



EEL News Service

Issue 2014/07 of 31 July 2014

Announcements

Latest programme including additional speakers online Summer Programme International and European Environmental Law (25-29 August 2014)

The [latest version of the programme](#) encompasses a variety of speakers from practice and academia and includes the author of the standard work on European Environmental Law, prof **Jan Jans**; an expert on investigation and prosecution of transnational wildlife crime, **Pauline Verhey**; the former chairman of the Compliance Committee of the London Protocol on Water and Health, prof **Attila Tanzi**; experts involved in climate change negotiations, dr **Leonardo Massai** (for the Coalition of Rainforest Nations) and **Jürgen Lefevere** (for the EU); trade law experts prof **Geert van Calster** and dr. **Tamara Takacs**; former professor in International Environmental Law, prof **Hans Lammers**; and holder of the International Law chair at Leiden University, prof **Nico Schrijver**. For a complete overview of the all the speakers and their CVs, see "[Confirmed Speakers](#)".

[Sign up now](#) for the remaining places of this [unique course](#), that includes an excursion to the International Court of Justice in The Hague.

Notice

This EEL News Service is the last to appear before our Summer Break; we will resume our services in September 2014.

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Case Law

Greek mismanagement of landfill infringes environmental legislation

ECJ judgment Case C-600/12 *Commission v Greece*, 17 July 2014

On 17 July 2014 the ECJ delivered its judgment in a case brought by the Commission against Greece for the failure to prohibit the uncontrolled management of a landfill site in the National Marine Park of Zakynthos (Zante). The marine park is part of the [Natura 2000](#) network since 2006 as it is a habitat of the sea turtles (*Caretta caretta*). According to the Commission, landfill operations within the park have since 1999 been causing environmental damage which has had serious impact on the habitat of the turtles. The concerned landfill is still in operation although the permits and environmental condition expired in 2006. Since improvement works and rehabilitation are being carried out on the site the government decided that the existing landfill site would continue to receive waste until the new landfill site begins operating. The ECJ found that the renewal of the landfill permit endangers the Natura 2000 site. It stated that by keeping the overfull landfill site open, Greece has failed to fulfil its obligations under the EU's [Waste Directive](#) and the [Landfill Directive](#). Further, by renewing the landfill permit in breach of EU law, Greece has failed to fulfil its obligations relating to the conservation of habitats and of wild flora and fauna.

See also:

Court of Justice [press release](#), 17 July 2014

ECJ Judgement [Case C-103/00 Commission v Greece](#), 30 January 2002 relating to the same species and the same region

Energy

Poland sued over excluding shale gas from EIA

As we reported earlier this year, in January 2014 it was decided *not* to introduce new binding EU rules on shale gas extraction. Instead, a mere recommendation was issued, notably at the request of Poland and the UK. The recommendation asks Member States to submit minimum environmental principles and measures for future shale gas activities by 28 July 2014. Only one (un-named) member state has responded to this deadline.

The recommendation also asks EU Member States to ensure that companies carry out an ex-ante environmental impact assessment (EIA) that analyses cumulative effects and potential future uses of the surrounding surface and underground area, and to ensure minimum separation distances from residential and water protection areas.

Relying on the EIA Directive, the Commission started legal proceedings against Poland over the introduction of new thresholds that “de facto exclude most shale gas exploration projects in Poland from the scope of the EIA Directive,” as Joe Hennon, a spokesman for the environment commissioner, Janez Potočnik, told EurActiv.

Ironically, European Parliament withdrew its request for amendments of the EIA directive that would have included express references to shale gas operations at the end of 2013. It is likely that the European Court of Justice will nevertheless judge Poland’s move to be in violation of the EIA directive as it stands today. The case, and the way in which 27 out of the 28 EU Member States ignore the deadline to merely submit information, does show that mere recommendations might not be such a viable route after all.

See also:

[Poland on road to EU Court over shale gas defiance](#), EurActiv 30 July 2014

[Commission only recommends safety rules for fracking](#), EEL News Service - Issue 2014/01 of 23 January 2014

Commission proposes 30% energy savings target for 2030

On 23 July 2014 the Commission released an Energy Efficiency Communication proposing a new energy efficiency target of 30% for 2030. The European Parliament earlier this year backed a target of 40% energy efficiency. The Communication assesses the EU's progress towards its 20% energy efficiency goal for 2020 and analyses how energy efficiency can drive competitiveness and strengthen security of supply in the European Union in the future. It concludes that at the current rate, Member States will achieve energy savings of 18-19% by 2020. The indicative target of 20% energy savings by 2020 can be reached if all EU countries fully implement the already agreed legislation such as the [Energy Efficiency Directive \(2012/27/EU\)](#). It should however be noted that

about one third of the progress towards the 2020 target will be due to the lower than expected growth during the financial crisis. The energy efficiency strategy completes the [2030 framework on energy and climate](#) proposed by the Commission in January 2014. The EU Heads of State and Government have to endorse the target proposed by the Commission and decide whether it should be binding or not at their meeting on 22-23 October 2014.

See also:

European Commission, [Energy Efficiency Communication](#), 23 July 2014

European Commission, [Questions and answers on the Energy Efficiency Communication](#), 23 July 2014

EurActiv, [Brussels puts 30% energy savings target on the table for 2030](#), 24 July 2014

Nature

EU Timber Regulation not fully implemented by Member States

The Commission prepared a table with information on the state of implementation of the EU Timber Regulation by the EU Member States as regards whether they have complied with their obligations provided for by that Regulation. The table does not include an assessment whether the penalties applicable to infringements of the provisions of the regulation laid down by the Member States are effective, proportionate and dissuasive. It shows that the European law banning illegal timber is not yet fully implemented in many of EU countries. Greenpeace commented that the survey shows that Europe remains a gateway for illegal timber, despite having agreed to put an end to this trade.

See also:

European Commission, [Timber Regulation What's New?](#)

Greenpeace, [Commission scorecard shows Europe is still a market for illegal timber](#), 31 July 2014

WTO members launch negotiations on environmental trade agreement

On 8 July 2014 the EU along with 13 other WTO members (Australia, Canada, China, Costa Rica, Chinese Taipei, Hong Kong (China), Japan, Korea, New Zealand, Norway, Switzerland, Singapore and the US) announced the official launch of negotiations on the Environmental Goods Agreement (EGA) in the WTO. Building on the APEC List of Environmental Goods, the future agreement is intended to liberalise trade in so called 'environmental goods'. At the first stage, the members of this initiative will aim to eliminate tariffs or customs duties on a broad list of environmental goods that help clean the air and water, help manage waste, are energy efficient, control air pollution, and help generate renewable energy like solar, wind, or hydroelectric. At the second stage, the negotiations could also address non-tariff barriers and environmental services.

See also:

[Joint Statement](#) regarding the launch of the environmental goods agreements negotiations, 8 July 2014

European Commission [press release](#), 9 July 2014

Waste

Commission adopts ‘circular economy’ package

On 2 July 2014, the European Commission adopted a proposal for transforming the European economy from a linear to a more circular economy, aimed at increased recycling, re-use and repair in the Member States. The Commission stressed the need to connect economic growth with sustainable development, taking into account the environmental impact and goal of reducing greenhouse gas emissions. It highlighted the prospects of job creation, competitiveness and reduction of demand for expensive, scarce resources through the strategy. The recycling goal is 70 % of municipal waste and 80 % of packaging waste by 2030 and a complete landfill ban as of 2025. In addition, the plan includes targets for reducing marine litter and food waste. The package adopted by the Commission includes a revision of the Waste Framework Directive, the Packaging and Packaging Waste Directive and the Landfill Directive, and four accompanying Communications. The legislative proposals will now be reviewed by the Council and the European Parliament.

See also:

European Commission [press release](#), 2 July 2014

European Commission communication [Towards a circular economy: A zero waste programme for Europe](#), 2 July 2014

Janez Potočnik, European Commissioner for Environment [speech](#), 2 July 2014

EurActiv [EU tables ‘circular economy’ package with zero-landfill goal](#), 3 July 2014

Water

Commission launches consultation on water reuse

The European Commission has opened a consultation, inviting the public to express views on policy options to optimise water reuse in the EU. It is aimed at evaluating the most appropriate EU-level instrument/s to promote reuse, while enduring the health and environmental safety and the free trade of food products. The results of the consultation will be used as input for the preparation of an Impact Assessment regarding all key areas of potential application of water reuse: agriculture, urban, industrial, and recreational uses, groundwater recharge, etc. The consultation runs from 30 July to 11 November 2014.

See also:

European Commission, [Consultation on policy options to optimise water reuse in the EU](#)

Portugal referred to ECJ over waste water treatment

The Commission has decided to bring Portugal to the ECJ over its failure to ensure that waste water is properly treated. According to the Commission the lack of adequate collection and treatments systems entail an infringement of the [Urban Waste Water Treatment Directive](#), applicable to small agglomerations in force since 2005, and threatens human health, inland waters and marine environment. In 2009 the Commission sent a reasoned opinion to Portugal, urging it to act on the issue. Although improvements have been made, significant shortcomings in the treatment of waste water from small agglomerations (between 2000 and 15000 inhabitants) remain, and the Commission on recommendation of Environment Commissioner Janez Potočnik has decided to refer Portugal to the ECJ. The referral will constitute the third case against Portugal on matters related to urban waste water treatment.

See also:

European Commission [press release](#), 10 July 2014

European Commission [July infringement package](#), 10 July 2014

ECJ judgements in [Case C-220/10 Commission v Portugal](#) and [Case C-530/07 Commission v Portugal](#) relating to waste water discharges in sensitive areas respectively normal areas

Book Reviews

Environmental Democracy and Law

Editor: Prof. Gyula Bándi

Publisher: Europa Law Publishing, 2014

Pages: 397

Public participation, as a practical approach to environmental democracy, plays a key role in EU environmental policy. The 7th Environmental Action Programme is an example of this. The concept has established a position in the international and domestic debate on environmental policy and legislation. It has gradually become integrated into all parts of decision-making and is no longer only functioning as a remedy to the environmental democracy deficit. This book is part of the outcome of the Jean Monnet Centre of Excellence project Democracy in Environment- Public participation in EU environmental law run by the Pázmány Peter Catholic University in Budapest, Hungary. The project was carried out in cooperation with the Hungarian Ombudsman of Future Generations, the Regional Development Centre for Central and Eastern Europe and the Environmental Justice and Environmental network. It explores the concept environmental democracy, and focuses on its practical aspect in the form of public participation. Contributing authors include legal scholars and practitioners but also researchers from other disciplines such as sociology and biology.

The book gives an introduction to the concept 'environmental democracy', its methodology and the theoretical foundations of public participation in administrative decision-making. Further, it explores public participation in different sectors of EU and national legislation such as GMO regulation, waste

legislation and energy utilization. The themes covered by the book range from the implementation of public participation principles in the EU legal framework, comparison and compliance of EU legislation with the Aarhus Convention, theoretical issues such as the origin of the concept itself as a human right or instrument of international administrative law to practical experiences. The ‘three pillars’ of public participation – access to information, participation in decision-making and access to justice – are discussed mainly from an EU and Member States perspective. The experiences from Hungary and especially the institutionalisation of a Parliamentary Commissioner for Future Generations is highlighted by the book.

Sustainability, Law and Public Choice

Authors: Prof. Gyula Bándi, Prof. Marcel Szabó & Prof. Ákos Szalai

Publisher: Europa Law Publishing, 2014

Pages: 205

In this book, the authors examine the principle of sustainable development in the international and European legal order. It covers the content, interpretation and possible implementation of the principle, focusing on sustainable development law. Examples from international law including discussions on ICJ case-law, demonstrating the principle’s importance in international treaties are examined. In addition, the ethical and legal foundations of the principle are explored. The focus lies on the integration of sustainable development into the EU legal framework, including the historical development, primary law and secondary law regulating different sectors and natural resources (energy, waste fisheries, rivers, and plant genetics), EU external relations, impact assessment and public procurement. It also examines the judiciary’s application of the principle. The book further discusses sustainable development law in legal scholarship, law and economics and sustainable development in governance and decision-making using public choice theory. The authors are all from the Faculty of Law at the Pázmány Peter Catholic University in Budapest, Hungary.

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 Programme on International and European Environmental Law: Facing the Challenges? For more information see announcement at top of this News Service.

Dates: 25-29 August 2014

Venue: T.M.C. Asser Instituut, R.J. Schimmelpennincklaan 20-22, 2517 JN The Hague

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. 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

VMR Presentatie preadvies Werkgroep Mondiale Duurzaamheid

Tijdens deze bijeenkomst presenteren de leden van de Werkgroep Mondiale Duurzaamheid van de Vereniging voor Milieurecht hun preadvies inzake juridische aspecten van verduurzaming van handelsketens. Aandacht zal onder andere worden besteed aan maatschappelijk verantwoord ondernemen, de veranderende rol van het civiele aansprakelijkheidsrecht bij de bescherming van internationale milieubelangen, de werking en beperkingen van gedragscodes, de EU conflict mineralen-richtlijn, waterschaarste en katoen, verduurzaming van de palmolieketen, juridische aspecten van duurzaam hout en de rol van alternatieve geschillenbeslechting. Tijdens deze middag zal Jonathan Verschuuren, professor Internationaal en Europees milieurecht, als voorzitter optreden.

Datum: 26 september 2014

Tijd: 13.00-17.00

Locatie: T.M.C. Asser Instituut, Schimmelpennincklaan 20-22, Den Haag

Colofon

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