

# European Environmental Policy

Kurseinheiten

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## Vorwort

Die Umweltpolitik bildete ursprünglich kein klassisches Aufgabenfeld der europäischen Politik. Der umweltpolitische Problemdruck und der Zwang zur Harmonisierung nationaler Umweltpolitik führten in den letzten Jahrzehnten jedoch auf europäischer Ebene zu einer starken Verdichtung und Ausdehnung der rechtlichen Regelungen und institutionellen Mechanismen. Mit der Einheitlichen Europäischen Akte von 1987 wurde dann der Grundstein für eine in die europäische Integration eingebettete Umweltpolitik gelegt. Seitdem ist die Zuständigkeit der Europäischen Union im Bereich der Umweltpolitik weiter gewachsen. Dieser Studienbrief bietet eine umfassende und tiefgreifende Darstellung über die Entwicklung, institutionelle Ausgestaltung und Implementation der EU-Umweltpolitik. Zunächst beschäftigt sich der Studienbrief in einem ersten Teil neben einer anschaulichen Darstellung der Programme und Politiken in den verschiedenen Tätigkeitsfeldern der europäischen Umweltpolitik mit verschiedenen umweltpolitischen Steuerungsmustern. Mit der Analyse der in der EU verwendeten Steuerungsmechanismen lässt sich veranschaulichen, wie weit die tatsächlichen Ergebnisse der EU-Umweltpolitik hinter den Erwartungen im Einzelfall noch hinterherhinken. In einem zweiten Teilabschnitt werden das institutionelle Geflecht, die involvierten Akteure beziehungsweise politischen Prozesse und Entscheidungsverfahren der EU-Umweltpolitik dargestellt. Bei der Formulierung und Umsetzung der europäischen Umweltpolitik ist ein breites Bündel von Interessengruppen beteiligt, die neben ökologischen Interessen auch konkurrierende wirtschaftliche Interessen vertreten und umweltpolitische Problemlösung in Europa somit zu bremsen versuchen. In einem dritten Teilabschnitt wird das Problem der nationalen Implementation beziehungsweise bestehender Implementationsdefizite breiter behandelt. Damit wird ein instruktiver Einblick in die Probleme gegeben, die sich bei der Umsetzung der europäischen Regelungen auf nationaler Ebene ergeben können. Mit diesem Studienbrief liegt eine sehr kompetente politikwissenschaftliche Darstellung über die EU-Umweltpolitik vor, der man viele Leser wünschen möchte.

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## Abbreviations

COREPER	Committee of Permanent Representatives
DG	Directorate-General
EC	European Community
ECJ	European Court of Justice
ECT	Environmental Compatibility Test
EEA	European Environment Agency
EEB	European Environmental Bureau
EIA	Environmental Impact Assessment
EP	European Parliament
EU	European Union
OJ	Official Journal
SEA	Single European Act
TEC	Treaty Establishing the European Community



## Introduction

### The author

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### Overview of the courses on European Environmental Policy

The environmental policy of the European Union (EU) has made great strides in the past three decades. Since the early 1970s we have been able to observe a continuous expansion of environmental activities at the European level. Environmental policy, which was initially considered a politically insignificant appendage of economic integration, has thus become a central policy of the EU. Its increased importance is due not least to the far-reaching influence of Brussels on the environmental policies of the member states. Because of the high regulatory density and the vast content bandwidth of EU environmental policy, member states are often forced to adapt national regulations, policy instruments and management structures to European standards.

Despite this significant momentum, the EU's environmental policy repeatedly finds itself under fire. In addition to the standard accusation of a policy of the lowest common denominator, critics point to the lengthy and ineffective European decision-making process, far-reaching implementation deficits and a growing centralisation of environmental regulations, under which the member states' ability to act increasingly falls victim to Brussels' "regulatory madness".

The aim of the current course is to investigate these issues. In the foreground stand the following aspects: How can we explain the significant increase in environmental activities on the European level? What are the core content and control models of EU environmental policy? How is performance and effectiveness assessed? Which factors influence its formulation and implementation? Is a lowest-common-denominator policy really all we can expect? What opportunities are there to improve the implementation of European standards on the national level?

Aim of the course

To keep our terms as simple as possible, we will use the designation European Union (EU), even when referring to periods before the European Union itself came into being.

Note on terminology and citations

The creation of the European Coal and Steel Community (ECSC) in 1951 can be seen as the starting point of the European integration process. The Treaties of Rome in 1957 created two more communities: the European Economic Community (EEC) and the European Atomic Energy Community (EAEC or Euratom). With the Merger Agreement of 1967, the institutions and bodies of

the three communities were integrated. Since then, the term EC, for European Communities, has commonly designated the three individual communities taken together. The Maastricht Treaty, which came into force in 1993, established the European Union. The former European Economic Community (EEC) was re-designated European Community (EC), which should not be confused with the previous use of the term to refer to the three communities. Alongside the ECSC and EAEC, the three pillars of the EU are the EC and the intergovernmental areas of the Common Foreign and Security Policy (CFSP) and police and judicial cooperation in criminal matters (PJCC).

When the Treaty of Amsterdam came into force on 1 May 1999, the treaty articles were renumbered. This text will therefore use the revised numbering from this consolidated version of the Treaties establishing the European Communities (EC). For reasons of simplicity, the article numbers from the old version of the Treaty establishing the European Economic Community (EEC Treaty or TEC), will be included in parentheses on first mention. The following overview lists articles of major importance to EU environmental policy, in both old and new numbering.

Figure 01: Important legal foundations of EU environmental policy in terms of the old and consolidated versions of the Treaty establishing the European Community

New article number	Old article number	Subject
2	2	Tasks of the Community
6	130.2	Integration of environmental protection
29	34	Trade restrictions
30	36	Trade restrictions
94	100	Harmonisation
95	100a	Harmonisation, single market
174	130r	Environment
175	130s	Environment
176	130t	Environment
249	189	Legal form of Community operation

For readers dealing intensively with the subject of European institutions for the first time, it is recommended that they refer to an introduction text on European Union policy; the controversies in the field of environmental policy at European level will become more understandable with a basic knowledge of the emergence and negotiation of European treaties. For those who can read German, the following books are among those recommended:

Holzinger, K./Knill, C./Peters, D./Rittberger, B./Schimmelfennig, F./Wagner, W. (2005). *Die Europäische Union. Theorien und Analysekonzepte*. Paderborn: Schöningh.

Tömmel, I. (2006). *Das politische System der Europäischen Union*. Munich: Oldenbourg.

## **Underlying principles and development processes of European Environmental Policy**

The course section *Underlying principles and development processes of European Environmental Policy* will investigate how environmental policy emerged as an independent field of EU policy. This is no small matter; indeed, in the context of the previous legal and institutional conditions, the dynamic development of EU environmental policy may at first glance seem quite surprising. The original treaty foundations of the EU as an economic community did not provide it with environmental policy competence on the European level.

Establishment of environmental policy as European policy area

Along with a historical overview of the establishment of EU environmental policy as an independent policy area, the section will also present its essential content and areas of activity. In the foreground are both the action-guiding principles and the guidelines for European Environmental Policy as well as the various environmental policy action programmes and the policies that serve to implement these programmes based on their content.

Scope of European Environmental Policy

However, an analysis of these programmes' content does not allow us to draw conclusions about the form of policy to be used to implement their provisions. For this reason, a third step will look at the structure and development of various control concepts, regulatory forms, and instruments forming the basis of EU environment policy.

Forms of policy implementation

Fourthly, we will undertake a critical assessment of the problem-solving ability of European Environmental Policy. A precondition for an assessment of this kind is an evaluation of past results of EU environmental policy. This will show that different assessments can be arrived at, depending on the evaluation criteria that are chosen.

The EU's environmental problem-solving ability

## **Policy formulation: The design of European Environmental Policy**

While the first part of the course will present the historical development, content targeting and monitoring, and current patterns of European Environmental Policy, the second part will address *policy formulation*, namely, *the design of European Environmental Policy* around the analysis of key aspects that are responsible for the developments outlined in the first part, or which can contribute to explaining these developments.

### Participants

The starting point for these considerations is an overview of the key institutions in the formulation of EU environmental policy. In this context, attention should be directed not only to public agencies, such as the Commission, the European Parliament, the European Court of Justice, the Council of Ministers, and national governments, but also to major private actors, as European economic and environmental organisations.

### Decision-making process

Secondly, based on this analysis, the different methods of decision-making will be presented. These procedures differ in particular in regard to the influence of the European Parliament and the voting rules that are applied to the decision-making of national governments in the Council of Ministers.

### Interest and interaction patterns

In a third step, we will build on this knowledge to analyse the patterns of interests and interactions that are responsible for the design of the EU environmental policy. This will show how national interests and regulatory models influence the direction of European Environmental Policy. Moreover, it will address the question of whether and under what conditions the commonly evoked scenario of “environmental dumping”, i.e., a regulatory race to the bottom, is actually something to be feared at the European level. These relationships are described in theoretical terms in the fourth chapter using various case examples.

### Case examples

## **Implementation: The implementation and application of European Environmental Policy at the national level**

Although the EU’s capacity to develop political programmes may well be thought of as a key determinant for the problem-solving capacity of Europe’s multi-level system, it must not be overlooked that these programmes also require effective implementation to achieve their desired effect. Effective control in the EU environmental policy depends not only on the possibilities of European policy-making, but also on the effective implementation of European policy. Against this backdrop, the third part of the course *Implementation: The implementation and application of European Environmental Policy at the national level*, more closely examines the factors and conditions that influence the effectiveness of the implementation of European Environmental Policy.



To this end, we will first discuss in general terms the policy implementation phase from the perspective of policy analysis. In this context, we will present key findings and results of political science research into implementation. Based on this general overview, in the second step we will deal specifically with the implementation of European Environmental Policy. This analysis includes the underlying institutional framework, core implementation problems, and theoretical and practical approaches to improve the implementation effectiveness. As in the second part of the course, the theoretical and analytical presentation is also illustrated with various case studies.

Implementation of environmental policy programmes

Implementation of European Environmental Policy

Case examples

## Course objectives

The first part *Underlying principles and development processes of European Environmental Policy* aims to provide a general introduction to the relationships, characteristics, and problems of European environmental policy. The concrete objectives are:

- Understanding the relationships favourable to the development of an independent environmental policy at the EU level; being able to judge the relevance of economic and legal factors for the development of EU environmental policy
- Knowledge of the essential principles and activities of EU environmental policy
- Understanding and knowledge of different management approaches, instruments, and forms of regulation, revealing significant differences between various approaches
- Understanding of the reasons that have contributed to a change of control patterns in European environmental policy
- Assessment of the problem-solving ability of EU environmental policy, understanding the complexities and problems of assessment, knowledge of different assessment criteria, identification of potential programme and implementation deficits of individual measures

The second part *Policy Formulation: the Shaping of European Environmental Policy* aims in particular to explain the theory behind the European environmental policy trends and issues discussed in the first course unit and to identify the analytical correlations that are important in the shaping of EU environmental policy. In doing so, the focus will be on the following specific learning goals:

- Overview of the key actors and institutions involved in the shaping of European environmental policy; understanding their core responsibilities and

scope for action; ability to assess the relative significance of these actors and institutions for European environmental policy

- Understanding the processes and procedures that are important for the formulation of EU environment policy; ability to distinguish between the respective procedures and patterns of action for the different stages of policy development; knowledge of Europe's central legislative processes and their impact on the influence of the different actors involved in policy development
- Knowledge and evaluation of various constellations of interest and patterns of interaction between different actors and also of the impact of these constellations on the shaping of policy; differentiation between product and production standards; assessment of the impact of various forms of regulatory competition between the member states
- Ability to explain the analytical and theoretical correlations using concrete examples from environmental policy in practice

Although the ability of the EU to develop policy programmes may be considered the central determinant for the problem-solving capacity of the European multi-level governance system, it must not be overlooked that these programmes also require appropriately effective implementation in order to achieve their intended effect. Effective management in EU environmental policy is, therefore, not only dependent on the opportunities available for European policymaking, but also on the effective implementation of European policy.

Against this background, in the third part *Implementation: The Implementation and Application of European Environmental Policy at the National Level*, the factors and requirements influencing the effectiveness of European environmental policy implementation are more closely considered. This part links logically with the second part *Policy Formulation: The Formulation of European Environmental Policy*, as there is frequently a close analytical correlation between the concrete structuring of European policies and the likely difficulties in its implementation. In this, the following tangible learning goals take the foreground:

- Understanding of the central problems and correlations arising in the formal and practical implementation of European policy guidelines in the Member states
- An overview of the institutional and general procedural framework characterising European environmental policy implementation; understanding the background for politically addressing deficiencies in implementation

- 
- The ability to evaluate the effectiveness of European environmental policy implementation by means of general statistical data
  - Understanding of the effects of the different models of environmental policy management on the effectiveness of the implementation
  - The ability to identify potential strengths and weaknesses of different management approaches in view of the effectiveness of implementation; awareness of the connection between the successful implementation of and the institutional compatibility of European guidelines and national arrangements
  - The ability to expound the analytical and theoretical correlations with the aid of concrete examples from the practice of environmental policy

The tasks set out in the text help summarise the information and monitor individual learning success. The related tasks sent by post are used to assess performance and for certification purposes.