



Air and Noise in EU Member States
Needs Analysis
2006

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Introduction

Justice & Environment (J&E) is a network of public interest environmental law organisations based in the EU member states. J&E aims to use law to protect people, the environment and nature. Our primary goal is to ensure the implementation and enforcement of the EU legislation through the use of European law and exchange of information. This J&E needs analysis aims to provide an overview of needed work in the area of IPPC – Integrated Pollution Prevention and Control.

Background

A series of Directives has recently been introduced to monitor and control levels of atmospheric pollutants - Framework Directive 96/62/EC regulating the ambient air quality assessment and management and three Daughter Directives¹. The (first Daughter) Directive 1999/30/EC requires Member States to meet health limit values for SO₂ and PM₁₀ by 2005 and ensure that up-to-date information on ambient air quality is routinely made available to the public.

In the area of noise pollution the European Council introduced Directive 2002/49/EC on the assessment and management of environmental noise. The directive provides factual basis for developing a long-term EU strategy, requiring use of harmonised noise indicators and the drafting of "strategic noise maps" and action plans.

Problems

Citizens and local NGO are increasingly approaching J&E members for help in this area, especially for air and noise pollution arising from traffic. The legal, scientific and technical knowledge needed in this area is extremely complicated. J&E members therefore need capacity building and education in the given area and mutual exchange of experience, litigation strategies and scientific arguments and resources.

We consider that in new Member States the problem of air pollution and environmental noise is underestimated. There is little discussion on the effect on health and costs to community of exposure to air pollution and environmental noise and the possibilities and costs of measures in general. The national law on the field of (traffic) air and noise pollution is according to our experience mostly insufficient (at the expense of affected citizens).

There is a need to make stronger arguments of J&E members for effective participation in the legal, scientific and public discussion and lobbying on the national/international level.

The new Member States are supposed to implement properly and effectively recent Directives and to fulfil new obligations (air pollution limits, monitoring, maps, action plans, information for public etc.).

There is need to analyse and compare the implementation of new EU legislation (especially Directive 1999/30/EC on the background of the Air quality framework directive, "noise" Directive 2002/49/EC - this Directive has not yet been implemented in some countries).

The necessity to fight climate change and the need to limit emissions caused by traffic (the fastest growing emission source) bring extra urgency to this subject.

¹ Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management; Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air; Directive 2000/69/EC of the European Parliament and of the Council of 16 November 2000 relating to limit values for benzene and carbon monoxide in ambient air; Directive 2002/3/EC of the European Parliament and of the Council of 12 February 2002 relating to ozone in ambient air.

Basis and legal issues

Amendments of the (first Daughter) Directive 1999/30/EC regulating the limit values for particular matters (PM's) are at the time of writing (insert date) in the EP now, where there is an attempt to lower the limits for PM. There are strong scientific arguments against the proposal, and the EEB is campaigning against it.

Of direct relevance to J&E is the lack of appropriate tools to allow participation. The Directive (in both versions) does not provide effective tools for citizens to protect their living conditions (limit values are complicated, partially non-binding etc.). The Directive 2002/49/EC on the assessment and management of environmental noise does not provide tools for citizens to protect their living conditions (only maps and action plans)

Aims

JE will demonstrate that up to now (national, EU) legal mechanisms are malfunctioning in terms of the protection of fundamental human rights such as the right to life and health is and that the effective regulation on a European level it is necessary.

1. check key issues of implementation of relevant directive(s) from the perspective of citizens (participation, access to justice)
2. map the national standards of protection (perspective of citizen, limits for noise/ PM, esp. standing or possible admin. procedures both in administrative and civil law, possible legal strategies)
3. identify common problems, best and worst practices
4. if possible prepare (national) legal strategy to protecting affected citizens
5. lobbying of the results on the EU level – regulation on EU level needed to protect EU citizens
6. (lobbying of the results on the national level – best practices, need of really effective regulation)

Activities

- Analysis of new EU legislation implementation and/ or collection of case studies² based on the practice of at least some of J&E members on national level (legal issues, legal tools used and outcome establishing change)
- Using study on implementation/ case study results as basis for position in further national cases and communicating them to national governments, EU - level NGOs and DG Environment.
- Searching for a strategic complaint
- Cooperation with the EEB and participation in their campaign
- Litigation in strategic cases at least on the national level with use of shared information (gaps in implementation of EU law, scientific materials, legal strategies; at least some of J&E members). For Air/noise it is not likely J&E will submit a strategic complaint in 2007; we will map out possibilities only.
- Participation of J&E member's staff on relevant seminars and/or education trainings, work of "resource person(s)" accumulating EU – level information for J&E.
- Discussion and education – to build capacity in J&E and national level NGOs
- Dissemination in media (press releases, articles), and on web pages

² The goal of the material would be to bring to J&E members tool for national litigation, dissemination and advising and for international orientation (trends, legal issues etc.) with focus to future cooperation. The format of members input (analyze or case study) would be chosen with respect to current work of participating members and to actual needs of J&E network...

- "Resource person(s)" preparing core of basic relevant EU-level information for citizens on behalf of J&E members.

Steps

1. litigate in one or two study cases at the national level + case studies
2. create brief national legal guide (citizen's legal tools)
3. analyse key issues of directive(s) implementation
4. analyse key problems, barriers and possible legal tools for citizen's protection
5. lobbying material (position paper or other) for governments, G 10 and Commission identifying main problems and proposing solutions (best practices, EU regulation)

Results

- the Directive 2002/49/EC on the assessment and management of environmental noise does not provide tools for citizens to protect their living conditions (only maps and action plans)
- Better understanding of issues surrounding Air/ noise pollution in some new member states
- Overview about the problems in transposition of EU law into national legislation
- Formation of strategies to improve implementation of Air/noise and improved capacity of J&E members in this area
- Through consultation G10, improved understanding of trends in Air/Noise issues, eventual communication of issues surrounding Air/Noise implementation to the G10 or Commission
- (Long term) Reduced urban and residential noise and air pollution and protection of inhabitants health through use of best practices
- Through consultation at a local level, improved capacity of local NGOs to use the EU law tools for handling Air/Noise issues (local ownership of results).
- Outcome will serve as a baseline for further projects and issues to work on.

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