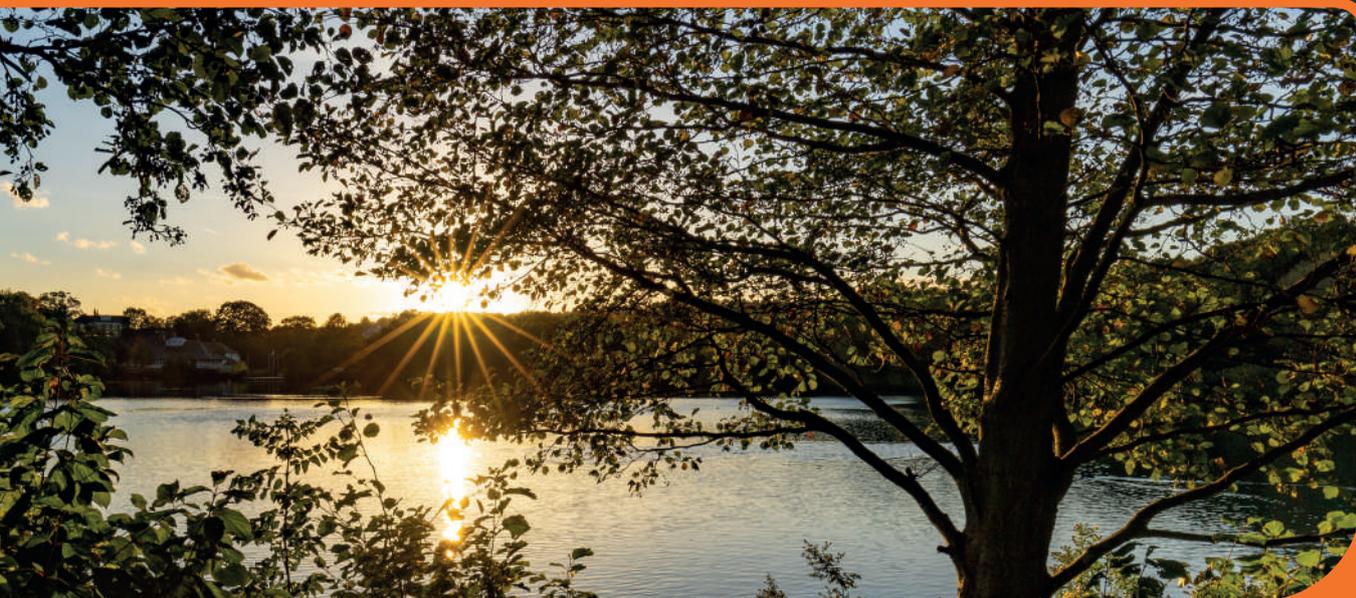


International Comparative Legal Guides



Practical cross-border insights into environment and climate change law

Environment & Climate Change Law 2022

19th Edition

Contributing Editor:

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Stephoe & Johnson LLP



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1 Environmental Policy and its Enforcement

1.1 What is the basis of environmental policy in your jurisdiction and which agencies/bodies administer and enforce environmental law?

Following the accession of Cyprus to the European Union in 2004, environmental policy has been subjected to a fundamental review, in order to be brought into line with the over 300 European legislative instruments (Regulations and Directives) and other action programmes that form part of the manifold, a complicated and detailed environmental chapter of the *acquis communautaire*. Although the new legislative framework is systematically comprehensive and clear in interpretation without leaving room for relaxations or illegalities, its implementation has seen steady progress, indicated by the growing number of inspections and fines imposed, as well as the Courts' approach towards environmental matters, as evidenced by the increasing number of cases where the Environment Service's Opinion of the Committee for Assessment of Environmental Impact's (CAEI) report has been given notable consideration when deciding the ruling of a matter.

The Ministry of Agriculture, Natural Resources and Environment is the competent authority for the endorsement and implementation of the governmental policy on environmental issues. Its tasks include the processing and execution of individual plans and programmes aiming to develop the environmental sector and deal with particular problems identified in relation to the environment. The Department of Environment of the Ministry of Agriculture, Natural Resources and Environment is the key unit to which the environmental sector has been assigned. The Department of Environment acts as a Regulatory Authority, i.e. adopts, implements controls and monitors development activities that could affect the environment. It also monitors and evaluates the parameters that make up the upgrading of environmental quality. The Department of Environment's scope of areas of concern also includes the protection of nature and biodiversity as a main natural capital, pollution control and waste management in the context of their use as resource of circular economy, as well as the reduction of greenhouse gas (GHG) emissions and adaption to the effort against climate change.

It also provides advice on the harmonisation of Cyprus law with the European policy, as well as legislation on the environment, acting as the national authority for a wide range of international agreements, conventions and intergovernmental

organisations such as the Central Securities Depository, the Mediterranean Commission on Sustainable Development, the Short and Medium Priority Environmental Action Programme, the Mediterranean Action Plan, the United Nations Environment Programme and the promotion of environmental conscience and awareness.

The Department of Environment comprises five sectors that enjoy respective competences in the fields of Waste Management, Climate Action and Energy, Water Pollution Control, Permits and Inspections, Protection and Management of Nature and Biodiversity, as well as Environment Impact Assessment. The Department of Waste Management deals with waste management permits, solid waste, batteries, used oils, electronic and electrical waste, hazardous waste, waste shipments, packaging waste, climate change, emissions trading and relevant environmental impact assessments (EIAs). The Department of Climate Action and Energy deals with GHG emissions reductions, the Greenhouse Gas Emissions Trading Scheme, the Aviation and Emissions Trading Scheme, maritime transport, general transports, collection and geological storage of carbon, monitoring and reporting on GHG emissions and other climate change information, the "LULUCF" (land use, land use change and forestry) sector, fluorinated GHGs, hydrocarbons and funding. The Department of Water Pollution Control, Permits and Inspections deals with the protection, control and prevention of soil and water pollution from the operation of industrial, farming and human activities, extractive waste permits, industrial emission permits, regular and on-the-spot environmental inspections. The Department of Protection and Management of Nature and Biodiversity deals with the "Natura 2000" European Ecological Network, flora, fauna and the habitat types, invasive alien species, the movement of species and genetic resources and GMOs. The Department of Environment Impact Assessment deals with the assessment of the impacts on the environment from plans and programmes, the assessment of the impacts on the environment from projects, the environmental noise and the integrated coastal zone management. Various other Ministerial departments enjoy competences that involve satellite environmental issues. Such examples are the Department of Town Planning and Housing of the Ministry of the Interior, the Department of Labour Inspection of the Ministry of Labour and Social Security, the Public Health Service and the State General Laboratory of the Ministry of Health. Lastly, other semi-governmental authorities and local authorities are entrusted with a variety of competences that are environmentally related, such as water supply, sewerage and wastewater treatment, street cleaning, waste collection and disposal, etc.

1.2 What approach do such agencies/bodies take to the enforcement of environmental law?

Following the integration of Cyprus as a full Member State of the European Union, there has been an enhancement in regulation, awareness and enforcement of environmental law on the island. The Department of Environment has taken a strict and proactive approach, utilising both protective and preventative measures that are apt for the enforcement of the regulatory framework. The 2019 Annual Report of the Department of Environment shows that, with regard to pollution control, constant inspections were conducted on waste management sites. In cases where the inspections revealed infringements, proper measures were enforced, such as warning letters requesting immediate compliance, out-of-court settlement procedures and drafting of reports for the Attorney General for the imposition of criminal penalties. Specifically, 91 out-of-court settlements were served in 2019, amounting to €161,600. The amount of money ultimately won from these out-of-court settlements amounts to €131,050.

1.3 To what extent are public authorities required to provide environment-related information to interested persons (including members of the public)?

Cyprus law has incorporated the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) by passing Law 33(III)/2003. Further, the Law on Public Access to Information Related to the Environment of 2004 (119(I)/2004) was enacted for the purposes of harmonising Cyprus legislation with the European Directive 2003/4/EC on Public Access to Environmental Information. The above provisions require public authorities to make available any environmental information held by such authorities to any natural or legal person requesting such environmental information. The person requesting this information has no duty to state or prove any legitimate interest. If the addressed public authority knows that another public authority holds the requested information, it must send the application to the latter authority and inform the applicant accordingly. Public authorities may refuse a request for the disclosure of environmental information in restricted circumstances defined by the Law, such as: general or manifestly unreasonable requests; incomplete material or internal communications; and where the disclosure of this information would adversely affect confidentiality protected by law, international relations, public security, national defence, the administration of justice, the conduct of an enquiry of a criminal or disciplinary nature and the right of any person to receive a fair trial, tax secrecy, intellectual property rights, personal data of natural persons not consenting to the disclosure of the information to the public, or the protection of the environment to which such information relates (e.g. location of a rare species), etc.

Any person who is not content with the response or lack of response to a request for disclosure of environmental information is entitled to apply for a hierarchical review and/or lodge an administrative recourse for the matter to be brought before the Administrative Court of Cyprus.

Moreover, it is also established in Law 127(I)/2018 that the public must be kept informed of any decisions the Environmental Service takes relating to submitted studies and the issuing of the relevant permits to projects, programmes and plans, by having access to such information on the website of the Department of Environment and through other forms of public announcements. This information should be published no more than 30 days after the issuing of the Department of Environment's decision.

2 Environmental Permits

2.1 When is an environmental permit required, and may environmental permits be transferred from one person to another?

Various legislative instruments provide for activities, projects, businesses, plants and installations that are subject to environmental permits, prior to their commencement and while their operation is pending. For the purposes of acquiring an environmental permit, a study and other relevant information must be submitted by the developer of the project to the Director of the Department of Environment, according to the provisions of the Environmental Impact Assessment of Certain Works Law 127(I)/2018, detailing the characteristics of the project and its potential impact on the environment, etc.

The Department of Environment is responsible for granting permits for waste management according to the Waste Law 185(I)/2011 (as amended) permits for waste disposal according to the Water Pollution Control Law 106(I)/2002 (as amended) and permits for industrial emissions according to the Industrial Emissions (Integrated Pollution Prevention and Control) Law 184(I)/2013 (as amended). The issuing of air emissions permits for industrial plants also falls within the competence of the Ministry of Labour and Social Security, specifically the Department of Labour Inspection, according to the Air Pollution Control Law 187(I)/2002 (as amended). Licensing may be subject to conditions that the competent authority deems fit for the protection of other public interests, such as public health. Environmental permits issued in the name of a corporate entity are not affected by any change of share ownership of the corporate entity. An Electronic Waste Register has been created, in which electronic data entry, the processing of waste and the export of reports, lists and reports on waste management are issued.

Conversely, in the case of a sale of an asset that enjoys an environmental permit, this permit is not directly transferable or assignable. After being notified of any intention to transfer such asset that has been subject to a licence, the relevant authority ordinarily grants a new licence to the new owner, provided that no changes or amendments have been effected. If the new owner effects amendments to the plans or operation of the project, installation or plant, a new approval process is normally commenced.

2.2 What rights are there to appeal against the decision of an environmental regulator not to grant an environmental permit or in respect of the conditions contained in an environmental permit?

Article 146 of the Cyprus Constitution secures the right of any person affected by any decision of an administrative body to file an administrative recourse to the Administrative Court of Cyprus. This right may be exercised within 75 days from the date the decision is noticed to the interested person. Some laws provide for the right to a hierarchical review of a decision, which may be taken as an intermediary step prior to the filing of recourse to the Administrative Court of Cyprus.

2.3 Is it necessary to conduct environmental audits or environmental impact assessments for particularly polluting industries or other installations/projects?

Regulation of specially polluting industries and large-scale installations is implemented through the Environmental Impact Assessment of Certain Works Act 2018 (Law 127(I)/2018), as well as through the relevant Regulation R.A.A. 420/2008. The

Law gave competence to the CAEI to assess preliminary reports and formulate opinions as to whether a comprehensive report on EIAs must be prepared on the basis of specific criteria, such as the size of the project, proximity to other installations, use of natural resources and energy, waste production, pollution and nuisance, and risk of accidents, particularly during the use of substances and technologies and the potential dangers to human health. The CAEI is also vested with general advisory competences, both in regard to the consequences that the execution or operation of a specific project may have on the environment, the assessment of EIAs and whatever other topic is requested.

2.4 What enforcement powers do environmental regulators have in connection with the violation of permits?

Criminal liability and sanctions are contemplated for any person operating any installation or performing activities contrary to a legislative requirement to obtain an environmental permit or authorisation. Violations may take the form of failure to obtain a permit or breach of the conditions of an acquired permit. Sanctions comprise fines up to €500,000 and imprisonment that does not exceed three years or both of these sanctions, according to the provisions of Law 185(I)/2011, Law 184(I)/2013 and Law 106(I)/2002. In addition, said Laws provide the power to the competent authorities to vary the terms and conditions of any permits or authorisations granted or to cancel them.

3 Waste

3.1 How is waste defined and do certain categories of waste involve additional duties or controls?

Waste is defined as every substance or object which the possessor disposes of, intends to dispose of, or is obliged to dispose of. It includes residue of production or consumption that cannot be processed further, products not in compliance with the original, expired products, contaminated or polluted material, non-usable elements of products, as well as any materials, substances or products. Certain categories of waste involve additional duties or controls, as stipulated in detailed legislative instruments. A major instance of such increased protection is hazardous waste, i.e. waste characterised by explosiveness, oxidisation, flammability, combustibility, harmfulness, toxicity, carcinogenicity and other potentially dangerous attributes. In addition, supplementary duties are provided for producers of electrical substances (in regard to the establishment and maintenance of a collection/recycle system, as well as the prohibition of the use of any equipment that contains lead and other substances), as well as owners of aged motor vehicles.

3.2 To what extent is a producer of waste allowed to store and/or dispose of it on the site where it was produced?

Any management of waste, including storing and disposal, can only be made by duly licensed persons. Persons who are not respectively licensed have a legislative duty, for any amount of waste in their possession, to take provisional measures for the elimination of risks to the public health or environment or nuisance and, thereafter, a duty to deliver the waste without delay to a licensed person. This duty is codified in article 15(2) of Law 185(I)/2011, where it is stated that original waste producers must cooperate with licensed establishments or persons, duly registered in the Waste Management Registry.

3.3 Do producers of waste retain any residual liability in respect of the waste where they have transferred it to another person for disposal/treatment off-site (e.g. if the transferee/ultimate disposer goes bankrupt/disappears)?

Liability vests on the person who possesses waste. Producers of waste may be liable for damage that occurs as a result of a breach of their aforementioned duties, i.e. to take precautionary measures that would ensure the elimination of risk or nuisance to public health or the environment, to deliver the waste without delay to a licensed person or in the event of an unlawful or dangerous transfer of waste or irrational management or handling of used oils.

3.4 To what extent do waste producers have obligations regarding the take-back and recovery of their waste?

The Packaging and Packaging Waste Law 32(I)/2002 (as amended) defines the responsibilities of companies that are considered responsible for their packaging and the ways and means for the recovery and recycling of their packaging waste. According to the Order 747/2003, issued by the Council of Ministers for the purpose of supplementing Law 32(I)/2002, waste producers may either organise and manage an individual Collection and Recovery System or join a Collective System. Following the practice in other EU Member States, a large number of companies in Cyprus have created and joined collective organisations such as the Cyprus Waste Management Organization. Additional joined collective organisations have been established for the management of household dry cell batteries, as well as electrical and electronic equipment.

4 Liabilities

4.1 What types of liabilities can arise where there is a breach of environmental laws and/or permits, and what defences are typically available?

A breach of any environmental law may result in criminal, administrative or civil liability. Criminal liability is founded on several offences which involve breaches of environmental legislation, such as failure to obtain environmental permits, breach of conditions of permits, water pollution, soil pollution, waste disposal and other. Sentencing involves fines of up to €500,000 or imprisonment for not more than three years or both of these sanctions, according to Law 185(I)/2011. Criminal liability may be avoided in cases of *force majeure*, provided that the accused proves that due care and attention were demonstrated to prevent the committing of the offence and that all possible measures for remediation were taken without undue delay. Civil liability may arise under the law of torts and, in particular, the well-known case law developed in relation to the torts of nuisance.

4.2 Can an operator be liable for environmental damage notwithstanding that the polluting activity is operated within permit limits?

A polluting activity that is permissible under the terms and conditions of a valid licence, provided that this was obtained prior to the commission of the polluting activity, cannot provide a legitimate ground for criminal liability. In that respect, legislative provisions specifically state that the obtaining of a valid permit constitutes a defence to any criminal offence. However, this does

not automatically absolve any person from civil liability, provided that damage to a third party can be proved and the polluting activity falls within the ambit of the law of torts.

4.3 Can directors and officers of corporations attract personal liabilities for environmental wrongdoing, and to what extent may they get insurance or rely on other indemnity protection in respect of such liabilities?

Under general criminal law provisions dealing with offences committed by corporate entities, as well as under specific provisions that can be found in environmental law, criminal liability is imposed on directors and officers of corporate entities who commit a breach of said environmental law. Liability depends on the premise that such persons have expressly or impliedly authorised the commission of this act. If several directors or officers are prosecuted for the same offence, a defence may be raised by some of them on the ground that the polluting activity was effected under the orders of other directors or officers and that they had no personal knowledge of such action. Directors or officers may rely on indemnity provisions, provided that these provisions form part of an agreement between themselves and the corporate entity or if this indemnity is provided for in the articles of association of the corporate entity. Insurance is also available, although not customarily utilised.

4.4 What are the different implications from an environmental liability perspective of a share sale on the one hand and an asset purchase on the other?

In the event of a merger or acquisition of capital in a company, environmental liability is not affected, in the sense that liability remains with the company. In the event of an asset sale, liability remains with the seller, although it is customary to include indemnity clauses for the protection of the buyer, especially where pollution or its extent may not be easily verifiable.

4.5 To what extent may lenders be liable for environmental wrongdoing and/or remediation costs?

There is no precedent under Cypriot law for founding liability on lenders for environmental wrongdoing and/or remediation costs and the prospects for such a claim are relatively remote.

5 Contaminated Land

5.1 What is the approach to liability for contamination (including historic contamination) of soil or groundwater?

Contamination of soil or groundwater constitutes a criminal offence under the Law of Control of Water Pollution 106(I)/2002 (as amended). This offence embraces: (a) the disposal, depositing or distribution into a stream, dry river bed of any stream, coastal waters, lake or dam, of any object, substance or matter that pollutes or tends to pollute their waters; (b) the disposal, depositing or distribution on the soil or subsoil of any object, substance or matter, in such way that it pollutes or tends to pollute coastal waters, groundwater, stream water, or the water of a lake or dam; (c) the depositing of any object, substance or matter in a place from where it is likely to fall or be transferred into a stream, the dry river bed of a stream, a lake or a dam, in a way that would pollute or tend to pollute their waters; (d) the disposal of any liquid waste, mud or other semi-liquid or dry waste from any installation on or in the soil or sub-soil; (e)

the disposal or depositing from any installation into any surface waters or coastal waters, of any liquid or dry waste, or any other liquid containing floating matter; and (f) the disposal or depositing into the sea mud of any substance or matter that comes from the treatment of waste. The relevant offence provides for a maximum sentence of three years' imprisonment, a €500,000 fine or both. Valid defences include the acquisition of a permit prior to the commission of the offence and, under certain conditions, if the accused proves that the disposal, deposit or distribution was carried out in compliance with agricultural practice or that the disposal, deposit or distribution was due to a cause out of his control and that due care and attention was demonstrated in preventing the committing of the offence and that all possible measures for remediation were taken without undue delay. Civil liability may arise under the general law of torts.

5.2 How is liability allocated where more than one person is responsible for the contamination?

With regard to criminal liability, any person that has contributed to contamination shall be liable for the relevant offence, regardless of whether more persons may have equally contributed. With regard to civil liability, apportionment is a duty of the Court, and the general principles are that: (a) allocation is effected on the basis of the magnitude of fault of each party involved; and (b) in cases where differentiation on this criterion cannot be made, liability is split equally. In any event, the liability of tortfeasors is joint and several, while tortfeasors may seek to transfer liability to other parties, usually through third-party proceedings.

5.3 If a programme of environmental remediation is "agreed" with an environmental regulator, can the regulator come back and require additional works or can a third party challenge the agreement?

If this arrangement falls within the ambit of private law, general principles of contract shall apply and such agreement may only be considered non-binding if it specifically states this to be the case or under other general principles of void contractual obligations, such as a mistake. On the other hand, if the arrangement is ruled to fall within the ambit of public law, any effort to demand additional works may be barred under the general principle of estoppel or *venire contra factum proprium*, which are mirrored in general principles of Cypriot administrative law and jurisprudence. Generally, the environmental regulator is not willing to commit to any particular works and the remediation may only be assessed after it has been implemented. Third parties may not challenge agreements that fall within private law. In the event that the agreement falls within public law, they can challenge this agreement before the Administrative Court of Cyprus through an administrative recourse, provided that they allege and prove a legitimate interest in doing so.

5.4 Does a person have a private right of action to seek contribution from a previous owner or occupier of contaminated land when that owner caused, in whole or in part, contamination; and to what extent is it possible for a polluter to transfer the risk of contaminated land liability to a purchaser?

The rights of subsequent landowners against previous owners who may have caused land contamination shall be dealt with under the contract of sale of the land. In that respect, the relevant contractual provisions must provide for a base line contamination survey, an allocation of risk and proper indemnity clauses. If this matter was not expressly agreed, the rights of the

subsequent owner are rather limited to rescission and damages on the grounds of a mistake or failure to disclose information. Transfer of risk of contaminated liability to a purchaser may also form part of a contractual agreement.

5.5 Does the government have authority to obtain from a polluter, monetary damages for aesthetic harms to public assets, e.g. rivers?

Under general principles of tort, the government must prove the ownership of public assets, the breach of statutory duty by the defendant and the damage occurred, which may either be quantifiable (special damages) or non-quantifiable (general damages).

6 Powers of Regulators

6.1 What powers do environmental regulators have to require production of documents, take samples, conduct site inspections, interview employees, etc.?

Regulators enjoy wide powers under several provisions in environmental law, including the power to enter premises without notice, carry out investigations, take measurements, sample, make inspections and check on equipment and the structures, request documents or information, receive and transport any object or substance for the purpose of conducting further investigation or submit it to the Court as evidence, request that any machinery, equipment or structure remain intact for the purposes of inspection, and request from any person deemed relevant to the investigation to provide him with the necessary information.

7 Reporting / Disclosure Obligations

7.1 If pollution is found on a site, or discovered to be migrating off-site, must it be disclosed to an environmental regulator or potentially affected third parties?

Cyprus environmental Laws 184(I)/2013 (as amended) and 106(I)/2002 (as amended) provide for obligations of immediate disclosure to the Minister of Agriculture, Natural Resources and the Environment, and Law 187(I)/2002 provides obligations of immediate disclosure to the Minister of Labour, Welfare and Social Security in the event of an incident or accident to which the permit relates and which affects or is likely to affect the environment or any person in the area of installation or disposal or project.

7.2 When and under what circumstances does a person have an affirmative obligation to investigate land for contamination?

Cypriot environmental law does not provide for affirmative obligations of investigations for land contamination.

7.3 To what extent is it necessary to disclose environmental problems, e.g. by a seller to a prospective purchaser in the context of merger and/or takeover transactions?

Under the general principles of contract law, there is no obligation to disclose any environmental problem; however, a reason to avoid contractually binding obligations may be founded on false disclosure or representation.

8 General

8.1 Is it possible to use an environmental indemnity to limit exposure for actual or potential environment-related liabilities, and does making a payment to another person under an indemnity in respect of a matter (e.g. remediation) discharge the indemnifier's potential liability for that matter?

Under the general principles of contract law, parties may formulate the contract of their contractual arrangement in such a way so that it mirrors their intentions. Accordingly, a contract may provide for an environmental indemnity to limit exposure for any actual or potential environment-related liabilities. General indemnity rules apply in such agreements.

8.2 Is it possible to shelter environmental liabilities off balance sheet, and can a company be dissolved in order to escape environmental liabilities?

The correct practice for financial reporting is to note in the balance sheet any environmental liability that has been crystallised (e.g. in the sense of a formal demand) and make provision for any potential liability that has not yet been crystallised but is reasonably suspected to arise in the future. When a company is dissolved, it escapes not only environmental, but also any other liability under the well-established principles of corporate autonomy and limited liability. It is important to note that according to article 326 of the Companies Law, the Court has vested authority to issue an Order, to declare the dissolution of the company invalid and as such any proceedings could continue as if the company had not been dissolved.

8.3 Can a person who holds shares in a company be held liable for breaches of environmental law and/or pollution caused by the company, and can a parent company be sued in its national court for pollution caused by a foreign subsidiary/affiliate?

The well-established principles of autonomy and limited liability do not permit the transfer of liability from a corporate entity to its shareholders or any other company, regardless of whether this is a subsidiary or a mother company. The general exception of “lifting the veil” applies in regard to sham companies; however, as an exception, it is treated with strictness.

8.4 Are there any laws to protect “whistle-blowers” who report environmental violations/matters?

The Protection of Persons Reporting Breaches of Union and National Law of 2022 (Whistleblowing Law) was published, on 4 February 2022, in the Official Gazette of the Republic of Cyprus. Article 4(1)(a)(v) of the Whistleblowing Law provides that the protection applies also for people reporting infringements of Cyprus laws that cause or are likely to cause damage to the environment.

8.5 Are group or “class” actions available for pursuing environmental claims, and are penal or exemplary damages available?

Cypriot law only accommodates representative actions and not class actions; the difference being that each claimant can only be bound from a judicial proceeding if he is separately added as a claimant or if he expressly authorises his representation.

8.6 Do individuals or public interest groups benefit from any exemption from liability to pay costs when pursuing environmental litigation?

Cyprus, as a Member State of the United Nations Commission for Europe (UNECE), ratified the Aarhus Convention on 19 September 2001 and started implementing it by passing Law 33(III)/2003. According to article 9 of the Aarhus Convention, every contracting party to the Aarhus Convention should ensure that any person who considers that his/her request for information has been ignored, wrongfully refused, inadequately answered or otherwise not dealt with, has access to an expeditious review procedure established by law which is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a Court of law.

Apart from the Aarhus Convention, Cyprus has implemented the requirements of European Directive 2003/4/EC by passing the new Law 119(1)/2004, which includes provisions on access to justice, but it does not deal with the matter of costs in case of environmental litigation.

9 Emissions Trading and Climate Change

9.1 What emissions trading schemes are in operation in your jurisdiction and how is the emissions trading market developing there?

The licensing of industrial plants and the granting of the relevant air emission permits are materialised through the provisions of the Air Pollution Control Law 187(I)/2002 and the Industrial Emissions (Integrated Pollution Prevention and Control) Law 184(I)/2013. The Permits granted include operating conditions such as the obligation to install air pollution abatement techniques and not to exceed the set air emission standards.

9.2 Aside from the emissions trading schemes mentioned in question 9.1 above, is there any other requirement to monitor and report greenhouse gas emissions?

According to the aforementioned Laws 187(I)/2002 and 184(I)/2013, before the grant of an air emission permit or an industrial emissions permit, there are technical requirements to be satisfied for any machine or equipment used by the industrial plants. Furthermore, any material (including fuels) used by such machines or equipment should meet standard requirements of quality. The owner of the industrial plant is obliged to install measurement instruments or other kinds of equipment at his own expense and in places approved by the Minister of Labour and Social Insurance in order to measure the quality of atmosphere air, as well as the total amount of any substance that is emitted in the atmosphere within a particular period of time. After this, the measurements and any other data regarding the GHG emissions must be documented in a report and be sent to the Ministry of Labour and Social Security.

9.3 What is the overall policy approach to climate change regulation in your jurisdiction?

The cornerstone of international law regarding the combating of climate change is the United Nations Framework Convention on Climate Change, which Cyprus signed in 1997, and it ratified

under Law 12(III)/2003. In addition, Cyprus signed the Kyoto Protocol in 1990, which it subsequently ratified and incorporated into national law through Law 29(III)/2003. Cyprus is not included in Annex B of the Kyoto Protocol. As far as the Kyoto Convention is concerned, Cyprus has also ratified it, but without having the status of an Annex I party to the Kyoto Convention. Since Cyprus' accession to the European Union, there has been an obligation to reduce GHGs.

Hence, as a Member State, Cyprus must limit GHG emissions under the Effort Sharing Decision, which is the Decision No. 443/2009/EC of the European Parliament and of the Council and it was entered into force on 25 June 2009. In an effort to reduce these emissions, Cyprus has already taken measures at various levels, including legal, administrative and political action. For Cyprus, this corresponds to a reduction in GHG emissions by 42% for electricity generation and the production of cement and ceramics, and 24% in other sectors, including agriculture, transport, waste, etc., by 2030, compared to the 2005 levels. Cyprus faces the challenge of developing its economy to try and minimise the emissions of GHGs, and at the same time adopt and implement those measures and actions appropriate to enable adaptation to climate change.

10 Asbestos

10.1 What is the experience of asbestos litigation in your jurisdiction?

The only reported case for asbestos litigation in Cyprus today is Attorney General of the *Republic v. Pogiatis* (No. 4264/2013). This particular case involved the examination of the claim regarding asbestos fibres possibly contained within construction material, making them dangerous and unfit.

10.2 What are the duties of owners/occupiers of premises in relation to asbestos on-site?

According to the Security and Health Protection in Employment (Protection from Asbestos) Regulations of 2006, any employer who intends to expose his employees to asbestos must apply and obtain a relevant licence from the Chief Inspector of the Department of Labour. In addition, every employer has an overarching duty to ensure, to the extent that is reasonably possible, the safety and health of all his employees during exposure to asbestos. Additionally, it should be noted that claims for asbestos-related injuries could be based on the tort of negligence and/or breach of statutory duty. An occupier of any premises holds a duty to all lawful visitors to ensure their safety while on the premises in all reasonably foreseeable ways. In this respect, for a tort claim to succeed, among others, it must be established that the existence of a duty of care on part of the person committing the tort towards the plaintiff and that this duty was breached by the occupier.

11 Environmental Insurance Liabilities

11.1 What types of environmental insurance are available in the market, and how big a role does environmental risks insurance play in your jurisdiction?

Insurance companies in Cyprus may provide insurance cover for environmental risks up to a certain amount. This insurance cover has a particular character and cannot be expected to be provided under standard insurance policies.

11.2 What is the environmental insurance claims experience in your jurisdiction?

There is no extensive environmental insurance claims experience in Cyprus.

12 Updates

12.1 Please provide, in no more than 300 words, a summary of any new cases, trends and developments in environment law in your jurisdiction.

With regard to the legislation, Cyprus has ratified the Kiev Protocol after having signed it on 21 May 2003. This ratification resulted in the issuance of the new Law about the Aarhus Convention on Access to Information, Public Participation in Decision and Access to Justice in Environmental Matters and Relevant Protocols (Ratifying) (Amending) Law 21(III)/2012. Additionally, Cyprus has ratified the 2015 Paris Agreement and accordingly has implemented the Paris Agreement on Climate Change (Ratification) Law 30(III)/2016, involving the effective tackling of climate change by actively limiting, through a series of efforts, the amount of emissions produced by each State. Additionally, the new Whistleblowing Law provides protection against retaliation for reporting infringements of law that may cause damage to the environment.

As far as the jurisprudence is concerned, it is worth mentioning that in recent years, in a series of cases, the Supreme Court and after 2015, the Administrative Court of Cyprus, have been exceptionally receptive and thorough in their examination of the Department of Environment's opinions or the EIAs issued by the CAEI and have demonstrated great consideration towards the latter's findings. Generally, in the recent years, there has been an increase in the case law regarding environmental law. Namely, there has been an increase in the case law regarding public access to information related to environment.

Specifically, in the case of *A.P. Energy LTD v. The Council Of Minsters* (No. 6107/13), regarding the construction of a wind farm, the Court indicated that the overwhelming amount of material contained in the administrative files and the thoroughness of the investigation conducted by the CAEI, in their efforts to comply with the European Union's requirements for environmental issues and avoiding serious consequences, proves that due inquiry was made. Other cases where the EIA was conducive to the Court Opinion include *Maroula Pantela and others v. The Republic* (No. 231/15), where again the Court was sure to point out the CAEI's detailed approach in its report, and in *Harris Antoniadis and others v. The Republic and the Municipality of Limassol* (No. 1366/2010). In these more current cases, it is apparent that the Courts of Cyprus are displaying clear willingness in adopting the CAEI's or the Department of Environment's Opinions and Reports and have become more likely to attach greater importance on the environmental issues presented by the Department and the CAEI.



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