



EU Air Pollution Law

Annual Conference of the EU Forum of Judges for the Environment (EUFJE)

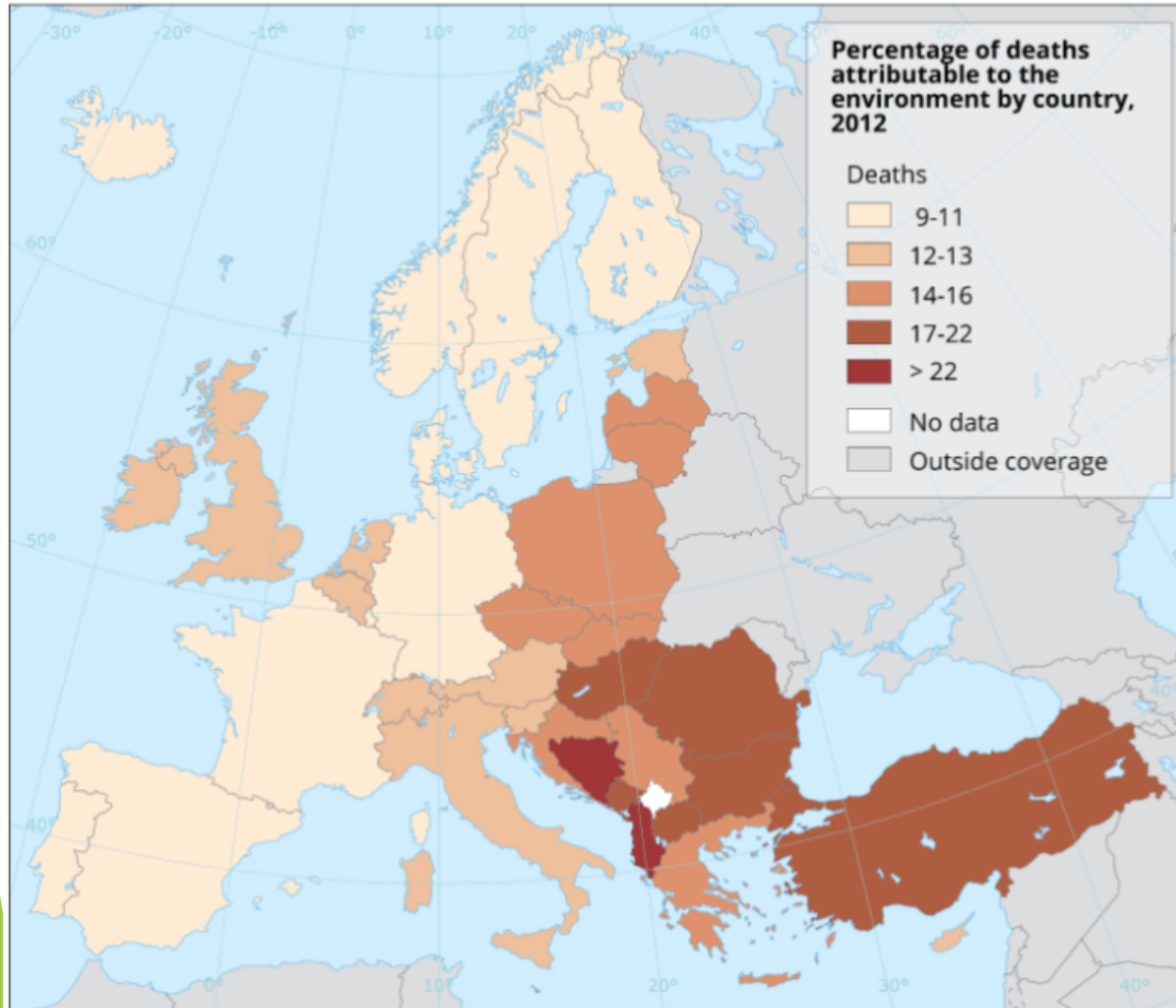
9 October 2020

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DG Environment

Air pollution and public health



Source: WHO, 2016, Global Health Observatory

- 1 in 8 deaths linked to environmental pollution in Europe –13 %
 - Highest environmental risk: air pollution – 400 000 premature deaths per year
- Difference across Europe: East and West
- Pollution is associated with
 - 27 % of deaths in Romania
 - 10 % in Denmark and Sweden
 - And beyond the EU... 27 % in Bosnia and Herzegovina

Source: EEA Report No 21/2019– Healthy environment, healthy lives

EU clean air legislative framework



Ambient Air Quality (AAQ) Directives

Maximum concentrations of
air polluting substances
(PM₁₀, PM_{2.5}, SO₂, NO₂, O₃ + 8 more)

SETTING OBJECTIVES
FOR GOOD AIR QUALITY

REDUCING EMISSIONS OF
POLLUTANTS



National Emission Ceilings Directive

National emission totals
(SO₂, NO_x, VOC, PM_{2.5}, NH₃)

-79%

-63%

-40%

-49%

-19%

EU-28 reduction targets btw. 2005 and
2030

Source legislation on emission standards (non- exhaustive list)

- IED Directive
- MCP Directive
- Eco-design Directive
- Energy efficiency
- Euro and fuel standards

Ambient Air Quality Directives

Directive 2008/50/EC & Directive 2004/107/EC:

- ▶ **set common methods and criteria to assess** air quality, incl. via monitoring networks
- ▶ **establish standards for air quality for key air pollutants** to be attained by all Member States across their territories
- ▶ **require preparing and implementing air quality plans and measures** to keep any exceedance periods as short as possible
- ▶ **require providing air quality information** both to the public and the Commission

Fitness Check of the AAQ Directives

Seven key lessons learnt:

- ▶ Air quality remains a major **health and environmental concern**;
- ▶ Air quality standards have been instrumental, and **partially effective**, to reduce pollution;
- ▶ Current EU standards are **less ambitious than scientific advice**;
- ▶ **Limit values** have been more effective than other types of air standards;
- ➡ ▶ Legal **enforcement action** by the European Commission, and civil society, works - *the effectiveness of the latter being however proportionate to the functioning of access to justice at national level and the dynamism of NGOs*;
- ▶ Scope to further harmonise **monitoring, modelling, and air quality plans**;
- ▶ Not all reported data equally useful, **e-reporting** allows for further efficiency.



Access to justice under the AAQ Directives

*Natural or legal persons directly concerned by the limit values being exceeded must be in a position to **require the competent authorities**, if necessary by **bringing an action before the courts** having jurisdiction, to **establish an air quality plan or a short-term action plan**, where a Member State has failed to secure compliance with limit values or where there is a risk of the limit values or alert thresholds are being exceeded.*

C-237/07, Janecek; C-404/13, ClientEarth

Monitoring requirements - judicial review

- *It is for a national court, hearing an application submitted for that purpose by individuals directly affected by the exceedance of the limit values from Directive 2008/50/EC, to verify whether the sampling points located in a particular zone have been established in accordance with the criteria laid down in that directive (i.e. that the sampling points are placed in areas where the highest concentrations occur) and, if they were not, to take all necessary measures in respect of the competent national authority, such as, if provided for by national law, an order, with a view to ensuring that those sampling points are sited in accordance with those criteria.*

C-723/17, Craeynest

Enforcement of judgments

In circumstances in which a national authority persistently refuses to comply with a judicial decision ordering an update of an air quality plan:

- ▶ *A national court can and should coercive detention of office holders involved in the exercise of official authority **if the national law provides a legal basis for such detention** which is sufficiently **accessible, precise and foreseeable** in its application and provided that the limitation on the right to liberty is in line with the other conditions from Article 52(1) of the Charter of fundamental rights - meaning that the limitation is **proportionate**, respects the essence of the right to liberty, is necessary and genuinely meets objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.*
- ▶ *In fact, if all the conditions were met, the national court would not only be authorised, but also required, to order such a measure.*

C-752/18, *Deutsche Umwelthilfe*

National Emission Reduction Commitments Directive

- ▶ Sets national emission reduction commitments for 2020 and 2030 (in %) for each Member State
- ▶ **Covers five main pollutants** - *sulphur dioxide, ammonia, volatile organic compounds, nitrogen oxides, fine particulate matter*
- ▶ Establishes an obligation to **monitor and report air pollutant emissions** and their impacts
- ▶ Prescribes an obligation to establish **National Air Pollution Control Programmes** every 4 years

Source-specific legislation: Industrial emissions

- ▶ **Directive 2010/75/EU on industrial emissions (IED):** permitting and control of large industrial installations; best available techniques (BAT)
- ▶ **Directive (EU) 2015/2193 on medium combustion plants (MCPD):** regulates emissions of sulphur dioxide, nitrogen oxides and dust from the combustion of fuels in plants with rated thermal input between 1 and 50 MW
- ▶ **Regulation 166/2006 on a European Pollutant Release and Transfer Register (E-PRTR):** gives public access to information on emissions and off-site transfers of pollutants and waste from around 30 000 industrial facilities

Industrial Emissions Directive (IED)

Aims

- Prevent, reduce and eliminate all types of industrial pollution
 - Level-playing field for industry and Member States
- ~ 52 000 agro-industrial installations**

Energy industries - Metal industries - Mineral industries - Chemical industries - Waste management - Other - e.g. intensive livestock

Key features

- Obligation to hold an integrated permit
- EU-level process to define performance requirements (Seville process) & compliance with Best Available Techniques, per sector

Evaluation of the Industrial Emissions Directive

- ▶ *IED main output so far: important role in cutting industrial pollution, especially to air - but: limited contribution to decarbonisation and the circular economy*
- ▶ *IED major success: a unique governance model of co-creation of environmental standards (BATs) with Member States, industry and environmental NGOs*
- ▶ *IED areas for improvement: widening its scope; better integrating decarbonisation and resource efficiency aspects; enhancing public information and participation in decision-making*
- *Tighten links to the EU Pollutant & Release Transfer Register (E-PRTR) Regulation to enhance transparency & effectiveness of pollution monitoring*

Other source-specific legislation

ENERGY ► Eco-design regulatory framework (incl. Regulation for solid fuel boilers EU 2015/1189 or the EU energy labelling regulation for solid fuel boilers (EU 2015/1187))

► Energy Efficiency Directive (2012/27/EU)

► Renewable Energy Directive (EU) 2018/2001

TRANSPORT ► EU vehicle type-approval framework (Euro standards) - Regulation (EU) 2018/858 and implementing acts

► Non-Road Mobile Machinery Regulation, Eurovignette Directive, Alternative Fuels Infrastructure Directive, Clean Vehicle Directive...

FUELS ► Quality standards for fuels - including for marine fuels (Directive 2016/802/EU on sulphur content in fuels)

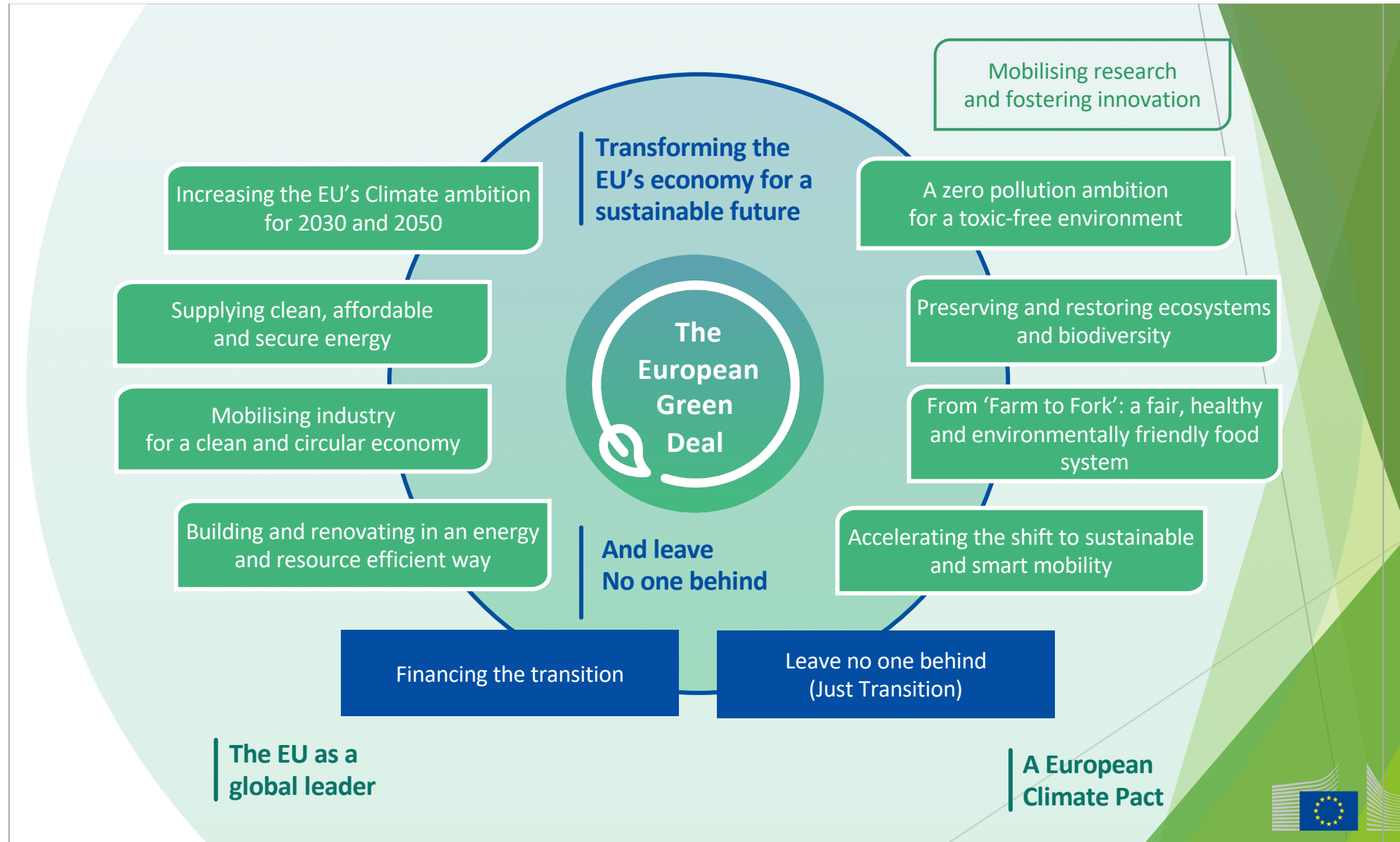
Environmental Crime Directive

- ▶ REFIT Evaluation close to being finalized
- ▶ Possible revision to focus on: better definition of offences, type and level of sanctions, updating the scope, considering the role of training, specialization, cooperation and coordination
- ▶ Relation to **penalty clauses in sectorial legislation, including EU air quality law**

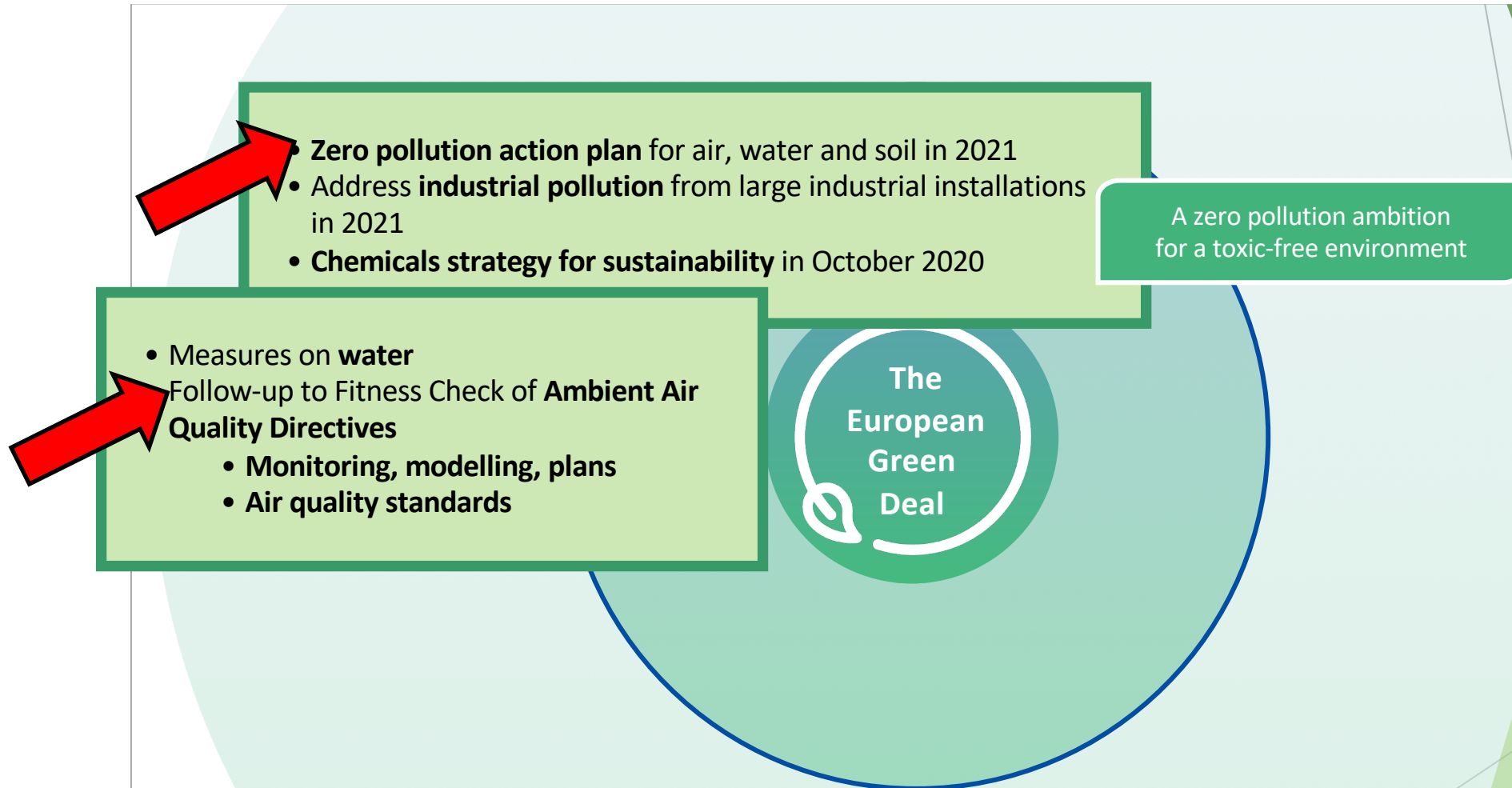
The international perspective

- ▶ **UNECE Convention on Long-Range Transboundary Air Pollution and Protocols:**
 - Protocol on Persistent Organic Pollutants (POPs) and on Heavy Metals (HM)
 - Protocol to Abate Acidification, Eutrophication and Ground-level Ozone (Gothenburg Protocol), and others...
- ▶ **Kyiv Protocol (to the Aarhus Convention) on Pollutant Release and Transfer Registers (PRTR)**
- ▶ **International Convention for the Prevention of Pollution from Ships (MARPOL)**
- ▶ **UN Minamata Convention on Mercury, UNEP Stockholm Convention on Persistent Organic Pollutants...**

The European Green Deal



The European Green Deal



Zero Pollution Action Plan: Areas of actions



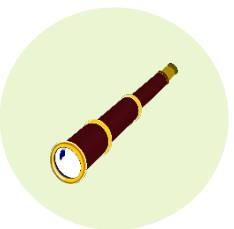
Strengthening implementation and enforcement

Including for
air quality



Introducing targeted improvements

Including for
air quality



Integrated governance, incl Monitoring and Outlook

Including air
quality



Driving economic and societal change

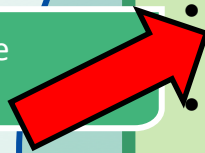
Including for
air quality



European
Commission

The European Green Deal

Supplying clean, affordable
and secure energy



Building and renovating in an energy
and resource efficient way

- Assess the ambition of the final **National Energy and Climate Plans** (July 2020)
- Strategy for **smart sector integration** (July 2020)
- **Renovation wave** for the building sector i(October 2020) **doubling the renovation rate**
- Review and revise where needed the **Renewable Energy and Energy Efficiency Directive** by June 2021
- **Offshore wind** initiative (November 2020)
- Review the **TEN-E Regulation** (October 2020)


The EU as a
global leader

A European
Climate Pact

The European Green Deal



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- Strategy for **Sustainable and smart mobility** in 2020
 - Revise the **CO2 emissions performance legislation** for light duty vehicles by June 2021
 - **Extend EU's Emissions Trading** to the maritime sector, and to reduce the free allowances for airlines by June 2021
 - Support **public charging points: 1 million by 2025**
 - Boost the production and supply of **sustainable alternative fuels** for the different transport modes
 - Review the **Alternative Fuels Infrastructure Directive** and the TEN-T Regulation in 2021
 - More **stringent air pollutant emissions standards** for combustion-engine vehicles

Accelerating the shift to sustainable and smart mobility

Designing a set of deeply transformative policies

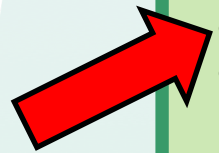
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- **Farm to Fork Strategy** (May 2020)
- Measures, including legislative, to significantly **reduce** the use of **chemical pesticides, fertilizers and antibiotics**
- Examination of the **draft national strategic plans**, to meet the ambitions of the European Green Deal and the Farm to Fork Strategy in 2020/2021

From 'Farm to Fork': a fair, healthy and environmentally friendly food system

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Support to governance



Green City Accord

By joining the Accord, mayors agree to step up their efforts in five key areas by 2030:

- **Air**
- **Water**
- **Nature & biodiversity**
- **Circular economy & waste**
- **Noise**

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Thank you