



EEL

**EUROPEAN
ENVIRONMENTAL
LAW**

EEL News Service

Issue 2015/07 of 19 May 2015

Dear members of the EEL Network,

I am pleased to present this brand new issue of the EEL News Service, filled with the latest news, relevant case law and other developments in the field of European Environmental Law. Notably, we want to draw your attention to the Better Regulation Package, covered under General and Nature & Agriculture.

There is an interesting HELF event on oil and gas in the Arctic, 26 May at the T.M.C. Asser Institute, to which registrations are still welcome.

[More information](#)

Furthermore, there is a two-day workshop in The Hague, organised by Griffith University's Institute for Ethics, Governance and Law (IEGL) in collaboration with the T.M.C. Asser Institute and the Amsterdam Centre for International Law, entitled "Governing the Global Climate Regime: Issues of Institutional Integrity and Justice" on 15-16 June 2015.

[More information](#)

Then there is the Public Launch of the Interactive International Climate Regime Map, taking place on 22 June 2015 in The Hague.

[More information](#)

Reminder - Asser Summer Programme and Scholarships

Lastly, please be informed about the Asser Summer Programme on International & European Environmental Law: The Future we Choose (24-28 August 2015) and note that it is still possible for participants from India to apply for a full scholarship **before 14 June 2015**.

More information about the Summer Programme can be found [here](#), and about the scholarships [here](#) (.PDF).

Kind regards,

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Case Law



CJEU Judgement: [Case C-48/14, *European Parliament v. Council of the European Union*](#) (12/02/2015)

In the present case, the European Parliament sought annulment of Council Directive 2013/51/Euratom. This Directive lays down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption. The Council adopted this Directive on the basis of articles 30 to 32 Euratom Treaty, herewith rejecting the European Parliament's amendments to the Commission's Proposal suggesting to change the legal basis to Article 192(1) TFEU.

The Parliament is co-legislator with a veto right when it comes to legislation drafted based on the TFEU. For legislation with a legal basis in the Euratom Treaty it has a merely advisory role. Hence, the Parliament attempts to reinforce its institutional position by contesting the legal basis of this Directive.

The court rules that the contested Directive was legitimately adopted on the basis of Article 31 of the Euratom Treaty and that the pleas in law made by the Parliament could not be upheld.

Opinion of Advocate General Kokott: [Case C 398/13 P, *Inuit Tapiriit Kanatami and Others v European Commission and Others*](#) (19/03/2015)

The interpretation and application of the internal market provisions of Article 95 EC (now Article 114 TFEU) for the division of powers between the European Union and the Member States has proven to be a highly sensitive matter and susceptible to legal arguments. In the present case the applicants argued that this provision could not be the legal basis for the adoption of Regulation (EC) No. 1007/2009 in order to impose a ban on the placing on the market of seal products in Europe.

This issue has been brought to the EU judiciary before, but it was found that the applicants did not have standing to institute proceedings. The claim put forward by the applicants was once more unsuccessful at first instance, ultimately leading to this appeal.

By their first ground of appeal, the appellants allege that the General Court made two errors in law with regard to Article 95 EC. Advocate General Kokott concludes in her opinion: **1)** that the General Court did not err in law when it regarded the time of the adoption of the basic regulation rather than the time of the Commission proposal, and **2)** that Article 95 EC does not preclude harmonisation by the EU legislature in respect of products with a negligible volume of trade, on condition that the general principles for the exercise of the powers of harmonisation are respected.

By their second ground of appeal, the appellants allege several errors in law made by the General Court with regard to general fundamental rights principles. Advocate General Kokott concludes in her opinion: **1)** that the ECHR does not form part of EU law as such and accordingly cannot be applied as a standard for reviewing the lawfulness of acts of the EU institutions, and **2)** that the General Court did not err in law in refusing to consider the mere expectation of the appellants that they would continue to be permitted to place seal products on the European internal market to the same extent as previously to be protected by the guarantees accorded by the right to property.

Conclusively Advocate General Kokott finds that the appeal should be dismissed in its entirety.

Also see:

Judgement of the General Court - [Case Case T 526/10, *Inuit Tapiriit Kanatami and Others v European Commission* \(25/04/2013\)](#)

M. Hennig - ["The EU Seal Products Ban – Why Ineffective Animal Welfare Protection Cannot Justify Trade Restrictions under European and International Trade Law."](#) *Arctic Review on Law and Politics*, Vol. 6, No. 1, 2015, pp. 74–86.

Opinion of Advocate General Wathelet: *Case C 425/13, European Commission v Council of the European Union* (17/03/2015)

On 13 May 2013, a Decision of the Council of the European Union authorised the opening of negotiations on linking the EU emissions trading scheme with an emissions trading system in Australia. The European Commission now seeks (partial) annulment of the decision, specifically the second sentence of Article 2 and section A of the Annex, herewith challenging the scope of the Council's authority to lay down negotiating directives.

This case raises an important constitutional question when it comes to the negotiation of international agreements to which the European Union is a party. A question about responsibilities and competences and about the division of power between the Commission and the Council of the European Union. It is the first time that the Court has been called upon this issue, but its significance goes beyond the international negotiations at issue here and could prove important towards the negotiations on TTIP.

The Commission argues that "the detailed procedure laid down in Section A of the negotiating directives creates powers for the Council that go beyond what is provided for in Article 218(2) to (4) TFEU." Advocate General Wathelet follows this argument and is of the opinion that "by laying down in the negotiating directives a procedure which deprives the Commission of the freedom of action which it needs in order to negotiate the international agreement in question, and by imposing that procedure on the Commission in a decision addressed to it, the Council encroached upon the Commission's powers."

In line with the urges of the Commission, Advocate General Wathelet proposes in his opinion that the Court:

- 1)** annuls section A of the Annex to the Decision, or alternatively;
- 2)** annuls the Decision and maintains its effects in the event that it is annulled in its entirety.

General



European Commission: [Better Regulation Package presented by Commissioner Frans Timmermans](#) (19/05/2015)

On 19 May, the texts of the Better Regulation Package were presented by the Commission's First Vice President, Mr Frans Timmermans. They include a Communication entitled "Better regulation for better results - An EU agenda", guidelines, a decision on the establishment of an independent Regulatory Scrutiny Board, and can be found [here](#).

At the press conference on this Package, Mr Timmermans assured the audience that the Commission does not want to lower any norms. As we reported before, many worry that the Better Regulation efforts in practice will lead to lower environmental protection standards.

Also see:

Section Nature & Agriculture of this News Service

EEA Article: [Building a shared environmental information system with Eastern neighbours](#) (24/04/2015)

The EU's eastern neighbours have achieved progress in developing systems for collecting environmental information, according to a recently published analysis. However, they need to strengthen further their capacities to be able to produce regular, policy-relevant and indicator-based state of the environment reports.

[Download report](#) (.PDF)

viEUws Video: [Brussels Briefing on Environment – All you need to know for May 2015](#) (06/05/2015)

In this Brussels Briefing on Environment, leading environment journalist Sonja van Renssen provides an overview of the latest EU environment policy development.

Euobserver Article: [EU commission to appoint team of scientific advisers](#) (13/05/2015)

The European Commission is to appoint a team of scientists to advise it, departing from the previous system of having a single chief scientific adviser.

Air



European Commission DG Environment News Alert Service - Issue 412, Science for Environment Policy Article: [Latest emission control technology could eradicate harmful air pollution hotspots](#) (.PDF) (30/04/2015)

Switching to the best available emission control technologies could eliminate 99% of particulate matter pollution ‘hotspots’, a new study suggests. The researchers reached this conclusion by expanding the local-scale capabilities of an existing computer model that estimates the effects of air pollution policies and control measures.

EEA Article: [Ozone pollution in Europe: fewer alert days but concentrations still high](#) (06/05/2015)

Air pollution by ground-level ozone continued to affect many countries across Europe during summer 2014, according to a [new briefing](#) published by the European Environment Agency (EEA). Almost all reporting countries exceeded at least once the long-term objective set by EU legislation, while the stricter alert threshold was exceeded only on four occasions.

European Parliament Press Release: [MEPs vote to cap emissions of medium combustion plants](#) (07/05/2015)

EU countries would have to enforce sulphur dioxide and nitrogen oxide emission limits upon medium-sized combustion plants, under draft plans approved by the Environment Committee. MEPs voted to adapt the scheme to match the plants' thermal input, so as to reduce the administrative burden on small businesses.

Chemicals



Politico Article: [Chemicals in everyday products under a spotlight](#) (30/04/2015)
Parliament and member states are suing the Commission over inaction on defining which chemicals can damage human hormones.

EurActiv Article: [German states call for ban on household pesticide](#) (12/05/2015)

Germany's state consumer protection ministers are calling for an EU-wide ban on the leading global pesticide Glyphosate, after it was categorised as carcinogenic by the WHO. However, the federal government sees no need for action.

EurActiv Article: [Parliament must bar toxic cadmium from Europe](#) (12/05/2015)
TVs containing cadmium are no longer available in Europe since a ban was decided under the 2002 Directive on Restriction of Hazardous Substances (RoHS) in electrical and electronic equipment. But cadmium could return via the back door following intense lobbying efforts by some manufacturers, writes Michael Edelman.

Also see:

EurActiv Article - [Balancing innovation and regulation: The RoHS exemption process](#) (18/05/2015)

Climate Change



EurActiv Article - [EU agrees 'landmark' carbon market deal](#) (07/05/2015)
A deal to reacquire hundreds of millions of surplus allowances from Europe's emissions trading system (ETS) has been hailed as a watershed by environmentalists, MEPs and renewable industry groups.

Also see:

EurActiv Article: [Czechs paving way towards carbon market reform](#) (05/05/2015)

The Parliament Magazine Article - [Emissions trading scheme: Can it stop low carbon future going up in smoke?](#) (05/05/2015)

Council of the EU Press Release - [Market stability reserve: Council takes important step towards the reform of EU Emissions Trading System](#) (05/05/2015)

European Parliament Press Release - [ETS market stability reserve: MEPs strike deal with Council](#) (06/05/2015)

Euobserver Article - [EU market mechanism to boost carbon price](#) (06/05/2015)

EurActiv Article: [Paris to host COP 21 dry run](#) (05/05/2015)

The international climate negotiations gained momentum with an informal meeting in Paris. The EU and Norway hoped to inspire negotiators with greater ambition.

Also see:

Politico Article - [UN climate chief pushes for more ambitious emission plans](#) (30/04/2015)

EurActiv Article - [Another dirty energy dominated COP?](#) (30/04/2015)

EurActiv Article: [FTT for climate change is a noble cause, but the wrong tool](#) (06/05/2015)

François Hollande's aim of supporting a climate deal at the COP21 in Paris this year is noble and right, but he has chosen the wrong tool to do it, writes Matti Leppälä.

EurActiv Article: [Europe quietly shelves forestry debate ahead of Paris climate talks](#) (12/05/2015)

A delicate negotiation about how to account for forestry and land use emissions looms large over this year's UN climate conference in Paris. The issue is potentially divisive within the EU, and threatens to unravel the bloc's proclaimed leadership on climate change.

EurActiv Article: [World Bank advocates long term thinking on climate change](#) (13/05/2015)

Switching to a zero-carbon economy is more than just a dream, according to the World Bank. But costs will be high for countries that fail to act quickly.

EurActiv Article: [French climate envoy sees 'change of perception' in Russia](#) (13/05/2015)

Nicolas Hulot, France's special envoy for the protection of the planet, says he was "greatly surprised" by the changing attitudes in Russia towards climate change, saying any potential blockage at this year's UN climate conference in Paris is unlikely to come from Moscow.

Politico Article: [The new Warsaw Pact \(on emissions\)](#) (14/05/2015)

Russians and Poles get together to blunt impact of proposed greenhouse gas reductions.

Euobserver Article: [Is your money invested in a climate-friendly way?](#)

(18/05/2015)

A growing group of people in Europe and elsewhere is urging governments, universities, and pension funds to end investments in fossil fuels.

European Commission Press Release: [Emissions trading: 2014 data shows](#)

[emissions reduction](#) (18/05/2015)

Emissions of greenhouse gases from installations participating in the EU Emissions Trading System (EU ETS) are estimated to have decreased by about 4.5% last year, according to the information recorded in the Union Registry.

EurActiv Article: [Climate talks can't fail as there is no alternative planet, says](#)

[French minister](#) (19/05/2015)

France's foreign minister warned Monday that the international community had no option but to combat climate change as there is "no alternative planet".

Energy



EurActiv Article: [Securing European electricity markets](#) (30/04/2015)

The time for member states to pull together and address Europe's need for greater energy security has never been better, writes Stephen Woodhouse.

Politico Article: [EU stumps up cash to connect infrastructure](#) (30/04/2015)

The European Commission's Connecting Europe Facility could see more projects to tie together gas infrastructure among member states.

Also see:

EurActiv Article - [Former Czech PM promotes Easting gas pipeline](#)
(07/05/2015)

Politico Article: [Can energy union deliver certainty for business?](#) (06/05/2015)

EU energy ministers will hammer out a plan for further integrating Europe's fragmented energy markets. But much of the business community fears that the bold words of policy-makers are not being matched by action that will bring more certainty to Europe's volatile energy market.

Politico Article: [Chemical makers to Europe: Give us more energy](#) (12/05/2015)

The European chemicals industry argues EU energy policies are slowing development, while green groups argue for more innovation instead of cheap energy.

Politico Article: [Oil and gas rigs gain emission omission](#) (06/05/2015)

Oil and gas rig operators in the UK's North Sea dodged a bullet, after a European Parliament committee voted to correct a Commission proposal that the industry argued could have shut down dozens of rigs and cost energy companies millions.

Euobserver Article: [Gazprom and Turkey agree pipeline date](#) (08/05/2015)
Russia and Turkey went a step further towards building the Turkish Stream gas pipeline. Gazprom and Ankara agreed to start delivering gas to the Turkish market at the end of next year.

Also see:

EurActiv Article - [US discourages Greece from Turkish Stream](#) (13/05/2015)

EurActiv Article: [The energy conundrum in Bulgaria and Greece](#) (11/05/2015)
Bulgaria and Greece are hard nuts to crack when it comes to implementing EU energy legislation and integrating with the wider European energy market. These two countries illustrate the difficulties of building an Energy Union.

Euobserver Article: [Iran keen to sell gas to EU](#) (11/05/2015)
Iran is voicing fresh interest in selling gas to Europe. But the idea, which would reduce dependence on Russia, is conditional on the outcome of nuclear talks.

Politico Article: [Poland fights for coal, but Russia may benefit](#) (13/05/2015)
Poland's defense of coal, which has been a measure of energy independence from Russia, might actually be an asset to the Kremlin's influence.

EurActiv Article: [Renewable energy storage will end capacity payments](#) (15/05/2015)
Capacity payments and fossil energy can be made redundant by electric cars, writes Teodora Serafimova. She says that with storage technology quickly materialising, notably from the electric car industry, it's time to take stock of the changes this will bring.

Also see:

EurActiv Article - [Renewable energy vital for internet lifestyles says Greenpeace](#) (13/05/2015)

Euobserver Article: [EU commissioner to begin 'Energy Union' tour](#) (18/05/2015)
EU energy commissioner Maros Sefcovic will start visiting EU countries this week to share initial findings of a commission analysis of each country's energy and climate policy.

EurActiv Article: [Balkan coal rush risks lasting damage, campaigners warn](#) (19/05/2015)

Balkan countries and Ukraine are making "substantial investments" in polluting coal power stations to sell cheap electricity to the European Union, as the bloc searches for new suppliers to reduce its dependence on Russian gas.

Also see:

Euobserver Article - [Coal, oil, gas subsidies higher than public health spending](#) (19/05/2015)

EurActiv Article - [Bulgarian power producers cut output due to low demand](#) (15/05/2015)

Nature & Agriculture



European Commission's DG for Environment Consultation: [Public consultation as part of the 'fitness check' for EU nature legislation \(Birds Directive, Habitats Directive\)](#) (30/04/2015 - 24/07/2015)

This consultation is designed to gather opinions on current EU nature conservation legislation and its implementation to date, as part of the 'fitness check' that the European Commission is carrying out under its Regulatory Fitness and Performance Programme (REFIT).

viEUws Video: [Agriculture must not get “a free pass” in climate change debate, argues renowned US economist Jeremy Rifkin \(05/05/2015\)](#)

Jeremy Rifkin, Founder & President of the Foundation on Economic Trends, talks with journalist Rose O'Donovan (AGRA FACTS) about the shift towards the 'Third Industrial Revolution' and the need to develop a more sustainable and ecologically-based agricultural production system.

EurActiv Article: [NGOs fear 'better regulation' could hurt environment \(13/05/2015\)](#)

More than 100 environmental NGOs said that they feared the European Commission may use its better regulation programme, presented by the Commission on Tuesday 19 May, to cut nature protection laws.

Also see:

Friends of the Earth Europe Article - [EU plans for 'Better Regulation' are threat to environmental protections \(19/05/2015\)](#)

WWF Article - [EU's legislative simplification agenda fails to live up to an era of increasing environmental complexity \(19/05/2015\)](#)

EurActiv Article: [WHO findings on weed killer will not speed up EU safety review \(13/05/2015\)](#)

EU regulators will not accelerate a decision on whether to restrict use of the world's most widely used weed killer, even though it has been linked to cancer by the World Health Organisation (WHO), officials said.

EurActiv Article: [Parliament makes 'final offer' on novel foods, cloning \(13/05/2015\)](#)

European Parliament negotiators have tabled what they described as their “final offer” on the EU's proposed Novel Foods regulation, warning they will not compromise any further with EU member states.

EurActiv Article: [Is the CAP simplification exercise “better regulation”?](#)

(15/05/2015)

The Commission’s proposed reform of the Common Agricultural Policy looks more like a waste of public money than an exercise in “better regulation”, argues Angelo Caserta.

Euobserver Article: [EU shuns environmental impact of food at Milan Expo](#)

(19/05/2015)

The EU will take a “more holistic approach” to its policies related to food when it presents its circular economy strategy later this year, but at the Milan Expo, where food is the main theme, the environmental impact of food appeared to be taboo.

Transport



EurActiv Article: [Consumers deserve correct fuel consumption figures](#)

(06/05/2015)

Outdated EU testing requirements allow car makers to advertise fuel consumption figures that bear little relation to real life performance on the road. Not only are these false claims but the testing weaknesses are also bringing into doubt the performance of the automobile sector to cut its carbon footprint, writes Monique Goyens.

EurActiv Article: [Germany and UK left behind, as EU beats transport emissions target](#) (19/05/2015)

German and British vans are among the worst polluters in an increasingly fuel efficient and environmentally-friendly EU fleet, according to the European Environment Agency.

EurActiv Article: [First major airline fined for breaking aviation ETS law](#) (19/05/2015)

Saudia Airlines has been fined some 1.4 million euros by a regional Belgian government for breaching EU carbon emissions rules, making it the first big non-EU carrier to be fined for breaking the EU aviation law.

Waste



European Commission DG Environment News Alert Service - Issue 413, Science for Environment Policy Article: [E-cigarette waste poses potential environmental risks](#) (.PDF) (08/05/2015)

Disposable components of Electronic Nicotine Delivery Systems (ENDS), such as e-cigarettes and e-pens, could pose a potential environmental risk unless properly regulated, suggests new research. The study examined the levels of potentially toxic chemicals in disposable battery and 'cartomiser' ENDS components.

Water



European Commission DG Environment News Alert Service - Issue 413,
Science for Environment Policy Article: [Sustainable management of water in an arid region: water supply measures compared](#) (.PDF) (08/05/2015)

Water shortages in water stressed regions can be alleviated by building large infrastructures, such as water transfer systems or saltwater desalination plants, which increase the supply of water. However, a new study, which compares the environmental impact of water supply alternatives in a region of Spain, concludes that reducing water use, rather than increasing supplies, is a more sustainable solution.

Events



1 May - 31 October 2015

Event: EXPO 2015

Topic/Title: Feeding the planet: energy for life

Organisation: Bureau International des Expositions ([BIE](#))

Venue: Milan, Italy

[More information / EU at EXPO Milano website](#)

20 May 2015

Event: HELF Lecture / Book Launch

Topic/Title: Launch of Professor Steven Freeland's new book entitled "Addressing the Intentional Destruction of the Environment during Warfare under the Rome Statute of the ICC"

Organisation: [The Peace Palace Library](#) in cooperation with The Hague Environmental Facility (HELF), the Institute for Environmental Security ([IES](#)), [T.M.C Asser Instituut](#) and Professor Steven Freeland

Venue: The Peace Palacy Library, Historic Reading Room, Carnegieplein 2, The Hague, Netherlands

[More information](#)

Note: considering security clearance, [pre-registration](#) is required

24 – 27 May 2015

Event: Conference

Topic/Title: Global Growth Agendas: Regions, Institutions and Sustainability

Organisation: Regional Studies Association ([RSA](#))

Venue: Università Cattolica del Sacro Cuore, Piacenza, Italy

[More Information](#)

25 – 29 May 2015

Event: 2015 INSPIRE – Geospatial World Forum Conference

Topic/Title: Convergence: Policies + Practices + Processes via PPP

Organisation: [European Commission](#) and [Geospatial Media and Communications](#)

Venue: Lisbon Congress Center, Lisbon, Portugal

[More Information](#)

26 May 2015

Event: HELF lecture

Topic/Title: "Oil and Gas in the Marine Arctic: the Rights and Responsibilities of States and Peoples"

Organisation: [T.M.C. Asser Instituut](#), The Hague Environmental Law Facility (HELF), and the Institute for Environmental Security ([IES](#))

Venue: T.M.C. Asser Institute, R.J. Schimmelpennincklaan 20-22
The Hague, 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](#)

15 - 16 June 2015

Event: Workshop (*by invitation only*)

Topic/Title: "Governing the Global Climate Regime: Issues of Institutional Integrity and Justice"

Organisation: Griffith University's Institute for Ethics, Governance and Law ([IEGL](#)) in collaboration with the [T.M.C. Asser Institute](#) and the Amsterdam Centre for International Law ([ACIL](#))

Venue:

[More information](#)

22 June 2015

Event: Public Launch

Topic/Title: Interactive International Climate Regime Map

Organisation: [The Hague Institute for Global Justice](#)

Venue: The Hague Institute for Global Justice, Sophialaan 10, The Hague, Netherlands

[More information](#)

25 - 26 June 2015

Event: Inaugural workshop of the UACES CRN

Topic/Title: European Energy Policy

Organisation: [UACES CRN on the European Energy Policy](#)

Venue: Norwich Business School, University of East Anglia, United Kingdom

[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](#)

Venue: T.M.C. Asser Instituut, R.J. Schimmelpennincklaan 20-22, The Hague, Netherlands

[More information](#) / [Draft programme \(.PDF\)](#)

Note: [Two full scholarships available for participants from India \(.PDF\)](#)

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](#) / [Programme \(.PDF\)](#)

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