

## **Manual of European Environmental Policy**

The following pages are a section from the Manual of European Environmental Policy written by the Institute for European Environmental Policy.

The Manual was published by Earthscan/Routledge from 2010 to 2012. It was designed as an on-line interactive reference work and annual printed versions were also produced.

This section is the text of the Manual as published in 2012. It is therefore important to note the following:

- The contents have not been updated since 2012 and no guarantee is given of the accuracy of the contents given potential subsequent developments.
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# Historical legislation: Emissions from industrial plants

<b>Formal reference</b>	
<a href="#">84/360/EEC</a> (OJ L188 16.07.1984)	Directive on combating of air pollution from <a href="#">industrial plants</a>
Proposed 8.4.83 – COM(83)173 (OJ C 1983/139/5)	
<b>Legal base</b>	Articles 115 TFEU (Originally Art. 100 EEC Treaty) and 352 TFEU (Originally Art. 235 EEC Treaty)
<b>Binding dates</b>	
Notification date	2 July 1984
Formal compliance	30 June 1987 Note: the Directive on Integrated Pollution Prevention and Control (96/61/EC, codified as Directive 2008/1/EC) led to the repeal of Directive 84/360/EC on 30 October 2007.

## Purpose of the Directive

This Directive was the first significant Community response to the problem of acid deposition and the death of forests. Operation of certain industrial plants was to be authorized in advance in order to prevent or reduce air pollution. This was also a framework Directive in that it foresaw subsequent Directives setting emission limit values. Such limits were set in subsequent Directives on [asbestos](#), [large combustion plants](#), [municipal waste incineration](#) and [hazardous waste incineration](#).

## Summary of the Directive

The Directive required Member States to ensure that the operation of new plants specified in an Annex was given prior authorization. Such authorization had to be considered at the design stage; authorization was also required in the case of substantial alteration to existing plants. Before issuing an authorization, the competent authority had to be satisfied that the following conditions were met:

- All appropriate preventive measures against air pollution had to be taken (this included applying the best available technology provided this did not entail excessive costs).
- Emissions, particularly those listed in a second Annex, could not cause significant air pollution.
- Emission limit values could not be exceeded and air quality limit values had to be taken into account.

Applications for authorization and the decisions of the competent authorities were to be made available to the public.

The Directive provided for the Council, if necessary, to fix emission limit values based on the best available technology not entailing excessive costs for particular industries or processes, and to lay down measurement and assessment techniques and methods. Other articles required information on applications for authorization to be made available to the public in accordance with national laws and to other Member States. Member States were also to make known to each other and the Commission information on prevention and reduction of air pollution.

Member States were required to keep up to date with progress on best available technology and to impose conditions accordingly. They were also required to adapt existing plants – those in operation before 1 July 1987 – to the best available technology. Particularly polluted areas and areas to be specially protected could be defined within which more stringent emission limit values could be fixed.

The categories of plants listed in the first Annex fell into the following main divisions: energy industry; metal production and processing; non-metallic mineral product manufacture (such as cement and asbestos production); chemical industry; waste disposal; and paper pulp manufacture. The second Annex listed eight categories of the most important polluting substances including sulphur dioxide, nitrogen oxides, asbestos and fluorine.

The reporting requirements regarding Directive 84/360/EEC were introduced by the Standardised Reporting Directive 91/692/EEC and further clarified through Commission Decision [96/511/EC](#) regarding the reporting questionnaires.

## **Development of the Directive**

The pressure for this Directive came from the Federal Republic of Germany. Concern over the effect of air pollution on forests in Germany led it to submit a memorandum to the Council in June 1982 asking for greater priority to be given to a basic Directive on air pollution prevention, and asking that a proposal from the Commission be submitted before the end of 1982. The subject was discussed at Environment Councils in June and December of that year. June 1982 also saw the Stockholm Ministerial Conference on the acidification of the environment, which emphasized the seriousness of the problem of air pollution and defined guidelines for action nationally and internationally.

The Commission responded to the German memorandum with a proposal in April 1983. The main elements of this were the requirement for Member States to give prior authorizations to plants likely to cause air pollution and particularly those in a specified list covering the most polluting types of plants. Certain conditions were to be met before authorizations were given. One of these was to require all appropriate measures to be taken ‘in accordance with the state of the art’.

Further pressure for early action on the proposal came from the unprecedented inclusion in the European Council held at Stuttgart in June 1983 of an item on the environment. In the conclusions reference was made to ‘the acute danger threatening the European forests area’ and immediate action to avoid an irreversible situation was called for.

The Directive as agreed followed the main lines of the proposal. The principal changes were the replacement of the phrase ‘state of the art’ by ‘the best available technology not entailing

excessive costs'; the fixing of emission limits to be agreed unanimously instead of by qualified majority; the requirement that such limits should take account of the nature, quantities and harmfulness of the emissions, in addition to being based on the best available technology not entailing excessive costs; and the omission of five categories of food processing plants. The implementing date was also postponed by three years to 30 June 1987.

## Daughter Directives

In the context of concern about acid rain, the first daughter Directive of Directive 84/360/EEC entirely eclipsed its parent. The Large Combustion Plants Directive [88/609/EEC](#), finally adopted in November 1988 after languishing for almost five years within the Council machinery, set emission limits for SO<sub>2</sub>, NO<sub>x</sub> and dust for new plants, and required emissions from existing plants to be reduced progressively to meet national reduction targets. The preamble to Directive 88/609/EEC makes reference to Article 13 of Directive 84/360/EEC (obliging Member States to 'implement policies and strategies' for upgrading existing plants to the best available technology) apparently to imply that the SO<sub>2</sub> and NO<sub>x</sub> reductions required by Directive 88/609/EEC at least partially fulfil the requirements of Article 13.

Additional daughter Directives under Directive 84/360/EEC imposed specific controls in relation to [asbestos](#), [municipal waste incineration](#) and [hazardous waste incineration](#).

## Implementation of the Directive

Information on national legislation transposing Directive 94/67/EC can be found in the Member States' national [execution measures](#).

The Commission did not publish an available report addressing the implementation of Directive 84/360/EEC.

## Enforcement and court cases

There have been two cases that concluded in the European Court of Justice concerning Directive 84/360/EEC, both of which concern a failure by Member States to ensure adequate transposition of the Directive:

- [C-364/03](#) 07.07.05: This case was brought against Greece upon the failure to define policies or strategies for progressively adapting in line with BAT some turbines and gas units operated by the public electricity undertaking. The Court ruled that it constituted a breach to fulfil its obligations under Directive 84/360/EEC.
- [C-230/00](#) 14.06.01: This was a judgement against Belgium for failure to adopt the laws, regulations and administrative provisions necessary to comply with Directive 84/360/EEC.

## Further developments

In accordance with most national pollution control laws applied in EC Member States at the time of its development, Directive 84/360/EEC was established as an item of medium-specific legislation. That is, it was concerned with emissions to air from industrial plants, but

not releases to water or generation of waste. Subsequently, however, there was a move towards integration of pollution control functions for different media. This led to agreement on Directive [96/61/EC](#) on Integrated Pollution Prevention and Control (IPPC), subsequently consolidated as Directive 2008/1/EC. Directive 2008/1/EC involves an integrated approach to the permitting of certain industrial facilities, and so superseded the authorization procedure of Directive 84/360/EEC. All new plants are, therefore, now to be authorized under IPPC and existing plants were to be brought under the new regime by the end of October 2007, when Directive 84/360/EEC was repealed.

## **Related legislation**

The primary related legislation to Directive 84/360/EEC is the daughter Directives listed above. Otherwise, the main interaction is with the Integrated Pollution Prevention and Control (IPPC) Directive [2008/1/EC](#), which has replaced Directive 84/360/EEC.