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EEL News Service

Issue 2016/02 of 2 May 2016

Dear readers,

This issue reaches you on the day that Greenpeace released its '[TTIP leaks](#)' from which the position of the USA shows on protection of the environment and other issues. Much of that was already known, so it remains to be seen whether the leaked documents actually reveal that much news. In our next issue we will return to this topic.

The current issue contains news on Advocate General Kokkot's interesting opinion in the glyphosate information case *European Commission v. Stichting Greenpeace Nederland and Pesticide Action Network Europe (Pan Europe)*, and on MEPs urging to bring down the authorization of the use of the same controversial pesticide to seven years. Moreover, recent news about the signing of the Paris Agreement in New York is covered, as are European discussions and prospects on the 'greening' of investments, the French ban on plastic bags. and the expected impacts of a temperature rise of 2C and the impacts of climate change on the Great Barrier Reef. Also, attention will be paid to the decision of the Polish government to permit logging of Europe's oldest forest.

Finally this issue encloses further information on our third [Summer Programme on International and European Environmental Law: Making it Work](#) which will take place in The Hague between 29 August and 2 September 2016. This year, there are 3 partial [scholarships](#) available for young professionals from non-OECD countries. Please also find information on the [Going Green Conference](#), organized on May 4th 2016 in Washington, DC.

We hope you enjoy the read.

Wybe Douma

Case Law



Opinion of Advocate General Kokott: [Case C-673/13P](#)

In October 2013 the General Court delivered its Judgment on the case of [European Commission v. Stichting Greenpeace Nederland and Pesticide Action Network Europe \(Pan Europe\)](#).

According to the ruling of the Court, the decision of the Commission not to provide Greenpeace and Pan Europe with the requested information on the authorization of the use of glyphosate in plant protection products should be annulled. The Commission based this decision on the necessity to protect the commercial interests ([article 4\(2\) regulation No. 1049/2001](#)) of Germany, which could be harmed by releasing the documents. However, the Court ruled that the request of information relating to emissions into the environment constitutes an overriding public interest and thereby does not legitimize the invocation of the exception relating to the protection of commercial interests.

In its appeal the Commission calls into question the Courts interpretation of the Emissions Clause (laid down in [Article 6\(1\) of Regulation \(EC\) No. 1367/2006](#)). Under the Emissions Clause, an overriding public interest out weights the exception to provide requested information when commercial interests are involved.

The Commission finds that the information at issue does not relate to actual emissions and therefore does not fall within the Emissions Clause. AG Kokott rejects this argument by recognizing the logic assumption that plant protection products will release actual emissions into the environment.

The Commission's argument seeking to limit the coverage of the Emissions Clause solely to those emissions that derive from installations is equally rejected by Kokkot. In support of this limited scope of application the Commission refers to the implementation guide of the Aarhus Convention. Kokkot notes that the guide has no binding force and finds the coverage of the [Aarhus Convention](#) to extend further than solely to emissions from installations.

Additionally, Kokott rejects the Commission's complaint regarding the insufficient balancing of rights by the Court. The complaint provides that the rights of the undertaking were not sufficiently considered by the Court. This argument is unfounded as the right of access to information regarding emissions into the environment generally out weights the protection of commercial interest rights. Thereby, the Emissions Clause already anticipated this weighing of interests. Finally, the AG stresses that the Emissions Clause applies equally to plant protection legislation and disapproves the argument raised by the Commission in this regard. Accordingly, Kokott concludes that the Court of Appeal should refer the case back to the General Court, which should decide on the first and third pleas in law.

General



EurActiv Article: [The hidden economic benefits of banning plastic bags](#)

(04/04/2016)

New restrictions imposed by France limiting the use of single-use plastic bags will now apply from the first of July instead of 1 January 2016. These restrictions aim at preventing plastic pollution that will eventually end up in the ocean. The French ban on single-use plastic bags has given a boost to the country's organic plastics companies. In fact, French and European companies intent to benefit from the situation by creating new markets for the production of "biosourced" bags.

Climate Change



European Commission Press Release: [Paris Agreement signing ceremony in New York – the EU calls for swift ratification](#) (21/04/2016)

On 22 April the European Union has signed the Paris Agreement on climate change in New York. Hereby the EU signs up to its commitments made at the COP21 in Paris that include: the reduction of greenhouse gas emissions, increase the share of renewable energies and improve energy efficiency.

TheGuardian Article: [Study reveals greater climate impact of 2C temperature rise](#) (21/04/2016)

Scientists have analyzed that a difference of a 2C of temperature rise instead of 1.5C will lead to much more severe climate impacts including: longer heatwaves, greater droughts and threats to crops and coral reefs.

TheGuardian Article: [Great Barrier Reef: 93% of reefs hit by coral bleaching](#) (19/04/2016)

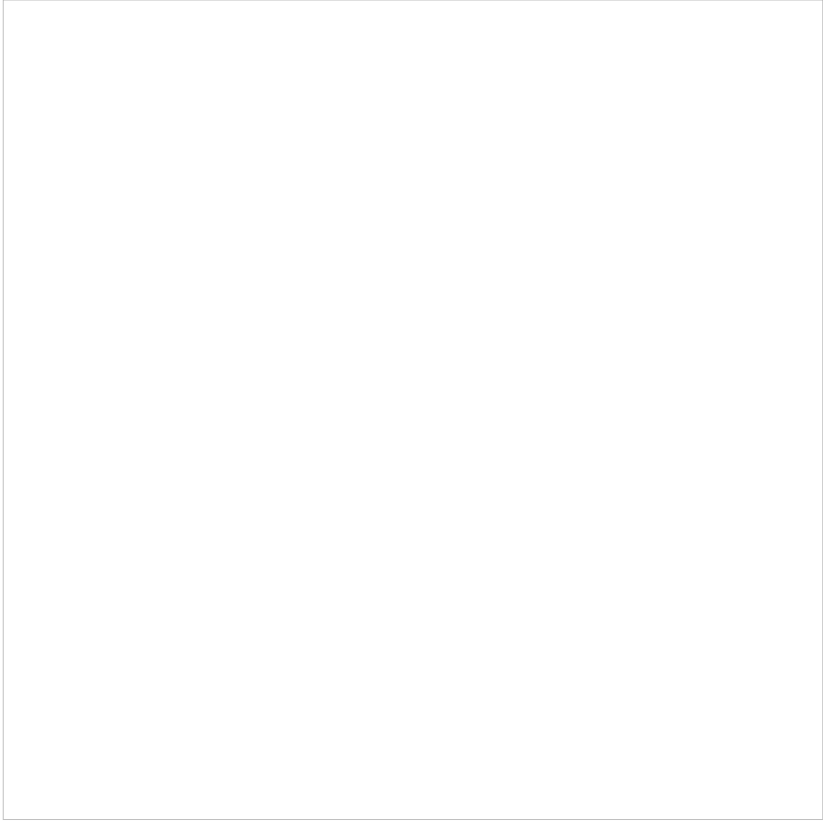
Rising ocean temperatures are the cause of coral bleaching, 93% of the Great Barrier Reef is bleaching, on the long term bleached reefs will die.

EurActiv Article: [EU pushed towards 'climate disclosure' regime for investors](#) (07/04/2016)

Options for the 'greening' of the portfolios of large institutional investors are being widely discussed among the Environment ministers of the European Union. France has assumed a leading role in the process as it is the first country to have introduced legislation which requires obligatory reportings on the incorporation of climate change considerations by institutional investors.

National initiatives have built up pressure on the EU to accommodate the integration of climate change considerations in investment decision-making and the shift towards a low-carbon economy. Nevertheless, the Commission appears reluctant to take immediate action.

This hesitant attitude is particularly worrying to the WWF and prominent economists. Since climate change will soon start to show its impacts, it is of great importance that institutional investors incorporate climate-related considerations into their decision-making processes without delay.



Nature & Agriculture



TheGuardian Article: [Poland approves large-scale logging in Europe's last primeval forest](#) (26/03/2016)

Poland has approved large-scale logging in Europe's last primeval woodland. The forest is home to a large diversity of plant species and 20,000 animal species. Thereby its ecosystem has been untouched for 10 millennia. Despite protests from scientists, ecologists and the European Union the government has based its decision on the fight against beetle infestation.

Whereas the government declared that the logging plans would not apply to the strictly protected areas designated as Unesco World Heritage sites in 1979, under the new plan, loggers will harvest more than 180,000 cubic metres of wood from other areas of the forest.

Greenpeace protested against this decision and expects possible punitive procedures against Poland by the EU for the violating of its Natura 2000 program.

European Parliament Press release: [Glyphosate: authorise for just seven years and professional uses only, urge MEPs](#) (13/04/2016)

By its resolution the European Parliament finds that the Commission should only renew the EU market approval for glyphosate for another 7 years instead of 15 years. Furthermore glyphosate should be admitted for professional uses only. MEPs also request an independent review and the publication of all the scientific evidence that the European Food Safety Authority (EFSA) made use of when assessing glyphosate. In Addition MEP expresses strong disapproval for the use of glyphosate in the "green burndown" farming practice which leads to increased human exposure.

TheGuardian Article: [Two-thirds of Europeans support ban on glyphosate](#) (11/04/2016)

According to a new survey, two-thirds of Europeans are in favour of the banning of glyphosate, which is the most widely used agricultural chemical.

Water

EUobserver Article: [Audit: EU should have been tougher on Baltic pollution](#) (12/04/2016)

Due to the high pollution of the Baltic Sea the European Court of Auditors (ECA) finds that The European Commission should have taken legal action sooner to ensure that countries around the Baltic Sea improve the quality of their waste water and comply with EU directives.

Events



29 August- 2 September 2016

Event: [Summer Programme on International and European Environmental Law: Making it Work](#)

Topic/Title: Making it Work

Organisation: T.M.C. Asser Instituut

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

[Summer Programme is now available on the website](#)

[Three partial scholarships are available for young professionals from non- OECD countries](#)

Wednesday, May 4th, 2016

Event: [Going Green Conference - Delivering on Paris](#)

Organized by: Delegation of the European Union to the US

Location: The Newseum - Washington, DC

Time: 8:30 - 17 h

EU and U.S. policy-makers, local authorities, business leaders and civil society groups will engage to discuss new climate action in the post-COP21 world

[Registration](#) closes 30th of April

Colofon

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