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## The Lisbon Treaty and the Environment

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### Abstract

*The Lisbon Treaty will have a considerable impact on the development of policy and law on the environment. Potential damage from trans-boundary pollution, for example, calls for common EU measures to protect the environment and for more efficient implementation of the concept of sustainable development as a core EU objective. With the Lisbon Treaty, the EU assumes even greater responsibility for global environmental protection. By the European Union Treaty, environmental policy must be integrated with economic, social, energy, agricultural, transport and other policies. With the Lisbon Treaty, the links between the environmental sphere and the other mentioned spheres will be much stronger.*

*Since 1973, , has developed spectacularly. The Treaty of 1957 contained no provisions on the environment. The Single European Act defined the protection of the environment and Maastricht identified the environment as an objective of EU activity. The treaties of Amsterdam and Nice further strengthened EU activities on the environment and sustainable development. The Lisbon Treaty expands the scope for common action on the environment and a more coherent energy policy. Article 191 defines the priority objectives of EU environmental policy: preserving, protecting and improving the quality of the environment; protection of human health; prudent and rational utilization of natural resources; promoting measures at international level to deal with regional or worldwide environmental problems, in particular climate change. Article 194 promotes a more harmonized energy policy in the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment. The EU internal energy market will produce solidarity in the Union and ensure the existence of an energy market.*

**Keywords:** *Lisbon Treaty, EU environmental policy, energy market, energy policy, climate change.*

## **Introduction**

The Treaty of Lisbon is a reform treaty in that it introduces numerous reforms in many spheres of common EU policies and common activities. The Treaty was signed, following a year of negotiations between the members states, on 13 December 2007 and came into force after ratification by all European Union states on December 1 2009. The Treaty has great significance for the future of the European Union and institutional reforms of the European Union. The Treaty is an important step on the way to building stronger Union cohesion in many spheres. The environment is one of these spheres. The Lisbon Treaty will have a significant impact on the further development of environmental policy and legislation, as well as on developmental activities in the field of the environment, sustainable development and the promotion of renewable energy. The Lisbon Treaty opens the prospect for further democratic development and strengthening of the human rights of EU citizens. It also raises awareness of the importance of the quality of the environment and environmental impacts on human health and the overall quality of human life.

## **Review of EU Environment Policy**

The Treaty of Rome, which was signed in 1957 and entered into force in 1958, had no clear provisions with regard to the environmental sphere, even though the Treaty did include provisions about the quality of human life. The United Nations Conference on the human environment held in Stockholm in June 1972 altered the European public's opinions about the ecological problems of economic development.<sup>1</sup> Shortly after the Stockholm conference, the Conference of the heads of European Union member states held in Paris set a clear pattern as to how to build a common environmental policy and new common environmental measures and activities. Since then, European environmental policy and legislation has developed remarkably.

The Single European Union Act of 1986 identified the creation of common environmental policies as a crucial European objective. The Maastricht Treaty, which was signed in 1991 and came into force in 1993, underlined the need to relate common economic policies to environmental policy. The Amsterdam Treaty of 1997, as well as the Nice Treaty of 2000, continued to strengthen the European Union's activities in the field of the environment and sustainable development, promoting firm links between environmental and

economic activities, resulted in a high level of environmental protection. Those trends continue in the Lisbon Treaty.

### **Strengthening Common Environmental Policy**

In accordance with the European Union's strategic objectives, the environment must be integrated with economic, social, energy, transport, education, agriculture, and other common sectors policies. The Treaty of Lisbon establishes pillars for building stronger relations between environmental policies and other common policies. The protection and preservation of the environment is fundamental to the general interests of the Community and the member states.<sup>1</sup> It is clear that the Treaty takes big steps in the protection of the environment and in the improvement of the quality of the environment. It also makes serious efforts to mitigate environmental degradation. The Treaty has a clear objective to establish environmental issues and sustainable development as core values, with an impact far beyond the European Union's borders. The Treaty has the ambition of improving the environment at global level, which will strengthen the EU's leading global role in the sphere of the environment and sustainable development.<sup>1</sup>

The Treaty of Lisbon includes the objective of improving the quality of the environment rather than merely preserving the environment, which is a very important innovation. The environment is placed in Title XX of the Treaty. In Article 191 (ex article 174 TEC- TEU),<sup>1</sup> it is stipulated that the Union's policy on the environment shall contribute to the following objectives of:

- preserving, protecting and improving the quality of the environment;
- protecting human health;
- the prudent and rational utilization of natural resources;
- promoting measures at international level to deal with regional and global environmental problems, and particular combating climate change.

Article 191 further stipulates that the Union's policy in the sphere of the environment shall aim at a high level of protection, taking into account the diversity of situations in the various regions of the Union, and shall be based on the precautionary principle. Also the Union's environmental policy should

be based on the prevention principle as well as the 'polluter pays' principle, which should be a priority in recovering from environmental damage.

Regarding the activities of preparing and adopting the policy in the field of the environment, the Union shall take account all available scientific and technical data and different environmental conditions in the regions of the Union, the potential benefits and costs from action or lack of action regarding the economic and social development of the Union as a whole, as well as the balanced development of its regions. Within their respective spheres of competence, the Union and member states shall cooperate with countries outside the Union and with competent international organizations. Arrangements for the Union's cooperation may be subject to agreements between the Union and relevant third parties.

This clearly demonstrates the aim of the Union to raise its environmental standards, which today are the highest in the world. A high level of protection of the environment is closely related to the improvement of the environment, showing that the goals of the European Union are to minimize potential environmental risks by implementing precautionary and preventive principles as one method of early warning and by undertaking all measures and activities necessary to prevent environmental degradation. The basis of the precautionary principle is that science and practical expertise cannot always predict all possible negative impacts on humans or ecosystems. In the absence of sufficient evidence and data to identify serious environmental risks, all potential risk activities must be curtailed. The precautionary principle is essentially that of "better safe than sorry".<sup>1</sup> A high level of environmental protection also entails improving environmental standards in the sectors of air, water and soil quality, nature conservation, protection from noise pollution and all forms of environmental degradation. as well as better protection of human health and nature. Such standards will require stricter monitoring and more precise and measurable standards, both of which will ensure a safer and higher quality of life for citizens of European Union.

The Lisbon Treaty grants legally binding force to the Charter of Fundamental Rights of the European Union. The Charter recognizes a number of rights, freedoms and principles that guarantee EU citizens the right to seek compliance when European Union institutions or institutions of the member states violate environmental rights. This means that all Union and member states must implement strict environmental legislation and this will produce greater democracy in the decision making process in the field of the

environment. The Treaty of Lisbon has raised environmental values to the level of European ethical values.

Climate change and global warming is one of the major targets of The Lisbon Treaty. Today the negative impacts of climate change are visible in all parts of the world. Combating the negative effects of global climate change is one of the core elements of the European Union's environmental activities. In this context, the Lisbon Treaty promotes measures not only within the territory of the Union but also at international level. The Treaty promotes more proactive EU positions in international affairs. This in turn means additional acceleration for Union activities in the framework of international institutions in the field of the environment and further strengthening of its global leadership role in this field. Furthermore, the Union's international actions in combating climate change will be characterized by closer collaboration among Union and non-Union member countries. The European Union has a target to reduce carbon emissions and other greenhouse gases by 20 per cent over the next fifteen years. But for the Union it is very clear that this will not be sufficient without the participation of all states in the world and especially without the participation of the large industrial countries which produce the highest emissions of greenhouse gasses. This is one of the crucial reasons for a more proactive role of the European Union in international environmental affairs. The Union will press large industrial states to reduce their carbon and other greenhouse emissions and to act together with the Union in combating the negative effects of climate changes. One of the European Union's goals is to convince the industrial states to act together with the Union and to grant technological and financial support to developing states which are most vulnerable to the negative effects of climate change. The Treaty of Lisbon will produce a call from the Union to all world leaders to take global responsibility for global environmental problems such as climate change, the depletion of the ozone layer, desertification, deforestation, the degradation of ecosystems and the loss of biodiversity, water shortage and other global environmental problems. The global character of environmental problems requires common global activities.

The Lisbon Treaty stipulates that the Union will take into account all available scientific and technical data and this will produce additional stimulation and support for scientific research in the sphere of the environment. This should produce new green and environmentally sound technologies. These parts of the Treaty should be related to Title XIX from the

Treaty, where it is emphasized that the Union has the objective of strengthening its scientific and technological basis by establishing a European research area in which researchers, scientific knowledge and technology circulate freely, and of encouraging greater competitiveness in industry and support for research into new technologies. Additional investments in new technologies will create new economic and social benefits for European Union citizens and create new jobs. It is predicted that within the European Union's member states, in the near future, the manner of measuring Gross Domestic Product (GDP) will be changed. The current measurement system is one of the best-known methods of measuring capacity in the economy. In the near future, within member states as well as in the Union as a whole, GDP will take into account not only economic and social factors but also environmental sustainability, environmental degradation and environmental benefits as well as any improvements in the sphere of the environment. This will produce a revolution in the measurement of economic elements. The Treaty clearly stipulates the need for prudent and rational utilization of natural resources as one of the crucial elements of sustainable development.

The Treaty of Lisbon continues to strengthen regional development and regional cohesion in the direction of devolution and decentralization, transferring power from central to regional and local levels. The contemporary European Union is a decentralized Union. In this direction, there is a separate part of the Treaty which confirms that common Union policies within the field of the environment must take into account the diversity of conditions in various local and regional areas. But the Union is also aware of the diversity of economic and social conditions in various regions. This will require assigning a larger part of the EU budget to solving environmental problems, especially in non-developed regions, and will gradually equalize the environmental conditions in different regions.

Article 192 of the Treaty (ex Article 175 of the TEC) stipulates the competences of European institutions in the field of the environment. The European Parliament and the European Council are to act in accordance with ordinary legislative procedures and, after consultation with the Economic and Social Committee and the Committee of the Regions, shall decide what action needs to be taken by the Union in order to achieve the objectives of common environmental policy.

Furthermore, in accordance with this Article. the Council accorded competence in the fiscal sphere will act unanimously through a special

legislative procedure: after consultations with the European Parliament, the Economic and Social Committee and the Committee of the Regions shall adopt:

- provisions primarily of a fiscal nature,
- measures affecting town and city planning, quantitative management of water resources that directly or indirectly affect the availability of those resources and land use, with the exception of waste management.

General action programs establish the priorities of environmental policy and shall be adopted, according to the Lisbon Treaty, by the European Parliament and the Council, acting with ordinary legislative procedure and after consultation with the Economic and Social Committee and the Committee of the Regions. Besides undertaking measures and activities at the level of the European Union, there are clear obligations for member states to act in accordance with common EU policies and also to finance such policies. There is an obligation for member states to implement strictly the polluter pays principle. It is clear that the implementation of the polluter pays principle will produce stronger and broader obligations on polluters. Polluters will cover all the costs of pollution, such as costs for preventive measures, issuing licenses, monitoring, inspecting, laboratory analyses, remediation of environmental degradation, etc. This will raise environmental taxes and opportunities for the collection of additional financial resources. These financial resources should be employed for the purpose of financing and stimulating environmental projects that provide better environmental protection and improvement of the environment. Member states can maintain and introduce stronger protective measures and standards than stipulated in the common environmental policy and legislation. The Treaty provides the possibility for member states to use financial support from the cohesion Fund of the Union for the implementation of common environmental activities. It is clear that, in spite of the global economic recession, the financial resources for projects in the sphere of the environment will rise in future.

The Lisbon Treaty contributes to building a more democratic and transparent Europe, strengthening the role of the European Parliament and the national parliaments of the member states. That will involve more democracy in the decision making processes in the sphere of the environment. The European Parliament continues to adopt environmental

legislation equally with the Council of Europe—the Council of Ministries, after obligatory previous consultation with the Committee of Regions and the Social Economic Committee. Strengthening the role of national parliaments provides more opportunities for European citizen to bring forward proposals and suggestions in the process of adopting policies, strategies and other documents and also legislation in the sphere of the environment. The Treaty will expand the present functions of the European Commission for proposing environmental measures, policies and legislation and for ensuring their implementation at the level of the EU and in the member states. The European Commission is obliged to submit reports to the European Council, the Council of Ministers and the European Parliament for the implementation of common environmental policies, legislation and standards.

Common measures and activities in the field of the environment inevitably affect town and country planning. The Treaty of Lisbon promotes stronger links between spatial planning and environmental and sustainable development. Contemporary environmental policies and activities must be closely related to spatial planning. The Treaty recognizes the importance of this relation. In addition, one of the main tasks of spatial planning is to affect environmental conditions, taking into account the distance between industrial and residential areas, planning environmental, sustainable and flowing traffic and transport, planning space for greenery, parks and recreation and protection from noise pollution. Links between town and country planning are crucial to ensure a high level of protection and improvement of the environment and this is one of the crucial objectives of the Treaty of Lisbon aiming to protect human health and improve the overall quality of life and wellbeing of EU citizens.

Article 195 of the Treaty declares the aim of promoting the European Union as a favorable destination for tourists from throughout the whole world, it is expected that within the common policy in the sector of tourism, ecological tourism will take a significant place. This is also one of the important aspects of the Lisbon Treaty related to the environmental sphere and one more reason to have a high level of environmental protection and to improve the quality of the environment in the territory of all member states.



## **Energy and Renewable Energy Elements**

The Lisbon Treaty will produce changes in EU energy policy. The Treaty will help the Europe Union maintain its energy supply and will provide for the use of sustainable and competitive recourses. The Treaty contains a specific chapter on energy in Title XXI, which defines the crucial objectives of common energy policy as follows: to create a functioning energy market, to ensure security of energy supply in the Union, to promote energy efficiency and energy saving and the development of new renewable forms of energy, and to promote the interconnection of energy networks. Connecting the energy networks of member states will enhance the cohesion of the European Union in the sphere of energy.

For the first time in the European Union's history, the Treaty will introduce the principle of solidarity in energy supply. This will ensure that if one or more member states are faced with difficulties in energy supply, the other member states will help. By promoting energy from renewable sources, the Treaty will generate more incentives for the production and consumption of renewable energy such as wind, solar, biomass, small hydro plants, etc. This will have additional benefits for the European Union in the economic sphere and will cut expenses for imported non-renewable energy, especially the import of oil. It will also produce positive effects in the environmental sphere, reducing pollution and emissions of greenhouses gases. The more renewable energy the European Union produces, the more independence it will gain from political problems in states with oil resources and from fluctuations in the global energy market. The highly ambitious objective of the Union to produce 20% of its total energy needs from renewable energy sources within a period of 10 years—and 30% in a period of 20 years—will produce incentives to develop new technologies for producing energy from renewable sources.

## **Conclusion**

The Treaty of Lisbon will have a number of positive and environmentally sound effects. The Treaty establishes the basis for a higher level of protection and higher standards for environmental protection. That will improve the quality of health and the quality of life of EU citizens. The Treaty emphasizes improvement of the environment as well as protection of the environment. This is not only a formal innovation but one of crucial significance. Economic

activities will be much more closely related to environmental matters. Stronger implementation of the polluter pays principle will supply more financial resources for investments in environmental projects. The Treaty will encourage more investments in new clean and environmentally friendly technologies. By promoting greater democracy, the Treaty produce opportunities for involving more citizens in the decision making process in the sphere of the environment. The EU's leading role in environmental activities will be stronger. The European Union will exert pressure on other states for stronger activities in combating the negative effects of climate change, especially with regard to the reduction of carbon emissions. The position of the Union in international organizations in the field of the environmental will be stronger.

The Treaty of Lisbon will create incentives for renewable energy and the production of such energy will be dramatically increased. The relations between energy policy and environmental policy will be closer. The principle of energy solidarity in the EU will support and stimulate less developed states in the Union to invest in new energy technologies.

### **Endnotes**

- <sup>1</sup> Moussis, N. (2006). *Access to European Union: Law, Economics, Policies*, 15<sup>th</sup> edition, Rixensart: European Study Service, 311.
- <sup>2</sup> Kramer, L. (2007). *EC Environmental Law*. Sweet & Maxwell, London, 102.
- <sup>3</sup> Sapuric, Z. (2010). *Environment and Sustainable Development*. University American College, Skopje, 283.
- <sup>4</sup> *Treaty of the European Community - Treaty of the European Union*.
- <sup>5</sup> Bell, S. & Mc Gillivray D. (2005). *Environmental Law*. Sixth edition, Oxford University Press, 60.

### **References**

- Bell, S. & Mc Gillivray D. (2005). *Environmental Law*. Sixth edition, Oxford University Press.
- Kramer, L. (2007). *EC Environmental Law*. Sweet & Maxwell, London.
- Moussis, N. (2006). *Access to European Union: Law, Economics, Policies*, 15<sup>th</sup> edition, Rixensart: European Study Service.
- Sapuric, Z. (2010). *Environment and Sustainable Development*. University American College, Skopje.