkinoille luovuttamisen ja käytön rajoittamisesta/Statsrådets beslut om begränsning av introduktion på marknaden och användning av pentaklorfenol samt monometyltetrakloridifenyylmetan, monometyldikloridifenyylmetan och monometyldibromidifenyylmetan (846/93) 23.9.1993 SG(1999)A/16022 03. Valtioneuvoston päätös ongelmajätteiden poltosta/Statsrådets beslut om förbränning av problemavfall (842/97) 28.8.1997 04. Valtioneuvoston päätös PCB:n ja PCB-laitteistojen käytöstä poistamisesta sekä PCB-jätteenkäsittelystä/Statsrådets beslut om tagande ur bruk av PCB och PCB-utrustning samt behandling av PCB-avfall (711/98) 24.9.1998 SG(1999)A/16022

Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)

OJ L 243, 24.9.1996, pp. 31–35

Transposition date: 16.3.1998

	05. Valtioneuvoston päätös ongelmajätteistä annettavista tiedoista sekä ongelmajätteiden pakkaamisesta ja merkitsemisestä/Statsrådets beslut om uppgifter som skall lämnas om problemavfall samt om förpackning och märkning av problemavfall (659/96)
	06. Jätelaki/Avfallslag (1072/93) 3.12.1993
	07. Merensuojelulaki/Havsskyddslag (1415/94) 29.12.1994
	08. Ympäristölupamenettelylaki/Lag om miljötillståndsförfarande (735/91)
	09. Ympäristömenettelyasetus/Förordning om miljötillståndsförfarande (772/92)
	10. Landskapslag om renhållning (3/81) 8.1.1981, med senaste ändring (91/98) 4.9.1998, Ålands författningssamling
	11. Landskapsförordning om PCB-avfall (110/98) 12.11.1998, Ålands författningssamling
	12. Landskapsförordning om tillämpning i landskapet Åland av ett statsrådsbeslut om förbränning av farligt avfall (94/98) 29.9.1998, Ålands författningssamling
	13. Landskapsförordning om ändring av landskapsförordningen om tillämpning i landskapet Åland av riksförfattningar om explosionsfarliga ämnen och kemikalier (107/98) 12.11.1998
Sweden	01. Förordning om bortskaffande av PCB m.m., Svensk författningssamling (SFS) 1998:122
	02. Förordning om farligt avfall, Svensk författningssamling (SFS) 1996:971
	03. Förordning om PCB m.m., Svensk författningssamling (SFS) 1985:837
	04. Lag om förbud mot dumpning av avfall i vatten, Svensk författningssamling (SFS) 1971:1154
	05. Förordning om förbränning av farligt avfall, Svensk författningssamling (SFS) 1997:692
United Kingdom	No notification to date

Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management

OJ L 296, 21.11.1996, pp. 55–63

Transposition date: 21.5.1998

Belgium	<p>01. Arrêté du gouvernement de la Région de Bruxelles-Capitale du 25 novembre 1993 relatif au contrôle du respect des dispositions légales et réglementaires en matière d'environnement, <i>Moniteur belge</i> du 4.12.1993</p> <p>02. Loi du 28 décembre 1964 relative à la lutte contre la pollution atmosphérique, <i>Moniteur belge</i> du 15.1.1965</p> <p>03. Arrêté du gouvernement de la Région de Bruxelles-Capitale du 18 juillet 1996 portant création d'un service scientifique au sein de l'Institut bruxellois pour la gestion de l'environnement: le Laboratoire de recherche en environnement — Besluit van de regering van het Brussels Hoofdstedelijk Gewest van 18 juli 1996 tot de oprichting van een wetenschappelijke dienst binnen het Brussels Instituut voor milieubeheer: het Laboratorium voor milieuonderzoek, <i>Moniteur belge</i> du 27.11.1996, p. 29844</p> <p>04. Arrêté du 6 décembre 1996 du ministre de l'environnement et de la politique de l'eau, de la rénovation, de la conservation de la nature et de la propreté publique — Besluit van 6 december 1996 van de minister van Leefmilieu en Waterbeleid, Renovatie, Natuurbehoud en openbare Netheid, <i>Moniteur belge</i> du 10.1.1997, p. 550</p> <p>05. Arrêté du gouvernement de la Région de Bruxelles-Capitale du 23 juin 1994 relatif aux conditions générales et à la procédure d'agrément de laboratoires pour la Région de Bruxelles-Capitale, <i>Moniteur belge</i> du 15.7.1994</p> <p>06. Accord de coopération du 18 mai 1994 entre les Régions de Bruxelles-Capitale, flamande et wallonne en matière de surveillance des émissions atmosphériques et de structuration des données, <i>Moniteur belge</i> du 24.6.1994</p> <p>07. Besluit van de Vlaamse regering van 24 maart 1998 tot wijziging van het besluit van de Vlaamse regering van 1 juni 1995, Belgisch Staatsblad van 30 april 1998</p>
Denmark	No notification to date
Germany	No notification to date
Greece	No notification to date
Spain	No notification to date
France	<p>01. Loi n° 96-1236 du 30 décembre 1996 sur l'air ambiant et l'utilisation rationnelle de l'énergie, Journal officiel du 1^{er} janvier 1997</p> <p>02. Décret n° 98-360 du 6 mai 1998 relatif à la surveillance de la qualité de l'air et de ses effets sur la santé et sur l'environnement, aux objectifs de la qualité de l'air, aux seuils d'alerte et aux valeurs limites, Journal officiel du 13 mai 1998, p. 7196</p> <p>03. Décret n° 98-361 du 6 mai 1998 relatif à l'agrément des organismes de surveillance de la qualité de l'air, Journal officiel du 13 mai 1998</p> <p>04. Décret n° 98-362 du 6 mai 1998 relatif aux plans régionaux pour la qualité de l'air, Journal officiel du 13 mai 1998</p> <p>05. Décret n° 74-415 du 15 mai 1974 relatif au contrôle des émissions polluantes dans l'atmosphère et à certaines utilisations de l'énergie thermique, Journal officiel du 20 avril 1996, p. 6083</p> <p>06. Accord-cadre du 9 octobre 1995 — Laboratoire central de surveillance de la qualité de l'air</p>
Ireland	01. Environmental Protection Agency Act, 1992 (Ambient Air Quality Assessment and Management) Regulations, 1999, statutory Instruments No 33 of 1999
Italy	01. Decreto legislativo 4 agosto 1999, N. 351. Attuazione della direttiva 96/62/CE in materia di valutazione e di gestione della qualità dell'aria ambiente. In GURI, serie generale, n. 241 del 13 ottobre 1999.
Luxembourg	01. Loi du 17 mars 1998 modifiant la loi modifiée du 21 juin 1976 relative à la lutte contre la pollution de l'atmosphère, <i>Mémorial A</i> du 3.4.1998, p. 403

Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management

OJ L 296, 21.11.1996, pp. 55–63

Transposition date: 21.5.1998

	02. Règlement grand-ducal du 17 mars 1998 portant application de la directive 96/62/CE du Conseil du 27 septembre 1996 concernant l'évaluation et la gestion de la qualité de l'air ambiant, <i>Mémorial A</i> du 3.4.1998, p. 404
	03. Règlement grand-ducal du 17 mars 1998 portant exécution de la décision 97/101/CE du Conseil du 27 janvier 1997 établissant un échange réciproque d'informations de données provenant des réseaux et des stations individuelles mesurant la pollution de l'air dans les États membres, <i>Mémorial A</i> du 3.4.1998, p. 407
	04. Texte coordonné du 3 avril 1998 de la loi du 21 juin 1976 relative à la lutte contre la pollution de l'atmosphère, telle qu'elle a été modifiée par: 1) la loi du 10 août 1992 concernant: la liberté d'accès à l'information en matière d'environnement; le droit d'agir en justice des associations de protection de la nature et de l'environnement; 2) la loi du 27 juillet 1993 attribuant des compétences nouvelles et modifiant les compétences actuelles de l'administration des douanes et accises concernant la fiscalité indirecte et les attributions policières; 3) la loi du 29 juillet 1993 concernant la protection et la gestion de l'eau; 4) la loi du 17 mars 1998 modifiant la loi modifiée du 21 juin 1976 relative à la lutte contre la pollution de l'atmosphère, <i>Mémorial A</i> du 3.4.1998, p. 408
Netherlands	01. Wet van 26 maart 1998 tot wijziging van de wet Milieubeheer en de wet inzake de luchtverontreiniging, Staatsblad nr. 221 van 1998
	02. Besluit van 24 april 1998, houdende uitvoering van de EG-kaderrichtlijn luchtkwaliteit (Besluit uitvoering EG-kaderrichtlijn luchtkwaliteit), Staatsblad nr. 271 van 1998
Austria	01. Bundesgesetz zum Schutz vor Immissionen durch Luftschadstoffe, mit dem die Gewerbeordnung 1994, das Luftreinhaltegesetz für Kesselanlagen, das Berggesetz 1975, das Abfallwirtschaftsgesetz und das Ozongesetz geändert werden (Immissionsschutzgesetz – Luft, IG-L), Bundesgesetzblatt für die Republik Österreich, Nr. 115/1997, ausgegeben am 30. September 1997
Portugal	01. Decreto-lei n° 276/99, de 23 de Julho. DR. J.170, 23.7.1999, p. 4599
	02. Portaria n° 29-B/98 de 15 de Janeiro de 1998. Estabelece as regras de funcionamento dos sistemas de consignação aplicáveis às embalagens reutilizáveis e às não reutilizáveis, bem como as do sistema integrado aplicável apenas às embalagens não reutilizáveis. Revoga a Portaria n° 313/96, de 29 de Julho, Diário da República, I Série A, n° 12 de 15 de Janeiro de 1998, p. 168-(2)
Finland	01. Ilmansuojelulaki/Luftvårdslag (69/82) 25.1.1982, Suomen säädöskokoelma/Finlands författningssamling 29.1.1982
	02. Ilmansuojeluasetus/Luftvårdsförfattning (716/82) 24.9.1982, Suomen säädöskokoelma/Finlands författningssamling 29.9.1982
	03. Laki ilmatieteen laitoksesta/Lag om meteorologiska institutet (585/67) 22.12.1967, Suomen säädöskokoelma/Finlands författningssamling 29.12.1967
	04. Asetus ilmatieteen laitoksesta/Författning om meteorologiska institutet (212/95) 17.2.1995, Suomen säädöskokoelma/Finlands författningssamling 22.2.1995
	05. Landskapslag om tillämpning i landskapet Åland av vissa riks författningar rörande åtgärder mot förorening av luften (32/91) 2.4.1991, Ålands författningssamling 25.4.1991
Sweden	01. Hälsoskyddslag, Svensk författningssamling (SFS) 1982:1080
	02. Hälsoskyddsförordning, Svensk författningssamling (SFS) 1983:616
	03. Förordning om luftförorening genom ozon, Svensk författningssamling (SFS) 1997:693
	04. Förordning om miljö kvalitetsnormer, Svensk författningssamling (SFS) 1998:897
	05. Miljöbalk, Svensk författningssamling (SFS) 1998:808
United Kingdom	No notification to date

Commission Directive 96/54/EC of 30 July 1996 adapting to technical progress for the 22nd time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (Text with EEA relevance)

OJ L 248, 30.9.1996, pp. 1–230

Transposition date: 31.5.1998

Belgium	<p>01. Arrêté royal du 25 novembre 1999 modifiant l'arrêté royal du 24 mai 1982 réglementant la mise sur le marché de substances pouvant être dangereuses pour l'homme ou son environnement</p> <p>02. Arrêté royal du 14 décembre 1998 modifiant l'arrêté royal du 24 mai 1982 réglementant la mise sur le marché de substances pouvant être dangereuses pour l'homme ou son environnement — Koninklijk besluit tot wijziging van het koninklijk besluit van 24 mei 1982 houdende reglementering van het in de handel brengen van stoffen die gevaarlijk kunnen zijn voor de mens of voor zijn leefmilieu, <i>Moniteur belge</i> du 16.1.1999, p. 1290</p> <p>03. Arrêté royal du 15 janvier 1999 modifiant l'arrêté royal du 11 janvier 1993 réglementant la classification, l'emballage et l'étiquetage des préparations dangereuses en vue de leur mise sur le marché ou de leur emploi — Koninklijk besluit tot wijziging van het koninklijk besluit van 11 januari 1993 tot regeling van de indeling, de verpakking en het kenmerken van gevaarlijke preparaten met het oog op het op de markt brengen of het gebruik ervan, <i>Moniteur belge</i> du 24.2.1999, p. 5416</p>
Denmark	<p>01. Bekendtgørelse nr. 800 af 23. oktober 1997 om ændring af bekendtgørelse om anmeldelse af nye kemiske stoffer. Miljø- og Energiministeriet, j.nr. M 7014-0010</p> <p>02. Bekendtgørelse nr. 829 af 6. november 1997 af listen over farlige stoffer.</p> <p>03. Bekendtgørelse nr. 801 af 23. oktober 1997 om klassificering, emballering, mærkning, salg og opbevaring af kemiske stoffer og produkter. Miljø- og Energiministeriet, j.nr. M 7014-0004</p>
Germany	<p>01. Bekanntmachung einer Änderung der Liste der gefährlichen Stoffe und Zubereitungen nach § 4 a der Gefahrstoffverordnung vom 7. März 1997, Bundesanzeiger Nr. 110 a vom 19. Juni 1997</p> <p>02. Vierte Verordnung zur Änderung des Gefahrstoffverordnung vom 18. Oktober 1999, BGBl. I S. 2059 SG(1999)A/16003</p>
Greece	<p>01. Décision ministérielle n° 590/1997 du 9 mars 1998, FEK B n° 294 du 26 mars 1998, p. 2869</p> <p>02. Décision ministérielle n° 455/1998 du 22 décembre 1998, portant modification de la décision n° 378/94 — FEK B n° 1314 du 31 décembre 1998, p. 15533</p>
Spain	<p>01. Orden de 30 de junio de 1998 por la que se modifican los anexos I, III y IV del Reglamento sobre notificación de sustancias nuevas y clasificación, envasado y etiquetado de sustancias peligrosas, aprobado por el Real Decreto 363/1995, de 10 de marzo. <i>Boletín Oficial del Estado</i> número 160 de 6 de julio de 1998, página 22374 (marginal 16039)</p>
France	<p>01. Arrêté ministériel du 8 juin 1998, modifiant l'arrêté ministériel du 20 avril 1994 définissant les critères de classification et les conditions d'étiquetage et d'emballage des substances dangereuses, Journal officiel du 3 juillet 1998</p>
Ireland	<p>01. European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) (Amendment) Regulations, 1998, Statutory Instruments No 317 of 1998</p> <p>02. European Communities (Classification, Packaging and Labelling of Dangerous Preparations) (Amendment) Regulations, 1998, Statutory Instruments No 354 of 1998</p>
Italy	<p>01. Decreto ministeriale del 28 aprile 1997, attuazione dell'articolo 37, commi 1 e 2, del decreto legislativo 3 febbraio 1997, n. 52, concernente classificazione, imballaggio ed etichettatura delle sostanze pericolose, Supplemento ordinario n. 164 alla Gazzetta ufficiale, serie generale, del 19 agosto 1997, n. 192, pag. 3</p>
Luxembourg	<p>01. Règlement grand-ducal du 19 juin 1998 modifiant et complétant les annexes de la loi du 15 juin 1994 relative à la classification, l'emballage et l'étiquetage des substances dangereuses, modifiant la loi du 11 mars 1981 portant réglementation de la mise sur le marché et de l'emploi de certaines substances et préparations dangereuses, <i>Mémorial A</i>, n° 49, du 30.6.1998, p. 730</p>

Commission Directive 96/54/EC of 30 July 1996 adapting to technical progress for the 22nd time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (Text with EEA relevance)

OJ L 248, 30.9.1996, pp. 1–230

Transposition date: 31.5.1998

Netherlands	<ul style="list-style-type: none"> 01. Kennisgevingsbesluit Wet milieugevaarlijke stoffen (Stb. 1993, 583; Stb. 1994, 424) 02. Regeling inrichting register Wet milieugevaarlijke stoffen (Stcrt 1994, 109) 03. Besluit verpakking en aanduiding milieugevaarlijke stoffen en preparaten (Stb. 1994, 287) 04. Nadere regels verpakking en aanduiding milieugevaarlijke stoffen en preparaten (Stcrt 1994, 112)
Austria	<ul style="list-style-type: none"> 01. Verordnung des Bundesministers für Umwelt, Jugend und Familie über ein Verbot von 1,1,1-Trichlorethan und Tetrachlorkohlenstoff, Bundesgesetzblatt für die Republik Österreich, Nr. 776/1992 ausgegeben am 9. Dezember 1992 02. Verordnung des Bundesministers für Umwelt, Jugend und Familie, mit der weitere Verbote und Beschränkungen des Inverkehrsetzens und der Verwendung bestimmter gefährlicher Chemikalien und damit behandelter Fertigwaren erlassen werden und mit der die Verordnung des Bundesministers für Umwelt, Jugend und Familie über ein Verbot von 1,1,1-Trichlorethan und Tetrachlorkohlenstoff geändert wird, Bundesgesetzblatt für die Republik Österreich, Nr. 461/1998 ausgegeben am 30. Dezember 1998
Portugal	<ul style="list-style-type: none"> 01. Decreto-Lei n° 330-A/98, de 2 de Novembro de 1998, Diário da República, I Série A, n° 253 (Suplemento), de 2 de Novembro de 1998
Finland	<ul style="list-style-type: none"> 01. Sosiaali- ja terveystieteiden ministeriön päätös kemikaalien luokitusperusteista ja merkintöjen tekemisestä/Social- och hälsovårdsministeriets beslut om grunderna för klassificering samt märkning av kemikalier (979/97) 02. Landskapsförordning om ändring av 3 § landskapsförordningen om tillämpning i landskapet Åland av riksförfattningar om explosionsfarliga ämnen och kemikalier (41/98) 23.4.1998, Ålands författningssamling 03. Sosiaali- ja terveystieteiden ministeriön päätös vaarallisten aineiden luettelosta/Social- och hälsovårdsministeriets beslut om en förteckning över farliga ämnen (164/98) 24.2.1998, Suomen säädöskokoelma/Finlands författningssamling 10.3.1998
Sweden	<ul style="list-style-type: none"> 01. Kemikalieinspektionens föreskrifter om ändring i föreskrifterna (KIFS 1994:12) om klassificering och märkning av kemiska produkter, Kemikalieinspektionens författningssamling (KIFS) 1997:5
United Kingdom	<ul style="list-style-type: none"> 01. The Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations (Northern Ireland) 1997, Statutory Rules of Northern Ireland No 398 of 1997 02. The Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations 1997, Statutory Instruments No 1460 of 1997

Directive 96/56/EC of the European Parliament and the Council of 3 September 1996 amending Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances

OJ L 236, 18.9.1996, p. 35

Transposition date: 1.6.1998

Belgium	01. Arrêté royal du 14 décembre 1998 modifiant l'arrêté royal du 24 mai 1982 réglementant la mise sur le marché de substances pouvant être dangereuses pour l'homme ou son environnement — Koninklijk besluit tot wijziging van het koninklijk besluit van 24 mei 1982 houdende reglementering van het in de handel brengen van stoffen die gevaarlijk kunnen zijn voor de mens of voor zijn leefmilieu, <i>Moniteur belge</i> du 29.12.1998, p. 41442
Denmark	01. Bekendtgørelse nr. 800 af 23. oktober 1997 om ændring af bekendtgørelse om anmeldelse af nye kemiske stoffer. Miljø- og Energiministeriet, j.nr. M 7014-0010 02. Bekendtgørelse nr. 829 af 6. november 1997 om listen over farlige stoffer. 03. Bekendtgørelse nr. 801 af 23. oktober 1997 om klassificering, emballering, mærkning, salg og opbevaring af kemiske stoffer og produkter. Miljø- og Energiministeriet, j.nr. M 7014-0004
Germany	01. Vierte Verordnung zur Änderung des Gefahrstoffverordnung vom 18. Oktober 1999, BGBl. I. S. 2059
Greece	01. Décision ministérielle n° 482/98 du 22 décembre 1998, FEK B n° 1316 du 31 décembre 1998, p. 15549
Spain	01. Real Decreto 700/1998 de 24 de abril 1998, por el que se modifica el Reglamento sobre notificación de sustancias nuevas y clasificación, envasado y etiquetado de sustancias peligrosas, aprobado por el Real Decreto 363/1995, de 10 de marzo, <i>Boletín Oficial del Estado</i> número 110 de 8 de mayo 1998, página 15464 (marginal 10726)
France	01. Arrêté ministériel du 8 juin 1998, modifiant l'arrêté ministériel du 20 avril 1994 définissant les critères de classification et les conditions d'étiquetage et d'emballage des substances dangereuses, Journal officiel du 3 juillet 1998
Ireland	01. European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) (Amendment) (Amendment) Regulations, 1998, Statutory Instruments No 317 of 1998
Italy	01. Decreto legislativo del 3 febbraio 1997 n. 52, attuazione della direttiva 92/32/CEE concernente classificazione, imballaggio ed etichettatura delle sostanze pericolose, Supplemento ordinario n. 53/L alla Gazzetta ufficiale, serie generale, dell'11 marzo 1997, n. 58, pag. 5
Luxembourg	01. Loi du 19 février 1997 modifiant la loi du 15 juin 1994 relative à la classification, l'emballage et l'étiquetage des substances dangereuses et modifiant la loi du 11 mars 1981 portant réglementation de la mise sur le marché et de l'emploi de certaines substances et préparations dangereuses, <i>Mémorial grand-ducal A n° 15</i> du 21.3.1997, p. 718
Netherlands	01. Regeling van de staatssecretaris van Volksgezondheid, Welzijn en Sport van 20 januari 1997 (Wijziging Nadere regels verpakking en aanduiding milieugevaarlijke stoffen en preparaten), Staatscourant van 23 januari 1997, nr. 16, blz. 12
Austria	No notification to date
Portugal	01. Decreto-Lei n° 330-A/98, de 2 de Novembro de 1998, Diário da República I Série A n° 253 (Suplemento) de 2 de Novembro de 1998
Finland	01. Asetus kemikaalasetuksen muuttamisesta/Förordning om ändring av kemikalieförordningen (287/98) 24.4.1998 02. Landskapslag om tillämpning i landskapet Åland av riksföfattningar om kemikalier (32/90) 9.4.1990, ändrad genom (60/95) 03. Landskapsförordningen om tillämpning i landskapet Åland av riksföfattningar om explosionsfarliga ämnen och kemikalier (5/96) 23.1.1996
Sweden	01. Kemikalieinspektionens föreskrifter om klassificering och märkning av kemiska produkter, Kemikalieinspektionens författningssamling (KIFS) 1994:12
United Kingdom	01. The Motor Vehicles (EC Type Approval) (Amendment) Regulations 1997, Statutory Instruments No 191 of 1997 02. The Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations (Northern Ireland) 1997, Statutory Rules of Northern Ireland No 398 of 1997 03. The Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations 1997, Statutory Instruments No 1460 of 1997

Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 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

OJ L 59, 27.2.1998, pp. 1–86

Transposition date: 30.6.1998

Belgium	01. Arrêté royal du 3 février 1999 relatif à la protection de l'atmosphère contre les émanations de gaz et de particules des engins mobiles non routiers — Koninklijk besluit betreffende de bescherming van de atmosfeer tegen de uitstoot van gassen en deeltjes door niet voor de weg bestemde mobiele machines, <i>Moniteur belge</i> du 31.3.1999, p. 10773
Denmark	01. Bekendtgørelse nr. 667 af 14. september 1998 om begrænsning af luftforurening fra mobile ikke-vejgående maskiner
Germany	01. Achtundzwanzigste Verordnung zur Durchführung des Bundes-Immissionsschutzgesetzes (Verordnung über Emissionsgrenzwerte für Verbrennungsmotoren — 28. BImSchV) vom 11. November 1998, Bundesgesetzblatt, Teil I, Seite 3411
Greece	01. Décision ministérielle n° D13e/9321/98 du 1 ^{er} octobre 1998, FEK B n° 1218 du 30 novembre 1998, p. 143
Spain	01. Orden de 28 de julio de 1998 del Ministerio del Industria y Energía por la que se actualizan los anexos I y II de las normas para la aplicación de determinadas directivas de la CE, relativas a la homologación de tipos de vehículos automóviles, remolques y semirremolques, así como de partes y piezas de dichos vehículos
France	01. Arrêté relatif à la réception des moteurs destinés à être installés sur les engins mobiles non routiers, en ce qui concerne les émissions de gaz et de particules polluants
Ireland	01. European Communities (Control of Emissions of Gaseous and Particulate Pollutants from Non-road Mobile Machinery) Regulations, 1999.
Italy	02. Decreto ministeriale 20 dicembre 1999. Attuazione della direttiva 97/68/CE concernente i provvedimenti da adottare contro l'emissione di inquinanti gassosi e particolato inquinante prodotti da motori a combustione interna destinati all'installazione su macchine mobili non stradali. In GURI, Supplemento ordinario n. 32, serie generale del 9 febbraio 2000.
Luxembourg	01. Règlement grand-ducal du 13 octobre 1998 complétant le règlement grand-ducal du 3 février 1998 portant exécution de directives des Communautés européennes relatives à la réception des véhicules à moteur et de leurs remorques ainsi que des tracteurs agricoles et forestiers à roues, <i>Mémorial A</i> , p. 2394
Netherlands	01. Besluit van 6 augustus 1998 houdende uitvoering van Richtlijn 97/68/EG — Besluit typenkeuring luchtverontreiniging motoren voor mobiele machines, Staatsblad 1998, nr. 516 02. Regeling van de minister van Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer nr. 98101876 van 27 oktober 1998 — Regeling houdende uitvoering van het besluit typekeuring luchtverontreiniging motoren voor mobiele machines, Staatscourant van 2 november 1998, nr. 209
Austria	01. Verordnung des Bundesministers für wirtschaftliche Angelegenheiten über Maßnahmen zur Bekämpfung der Emission von gasförmigen Schadstoffen und luftverunreinigenden Partikeln aus Verbrennungsmotoren für mobile Maschinen und Geräte. ref: Bundesgesetzblatt für die Republik Österreich, 24/06/1999, nr 185, 1015. SG(99)A/09684.
Portugal	01. Decreto-lei n.º 432/99
Finland	01. Valtioneuvoston päätös liikkuviin työkoneisiin asennettavien polttomoottoreiden pakokaasu- ja hiukkaspäästöjen rajoittamisesta/Statsrådets beslut om begränsning av utsläpp av gas- och partikelformiga föroreningar från förbränningsmotorer som skall monteras i mobila maskiner (408/98) 4.6.1998
Sweden	01. Förordning om ändring i förordningen (1988:518) med instruktion för Statens naturvårdsverk, Svensk författningssamling (SFS) 1998:416 02. Lag om åtgärder mot buller och avgaser från mobila maskiner, Svensk författningssamling (SFS) 1998:1707 03. Förordning om avgaskrav för vissa förbränningsmotordrivna mobila maskiner, Svensk författningssamling (SFS) 1998:1709
United Kingdom	01. The Non-road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations 1999, Hansard 1053, 26.4.1999

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OJ L 223, 13.8.1997, p. 9

Transposition date: 30.9.1998

Belgium	No notification required
Denmark	No notification required
Germany	No notification required
Greece	01. Décision ministérielle n° 294283 du 23 décembre 1997, FEK B n° 68 du 4 février 1998, p. 673
Spain	No notification required
France	No notification required
Ireland	No notification required
Italy	No notification required
Luxembourg	No notification required
Netherlands	01. Vogelwet 1936 (Stb. 1936, 700)
Austria	01. Gesetz, mit dem das Wiener Naturschutzgesetz erlassen und das Wiener Umweltschutzgesetz, LGBl. für Wien Nr. 25/1993 in der Fassung LGBl. für Wien Nr. 36/1996, das Wiener Baumschutzgesetz, LGBl. für Wien Nr. 27/1974 in der Fassung LGBl. für Wien Nr. 54/1996, sowie das Wiener Nationalparkgesetz, LGBl. für Wien Nr. 37/1996, geändert werden, Landesgesetzblatt für Wien, Nr. 45/1998 ausgegeben am 31/08/1998
Portugal	01. Decreto-Lei n.º 140/99.
Finland	01. Metsästyslaki/Jaktlag (615/93) 28.6.1993, muutokset/ändringar (1268/93) 17.12.1993, (1399/95) 8.12.1995 02. Metsästysasetus/Jaktförordning (666/93) 12.7.1993, muutokset/ändringar (81/94) 31.1.1994, (1289/95) 17.11.1995, (1400/95) 8.12.1995; (869/98) 27.11.98 03. Jaktlag för landskapet Åland (31/85) 5.7.1985, ändring (68/95) 12.9.1995 04. Jaktförordning för landskapet Åland (69/95) 12.9.1995 05. Luonnonsuojelulaki/Naturvårdslag (1096/96) 20.12.1996 06. Laki rakennuslain muuttamisesta/Lag om ändring av byggnadslagen (1097/96) 20.12.1996 07. Laki maa-aineslain 1 §:n muuttamisesta/Lag om ändring av 1 § marktäktslagen (1098/96) 20.12.1996 08. Laki ympäristölupamenettelylain 2 §:n muuttamisesta/Lag om ändring av 2 § lagen om miljötillståndsförfarande (1099/96) 20.12.1996 09. Laki yleisistä teistä annetun lain 19 §:n muuttamisesta/Lag om ändring av 19 § lagen om allmänna vägar (1100/96) 20.12.1996 10. Laki yksityisistä teistä annetun lain muuttamisesta/Lag om ändring av lagen om enskilda vägar (1101/96) 20.12.1996 11. Laki kiinteän omaisuuden ja erityisten oikeuksien lunastuksesta annetun lain 5 §:n muuttamisesta/Lag om ändring av 5 § lagen om inlösen av fast egendom och särskilda rättigheter (1102/96) 20.12.1996 12. Laki kaivoslain 71 §:n muuttamisesta/Lag om ändring av 71 § gruvlagen (1103/96) 20.12.1996 13. Laki erämaailain 2 §:n muuttamisesta/Lag om ändring av 2 § ödemarkslagen (1104/96) 20.12.1996 14. Laki vesilain muuttamisesta/Lag om ändring av vattenlagen (1105/96) 20.12.1996 15. Laki rikoslain 48 luvun 5 §:n muuttamisesta/Lag om ändring av 48 kapitel 5 § strafflagen (1108/96) 20.12.1996 16. Metsälaki/Skogslag (1093/96) 12.12.1996 17. Luonnonsuojeluasetus (160/97) 14.2.1997, Suomen säädöskokoelma 20.2.1997 18. Laki kestäväen metsätalouden rahoituksesta/Lag om finansiering av hållbart skogsbruk (1094/96) 12.12.1996, Suomen säädöskokoelma 27.12.1996

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OJ L 223, 13.8.1997, p. 9

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	19. Asetus metsästysasetuksen muuttamisesta/Förordning om ändring av jaktförordningen (1374/96) 30.12.1996
	20. Landskapslag om ändring av 47 § jaktlagen för landskapet Åland (68/95) 12.9.1995
	21. Landskapslag om naturvård (41/77) 23.5.1977
	22. Ålands landskapsstyrelses beslut angående särskilt skyddsvärda arter av vilda djur (18/92) 20.2.1992
	23. Landskapförordning om naturvård. nr 113/98. (Ålands författningssamling)
Sweden	01. Naturvårdslag, Svensk författningssamling (SFS) 1964:822
	02. Naturvårdsförordning, Svensk författningssamling (SFS) 1976:484, ändrad genom (SFS) 1996:203 och (SFS) 1996:1657
	03. Lag om skötsel av jordbruksmark, Svensk författningssamling (SFS) 1979:425
	04. Skogsvårdslag, Svensk författningssamling (SFS) 1979:429
	05. Lag om hushållning av naturresurser m.m., Svensk författningssamling (SFS) 1987:12
	06. Jaktlag, Svensk författningssamling (SFS) 1987:259
	07. Jaktförordning, Svensk författningssamling (SFS) 1987:905
	08. Statens naturvårdsverks kungörelse med föreskrifter om jakt (jaktkungörelse), Statens naturvårdsverks författningssamling (SNFS) 1994:3
	09. Lag om åtgärder beträffande djur och växter som tillhör skyddade arter, Svensk författningssamling (SFS) 1994:1818
	10. Miljöbalk. SFS 1998:808. 7 juli 1998
	11. Lag om införande av miljöbalken. SFS 1998:811. 7 juli 1998
	12. Lag om ändring i miljöbalken. SFS 1999:368. 11 juni 1999
	13. Lag om ändring i miljöbalken. SFS 1999:385. 14 juni 1999
	14. Naturvårdsverkets föreskrifter om artskydd. NFS 1999:7
United Kingdom	No notification required

Commission Directive 98/15/EC of 27 February 1998 amending Council Directive 91/271/EEC with respect to certain requirements established in Annex I thereof (Text with EEA relevance)

OJ L 67, 7.3.1998, pp. 29–30

Transposition date: 30.9.1998

Belgium	<p>01. Besluit van de Vlaamse regering van 6 oktober 1998 tot wijziging van het besluit van de Vlaamse regering van 1 juni 1995 houdende algemene en sectorale bepalingen inzake milieuhygiëne ten aanzien van de lozingsnormen voor rioolwaterzuiveringsinstallaties, Belgisch Staatsblad</p> <p>02. Arrêté du gouvernement de la Région de Bruxelles-Capitale du 8 octobre 1998 modifiant l'arrêté du gouvernement de la Région de Bruxelles-Capitale du 23 mars 1994 relatif au traitement des eaux urbaines résiduaires — Besluit van de Brusselse Hoofdstedelijke Regering tot wijziging van het besluit van de Brusselse Hoofdstedelijke Regering van 23 maart 1994 betreffende de behandeling van stedelijk afvalwater, <i>Moniteur belge</i> du 27.10.1998, p. 35331</p> <p>03. Arrêté du gouvernement wallon du 25 février 1999 relatif au traitement des eaux urbaines résiduaires, <i>Moniteur belge</i> du 27.3.1999, p. 9936</p>
Denmark	<p>04. Bekendtgørelse om spildevandstilladelser m.v. efter miljøbeskyttelseslovens kapitel 3 og 4. Statstidende nr. 501 af 21. Juni 1999</p>
Germany	<p>01. Verordnung über Anforderungen an das Einleiten von Abwasser in Gewässer und zur Anpassung der Anlage des Abwasserabgabengesetzes vom 21. März 1997, BGBl I. S. 566</p>
Greece	<p>01. Décision ministérielle portant modification de la décision n° 5673/400/1997. Efimerida Tiskyverniseos, 1811, 29.9.99</p>
Spain	<p>01. Real Decreto 2116/1998 de 2 de octubre, por el que se modifica el Real Decreto 509/1996, de 15 de marzo, de desarrollo del Real Decreto-ley 11/1995, de 28 de diciembre, por el que se establecen las normas aplicables al tratamiento de las aguas residuales urbanas, <i>Boletín Oficial del Estado</i> número 251 de 30 de octubre de 1998, página 34635 (marginal 24166)</p> <p>02. Corrección de erratas del Real Decreto 2116/1998 de 2 de octubre, por el que se modifica el Real Decreto 509/1996, de 15 de marzo, de desarrollo del Real Decreto-ley 11/1995, de 28 de diciembre, por el que se establecen las normas aplicables al tratamiento de las aguas residuales urbanas, <i>Boletín Oficial del Estado</i> número 286 de 30 de noviembre de 1998, página 39272 (marginal 27496)</p>
France	<p>01. Arrêté ministériel du 16 novembre 1998, modifiant l'arrêté ministériel du 22 décembre 1994 fixant les prescriptions relatives aux ouvrages de collecte et de traitement des eaux usées mentionnées aux articles L. 372-1-1 et L. 372-3 du code des communes, Journal officiel 282 du 5 décembre 1998, p. 18368</p>
Ireland	<p>01. Environmental Protection Agency Act, 1992 (Urban Waste Water Treatment) (Amendment) Regulations, 1999. <i>Official Journal</i>, 208</p>
Italy	<p>01. Decreto legislativo n. 152 dell'11 maggio 1999, disposizioni sulla tutela delle acque dall'inquinamento e recepimento della direttiva 91/271/CEE concernente il trattamento delle acque reflue urbane e della direttiva 91/676/CEE relativa alla protezione delle acque dall'inquinamento provocato da nitrati provenienti da fonti agricole. In GURI n.101/L, supplemento ordinario alla Gazzetta ufficiale, n.124 del 29 maggio 1999, serie generale.</p>
Luxembourg	<p>01. Règlement grand-ducal du 5 octobre 1998 modifiant l'annexe I du règlement grand-ducal du 13 mai 1994 relatif au traitement des eaux urbaines résiduaires, <i>Mémorial A</i>, p. 2208</p>
Netherlands	<p>01. Wet van 13 november 1969 houdende regelen omtrent de verontreiniging van oppervlaktewateren (Wet verontreiniging oppervlaktewateren)</p> <p>02. Besluit van 24 februari 1996 houdende regels voor het lozen van stedelijk afvalwater (Lozingenbesluit Wvo stedelijk afvalwater) (Stb. 1996, 140)</p>
Austria	<p>No notification required</p>
Portugal	<p>01. Decreto-lei n° 348/98 de 9 de Novembro de 1998, Diário da República, I Série A. n° 259 de 9 de Novembro de 1998, p. 5982</p>

Commission Directive 98/15/EC of 27 February 1998 amending Council Directive 91/271/EEC with respect to certain requirements established in Annex I thereof (Text with EEA relevance)

OJ L 67, 7.3.1998, pp. 29–30

Transposition date: 30.9.1998

Finland	<p>01. Valtioneuvoston päätös yleisestä viemäristä ja eräiltä teollisuudenoilto vesiin johdettavien jätevesien sekä teollisuudesta yleiseen viemäriin johdettavien jätevesien käsittelystä annetun valtioneuvoston päätöksen muuttamisesta/Statsrådets beslut om ändring av statsrådets beslut om rening av sådant avloppsvatten från allmänt avlopp och vissa industrisektorer som leds in i vatten samt rening av sådant avloppsvatten från industri som leds in i allmänt avlopp (757/98) 15.10.1998, Suomen säädöskokoelma</p> <p>02. Landskapsförordning om ändring av vattenförordningen för landskapet Åland (105/98) 22.10.1998, Ålands författningssamling</p> <p>03. Vattenlag för landskapet Åland (61/96) 12.9.1996, Ålands författningssamling</p> <p>04. Vattenförordningen för landskapet Åland (77/96) 28.11.1996, Ålands författningssamling</p>
Sweden	<p>01. Statens naturvårdsverks föreskrifter om ändring i kungörelsen (SNFS 1994:7) med föreskrifter om rening av avloppsvatten från tätbebyggelse, Statens naturvårdsverks författningssamling (SNFS) 1998:7</p>
United Kingdom	<p>No notification required</p>

Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress for the 23rd time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (Text with EEA relevance)

OJ L 343, 13.12.1997, pp. 19–24

Transposition date: 16.12.1998

Belgium	<p>01. Arrêté royal du 15 janvier 1999 modifiant l'arrêté royal du 11 janvier 1993 réglementant la classification, l'emballage et l'étiquetage des préparations dangereuses en vue de leur mise sur le marché ou de leur emploi — Koninklijk besluit tot wijziging van het koninklijk besluit van 11 januari 1993 tot regeling van de indeling, de verpakking en het kenmerken van gevaarlijke preparaten met het oog op het op de markt brengen of het gebruik ervan, <i>Moniteur belge</i> du 24.2.1999, p. 5416</p> <p>02. Arrêté royal du 25 novembre 1999 modifiant l'arrêté royal du 24 mai 1982 réglementant la mise sur le marché de substances pouvant être dangereuses pour l'homme ou son environnement, <i>Moniteur belge</i> du 21.12.1991, p. 48141 — Koninklijk besluit van 25 november 1999 tot wijziging van het koninklijk besluit van 24 mei 1982 houdende reglementering van het in de handel brengen van stoffen die gevaarlijk kunnen zijn voor de mens of voor zijn leefmilieu</p>
Denmark	<p>01. Bekendtgørelse nr. 11 af 9. januar 1999 om ændring af bekendtgørelse af listen over farlige stoffer</p> <p>02. Bekendtgørelse nr. 801 af 23. oktober 1997 om klassificering, emballering, mærkning, salg og opbevaring af kemiske stoffer og produkter. Miljø- og Energiministeriet, j.nr. M 7014-0004</p>
Germany	<p>01. Vierte Verordnung zur Änderung der Gefahrstoffverordnung vom 18. Oktober 1999, BGBl. I. S. 2059</p>
Greece	<p>01. Décision ministérielle n° 511/98 du 10 février 1999, FEK B n° 168 du 26 février 1999, p. 2479</p>
Spain	<p>01. Orden de 11 de septiembre de 1998 por la que se modifican los anexos I y VI del Reglamento sobre notificación de sustancias nuevas y clasificación, envasado y etiqueta de sustancias peligrosas, aprobada por Real Decreto 363/1995 de 10 de marzo, <i>Boletín Oficial del Estado</i> número 223 de 17 de septiembre de 1998 página 31142 (marginal 21829)</p>
France	<p>01. Arrêté ministériel du 28 août 1998 modifiant l'arrêté du 20 avril 1994 relatif à la déclaration, la classification, l'emballage et l'étiquetage des substances et portant transposition de la directive 97/69/CE de la Commission du 5 décembre 1997 portant vingt-troisième adaptation au progrès technique de la directive 67/548/CEE modifiée, Journal officiel du 10 septembre 1998</p>
Ireland	<p>01. European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) (Amendment) (No 2) Regulations, 1998, Statutory Instruments No 513 of 1998</p>
Italy	<p>01. Decreto ministeriale dell'1 settembre 1998, disposizioni relative alla classificazione, imballaggio ed etichettatura di sostanze pericolose in recepimento della direttiva 97/69/CE, Gazzetta ufficiale, serie generale, del 19 novembre 1998, n. 271, pag. 16</p>
Luxembourg	<p>01. Règlement grand-ducal du 31 octobre 1998 modifiant et complétant les annexes I et VI de la loi modifiée du 15 juin 1994 — relative à la classification, l'emballage et l'étiquetage des substances dangereuses — modifiant la loi du 11 mars 1981 portant réglementation de la mise sur le marché et de l'emploi de certaines substances et préparations dangereuses, <i>Mémorial A</i></p>
Netherlands	<p>01. Besluit van 14 oktober 1987 houdende regelen met betrekking tot de verpakking en aanduiding van milieugevaarlijke stoffen en bepaalde gevaarlijke preparaten (Besluit verpakking en aanduiding milieugevaarlijke stoffen en preparaten) (Stb. 1987, 516)</p> <p>02. Regeling van 27 januari 1988 (...) (Nadere regels verpakking en aanduiding milieugevaarlijke stoffen en preparaten)</p>
Austria	<p>01. Chemikaliengesetz 1996, BGBl. I, nr. 53/1997.</p>
Portugal	<p>01. Decreto-lei n° 209/99, de 11 de Junho. J 134, 11.6.1999, p. 3312</p>

Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress for the 23rd time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (Text with EEA relevance)

OJ L 343, 13.12.1997, pp. 19–24

Transposition date: 16.12.1998

Finland	01. Landskapsförordning om ändring av 3 § landskapsförordningen om tillämpning i landskapet Åland av riksförfattningar om explosionsfarliga ämnen och kemikalier (41/98) 23.4.1998, Ålands författningssamling
	02. Sosiaali- ja terveysministeriön päätös vaarallisten aineiden luettelosta/Social- och hälsovårdsministeriets beslut om en förteckning över farliga ämnen (164/98) 24.2.1998, Suomen säädöskokoelma/Finlands författningssamling 10.3.1998
Sweden	01. Kemikalieinspektionens föreskrifter om ändring i föreskrifterna (KIFS 1994:12) om klassificering och märkning av kemiska produkter, Kemikalieinspektionens författningssamling (KIFS) 1998:7
United Kingdom	01. The Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations 1998, Statutory Instruments No 3106 of 1998
	02. The Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations (Northern Ireland) 1998, Statutory Rules of Northern Ireland No 459 of 1998

ANNEX 2 (1999)

Details of Member States' transposing measures communicated for Community directives to be transposed during the period covered by the survey (notifications received by 30 March 2000)

Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances

OJ L 10, 14.1.1997, pp. 13–33

Transposition date: 3.2.1999

Belgium	No notification to date
Denmark	No notification to date
Germany	<ol style="list-style-type: none">01. Fünftes Gesetz zur Änderung des Bundes-Immissionsschutzgesetzes.02. Gesetz zur Änderung des Bayerischen Katastrophenschutzgesetzes und anderer sicherheitsrechtlicher Vorschriften. ref: Bayerisches Gesetz und Verordnungsblatt, 1999, nr 8, s. 130. SG(99)A/10015.03. Gesetz über die Gefahrenabwehr bei Katastrophen. ref: Gesetz und Verordnungsblatt für Berlin, 20. Februar 1999, Nr. 7, S. 78. SG(99)A/10015.04. Hessisches Gesetz über den Brandschutz, die Allgemeine Hilfe und den Katastrophenschutz. ref: Gesetz- und Verordnungsblatt für das Land Hessen, 21. Dezember 1998, Nr. 26, S. 530. SG(99)A/10015.05. Zweites Gesetz zur Änderung des Thüringer Brand- und Katastrophenschutzgesetzes vom 7. Januar 1999. ref: Gesetz- und Verordnungsblatt für den Freistaat Thüringen, 14. Januar 1999, S. 16. SG(99)A/10015.06. Gesetz zur Änderung des Bremischen Katastrophenschutzgesetzes. ref: Gesetzblatt der Freien Hansestadt Bremen, 9. August 1999, Nr. 20, S. 87. SG(99)A/12221.07. Gesetz über den Feuerschutz und die Hilfeleistung. ref: Gesetz und Verordnungsblatt für das Land Nordrhein-Westfalen, 26. Februar 1998, Nr. 8, S. 122 SG(1999)A/1470108. Gesetz zur Änderung des Landeskatastrophenschutzgesetzes. ref: Gesetzblatt für Baden-Württemberg, 27. Juli 1999, Nr. 13, S. 305. SG(1999)A/14701
Greece	No notification to date
Spain	<ol style="list-style-type: none">01. Real Decreto 1254/1999, de 16 de julio, por el que se aprueban medidas de control de los riesgos inherentes a los accidentes graves en los que intervengan sustancias peligrosas
France	<ol style="list-style-type: none">01. Décret n° 99-1220 du 28 décembre 1999 modifiant la nomenclature des installations classées. <i>Journal officiel de la République</i> du 31.12.1999, p. 20146
Ireland	No notification to date
Italy	<ol style="list-style-type: none">01. Decreto legislativo n. 334 del 17 agosto 1999. Attuazione della direttiva 96/82/CE relativa al controllo dei pericoli di incidenti rilevanti connessi con determinate sostanze pericolose. In GURI n. 177/L, supplemento ordinario alla Gazzetta ufficiale, n. 228, del 28 settembre 1999, serie generale
Luxembourg	<ol style="list-style-type: none">01. Loi du 10 juin 1999 relative aux établissements classés, <i>Mémorial</i>, n° 100, p. 1904
Netherlands	<ol style="list-style-type: none">01. Besluit van 8 juli 1999 houdende vaststelling van het tijdstip van inwerkingtreding van de wet van 25 februari 1999 tot wijziging van de wet Milieubeheer, de wet Rampen en zware ongevallen en de Arbeidsomstandighedenwet, van het besluit Risico's zware ongevallen 1999, van het besluit Rampbestrijdingsplannen inrichtingen en van het koninklijk besluit van 8 juni 1999 tot wijziging van het besluit Ongevallen. Staatsblad nr. 305, 15 juli 1999

Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances

OJ L 10, 14.1.1997, pp. 13–33

Transposition date: 3.2.1999

Austria	<ol style="list-style-type: none">01. Störfallverordnung, BGBl. Nr. 593/1991.02. Umweltinformationsgesetz, BGBl. Nr. 495/1993.03. Störfallinformationverordnung, BGBl. 391/1994.04. Gewerbeordnung 1994, BGBl. Nr. 325/1990.05. Raumordnungsgesetz 1976, LBG 8000. Niederösterreich06. Raumordnungsgesetz 1994, Oberösterreich.07. Gemeindeplanungsgesetz 1995, LGBl. Nr. 23. Kärnten.08. Salzburger Katastrophenhilfegesetz, LGBl. Nr. 3/1975, Nr. 39/1975. Salzburg.09. Verordnung des Bundesministers für wirtschaftliche Angelegenheiten über die Bezeichnung gefahrgeneigter Anlagen und über die den Inhaber einer solchen Anlage in bezug auf Störfälle treffenden Verpflichtungen. ref: BGBl. für die Republik Österreich, 28. November 1991, Nr. 216. SG(99)A/10016.10. Bundesgesetz über den Zugang zu Informationen über die Umwelt. ref: BGBl. für die Republik Österreich, 27. Juli 1993, Nr. 182. SG(99)A/10016.11. Verordnung der Bundesministerin für Umwelt, Jugend und Familie betreffend die Information über die Gefahr von Störfällen. ref: BGBl. für die Republik Österreich, 25. Mai 1994, Nr. 216. SG(99)A/10016.12. Gesetz vom 16. März 1999 über die Abwehr und Bekämpfung von Katastrophen. ref: Steiermärkisches LGBl., 30. Juni 1999, Nr. 62. SG(99)A/10016.13. Landesgesetz vom 6 Oktober 1993 über die Raumordnung im Land Oberösterreich. ref: Landesgesetzblatt für Oberösterreich, 23. Dezember 1993, Nr. 52, S. 247. SG(99)A/11176.14. Verordnung der Oberösterreichischen Landesregierung vom 25. September 1995 betreffend die Umlegung der Osternacher Straße im Gebiet der Gemeinde Ort im Innkreis. ref: Landesgesetzblatt für Oberösterreich, 8. November 1995, Nr. 41, S. 199. SG(99)A/11176.15. Kundmachung der Oberösterreichischen Landesregierung vom 7 Oktober 1996 über die Berichtigung von Druckfehlern im Landesgesetzblatt. ref: Landesgesetzblatt für Oberösterreich, 11. Oktober 1996, Nr. 41, S. 273. SG(99)A/11176.16. Kundmachung der Oberösterreichischen Landesregierung und des Landshauptmannes von Oberösterreich vom 13. Oktober 1997 über die Berichtigung von Druckfehlern im Landesgesetzblatt. ref: Landesgesetzblatt für Oberösterreich, 14. November 1997, Nr. 74, S. 559. SG(99)A/11176.17. Landesgesetz, mit dem das Oberösterreichische Raumordnungsgesetz 1994 geändert wird. ref: Landesgesetzblatt für Oberösterreich, 28. April 1999, Nr. 23, S. 83. SG(99)A/11176.18. NÖ Raumordnungsgesetz 1976. ref: LGBl. 8000-13. SG(1999)A/1371219. Gesetz vom 11. Oktober 1994, mit dem das Steiermärkische Raumordnungsgesetz 1974 geändert wird. LGBl. für die Steiermark, 31. März 1995. Stück 1 Nr. 1 und 2. S. 220. Gesetz über Maßnahmen zum Schutz der Bevölkerung vor Katastrophen. LGBl. für Wien, LGBl., Nr. 8, 9. März 1978. SG(2000)A/01365
Portugal	No notification to date
Finland	<ol style="list-style-type: none">01. Landskapslag om polisverksamhet02. Landskapslag om ändring av landskapslagen om tillämpning i landskapet Åland av vissa riksförfattningar rörande explosionsfarliga ämnen. ref: Ålands författningssamling, 12.5.1999, nr 61. SG(99)A/1061003. Byggnadsförordning för landskapet Åland. ref: Ålands författningssamling, 12.6.1963, nr 40. SG(99)A/12151

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	04. Pelastustoimilaki (561/1999) 30.4.1999, nr 561. SG(99)A/14214
	05. Maankäyttö- ja rakennuslaki (132/1999). SG(99)A/14214
	06. Maankäyttö- ja rakennusasetus (895/1999)10.9.1999, SG(99)A/14214
	07. Lagen om brand- och räddningsväsendet 14.4.1977/37. SG(1999)A/15554
	08. Laki kemikaalilain muuttamisesta (57/1999)
	09. Laki räjähdysvaarallisista aineista annetun lain muuttamisesta (58/1999)
	10. Asetus vaarallisten kemikaalien teollisesta käsittelystä ja varastoinnista (59/1999)
	11. Asetus maakaasuasetuksen muuttamisesta (128/1999)
	12. Asetus nestekaasuasetuksen muuttamisesta (129/1999)
	13. Asetus öljylämmityslaitteistoista annetun asetuksen muuttamisesta (130/1999)
	14. Asetus räjähdeasetuksen muuttamisesta (131/1999)
Sweden	01. Lag om åtgärder för att förebygga och begränsa följderna av allvarliga kemikalieolyckor 1999:381
	02. Förordning om åtgärder för att förebygga och begränsa följderna av allvarliga kemikalieolyckor 1999:382
	03. Lag om ändring i räddningstjänstlagen 1999:1102
	04. Lag om ändring i miljöbalken 1999:385
	05. Förordning om ändring i förordningen (1999:900) om tillsyn enligt miljöbalken 1999:386
	06. Förordning om ändring i förordningen (1999:899) om miljöfarlig verksamhet och hälsoskydd 1999:567
United Kingdom	01. The Control of Major Accident Hazards Regulations 1999. Hansard No 743
	02. The Planning (Control of Major Accident Hazards) Regulations, 1999. Hansard No 743

Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment

OJ L 73, 14.3.1997, pp. 5–15

Transposition date: 14.3.1999

Belgium	<ul style="list-style-type: none"> 01. Ordonnance fixant la liste des installations de classe IA visée à l'article 4 de l'ordonnance du 5 juin 1997 relative aux permis d'environnement, <i>Moniteur belg</i> du 5.8.1999, p. 29209 02. Loi visant la protection du milieu marin dans les espaces marins sous juridiction de la Belgique, <i>Moniteur belge</i>, n° 50, du 12.03.1999. p. 8033. SG(1999)A/16390 03. Arrêté du 4 mars 1999 du gouvernement de la Région de Bruxelles-Capitale fixant la liste des installations de classes IB, II et III en exécution de l'article de l'ordonnance du 5 juin 1997 relative aux permis d'environnement
Denmark	<ul style="list-style-type: none"> 01. Bekendtgørelse af lov om planlægning 02. Bekendtgørelse om supplerende regler i medfør af lov om planlægning. Statstidende nr. 428 af 2. Juni 1999. SG(99)A/12722 03. Bekendtgørelse om miljømæssig vurdering af anlæg på søterritoriet. Statstidende nr. 128 af 11. marts 1999. SG(99)A/12722 04. Lov om trafikhavne m.v. Statstidende nr. 316 af 16. maj 1990. SG(99)A/12722 05. Lov om havne. Statstidende nr. 326 af 28. maj 1990. SG(99)A/12722 06. Bekendtgørelse om ændring af bekendtgørelse om Kystinspektoratets beføjelser. Statstidende nr. 329 af 28. maj 1990. SG(99)A/12722 07. Bekendtgørelse om miljømæssig vurdering i forbindelse med udvidelse af bestående trafikhavne. Statstidende nr. 330 af 28. maj 1999. SG(99)A/12722 08. Bekendtgørelse af lov om råstoffer. Statstidende nr. 569 af 30. juni 1997. SG(99)A/12722 09. Bekendtgørelse om miljømæssig vurdering af råstofindvinding på havbunden. Statstidende nr. 126 af 4. marts 1999. SG(99)A/12722 10. Bekendtgørelse af lov om anvendelse af Danmarks undergrund. Statstidende nr. 552 af 29. juni 1999. SG(99)A/12722 11. Lov om ændring af lov om kontinentalsoklen. Statstidende nr. 187 af 12 marts 1997. SG(99)A/12722
Germany	<ul style="list-style-type: none"> 01. Verordnung zur Änderung bergrechtlicher Verordnungen vom 10. August 1998, BGBl. I vom 17. August 1998, S. 2093 02. Bergverordnung für alle bergbaulichen Bereiche (Allgemeine Bundesbergverordnung — ABergV) vom 23. Oktober 1995, BGBl. I vom 3. November 1995, S. 1466 03. Verordnung über die Umweltverträglichkeitsprüfung bergbaulicher Vorhaben (UVP-V Bergbau) vom 13.7.1990, BGBl. I vom 21. Juli 1990, S. 1420 04. Bundesberggesetz (BBergG) vom 13/08/1980, BGBl. I, S. 1310 01. Änderungsgesetz vom 20. Mai 1999 (für das Land Brandenburg), Bundesanzeiger Verlag 12, 26.6.1999.
Greece	No notification to date
Spain	No notification to date
France	<ul style="list-style-type: none"> 01. Avis aux détenteurs de produits phytopharmaceutiques, Journal officiel du 24 avril 1998, p. 6345
Ireland	<ul style="list-style-type: none"> 01. The European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1999. 02. The Local Government (Planning and Development) Regulations, 1999 (S.I. 92 of 1999). 03. European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1999. ref: SI, 1.5.1999, No 93. SG(99)A/12291

Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment

OJ L 73, 14.3.1997, pp. 5–15

Transposition date: 14.3.1999

Italy	<ul style="list-style-type: none"> 01. DPCM 27 dicembre 1988. Norme tecniche per la redazione degli studi di VIA e la formulazione del giudizio di compatibilità ambientale di cui all'articolo 6 L.349/86, adottate ai sensi dell'articolo 3 DPCM 377/88. In GURI del 5 gennaio 1989, n. 4 02. Decreto del presidente della repubblica DPR 11/2/98. Disposizioni integrative al decreto del presidente del Consiglio dei ministri, DPCM 10 agosto 1988, n. 377, in materia di disciplina delle pronunce di compatibilità ambientale di cui alla legge 8 luglio 1986, n. 349, articolo 6. GURI, serie generale, n. 72, del 27 marzo 1998 03. Decreto del presidente della repubblica DPR 2/9/99. Regolamento recante norme tecniche concernenti gli studi di impatto ambientale per talune categorie di progetti. GURI, serie generale, n. 240, del 12 ottobre 1999. 04. Decreto del presidente della repubblica DPR 12/04/96. Atto di indirizzo e coordinamento per l'attuazione dell'articolo 40, comma 1, della legge 22 febbraio 1994, n. 146, concernente disposizioni in materia di valutazione di impatto ambientale. GURI, serie generale, n. 210, del 7 settembre 1996. 05. Decreto del presidente del Consiglio dei ministri, DPCM 3/9/99. Atto di indirizzo e coordinamento che modifica e integra il precedente atto di indirizzo e coordinamento per l'attuazione dell'articolo 40, comma 1, della legge 22 febbraio 1994, n. 146, concernente disposizioni in materia di valutazione di impatto ambientale. GURI, n. 302, serie generale del 27 dicembre 1999.
Luxembourg	01. Loi du 10 juin 1999 relative aux établissements classés, <i>Mémorial</i> , n° 100, p. 1904
Netherlands	<ul style="list-style-type: none"> 01. Wet van 29 april 1999 tot wijziging van bepalingen in de wet Milieubeheer met betrekking tot milieu-effectrapportage (Stb. 1999, 208) 02. Besluit van 7 mei 1999 houdende wijziging van het besluit Milieu-effectrapportage 1994 alsmede uitvoering van artikel 2, derde lid, van de Tracéwet (Stb. 1999, 224)
Austria	01. Bundesgesetz über die Prüfung der Umweltverträglichkeit und die Bürgerbeteiligung
Portugal	No notification to date
Finland	<ul style="list-style-type: none"> 01. Laki ympäristövaikutusten arviointimenetellystä annetun lain muuttamisesta/Lag om ändring av lagen om förfarandet vid miljökonsekvensbedömning (267/99) 5.3.1999 02. Asetus ympäristövaikutusten arviointimenetellystä/Förordning om förfarandet vid miljökonsekvensbedömning (268/99) 5.3.1999
Sweden	<ul style="list-style-type: none"> 01. Miljöbalken, Svensk författningssamling (SFS) 02. Lag om kärnteknisk verksamhet, Svensk författningssamling (SFS) 1984:3 03. Lag om inrättande, utvidgning och avlysning av allmän farled och allmän hamn, Svensk författningssamling (SFS) 1983:293 04. Minerallag, Svensk författningssamling (SFS) 1991:45 05. Lag om Sveriges ekonomiska zon, Svensk författningssamling (SFS) 1992:1140 06. Lag om kontinentalsockeln, Svensk författningssamling (SFS) 1966:314 07. Lag om vissa rörledningar, Svensk författningssamling (SFS) 1978:160 08. Förordning om miljöfarlig verksamhet och hälsoskydd, Svensk författningssamling (SFS) 1998:899 09. Ellag, Svensk författningssamling (SFS) 1997:857 10. Förordning om miljökonsekvensbeskrivningar, Svensk författningssamling (SFS) 1998:905 11. Lag om vissa rörledningar, Svensk författningssamling (SFS) 1978:160 12. Förordning om ändring i förordningen om miljöfarlig verksamhet och hälsoskydd
United Kingdom	<ul style="list-style-type: none"> 01 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations No 293/99 02. The Environmental Impact Assessment (Scotland) Regulations, 1999

Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment

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- 03. The Planning (Environmental Impact Assessment) (Northern Ireland) Regulations No 293/99
 - 04. The Harbour Works (Environmental Impact Assessment) Regulations 1999. SI No 3445
 - 05. The Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999, SI No 2892. SG(2000)A/02536
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Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control

OJ L 257, 10.10.1996, pp. 26–40

Transposition date: 30.10.1999

Belgium	01. Besluit van de Vlaamse regering van 24 maart 1998 tot wijziging van het besluit van de Vlaamse regering van 1 juni 1995 houdende algemene en sectorale bepalingen inzake milieuhygiëne, Belgisch Staatsblad van 30 april 1995 blz. 13775 02. Arrêté du 4 mars 1999 du gouvernement de la Région de Bruxelles-Capitale fixant la liste des installations de classes IB, II et III en exécution de l'article 4 de l'ordonnance du 5 juin 1997 relative aux permis d'environnement 03. Ordonnance du 22 avril 1999 fixant la liste des installations de classe IA visée à l'article 4 de l'ordonnance du 5 juin 1997 relative aux permis d'environnement
Denmark	01. Bekendtgørelse om godkendelse af listevirksomhed 02. Lov om ændring af lov om miljøbeskyttelse. Statstidende nr 367 af 2. juni 1999. SG(1999)A/15073 03. Bekendtgørelse nr. 807 04. Lov nr. 698 af 22. september 1998
Germany	No notification to date
Greece	No notification to date
Spain	No notification to date
France	01. Loi n° 76-663 du 19 juillet 1976 relative aux installations classées pour la protection de l'environnement 02. Décret n° 77-1133 du 21 septembre 1977 pris pour l'application de la loi n° 76-663
Ireland	01. The Waste Management (Licensing) Regulations, 1997, Statutory Instruments No 133 of 1997
Italy	01. Decreto legislativo 4 agosto 1999, n. 372. Attuazione della direttiva 96/61/CE relativa alla prevenzione e riduzione integrate dell'inquinamento. GURI, serie generale, n. 252, del 26 ottobre 1999. 02. Legge, disposizioni per l'ademimento di obblighi derivanti dalla appartenenza dell'Italia alle Comunità europee (legge comunitaria 1995-1997) del 24 aprile 1998 n. 128, Supplemento ordinario n. 88/L alla Gazzetta ufficiale, serie generale, del 7 maggio 1998 n. 104
Luxembourg	01. Loi du 10 juin 1999 relative aux établissements classés, <i>Mémorial</i> , n° 100, p. 1904
Netherlands	01. Besluit van 15 september 1997 tot wijziging van het Inrichtingen- en vergunningenbesluit milieubeheer, Staatsblad nr. 418 van 1997 02. Wet van 6 november 1997 tot aanpassing van bijzondere wetten aan de derde tranche van de Algemene wet bestuursrecht (Aanpassingswet derde tranche Awb I), Staatsblad nr. 510 van 1997 03. Beschikking van de minister van Justitie van 12 januari 1998 houdende plaatsing in het Staatsblad van de tekst van de Algemene wet bestuursrecht, zoals deze luidt met ingang van 1 januari 1998, Staatsblad nr. 1 van 1998 04. Besluit van 24 augustus 1999 houdende wijziging van het Uitvoeringsbesluit verontreiniging rijkswateren mt betrekking tot de bij een vergunningaanvraag te verstrekken gegevens. Staatsblad 1999, 397.
Austria	01. Gesetz vom 10. Dezember 1998 über die Vermeidung, Erfassung und Behandlung von Abfällen (Salzburger Abfallwirtschaftsgesetz 1998). Land Salzburg, Landesgesetzblatt, 31. März 1999. Nr. 35 S. 125. 02. Gesetz vom 10. Dezember 1998 über die Regelung des Elektrizitätswesens im Burgenland (Burgenländisches Elektrizitätswesengesetz 1999 – EIWG 1999), Landesgesetzblatt für das Burgenland, Nr. 7/1999 ausgegeben und versendet am 18. Februar 1999
Portugal	No notification to date
Finland	No notification to date
Sweden	01. SFS 1998/899 — 1998/905 — 1998/1350
United Kingdom	No notification to date

Commission Directive 98/73/EC of 18 September 1998 adapting to technical progress for the 24th time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances

OJ L 285, 8.11.1999, p. 1

Transposition date: 31.10.1999

Belgium	No notification to date
Denmark	No notification to date
Germany	No notification to date
Greece	No notification to date
Spain	01. Orden de 16 de julio de 1999 por la que se modifican los anexos I y V del Reglamento sobre notificación de sustancias nuevas y clasificación, envasado y etiquetado de sustancias peligrosas, aprobado por el Real Decreto 363/1995 de 10 de marzo
France	01. Arrêté du 8 octobre 1999 modifiant l'arrêté du 20 avril 1994 relatif à la déclaration, la classification, l'emballage, l'étiquetage des substances et portant transposition de la directive 98/73/CE, Journal officiel du 16 octobre 1999, p. 17260
Ireland	01. European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) (Amendment) Regulations 1999. ref: SI No 363 of 1999, 17.11.1999. SG(1999)A/15969
Italy	01. Decreto ministeriale 7 luglio 1999, disposizioni relative alla classificazione, imballaggio ed etichettatura di sostanze pericolose in recepimento della direttiva 98/73/CE. GURI, n. 175, supplemento ordinario alla Gazzetta ufficiale n. 226, del 25 settembre 1999, serie generale
Luxembourg	No notification to date
Netherlands	01. Besluit van 14 oktober 1987 houdende regelen met betrekking tot de verpakking en aanduiding van milieugevaarlijke stoffen en bepaalde gevaarlijke preparaten (Besluit verpakking en aanduiding milieugevaarlijke stoffen en preparaten) (Stb. 1987, 516) 02. Regeling van 27 januari 1988 (Nadere regels verpakking en aanduiding milieugevaarlijke stoffen en preparaten)
Austria	No notification to date
Portugal	No notification to date
Finland	01. Sosiaali- ja terveystieteiden päätös kemikaalien luokitteluperusteista ja merkintöjen tekemisestä annetun sosiaali- ja terveystieteiden päätöksen muuttamisesta (1058/1999) 02. Sosiaali- ja terveystieteiden päätös vaarallisten aineiden luettelosta (1059/1999)
Sweden	No notification to date
United Kingdom	01. Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations (Northern Ireland) 1999. 02. The Chemicals (Hazard Information and Packaging or Supply) (Amendment) Regulations 1999. Ref: SI, 1.3.1999. SG(1999)A/13374

Commission Directive 98/101/EC of 22 December 1998 adapting to technical progress Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances (Text with EEA relevance)

OJ L 1, 5.1.1999, pp. 1–2

Transposition date: 31.12.1999

Belgium	No notification to date
Denmark	No notification to date
Germany	No notification to date
Greece	No notification to date
Spain	No notification to date
France	01. Décret n° 99-1171 du 29 décembre 1999 modifiant le décret n° 99-374 du 12 mai 1999 relatif à la mise sur le marché des piles et accumulateurs et à leur élimination, Journal officiel du 31 décembre 1999, p. 19857
Ireland	No notification to date
Italy	No notification to date
Luxembourg	01. Règlement grand-ducal du 16 juillet 1999 modifiant le règlement grand-ducal modifié du 23 mai 1993: <ul style="list-style-type: none"> — relatif aux piles et accumulateurs contenant certaines matières dangereuses — portant modification de l'annexe 1 de la loi du 11 mars 1981 portant réglementation de la mise sur le marché et de l'emploi de certaines substances et préparations dangereuses
Netherlands	No notification to date
Austria	01. Verordnung des Bundesministers für Umwelt, Jugend und Familie, mit der die Verordnung über die Rücknahme und Schadstoffbegrenzung von Batterien und Akkumulatoren geändert wird. BGBl 495
Portugal	No notification to date
Finland	01. Valtioneuvoston päätös eräitä vaarallisia aineita sisältävistä paristoista ja akuista annetun valtioneuvoston päätöksen 2 ja 3 §:n muuttamisesta/Statsrådets beslut om ändring av 2 och 3 § statsrådets beslut om batterier och ackumulatorer som innehåller vissa farliga ämnen 17/99, 14.1.1999 02. Landskapsförordning om tillämpning i landskapet Åland av riksförfattningar om explosionsfarliga ämnen och kemikalier (5/96) 23.1.1996, Ålands författningssamling
Sweden	01. Förordning om ändring i förordningen (1997:645) om batterier. PIT N° 260 26.5.1999
United Kingdom	No notification to date

Directive 98/70/EC of the Parliament and the Council, of 13 October 1998, on the quality of petrol and diesel oil, modifying Council Directive 93/12/EEC

OJ L 350, 28.12.1998, p. 58

Transposition date: 1.7.1999

Belgium	No notification to date
Denmark	01. Bekendtgørelse om kvaliteten af benzin og dieselolie til brug i motorkøretøjer m.v. Statstidende nr. 529 af 25. juni 1999
Germany	No notification to date
Greece	No notification to date
Spain	No notification to date
France	01. Arrêté du 25 mai 1999 modifiant l'arrêté du 24 janvier 1994 relatif aux caractéristiques du supercarburant sans plomb, Journal officiel du 28 juin 1999, p. 9376
Ireland	No notification to date
Italy	No notification to date
Luxembourg	No notification to date
Netherlands	01. Besluit van 17 december 1999 houdende uitvoering van Richtlijn 98/70/EG (...) (Besluit kwaliteitseisen wegverkeer) (Stb. 1999, 566)
Austria	No notification to date
Portugal	No notification to date
Finland	01. Statsrådets beslut om kvalitetskraven på motorbensin och dieselolja 02. Landskapslag om tillämpning i landskapet Åland av vissa riksförfattningar rörande åtgärder mot förorening av luften. ref: Ålands författningssamling, 2.4.1991, nr 32. SG(1999)A/13943 03. Ålands landskapsstyrelses beslut om tillämpning i landskapet Åland av vissa statsrådsbeslut rörande åtgärder mot förorening av luften. Ref: Ålands författningssamling, 28.11.1996, nr 69. SG(1999)A/13943 04. Ålands landskapsstyrelses beslut om ändring av Ålands landskapsstyrelses beslut om tillämpning i landskapet Åland av vissa statsrådsbeslut rörande åtgärder mot förorening av luften ref: Ålands författningssamling, 26.8.1999, nr 56. SG(1999)A/13943
Sweden	No notification to date
United Kingdom	No notification to date

ANNEX 3

Environment chapter from Sixteenth Annual Report on Monitoring the Application of Community Environmental Law (COM(1999)301 final)

2.12. Environment

The Commission monitors the application of Community environmental law on the basis of Article 155 of the Treaty establishing the European Community, employing the procedure laid down in Article 169. In practical terms this entails checking that transposal measures are notified and that they implement directives properly, and monitoring the application of regulations. The Commission carries out these tasks either on its own initiative or in response to complaints, questions from Members of the European Parliament and petitions received by the European Parliament exposing possible infringements of Community law.

A few general figures will give the reader some idea of the Commission's activities and the vigilance it exercises in monitoring the implementation of Community environmental law. In 1998 the Commission referred 15 cases against Member States to the Court of Justice (one of them on the basis of Article 171) and sent them 118 original or supplementary reasoned opinions (four of them on the basis of Article 171).

In 1998 the Commission continued to refer environmental cases to the Court of Justice in accordance with Article 171 of the Treaty. Under the second subparagraph of Article 171(2), as amended by the Union Treaty, where a Member State fails to comply with a judgment delivered by the Court on the basis of Article 169, in which it finds that the State in question has failed to implement Community law, the Commission may bring the case before the Court again, this time requesting that financial penalties (fines or periodic penalty payments) be imposed. Article 171 has proved its effectiveness in this instance, since Member States may now be assumed to know that following a judgment given against them for failure to perform their obligations they must come into line without delay. In the environment field most cases were terminated. Seven of the ten cases in which the Commission applied for financial penalties in fresh proceedings since January 1997 have been settled.

The Commission decided to refer two new Article 171 cases to the Court – one against France regarding transposal of the directive on conservation of wild birds (79/409/EEC) and the other against Italy regarding transposal of the directive on treatment of urban waste water (reference pending). A further twelve proceedings for failure to notify measures, notification of incorrect transposal measures or incorrect application reached the Article 171 letter or reasoned opinion stages. These cases will be considered in greater detail in the sections dealing with the different sectors below.

It must be borne in mind that the Commission's monitoring activity is not confined to actions in the Court nor even to the final pre-litigation stage – the transmission of reasoned opinions and the scrutiny of Member States' responses to them. These are but the final stages of the infringement procedure, whereas many cases are settled without reaching those stages. This phenomenon is particularly common in the environmental field, where a large number of situations to which the Commission's attention is drawn by complaints, parliamentary questions and petitions turn out not to be infringement situations as there

is no legal basis in Community law or the allegation by the complainants or petitioners is unfounded in fact or in law. The national administrations engage in extensive correspondence and regular contacts (package and ad hoc meetings) with the Commission, which thus exercises its function of watchdog of Community environmental law.

The problems highlighted in previous reports with the implementation of environmental law remain much the same – the difficulties encountered by certain Member States in transposing and applying it and the limits on the Commission's ability to monitor them. In 1998 the Commission sought to tackle these problems and pursue active monitoring activities with the reform of its internal rules for handling infringement proceedings aiming to boost their speed and effectiveness.

It also continued work on the Communication adopted in October 1996 («Implementing Community Environmental Law»). ⁽¹⁹⁾

On 16 December 1998 the Commission adopted a proposal for a Council Recommendation providing for minimum criteria for environmental inspections in the Member States. ⁽²⁰⁾ The proposal is based on a study prepared by the IMPEL network (Implementation and Enforcement of EU Environmental Law) and sets out guidelines for inspections, consisting of minimum criteria for organisation, operation, monitoring and publicity. The Recommendation would apply to environmental inspections of industrial plant and other plant emitting pollutants and discharges that require authorisation; this includes nuclear installations, also including research and medical facilities. The aim is to boost the monitoring of the application of Community law in national legislation and ensure that Community environmental legislation is evenly applied in all the Member States.

As announced in the Communication on Implementing Community Environmental Law, there will be an Annual Survey to amplify the information given in this section of the annual report on monitoring the application of Community law by adding fuller information on the environmental aspects. The first Annual Survey covers the period from October 1996 to December 1997; the next one will be published this year.

The first Annual Survey begins with a presentation of the follow-up to the Communication on Implementing Community Environmental Law, including information on the IMPEL study on minimum criteria for environmental inspections, access to justice in the Member States and environmental complaints and verification procedures, training for the judiciary in a number of Member States, a pilot training scheme in Community environmental law in several universities and the proposals for penalty provisions in future Community legislation. It then takes stock of action on a number of horizontal matters such as the White Paper on environmental liability, the review of Directive 90/313/EEC (freedom of access to information on the environment) and the requirements of Directive 91/692/EEC on the standardisation and rationalisation of reports on the implementation of certain environmental directives. It enumerates Commission publications on the application of Community and international law (reports, communications etc.), gives details of the IMPEL network's structure and work programme, and provides information on progress in the implementation of Community environmental law, including a table of references to national legislation transposing directives scheduled for implementation during the period covered by the Survey.

More generally, the Commission remains attentive to the prospects offered for the implementation of Community environmental law by a series of developments to which it has contributed actively or which have flowed from Community initiatives – use of agree-

⁽¹⁹⁾ COM(1996) 500 final, 22.10.1996.

⁽²⁰⁾ COM(1998) 772 final, 16.12.1998.

ments on environmental protection, civil liability in environmental matters in the Member States, extension of the IMPEL network (Implementation and Enforcement of EU Environmental Law) and account taken of environmental considerations in other Community policies. There was a Commission Communication to the Cardiff European Council (June 1985) on this latter point with a view to developing a Community strategy for integrating the environment into European Union policies. ⁽²¹⁾

As already stated, the Commission's monitoring of the application of Community law takes account of three aspects: monitoring the notification of national transposal measures, scrutinising measures for conformity with the directives they transpose and monitoring the practical application of directives and regulations.

No significant developments have occurred since last year's report in the notification by Member States of measures implementing environmental directives.

Directives are legal instruments which are binding on Member States as to the result to be achieved, but leaving them free to choose the form and methods to be used. They generally require national measures to be adopted to ensure that the obligations they lay down are actually met. Each new directive sets a time-limit (usually one to two years) for Member States to amend their own law in line with its provisions. Member States must notify transposal measures by this deadline. Moreover, every time a new Directive is adopted, the Commission takes pains to remind all the Member States that transposal must take place by the prescribed deadline.

Delays in notifying the Commission of transposal measures are generally – and logically enough – the result of delays in enacting them. Moreover, the measures enacted are all too often notified only with several months' or more delay, and infringement proceedings have to be commenced even though there is no real need for them. At any rate the Commission commences proceedings whenever transposal measures are not notified.

Looking beyond the obligation to notify measures transposing a new directive immediately, and within the time allowed by the directive itself, the Member States' authorities also need to remember to notify subsequent measures taken within the field covered by the directive as long as it is still in force. The Commission regrets the all-too frequent failure to do so.

The causes of the delays in transposing directives are the same as those highlighted in previous reports – internal institutional and administrative structures of the Member States, transposal techniques, specific difficulties in particularly sensitive areas (chemicals, biotechnology), and possible lack of coordination between representatives of the Member States who negotiate the directives and the bodies in the Member States which will be responsible for implementing them.

It is essential that the legal and administrative work needed to determine exactly what needs transposing (in some cases, existing provisions may already suffice) and then to prepare the legal instruments effecting the transposal in national law. Given the time generally taken to adjust the national legal situation to the requirements of the directive, especially where parliamentary time must be set aside for amending legislation, experience suggests that advantage should be taken of all the time available for the purpose; that would obviate the need for Commission infringement proceedings.

A noteworthy judgment of the Court of Justice in this context was the judgment given on 18 December 1997 in Case C-126/96 *Inter-Environnement Wallonie ASBL v Région Wallonne*, on an application for a preliminary ruling from the Belgian Conseil d'Etat relating

⁽²¹⁾ COM(1998) 333 final.

to Directive 91/156/EEC. The Court held that 'The second paragraph of Article 5 and the third paragraph of Article 189 of the EEC Treaty, and Directive 91/156, require the Member States to which that directive is addressed to refrain, during the period laid down therein for its implementation, from adopting measures liable seriously to compromise the result prescribed.' The Court specified ⁽²²⁾ that '[it] is for the national court to assess whether that is the case as regards the national provisions whose legality it is called upon to consider' and that '[in] making that assessment, the national court must consider, in particular, whether the provisions in issue purport to constitute full transposition of the directive, as well as the effects in practice of applying those incompatible provisions and of their duration in time. For example, if the provisions in issue are intended to constitute full and definitive transposition of the directive, their incompatibility with the directive might give rise to the presumption that the result prescribed by the directive will not be achieved within the period prescribed if it is impossible to amend them in time.'

The Commission has decided to commence proceedings in the Court of Justice against the United Kingdom regarding the transposal of several environment directives in Gibraltar. The proceedings concern directives which the United Kingdom acknowledges are applicable in Gibraltar but for which it has notified no implementing measures – Directives 80/51/EEC, 83/206/EEC, 86/629/EEC and 92/14/EEC (limitation of noise emissions from subsonic aircraft). In 1998 the United Kingdom notified measures transposing Directive 94/67/EC (incineration of hazardous waste), in respect of which infringement proceedings had been commenced.

Several fresh directives fell due for transposal in 1998:

- Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT); ⁽²³⁾
- Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management; ⁽²⁴⁾
- Commission Directive 96/54/EC of 30 July 1996 adapting to technical progress for the twenty-second time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances; ⁽²⁵⁾
- Directive 96/56/EC of the European Parliament and the Council of 3 September 1996 amending Directive 67/548/EEC; ⁽²⁶⁾
- Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 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; ⁽²⁷⁾
- Commission Directive 97/49/EC of 29 July 1997 amending Council Directive 79/409/EEC on the conservation of wild birds; ⁽²⁸⁾
- Commission Directive 98/15/EC of 27 February 1998 amending Council Directive 91/271/EEC with respect to certain requirements established in Annex I thereof; ⁽²⁹⁾

⁽²²⁾ At paragraphs 46 to 48.

⁽²³⁾ OJ L 243, 24.9.1996, p. 31.

⁽²⁴⁾ OJ L 296, 21.11.1996, p. 55.

⁽²⁵⁾ OJ L 248, 30.6.1996, p. 1.

⁽²⁶⁾ OJ L 236, 18.9.1996, p. 35.

⁽²⁷⁾ OJ L 59, 27.2.1998, p. 1.

⁽²⁸⁾ OJ L 223, 13.8.1997, p. 9.

⁽²⁹⁾ OJ L 67, 7.3.1998, p. 29.

- Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress for the 23rd time Council Directive 67/548/EEC. ⁽³⁰⁾

In 1998 as in previous years, the Commission was obliged to commence infringement proceedings in numerous cases of failure by all the Member States to notify it of transpositional measures, though there were only one case involving Finland and two involving Luxembourg. Details of these cases are given in the sections relating to individual sectors and directives.

Regarding the conformity of national measures implementing Community law, there are infringement proceedings in all areas of environmental legislation and against all the Member States. The Member States are under a duty not only to adopt measures transposing directives but also to see to it that such measures are in conformity with Community law. They do not all do so.

Some of the causes for this have been considered in earlier reports: distribution of powers among the different tiers of government (national, regional and other) in the Member States, difficulties in transposing environmental-protection obligations into other areas of action (agriculture, transport, industry, etc.), pre-existing national legislation inspired by principles differing from those of the directive and consequently needing adjustment.

In any event the Commission is at pains to check that the Member States bring their domestic legal systems into line with the obligations flowing from environmental directives, and indeed makes this aspect of its monitoring activities a priority. At the pre-litigation stages of the infringement procedure the Member States and the Commission have the chance to clarify points relating to this conformity of national legislation with Community law. But the Commission sadly still has cause to regret that the Member States do not all routinely take the trouble, as Denmark, Finland, Germany and Sweden do, to attach detailed explanations and concordance tables matching national provisions with the corresponding Community provisions, whenever they notified the Commission of legislation and regulations designed to transpose directives. This would cut down on misunderstandings and make problems easier to spot. It would also make conformity checks at Community level easier, while the Member States would benefit directly from having fewer infringement proceedings brought against them. The Commission's monitoring tasks are further complicated by the choice of certain legislative techniques for transposal (e.g. the use of several legal instruments), so that there is a special need to work more closely with Member States which choose such methods, in order to explain the details of transposal.

Finally, it is worth noting the progress made by the three newest Member States - Austria, Sweden and Finland - in incorporating Community environmental law since joining the Community on 1 January 1995. When they acceded they were given a four-year period of grace for certain national provisions relating to public health and the environment by specific provisions of their Act of Accession, ⁽³¹⁾ described as review clauses. That period expired on 31 December 1998. During the transitional period the Union accordingly reviewed the standards it had laid down in this field. In nearly all cases the review process culminated in proposals for or adoption of tighter environmental standards for the Union as a whole, notably as regards the sulphur contents of petrol ⁽³²⁾ and the labelling of dangerous substances. ⁽³³⁾ In other cases, the new Member States will keep their existing

⁽³⁰⁾ OJ L 343, 13.12.1997, p. 19.

⁽³¹⁾ Articles 69, 84 and 112 of the Act of Accession of Austria, Finland and Sweden provide for transitional measures for certain environmental standards.

⁽³²⁾ Commission proposal in COM(1998) 88 (12.3.1997) to replace Council Directive 93/12/EEC of 23 March 1993 relating to the sulphur content of certain liquid fuels (OJ L 74, 27.3.1993, p. 81).

⁽³³⁾ Several technical adaptations to Directive 67/548/EEC.

standards for a longer period. The extension is needed for further review and for the elaboration of Community solutions. ⁽³⁴⁾ On 11 December 1998 the Commission adopted a communication on the review clauses, that is to say on strengthening environmental and health standards after the accession of Austria, Finland and Sweden to the European Union, in which it takes stock of the process. ⁽³⁵⁾

The Commission is also responsible for checking that Community environmental law (directives and regulations) is properly applied. This means ensuring that Member States fulfil certain general obligations (designation of areas, implementation of programmes, etc.) and examining specific cases where a particular administrative practice or decision is alleged to be contrary to Community law. But whether the problems at issue are general or specific, the Commission's task of monitoring application is an important one.

Complaints and petitions sent to the European Parliament by individuals and non-governmental organisations, and written and oral parliamentary questions, play a vital role in keeping the Commission informed of how far the obligations arising from directives and regulations are actually complied with. The information the Commission obtains in this way is a valuable adjunct to the periodic reports on the application of directives, drawn up on the basis of information supplied by the Member States and the Member States' replies to its requests for information.

The number of complaints, after falling for two years in succession, has risen again. The largest number concerned Spain, Germany and France, while Luxembourg, Finland and Sweden were the least affected. If we analyse the complaints registered in 1998 by broad categories, bearing in mind that they often raise more than one problem, we find that one in every two complaints was concerned with nature conservation and one in every four with environmental impact, while waste-related problems were raised in one in ten cases, as were air pollution and water pollution.

As it stated in the previous report, in its scrutiny of individual cases, the Commission must analyse, from a factual and legal standpoint, problems that are very tangible and are of direct concern to the public. This can give rise to certain practical difficulties, since proper scrutiny demands detailed knowledge of the case in point, but the Commission is geographically remote and it lacks both the powers and the ability to conduct investigations, having no resources to carry out inspections in the environmental field. Yet scrutiny is a vital task in the Commission's eyes, because what matters most to individual citizens is that the law is effectively applied to their own particular circumstances, and because there is a danger that Community law may be formally transposed without any changes in actual behaviour to the extent required by Community rules. Moreover, it is obvious that what matters most to the general public is whether the law is properly applied in the situations of concern to them.

Complaints, parliamentary questions and petitions were mostly about specific and very practical problems directly affecting the complainants and petitioners - environmental impact assessment (Directive 85/337/EEC) and the deterioration of areas designated or awaiting designation as special protection areas under Directive 79/409/EEC (wild birds). These problems sometimes typify an underlying situation in one or more Member States. A significant number of problems mentioned in complaints stem from the incom-

⁽³⁴⁾ The further review concerns different aspects of Directive 67/548/EEC and of Council Directive 76/769/EEC the approximation of provisions laid down by law, regulation or administrative action of the Member States on restrictions on the marketing and use of certain dangerous substances and preparations, as amended.

⁽³⁵⁾ Communication from the Commission to the Council and the European Parliament. The review clause: Environmental and health standards four years after the accession of Austria, Finland and Sweden to the European Union: COM(1998) 745 final.

plete or incorrect transposal of directives. This is why, without neglecting the monitoring of incorrect application cases which reveal questions of principle or administrative practices that contravene the Directives or horizontal questions, the Commission concentrates its efforts on dealing with problems of conformity. In this respect, the application of Community law might improve if national civil servants in particular were better informed about Community law and received better training.

2.12.1. Freedom of access to information

Directive 90/313/EEC on the freedom of access to information on the environment is a particularly important piece of general legislation: keeping the public informed ensures that all environmental problems are taken into account, encourages enlightened and effective participation in collective decision-making and strengthens democratic control. The Commission believes that, through this instrument, ordinary citizens can make a valuable contribution to protecting the environment.

Although all the Member States have notified national measures transposing the Directive, there are many cases where national law still has to be brought into line with its requirements. The Court of Justice has not yet given judgment in Case C-217/97 *Commission v Germany* relating to the designation of the authorities to whom the directive applies, the exceptions from the principle of communication, part-communication and reasonable costs of communication. The Commission has also sent the same Member State a reasoned opinion concerning certain aspects of implementation of the directive in Schleswig-Holstein.

The Commission commenced Court proceedings against Spain on several points on which the transposal of the directive is not in conformity with Community law (reasonable costs, excluded categories of information). It also referred to the Court a case against Portugal, firstly for failure to notify the Commission of the report required by Article 8 of the Directive, and secondly for non-conformity of its legislation transposing the Directive with reference to the designation of the authorities to whom it applies, the persons enjoying the right of access, the nature of the information to be given and the excluded categories of information.

A reasoned opinion was addressed to Belgium on several aspects in which transposal was incorrect, both at federal level and in the Flanders and Wallonia Regions. The United Kingdom amended its earlier regulations in response to the Commission's proceedings. Proceedings are still in motion against other Member States, though those against Italy have been terminated, as have those against Ireland following notification of new legislation and the Netherlands following notification of an Act passed on 12 March 1998.

The Commission is continuing to receive complaints concerning the non-conformity of transposal measures. Among the most common subjects of complaint are the refusal by national authorities to respond to requests for information, the time taken for replies, a tendency by national government departments to adopt an excessively broad interpretation when allowing exceptions to the principle of disclosure, and demands for payment of unreasonably high fees.

As required by Article 8 of Directive 90/313/EEC, the Commission will present its own report to Parliament, probably before the end of 1998, together with any proposals it has for revising the Directive.

On 25 June 1998 the Community and the Member States signed the Convention of the United Nations Economic Commission for Europe on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. This Convention can be seen as a step forward in the protection of individuals' rights to live in a

clean environment where health and well-being are secured. The fact that the Community signed the Convention is significant as this is the first legally mandatory instrument applying explicitly to the Community institutions. The Commission will be attaching priority to its ratification.

Finally, in Case C-321/96 *Wilhelm Mecklenburg v Kreis Pinneberg - Der Landrat* the Court of Justice gave a preliminary ruling requested by a German court interpreting certain concepts contained in the Directive. It held that 'Article 2(a) of the Directive must be interpreted as covering a statement of views given by a countryside protection authority in development consent proceedings if that statement is capable of influencing the outcome of those proceedings as regards interests pertaining to the protection of the environment'. It thus acknowledged that the Community legislature was attaching a broad meaning to the concept of information relating to the environment, extending to both data and activities affecting these sectors without excluding any of the activities of public authorities. The Court made clear that 'the term "measures" serves merely to make it clear that the acts governed by the directive included all forms of administrative activity... It is sufficient for the statement of views put forward by an authority, such as the statement concerned in the main proceedings, to be an act capable of adversely affecting or protecting the state of one of the sectors of the environment covered by the directive.'

Moreover, the Court held that the expression "preliminary investigation proceedings" (third indent of Article 3(2)) must be interpreted as 'including an administrative procedure which merely prepares the way for an administrative measure, only if it immediately precedes a contentious or quasi-contentious procedure and arises from the need to obtain proof or to investigate a matter prior to the opening of the actual procedure'. The preliminary investigation must therefore be seen as the preliminary to the judicial inquiry or procedure. Where there is an exception from the principle of freedom of access to information on the environment secured by the third indent of Article 3(2) of the directive, this cannot be interpreted as extending beyond what is necessary to secure the protection of the interests it is intended to uphold.

2.12.2. *Environmental impact assessment*

Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment is still the most widely cited legal instrument relating to matters of the environment. The Directive requires environmental issues to be taken into account in many decisions which have collective effects.

Belgium has now given effect to the judgment given by the Court of Justice on 2 May 1996 (Case C-133/94) by rectifying the defects in its transposal of Annex I to the Directive; ⁽³⁶⁾ it has also amplified its transposal of the provisions for cross-border consultations ⁽³⁷⁾ and of Annex II; ⁽³⁸⁾ the Commission has accordingly terminated its proceedings.

The deadline for transposal of Directive 97/11/EC amending Directive 85/337/EEC falls on 14 March 1999; transposal ahead of deadline is always an option.

On 20 October 1998 the European Parliament gave its opinion at first reading on the Commission proposal of December 1996 for a directive on the assessment of the effects

⁽³⁶⁾ Royal Decree of 23.12.1993 (protection of the people and workers against the dangers of ionising radiation); Decrees of the Flemish Government of 4.2.1998 (environmental impact assessment of certain categories of establishment emitting nuisances; other works and actions).

⁽³⁷⁾ Decree of the Government of the Brussels Region; cf. Decrees of the Flemish Government of 4.2.1998, *supra*.

⁽³⁸⁾ Decree of the Flemish Government of 10.3.1998.

of certain plans and programmes on the environment. ⁽³⁹⁾ The aim of this proposal is to incorporate environmental considerations into the preparation and adoption of instruments setting the context for future projects.

Many complaints received by the Commission and petitions presented to Parliament denounce, if only in passing, the incorrect application of Directive 85/337/EEC by national authorities. Complaints and petitions are concerned primarily with the quality of impact assessments (especially the lack of adequate assessment of the indirect effects of the project) and the lack of weight given to recommendations arising from the evaluation of the impact assessment (particularly following public enquiries) in the final decision. As stated in the past, it is obviously difficult for Commission departments to investigate cases where the quality of impact assessments is questioned or it is contended that their findings are not properly acted upon. Although the Directive contains Articles regarding the content of impact assessments, ⁽⁴⁰⁾ it is difficult to verify the compliance with them by the national authorities; moreover, it is not always easy to contest the merits of a choice taken by the national authorities. Most of the cases brought to the Commission's attention concerning incorrect application of this Directive revolve around points of fact (existence and definition). There is therefore every chance that the most effective way to verify any infringements will be at a decentralised level, particularly through the national courts.

In 1998 the Court of Justice gave two judgments clarifying the scope of certain provisions of Directive 85/337/EEC.

In its judgment of 18 June in Case C-81/96 *Burgemeester en Wethouders van Haarlemmerliede en Spaarnwoude et al v Gedeputeerde Staten van Noord-Holland* the Court gave a preliminary ruling requested by the Dutch Raad van State on the application of the Directive's impact assessment procedure to new land-use structural plans. The question was whether it was compatible with the Directive to carry out a project on the basis of an authorisation given before the Directive entered into force without undertaking an environmental impact assessment, the project now being in Annex I (assessment compulsory in all cases) and the authorisation not having been acted upon immediately.

The Court held that Directive 85/337/EEC did not empower a Member State to release from environmental impact assessment obligations projects listed in Annex I where they were authorised before 3 July 1988, the deadline for transposal of the Directive, but the authorisation was not preceded by an assessment meeting the Directive's requirements and was not acted upon and a new authorisation procedure formally commenced after that date.

Germany's infringement, concerning the projects covered, was then acknowledged by the Court of Justice on 22 October (Case C-301/95), when it ruled on the Commission action against it for failure to discharge its obligations. The Court held first that the German Government had not adopted the measures required to comply with the Directive, notably at Länder level, within the time allowed. As for failure to apply the Directive to projects approved after 3 July 1988, the Court held that, by failing to impose an obligation to assess the environmental impact of all projects assessable under the Directive where the authorisation procedure had been commenced after that date, Germany had failed to discharge its obligations. Regarding incomplete transposal of Article 2 of the Directive in relation to the projects listed in Annex II, the Court held that by the advance exclusion of the obligation to assess the environmental impact of the entire classes of projects listed there, Germany had again failed to discharge its obligations. But on the question of the incomplete transposal of Article 5(2), the Court held that this provision stipulated the minimum content of the information to be given by the project manager. It

⁽³⁹⁾ COM(1998) 511 final.

⁽⁴⁰⁾ E.g. Articles 3 and 5 and Annex III.

held that where, by reason of the federal structure of the Member State, other specific provisions enacted by the federal or Länder governments imposed requirements corresponding to the particular needs of the various areas of activity covered by the Directive, Article 13 empowered the Member States to enact more stringent rules than those of the Directive. The Court accordingly dismissed the action on this head.

The actions for incorrect transposal against Ireland (Case C-392/96) and Portugal (Case C-150/97) are still in motion.

On 17 December 1998 Mr Advocate-General Tesauro presented his submissions in Case C-392/96, proposing that the Court hold that, by not adopting all the necessary measures to properly transpose Article 4(2) as regards projects falling within points 1(b), (d) and (e) and 2(a) of Annex II to Directive 85/337/EEC, and only partly transposing Article 2(3), (5) and (7), Ireland had failed to fulfil its obligations under Article 12. The case related particularly to Ireland's determination of thresholds for types of project such as allocation of uncultivated land and land in a semi-natural state for reuse for intensive farming, initial reforestation where there was a potential negative ecological impact, and land clearance with a view to use of the land for a different purpose, farms capable of being used for poultry-farming or peat-extraction, the thresholds being so high that in practice a large number of projects with a considerable environmental impact were taken out of the assessment procedure provided for by the Directive. Ireland did not contest that it had failed to transpose Article 2(3), (5) and (7).

On 13 October Mr Advocate-General Mischo presented his submissions in Case C-150/97 *Commission v Portugal* proposing that the Court declare that Portugal's failure to adopt the provisions of law, regulation or administrative action needed for full compliance with Directive 85/337/EEC constituted a failure to meet the obligations of Article 12(1) of the Directive. The action concerned not only failure to comply with the deadline for transposal but also the fact that, under the Portuguese legislation transposing the Directive after the due date was passed, ⁽⁴¹⁾ it did not apply to projects for which the authorisation procedure was in progress when it entered into force, on 7 June 1990. Here the Advocate-General refers to earlier cases in which the Court had held that there was nothing in the Directive to allow the Member States to interpret it as authorising them to release from the assessment obligation projects for which the authorisation procedure was in progress on the 3 July 1988 deadline.

The Commission decided on similar action against Germany regarding its Motorways Act. A supplementary reasoned opinion was addressed to Italy and a reasoned opinion to the United Kingdom. However, in the United Kingdom, new transposal measures for England, Wales and Scotland were adopted in 1998. Infringement proceedings are also in motion concerning incorrect application in Ireland. And the Commission decided to send a supplementary reasoned opinion to Spain regarding the absence of provision for impact assessments for most Annex II projects.

2.12.3. *Air*

Some proceedings in this sector were terminated after the situations that had given rise to them were put right. There are still certain problems outstanding in connection with the directives on incineration and directives with imminent transposal deadlines.

There was marked improvement in the application of Directive 92/72/EEC (air pollution by ozone), which led to the termination of infringement proceedings that had been insti-

⁽⁴¹⁾ Decree-Law 278/97, 8.10.1997.

gated. For example, in 1998 the Commission had decided to refer a case against France to the Court of Justice for incorrectly applying the Directive by failing to notify the Commission of the locations of the measuring stations or of ozone levels exceeding the population information and warning thresholds (180 µg/m³ and 360 µg/m³) laid down in Annex 1 to the Directive. However, France subsequently took steps to improve its application of the Directive. The proceedings against Sweden for failure to report the transposal measures were similarly terminated, once Sweden had adopted the appropriate measures.

Germany put an end to its delays in reporting its national measures transposing Directive 94/63/EC (emissions of volatile organic compounds) and the Commission terminated the proceedings against it accordingly.

Italian courts referred cases to the Court of Justice for preliminary rulings concerning the interpretation and validity of Council Regulation (EC) No 3093/94 on substances that deplete the ozone layer. The main issue at stake is the question of restrictions on the production and use of halons and HCFCs (hydrochlorofluorocarbons), gases which are dangerous for the environment. In its judgments given on 14 July 1998 in Cases C-284/95 and C-341/95, the Court held that Article 5 of the Regulation was to be interpreted as prohibiting entirely the use and, consequently, the marketing of hydrochlorofluorocarbons for fire-fighting and that consideration of the questions submitted had not disclosed any factor of such a kind as to affect the validity of the Article.

Council Directive 96/62/EC on ambient air quality was due to be transposed by 21 May 1998. This Directive is to form the basis for a series of forthcoming Community instruments designed to set new limit values for atmospheric pollutants, starting with those already covered by existing Directives, lay down information and alert thresholds, harmonise air quality assessment methods and improve air quality management with a view to protecting human health and ecosystems. The Commission decided to send a reasoned opinion to Greece, Spain, Portugal, Ireland, Italy, Sweden and the United Kingdom, given their total or partial failure to enact national transposal measures by the prescribed deadline.

Council Directive 97/68/EC on the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery was due to be transposed by 30 June. The Commission decided to send a reasoned opinion to Belgium, Greece, France, Portugal, Ireland, Italy, Luxembourg, Austria and the United Kingdom, given their total or partial failure to enact national transposal measures by the prescribed deadline.

Finally, Directive 98/70/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 ⁽⁴²⁾ was adopted in 1998; it will shortly be due for transposal.

2.12.4. Water

The Commission takes the task of monitoring implementation of Directives seriously. Around a quarter of all current environmental infringement proceedings concern water. In addition, the Commission must respond to complaints and petitions to Parliament. Consequently, it spends quite a considerable amount of time on Community legislation on water quality. This state of affairs is a result of the quantitative and qualitative significance of the responsibilities imposed on the Member States by Community law, and also the growing public concern about water quality.

⁽⁴²⁾ OJ L 350, 28.12.1998, p. 58.

There are several proceedings currently under way relating to infringements of Directive 75/440/EEC concerning the quality required of surface water intended for the abstraction of drinking water. Some of the proceedings concern the drawing up of systematic organic action plans (Article 4(2)) as an essential part of the campaign to protect water quality (from excessive quantities of nitrates, pesticides, etc.) Others are concerned with the criteria for obtaining exemptions under Article 4(3). The Commission terminated the Article 171 proceedings opened against Germany following the Court's judgment of 17 October 1991 in Case C-58/89, after Germany notified the Commission of a systematic organic plan for the whole of the country. This meant the Commission dropping Case C-122/97 it had taken to the Court of Justice.

The Court of Justice found against Portugal in two cases. The first was the judgment of 17 June 1998 in Case C-214/97 for failure to have a systematic organic action programme for the whole country. The Court held that the documents provided by the Portuguese authorities did not constitute a systematic action plan, despite their title and the projects described in them, because there was no timetable for water improvement and they did not cover certain waterways; nor did they make for a proper framework for making substantial improvements to water quality. However a Systematic action plan has since been notified.

In the second case (C-229/97) judgment was given on 15 October 1998; it related to inaccurate and incomplete sampling methods pursuant to Directive 79/869/EEC, adopted on the basis of Directive 75/440/EEC. However, a decree-law designed to bring national law in line with the Directive was adopted on 1 August 1998 and reported to the Commission.

The Commission also decided to take France to the Court of Justice for its use of nitrate-polluted water in Brittany to produce drinking water without having implemented a plan for managing this water resource to eventually restore its quality.

An additional reasoned opinion was sent to Italy regarding its lack of a systematic organic action programme for the whole country. But the United Kingdom notified measures for the transposal of the Directive and action programmes.

With regard to Directive 76/160/EEC concerning the quality of bathing water, monitoring of bathing areas is becoming increasingly common and water quality is improving. However, infringement proceedings are still open against roughly half the Member States in cases where implementation still falls a long way short of the requirements laid down by the Directive.

While the infringement proceedings against Finland for failure to report national implementing measures for Åland were dropped, the same does not go for Austria, which the Commission decided to take to the Court of Justice. The Commission also sent a reasoned opinion to Germany with the same objections concerning the six new *Länder*, following which it received notification of the national implementing measures for five of them.

The Commission had to commence Article 171 proceedings against the United Kingdom in the Blackpool case for its failure to comply fully with the Court's judgment of 14 July 1993 (Case C-56/90). Case C-198/97, relating to water quality and frequency of sampling in Germany, is still in motion.

In Case C-92/96 *Commission v Spain* the Court of Justice gave judgment on 12 February 1998 holding that Spain had failed to fulfil its obligations to take the necessary measures to bring the quality of inland bathing waters into line with the limit values set by Article 3 of Council Directive 76/160/EEC of 8 December 1976. This was the first case in which a Member State was prosecuted for complete failure to bring its bathing water in line with the quality requirements of the Directive.

The Commission also brought action against Belgium for inadequate monitoring and for several of its bathing areas not satisfying the requirements (Case C-307/98).

The Commission sent reasoned opinions to France and the Netherlands concerning water quality and the frequency of sampling and decided to address one to Portugal. Infringement proceedings concerning the application of the Directive are also under way against Italy. And a reasoned opinion is to be sent to Denmark and Finland for failure to take measures relating to the total coliforms parameter, one of the mandatory provisions of the Directive.

The Commission has received a large number of complaints about the grant of the “blue flag” in relation to the quality of bathing waters. This a valuable consumer-information initiative but it is not a Community measure and is not provided for by Directive 76/160/EEC; the Commission is accordingly unable to act on these complaints.

Proceedings have been started against most Member States over their implementation of Directive 76/464/EEC on dangerous substances discharged into the aquatic environment and other Directives setting levels for individual substances.

In its judgment of 11 June 1998 in Case C-206/96 the Court of Justice found against Luxembourg for its failure to notify the Commission of programmes aimed at reducing the water pollution by dangerous substances on List II in the Annex to Directive 76/464/EEC and for the inadequacy of the programmes it did report. This was the first Court judgment concerning a Member State’s complete failure in this respect. The Court found that Luxembourg had not adopted pollution reduction programmes for 99 substances on List II. The waters concerned are those affected by pollution as defined in Article 1 of the Directive. Luxembourg has subsequently notified the Commission of a plan designed to bring it in line with Article 7 of the Directive.

On 1 October the Court gave judgment against Italy in Case C-285/96, where, as in the Luxembourg case, it held that there had been a failure to fulfil obligations in respect of 99 substances on List II and confirmed that the Member States concerned by pollution by the substances to which Directive 76/464/EEC applies must prepare specific programmes to reduce such pollution. On 25 November it gave judgment in Case C-214/96, which the Commission had brought against Spain on the same grounds but in relation to all the List II substances as the proceedings were not confined to the 99.

Court of Justice proceedings based on the same objections, that were initiated in 1996 and 1997, are still under way against Germany (Case C-184/97), Belgium (Case C-207/97) and Greece (Case C-384/97). In 1998 the Commission also instigated proceedings against Portugal (Case C-261/98) and the Netherlands (Case C-152/98). There are also proceedings against France. The proceedings against Ireland are still under way, although certain progress is now being made. But the Commission was able to drop the proceedings against Denmark after it adopted and implemented programmes complying with the requirements of Article 7 of Directive 76/464/EEC. The United Kingdom made considerable progress and reported measures for Scotland and Northern Ireland, ⁽⁴³⁾ for which there had been no programmes previously. These developments bear out the Commission’s view that the programmes for reducing water pollution from dangerous substances laid down in Article 7 of Directive 76/464/EEC may play a significant role in improving water quality. The Commission is committed to seeing these programmes implemented in all Member States.

The Court of Justice also found against Portugal in two cases relating to discharges of dangerous substances. In its judgment of 18 June 1998 in Case C-208/97 the Court found

⁽⁴³⁾ The Surface Water (Dangerous Substances)(Classification) Regulations (Northern Ireland) 1998 (SR. 1998 No. 397); The Surface Waters (Dangerous Substances)(Classification) (Scotland) (No.2) Regulations 1998 (SI 1998 No. 1344).

that Portugal had no programmes specifically designed to eliminate discharges of mercury as laid down in Directive 85/156/EEC. In its judgment of 28 May 1998 in Case C-213/97 the Court found that Portugal had incorrectly transposed Directive 86/280/EEC as amended, pursuant to Article 6 of Directive 76/464/EEC laying down limit values and quality targets for certain substances. In both cases the Commission decided to initiate Article 171 proceedings.

The Commission has continued to observe that the inadequacy of the reduction programmes leads to many instances of incorrect application of the Directive, such as pollution of certain watercourses by agricultural or industrial discharges, and that only a comprehensive approach to the problem can solve these case-specific difficulties. Furthermore, there are still problems in certain Member States concerning the lack of systematic authorisation prior to discharge operations. For example, in its judgment of 11 June 1998 in Joined Cases C-232/95 and C-233/95, the Court found that Greece had not implemented pollution reduction programmes for Lake Vegoritis, the Soulos river or the Gulf of Pagasai in relation to the substances in List II of Directive 76/464/EEC. The judgment also stated that since there were no Article 7(1) programmes, no prior authorisation under Article 7(2) could have been given, since such authorisations include emission standards and have to be based on the programme's quality targets.

The Commission decided to commence Article 171 proceedings. The Commission also sent a reasoned opinion to Portugal concerning discharges from an agri-food factory in Santo Tirso and the Portuguese authorities replied by reporting measures which look likely to resolve the problem satisfactorily.

The Court of Justice has also been asked for (but has not yet given) two preliminary rulings by the Dutch Raad Van State (Cases C-231/97 and C-232/97) concerning interpretation of Directive 76/464/EEC, and particularly the definition of the term "discharge" with regard to polluted vapours concentrating directly or indirectly in surface waters and leaching of creosoted wood (creosote is derived from tar and is used as an antiseptic) into surface waters. The second question also relates to the meaning of the term "pollution from significant sources", as it appears in Directive 86/280/EEC on limit values for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC.

Progress was made on Directive 78/659/EEC on freshwaters supporting fish life and Directive 79/923/EEC on shellfish waters. The Article 171 proceedings that had been started against Germany concerning Directive 78/659/EEC following the judgment of 12 December 1996 in Case C-298/95) were dropped after satisfactory measures were taken. Further to the judgment of 9 March 1994 in Case C-291/93 concerning the same Directive, Italy made considerable progress, designating most of the waters concerned and adopting pollution reduction programmes. Infringement proceedings against Italy are still open following the judgment of the Court of 4 December 1997 in Case C-225/96 finding that Italy had failed to set binding or recommended values for certain dangerous substances or to designate all waters qualifying as shellfish waters as required by Directive 79/923/EEC. In 1998 the United Kingdom notified new measures transposing Directives 78/659/EEC and 79/923/EEC.

A number of infringement proceedings have been initiated with regard to implementation of Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances. In its judgment of 18 June 1998 in Case C-183/97 the Court found against Portugal for non-compliance, but, as mentioned above, Portugal then notified the Commission of the decree-law of 1 August 1998, which was intended to transpose the Directive. The Commission also went ahead with proceedings against the United Kingdom for polluting underground waters with substances used in sheep rear-

ing, although the case may be dropped before the legal proceedings start, since the Commission has been notified of several regulations that look likely to resolve the problem. The Commission brought an action against Ireland (Case C-331/98) for its legislation not complying with Directive 80/68/EEC as regards certain aspects of discharges by the health authorities.

The Court has yet to give judgment in Case C-340/96 concerning the British undertakings on Directive 80/778/EEC on the quality of water intended for human consumption, where the undertakings were felt by the Commission to be unsatisfactory both in substance and in form. Proceedings are also under way against Portugal for non-compliance, although it has notified the Commission of a decree-law of 1 August 1998 which is designed to transpose the Directive.

The Commission sent a reasoned opinion to Austria for the manner in which it had opted to transpose the Directive. In contrast, the Commission was able to drop the proceedings that had been started against France following a petition received by the European Parliament concerning the distribution of water in the *département* of Eure (nitrates present in water), since the latest information received showed that the Directive was being complied with as a result of proper action taken by the authorities.

Although the Commission continues to receive many complaints concerning incorrect implementation of this Directive, not all of them result in infringement proceedings as the burden of proof is on the Commission and complainants often have problems obtaining evidence.

As of the year 2003 Directive 80/778/EEC will be superseded by Council Directive 98/83/EC on the quality of water intended for human consumption, ⁽⁴⁴⁾ which was adopted on 3 November 1998.

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

The first, 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 urban waste water collection and treatment systems. Up to now, the Commission's task has been restricted to checking that implementing measures were reported and complied with the Directive. 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 time. Through the Cohesion Fund and regional policy, the Community is also supporting the Member States' efforts to install the necessary facilities.

The Commission was able to drop the Article 171 proceedings against Germany following the judgment of 12 December 1996 in Case V-297/95 and the Article 169 proceedings against Portugal, following adoption of the requisite measures by the two Member States. In contrast, it decided to take Italy to Court a second time (Article 171 proceedings) for not having national legislation transposing the Directive. Proceedings are also continuing against Greece, Belgium and Spain for transposing the Directive incorrectly or not applying it properly.

On 27 February the Commission adopted Directive 98/15/EC amending Directive 91/271/EEC as regards certain provisions of Annex I. ⁽⁴⁵⁾

The second anti-eutrophication measure is Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources. The Commission has continued to attach considerable importance to proceedings initiated to enforce this Directive. Proceedings are under way against most Member States, focusing on

⁽⁴⁴⁾ OJ L 330, 5.12.1998.

⁽⁴⁵⁾ OJ L 67, 7.3.1998, p. 29.

various obligations imposed by the Directive: adoption of implementing measures, designation of vulnerable areas, drawing up of codes of practice for agriculture, drawing up of action programmes, monitoring of the concentration of nitrates in waters and reporting on implementation of the Directive. As different proceedings have been instigated, it has become clear that while things have, generally speaking, been moving in the right direction in certain areas, such as notification of implementing measures and designation of areas, new difficulties have arisen in other areas, such as problems with the drawing up of action programmes and their contents.

For example, in its judgment of 1 October 1998 in Case C-71/97 the Court of Justice found against Spain for failure to draw up codes of practice or designate vulnerable areas. This is the first major judgment concerning the action to be taken on the practical obligations imposed by the Directive. Action is now, however, being taken in Spain to come in line with the Directive.

Another action was brought against Spain (Case C-274/98) for its lack of action programmes. The Court has yet to rule in the proceedings against Italy on similar objections (Case C-195/97). The Commission was able to drop Case C-173/97 against Greece and Case C-227/97 against Portugal, after they reported their national implementing measures and designated the vulnerable areas.

The Commission brought an action against Italy concerning the drawing up of action plans and the sending in of reports. It also sent reasoned opinions to Belgium concerning reporting national implementing measures, the drawing up of codes of practice and the designation of vulnerable areas, to the United Kingdom concerning the designation of areas and drawing up of programmes and Luxembourg concerning the drawing up of codes of practice and programmes and the sending in of reports. The Commission dropped the proceedings against Finland and Portugal concerning the lack of monitoring and action programmes. France, which had been sent a reasoned opinion by the Commission, finally adopted action programmes for all the vulnerable areas in the country.

The Commission also sent reasoned opinions to Portugal and Germany concerning certain transposal measures or the non-compliance of the action programmes implemented, respectively. It decided to take the same action against Greece, too, concerning action programmes.

The Court of Justice has yet to rule on the request for a preliminary ruling by a British court (Case C-293/97) on the definition of "waters affected by pollution". Under Article 3 of Directive 91/676/EEC, areas draining into water known to be affected by pollution must be designated as vulnerable zones. The Advocate-General presented his submissions on 8 October.

The Commission also started infringement proceedings against several Member States concerning Directive 91/692/EEC on the standardisation and rationalisation of reports in the water sector. Certain Member States had failed to send in the reports they were obliged to draw up on the implementation of certain directives or had sent them in late or incomplete. As a result the Commission has not been able to draw up properly the Community reports it is required to produce. In this light, the Commission sent a reasoned opinion to Ireland and decided to take the same action against Luxembourg, Belgium, Portugal and Italy.

Lastly, it should be pointed out that Community legislation on water is currently being revised to reflect the changes which have taken place in the twenty years since the policy was first formulated. This involves introducing stricter standards and introducing the concept of river basin management. The framework Directive proposed by the Commission in February 1997 on harmonising water quality parameters and protecting all types of water is in the process of being adopted. Once adopted and implemented, the Direc-

tive will replace a number of existing Directives on groundwater (Directive 80/68/EEC) and surface water to be used for drinking water (Directive 75/440/EEC) or for fish (Directive 78/659/EEC) or shellfish (Directive 79/923/EEC). The regulations set out in Directive 76/464/EEC (discharges into water) and related implementing Directives should also come within the scope of the framework Directive.

Directive 76/160/EEC on bathing water is still in the process of being revised; an amended proposal was adopted by the Commission in November 1997. Lastly, Directive 96/61/EC concerning integrated pollution prevention and control (IPPC) contains rules on water pollution.

2.12.5. *Nature*

There are two major Community Directives aimed at protecting nature: Directive 79/409/EEC on the conservation of wild birds and Directive 92/43/EEC making increased demands on Member States with regard to the conservation of natural habitats and of wild fauna and flora.

The transposal of Directive 79/409/EEC is moving ahead, but there have also been some less encouraging developments. Some progress has been made, particularly with regard to systems of protection for wild species (Article 5) and the conditions for derogating from the obligation to protect birds (Article 9). As a consequence the Commission was able to drop Article 171 proceedings against Belgium (transposal of Articles 5 and 9) following the adoption in December 1997 of a Decree by the Flemish Region. Similarly, Spain adopted the Act of 5 November 1997 which sets out derogation possibilities in line with Article 9, and Finland adopted a decree on hunting on 27 November 1998 aimed at bringing national legislation into line with Directive 79/409/EEC.

However, other implementation problems remain unresolved. Article 171 proceedings against France (transposal of Article 5 in relation to several species of birds) have been referred to the Court for a second time (Case C-373/98) for failure, seventeen years after the Directive entered into force and ten years after the ruling, to implement the Directive properly and in full. When referring the case to the Court the Commission also proposed that France should be required to pay a daily fine of ECU 105 000 from the date of the second judgment. In several Member States provision is not always made for certain activities (such as hunting, regulation of species and trade) in line with Article 9. The Commission has therefore decided to refer cases involving France and Italy to the Court of Justice for failure to transpose Article 9, and Belgium, as regards Article 6.

The Commission has also decided to refer the matter of the opening and closing dates of the hunting season for migratory birds in France to the Court for non-compliance with Article 7(4); it had received numerous complaints on the subject, and Parliament had received numerous petitions, some supporting and some opposing the French system of open and closed seasons to which the Commission took objection.

Although the deadline for transposal of Directive 92/43/EEC expired in June 1994, a number of Member States had not notified the Commission of all, or in some cases, any of the measures required to implement the Directive. The main provisions to be transposed concern Article 6 on the protection of habitats in the special conservation sites which are to be set and Articles 12 to 16 on protection of species.

Following the Court's judgment finding against Greece for failure to notify implementing measures, ⁽⁴⁶⁾ the Commission has pursued the implementation of the ruling on the basis

⁽⁴⁶⁾ Judgment of 26 June 1997, Case C-329/96.

of Article 171 of the Treaty, sending a reasoned opinion to the Greek authorities. The Commission has also referred a case involving France to the Court for failure to transpose Article 6 of the Directive ⁽⁴⁷⁾ and has decided to do the same with regard to Finland's problems with the Åland islands, if the recently adopted legislation does not transpose the Directive in full. Since then Finland has, however, notified legislation transposing the Directive in the Province.

The proceedings which resulted in a judgment against Germany were terminated following the adoption of legislation in 1998. ⁽⁴⁸⁾ Spain also issued a royal decree in June 1998 to ensure that its legislation was in line with Article 16 of the Directive on conditions for derogating from the obligation to protect species, while Finland issued the abovementioned decree on hunting on 27 November 1998, avowedly to bring Finnish legislation into line with Directives 92/43/EEC and 79/409/EEC.

As in the past, the main problems with the implementation of Directives 79/409/EEC and 92/43/EEC relate to the protection of sites and habitats, either in connection with the designation of special conservation sites for birds or their selection for inclusion in the Natura 2000 network and the protection of sites of natural interest.

Problems still arise in several Member States with Article 4 of Directive 79/409/EEC, which requires that sites shall be designated special protection areas (SPAs) for wild birds wherever the objective ornithological criteria are met. Though the special protection areas for wild birds are set to join the Natura 2000 network, the obligation imposed by Article 4 of Directive 79/409/EEC is legally quite distinct from the obligation under Directive 92/43/EEC concerning the step-by-step creation of the Natura 2000 network linking all sites of Community importance containing any of the species or habitats referred to by Directive 92/43/EEC.

The sites concerned provide a habitat for the species referred to in Annex 1 of the Directive and migratory species. Particular importance is attached to the protection of wetlands, especially those of international significance. There is no question as to the meaning of Article 4, as interpreted by the Court of Justice in its judgment of 11 July 1996 (Case C-44/95) concerning the Lappel Bank site in the Medway estuary near the port of Sheerness in Kent (United Kingdom): special protection areas must be selected and their borders drawn on the basis of ornithological and ecological criteria only; economic and social criteria may not be taken into consideration.

The Commission is therefore pressing ahead with infringement proceedings in certain key cases. Following the Court judgment on the Santoña marshes in Spain, it is continuing with Article 171 proceedings with a view to obtaining full implementation of the ruling. The proceedings against France in connection with the Seine estuary (Case C-166/97) are continuing (the Advocate-General presented his submissions on 10 December) and the Commission has also referred to the Court the cases of the Marais Poitevin (Case C-096/98) and the Basses Corbières/Vingrau (Case C-374/98). Proceedings are continuing against France in connection with the Baie de Canche and the Platier d'Oye, the Plaine des Maures and the Basse Vallée de l'Aude. The Commission has brought an action against the Netherlands in connection with the Waddenzee area (Case C-63/98), but has dropped proceedings against Spain concerning the Fuerteventura island in the Canary islands.

Although areas should have been designated when the Directive entered into force in 1981, existing sites in a number of Member States are still too few in number or cover too small an area.

⁽⁴⁷⁾ Case C-256/98.

⁽⁴⁸⁾ Judgment of 11 December 1997, Case C-83/97.

On 19 May the Court of Justice delivered a significant judgment against the Netherlands in an infringement case (Case C-3/96). The Court confirmed, as it did on 2 August 1993 in *Commission v Spain* (Case C-355/90), that 'while the Member States have a certain margin of discretion in the choice of SPAs, the classification of those areas is nevertheless subject to certain ornithological criteria determined by the Directive. It follows that the Member States' margin of discretion in choosing the most suitable territories for classification as SPAs does not concern the appropriateness of classifying as SPAs the territories which appear the most suitable according to ornithological criteria, but only the application of those criteria for identifying the most suitable territories for conservation of the species listed in Annex I to the Directive. Consequently, Member States are obliged to classify as SPAs all the sites which, applying ornithological criteria, appear to be the most suitable for conservation of the species in question. Thus where it appears that a Member State has classified as SPAs sites the number and total area of which are manifestly less than the number and total area of the sites considered to be the most suitable for conservation of the species in question, it will be possible to find that that Member State has failed to fulfil its obligation under Article 4(1) of the Directive. The Court accordingly dismisses the Netherlands Government's argument that the Commission must establish, territory by territory, specific infringements of that provision.'

The Court went on to acknowledge the relevance of the Inventory of Important Bird Areas in the European Community prepared for the competent Directorate-General of the Commission by the Eurogroup for the Conservation of Birds and Habitats in conjunction with the International Council of Bird Preservation and in cooperation with Commission experts. That inventory, although not legally binding on the Member States concerned, could, by reason of its acknowledged scientific value in the present case, be used by the Court as a basis of reference for assessing the extent to which the Kingdom of the Netherlands had complied with its obligation to classify SPAs. In the circumstances, IBA 89 had proved to be the only document containing scientific evidence making it possible to assess whether the defendant State had fulfilled its obligation to classify as SPAs the most suitable territories in number and area for conservation of the protected species. The situation would have been different if the Kingdom of the Netherlands had produced scientific evidence in particular to show that the obligation in question could be fulfilled by classifying as SPAs territories whose number and total area were less than those resulting from IBA 89.

The Commission is continuing Article 171 proceedings to obtain implementation of the judgments against the Netherlands.

It continued proceedings against other Member States, sending reasoned opinions to Finland, Germany, Italy and Portugal. Proceedings have been started against other Member States, but the Commission has deferred its decision to bring an action against Luxembourg at the Court of Justice, after Luxembourg designated several SPAs in October 1998.

Significant progress has been made as regards the setting up of the Natura 2000 network, the Community's network linking up all sites set up under Directive 92/43/EEC, demonstrating growing appreciation of the innovative approach of the Directive, which involves gradually building up the network, extensive discussions between the Commission and the Member States and a legal set-up for special conservation sites which paves the way for management plans (possibly even contractually binding ones), and makes allowance for exemptions from the ban on deterioration and disturbance where this conflicts with overriding public interests.

Member States continued to propose conservation sites within the meaning of Directive 92/43/EEC, which is to be welcomed, even if none of them had provided the Commission with a full list of proposed sites by the June 1995 deadline laid down by the Direc-

tive. The Commission dropped proceedings against Greece and Portugal for complete or partial failure to produce a list. Austria, Denmark, Italy, Luxembourg, the Netherlands, Spain and Sweden all sent in comprehensive lists of sites currently being studied, and the Commission was accordingly able to suspend infringement proceedings in these cases at the end of 1998. At the end of the year France, Germany and Ireland were still lagging behind and the Commission has decided to bring actions against them.

A court in the United Kingdom has asked for a preliminary ruling under Article 177 of the EC Treaty regarding the scope of the obligation to select sites to constitute the Natura 2000 work (Case C-371/98).

In many cases, the details given on sites and the species they support are neither complete nor appropriate. This makes it difficult to proceed to the subsequent stages of the plan laid down in Directive 92/43/EEC, but the Commission is pressing ahead and is trying to ensure that the delays do not jeopardise the setting up of the Natura 2000 network.

The Commission has 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. Furthermore, it scrutinises requests for cofinancing from the Structural Funds (particularly objectives 2 and 5b) very thoroughly for compliance with environmental regulations.

The Commission is still receiving a large number of complaints concerning unsatisfactory implementation as a result of specific local problems, underlining the practical difficulties which sometimes arise where there is a potential for conflict between the need to protect sites and social and economic considerations. Another explanation is that Directives 79/409/EEC and 92/43/EEC are two of the best-known pieces of Community environment legislation and the practical ways in which they help protect nature are widely acknowledged. Consequently, the number of complaint concerning implementation of the Directives must be seen both as a measure of their success and an indicator of the work still to be done by the Member States.

The two main problems are the failure to designate areas fulfilling the objective ornithological criteria as special protection areas and projects affecting sites. In the first case, the Commission continues to investigate individual complaints carefully, though it tends to deal with them through the general proceedings referred to above concerning the general lack of special protection sites. In most cases, the problems complained of are settled while the matter is still being investigated, before Article 169 letters are sent. However, proceedings were started against several Member States in 1998, including a reasoned opinion which was sent to Belgium concerning an SPA in Flanders (the Zwarte Beek valley).

Regarding projects with a potential effect on sites which have been or are likely to be designated as special protection sites, Article 6 of Directive 92/43/EEC prohibits significant deterioration or disturbance except under certain conditions. First a proper impact assessment must be carried out and alternative sites must be sought for the project. If there are no alternatives, the project may be carried out, but only then if there are imperative reasons of overriding public interest, including economic reasons, compensation is provided and the Commission is notified. Many complaints concern the fact that these conditions have not been met.

Problems with the implementation of Directive 92/43/EEC may also arise with regard to the protection of species rather than sites. For example, the Commission has started infringement proceedings against Greece for threats to the loggerhead turtle (*Caretta caretta*) on the island of Zakynthos.

In response to infringement proceedings commenced by the Commission, Greece notified Act 2637 of 27 August 1998 properly implementing Regulation (EEC) No 338/97 on

the implementation in the Community of the 1973 Washington Convention on international trade in endangered species of wild fauna and flora (the Cites convention).

The Commission terminated proceedings against France concerning the implementation on Regulation (EEC) No 3254/91 on leghold traps following the adoption of a decree on 28 November 1997 eliminating all incompatibility with the Regulation.

2.12.6. *Noise*

As in the past, implementation of Directives on noise poses few problems. The Directives in question set standards for new products. They do not apply to ambient noise from multiple sources (for example, noise in cities caused by traffic jams or industrial activity near residential areas). However, the complaints received by the Commission in fact relate to ambient noise but since there is no specific Community legislation to give effect to an overall policy regarding health and the quality of life, they cannot be addressed at Community level.

Infringement proceedings in respect of old and noisy aeroplanes using Brussels (Zaventem) and Ostend airports in contravention of Directive 92/14/EEC on the limitation of the operation of certain categories of aeroplanes remain open, but the authorities have taken measures and some of the aeroplanes concerned seem likely to be exempted under the provisions of Directive 92/14/EEC, as amended by Directive 98/20/EC.

The Court of Justice gave a preliminary ruling on 14 July 1998 in Case C-389/96 *Aher-Waggon GmbH v Germany* at the request of the German Federal Administrative Court concerning German regulations banning the registration of aircraft which exceeded certain noise limits but which were already registered in other Member States, while allowing the continued use of craft registered in Germany before the Regulation came into force. The Court held that 'Article 30 of the EC Treaty does not preclude national legislation which makes the first registration in national territory of aircraft previously registered in another Member State conditional upon compliance with stricter noise standards than those laid down by Council Directive 80/51/EEC ... on the limitation of noise emissions from subsonic aircraft, as amended ..., while exempting from those standards aircraft which obtained registration in national territory before that directive was implemented.'

On 15 October 1998 the Court of Justice found against Italy (Case C-324/97) and Belgium (Case C-326/97) for delays in notifying the Commission of implementing measures for Directive 95/27/EC amending Directive 86/662/EEC on the limitation of noise emitted by hydraulic excavators, rope-operated excavators, dozers, loaders and excavator-loaders. Italy notified its implementing measures (Decree Act of 26 June) and proceedings were duly dropped, while proceedings against Belgium continue.

2.12.7. *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 both to the scientific and industrial spheres and deal with specific environmental risks. It is particularly important in this field to exercise precaution as a matter of principle. However, Member States wish Directives to remain the principal instrument used in this sphere, with the consequence that they are very often required to adopt implementing measures. These measures must also be in conformity with the Directives, but they are not always. In such circumstances the Commission must commence infringement pro-

ceedings to ensure that there is no ban on the marketing of substances that have been authorised by Community directives, nor any marketing of banned substances.

One of the features of Directive 67/548/EEC on the classification, packaging and labelling of dangerous substances is the frequency with which it has to be amended, in line with scientific and technical developments. Several directives amending Directive 67/548/EEC fell due for transposal in 1998:

- Commission Directive 96/54/EEC of 30 July 1998 adapting to technical progress for the twenty-second time Council Directive 67/548/EEC;
- Directive 96/56/EC of the European Parliament and the Council of 3 September 1996 amending Directive 67/548/EEC; ⁽⁴⁹⁾
- Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress for the 23rd time Council Directive 67/548/EEC. ⁽⁵⁰⁾

The Commission adopted Directive 98/73/CE on 18 September 1998 ⁽⁵¹⁾ and Directive 98/98/CE on 15 December 1998, ⁽⁵²⁾ making the 24th and 25th adaptations to technical progress of Directive 67/548/CEE.

With this rapid change in Community texts, delays in transposal are all too frequent. In this case the Commission automatically commences proceedings and has no hesitation in referring cases to the Court of Justice wherever necessary.

Belgium adopted a royal decree on 13 November 1997 (published on 26 March 1998), thereby regularising its position with regard to several infringement proceedings commenced by the Commission concerning the transposal of Directives 92/32/EEC, 92/69/EEC, 93/67/EEC, 93/105/EC, 93/21/EEC, 91/410/EEC, 93/90/EEC, 93/72/EC and 93/101/EC. The Court delivered judgements on these cases on 12 December 1996 and 29 May and 11 December 1997. Failure to transpose Directive 94/69/EC led the Commission to refer Belgium to the Court of Justice (Case C-79/98) and to decide to do likewise for Portugal. The proceedings started against Ireland, however, regarding transposal of Directive 97/69/EEC, were dropped following notification of regulations.

Directive 96/56/EC provides for the abbreviation “EEC” to be replaced by “EC”, for the purpose of labelling dangerous substances, by 1 June 1998. The Commission decided to send reasoned opinions to Belgium, Germany, Portugal and Greece as none of them had transposed it.

Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market ⁽⁵³⁾ will shortly be due for transposal.

As regards Directive 86/609/EEC (protection of animals used for experimental and other scientific purposes), the Court of Justice gave judgment in Case C-268/97 on 15 October 1998; this was a Commission action against Belgium recognising its failure to transpose Articles 14 (training of laboratory staff) and 22 (mutual recognition). Case C-299/97 against Portugal concerning inspections in establishments where animals are used is continuing. The Commission also decided to bring a Court action against Luxembourg, to send a supplementary reasoned opinion to Ireland and a reasoned opinion to France for incorrect implementation. Following the commencement of infringement proceedings,

⁽⁴⁹⁾ OJ L 236, 18.9.1996, p. 35.

⁽⁵⁰⁾ OJ L 343, 13.12.1997, p. 19.

⁽⁵¹⁾ OJ L 305, 16.11.1998 p.1.

⁽⁵²⁾ OJ L 355, 30.12.1998 p.1.

⁽⁵³⁾ OJ L 123, 24.04.1998 p.1.

Sweden finally notified the Commission of its implementing measures, which consisted of an Act amending the Act on the protection of animals and a regulation amending the animals protection regulation, together with guidelines on the treatment of animals used for experimental purposes. Proceedings against the United Kingdom were terminated in August, when the law on scientific procedures involving animals was amended.

The Commission still receives complaints concerning the application of the Directive, particularly as regards the use of stray dogs for experimental purposes and the welfare and accommodation afforded to animals used for experiments, and strives to ensure that the Directive is properly observed.

The Directives on genetically modified organisms (GMOs) - 90/219/EEC (contained use) and 90/220/EEC (release) - were adapted to technical progress in 1994 by Directives 94/51/EC and 94/15/EC respectively. More recently Annex III to Directive 90/220/EEC has been amended by Directive 97/35/EC.

Directive 90/219/EEC was amended by Council Directive 98/81/EC of 26 October 1998 (contained use of genetically-modified micro-organisms), ⁽⁵⁴⁾ which must be transposed by 5 June 2000. It focuses primarily on adapting administrative procedures to the real risks arising from activities involving GMOs, which will now be classified in four rather than two risk categories. The Directive defines minimum containment and control measures for each group and simplifies the procedure for adapting the Directive to technical progress.

The proposal for an amendment to Directive 90/220/EEC adopted by the Commission at the end of 1997 ⁽⁵⁵⁾ seeks to introduce a more transparent approval procedure for the marketing of GMOs, to establish a system for the labelling of products using such organisms, to set out common principles for risk assessment and to adapt administrative procedures to the risks involved, including indirect ones.

In a judgment given on 29 May 1997 (Case C-357/96), the Court found that Belgium had failed to fulfil its obligations by not notifying measures implementing Directive 94/15/EC. As the Belgian authorities have still not taken appropriate remedial action, the Commission is pursuing infringement Article 171 proceedings and has sent Belgium a reasoned opinion. On 16 July the Court also found that Belgium had failed to transpose Directives 90/219/EEC, 90/220/EEC and 94/51/EEC (Case C-343/97), and in this case too the Commission is continuing Article 171 proceedings. The Commission has also decided to bring an action against Belgium before the Court for failure to transpose Directive 97/35/EC.

In a further judgment on 16 July 1998 (Case C-339/97), the Court found that Luxembourg had failed to fulfil its obligations by not notifying measures implementing Directives 94/15/EC and 94/51/EC. While Luxembourg has notified measures concerning Directive 94/15/EC, ⁽⁵⁶⁾ it has failed to do so with regard to the other Directive, and consequently the Commission is pursuing Article 171 proceedings in this respect.

Again on 16 July 1998 (Case C-285/97), the Court found that Portugal had failed to fulfil its obligations by not notifying measures implementing Directive 94/51/EC. On 7 May 1998 a decree-law was adopted ensuring the transposal of the Directive and therefore the Commission terminated the proceedings. Even so, the Commission decided to bring an action before the Court on the grounds that several aspects of Portuguese law are incompatible with Directives 90/219/EEC and 90/220/EEC.

⁽⁵⁴⁾ OJ L 330, 5.12.1998, p. 13.

⁽⁵⁵⁾ OJ C 139, 04.05.1998 p. 0001

⁽⁵⁶⁾ Grand Ducal Regulation of 17 April 1998 determining the information to be given in applications for authorisation of projects involving the voluntary release or the marketing of GMOs (Mémorial A, 28.4.1998, p. 458).

The Commission also dropped legal proceedings against Germany for incorrect transposal of Articles 14 (emergency plans), 15 (information supplied to the authorities by users in the event of accidents) and 16 (consultation between the Commission and the Member States on emergency plans in the event of accidents) of Directive 90/219/EEC, as Germany notified the Commission of legislation transposing the Directive. ⁽⁵⁷⁾

The Commission also decided to refer Greece to the Court of Justice for failure to transpose Directive 97/35/EC.

2.12.8. *Waste*

Infringement proceedings in relation to waste continue to abound; they concern both formal transposal and practical application. The most likely explanations for the difficulties in enforcing Community law in these matters are the need for changes in the conduct both of private individuals and of public services and business firms and the resultant costs. But the Commission is highly attentive to compliance with Community legislation relating to waste.

Regarding the framework directive on waste – Directive 75/442/EEC, as amended by Directive 91/156/EEC – the Commission was able to terminate the Article 171 proceedings against Spain and France following the two judgments given against them on 5 June 1997 (Cases C-107/96 and C-223/96). Spain notified the Commission of an Act passed on 21 April 1998 and France notified it of a Decree issued on 30 July and two Orders issued on 12 August and 9 September. Italy also notified a series of instruments (Decree-Act dated 8 November 1997 and implementing Decrees dated 5 February and 1 April 1998, but transposal is still neither complete nor fully in order.

Most of the difficulties concern application. This is at the root of the large number of complaints primarily concerned with dumping of waste (uncontrolled dumps, controversial siting of planned controlled tips, mismanagement of lawful tips, water pollution caused by directly discharged waste) The Directive requires that prior authorisation be obtained for waste-disposal or reprocessing sites; in the case of waste-disposal, the authorisation must impose conditions to contain the environmental impact. However, the Commission's scope for action on waste disposal is particularly limited as there are as yet no detailed Community rules specifically addressing the issue. But the Community legislation is evolving: the proposal for a Council Directive on the landfill of waste ⁽⁵⁸⁾ has reached the common position stage. ⁽⁵⁹⁾

That said, the Commission uses individual cases to seek more general problems, such as the absence or inadequacy of waste management plans: an illegal dump may be evidence of an unsatisfied need for waste management. This was the spirit behind the Commission's second referral of a Greek case to the Court of Justice under Article 171 (C-389/98) for failure to give effect to the Court's judgment in Case C-45/92 (17 April 1992) concerning a specific case of an environmentally unsound waste disposal situation in Kouroupitos in Crete and the lack of any waste-management plan to deal with it. In another case, however, the Commission decided to take Italy to the Court of Justice over an illegal tip in the San Rocco valley (Case C-365/97), and that case is still proceeding.

Given that planning is such an important part of waste management – a point illustrated by the examples above – the Commission decided in October 1997 to start infringement

⁽⁵⁷⁾ Gentechnik-Notfallverordnung, published on 16.12.1998.

⁽⁵⁸⁾ OJ C 156, 24.5.1997 p.10.

⁽⁵⁹⁾ OJ C 333, 30.10.1998, p.15.

proceedings against all Member States except Austria, the only one to have established a planning system for waste management. The focus of the procedures varies – from the lack of plans required under Article 7 of the framework Directive, to plans for management of dangerous waste, provided for by Article 6 of Directive 91/679/EEC, to packaging waste, for which special planning is required under Article 14 of Directive 94/62/EC. The Commission decided to commence proceedings in the Court against Ireland (three categories of plans) and Belgium (waste packaging materials). A reasoned opinion was sent to France, Greece, Italy, Luxembourg, the Netherlands and Spain, and the Commission further decided to send a reasoned opinion to Germany, Sweden and the United Kingdom. Furthermore, the Commission is continuing with Article 171 proceedings against Germany for failing to implement in full the Court's judgment of 10 May 1995 (Case C-422/92) regarding the lack of management plans for dangerous waste in a number of *Länder*, though it was notified of plans at the end of the year.

Under Community law, management plans must cover all waste falling within the scope of the Directive, must deal with the type, quantity and origin of the waste to be re-processed or disposed of, and must contain general technical rules as well as special provisions on particular types of waste and specify what sites and what plant are suitable for waste disposal. Management plans must aim to limit production, reduce the amount of waste, switch to recycling, minimise the environmental risks involved in disposal and create an integrated network of waste-disposal plants with sufficient capacity. It is clear from these ambitious objectives that the Member States need to formulate plans covering their whole territory and to update them regularly.

Directive 75/442/EEC is supplemented by Directive 97/689/EEC on dangerous waste. The United Kingdom, the last Member State to notify transposal measures covering the entire national territory, having received a reasoned opinion from the Commission in 1998, notified measures for Northern Ireland on 14 August, and the proceedings were terminated. Some of the Member States, however, have not supplied with certain information it needs on facilities for disposal and processing of dangerous waste, and it has sent a reasoned opinion to Belgium, Greece, Italy and Portugal.

There has been significant progress in the implementation of the Directives on batteries and accumulators containing certain dangerous substances (91/157/EEC and 93/86/EEC). The delays in the adoption of transposal measures by France, Germany and Italy, for which those Member States had had judgments given against them by the Court of Justice, were made up. The Commission withdrew its action against Italy in Case C-286/96 concerning Directive 93/86/EC, as, following the judgment given in Case C-303/95 holding that it had failed to transpose Directive 91/157/EEC and new Article 171 proceedings commenced by the Commission for failure to give effect to that judgment, Italy remedied the situation by issuing a decree implementing the two Directives on 20 November 1997. France also remedied its situation in response to Article 171 proceedings for failure to give effect to the judgment given on 29 May 1997 in Joined Cases C-282/96 and C-283/96 (failure to transpose Directives 91/157/EEC and 93/86/EEC): a decree transposing them both was issued on 30 December 1997. On 13 November 1997 Germany had a judgment given against it (Case C-236/96) for failure to transpose the two Directives, but later notified the Commission of implementing measures. ⁽⁶⁰⁾

Secondly, the Commission has pursued infringement proceedings against Member States which have not yet set up programmes under Article 6 of Directive 91/157/EEC. The Court of Justice gave its first judgment in this matter on 28 May (Case C-298/97, against Spain). The programmes include reductions in the heavy-metal content of batteries and

⁽⁶⁰⁾ Batterieverordnung, published on 2.4.1998.

accumulators and promotion of the marketing of batteries and accumulators containing lesser quantities of dangerous substances, the reduction of the quantities of batteries in household waste, promotion of research and separation for disposal purposes. Spain argued that these objectives had been attained through various measures such as infrastructure investments to provide collection facilities for batteries and accumulators. But there was no full programme for the implementation of the Directive's specific objectives. The, and the Court held that that Spain was accordingly acting in default. The Commission has since commenced Article 171 proceedings.

The Court of Justice is still considering Case C-347/97 *Commission v Belgium* on the same grounds. The Commission had also brought comparable proceedings against France (Case C-178/98) and Greece (C-215/98). But the proceedings against Italy were terminated after measures were taken. A reasoned opinion was sent to Portugal.

Commission Directive 98/101/EC of 22 December 1998 adapting to technical progress Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances ⁽⁶¹⁾ will shortly be due for transposal.

The Commission commenced infringement proceedings for failure to transpose Directive 94/62/EC on packaging and packaging waste, scheduled for 30 June 1996. It decided to take Belgium, Finland, Greece, Ireland and Luxembourg to Court, though three of these Member States then remedied their situation: Finland notified instruments for the Province of Åland, Ireland notified regulations issued on 8 October 1998 and Luxembourg notified Grand-Ducal regulations adopted on 31 October. The Commission also sent reasoned opinions to the United Kingdom and Portugal. France notified a decree issued on 20 July 1998, transposing several provisions of the directive, but the infringement proceedings are still running. Germany notified an amended version of its packaging regulations (28 August 1998), which continue to promote the re-use of packaging materials. The Commission then sent Germany a supplementary reasoned opinion, raising a number of issues concerning re-use.

But even if Directive 94/62/EC is formally transposed, it must still be applied properly. This would not seem to be the case in Denmark, which has received a reasoned opinion from the Commission as metal cans for drinks and other types of non-reusable packaging are banned there.

Directive 94/62/EC contains an innovatory Article regarding the transposal of Directives. Under Article 16 draft implementing measures must be sent to the Commission and the Member States for scrutiny prior to adoption, in accordance with the procedure laid down by Directive 83/189/EEC. ⁽⁶²⁾ The procedure includes a three-month waiting period; only once this has expired can the Member State adopt the draft measure. This gives the Commission and the other Member States time to examine whether the draft is compatible with Community regulations on the free movement of goods and with the Directive itself, and to warn the Member State wishing to adopt it of any potential problems. By bringing together the Commission and the Member States to discuss transposition, Article 16 helps prevent problems with the measure itself and subsequently the way in which it is applied. This provision applies not only to actual transposal measures but also to instruments amending existing transposal measures.

The Commission is pursuing its proceedings against Germany and France for preventing the transportation of certain types of waste in contravention of Regulation (EEC) No

⁽⁶¹⁾ OJ L 1, 5.1.1999, p. 1.

⁽⁶²⁾ Now replaced by Directive 98/34/CE of the European Parliament and the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations, OJ L 204, 21.07.1998, p.37.

259/93 on the supervision and control of shipments of waste within, into and out of the European Community. This Regulation often causes problems in cases where the nature of the waste is at issue, as the rules to be applied differ according to the degree of toxicity of the waste. Similarly, determining the type of processing the waste will undergo once it has been shipped is also a problem: the procedures, and indeed the authorities' power to prohibit shipment, differ according to whether the waste is to be disposed of or recycled.

On 25 June the Court of Justice gave two preliminary rulings on the interpretation of Regulation 259/93, requested by the Dutch Raad van State.

One of them concerned various points of interpretation of Regulation (EEC) No 259/93 on shipments of waste in the context of a case concerning imports of waste from Germany into the Netherlands without notification of the Dutch authorities (Case C192/96 *Beside BV and I. M. Besselsen*). It held that 'the expression "municipal/household waste" in ... the amber list in Annex III to Regulation (EEC) No 259/93 ... includes both waste which for the most part consists of waste mentioned on the green list in Annex II to the Regulation, mixed with other categories of waste appearing on that list, and waste mentioned on the green list mixed with a small quantity of materials not referred to on that list.' It also held that '[t]he reference to the storage of materials in ... Annex II B to Council Directive ... 75/442/EEC, as amended ..., must be interpreted as covering not only cases in which storage takes place in the undertaking in which the other operations mentioned in that annex must be carried out but also cases in which storage precedes transport to such an undertaking, regardless of whether the latter is established inside or outside the Community.' Thirdly, it held that 'The information listed in Article 11(1) of Regulation No 259/93 constitutes the minimum evidence which the competent authority may, in the absence of notification, require in order to establish that "green waste" is intended for recovery.' And lastly, it held that 'Regulation No 259/93 must be interpreted as meaning that the Member State of destination may not unilaterally return waste to the Member State of dispatch without prior notification to the latter; the Member State of dispatch may not oppose its return where the Member State of destination produces a duly motivated request to that effect.' Thus the responsibility of each Member State for waste generated in its territory is clearly affirmed.

In Case C-203/96 *Chemische Afvalstoffen Dusseldorp BV and Others v Minister van Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer*, the Court of Justice gave judgment on 25 June 1998, holding that 'Directive 75/442/EEC ... as amended ... and Regulation (EEC) No 259/93 ... cannot be interpreted as meaning that the principles of self-sufficiency and proximity are applicable to shipments of waste for recovery. Article 130t of the EC Treaty does not permit Member States to extend the application of those principles to such waste when it is clear that they create a barrier to exports which is not justified either by an imperative measure relating to protection of the environment or by one of derogations provided for by Article 36 of that Treaty.' This confirms that waste for recovery (recycling, composting, incineration and energy-generation) qualifies for greater freedom of movement than waste for disposal (incineration without energy-generation, landfill) and that the Member States cannot submit the two categories to a single, more restrictive set of rules.

Commission Regulation (EC) No 2408/98 amending Annex V to Council Regulation (EEC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community was adopted on 6 November 1998. ⁽⁶³⁾

Other more specific directives are worth mentioning by reason of the infringement proceedings to which they give or have given rise.

⁽⁶³⁾ OJ L 298, 7.11.1998, p. 19.

For instance, France notified a Decree of 8 January and two Orders of 2 February 1998 implementing Directive 86/278/EEC on the protection of the soil when sewage sludge is used in agriculture.

Regarding the first Community directive concerning waste, Directive 75/439/EEC on the disposal of waste oils, the Commission decided to refer to the Court the proceedings against Portugal as its legislation transposing the Directive was not in order; the legislation failed to require waste-oil regeneration facilities to use the best available technology where that did not entail excessive costs, did not prohibit the use for fuel purposes of waste oils with a PCB content exceeding 50 ppm for equipment used before the Directive entered into force and contained no provisions on periodic inspection of facilities. Case C-102/97 against Germany is still in motion. It concerns problems of incorrect application of the Directive in relation to the regeneration treatment of waste oil.

Lastly, with regard to the disposal of PCB and PCT, two particularly dangerous products, Directive 96/59/EC, which supersedes Directive 76/403/EEC, was to be transposed by the Member States by 16 March 1998. The Commission addressed reasoned opinions to Denmark, Germany, Greece, Italy, Portugal, Spain and the United Kingdom for failure to notify it of transposal measures.

2.12.9. Environment and industry

In an area related to dangerous substances, Directive 82/501/EEC – the “Seveso” Directive – concerns the prevention of major industrial accidents. The Commission has terminated the action brought in the Court of Justice against Germany (Case C-192/97) because its legislation transposing the Directive was too restrictive with regard to the plants and substances covered. On 20 April 1998 Germany adopted a Regulation rectifying the situation. Another case is pending before the Court against Italy (Case C-336/97) for failure to apply the Directive correctly in respect of emergency plans, inspections and control measures.

It is worth noting that, with effect from 3 February 1999, Directive 82/501/EEC will be replaced by Directive 96/82/EC, which must be transposed by 3 February 1999. The new Directive aims to extend the scope of its predecessor to cover more establishments which are a potential source of hazardous accidents and to develop the exchange of information between Member States.

The Commission referred a case against Portugal to the Court in relation to Directive 84/360/EEC (air pollution from industrial plants), as its authorisation system does not cover all the types of plant to which the Directive applies.

The proceedings against Belgium for non-conformity of measures implementing Directive 87/217/EEC (prevention and reduction of environmental pollution by asbestos) continued with a reasoned opinion addressed in 1998.

There are still certain problems with regard to the two Directives on the prevention of air pollution from municipal waste incineration plants - 89/369/EEC (new plants) and 89/429/EEC (existing plants). The Commission terminated Article 171 infringement proceedings against Italy following the Court's judgment of 26 June 1996 (Case C-237/95) censuring the Italian authorities for failing to notify measures implementing the two Directives. Proceedings have also been commenced against Belgium, as its legislation transposing the two Directives – an Decree of the Brussels Region of 28 May 1998 and a Decree of the Flemish Region of 24 March 1998 – was found not to comply with requirements. A reasoned opinion was addressed to Spain for permitting the Canary Islands to operate incinerators not complying with Directive 89/369/EEC.

Directive 94/67/EC on the incineration of hazardous waste fell due for transposal on 31 December 1996. Infringement proceedings against Denmark, Finland, Ireland, the

Netherlands, Portugal and Sweden were terminated after they notified transposal measures, but others are still in motion. The Commission referred Greece (Case C-388/98) to the Court and decided to refer Austria also. It addressed reasoned opinions to Belgium, Italy and the United Kingdom.

Directive 96/61/EC concerning integrated pollution prevention and control (IPPC), adopted on 24 September 1996, is to be implemented by 30 October 1999. This Directive belongs to a new generation of Community initiatives on the environment which adopt a broad-based subsidiarity-compliant approach, encouraging the participation of all interested parties and synergy between industry and the environment. The Commission has observed that not all the Member States have the requisite transposal instruments and accordingly feels justified in advising them to begin work on transposing the Directive as soon as possible. Indeed it has set up an informal group of experts, which met in the course of 1998, to assist them in the task of transposal. A forum for the exchange of information between Member State and industry on the best available techniques met regularly in 1998 on the basis of Article 16(2). And the committee provided for by Articles 15 and 19 to prepare an inventory of the principal emissions and sources responsible also met during the year.

The Commission decided to take Belgium to the Court in relation to Regulation (EEC) No 880/92 of 23 March 1992 on a Community eco-label award scheme, as it had failed to adopt the necessary national implementing measures (designation of competent bodies, practical rules for assessment of applications for the award of an eco-label).

Likewise, the Commission addressed reasoned opinions to Greece and Portugal for failure to adopt the necessary national measures implementing Regulation (EEC) No 93/1836 allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme.

The Commission decided to send a reasoned opinion to Belgium on the principle of the conformity with Community law of the tacit authorisation scheme, where authorisation is deemed to be given if after a specified period the competent body has not opposed it. The Court held in relation to Directive 80/68/EEC (groundwater) that, where a directive provides for authorisations to be given, withheld or withdrawn by an express decision in accordance with specified procedural requirements entailing a number of necessary conditions that determine individual rights and duties, a tacit authorisation will not be compatible with the directive's requirements.⁽⁶⁴⁾ Consequently, certain aspects of the Belgian legislation relating to Directives 75/442/EEC as amended (waste), 76/464/EEC (dangerous substances discharged into the aquatic environment), 80/68/EEC (groundwater), 85/337/EEC (environmental impact assessment) and 84/360/EEC (air pollution from industrial plants) are not compatible with Community law.

2.12.10. Radiation protection

Although the legislation on radiation protection is based on Article 2(b) and Chapter III of the Treaty establishing the European Atomic Energy Community, it is not confined to nuclear energy but also covers all exposure of the general public and workers to ionising radiation, including medical uses. Article 33 of the Euratom Treaty requires the Commission to be consulted whenever national legislation is being drafted. This gives the Commission a useful instrument for preventing the adoption of national legislation which violates Community law. The right of control over the implementation of Community law on radiation protection under Article 141 of the Euratom Treaty, which is the treaty provi-

⁽⁶⁴⁾ Case C-360/87 *Commission v Italy* [1991] ECR I-791, paras 30 and 31 (judgment given on 28.2.1991).

sion corresponding to Article 169 of the Treaty establishing the European Community, is in addition to this prior control procedure.

The infringement proceedings against Austria, Finland and Sweden for failure to notify measures under Council Directive 80/836/Euratom laying down the basic standards for radiation protection have been dropped. This means that all the Member States have sent notice of their transposal measures. Directive 80/836/Euratom is to be replaced by Directive 96/29/Euratom, which has to be transposed by 13 May 2000. Taking up Recommendation No 60 by the International Commission on Radiological Protection, it lowers the radiation tolerances for workers and the general public. As the old basic standards are soon to be replaced by the new ones, the Commission is holding back on the infringement proceedings against Luxembourg and the Netherlands for failure to conform with the standards common to both the old and the new directives.

There have been improvements in the implementation of Council Directive 84/466/Euratom on protection of persons undergoing medical examination or treatment. Ireland and Italy have notified legal instruments transposing parts of the directive which were not yet being complied with. The Commission has therefore dropped the relevant infringement procedures. In response to the Court of Justice's judgment against it (given on 9 October 1997, Case C-96/21), Spain has also made progress towards transposing the directive by eliminating several points at issue in the infringement proceedings for failure to comply. The Belgian legislation as notified, on the other hand, still does not meet the requirements of the directive; proceedings against that country for failure to comply are still under way.

Directive 84/466/Euratom is to be replaced by a new Directive (97/43/Euratom on medical exposure), which has to be transposed by 13 May 2000. The Commission is therefore also holding back in respect of action on points common to both the old and the new directives.

Finland has notified its measures transposing Directive 89/618/Euratom on informing the general public in the event of a radiological emergency. The Commission has therefore dropped the case against Finland for failure to comply. The proceedings against Germany for failure to comply are going ahead.

The infringement proceedings against France for failure to comply with Directive 90/641/Euratom on the operational protection of outside workers remain open.

Following notification of their transposal measures by Germany and Belgium, the Commission has dropped its action against those countries before the Court of Justice for failure to notify measures under Directive 92/3/Euratom on the supervision and control of shipments of radioactive waste (Cases C-97/220 and C-97/277 respectively). All the Member States have now sent notice of their measures transposing the directive.

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