



**Draft**

**Title:** **Towards better implementation of European environmental legislation**

**Tabled by:** Miljöpartiet de gröna

**Draft text**

1 The Green Deal currently being pursued by the Van der Leyen Commission is an  
2 important step in EU policy. Although too short, at least it is going in the  
3 right direction.

4 Previous Commissions, although frustratingly passive on green issues, also made  
5 an important point: implementation of environmental legislation must be  
6 improved. This was identified as one of the four so-called 'enablers' in the 7<sup>th</sup>  
7 Environmental Action Programme covering 2014 to 2020. It was an aim of the  
8 Environmental Implementation Review launched by the Commission in 2016, with the  
9 third cycle to be reported in 2022.

10 In 2019, the Commission's own evaluation of the EAP identified the need for  
11 "above all stepping up efforts to implement existing legislation".

12 There are a number of reasons for the poor national implementation of  
13 environmental legislation. Among others, there is a simple lack of knowledge  
14 among governments and courts of what EU legislation actually requires. But there  
15 can also be crass calculations: the low risk of the Commission's reaction to  
16 infringements, and the length of the infringement processes that can drag – and  
17 be dragged – on for years makes the political cost of non-implementation low.  
18 Even if a Member State loses, the politicians most responsible will normally  
19 have moved on long ago, leaving ongoing infringement proceedings as toxic  
20 'presents' to their successors. Furthermore, concrete cases are sometimes needed  
21 to clarify interpretation of the material substance of existing rules, which are

22 too often the result of late-night compromises among exhausted negotiators.

23 Infringement cases can consume substantial resources in both staff time and  
24 money from the EU Commission and the courts.<sup>[1]</sup> So the Commission is compelled  
25 to 'turn a blind eye' to even clear and conscious Member State violations of  
26 environmental regulations. The Commission and the courts simply need more  
27 resources to pursue cases of infringement against environmental regulations more  
28 actively. Otherwise, the gap between what is decided and what happens on the  
29 ground, in the water and in the air will just increase. Court action by NGOs,  
30 however valuable, is no substitute for the European Commission fulfilling its  
31 role as guardian of the Treaties.

32 At the same time, the Commission may be wary of the political cost of  
33 infringement proceedings in environmental cases. There is a risk that this can  
34 be portrayed and perceived as undue "Brussels" interference in domestic details.  
35 There is a real and warranted reluctance to feed right-wing authoritarian  
36 nationalism. Therefore, both the Commission and others, including Green  
37 politicians, need to better explain the benefits of common environmental action  
38 in the Member States. This is about protecting our common environmental heritage  
39 and resisting the temptation to pawn off our future to avoid dealing with thorny  
40 conflicts here and now. It is about resisting the temptation for governments and  
41 corporations to try to gain a competitive advantage by undercutting common  
42 standards. It is about protecting governments and regions from ecological  
43 extortion by powerful commercial interests. And, at a time when the search for  
44 raw materials to replace fossil materials is intensifying, we need to prevent  
45 such a search from increasing the stress on already overstressed ecosystems and  
46 resources, and protect the resilience needed to deal with the impacts of climate  
47 change.

48 **To sum up, the European Green Party calls upon:**

- 49 • The European institutions, the Member States and associated governments to  
50 commit more resources to pursuing cases against infringements of  
51 environmental legislation;
  
- 52 • The European institutions and governments in Member States and associated  
53 states around Europe to explain the need for common environmental action.

54 <sup>[1]</sup> For EU Member States, it is the ECJ. For the EFTA States, it is the EFTA

Court. <https://www.efta.int/eea/eea-institutions/efta-court>

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