

The Lisbon Treaty and the integration principle

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Today's Presentation

- Introduction
- A brief 'history' of the Integration principle
- Overview of the legal basis
- The legally binding character
- Definition of the Integration principle
 - Integration into the definition and implementation of policies and activities
 - Integration of Environmental considerations
 - With a view of sustainable development - high level of protection
- Conclusions

An introduction to ClientEarth

- ClientEarth is a non-profit environmental law organisation based in London, Brussels, Paris and Warsaw.
- We are lawyers working at the interface of law, science and policy. Using the power of the law, we develop legal strategies and tools to address major environmental issues.
- As legal experts working in the public interest, we act to strengthen the work of our partners - both governments and NGOs.
- Our work covers climate change and energy system transformation, access to justice, biodiversity, transparency, health and environment, and tropical forests.

Our methodology and principles

- We are lawyers working for people and their environment..
- We work with green groups, MEPs, academics industry and governments.
- We view law as a tool for positive social change.
- We work on laws throughout their lifetime, from their conception through to legislation and implementation.
- And we work to enforce laws when governments fail to do so.
- We are proactive, helping to create the legal initiatives.
- We take a long term view—focusing not only on the year or two it takes to get laws passed but on the decade or two it takes for laws to make a difference on the ground.

History of the Integration principle

- 1987 – Single European Act - Article 130r(2.2) TEC states:
'Environmental protection requirements shall be a component of the Community's other policies'.
- 1993 version - Maastricht Treaty - Article 130r(2.2) TEC states:
'Environmental protection requirements must be integrated into the definition and implementation of other Community policies'.
- 1997 The Amsterdam Treaty – Article 6 TEC states:
'Environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities referred to in Article 3, in particular with a view to promoting sustainable development'.
- 2009 The Lisbon Treaty - Article 11 of the TFEU keeps the meaning of article 6 TEC and states:
'Environmental protection requirements must be integrated into the definition and implementation of the Union policies and activities, in particular with a view to promoting sustainable development.'

Legal basis

- Article 11 of the TFEU – Integration principle
- Article 191 – Environmental policy-Objectives, principles and policy elements - Climate change reference: carbon objective
- Articles 194 of the TFEU: Energy policy is framed “with regard for the need to preserve and improve the environment”
- Article 114 of the TFEU – Internal market
 - High level of protection concerning health, safety, **environmental protection** and consumer protection in all proposals of measures concerning these issues for the approximation of laws in Member States with the object of the establishment and functioning of the internal market.
 - Member States can ask for authorisation to maintain or introduce measures different to harmonisation rules if no market distortion.

Legally binding character

- Integration principle is legally binding
 - Literal interpretation - wording
 - Jurisprudence of the Court of Justice
- The EU institutions have broad discretion in the way to implement it
 - The balance of the environmental objectives and the other policy objectives concerned.
- In some cases a particular measure could be subject to annulment because environmental requirements have not been taken sufficiently into account.
- Legislation has to be interpreted in line with the environmental objectives, principles and policy elements of Article 191 on environmental policy.
- When an EU policy objective, for example in internal market, would be adequately achieved in a variety of ways, the integration principle would entail a choice for the least environmentally harmful.

Definition and implementation of Union policies and activities

- Article 11 TFEU requires that environmental requirements are taken into account in relation to:
 - definition and implementation
 - of **Union policies** but also **activities**
- Environmental requirements must be taken into account by
 - EU Policy strategies and plans as well as by
 - EU legislation such as internal market directives,
 - their implementing measures such as additional EU non-legislative acts, national laws, technical standards for implementation of EU legislation,
 - International Agreements.
- Article 11 makes the integration principle more flexible and broader than in the past because it does not refer to a list of EU activities (such as article 3 of TEC in previous article 6 TEC)

Definition of environmental considerations

- Defined as per article 191 - objectives and principles stated in article 191 (1) and 2) as well as the policy aspects in article 191 (3)
- Article 11 states: "...with a view to sustainable development. »
 - Sustainable development is defined in article 3 TEU in relation to high level of protection and improvement of the quality of environment.
- This interpretation is confirmed in Article 37 Charter of Fundamental Rights of the EU
- Integration of environmental considerations aiming at a high level of protection and improvement of quality of environment
- The exact boundaries of the interpretation of the integration principle will have to be set by the European Court of Justice

Conclusions

- EU policies and measures (including internal market) must integrate environmental considerations for their definition and implementation;
- Standards adopted under EU policies and laws without taking into consideration environmental requirements do not comply with article 11, TFEU;
- Standards adopted under EU policies and laws without **sufficiently** taking into consideration environmental requirements so as to ensure high level of environmental protection do not comply with article 11 TFEU in relation to article 3 TEU and article 37 of the Charter.