

Abstract

The effectiveness of European Community environmental legislation depends to a large extent on its implementation and enforcement in its member states. Effective implementation and enforcement may not by itself change the behavior of relevant actors, such as businesses, but it is an essential precondition. Implementation and enforcement constitute the final stage of the process of environmental policy making, which also involves policy conception, draft in legislative form, and adoption as EU legislation. The goal of this process is compliance with environmental laws. Without compliance, environmental requirements will not achieve the desired results. Compliance does not happen automatically and involves efforts that encourage and compel the behavioral changes needed. These efforts in a legislative form can be referred to as control mechanisms. The goal of control mechanisms is to ensure compliance with Community environmental law.

The purpose of this work is to define control mechanisms in the Community environmental legislation, classify them, analyze their effectiveness, and provide suggestions for their improvement. This work consists of four chapters.

The first chapter introduces the topic, defines important terms – such as control mechanisms, implementation, and enforcement – and explains recent developments in the field of concern.

Chapter two analyzes the process of policy making and describes the way the main actors – the European Commission, the European Council, the European Parliament, the European Court of Justice, and the environmental non-governmental organizations – participate in the legislative and control processes. This chapter also shows differences among Community legal acts with respect to their implementation. Furthermore, it elaborates on implementation deficits and their causes.

Chapter three represents the core of this work. It studies control mechanisms on the Community level and classifies them based on their position in the legal order into the following three groups: (1) extrajudicial control mechanisms, (2) judicial instruments and procedures, and (3) sanctions. For all of

these groups, this study contains an in-depth description, analysis and efficiency evaluation. It concludes that the current control mechanisms are insufficient and do not guarantee full compliance. It suggests possible improvements such as public rights enhancement, Commission empowerment for on-site inspections, overall simplification and transparency.

The last chapter further investigates possible strategies for the improvement of the implementation and application of the Community environmental law. It examines some concepts from the third chapter in more detail and discusses the importance and usage of a feedback mechanism based on evaluation of the environmental policy. Finally, it considers enhancements of tools enabling public participation and financial stimuli.