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**Environmental Acquis in the European Union:
Development, Profits for the Candidate
Countries and the Principal under the Greek
Constitution**

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Abstract

The environmental policy of the European Union (former European Community) has been gradually modulated during the last decades. Initially, there was no common environmental policy due to the different community goals. However, soon it became a priority within the European Union, as the latter realized that pollution is a problem of transnational dimension without physical or political boundaries. In this framework, many directives and other legislative instruments have been issued, in order to prevent or overcome environmental problems, thus constituting the EU Environmental Acquis. This study examines the most significant environmental directives.

During the enlargement of the EU membership, the candidate countries, especially those from Eastern Europe, have to comply with the EU environmental standards, in order for them to achieve a smooth integration within the Union. On the road to their accession, every distortion or deviation concerning the protection of the environment has to be minimized or eliminated. Of course, such a procedure requires high costs on implementation and enforcement, though leads to great benefits.

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INTRODUCTION

The European Union was originally conceived under the Treaty of Paris 1951 as the European Coal and Steel Community (ECSC), a semi-federal superpower for the purpose of integrating Europe's coal and steel industries during the period of the Cold War. The mission of the ECSC was for the Member States to contribute political and economic development to each other and improve and develop living standards of Member States through a new institution. When the founding Member States (six at the moment of its establishment) transferred part of their sovereignty in order to form one single and cooperative institution, they had already made the first step to the process of European integration. ¹From the very beginning, the system of the European Union has been working under the rule of law, i.e. the principles of common market and common objectives of the European Union. Every action taken within the European Union is concluded only if it has been founded on treaties negotiated and approved by all founding Member States and, finally, ratified by their parliaments or by referendum.

Initially, the European Union did not regulate at all environmental matters of its Member States. The Treaty of Rome 1957, establishing the European Economic Community, did not provide at all for an environmental policy. Its main objective was to create a common market and customs union among its members, in order to promote both economic development and social protection.²

Overtime, however, the demand for a common environmental policy was recognised by the European Community. A first step towards this direction was taken at the Conference of Chiefs of State and of Government at the Hague on December of 1969, during which it was stated and verified the candidate countries' obligation to adopt the so-called "*Acquis Communautaire*", that is, the body of EC rules and regulations, accepting at the same time all the rights and obligations deriving from it, in order to become a part of the European

¹ Black L., *The Environment and the Economy: Serbia's Accession to the European Union*, 2016, Article published in the Suffolk Transnational Law Review, p.p 1

² Kapios P., *Environmental Enlargement in the European Union: Approximation of the Acquis Communautaire and the Challenges that it presents for the Applicant Countries*, 2002, Article published in the Sustainable Development Law and Policy, p.p 2

integration.³ However, even at that moment the matters concerned remained mostly financial, monetary and political.

³ Eritja M., *The New Accessions to the European Union from the Central and Eastern European Countries: The Strategy of Accession and its Implications on the Environmental European Community Policy*, 2000, Article published in the ILSA Journal of International and Comparative Law, p.p 7

CHAPTER 1

1.1 ACQUIS COMMUNAUTAIRE AND THE ACQUIS ENVIRONMENTAL

1.1.1 Historical Retrospect

Since environmental protection became a priority of the European Union in the early 1970's, the "*Acquis Communautaire*" has been developing environmental law, even though it had not been judicially defined in the beginning. It was only after the adoption of the Single European Act in 1987, when environment was finally incepted in the European Community (EEC) Treaty with a specific "Title" incorporating environmental protection, thus becoming an integral part of the legal competence of the European Community. In this framework, the Community for the first time dated the protection of environment as a common community need under article 130r of the Treaty, introducing concurrently the principle of subsidiarity, under which the European Union could only legislate in areas where action at a Union level would serve to better achieve the desired aim than action at a national level would do. ⁴Furthermore, in the same year the World Commission on Environment and Development (CED) – established by the United Nations in the Stockholm Declaration on the Human Environment – issued the "Our Common Future" report (also known as the "Brundtland Report") recommending the principle of "sustainable development" as a perspective for equilibrating economic development and environment between rich and poor nations, where the need of the poor should be assured and the natural resources should be protected, with the aim to preserve the present and future growth within European Community. ⁵

A few years later, in the early 1990's the United Nations 1992 Rio Declaration on Environment and Development further clarified the content of sustainable development and its primary priorities, under which human beings had to be responsible and act intending to safeguard their common environment. Introducing a number of new principles, the Rio Declaration proclaimed that people should be concerned of a healthy and prosper environment for present and future generations, development should not exhaust natural resources, the polluter should bear the cost of pollution and citizens and nations should

⁴ See Eritja Mar Campins, *supra* note 3, p.p 8

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Avilis L., *Rio 20: Sustainable Development and the Legal Protection of the Environment in Europe*, 2012, Article published in the Sustainable Development Law and Policy, p.p 2

understand that there is no sustainable development without protection of the environment.

Furthermore, the Treaty of the European Union in 1992 consolidated an environmental law, bringing upon certain modifications emerging environmental policy as an international concern, however, it was not until the Treaty of Amsterdam in 1997, when the above-mentioned principle of a “balanced and sustainable development” was formally incorporated, pursuing the objectives of the European Union according to articles 2, 3 and 174 of the Treaty of the European Community.

In 1993 the European Council of Copenhagen took one further step towards the strengthening and completion of the European Union "*in observance of the *acquis communautaire*, which includes the common policies*", adopting the unconditional acceptance of the "*Acquis Communautaire*" also to the environmental law. The most decisive steps, though, were taken in 1995 and 1997, respectively, with the issue of the “White Paper on the Internal Market” and the “Guide of Approximation of European Union Environment”, both published by the European Commission. The White Paper referring to the preparation of the Central and Eastern Europe candidate countries, suggested a number of environmental norms and policies to be adopted by the candidate countries, in order for them to be incorporated to the Union, while the Guide to Approximation of European Union Environment drew the guidelines on the implementation of environmental law and identifies effective measures to be adopted by the candidate countries within their domestic legislation.⁶

1.1.2 Environmental Action Programmes

Since 1973 until today, the European Union has adopted seven Environmental Action Programmes (EAP' s), where each of them outlines the common EU environmental policy for a certain period of time.

More specifically, in 1973 the First Environmental Action Programme was agreed on the results of the 1st UN Conference on Environment in Stockholm in 1972, emphasizing for the first time the need for an efficient common environmental policy, where every exploitation of natural resources should be avoided, if it damages the environment irreparably. This EAP dealt mainly with water and waste management matters.

⁶ See Eritja Mar Campins, *supra* note 3, p.p 11

A little later, the Second Environmental Action Programme of 1977, following the purposes of the previous EAP, repeated the same goals with it, but with a view to a wider range of environmental issues, i.e. air quality and nature protection.

The Third Environmental Action Programme of 1982 suggested a more worldwide application of the environmental protection, especially as a precautionary measure.

Following the aforementioned EAP's, and as 1987 was a decisive point to the evolution of the international environmental policy, the Fourth Environmental Programme was agreed that year. This EAP proved to be more effective comparing with the precedents, pointing out for the first time their deficiencies, since the degradation of the environment continued, despite of all the measures that had been taken.⁷

In 1998 the Fifth Environmental Action Programme was agreed, with the purpose to incorporate a more aggressive legislative program, in order to “*review the European Community programme of policy and action in relation to the environment and sustainable development towards sustainability*”. The concept of “sustainable development” was introduced, while the primary goal had shifted then from the negative environmental effects of using natural resources to a new planning for a sustainable use of them. However, the European Commission reported that little progress had been gained so far since the Treaty of Maastricht in 1992.

Following this trend, the Sixth Environmental Action Programme dealt mainly with the so-called persistent environmental problems, such as bio-diversity, climate change, recycling, marine environment and over consumption of the natural resources, drawing environmental policy tasks more dynamically. It also introduced the concept of “environmental sustainability” instead of the general concept of “sustainable development”. Even though the 6th EAP was completed to cover almost all areas of environment, with the exception of soil, its evaluation by the European Commission was far from optimistic, especially due to the reluctant approach of environmental targets and the weakness of indentifying the key instruments.⁸

Finally, in 2013, the European Union adopted the Seventh Environmental Action

⁷ Chatzimpiros K./Tsantilis D., *The Environmental Policy*, 2003, p.p 10

⁸ See Avilis L, *supra* note 5, p.p 4

Programme, which will run until 2020 and foresees the adoption of new aims for climate and energy, natural resources use and new legislative measures to turn products more efficient, longer lasting and easier to repair and recycle, reduce waste production, protect public health from hazardous chemicals, oceans from marine litter and restore biodiversity within the European Union.

1.1.3 The current Environmental Acquis

Pursuant to the above-mentioned, the “*Acquis Communautaire*” has been slowly but smoothly developing within the European Union, constituting a prerequisite for the applicant countries seeking membership in the European Union. It consists, principally, of directives, regulations, decisions, recommendations and opinions adopted on the basis of the EU treaties. It is also divided into thirty-one diverse chapters, addressing diverse areas of the EU policy. In this framework, the “Environmental Acquis” is a major part of the whole “*Acquis Communautaire*”, comprising hundreds of environmental rules, regulations and acts, that have to be transposed into the national legislation of each applicant – candidate countries during the approximation process and by the date of their accession. The “Acquis Environmental” is included in chapter 27 of the entire Acquis, addressing practical and legal environmental issues, as well as strategies to adjust, in order for an applicant country to effectively comply to environment standards.⁹

⁹ See Black Laura, *supra* note 1, p.p 3

Chapter 2

2.1 COMPLIANCE WITH THE ENVIRONMENTAL ACQUIS

2.1.1. Enlargement of the European Union

In the beginning, the European Union had proceeded to the enlargement of its membership, comprising mainly countries from Southern and Western Europe. In 1993 the European Council was met in Denmark, Copenhagen, principally to “open its doors” to the countries of Central and Eastern Europe (the CEECs), thus commencing the enlargement of the European Union to the East. Besides, the European Union was always open to all democratic nations wishing to become a part of it and that moment seemed to be appropriate for those countries after the collapse of their communist regimes.

Prerequisite, though, for these countries' acceptance as EU candidate countries and, finally, for their accession, was that they met certain preconditions (the so-called Copenhagen Criteria), in order to become a part of the enlargement. These preconditions included stable legal and social institutions of the candidate countries, consolidation of human rights and protection of the minorities (political criterion), a market economy safe and able to keep up with the changes within the European Union (financial criterion) and full compliance to the principles of the “*acquis communautaire*” and adoption of suitable strategies to deal with (acquis criterion). At the same moment, the European Union has to fulfill one single criterion regarding the applicant – candidate countries, i.e. “*the Union's capacity to absorb new members, while maintaining the momentum of European integration*”. A while later, the European Council added a further fundamental criterion for the Eastern countries, “*the adjustment of their administrative structures*”, also known as the Madrid Criterion.

Consequently, the aforementioned Copenhagen Criteria and the Madrid Criterion constituted - and still constitute - the first step towards eligibility for membership of the candidate countries, that is, whether they fulfill these standards, in order to be officially accepted as candidate countries and proceed to further procedures of accession. Regarding the “*acquis communautaire*”, the candidate countries are obliged to totally comply to the standards established in all its chapters, including the environmental chapter, although flexibility and certain slight derogations can be granted for a delay to implementation of a specific part of the Acquis until after accession. Especially the

Environmental Acquis, which embodies all European rules and law referring to the environment, is the one to have attracted the most appeals for flexibility in transition period and derogations.¹⁰

In general, the absolute compliance to the Acquis is ascertained after a thorough screening of the candidate country's legislation, followed by a relative progress report, issued by the European Commission, on which further areas of this legislation are subject to changes, in order to meet the standards posed by the Acquis. If the applicant country fulfills the requirements – criteria, initially it is granted a candidate country status, where a period of transition together with a timetable for the compliance to the Acquis are appointed, and thus moves on to the next phase of the European integration process. When the accession negotiations are concluded, the existing members and the candidate country co-draft, sign and ratify an accession treaty to formalize the induction of the new Member State.¹¹

Today, countries of the Eastern Europe, like the Former Yugoslav Republic of Macedonia, Kosovo, Serbia, Ukraine, in addition to Turkey, are still on negotiations, trying to align their national laws, rules and norms to the Acquis of the European Union with regard to the Environmental Acquis, specifically the laws regarding drinking water, water depletion and groundwater contamination, waste management, pollution emissions and air quality.

2.1.2 Approximation Process for the candidate countries

Each candidate country seeking to become a part of the European Union is obliged to approximate and converge its legislation to the European Union legislation, aligning its domestic law to the mandates of the Acquis. Approximation is practically a process consisted of three main elements: Transposition, Implementation and Enforcement. As one whole chapter of the Acquis (nearly the 1/3 of the entire "*acquis communautaire*") is devoted to environmental issues, it is of a high importance for the candidate country to proceed its approximation with a special concern on the environmental priorities, even though this is not always an easy task to carry out from an economic and legislative point of view, especially for the countries of the Central and Eastern Europe. Lack of proper

¹⁰ See Kapios Patrick, *supra* note 2, p.p 3

¹¹ European Commission, *Enlargement Negotiations*, 2001, available at <http://europa.eu.int/comm/enlargement/negotiations>

institutional function, infrastructures, administrative structures and work practices often delay progress in their approximation, leading to lengthy negotiations for membership.

a. Transposition

Transposition is the first element of the process of approximation. The candidate countries for EU membership should adapt EU environmental legislation (especially directives) in order for their national environmental legislation to converge to. Thus, it is indispensable for the candidate country to first compare its domestic regulatory system with the respective system of the EU Environmental Acquis, before taking the administrative measures required. These measures must be of a high degree of environmental protection according to the principles of the EU Environmental Acquis.

The next step should be taken by the national authority of the applicant country, appointed by the government with the aim to achieve approximation (usually, the Ministry of Environment or Department or Governmental Agency). Depending on the degree of discretion that the applicant country has to adopt the EU requirements, either it adopts a series of new, appropriate legislative measures concerning environmental policy or modifies the existing ones, in order to meet its obligations.

Usually, organizing transposition of the Environmental Acquis requirements is the most easy-going and flexible part of the whole approximation process.¹²

b. Implementation

Implementation is the second and the most difficult step of the approximation process, following transposition of the Environmental Acquis. Practically, it is the process, where the competent national authorities should take decisive steps to combat and overcome possible inability to meet the requirements of the Environmental Acquis.

Focus should be on sectors most affected by the environmental impact, aiming at the protection of public health for current and subsequent generations. For this goal to be achieved, governments of candidate countries are responsible to maintain compliance with the EU environmental requirements. Usually, the Ministry of Environment, often helped by other competent Ministries, ensures that there is sufficient legislative basis and financial resources, in order to make full implementation actually occur.

¹² See Kapios Patrick, *supra* note 2, p.p 4

Consequently, the responsible national authorities should be strengthened under the auspices of government by the appropriate structure, skilled personnel, clear procedures and considerable funds for the best result. National authorities should also be provided with technical or other expertise, if needed, to identify possible gaps in the approximation process more efficiently. However, this does not always occur, as many countries, especially from Eastern Europe, lack the appropriate infrastructure and, mainly, the administrative structure able to ensure full compliance with the EU environmental legislation, resulting many times in delays in concluding the approximation and accession process.

c. Enforcement

Laws, directives and regulations of the Environmental Acquis, though transposed and implemented by applicant countries, they are not always sufficient as such. They should also be adequately enforced.

Enforcement may take place via self-monitoring, where individuals must comply voluntarily to the EU requirements and restraint themselves from violating Environmental Acquis principles, while they shall inform as soon as possible the competent authorities whether they perceive an incident of violation. This is the most cost effective way of maintaining implementation and imposing legislative measures. However, it is unaccepted as the only way of enforcement, since individuals are not always willing to co-operate.

In practice, the most effective mode of enforcement practically takes place via governmental inspection procedures followed by licensing, resourcing or other "incentives", when complying with environmental legislation, or by penalties, fines and criminal liability punishment, when violating it severely. For this reason, it is important for governments of the applicant countries to provide for a practical and cost effective regulatory system, capable of monitoring and controlling the implementation of the Environmental Acquis and at the same time ready to penalise violations promptly. ¹³

¹³IPA et al., *National Environmental Approximation Strategy for the Republic of Serbia*, 2011, report published in the Official Journal of the Republic of Serbia, p.p 25

Chapter 3

3.1 BENEFITS OF APPROXIMATING THE EU ENVIRONMENTAL LEGISLATION

3.1.1. Overview

Fully adoption and implementation of EU environmental laws and directives can lead to great health, natural environment, economic and social benefits for the candidate countries. Some of them are direct while some others are not, some of them are materially and economically calculated while some others cannot be assessed, as there is no clear data report on their impact.

If a country wishes to become a member of the European Union, it will be required to incorporate the Directives relating to the Environmental Acquis, i.e. air quality, pollution, water, waste management e.t.c.. Thus, it will contribute to the reduction of pollution emissions and, consequently, to the reduction of their negative impact on the environment. Most of the concerned Directives constitute "Framework Directives", that is, Directives with a general frame for legislation, which need to be adopted under national decisions, defining ruling, limitations, penalties e.t.c

3.1.2. The most important EU Environmental Directives

a. Air Quality and Industrial Pollution

In the sector of air quality, European Union has been establishing an extensive body of legislation through the years, defining health based standards and objectives for a series of pollutants in the air. The legislation requires that the candidate states should divide their territory into several zones and agglomerations, in which they should estimate air pollution levels. For this reason, there should be a precise and detailed information on the existing air quality of the candidate countries, in order to proceed to the adequate air quality improvements according to Environmental Acquis standards. Monitoring and controlling of pollutive emissions can take place with the aim of government laboratories, specialized institutions and private expertise.

In 1996, the European Council introduced the Air Quality Framework Directive on ambient air quality assessment and management. The 96/62/EC Council Directive defines the air quality standards (sulphur dioxide (SO₂), nitrogen oxides (NO_x), volatile organic compounds (VOCs), carbon monoxide (CO), cadmium, nickel, benzene and ozone), which the

Member States should comply to. It also launches the appointment of competent national or regional authorities for calculation and analysis of emissions via appropriate equipment and efficient methods, responsible for implementation of the Directive. It also comprises provision for information to the European Commission by the candidate states relating to the progress taking place.

The Air Quality Framework Directive was followed by 4 "daughter" Directives:

- i) Council Directive 1999/30/EC (commonly known as the First Daughter Directive), which introduced specific limits and thresholds to estimate the air pollution. It also addresses fine particulate matters (PMs), PM₁₀ AND PM_{2,5}.
- ii) Council Directive 2000/69/EC (commonly known as the Second Daughter Directive), which occupied with pollutant emissions of benzene and carbon monoxide (CO₂) in the air.
- iii) Council Directive 2002/3/EC (commonly known as the Third Daughter Directive), occupying mainly with the concentration of ozone in the ambient air.
- iv) Council Directive 2004/107/EC (commonly known as the Fourth Daughter Directive), which expanded the list of pollutants, including arsenic, mercury, cadmium and polycyclic aromatic hydrocarbons in the air.¹⁴

Subsequently, the European Parliament and Council Directive 2008/50/EC on ambient air quality and clearer air for Europe challenged candidate countries seeking EU membership by posing them stricter air quality objectives regarding the most harmful air pollution substances, like ozone and fine particles. More specifically, under the so called New Air Quality Directive, the candidate states are required to reduce the exposure of the population to PM_{2.5} by 2020, based on a certain indicator, the average exposure indicator on a national level. Furthermore, except from reporting every progress to the Commission, the Council Directive 2008/50/EC requires informing of the public and of the diverse organizations concerned, such as environmental, public health and consuming ones.

The European Union had early highlighted the need to combat pollution triggered by heavy industries and large combustion complexes. For this reason, in 2001 the European Union introduced the Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large plants using high thermal input (greater than 50 MW) for their operation.

¹⁴ Marco G., *Air Quality Legislation and Standards in the European Union, Background, Status and Public Participation*, 2012, Article published in *Advances in Climate Research*, p.p 50

The so called LCP Directive actually modified the previous Directive of 88/609/EC, taking into account the amendments adopted by the European Parliament, requiring wider economic instruments to reduce SO₂ and NO_x emissions, update of emission limit values and dissemination of information regarding pollutant emissions to the public and competent organizations.

In the same framework, the Integrated Pollution Prevention and Control (IPPC) Directive was issued to regulate more or less the same obligations launched in the LCP Directive. The IPPC Directive practically regulates controlling of pollutant chemical emissions by industrial and agricultural plants through measures to prevent or reduce pollution in air, water and land. One of these measures is the obtainment of a license (permit) via the best available techniques (BATs) capable of reducing the negative impact of emissions on environment.¹⁵

b. Water

i) Protection of all waters

Clean rivers, lakes, coastal beaches, bathing waters and groundwater have been a priority for the European Union since 1980. Then, the related legislation was very poor. In 1991 the European Council introduced the Directive 91/271/EEC concerning urban waste water treatment (the Urban Waste Water Treatment Directive) and the Nitrates Directive addressing water pollution due to nitrates from cities and agricultural practices across Europe. Finally, in 2000 the European Parliament and Council introduced Directive 2000/60/EC “establishing a framework for the Community action in the field of water policy” (most commonly known as the EU Water Framework Directive) replacing the previously mentioned Directives. The main purpose of the EU Water Framework Directive is the establishment of a framework for the protection of inland surface waters (rivers and lakes), transitional waters, coastal waters, beaches, groundwater contamination and wildlife living in these, avoiding further deterioration of the aquatic ecosystems. It also introduced the need for special programs for the analysis and monitoring of the water status (ecological and chemical) and for a planning on river basin management not only on a national but also on a transnational level with the participation and information of habitats, especially those who live in the basin.¹⁶

¹⁵ Scheuer S., *EU Environmental Policy Handbook*, 2005, available at <http://www.eeb.org>

¹⁶ Ecotec et al, *The Benefits of Compliance with the Environmental Acquis for the Candidate Countries*, 2001, study carried out by Ecotec Research and Consulting Ltd, p.p 14

A little later, the Groundwater Daughter Directive 2006/118/EC was adopted in line with the Article 17 of the Water Framework Directive, under which the European Commission was asked to take preventive and controlling measures for groundwater pollution. The Groundwater Directive also set underground water quality standards to avoid extended pollution from hazardous substances into groundwater.

ii) Drinking Water

Free access to healthy drinking water for all households has always been a concern for the European Union. In 1980 the European Parliament and Council laid down the Drinking Water Quality Directive 80/778/EEC addressing for the first time standards for all waters (not only the surface) used for the purpose of human consumption. In 1998 the Council revised the Drinking Water Quality Directive launching the 98/83/EC Council Directive on the quality of water intended for human consumption (mostly known as the Drinking Water Directive). Its main objective is to protect health of consumers in the European Union from negative effects of contamination of water intended for drinking, food preparation, cooking and all domestic purposes. For this reason, it lays down a series of requirements and minimum quality standards, to ensure that drinking water is clean and wholesome, free from chemicals, bacterias and harmful microorganisms.¹⁷

c. Waste

Another significant environmental concern of the European Union is the prevention, recycling and management of waste. Initially, the first Waste Directive of the European Parliament and Council 75/442/EEC was adopted in 1975. In 2006 the 2006/12/EC Directive of the European Council (the new codified Waste Framework Directive) revised the former one without changing its legal or political content, setting up the legislative framework for the handling of waste within the European Union through a general waste management plan. It also provides for the prevention or reduction of harmful waste production via advanced techniques, the recovery of waste (recycling, re-use as raw materials or reclamation) and the use of waste as an energy source. The Directive also applies to management of waste deriving from mining and other extractive industries, specifying measures and procedures to prevent or reduce negative effects on human

¹⁷ Safarikas N. et al, *Drinking Water Policy in the frame of the Directive 2000/60/EC with emphasis on Drinking Water Prices*, 2005, Article published in *Water, Science and Technology*, p.p 2

health, flora and fauna. Gaseous emissions in atmosphere, radioactive waste, uncontaminated soil, waste waters and waste deriving from exploitation of mineral resources are explicitly excluded from its scope. Apart from these, countries adopting and implementing the Directive are required to oblige the establishments or undertakings recovering or disposing of waste to obtain a special permit and subject to periodical inspection by the competent authorities.

In 2008 the Waste Framework Directive was repealed by the Directive 2008/98/EC, issued by the European Parliament and the Council. The new Directive established a wider legal framework on how to treat waste. A waste management hierarchy is launched on disposal – recovery - recycling and preparing for re-use. Also, new definitions and principles related to waste management are laid down and new important concepts are introduced for the first time, such as the “polluter pays principle” and the “extended producer responsibility”.

There are quite many others Directives on treatment of waste. The most significant ones are the following:

i) The Landfill Directive of the European Council 99/31/EC on the landfill of waste intends to reduce the adverse effects on environment from the land-filling of hazardous, non hazardous and inert waste on the surface waters, groundwater, soil, etc. Waste land-filling takes place only under the technical requirements provided by the Directive and only after a permit, the obtainment of which is mandatory. Even though the land-filling procedure is the least welcome option regarding waste management, especially due to the production of methane (CH₄) emissions in land-filling of biowastes, the Landfill Directive successfully attempts to deal with this problem, laying down quality standards and obliging at the same time the States to proceed to a reduction of the biodegradable waste they landfill to a significant percentage.

ii) The Directive 2000/76/EC on the incineration of waste entered into force, repealing former Directives 94/67/EC, 89/369/EEC and 89/429/EEC on the incineration of hazardous, non-hazardous and household waste, respectively. The aim of the Waste Incineration Directive is to prevent or reduce possible adverse environmental effects caused by the incineration and co-incineration of waste. It requires reduction of pollution triggered by pollutant emissions such as dust, sulphur dioxide (SO₂), nitrogen oxides (NO_x), heavy metals and dioxins into the air, soil, waters and groundwater through the

application of emission limit values and monitoring and controlling requirements for the operation of waste incineration and co-incineration plants, though not all types of waste incineration plants fall within its provisions, i.e. those treating only biomass, such as non-treated agriculture and forestry residues.

iii) In the early 1980s the European Union launched the first Directive 85/339/EEC on the management of packaging waste, introducing a set of measures on the production, marketing, use, recycling and refilling of containers of liquid beverages for human consumption and on the disposal of used containers. However, as this Directive was too vague to achieve harmonisation regarding the management of packaging and packaging waste and to prevent or reduce its negative environmental impact, the European Union laid down the Directive 94/62/EC (the Packaging and Packaging Waste Directive), aiming to recover the shortcomings of its precedent and harmonise the internal market. Since then, the Directive was revised several times (2004, 2005, 2013), regulating the identification of packaging materials, reports of the directives, the database system and specifying the conditions for derogation of plastic crates, plastic pallets, and glass packaging. Its latest amendment came in 2015 with the adoption of the Directive 2015/720/EC of the European Parliament and the Council, regarding mainly the consumption of lightweight plastic carrier bags.

iv) The Council Directive 96/59/EC on the disposal of polychlorinated biphenyls (PCBs) and polychlorinated terphenyls (PCTs) regulates two of the most toxic chemicals worldwide since 1930. These chemicals, under a certain procedure, were used extensively in the past as components in electrical and hydraulic equipment and in diverse open applications. After 1970 they were blamed for toxicity and carcinogenicity and soon they were withdrawn. However, due to their persistent nature, PCBs have not been totally eliminated. Today, there is still a 10% of them remaining in the environment. The initial plan of the Directive was to be eradicated till 2010 but still there is work to be done.

v) The European Parliament and Council Directives 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment and 2002/96/EC on waste electrical and electronic equipment (together more commonly known as the Waste Electrical and Electronic Equipment Directive) were adopted to tackle with the problem of those wastes, adopting effective methods such as land-filling and incineration. According to their provisions, producers of electrical and electronic equipment

are responsible for taking back and recycling equipment that are old or not any more useful for the consumers. In 2012 the Directive 2002/95/EC was revised by the Recast Directive 2011/65/EU and the Directive 2002/96/EC was revised by the new Directive 2012/19/EU.¹⁸

3.1.3 Benefits of Implementing the EU Environmental Directives

Large industrial activity and the great increase of populations the past two centuries have led to unprecedented changes in the human and natural environment. Industrial processes, especially, result in degradation of the environment.

The candidate countries, which carry out the necessary actions to adopt and implement the above – mentioned Directives into their national legislation, are more than profited at a domestic level. Regarding the Air Quality Sector, lower emissions of nitrogen oxides (Nox), sulphur dioxide (SO₂), heavy metals and the particulate matters (PMs) reduce the risk of respiratory and cardiovascular diseases (e.g. bronchitis, asthma e.t.c.), hospitalisation and premature deaths, thus extending life expectancy. This health benefits can be even economically assessed, because premature mortality and long hospitalisation increase medical costs for the governments, while public and private working sector have a great loss of productivity due to the working days that are lost for the affected personnel. Moreover, lower emissions of ozone (O₃), nitrogen oxides (NO_x) and ammonia (NH₃) protect soil, lakes and rivers and contribute to consolidation of agricultural land. People of a candidate country that fully implies the EU environmental legislation gains the interest of its population, who prefer to consume agricultural products of their own country trusting the quality them. This can be valued economically for this country, increasing the public and private income. Furthermore, the surfaces of buildings, especially the ones belonging to cultural heritage, “age” less rapidly, avoiding corrosion, biodegradation and soiling. When air pollution is below limits, such buildings, consisted of cement, glass, stone, woods e.t.c., need only maintenance and not reforming of the whole or some of its parts. On the other hand, lower emissions of O₃ not only can provide for public health, but also for climate benefits. It can also lead to clearer vegetation, water and forests. This means clearer seas, coastal beaches, lakes and rivers and forests. This can lead to an appreciable financial profit, as it can attract the interest of tourism, either for vacation in regions with clean

¹⁸ Scheuer S., *EU Environmental Policy Hand,book, A critical Analysis of EU Environmental Legislation*, available at <http://www.eeb.org>, p.p 125-140

beaches or alternative vacation, i.e. eco-tourism in protected areas.¹⁹

Today, according to the latest Air Quality Report of 2016 published by the European Environment, the emissions of many air pollutants in the European Union have experienced a smooth reduction from 2000 onwards. More specifically, during the last fourteen years concentrations of nitrogen dioxide (NO₂) and sulphur dioxide (SO₂) tend to decrease, while the most significant reduction is noted on carbon monoxide (CO), toxic metals (cadmium, nickel, lead, arsenic) and benzene (C₆H₆), where no further exceed of the limit value is observed. Nevertheless, there is still work to be done, since the most harmful pollutants have not experienced a dramatic positive drop yet. Concentrations of particulate matters (PMs) and benzo{a}pyrene (BaP), mostly emitted from combustion processes and from commercial buildings, in addition to ammonia (NH₃) mostly coming from agricultural uses, and ozone (O₃) mostly formed as a chemical reaction following emissions of precursor gases (NO₂), even though subjected to strict standards, still exceed the limit values per year affecting negatively the urban populations. This means that additional measures should be taken in a national and an intra - national EU level, in order to fully comply to the established EU environmental standards and enjoy its benefits.

Important health and social benefits are more than likely to arise from the full compliance with the above - mentioned Directives concerning the Water Sector. Safe drinking water is a basic human right. Availability of clean drinking water, with a better taste, smell and color and of a better quality, shall contribute to better public health. As water of a poor quality has been blamed to carry hazardous substances related to cancer and nervous system diseases, it is an indispensable need for candidate countries to adopt and implement the respective legislation, in order to offer to their population access to water of an improved and trustful quality. Where safe drinking water is not potable, citizens are forced to spend big amounts on a daily base on the purchase of bottled waters or other sources. Unfortunately, there are still countries which have old and inappropriate connections to sources of drinking water in some of their regions, especially those of Eastern Europe in addition to Turkey. In these countries, people usually feel socially abandoned and insecure, due to the ignorance of the state for the negative impacts of polluted water on public health.

¹⁹ Ecotec/leep, *The Benefits of Compliance with the Environmental Acquis for the Candidate Countries*, 2001, study directed by Patrick Ten Brick and carried out by Ecotec Research and Consulting Ltd, p.p 12-18

Furthermore, it is estimated that an improved status of all waters and aquatic systems may lead not only to health but to welfare gains, too. Cleaner coastal areas, bathing waters and beaches, rivers and lakes of a good water quality, free of contamination are a valuable perspective, able to promote tourism and eco-tourism (river fishing e.t.c) as a result of a clean environment. This is most important especially for countries like Albania, Montenegro, Serbia and Croatia, where there was almost never a protocol for protection of waters and ecosystems. Reduction of costs for industries (especially food and drink industries) to produce clean water from polluted groundwater for their operations may contribute to the enlargement of investments within the country complying to those requirements. Improved technologies on the processing of sources of water will require scientists with skills in the water industry, thus augmenting the working opportunities and enhancing the total economic base of the country.

On the other hand, waste is a resource that can be used to our advantage and increase benefits for candidate countries approximating the respective legislation, if it is handled, treated and disposed of properly. One of the biggest profits is keeping environment fresh and neat. High levels of recycling can result in increased efficiency in the use of material and reduced production of primary material (paper, glass, etc) through the Packaging Directive. For example, recycling of waste leads to reduction of cutting down of trees, especially those for paper production. Paper of a good quality can be produced depending on waste recycling. Additionally, effective waste management, through the Landfill Directive, may capture harmful emissions like methane, carbon dioxide and carbon monoxide, blamed for poisoning and severe organic human illnesses. Well made and protected landfills can reduce the risk of accidents due to methane leakage and, as a result, protect surface waters, groundwater and, subsequently, drinking water from contamination. Incinerators satisfying the EU established standards for the emissions of dioxins and heavy metals may reduce the risk of carcinogenesis and genetic malformations, while old and below EU standards incinerators can cause cell malfunctioning through respiration or through absorption by the food affected. Landfills and incineration according to the Directives are able to minimize health and explosion danger from methane emissions and contribute the avoidance of global warming via proper capture, thus minimizing the pressure on the environment.²⁰

20 Brick P., *The Benefits from the Implementation of the EU Environmental Acquis in the Candidate Countries*, 2002, Article published in the INTERECONOMICS: Review of European Economic Policy, p.p 288

Chapter 4

4.1 COSTS OF APPROXIMATING THE EU ENVIRONMENTAL DIRECTIVES

The adoption and implementation of the Acquis Environmental usually requires large investments in infrastructure over an extended period of time. The main sources of financing environmental operations is the state budget and the income from fees and taxes. The time required to achieve full compliance varies from a candidate country to another. It depends on the starting condition of infrastructure, the capacity of administrative institutions to legislate effectively, the affordability at a national and a consumer level etc.. Therefore, the cost of the approximation has proven sometimes not only extremely high but also extremely difficult to be precisely calculated *a priori*, due to short information.

Candidate countries of Eastern Europe always had and still have deficiencies concerning environmental matters, so they are more than likely to lack equipment of new technology and adequate establishments, trained and expertised staff, technical studies e.t.c.. The costs are very high for a country to afford on its own. Therefore, commencing from 2000, the countries under pre-accession negotiations with the European Union were financially assisted by programs recommended by the so-called “Agenda 2000”. These programs initially were the “Instrument for Structural Policies for Pre – Accession” (ISPA), the “Poland and Hungary: Assistance for Restructuring their Economies” (PHARE), applied in over 10 countries, and the “Special Accession Program for Agriculture and Rural Development” (SAPARD).²¹

In the late years these mechanisms have expired and been replaced by the “Instrument for Pre – Accession Assistance” (IPA), through which the European Union supports the enlargement of its membership with economic and technical help. The IPA program, benefiting Serbia, the Former Yugoslav Republic of Macedonia, Montenegro, Kosovo and Turkey, was divided into two phases, the first for the years 2007 – 2013 (which has expired), where the total budget available was of 11,5 billions of Euros, and the second for the years 2014 – 2020, where the predicted total budget is of 11,7 billions of Euros.

During the past few years, different approximation cost studies have been presented to estimate the expenses on each environmental sector for several candidate countries of the

21 See Kapios Patrick, *supra* note 2, p.p 7

Eastern Europe. Among the most detailed and accurate are the following:

According to the National Environmental Approximation Strategy for the Republic of Serbia, issued in 2011 by the Ministry of Environment, Mining and Spatial Planning, the highest costs of approximation are attributed to the Water Sector, followed by the Waste Sector and the Industrial Pollution Sector. The total cost for Serbia's approximation is estimated to increase the gross domestic product (GDP) of the country to over 2% percent, reaching the amount of 10 billion Euros or 1.400,00 Euro per capita by the end of 2030, a cost extremely high for Serbia to afford without any support. This is particularly because of the shortfall in the current infrastructure, especially in the water sector.²²

The National Strategy for Environmental Approximation for the former Yugoslav Republic of Macedonia, issued in 2008 by the Ministry of Environment and Physical Planning, focusing on the "problematic areas" of Water Sector (especially Drinking Water) and Waste Management Sector, estimated that the total cost will be 2,3 billion Euros in capital and one-off costs plus operating costs, i.e. 1.000,00 Euros per capita for over 20 years (plus 100 Euros per capita per annum for the operating costs).²³

The "Costs and Benefits of FTA between Ukraine and the European Union" research, devised by the Institute for Economic Research and Policy Consulting and supported by the International Bank for Reconstruction and Development on the request of Ukraine government, foresees high and cumbersome costs for the implementation of administrative structures and environmental programs from the State's side, from the private enterprises, especially the industrial ones, and an additional burden on households.²⁴

Consequently, although accession to the European Union has been made conditional upon compliance with the provisions of the EU Acquis Environmental by the candidate countries, shortcomings in implementing and enforcing certain parts of the legislation may occur, especially because of the exuberant financial resources required. However, this

²² IPA et al., *National Environmental Approximation Strategy for the Republic of Serbia*, 2011, report published in the Official Journal of the Republic of Serbia

²³ Stefkova Daniela, *National Strategy of Environmental Approximation*, 2008, study published by the Ministry of Environment and Physical Planning

²⁴ Burakovsky I. et al., *Costs and Benefits of FTA between Ukraine and the European Union*, 2010, report published by the Institute for Economic Research and Policy Consulting

does not necessarily mean that compliance will be difficult to achieve or that the environmental quality will deteriorate. The most optimistic and objective scenario for every candidate country seeking to achieve compliance would be to reduce the existed shortcomings to the minimum extent.

Chapter 5

5.1 ENVIRONMENTAL ACQUIS AND GREEK LEGISLATION

5.1.1 Historical Background

Greece's orientation to the European Community / Union is very old. It was the first country to apply for accession to the newly established European Economic Community in 1959, an application that led to the Association Agreement between Greece and the EEC, signed in 1961 and entered into force in 1962. The "Athens Agreement", as it is commonly known, constituted the first step towards Greece's integration into the European Community. However, it was partly frozen (1967 – 1974) at the initiative of the Commission of the EEC, due to the military regime in Greece (dictatorship). Soon after the collapse of dictatorship and the restore of democracy under Constantinos Caramanlis, the New Democracy Government re-submitted the application for full accession tot the EEC in early 1975. Accession negotiations were initiated in 1976 and three years later the Accession Deed was signed in Athens, followed by its ratification by the Greek Parliament. Finally, the Accession Treaty between Greece and the EEC entered into force in 1981.²⁵

5.1.2 The Greek Constitution: Article 24 on the Environmental Protection

The Greek Constitution constitutes the supreme law of Greece, guaranteeing for the presidential parliamentary democracy of the country, separating the legislative, executive and judicial competences of the government and providing for public, social and individual rights and obligations. Since its adoption in 1975, it has been revised three times insofar, in 1986, in 2001 and in 2008.

The core rules regarding the protection of the environment are recognized in the Article 24 of the Greek Constitution. In addition, the provisions of this Article launch the fundamental principles of the Environmental Acquis, that is, the principle of sustainable development, the prevention principle and the principle that "the polluter pays". Article 24 also defines the responsibilities and obligations of the legislative and the administrative institutions and the boundaries, within they are obliged to act, when laying down specific measures concerning regional and urban and private property:

"1. The protection of the natural and cultural environment constitutes a duty of the State. The State is bound to adopt special preventive or repressive measures for the preservation of the

²⁵ *The Hellenic Government*, available at <http://www.mfa.gr/missionsabroad/en/about-greecegovernment>

environment. Matters pertaining to the protection of forests and forest expanses in general shall be regulated by law. Alteration of the use of state forests and state forest expanses is prohibited, except where agricultural development or other uses imposed for the public interest prevail for the benefit of the national economy.

2. The master plan of the country, and the arrangement, development, urbanisation and expansion of towns and residential areas in general, shall be under the regulatory authority and the control of the State, in the aim of serving the functionality and the development of settlements and of securing the best possible living conditions.

The relevant technical choices and considerations are conducted according to the rules of science. The compilation of a national cadastre constitutes an obligation of the State.

3. For the purpose of designating an area as residential and of activating its urbanisation, properties included therein must participate, without compensation from the respective agencies, in the disposal of land necessary for the construction of roads, squares and public utility areas in general, and contribute toward the expenses for the execution of the basic public urban works, as specified by law.

4. The law may provide for the participation of property owners of an area designated as residential in the development and general accommodation of that area, on the basis of an approved town plan, in exchange for real estate or apartments of equal value in the parts of such areas that shall finally be designated as suitable for construction or in buildings of the same area.

5. The provisions of the preceding paragraphs shall also be applicable in the rehabilitation of existing residential areas. Spaces remaining free after rehabilitation shall be allotted to the creation of common utility areas or shall be sold to cover expenses incurred for the rehabilitation, as specified by law.

6. Monuments and historic areas and elements shall be under the protection of the State. A law shall provide for measures restrictive of private ownership deemed necessary for protection thereof, as well as for the manner and the kind of compensation payable to owners.”.

Although environmental protection was launched by Article 24 of the Greek Constitution since its adoption in 1975, it was not until 1986, that government started developing environmental policy. The constitutional reform of 1986 introduced a comprehensive framework legislation regulating all aspects of environmental degradation, however, for several years it was not practically applied, due to the lack of necessary decisions implementing it. Subsequently, during the constitutional reform of 2001, Article 24 has undergone a number of changes, having being influenced by the new environmental priorities of the European Union: a) The protection of natural and cultural environment as a common right of the state and the citizens, b) the principle of “sustainable development” is embodied in its content for the first time, c) the state’ s responsibility to draw a forest map,

d) the state's responsibility for any land change and urban planning for the improvement of living conditions, with the aid of expertise scientists and e) definition of the concepts of "forest" and "forestal ecological system".²⁶

This constitutional rule has been the backbone for all the national legislation on the environmental protection (laws, presidential decrees and ministerial decisions). The most significant legislative texts based on the constitutional principles of Article 24 will be examined below:

5.1.3 Greek Legislation on the Protection of Environment

a) Forests

Forests and state forest expanses are highly protected from urban and building development by the Article 24 paragraph 1, in combination with the Article 117 paragraphs 3 and 4 of the Greek Constitution: "*3. Public or private forests or forest expanses which have been destroyed or are being destroyed by fire or have otherwise been deforested or are being deforested, shall not thereby relinquish their previous designation and shall compulsorily be proclaimed reforestable, the possibility of their disposal for other uses being excluded. 4. The expropriation of forests and forest expanses owned by individuals or by private or public law legal persons shall be permitted only in cases benefiting the State, in accordance with the provisions of article 17, for reasons of public utility; but their designation as forests shall not be altered*". In other words, the expropriation of these areas is permitted only if this indispensable for reasons of public utility, nevertheless, a change of their "forestal" character is prohibited. Furthermore, the concepts of "forest" and "forest expanses" are clarified by virtue to the definition given in the constitutional text accompanying Article 24 "*by forest or forest ecosystem is meant the organic whole of wild plants with woody trunk on the necessary area of ground which, together with the flora and fauna coexisting there, constitute, by means of their mutual interdependence and interaction, a particular biocoenosis (forestbiocoenosis) and a particular natural environment (forest-derived). A forest expanse exists when the wild woody vegetation, either high or shrubbery, is sparse*».

In 1979 a Law was issued in compliance with the aforementioned constitutional provisions

²⁶ Petrou C., *The Adaptation of the Greek Law to the EU Environmental Acquis*, 2008, Article published in the Greek Law Order and EU Environmental Acquis, p.p 201-202

regarding forests. The Law 998/1979 practically constituted the legal framework for the protection of forests, forestal expanses and other wooded lands, specifying the conditions, under which the above mentioned areas can change their use or serve other uses for reasons enforced by public interest. Today, the Law 998/1979 has been partially amended by virtue to the recent Law 4280/2014, which has expanded the interpretation of forest and wooded areas and has provided for criminal and administrative sanctions.²⁷

b) Water

i) Protection of waters

Following the general legislative framework of the Law 1650/1986 concerning the protection of the environment and in combination with the constitutional requirements of Article 24, the Law 3199/2003 “on water protection and the sustainable management of the water resources” was issued in 2003, in fulfillment of the 2000/60/EC Water Framework Directive of the European Parliament and the Council. The Law is based on the principles of the Directive, aiming at establishing a sustainable water policy. The responsible bodies designated for the achievement of this goal are the National Water Committee, the Central Water Agency appointed by the Ministry of Environment, Energy and Climate Change and the Decentralized Administration.

The Law 3199/2003 provides for the prevention and reduction of the contamination of all waters - surface waters, lakes, rivers and groundwaters - as well as the mitigation of pollutant floods. It also provides for river basin districts and their management planning, the measures to be taken and the competent authorities for their execution within a certain timetable. The issue of permits for the use and exploitation of water resources and the requirements needed to be fulfilled constitutes another significant provision of this law.

In 2007, the Presidential Decree 51/2007 was issued as a complementary legislation to Law 3199/2003, concerning the measures and the procedures for the protection and the monitoring of the water status in compliance with the provisions of the Water Directive. The Decree was mainly oriented to the separation of the country into river basin districts and the adoption of river basin management plans.²⁸

²⁷ Papakonstantinou A., *Forest Protection and Management*, 2014, Article available at <http://www.greeklawdigest.com>

²⁸ United Nations, *Freshwater Country Profile, Greece*, 2004, study available at <http://www.un.org/esa/agenda21/natlinfo/countr/greece/watergreece>

ii. Drinking Water

The Joint Ministerial Decision Y2/2600/2001 was issued in conformity with the Council Drinking Directive 98/83/EC. The Decision on the “quality of water for human consumption” obliges the responsible authorities to take every measure needed, in order to ensure that the drinking water is healthy and clean, free from microorganisms, bacterias and parasites, that can damage public health. In addition, it introduces stricter limits on the outflow of harmful substances, such as arsenic and lead, and more frequent inspections on the quality of water. This Decision, though, does not include the natural mineral water, which is regulated by the Presidential Decree 433/1983 on the exploitation and commercial distribution of natural mineral water.

The aforementioned Decision was followed by the Ministerial Decision YA Π/112/1057/2016 on the “protection of the health of general public with regard to radioactive substances in the water for human consumption”, in compliance with the Council Directive 2013/51/ Euratom. The new Decision was issued with the intention to oblige and bind the competent authorities to take every possible measure, in order to monitor and control radioaction in the water for human consumption through special programs checking the parametric values of hazardous concentrations.²⁹

iii. Coastal Zones

Greece has one of the highest percentages of coastal zones and seashores in the Mediterranean and in the European Union. The coastal environment, including the coastal areas, beaches, lakes and rivers, constitute a part of the whole natural environment, specially protected under the auspice of Article 24 of the Greek Constitution.

Following the European regulations and guidelines regarding the protection of the coastal areas and, in particularly, the proposal of the European Committee in 2001 (Coms/00/545/2000) and the article 17 of the Agenda 21 regarding the coastal areas management, a new greek law was issued concerning seashores and beaches. The Law 2971/2001 modified the previous law 2344/1940 on seashores, deficient and unable to deal with the extended development of economic activites and tourism through the subsequent years. According to the new Law, the coasts, seashores and beaches are characterized as "public goods" and the protection of the ecosystems of the coastline is of a high priority for the state, which is absolutely responsible for their preservation and

²⁹ See United Nations, *supra* note 24

management pursuant to Article 24 of the Greek Constitution.

In addition to Law 2971/2001, a complementary law was voted in 2011 in harmonization with the Directive 2008/56/EC of the European Parliament and the Council (the Marine Directive), establishing the framework for community action in the field of marine environmental policy. The Law 3983/2011, amending the Presidential Decree 55/1998 on the protection of the marine environment, provides for the development and implementation of policies to conserve a good environmental marine status in Greece by the year 2020 the latest. For this aim to be achieved, the law provides for the adoption of measures to prevent the environmental degradation or, when possible, to restore the damaged marine ecosystems, to minimize the floods and droughts in the marine environment, so as to ensure that there will be no adverse impacts on the marine ecosystems, their fauna and human health.³⁰

c) Waste Management

Pursuant to paragraph 1 of Article 24 of the Greek Constitution regarding the obligation of the state to take measures to preserve and conserve the environment, a number of legal instruments was issued, aiming at handling one of the most complicated problems, the waste management. These instruments are, inter alia, the following:

i) Law 1650/1986 on the Environment (modified by the Law 3010/2002) and more specifically Article 12, which lays down the responsibilities of the competent authorities concerning waste management. Article 12 has undergone a series of modifications through the Law 3164/2003, the Joint Ministerial Decision 13588/725/2006, the Law 3536/2007, the Law 3854/2010 and, more recently, the Law 4012/2012.

ii) The Law 2939/2001 on Packaging and Alternative Management on Packaging Waste and other Products, in addition to subsequent Presidential Decrees for the recycling of packaging waste, practically incorporated the Directive 94/62/EC on Packaging and Packaging Waste into national law. The Law 2939/2001 lays down recycling targets per waste stream and introduces the obligatory participation and monetary contribution of the packaging producers in alternative waste management systems.

iii) Ministerial Decision 29407/3508/2002 “measures and terms on the landfill of waste” adopting the Landfill Directive 99/31/EEC. The Decision provides for effective and sanitary landfill construction and operation, introduces guidelines on the Sanitary Landfill Sites and

³⁰ Papakonstantinou A., *Sea and Coastal Pollution*, 2016, Article available at <http://www.greeklawdigest.com>

draws the national strategy for waste environmental goals to be achieved.

iv) Ministerial Decision 50910/2727/2003 “measures and conditions for solid waste management”, issued in execution of Law 1650/1986, through which the Directive 91/156/EEC was adopted and implemented into the greek national legislation. The Decision introduced the National Waste Management Plan, regulating the procedure of waste management. It should be noted that it was not the first legislative attempt to adopt and implement the Directive. Many years earlier there had been a respective Joint Ministerial Decision (49541/1424/1986), however, it remained practically inactive.³¹

d. Urban and Spatial Planning

According to Article 24 paragraph 2 of the Greek Constitution, urban and spatial planning are under the sole responsibility of the state, aiming at serving development, functionality and providing for good living conditions. The development of the urban areas is based on the obligatory contribution of the landowners to the securing of land for social facilities and public amenities. The Law 360/1976 “about regional planning and the environment” was the first to introduce the concept of spatial planning in Greece and the relevant plans (national, regional and special), organized in a hierarchical system. Nevertheless, it was never implemented, as it raised many reactions of the proprietors’ against land and money contribution.

Today, the main provisions regulating the areas of urban and spatial planning are the Law 1337/1983 on “Expansion of Urban Plans, Residential Development and Relevant Regulations” (or the “Code of Urban and Regional Planning Law”) and the Law 2742/1999 on “Spatial Planning and Sustainable Development”. The former Law constitutes the legal framework for the urban planning in Greece, laying down regulations on the use of land and town planning, provisions for the Development Control Zones and public residential participation procedures during plan - making, while the latter sets the function for the spatial – regional planning through two special management instruments, designated by the Ministry of Spatial Planning and Public Works (YPEHODE) to promote a balanced and sustainable spatial development. It should also be noted that both urban and spatial planning are subject to environmental restrictions, deriving from rules for environmental protection.

31 Sifakis A./Haidarlis M., *Waste Management in Greece National Report*, 2003, available at <http://www.lambadarioslaw.gr/publications/en/waste>, p.p 3-6

Although urban and spatial planning has always been under the competence of the central state, things have changed soon after the last revision of the Constitution. In particular, the Law 3852/2010 “New Architecture of Local Government and Decentralized Administration”, commonly known as the Kallikratis Reforming Law, obliged the central state to be subjected to a partial “decentralization”, transferring authorities to first level local authorities (municipalities) and second level regional authorities (regions) to organize plan-making at three levels, national, regional and local. Of course, even under this reform, the central state still remains mainly responsible for the formation and approval of all the urban plans, town plans, housing plans and programs on the protection of environment.

In 2014 the Law 4269/2014 on “Spatial and Urban Reform – Sustainable Development” was voted, with the aim to facilitate drafting and adopting spatial and urban plans through new technologies and procedures. The recent Law is considered to be a noteworthy development in spatial planning, taking into account current trends and investment needs.³²

e. Protection of the Cultural Environment - Cultural Heritage

The cultural environment and its elements are protected by both paragraph 1 and 6 of the Article 24 of the Greek Constitution. These provisions are further specified through the Law 3028/2002 "on the protection of the Antiquities and Cultural Heritage in general", provided for the protection of archaeological sites, monuments, historical buildings, traditional villages, collection of objects, but also for the protection of intangible cultural assets (traditions, practices etc). The protection provided is a responsibility of the Ministry of Culture and Tourism, mainly through the General Directorate of Antiquities and Cultural Heritage and the General Directorate of Restoration, Museums and Technical Works. These bodies shall act with the aim to safeguard monuments and other cultural goods for the sake of present and future generations.³³

5.1.4 Progress so Far

Despite the transposition, implementation and enforcement of the EU environmental

32 Giannakourou G./Balla E., *Privitization of Planning Powers and Planning Processes in Greece: Current Trends, Future Prospects*, 2013, available at <http://www.internationalplanninglaw.com>

33 Papakonstantinou A., *Protection of Cultural Heritage*, 2012, Article available at <http://www.greeklawdigest.com>

Directives into the greek legislation, the latter continues to lag behind progress within the European Union.

Greece has made a considerable progress on the protection of the natural environment of forest areas. The national ecological network is based upon the "Natura 2000 sites", where forests and other sites of ecological interest are included. Nevertheless, it has not yet taken measures towards the adoption of a forest registry. This ends usually more than problematic, as it triggers frequent controversial disputes, even before administrative courts, on whether an area is forestal.

The national water quality standards have been harmonized to the respective EU Directives. During the last two decades, most of the greek households of both mainland and islands are connected to drinking water networks, supplying them with good quality water. The companies of EYDAP, YPEHODE, DEYATH together with municipal companies co-operate to supply greek population with clean and sanitarly appropriate water. However, despite this progress, many citizens of the cities continue to complain for the unusual smell and taste of potable water, often doubting its quality.

Greek coasts, rivers and marines' protection is of a high importance for the maintenance of biodiversity and balance of the entire ecosystem, particularly because they constitute the biotope for several species (birds, fishes, turtles) living. Unfortunately, despite of the need for safeguarding the coastal and marine environment, there are still many human activities taking place near or by the coasts and marines, often polluting them irreparably. Development of tourism, coastal agricultural land productivity, transportation infrastructure, fisheries, electricity networks and other economic activities have been exerting collective pressure on the environment through the years, thus making it extremely fragile.

In addition, greek beach enjoys high recognition worldwide, as one of the most clean among all, having gained a considerable number of blue flags across the country.

Waste management in Greece follows the EU environmental legislation to a certain extent, however, the unwillingness of the government and the problems of bureaucracy lead to significant delays in its implementation. The result is often inappropriate or outdated procedures and measures, which need a reform by the time they are adopted.

Conclusions

Meeting the requirements of the Environmental Acquis is often highly complicated, especially because of the countless practical and technical parameters. However, despite the difficulties, the regressions and the inadequate modes of application, the progress of the EU environmental policy nowadays has been more than obvious. New, improved and innovative directives provide for an ambitious framework of structures, measures and procedures, which guarantee the preservation of the environmental wealth.

In this framework, candidate countries negotiating EU membership are required to comply to the requirements of the Directives, in order to maintain their environmental status in a good condition, not only for their national territory but also within the common European territory. Some of these countries are better prepared and well-equipped to overcome certain environmental obstacles, while others are not. However, although the total cost of compliance often amounts to billion of Euros, the benefits of life quality, good health, better living conditions and economic growth through investments, technologies and trade is often inestimable.

Greece has shown a poor environmental performance regarding the development of the EU Environmental Acquis. The adaptation of the greek law order to the Acquis has met many deficiencies through the decades, either due to controversial bureaucracy procedures or due to political will or even due to the absence of the public participation. Especially during the last years, greek financial crisis and austerity measures have led to a complete disintegration of the environmental legislation, resulting to the degradation of the constitutional priority of protecting the natural and cultural environment. It is clear that there is still a long way to go for environmental issues to be solved and this can only occur with the prerequisite of the joined and mutual participation of the state and of the citizens.

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