



EEL News Service

Issue 2015/01 of 30 January 2015

Dear EEL Community members,

A new year has started and we can proudly present this first issue of the EEL News Service with a completely new structure and layout. We are also working hard on the EEL website in this regard. Please find below the collection of latest legal and policy developments in EU Environmental Law.

Furthermore, we would like to draw special attention to two upcoming events:

1. As part of the Asser 50 Years celebrations, a unique symposium, themed "Better Regulation in the EU revisited. Improving the European Union for the benefit of business and citizens", will take place on 23 April.
2. The Asser Summer Programme on International & European Environmental Law, taking place from 24-28 August.

For more information, see the section "Events" below.

Case Law



CJEU Judgement: [Joined Cases C 401/12 P to C 403/12 P, Council, EP and Commission v Vereniging Milieudefensie and Stichting Stop Luchtverontreiniging Utrecht](#) (13/01/2015)

The EU is a party to the [Arhus Convention](#) (PDF), in which the right to access to justice in environmental matters is laid down. A review procedure is to be present to challenge the substantive and procedural legality of “acts” which contravene provisions of environmental laws. NGO’s and the public are to be given “wide access to justice”. “Acts” are not defined in the Arhus Convention, though legislative acts are excluded.

Two Dutch NGOs had complained that they were not allowed to challenge a Commission decision by which their request for review of the decision granting the Netherlands a temporary exemption from the air quality directive had been held inadmissible (because it was said to concern an act not of individual scope, but of general scope against which no review was possible). The General Court granted the application for annulment of the contested decision, and held that the EU limitation of acts against which internal review procedures can be instigated (namely measures of individual scope) were violating the Arhus Convention. The General Court tested EU secondary law against the Convention in spite of the fact that its provision on access to justice was not capable of conferring on the individual concerned the right to invoke it. It did so by relying on jurisprudence that opened up the possibility to test EU law against a convention where EU law is intended to implement an obligation imposed on the EU institutions under that agreement. That jurisprudence had dealt with the relationship between GATT/WTO law and EU law only, however. The CJEU did not agree with the General Court and ruled that those exceptions were justified solely by the particularities of the agreements that led to their application, and could not be applied in these cases. Hence, it ruled that the Aarhus Convention lacks the clarity and precision required for its provision on decisions and acts to be properly relied on before the EU judicature for the purposes of assessing the legality of secondary EU law.

By following its familiar line of reasoning on the relationship between EU law and international law, the CJEU could ignore the fact that EU implementation of the Aarhus Convention is robbing the latter instrument of its useful effect rather than setting the boundaries of what an implementing instrument can look like (similar to the judgement in [Case C 240/09, Lesoochránárske zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky](#) (08/03/2011)) . These decisions thus form a missed opportunity for the CJEU to see to it that the EU lives up to the obligations it has committed itself to when it signed and ratified the Aarhus Convention.

Also see:

■ **CJEU Judgement** - [Joined Cases C 404/12 P and C 405/12 P, Council of the European Union and European Commission v Stichting Natuur en Milieu and Pesticide Action Network Europe](#) (13/01/2015), in which the CJEU comes to a similar judgment with respect to an internal review of a Regulation setting maximum residue levels for pesticides.

■ **EEB reactions** - [ECJ rulings a setback for environmental democracy](#) (13/01/2015)

■ **Geert van Calster Blog Post** - [Court of Justice dismisses Vereniging Milieudefensie in air quality appeal. Aarhus not always the jawbreaker in judicial review](#) (14/01/2015)

■ **Annotation by Van der Velde, S.**, *Toegang tot de rechter onder "Aarhus"*, in: *Jurisprudentie Milieurecht*, SDU Uitgevers, aflevering 5, jaargang 15, 2011, blz. 306-312 (in Dutch)

CJEU Judgment: [Case C-66/13, Green Network v Autorità per l'energia elettrica e il gas](#) (26/11/2014)

The Court of Justice of the European Union issued a preliminary ruling concerning the interpretation of arts. 3(2) and 216 of the Treaty on the Functioning of the European Union (TFEU), read in conjunction with art. 5 of Directive 2001/77/EC of the EP and the Council (on the promotion of electricity produced from renewable energy sources in the internal electricity market), and the Agreement between the European Economic Community and the Swiss Confederation, as adapted by Decision 1/2000 of the EC-Switzerland Joint Committee. The request had been made in proceedings between Green Network SpA and the Autorità per l'energia elettrica e il gas concerning an administrative fine imposed by the latter on Green Network for its refusal to purchase green certificates in an amount corresponding to the quantity of electricity which that company had imported into Italy from Switzerland.

The CJEU ruled that "[...] the European Community enjoys exclusive external competence precluding a provision of national law, such as that at issue in the main proceedings, which provides for the grant of exemption from the obligation to purchase green certificates owing to the introduction, onto the national consumer market, of electricity imported from a third State, by means of the prior conclusion, between the Member State and third State concerned, of an agreement under which the electricity thus imported is guaranteed as having been produced from renewable energy sources, according to arrangements identical to those set out in Article 5 of that directive."

Furthermore the court said: "When a provision [...] has been disapplied by a national court because it is incompatible with EU law, it is contrary to EU law for that court to apply, by way of substitution, an earlier provision of national law in substance similar to that disapplied, which provides for the grant of exemption from the obligation to purchase green certificates owing to the introduction, onto the national consumer market, of electricity imported from a third State, by means of the prior conclusion, between the national grid manager and an equivalent local authority of that third State, of an agreement determining the verification arrangements necessary for the purpose of certifying that the electricity thus imported is electricity produced from renewable energy sources."

Also see:

- [Opinion of Advocate-General](#) in this case. (13/03/2014)



EurActiv Article: [Cultural landscapes must be protected under EU environmental and cultural policies](#) (13/01/2015)

EU policymakers, together with the Greek government, academia and businesses, have called for integrated management of EU cultural and natural heritage.

European Parliament Note: [Member States Progress towards the EU 2020 Targets](#) (PDF) (19/01/2015)

Air



European Voice Article: [Commission will not withdraw air-quality proposal](#) (16/01/2015)

The European Commission will not withdraw a draft proposal on air-quality restrictions, contrary to the suggestion in its [work programme for 2015](#) ([Download as PDF](#)). However, despite protests from MEPs, it will withdraw a proposal on waste and the circular economy. (For further information see section "Waste" below).

Also see:

■ **European Voice Article** - [Majority of MEPs vote against plan to withdraw air and waste proposals](#) (15/01/2015)

■ **EurActiv Article** - [MEPs debate saved air rules before Circular Economy inquest](#) (22/01/2015)

Climate Change



Reuters UK Article: [Experts warn governments to plan for climate change migrants](#) (08/01/2015)

Governments need to plan better for rising migration driven by climate change, experts said on Thursday, citing evidence that extreme weather and natural disasters force far more people from their homes than wars.

Also see:

■ **EurActiv Article** - [Prepare for rising migration driven by climate change, governments told](#) (09/01/2015)

Open Democracy Article: [Human rights – help or hindrance to combatting climate change?](#) (09/01/2015)

Although the human rights framework brings out the inequities inherent in both the causes and impacts of global warming, it risks perpetuating a flawed development model that is the root of the problem

EurActiv Article: [Massive fossil fuels cut is last chance to limit global warming, researchers say](#) (09/01/2015)

While the world's fossil fuel reserves are already limited, new research published in Nature magazine argues that these energy sources should already be out of commission, in order to salvage a 50% chance of stopping global warming.

Also see:

■ **EurActiv Article** - [Capture the carbon](#) (09/01/2015)

EEA Report: [Assessment of Global Megatrends – An Update](#) Global megatrend 9: [Increasingly severe consequences of climate change](#) (12/01/2015)

In 2010, the EEA produced its first assessment of global megatrends as part of its five-yearly assessment of the European environment's state, trend and prospects ([SOER 2010](#) / [Download as PDF](#)). In preparation for SOER 2015, the EEA is updating each of the megatrends, providing a more detailed analysis based on the latest data.

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Stanford Earth Article: [Estimated social cost of climate change too low](#)
(12/01/2015)

A new study by Frances Moore and Delavane Diaz finds that the 'social cost' of one ton of carbon dioxide emissions may not be \$37, as previously estimated by a recent U.S. government study, but \$220.

Also see:

■ **Global Environmental Change Article** - [The economic impact of extreme sea-level rise: Ice sheet vulnerability and the social cost of carbon dioxide](#)
(01/2014) - [Download as PDF](#)

Open Democracy Article: [Why is there so little action on climate change?](#)
(12/01/2015)

Are there new ways to engage the public in mass action to reduce global warming, or should we focus on adapting to the inevitable?

Open Democracy Article: [The climate challenge in the south Mediterranean](#)
(16/01/2015)

Climate change is a long-term issue with low short-term risks for southern Mediterranean political systems. The fear of uncontrollable societal upheavals has pushed environmental matters to the bottom of the agenda.

Open Democracy Article: [Subsidising climate change](#) (16/01/2015)

We need to raise awareness about how the rich oil nations keep subsidising oil extraction whilst agreeing that the world needs to cut emissions. Taxpayers cannot passively let their governments do this.

Open Democracy Article: [Living in denial: big oil and the religious right unite against our environment](#) (19/01/2015)

Anti-intellectualism and corporate power are undermining our capacity to fight climate change.

Open Democracy Article: [Discounting the future of climate change in Russia](#) (22/01/2015)

Like it or not, global warming will affect Russia, and ignoring it only stores up problems for later.

Latvian Presidency Press Release: [Further steps in the fight against climate change](#) (27/01/2015)

Steps to speed up the implementation of the so-called [Doha Amendment to the Kyoto Protocol](#) (PDF) on climate change were taken by the Council on 26 January 2015.

Energy



Newsletter of the EU Commission's Directorate-General for Energy: [Energy in Europe – December 2014](#) (PDF)

The latest news on Energy.

The European Files - Issue No 34: [The Energy Security Strategy in Europe – December 2014](#) (PDF)

[Visit website](#)

EurActive Article: [Denmark sets world record in wind energy](#) (07/01/2015)

In 2014, wind-generated energy made up 39.1% of Denmark's overall electricity consumption, according to the country's Climate and Energy Ministry. The figure makes the country the world's leading nation in wind-based power usage.

EurActiv Article: [Renewables dominate German energy mix](#) (08/01/2015)

2014 was a successful year for Germany's Energiewende green energy project, with a study stating that for the first time, renewables led power production in Germany.

Also see:

■ **EurActive Article** - [Gabriel rejects 'senseless' calls for surplus energy capacity](#) (21/02/2015)

EDA Article: ["Go Green": EDA brings solar energy to airbase in Cyprus](#) (09/01/2015)

The European Defence Agency has signed a contract with a European energy consortium to install and operate a solar facility at Paphos Airbase, in Cyprus. It will provide clean energy to this military site for the next 20 years.

EurActive Article: [Borissov warns of Bulgarian energy ‘catastrophe’](#)

(12/01/2012)

Bulgarian Prime Minister Boyko Borissov paid a visit to the European Commission on 12/01/2015 to sound the alarm over his country's energy resources, following the freezing of the South Stream project. In particular, he warned that if Russia drags its feet over the rehabilitation of Bulgaria's two nuclear reactors, this would be a “catastrophe” for the country.

Also see:

■ **European commission Press Release** - [Energy security and interconnectivity in Bulgaria and the other countries of South East Europe - a priority for the European Commission](#) (12/01/2015)

■ **Euobserver Article** - [Bulgaria lobbies Brussels on gas hub project](#) (12/01/2015)

■ **European Voice Article** - [Borissov asks for EU help to make Bulgaria a gas hub](#) (12/01/2015)

■ **EurActiv Article** - [A majority of Bulgarians want South Stream to be built](#) (13/01/2015)

■ **EUobserver Article** - [Russia to cut EU gas transit via Ukraine](#) (15/01/2015)

■ **EurActiv Article** - [Russia says it will shift gas transit from Ukraine to Turkey](#) (15/01/2015)

■ **EurActiv Article** - [Šefčovič 'very surprised' at Russia's decision to cut EU gas supply via Ukraine](#) (15/01/2015)

■ **Euobserver Article** - [US to help Bulgaria reduce dependence on Russia](#) (16/01/2015)

EUobserver Article: [London and Prague call for 'light touch' on EU climate goals](#) (07/01/2015)

The UK and the Czech Republic want the EU to have a “light touch” approach towards the bloc's [climate and energy targets for 2030](#), leaving it to national governments to police themselves on achieving the goals.

Also see:

■ **EurActiv Article** - [UK accused of hypocrisy over plans to limit enforcement of EU climate goals](#) (07/01/2015)

■ **EurActiv Article** - [Germany wants robust single energy market, at odds with Britain](#) (16/01/2015)

■ **EUobserver Article** - [Germany wants "robust and reliable" climate monitoring](#) (19/01/2015)

Latvian Presidency Press Release: [Conference in Riga to discuss EU Energy Union](#) (26/01/2015)

Within the framework of the Latvian Presidency of the Council of the European Union, the Energy Union Conference will take place on 6 February 2015, in Riga.

Also see:

■ **EurActiv Article** - [Germany wants robust single energy market, at odds with Britain](#) (16/01/2015)

■ **European Voice Article** - [Cheap oil price threatens EU energy plans](#) (22/01/2015)

■ **Latvian Presidency Press Release** - [Minister of Economics: The main issue under the Latvian EU Presidency in the energy sector is the development of the resilient Energy Union](#) (26/01/2015)

■ **EurActiv Article** - [EU adviser: Energy Union should take 'holistic approach'](#) (27/01/2015)

Nature & Agriculture



European Parliament Press Release: [Parliament backs GMO opt-out for EU member states](#) (13/01/2015)

New legislation to allow EU member states to restrict or ban the cultivation of crops containing genetically modified organisms (GMOs) on their own territory, even if this is allowed at EU level, was passed by MEPs on Tuesday.

Also see:

- [Statement by Commissioner Vytenis Andriukaitis](#) (13/01/2015)
 - [European Parliament Article - Q&A: GMO cultivation in the EU](#) (12/01/2015)
 - [Procedure file 2010/0208\(COD\): Genetically modified organisms \(GMOs\)](#)
 - [European Parliament Article - Frédérique Ries: It should not be up to courts to decide on GMO bans](#) (13-01-2015)
-

EurActiv Article: [New EU regulation could curb organic farming](#) (13/01/2015)

As demand for organic products continues to grow among Europeans, the supply of sustainably manufactured and animal-friendly foods is struggling to keep up, experts indicate, warning that a new EU amendment could widen this gap.

Also see:

- [EurActiv Article - EU reforms organic farming](#) (02/04/2014)
 - [Proposal for a regulation on organic production and labelling of organic products](#) - (COM/2014/180)
 - [Action plan for the future of organic production in the European Union](#) - (COM/2014/179)
-

Commission Regulation (EU) 2015/56 of 15 January 2015 amending, as regards the trade in species of wild fauna and flora, Regulation (EC) No 865/2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 - (OJ L 10, 16.1.2015, p.1-18)

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Commission Implementing Regulation (EU) 2015/57 of 15 January 2015 amending Implementing Regulation (EU) No 792/2012 as regards the rules for the design of permits, certificates and other documents provided for in Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein and in Commission Regulation (EC) No 865/2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 - (OJ L 10, 16.1.2015, p. 19–24)

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EUobserver Article: [Europeans should eat less meat, but EU keeps silent](#)
(28/01/2015)

Europeans should eat less meat to help fight climate change, but the EU is wary about saying it out loud.

Noise



EEA Report: [Noise in Europe 2014 \(No. 10/2014\)](#) (19/12/2014)

"Noise pollution is a growing environmental concern. It is caused by a varied number of sources and is widely present not only in the busiest urban environments, it is also pervading once natural environments. The adverse effects can be found in the well-being of exposed human populations, in the health and distribution of wildlife on the land and in the sea, in the abilities of our children to learn properly at school and in the high economic price society must pay because of noise pollution. The European soundscape is under threat and this report sets out to quantify the scale of the problem, assess what actions are being taken and to scope those that may need to be considered in the future, in order to redress the problem."

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Transport



JRC Report: [Impact of fuels and exhaust aftertreatment systems on the unregulated emissions from mopeds, light and heavy-duty vehicles](#) (2014)

"Transport sector plays a key role in climate change and air pollution. Among the anthropogenic sectors, on-road transport is recognized as the first contributor to global warming, mainly due to its emission of carbon dioxide, ozone precursors and carbonaceous aerosols. In addition, on-road transport contributes to the deterioration of air quality by releasing nitrogen oxides, hydrocarbons, carbonyls, ammonia, and aerosols. However, the current European legislation of vehicles emissions focusses on a limited number of pollutants, namely hydrocarbons, carbon monoxide, nitrogen oxides, and particulate matter. The aim of this work was to improve the knowledge about the emission factors of gas phase and particle-associated emissions from vehicle exhaust. The impacts of aftertreatment devices and fuel quality on regulated and un-regulated species were studied."

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EMSA Report: [Annual Overview of Marine Casualties and Incidents 2014](#) (18/12/2014)

The Annual Overview of Marine Casualties and Incidents consists in a high-level analysis of accidents reported by the EU Member States in EMCIP. This first edition relates to accidents that happened during the years 2011, 2012 and 2013.

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Commission Regulation (EU) 2015/45 of 14 January 2015 amending Directive 2007/46/EC of the European Parliament and of the Council and Commission Regulation (EC) No 692/2008 as regards innovative technologies for reducing CO₂ emissions from light commercial vehicles - (OJ L 9, 15.1.2015, p. 1–4)

[View in Eur-Lex](#) / [Download as PDF](#)

European Voice Article: [Oil deals a helpful blow to biofuel policy](#) (21/01/2015)

Oil prices will make the EU assess and back the second generation of biofuel. The flaws in the European Union's biofuel policy are being shown up by the sharp drop in the price of oil. It is not that low oil prices have made a mess of the policy; the EU's approach to biofuel was always a mess.

Also see:

- **European Voice Article** - [Biofuel back in the spotlight](#) (20/02/2015)
- **EurActiv Article** - [What a good resolution to the biofuels reform would look like](#) (21/01/2015)
- [Biofuelsreform Web Documentary](#)

Waste



European Voice Article: [New breath for air, but waste proposal will be scrapped](#) (21/01/2015)

The European Parliament's environment committee will be told tomorrow that the Commission will go ahead with its plan to withdraw the circular economy package and put forward a new version this year.

Also see:

- **Letsrecycle Article** - [MEPs 'puzzled' by EU waste policy withdrawal](#) (23/01/2015)
- **EurActiv Article** - [Waste laws will be binned, despite protests](#) (23/01/2015)

Water



JRC Report: [Water Reuse in Europe - Relevant guidelines, needs for and barriers to innovation](#) (05/12/2014)

"An EU regulatory instrument for water reuse is planned to be developed in 2015, in order to find innovative solutions to the challenges of ensuring water supply for urban, industrial and agriculture use. Despite the water reuse applications already developed in many countries, a number of barriers still prevent the widespread implementation of water reuse around Europe and on a global scale. These barriers will have to be overcome. This JRC Science and Policy Report analyses the technical, environmental and socioeconomic challenges to the option of water reuse as a means of ensuring sufficient supply to meet the growing needs of society. It presents and compares the most relevant national and international guidelines on water reuse, evaluates existing water reuse standards in EU Member States, presents a risk-based management approach for wastewater reuse, and identifies the areas that require technological and regulatory innovation as well as the barriers to be overcome."

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Also see:

■ **JRC Article** - [Guidelines for better water reuse in Europe](#) (18/12/2014)

JRC Report: [Managing Nitrogen and Phosphorus Loads to Water Bodies: Characterisation and Solutions Towards Macro-Regional Integrated Nutrient Management](#) (14-15/07/2014)

"Nitrogen (N) and phosphorous (P) from agricultural and urban areas contribute to water quality degradation in many EU and Enlargement and Integration1 countries. Not only inland water bodies, but also coastal waters and bays in surrounding European seas have been degraded by nutrient pollution. These increasing nutrient loads may cause eutrophication eventually adversely impacting the coastal or marine ecosystems by massive blooms of algae. This report presents the contributions from the participants to the Workshop (Section 2), then the discussion in the breakout sessions (Section 3), and finally the recommendations that emerged from the Workshop (Section 4)."

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Events



17 March 2015

Event: Semimar by Prof. Eiji Ogawa & Prof. Yumiko Nakanishi

Topic/Title: EU Environmental Law

Organisation: [Leuven Centre for Global Governance Studies](#)

Venue: Leuven, Belgium

[More information](#)

23 April 2015

Event: Unique symposium (Part of the Asser 50th anniversary celebrations)

Topic/Title: Better Regulation in the EU revisited. Improving the European Union for the benefit of business and citizens.

Organisation: [T.M.C. Asser Instituut](#)

[More information](#) / [See other Asser 50 Years Events](#)

18 – 19 May 2015

Event: Workshop

Topic/Title: Novel Approaches to Climate Governance and the Role of Entrepreneurship

Organisation: COST - Innovations in Climate Governance ([INOGOV](#))

Venue: Amsterdam, The Netherlands

[More information](#)

29 – 30 May 2015

Event: 2015 EU-Arctic Conference

Topic/Title: European Union and the Arctic

Organisation: [Dundee University School of Law](#) & K.G. Jensen Centre for the Law of the Sea ([JCLOS](#))

Venue: University of Dundee, Dundee, Scotland, UK

[More Information](#)

2 – 5 June 2015

Event: Workshop

Topic/Title: The External Dimension of European Union Environmental Policy (EEEP): Pursuing environmental norms, rules and policies beyond borders

Organisation: Centre for the Study of Governance Innovation ([GovInn](#)), University of Pretoria

Venue: Pretoria, South Africa

[More information](#)

28 June - 3 July 2015

Event: World Congress and Exhibition 2015

Topic/Title: Ozone and Advanced Oxidation

Organisation: International Ozone Association ([IOA](#))

Venue: World Trade Center, Moll de Barcelona, 08039 Barcelona, Spain

[More information](#)

24 - 28 August 2015

Event: Summer Programme on International & European Environmental Law

Topic/Title: International & European Environmental Law: The Future We Choose

Organisation: [T.M.C. Asser Instituut](#)

Details to be announced.

[More information](#)

2 - 4 September 2015

Event: Conference

Topic/Title: Effectiveness of Environmental Law

Organisation: European Environmental Law Forum ([EELF](#))

Venue: Centre d'Etudes et de Recherches Internationales et Communautaires ([CERIC](#)), University of Aix/Marseille, Aix en Provence, France

[More information](#)

Colofon

Editors-in-Chief

Wybe Th. Douma (Senior Researcher, T.M.C. Asser Instituut and Lecturer of International Environmental Law, The Hague University)

Leonardo Massai (Senior Lecturer on International and EU Environmental Law, Catholic University of Lille)

Editors

Wouter van Kuijk (T.M.C. Asser Instituut, The Hague)

Steffen van der Velde (Junior Researcher, T.M.C. Asser Instituut, The Hague)



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