

Brexit and the Environment

The way in which environmental issues are dealt with in the UK post-Brexit could have significant implications for the environment not only in the UK but also in the EU, including Germany. It is vital that these implications are fully considered in the ongoing negotiations.

The European Union has formed a comprehensive set of environmental policies, now constituting one of the most influential bodies of environmental law in the world. For example, around 80% of UK environmental law has been developed through the EU with a significant reliance on the European Commission (EC) and the European Court of Justice (ECJ) as an ultimate backstop to enforce those laws. There are other EU policies which also have a significant environmental impact, including those on agriculture, fisheries, regional development, research, trade and overseas development. Many environmental challenges are of transboundary nature, such as climate change, marine and air pollution and overfishing. Also nature in itself does not respect borders, as shown most clearly by migratory birds and marine animals.

High standards and cooperation are essential to maintain level playing field and ensure environmental outcomes

Robust and enforceable common environmental standards play a crucial role not only to achieve environmental outcomes but also in facilitating cross-border cooperation and preventing unfair regulatory competition. This has been confirmed recently by the European Commission's "Fitness Check" of the EU Birds and Habitats Directives. There is a risk that a level economic playing field and environmental objectives in both the UK and EU could be undermined if there are no mechanisms to maintain EU-UK cooperation and equally high environmental standards. This also goes for improvements of environmental standards in the future.

Effective enforcement and access to justice need to be prerequisites for any EU-UK agreement

The practical value of any environmental commitments in an EU-UK agreement will depend on the effectiveness of dispute resolution mechanisms and on access to justice for citizens and civil society organisations.

As in Germany and other EU Member States, there are a number of areas of EU environmental law where full UK implementation has only been achieved through action by the EC and the ECJ. The potential loss of the EC's monitoring and enforcement function and the jurisdiction of the ECJ would leave an important gap in the current system of environmental law enforcement in the UK.

Any EU-UK agreement will need to address the issue of future environmental cooperation including the institutional frameworks required to regulate such cooperation and maintenance and further improvement of high environmental standards and enforcement. This will need further consideration of appropriate dispute resolution mechanisms and significant improvements to enforcement and access to justice within the UK.



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Of the over 30 environment cases brought by the European Commission against the UK that have proceeded to judgement of the European Court of Justice, the vast majority have resulted in a judgement against the UK.

As in Germany and other Member States, the vast majority of reported breaches of environmental legislation in the UK originate from citizens' complaints.

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