



# Position on the Precautionary and Innovation Principles

## Why to be cautious

### Summary

In the framework of new Commission policy work to protect public health and the environment, certain sectors, and in particular the chemical industry, are promoting a new 'Innovation Principle' next to the Precautionary Principle.

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## 1. Precautionary Principle

The Precautionary Principle is enshrined in art. 191.2 of the Treaty on the Functioning of the European Union (TFEU), following Principle 15 of the UN Rio Declaration on Environment and Development (1992) that states: "in order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation".

According to this principle, precautionary measures should be taken to address potential environmental and human health risks where scientific knowledge is yet uncertain, but the potential consequences of inaction are substantial.

## 2. Innovation Principle

The Innovation Principle has no legal basis in international law and is not mentioned in the Treaty. However, it is now included for the first time in a legal EU document, namely in the recitals of the recent Horizon Europe Regulation (regulating the EU's research and innovation programme after Horizon2020, provisional approval given December 2020).

According to the Innovation Principle, EU legislation and policies should be designed with support for innovation in mind. Applying the Innovation Principle means that, when the Commission develops new or revised initiatives, the impact assessment phase will take the effect on innovation into full account. The aim is that new EU policies support innovation, leading to an innovation-friendly regulatory framework in Europe. The Innovation Principle, if applied, will secure EU funding for R&D from industries.



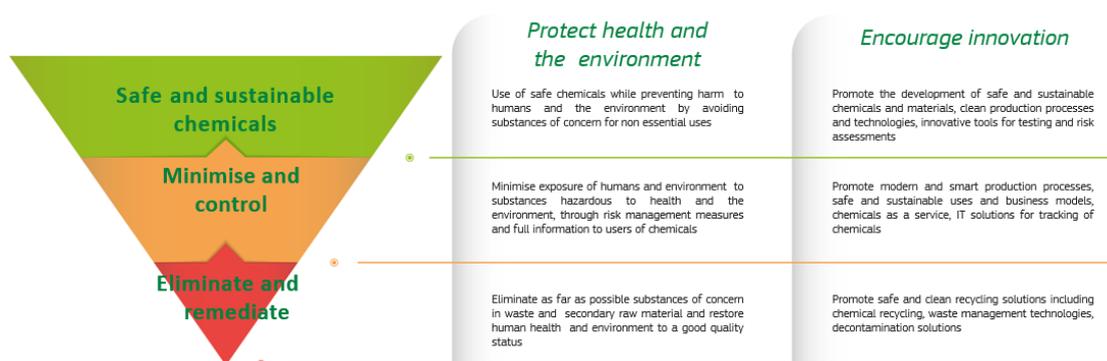
### 3. Precautionary principle first

EurEau fully supports innovation as a driver for cleaner, healthier and more sustainable societies. We also agree that EU legislation must be innovation-friendly rather than prescribing specific technological solutions. With this in mind, **the Innovation Principle can perfectly co-exist with the Precautionary Principle** in legislative design, provided **it does not dilute the Precautionary Principle**, and, in doing so, undermine environmental and health policy objectives. If correctly applied, **precautionary measures do not hamper innovation but rather steer it into the desired direction**, i.e. towards less harmful substances, products and practices.

It is worrying that the ERF (European Risk Forum, a lobby platform for chemical, tobacco and fossil fuel corporations) explicitly calls for the Innovation Principle to be invoked to balance reliance on hazard-based regulatory approaches, claiming that innovation should be considered as equally important<sup>1</sup>.

- ~ EurEau disagrees with this claim. Although enshrined in the TFEU, the Precautionary Principle is not consistently applied today, leading to the pollution of the aquatic environment.
- ~ The Innovation Principle is pushed by the risk-prone chemical industries that are most subject to health and environmental legislation; this may lead to a situation where their products can remain on the market with the least possible restrictions and regulation, ignoring the Precautionary Principle.

We therefore support the **EU Chemicals Strategy for Sustainability - Towards a Toxic-Free Environment**<sup>2</sup> which first aims for the “use of safe chemicals while preventing harm ... by avoiding substances of concern for non-essential uses. According to this strategy, innovation should be used to “promote the development of safe and sustainable chemicals and materials...”



*The toxic-free hierarchy – a new hierarchy in chemicals management (Source: European Commission)*

<sup>1</sup> ERF- The Innovation Principle – Letter To The Presidents Of The European Commission, The Europe Council, And The European Parliament.

<sup>2</sup> <https://ec.europa.eu/environment/pdf/chemicals/2020/10/Strategy.pdf>.



This is also fully in line the **Resolution 2020/2531 of the European Parliament**<sup>3</sup> on the Chemicals Strategy for Sustainability which stresses that “**the Strategy should fully reflect the precautionary principle** and the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay, as well as cornerstone principles of the European chemicals legislation such as the placing of the burden of proof on manufacturers, importers and downstream users, and that it should effectively apply those principles.”

**EurEau strongly believes that the Precautionary Principle as enshrined in the TFEU should always prevail over the Innovation Principle. The latter should be seen as an enabling tool to develop safe and sustainable alternatives to substances; products and processes targeted by precautionary measures.**

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#### About EurEau

EurEau is the voice of Europe’s water sector. We represent drinking water and waste water operators from 29 countries in Europe, from both the private and the public sectors.

Our members are 34 national associations of water services. At EurEau, we bring national water professionals together to agree European water sector positions regarding the management of water quality, resource efficiency and access to water for Europe’s citizens and businesses. The EurEau secretariat is based in Brussels.



EurEau

With a direct employment of around 476,000 people, the European water sector makes a significant contribution to the European economy.

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<sup>3</sup> [https://www.europarl.europa.eu/doceo/document/TA-9-2020-0201\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/TA-9-2020-0201_EN.pdf).