EEL News Service

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Case Law

ECJ takes strict view on integrity of Natura 2000 area

ECJ Case C-521/12 *T.C. Briels and Others v Minister van Infrastructuur en Milieu* 15 May 2014

In this request for a preliminary ruling from the Dutch Council of State, the ECJ answered questions concerning the interpretation of Art. 6(3) and (4) of the Habitats Directive. The dispute in the national proceedings regarded ministerial orders relating to the widening of the A2 motorway. The project affects a Natura 2000 site, designated as such in particular to protect the natural habitat type molinia meadows. Since assessments carried out by the ministry showed that the project can have significant adverse effects on the site's protected habitat types and species, it ordered to allow for the development of a larger area of molinia meadows in order that the conservation objectives for this habitats type are maintained. Briels a.o. brought an action against the ministerial orders before the referring court. They take the view that the Minister of Infrastructure and Environment could not lawfully adopt the orders for the project, given the negative implications of the widening of the motorway for the Natura 2000 site in question.

In essence, by its questions the referring court asked the ECJ whether Art. 6(3) means that a plan or project not directly connected with or necessary to the management of a Site of Community Importance (SCI), but having negative implications for a type of natural habitat and providing for the creation of an area of equal or greater size of the same natural habitat type within the same site, has an effect on the integrity of that site, and, if so, whether such measures can be categorised as 'compensatory measures' within the meaning of Art. 6(4).

The Court stated that according to settled case law, the provisions of Art. 6 must be construed as a coherent whole in the light of the conservation objectives pursued by the directive. Where a plan or project not directly connected with or necessary to the management of a site is likely to undermine the site's conservation objectives, it must be considered likely to have a significant effect on that site. The assessment of that risk must be made in the light of the characteristics and specific environmental conditions of the site concerned by such a plan or project. In the specific case, there is indication that the project will have significant adverse effects for the site's protected habitat types. Such a project is liable to compromise the lasting preservation of the constitutive characteristics. The protective measures provided for in the project do not, says the Court, affect that assessment.

The Court emphasised that the authorities must refuse to authorise a plan or project where uncertainty regarding its potentially adverse negative effects remains. Art. 6(3) integrates the precautionary principle and makes it possible to prevent in an effective manner adverse effects on the integrity of protected sites as a result of the plans or projects being considered. According to the Court, a less stringent authorisation criterion than that in question could not ensure as effectively the fulfilment of the objective of site protection intended under that provision. According to settled case law, the assessment carried out under Article 6(3) of the habitats directive must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned.

Protective measures provided for in a project which are aimed at compensating for the negative effects of the project on a Natura 2000 site cannot be taken into account in the assessment of the implications of the project provided for in Art. 6(3). These measures are not aimed at avoiding or reducing the significant adverse effects caused by the A2 motorway project. They compensate afterwards for those effects, but do not guarantee that the project will not adversely affect the integrity of the site within the meaning of Art. 6(3).

The Court also noted that any positive effects of future creation of a new habitat aimed at compensating for the loss of a protected area are very difficult to foresee why they cannot be taken into account at the procedural stage provided for in Art. 6(3). The effectiveness of the protective measures provided for in the article is intended to avoid a situation where competent national authorities allow 'mitigating' measures in order to circumvent the specific procedure provided fort in Art. 6(3). Only if a project, despite the negative assessment, must be carried out for 'imperative reasons overriding public interest' and no alternative solutions are available, Art. 6(4) is applicable. The latter provides that member states take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. The measures can be categorised as 'compensatory measures' within the meaning of Art. 6(4) only if the conditions laid down in that article are satisfied.

See also:

AG Opinion, 24 February 2014

Germany not to maintain safety standards on substances in toys

Case T-198/12 *Germany v Commission*, 14 May 2014

Directive 2009/48/EC lays down limit values for certain chemical substances in toys. Germany wanted to maintain its own limit values for a number of substances in toys beyond the date of application of the directive. It claimed that they offered a higher level of protection, since their values correspond to the old 'Toys directive' of 1988. The Commission rejected the request for antimony, arsenic and mercury, and authorised the continued application of the German limit values for lead and barium only until 21 July 2013 at the latest.

The General Court first recalled that member states have the right under art. 114 TFEU to request that pre-existing stricter national measures are maintained after the adoption of an EU harmonising measure based on a differing view on the risk to public health. It is for the concerned member state to prove that the national measure provides a higher level of protection than the EU harmonising measure, and that it does not go beyond what is necessary to obtain that objective.

In comparing the German limit values with the ones introduced by the new directive for arsenic, antimony and mercury, the General Court observed that they were based on different types of limits. Assessing the data submitted by the parties, the Court concluded that the new directive does not allow higher migration of harmful substances than permitted in Germany, except when it comes to scraped-off materials. Hence, the Commission could reject Germany's request. Concerning arsenic, antimony and mercury the Court concluded that Germany failed to prove that the national limit values ensure a higher level of protection than the ones set out in the directive.

Regarding lead, the Court found that the Commission had infringed its obligation under Artide 296 TFEU to state the reasons for its decision to approve the German limit values only until 21 July 2013. The decision contained an internal condition which could hinder the underlying reasons of the decision from being properly understood. Since the Commission has amended the limits values for barium since Germany's original request was filed, there was according to the Court, no longer any need to adjudicate on the action regarding barium.

See also:

Commission Decision C (2012) 1348 final

Order of the President of the General Court of 15 May 2013, Case T‑198/12 R *Germany v Commission* (proceedings for interim measures)

Order of the Vice-President of the ECJ of 19 December 2013, Case C‑426/13 P(R) *EC v Germany* (proceedings for interim measures, appeal against the order mentioned above)

EU Aarhus Regulation not in line with Aarhus Convention

AG Jääskinen Opinion Joined cases C-401/12 P, C-402/12 P, C-403/12 P *Council v Vereniging Milieudefensie and Stichting Stop Luchtverontreiniging Utrecht, European Parliament v Vereniging Milieudefensie and Stichting Stop Luchtverontreiniging Utrecht, Commission v Vereniging Milieudefensie and Stichting Stop Luchtverontreiniging Utrecht*, 8 May 2014

The Advocate General (AG) delivered this ground-breaking and critical opinion in a case concerning the procedural rights of environmental NGOs and the conformity of EU legislation with international obligations. It is an appeal against the General Court's judgement in case T‑396/09, in which the Commission's decision to reject two environmental NGOs request for review of the Commission decision granting the Netherlands a temporary exemption from the obligations laid down by Directive 2008/50/EC on ambient air quality and cleaner air for Europe, was annulled. The joined cases concern Art. 9(3) of the Aarhus Convention and Regulation 1367/2006 ('Aarhus Regulation'), in particular Art. 2(1)(g) and 10.

The General Court had examined conformity of EU secondary law with the Aarhus Convention based on the ECJ judgements in the cases Fediol v Commssion and Nakajima v Council which concerned WTO law. There, the legality of EU secondary law was tested against provisions of international treaties that do not meet the criteria of direct effect. The AG held that the General Court made an error of law in applying this case law. However, he does suggest that the ECJ allows invoking the international agreement provisions on other grounds, referring notably to the Biotech case, where the lack of direct effect of an international treaty, in the sense that it does not create individual rights, did not preclude the Court from examining whether those obligations of the Union in its capacity as a party to the agreement, are met.

The AG noted that there is variation, "bordering on incoherence", in the ECJ jurisprudence on this topic. In order to avoid creating an area that is exempted from judicial review, the AG argues that some international treaty provision without direct effect could be used to review legality of EU secondary law. They would need to be sufficiently clear, comprehensible and precise.

The AG noted that the EU and its institutions are bound by the Aarhus Convention. Since its purpose is to ensure that the public authorities and citizens contribute to protecting and improving the environment, it is not a regular environmental agreement, but an expression of the human right to the environment in its most solemn dimension. Art. 9(3) Aarhus Convention establishes that members of the public meeting criteria set at the national level have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment. According to the ECJ case Lesoochranárske zoskupenie, this provision is conditional as the criteria are set by the national legislator, hence an individual may not invoke it. Artide 9(3) forms a 'mixed' provision, the AG finds, since it also contains an explicit obligation on the contracting parties to achieve results, namely access to justice. This is sufficiently clear to prevent a norm, which purpose or effect is that of excluding certain categories of public authorities' decisions that are not of a legislative nature, from the area of judicial review.

Article 9(3) is partially clear enough to serve as a basis for a review of legality in terms of access to justice for organisations with legal standing. Consequently, the provision can serve as a legal standard in the assessment of the legality of EU legislative acts, according to the AG.

The AG states that Art. 10 Aarhus Regulation does not ensure that the obligations of Article 9(3) Aarhus Convention are fully accomplished. The extremely restrictive definition of an 'administrative act' restricts the scope of the review procedure guaranteed by the Aarhus Convention. Therefore, the AG finds that the plea of invalidity of Art. 10 jo. Art. 2(1)(g) Aarhus Regulation, should be accepted.

See also:

General Court Case T-396/09 *Vereniging Milieudefensie and Stichting Stop Luchtverontreiniging Utrecht v Commission*, 14 June 2012

Commission Decision C (2009) 6121, 28 July 2009

'Acting in legislative capacity' within meaning of the Aarhus Convention

AG Opinion Joined cases C-404/12 P, C-405/12 P *Council v Stichting Natuur en Milieu and Pesticide Action Network Europe, Commission v Stichting Natuur en Milieu and Pesticide Action Network Europe*, 8 May 2014

On 8 May, AG Jääskinen delivered an opinion in the case brought by appeal of the General Court's judgement in Case T-338/08 Stichting Natuur en Milieu and Pesticide Action Network Europe v Commission, in which the Commission's decisions rejecting as inadmissible the requests made by the applicants for review by the Commission of Commission Regulation (EC) No 149/2008 amending Regulation (EC) No 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin.

The AG focuses on the interpretation of the concept 'acting in a judicial or legislative capacity' within the meaning of Article 9(3) compared to Article 2(2) second paragraph of the Aarhus Convention. The applicability of the Aarhus Convention is depending on whether the Commission was acting in 'legislative' capacity when it adopted the contested regulation. If it did, the regulation would be exempted from the scope of application of Article 9(3) of the Aarhus Convention and consequently from the scope of application of Article 10 thereof.

The AG identified that the concept 'bodies or institutions acting in a judicial or legislative capacity' is not defined in the Aarhus Convention, and that the preparatory work of the Convention give little guidance. The notion of 'acts', in the meaning of international instrument, should be interpreted independently of the national legislation of the Parties to the Convention. The interpretation of Article 2(2) second paragraph Aarhus Convention may not be based solely by references to a particular legal system, but should be based on an overall assessment which take due account of the Convention's primary purpose. The purpose is to protect the environment and to establish a democratic framework that makes it possible for citizens to take an active part in this process and a to establish a system for judicial review enabling the public to bring about an administrative or a judicial review if a rule of environmental law is infringed by its application.

The AG acknowledges that since the term 'act' (Article 2(2) second paragraph) is an autonomous concept in the Convention, it is important to ignore the distinction made in EU law between 'legislative' and 'implementing' acts. The purpose of the Aarhus Convention is to exclude an examination of constitutionality in a broad sense with regard to acts adopted in the environmental

law area. It is against this background that the court must consider whether the Commission adopted Regulation No 149/2008 acting in a legislative capacity within the meaning of the Aarhus Convention. According to the AG, the fact that the Commission in the adoption of the regulation, complemented a basic instrument that was a legislative act, is not significant in terms of the capacity in which the Commission acted in this regard, based on the application of the Aarhus Convention. It is therefore necessary to review the procedure for the adoption of the regulation. After assessing that procedure, he concludes that it is not in itself sufficient to determine the capacity in which the Commission acted with respect to the Aarhus Convention. Therefore, the contents of the Commission's powers should be examined. The AG finally found that the Commission acted in a legislative capacity within the meaning of the Aarhus Convention. Consequently, he finds that the General Court committed an error of law, in stating that the adoption of Regulation No 149/2008 was based on to executive powers.

Labelling and marketing of 'nutritional' organic products

AG Opinion Case C-137/13 *Herbaria Kräuterparadies GmbH v Freistaat Bayern*, 8 May 2014

On 8 May 2014, Advocate General Sharpston delivered her opinion in a request for preliminary ruling from a German administrative court regarding provisions of Commission Regulation No 889/2008 and Council Regulation No 834/2007 on organic production and labelling of organic products and Regulation 1924/2006 on nutrition and health claims made on foods. The case in the national proceedings concerns Herbaria Blutquick, a fruit juice mixture with herbal extracts containing mainly organically farmed ingredients, but also non-organic mineral and vitamin additives. The product is advertised and marketed as a food supplement containing iron and vitamins and as an organic product.

In 2011 the Bavarian authorities ordered the manufacturer, Herbaria to remove the reference of organic farming in the labelling, advertising and marketing of Blutquick on the ground that it infringed Article 23(4)(a)(i) of Regulation 834/2007 in conjunction with Artide 19(2)(b) of Regulation No 834/2007 and Article 27(1)(f) of Regulation No 889/2008. According to Article 27(1)(f) of Commission Regulation (EC) No 889/2008, products marketed as organic may contain minerals, vitamins etc. only as far as their use is legally required in the foodstuffs in which they are incorporated. Herbaria challenged the decision in the administrative court which asked the ECJ for help.

The AG held that under EU law, certain conditions must be complied with in order for a product to be marketed as organic. Other conditions must be complied with in order for a product to be marketed as food supplement, with nutrition or health claims or as foodstuff for a particular nutritional use. In order for it to be marketed both as organic and as food supplement, all conditions must be complied with. Where the relevant conditions for marketing in a combination of ways cannot all be met simultaneously for the same product, it is for the producer to decide how to market the product and accordingly ascertain which conditions must be complied with. The AG held that the words 'legally required in the foodstuff in which they are incorporated' in Artide 27(1)(f) of Regulation No 889/2008 refer only to a direct legal requirement for one or more of the substances listed to be present in a foodstuff if it is to be marketed at all. They do not extend to a situation in which the foodstuff is marketed as a food supplement, which a nutrition or health claim or as a foodstuff for a particular nutritional use but may not be so marketed unless it contains a particular amount of one or more of those substances.

In its written submissions to the Court, Herbaria observed that following the entry into force of Regulation No 126/2012 (which implemented an exchange of letters between the Commission and the US Department of Agriculture), foodstuff produced in the US could be marketed as organic in the EU even if they contained non-organic nutrient vitamins and minerals, because the labelling was allowed under US law. According to Herbaria, a US product compatible to Blutquick can thereby be marketed as organic in the EU even though it contains non-organic vitamins and minerals. Herbaria claims that this entails an infringement of its right to equal treatment. According to the AG, this issue is, potentially, of immense importance considering the negotiations and future application of the Transatlantic Trade and Investment Partnership (TTIP) between the US and EU. It is an issue of 'mutual recognition' which raises questions of equality and of equal treatment and, possibly, of reverse discrimination of EU produced goods, which have to comply with potentially higher standards than the ones imported from the US. However, she found that there were no reasons why the Court should attempt to address this supplementary issue since the German administrative court did not ask any questions on this issue and no factual findings or necessary legal material were submitted to the Court. Further, the Regulation on which Herbaria based its claims applied only from 1 June 2012 and was not in force when the Bavarian authorities issued their decision.

Climate Change

EC launches 'Sustainable Industry Low Carbon' initiative

On 13 May 2014, the European Commission (EC) launched the €20 million Industry Low Carbon II (SILC II) initiative. The initiative is funded under Horizon 2020 and is aimed at contributing to the achievement of EU climate and energy targets and decarbonisation of the EU economy. According to the Commission it will promote advanced low-carbon manufacturing and processing that are important to maintain the competitiveness of EU industries.

The SILC II initiative will fund projects which develop low-carbon technology solutions, with a special focus on energy-intensive industries, in order to achieve significant greenhouse gas emission (GHG) reductions within the EU industry. In practice, the SILC II initiative will support the development of new technologies, and their implementation in some 'pilot' industrial plants under real working conditions, that will allow goods to be produced with much lower GHG emissions. Targeted industries include *inter alia* iron and steel, non-ferrous metals such as aluminium and copper, cement, glass, pulp and paper, chemicals and ceramics. Innovation is emphasised in order to make low-carbon manufacturing and processing a reality. The support under Horizon 2020 of SILC II projects is intended to provide the opportunity to bridge the gap between research and its exploitation.

According to the Commission, EU industry is challenged at the same time by ambitious EU environmental policies and strong global competition. The potential technology transfer of the innovative solutions developed and tested in SILC II, which is expected within the energy-intensive sectors and beyond, will help EU companies to reduce their compliance costs with the EU Emission Trading System (EU ETS) and improve their competitiveness.

See also:

European Commission press release, 13 May 2014

Energy

Russia refers EU to WTO over energy legislation

On 30 April 2014 Russia requested consultation with the EU on energy rules which according to Russia, challenges Gazprom's business model. This could be a first step to a dispute process in the WTO dispute settlement body. EU legislation poses an obstacle for South stream, the pipeline planned to connect Russia with the EU through Bulgaria, and thereby bypassing Ukraine. The European Commission (EC) has previously stated that the project does not comply with EU law. In its request to the WTO, Russia refers to a number of aspects of EU legislation, including a requirement on granting access to natural gas and electricity networks, which forces Russian firms, such as Gazprom, to sell stakes and surrender market shares. EU measures in the production, supply and transmission of natural gas and alleged discriminatory requirement for certificating third countries are also challenged. The inconsistencies alleged by Russia refer to the General Agreement on Trade in Services (GATS), the Agreement on Subsidies and Countervailing Measures and the Agreement Establishing the WTO. The parties now have 30 days to initiate talks to try to resolve the dispute. In case these fail, after 60 days the complainant may request adjudication by a panel put together by the WTO Dispute Settlement Body to solve the dispute.

Russia has since long been an opponent of the increasing integration of the European electricity and gas markets and especially the 2009 Third Energy package. The ongoing geopolitical crisis in Ukraine and growing tension between the EU and Russia has added fuel to the fire. Many European countries are heavily dependent on natural gas imported from Russia and the Ukraine crisis risks becoming an energy crisis, reminding the EU of previous situations where Russia cut off gas supplies to Ukraine due to price disputes. Trilateral talks between Russia, the European Commission and Ukraine, held in Warsaw on 2 May 2014, resulted in Russia's Energy Minister Alexander Novak stating that Gazprom might reduce gas supplies to Ukraine in June if it does not receive prepayment by 31 May. He also warned that Ukraine might not be able to store enough gas during the summer for transit to European countries in the winter. EU Energy Commissioner Günther Oettinger said that the EU would support Ukrainian gas firm Naftogaz economically. Currently, Ukraine is trying to obtain gas from 'reverse flows' from Slovakia, Poland and Hungary.

Gazprom sells gas to EU member states under bilateral contracts. Oettinger, in a joint press conference with Polish Prime Minister Donald Tusk, said that the Commission wants a uniform gas price in the European common market. Tusk has also promoted the idea of an EU energy union and joint purchase of Russian gas which would improve the EU's negotiating power and lower prices.

The legal disagreements over the South Stream pipeline could result in the concerned member states being stuck between a rock and a hard place, facing the options of either following the Commission's opinion and EU law and risking fines over failure to fulfil their contractual commitments with Russia or the other way around. Proceeding between Ukraine and Russia are currently taking place in the Arbitration Institute of the Stockholm Chamber of Commerce over what Ukraine sees as artificially high prices.

On 21 May, 2014 representatives from member states and third countries as well as energy companies, regulators, business and consumer associations, think-tanks met in Brussels to discuss ways to reduce the EU's energy dependence. On the same day President of the European Commission, José Manuel Barroso sent a letter to the Russian president Vladimir Putin, reiterating the 'readiness of the European Union to continue the substantive trilateral discussions, and to help find a rapid and sustainable solution acceptable to all parties'. The second trilateral meeting

between the EU, Russia and Ukraine took place in Berlin on 26 May 2014 with diverging opinions on the results. The European Commission proposed as a solution that Ukraine will pay Russia $2 billion by 29 May 2014 and a further $500 million by 7 June 2014. Russia and Ukraine have still have to respond to the proposal.

See also:

WTO Russia files dispute against EU over regulations in the energy sector, 30 April 2014

EurActiv Russia takes EU energy rules to WTO arbitration, 2 May 2014

EurActiv Trilateral gas talks with Russia fail, 5 May 2014

G7 Rome ministry ministerial meeting Joint Statement, 6 May 2014

EurActiv G7 wants to end dependence on Russian gas, 6 May 2014

EurActiv Ukraine crisis fires efficiency up the EU's energy agenda, 15 May 2014

European Commission press release, 19 May 2014

European Commission press release, 21 May 2014

European Commission statement, 26 2014

EurActiv Brussels, Kyiv diverge on gas talks results, 27 May 2014

Commission approves waste-to-energy programme in Ireland

The European Commission (EC) has found a number of measures by the Dublin local authorities to participate in a waste-to-energy programme in Dublin to be in line with EU state aid rules. The Commission confirms that the project will be carried out on market terms and therefore does not involve any state aid within the meaning of Article 107 TFEU.

The Dublin authorities will participate in the project through a series of measures, such as a waste revenue guarantee, a waste and electricity revenue sharing mechanism and a profit sharing schedule.

Following a public tender, the Dublin local authorities entered into negotiations with Dublin Waste to Energy Limited (DWTEL) concerning the construction, maintenance and operation of a large-scale Waste-to-Energy plant located on the Poolbeg peninsula in Dublin. The facility will be a combined heat and power system (CHP) that uses municipal solid waste as fuel to generate electricity for the general public. It is meant to process approximately 550 000 tonnes per annum of waste.

See also:

European Commission press release, 7 May 2014

Case SA.36591 Alleged aid to Waste to Energy facility in Ireland, 7 May 2014

EC provides 750 million euro for energy infrastructure projects

On 12 May 2014, the European Commission (EC) opened up for proposals under the Connecting Europe Facility (CEF) to help finance key trans-European energy infrastructure projects. A total of €750 million will be made available for first priority projects mainly in the gas and electricity sectors. According to the Commission, these projects are intended to mitigate issues with security of supply and end energy isolation of some member states. They will also contribute to the completion of the internal energy market, to the integration of renewables into the energy grid and interconnections between member states.

During the period 2014-2012 a total of €5.85 billion was distributed to trans-European energy infrastructure under the Connecting Europe Facility. In order to apply for a grant, a project has to be included in the list of 'projects of common interest'. The first list was adopted by the European Commission in October 2013. The application deadline for proposals is 19 August 2014. The grant money will be available to finance studies and construction works, whereas oil infrastructure projects are excluded from any form of financial assistance. This is also the case for grants for construction works (except hydro-pumped storage projects). The final decision on which projects will get the CEF funding from the Commission will be taken by November 2014.

The basis for this call for proposals is the Connecting Europe Facility Regulation which is in force since December 2013 and the rules on how this financial aid is granted are laid down in the Regulation on guidelines for trans-European energy infrastructure which entered into force in May 2013.

See also:

European Commission press release, 12 May 2014

Nature

Commission proposes total ban of drift fishing nets

On 14 May 2014, the European Commission (EC) presented a proposal for a full ban on use of drift nets for fishing in all EU waters. The Commission expresses concern over incidental captures of marine mammals, sea turtles and sea birds which are mostly protected under EU legislation. Since the fishing-vessels involved often operate on a small-scale and do not operate together in the same areas they can escape monitoring, control and proper enforcement. Illegal driftnet activities carried out by EU fishing vessels continue to be reported and have been cause of criticism regarding the Union compliance with applicable international obligations. To fight circumvention of the rules, the Commission proposal includes a full ban of driftnet fishing in the EU as well as the prohibition of keeping driftnets on board of fishing vessels. The proposal also redefines the current definition of a driftnet. It is intended to eliminate any room for interpretation and simplify control and enforcement by national authorities. The ban would come into force on 1 January 2015.

According to the Commission, banning driftnets responds to the new Common Fisheries Policy's goal to minimise the impact of fishing activities on the marine ecosystems and to reduce unwanted catches as much as possible. Depending on Member States' priorities, the European Maritime Fisheries Fund (EMFF) could be used to support the transition towards a total ban provided that specific conditions are fulfilled.

In 1992 the UN General Assembly adopted a resolution banning large-scale pelagic drift-net fishing, prohibiting nets longer than 2.5 km. Since then the EU has introduced regulatory measures gradually

limiting the use of drift-nets. The current EU legal framework on driftnets fishing entered into force on 1 January 2002 and prohibits the use of driftnets to catch certain migratory fishes that swim in the upper column such as tuna and swordfish. In the Baltic Sea, the use of driftnets and the keeping on board of any kind of driftnets has been fully banned since 1 January 2008.

See also:

European Commission press release, 14 May 2014

European Commission questions and answers on full driftnet ban, 14 April 2014

European Commission roadmap Review of the EU regime on the small scale driftnet fisheries, April 2014

EurActiv Commission proposes full driftnet fishing ban, 16 May 2014

EC launches initiative to protect biodiversity and fight wildlife crime

On 22 May 2014, the European Commission (EC) presented a new initiative aimed at halting biodiversity loss and eradicating poverty in developing countries. According to the Commission the EU Biodiversity for Life (B4Life) is designed to help the poorest countries protect their ecosystems, combat wildlife crime and develop green initiatives. The funding of B4Life will initially come from the EU Public Goods and Challenges (GPGC) thematic programme and from regional and national development cooperation envelopes and the budget is estimated to up to €800 million for 2014-2020. In accordance with the EU Agenda for Change, B4Life will focus on 'least developed countries' and countries containing 'biodiversity hotspots', i.e. places where ecosystems and their services are the richest at the same time as being the most threatened.

The initiative will operate in three priority areas: promoting good governance and resources; securing healthy ecosystems for food security and; developing nature-based solutions towards a green economy. In addition B4Life will include a 'Wildlife Crisis Window', dedicated to combating the increase in the illegal trade of endangered species, particularly in Africa. It is intended to tackle poaching and trafficking at multiple levels: at a local level by securing the management of priority protected areas; at a national level by reinforcing the rule of law by tackling corruption and improving investigation; at a regional level by promoting anti-criminal networks and the creation of cross-border protected areas, and by improving species monitoring; and internationally by supporting organisations specialised in the fight against wildlife crime, illegal trade and smuggling.

See also:

European Commission B4Life Q&A, 22 May 2014

EurActiv EU celebrates biodiversity day, sort of, 23 May 2014

Book Reviews

EU Environmental Law, Governance and Decision-Making (2nd edition)

Prof. M. Lee, Hart Publishing, March 2014

Over the last forty years, environmental protection has become an important part of political debate, and governments around the world have accepted responsibility for the environment. The EU has been part of this movement. It has developed a vast and diverse body of EU law addresses and enormous range of environmental matters. This book examines a number of areas of substantive EU environmental law, focusing on the striking preoccupation of EU environmental law with the structure of decision-making. It highlights the observation that environmental protection and environmental decision-making depend intimately on both detailed, specialized information about the physical state of the world, and on political judgments about values and priorities. It also explores the elaborate mechanisms that attempt to bring these distinctive decision-making resources into EU environmental law in areas including industrial pollution, chemicals regulation, environmental assessment and climate change.

Upcoming Events

Summer Programme on International and European Environmental Law: Facing the Challenges?

The T.M.C. Asser Institute in cooperation with the Institute for Environmental Security is organizing a Summer Program on International and European Environmental Law: Facing the Challenges? New information on confirmed speakers like prof. Jan Jans and others, is available at the Asser Instituut website.

Dates: 25-29 August 2014
Venue: T.M.C. Asser Instituut, R.J. Schimmelpennincklaan 20-22, 2517 JN The Hague

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2nd EELF Conference: "Environmental and Planning Law Aspects of Large Scale Projects"

The European Environmental Law Forum (EELF) together with Hasselt University and HUBrussel are organising the second EELF Conference in Brussels. The goal of the conference is to bring academics, members of EU and national/regional institutions, industry and environmental associations together and exchange views and debate on the central topic. We especially want to also offer an opportunity to young academics to present their research.

The conference focuses on all kinds of environmental and planning law aspects of large scale projects. These can be subdivided into the following four subthemes; the role of spatial and environmental planning, permitting and review procedures, critical sectorial regimes and horizontal measures.

The conference will consist of two days of presentations and discussions, and a third day with an excursion. We hereby welcome abstracts for presentations. Paper abstracts written in English and focused on the Conference theme are invited for submission. Abstracts of not more than 500 words should be sent to bernard.vanheusden@uhasselt.be by Thursday 1 May 2014 (together with a short biography of max. 150 words and an indication of the related subtheme(s)). More information on the conference (e.g. hotel accommodation, registration form, conference dinner etc.) will soon be available on the EELF website and the 2014 Conference webpage of Hasselt University.

Dates: 10-12 September 2014

Venue: Hogeschool-Universiteit Brussel (HUBrussel), Belgium

Colofon

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