

No2/2009

ENVIRONMENTAL  
LAW NETWORK  
INTERNATIONAL

RÉSEAU  
INTERNATIONAL  
DE DROIT DE  
L'ENVIRONNEMENT

INTERNATIONALES  
NETZWERK  
UMWELTRECHT

# elni

## REVIEW

---

EU Enforcement Policy of Community Environmental law  
as presented in the Commission Communication  
on implementing European Community Environmental law

*Marta Ballesteros*

The direct effect of the Aarhus Convention  
as seen by the French 'Conseil d'Etat'

*Julien Bétaille*

Practical application of Article 9 of the Aarhus Convention  
in EU countries: Some comparative remarks

*Pavel Černý*

Environmental Inspections at the EU:  
The imperative to move forward

*Ana Barreira*

Current discussions on the proposal for an Industrial Emissions  
Directive: Stronger role for Best Available Techniques?

*Christian Schaible*

Aberthaw Power Station: An IPPC case study

*Lesley James*

Why patents are crucial for the access of developing countries  
to Environmentally Sound Technologies

*Michael Benske*

Conference Reports

**CONTENTS**

Editorial .....	53
<i>Conference on Environmental Law and Policy in the European Union: The Legacy of the Treaty of Amsterdam</i>	
<b>Articles with focus on the Aarhus Convention</b>	
EU Enforcement Policy of Community Environmental law as presented in the Commission Communication on implementing European Community Environmental law .....	54
<i>Marta Ballesteros</i>	
The direct effect of the Aarhus Convention as seen by the French 'Conseil d'Etat' .....	63
<i>Julien Bétaille</i>	
Practical application of Article 9 of the Aarhus Convention in EU countries: Some comparative remarks .....	74
<i>Pavel Černý</i>	
Environmental Inspections at the EU: The imperative to move forward .....	79
<i>Ana Barreira</i>	
<b>Articles with focus on the Industrial Emissions Directive and other topics</b>	
Current discussions on the proposal for an Industrial Emissions Directive: Stronger role for Best Available Techniques? .....	83
<i>Christian Schaible</i>	
Aberthaw Power Station: An IPPC case study.....	86
<i>Lesley James</i>	
Why patents are crucial for the access of developing countries to Environmentally Sound Technologies .....	88
<i>Michael Benske</i>	
<b>Conference reports</b>	
elni forum 2009 - The EU Directive on Industrial Emissions and its implementation in national law key issues and practical experiences, 14th May 2009 in Brussels, Belgium.....	93
<i>Nicola Below</i>	
Report of the Congress "European Environmental Law in Belgium and the Netherlands" of 15th May 2009 .....	95
<i>Marie-Catharine van Engelen</i>	
<b>Latest News</b>	
Access to Justice in Slovakian Environmental Impact Assessment proceedings: NGOs strengthened .....	82
Report from the European Commission on the application and effectiveness of the EIA Directive .....	82
Germany fails again to codify its fragmented environmental law .....	97
Special edition of elni .....	98
elni Conference 2010 on the Industrial Emissions Directive (IED/ current IPPC Directive) .....	98
Imprint .....	99
Authors of this issue .....	99
elni Membership .....	100

## Editorial

It has been nearly ten years now since the *Aarhus Convention* entered into force and imposed on parties and public administrations obligations regarding access to information, public participation in decision-making and access to justice. Since then, practitioners have gained diverse experiences on the practical application of the three pillars' provisions, and their implementation into national laws and related issues, e.g. enforcement. This issue of the *elni Review* includes valuable insights into this matter.

Special focus in this issue is placed on the currently discussed revision of the *IPPC Directive* takes a special place in this issue of the *elni Review*. This topic will also be continued in the next issue of the journal to reflect the ongoing discussion. As previously announced, *elni* is planning an *elni Conference* (see page 46 of this journal), a major event by the end of 2010, on the Industrial Emissions Directive. Therefore, you are invited to send us your contribution for the *elni Review* and, if you are willing to discuss it with others, you are naturally welcome to submit a proposal for the event, too. Soon, there will be an official call on our webpage ([www.elni.org](http://www.elni.org)) providing further information on the conference.

This issue 2/2009 of the *elni Review* offers the following contributions:

In her article on the Conference "EU Enforcement Policy of Community Environmental law as presented in the Commission Communication on implementing European Community Environmental law" which took place on 8 July 2009 in Brussels, *Marta Ballesteros* discusses the implementation of European Community Environmental Law enforcement and its interaction with the Aarhus Convention and other European Laws.

"The direct effect of the Aarhus Convention as seen by the French 'Conseil d'Etat'" is the subject of the article by *Julien Bétaille*. His article provides detailed insights on the implementation and practical application of the Aarhus Convention in France.

"Practical application of Article 9 of the Aarhus Convention in EU countries: Some comparative remarks" by *Pavel Černý* discusses several specific topics from this field which can be considered crucial to legal protection of the environment in practice. The article also addresses the contributions and discussions presented at the „International conference on the implementation of the Aarhus Convention in practice“.

The article "Environmental Inspections at the EU: The imperative to move forward" by *Ana Barreira* reflects the point of view of the EEB on compliance and enforcement of European Environmental Law.

Further *Christian Schaible* addresses the EEB's position on the revision of the IPPC Directive in his article "Current discussions on the proposal for an Industrial Emis-

sions Directive: Stronger role for Best Available Techniques?".

National specifics of the IPPC Directive in practice are shown from a British point of view by *Lesley James*. She comments on the "Aberthaw Power Station: An IPPC case study".

"Why patents are crucial for the access of developing countries to Environmentally Sound Technologies" is explained by *Michael Benske*.

This issue of *elni Review* also provides two conference reports:

*Nicola Below* reports on the *elni forum 2009* "The Directive on Industrial Emissions and its implementation in national law – key issues and practical experiences", which took place at CEDRE in Brussels on 14<sup>th</sup> May 2009.

The contribution by *Marie-Catharine van Engelen* reports on the congress "European Environmental Law in Belgium and the Netherlands", which took place in Rotterdam on 15<sup>th</sup> May 2009.

Moreover, this edition of *elni Review* covers some interesting news on the German failure to codify its fragmented environmental law, a special edition of *elni Review*, which will be published next year, the *elni Conference 2010*, recent EIA developments, and positive developments in Slovakian access to justice.

The next issue of the *elni review* will not have an overarching focus. Contributions on the IED/IPPC revision process are nevertheless very welcome. Please send contributions on this topic as well as other interesting articles to the editors by mid-January 2009.

*Nicolas Below/Martin Führ*

October 2009

### Conference on Environmental Law and Policy in the European Union

**on Thursday 19<sup>th</sup> of November 2009**

at the *University of Amsterdam, The Netherlands*

***“Environmental Law and Policy in the  
European Union:  
The Legacy of the Treaty of Amsterdam”***

On the occasion of the inaugural lecture of Professor Marc Pallemarts on 20 November 2009, the Centre for Environmental Law is organising a conference.

Please confirm your participation under:  
<http://www.jur.uva.nl/cel>

## Environmental Inspections at the EU: The imperative to move forward

Ana Barreira

### 1 Introduction

*The goal of environmental policies is to reduce environmental impacts and to eliminate harmful effects to living beings. Law is one of the main tools for implementing environmental policies, responding to the needs of society as the protection of the environment is. But counting on a legal framework to protect the environment alone is insufficient. This legal framework must be respected, which means it must be complied with and enforced. Thus, its efficiency and effectiveness depends on the degree of its implementation and compliance. A non-respected environmental protection regime weakens not only the credibility of institutions but also the rule of law. To achieve compliance<sup>1</sup> and enforcement<sup>2</sup>, legal regimes need to be strengthened. In general terms, compliance and enforcement of environmental law is deficient and as a result environmental degradation continues. It is imperative to emphasise that environmental compliance and enforcement are parts of the equation on sustainable development<sup>3</sup>.*

*The European Commission has recognised that “[l]aws do not serve their full purpose unless they are properly applied and enforced”<sup>4</sup>. In addition “[t]he European Institutions and the Member States should continue to develop their work to ensure that Community law is correctly applied and implemented”<sup>5</sup>.*

*There are diverse tools for guaranteeing compliance such as compliance indicators, compliance and enforcement strategies and environmental inspections, the purpose of which is to supervise compliance. This article focuses on the latter. Firstly, the way in which this instrument was incorporated under Community environmental policy will be examined. Secondly, the current status of environmental inspections at EU level will be briefly analysed. Thereafter, it will concentrate on the proposals for the review of this tool, ending with some recommendations on how environmental inspections should be regulated in the Euro-*

*pean Union with a focus on the demands of European Environmental Bureau (EEB) on this matter.*

### 2 Development of environmental inspections

The EC previously emphasised the importance of effective implementation and enforcement of Community legislation in all Member States in the Fifth Community Environmental Action Programme (EAP)<sup>6</sup> and included a specific chapter on these matters (Chapter 9), which identified stricter compliance checking and enforcement as one of the reforms required.<sup>7</sup>

The Council Resolution of 7 October 1997 on the drafting, implementation and enforcement of Community environmental law<sup>8</sup> acknowledged that inspection is an essential prerequisite for achieving the objective of an even practical application and enforcement of environmental law in all Member States. The Council invited the Commission to propose - in particular on the basis of the work of IMPEL<sup>9</sup> - minimum criteria and/or guidelines for inspection tasks carried out at Member State level and the possible ways in which their application in practice could be monitored by Member States in order to ensure a well-balanced practical application and enforcement of environmental legislation.

The review of the 5<sup>th</sup> EAP<sup>10</sup> on the issue of implementation and enforcement asked the Community to step up efforts at all levels with a view to ensuring better implementation and enforcement of environmental legislation. Among the priority objectives of the Community was the examination of options to enhance the effectiveness of environment inspection in Europe “on the basis of a report to be presented by the Commission before the end of the Programme and which will assess, in particular, the feasibility of establishing common inspection criteria on the basis of

<sup>1</sup> The OECD defines compliance as the behaviour response to regulatory requirements (Source: International Network for Environmental Compliance and Enforcement-INECE, 2005).

<sup>2</sup> The definition given by INECE is the set of actions that governments or others take to correct or halt behaviour that fails to conform with environmental requirements.

<sup>3</sup> A. Barreira, En busca del desarrollo sostenible: la aplicación del derecho para alcanzar la justicia intergeneracional, *Generaciones-gerechtigkeit*, Stiftung für die Rechte zukünftiger Generationen, Ausgabe 1/2007, p. 29-35. Download under: [http://www.generationengerechtigkeit.de/images/stories/Publikationen/gg\\_221\\_homepage.pdf](http://www.generationengerechtigkeit.de/images/stories/Publikationen/gg_221_homepage.pdf) (in Spanish and German)

<sup>4</sup> A Europe of Results – Applying Community Law, COM (2007) 502 final, Brussels, 5 September 2007.

<sup>5</sup> See *supra* note 4, p. 2.

<sup>6</sup> OJ C 138, 17 May 1993.

<sup>7</sup> This Chapter stated that “[i]n order to institute these reforms, three dialogue groups should be established”. One of these groups was an implementation network comprising representatives of relevant national authorities and the Commission in the field of practical implementation of Community measures, which is today known as the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL).

<sup>8</sup> OJ C 321, 22 October 1997.

<sup>9</sup> In November 1997 IMPEL produced a document entitled “Minimum Criteria for Inspections”.

<sup>10</sup> Decision No. 2179/98/EC of the European Parliament and of the Council of 24 September 1998 on the review of the European Community programme of policy and action in relation to the environment and sustainable development ‘Towards sustainability’ (OJ L 275, 10 October 1998).

*minimum inspection standards*” (Art. 4 d) Decision No. 1600/2002/EC).

The Commission presented its proposal in 1998.<sup>11</sup> Later the recommendation of the European Parliament and of the Council of April 2001 providing minimum criteria for environmental inspections in the Member States (RMCEI) was adopted.<sup>12</sup>

Following this line, the Sixth Community Environmental Action Programme<sup>13</sup> included the effective implementation and enforcement of EC environmental law in force among its five strategic approaches. In addition, it is important to recall that one of the main elements of the ‘better regulation’ agenda is the enhancement of the implementation, compliance and enforcement of the ‘acquis communautaire’ including the environmental ‘acquis’.<sup>14</sup> The mid-term review of the 6<sup>th</sup> EAP recognised the high number of complaints received and infringement procedures opened, which is a sign of the deficient implementation of EU environmental law. In this review, the European Commission also recognised that the implementation of environmental legislation remains far from satisfactory and that *“only by ensuring the correct implementation of the ‘acquis’ will it be possible to realise environmental objectives. Effective implementation is also a key element of the better regulation agenda and is needed to avoid a distortion of competition and to keep the single market running smoothly”*<sup>15</sup>.

According to the European Commission, the majority of the cases pursued under the infringement procedure are due to bad application of environmental law.<sup>16</sup> In May 2008 the European Commission had opened 284 infringement procedures for bad application whereas the procedures opened for non-communication were 69 and for non-conformity 141. But, it should be noted that these data do not reflect the real situation since the Commission does not have sufficient means to pursue all non-compliance cases.

These statistics show that the main problem lies in the implementation and enforcement as a consequence the use of mechanisms to combat those deficiencies is urgent. Environmental inspections should be considered as a means of avoiding the multiplication of bad application cases.

### 3 Current state: Minimum criteria

The recommendation of the European Parliament and of the Council on minimum criteria for environmental

inspections in the Member States (RMCEI) applies to the organisation, carrying out, follow up and publication of the results of such tasks. Being a recommendation, it is not binding for the Member States.

It covers environmental inspections of all industrial installations, companies and facilities subject to authorisation, permit or licensing requirements under current EU environmental legislation (‘controlled installations’). Environmental inspection entails the following:

- checking that installations comply with EU environmental requirements and promoting compliance; and
- monitoring the impact of installations on the environment.

The activities for carrying out environmental inspections include: site visits, monitoring compliance with environmental quality standards, inspecting environmental audit reports and statements, checking premises and equipment, checking the suitability of environmental management and of the relevant records.

Member States have to plan their environmental inspection tasks and have at all times at least one environmental inspection plan covering the controlled installations on their territory. Such plans may be drawn up at local, regional or national level and must be available to the public in accordance with Directive 2003/4/EC concerning freedom of access to information on the environment. They must include: an indication of the geographical area, the period and the sites they cover, information on updating the plans, programmes for routine inspections, procedures for non-routine inspections and a plan for coordination between the different inspecting authorities.

Environmental inspections, including site visits, include routine and non-routine inspections. Routine inspections are carried out as part of a planned inspections programme whereas non-routine are carried out in such cases in response to complaints, in connection to the issuing, renewal or modification of an authorisation, permit or licence, or in the investigation of accidents, incidents and occurrences of non-compliance.

According to the recommendation, the reports of an inspection should be publicly available within two months.

In the recommendation IMPEL is invited to carry out several tasks in cooperation with Member States including the establishment of reporting and advice schemes relating to inspectorates and inspection procedures which would help to promote best practice across the Community. Since the recommendation was adopted, IMPEL has developed guidance documents on environmental inspections.

<sup>11</sup> COM 98/772, Brussels 16 December 1998. This proposal was later modified (COM 99/652 final).

<sup>12</sup> OJ L 118, 27 April 2001.

<sup>13</sup> Decision No. 1600/2002/EC (OJ L 242, 19 September 2002)

<sup>14</sup> Mid-term review of the Sixth Community Environment Action Programme, COM (2007) 225 final, Brussels, 30 April 2007.

<sup>15</sup> See *supra* note 14, p. 16

<sup>16</sup> See <http://ec.europa.eu/environment/legal/law/statistics.htm>

In 2007, the Commission published its review of this recommendation.<sup>17</sup> This review shows many deficiencies in the implementation of the recommendation, leading to a failure to ensure full implementation of environmental legislation in the Community. This review highlights the partial implementation of the RMCEI in most of the Member States and existing disparities in the way inspections are carried out. In terms of the causes or roots of these failures, the Commission refers to the differing interpretations by Member States of the RMCEI, the different political priorities in Member States and the limited allocation of resources for conducting these inspections. The main consequences of the poor functioning of this recommendation are:

- Environmental protection goals are not achieved
- Full implementation of EU environmental law is not achieved
- Distortion of competition occurs
- The credibility of EU institutions is damaged
- A weak rule of law

In spite of this failure, the Commission insists on not turning the establishment of minimum criteria into legally binding requirements. Rather, inspection requirements should be included in sectoral pieces of legislation.

In November 2008 the European Parliament passed a non-legislative resolution<sup>18</sup> opposing to the view of the Commission requesting it to:

- prepare a proposal for a directive on environmental inspections before the end of 2009, clarifying the definitions and criteria set out in Recommendation 2001/331/EC and extending its scope, and
- report, before the end of 2009, on possible ways of reinforcing IMPEL, including the establishment of a Community environmental inspection force.

#### 4 Proposals to review the inspection system

Eight years of experience of the irregular application of the RMCEI is the best evidence for requesting that the inspection system be strengthened. The demands of the EEB on this are that:

**1.** A new recommendation containing general criteria will not change the current situation. Therefore, the EEB believes that general criteria for environmental inspections should be introduced by a binding instrument. Based on Title XIX of the EC Treaty, the EEB considers such an instrument should be contained in a directive in order to ensure a comprehensive legal framework for environmental inspections of a consistent quality as well as standardized legal remedies for

the public and environmental authorities. A general obligation for environmental inspection will avoid unfair competition. Waiting for revisions of sectoral directives to incorporate inspection requirements will delay the achievement of environmental goals provided in EU legislation, considering the timeframe for these reviews. Nevertheless, a future binding general instrument on inspections should under no circumstances weaken existing sectoral legislation. But, the EEB also supports the incorporation/improvement of binding requirements on environmental inspections designed for specific installations or activities within sectoral legislation if and when these go through a review process (such as the Industrial Emissions Directive<sup>19</sup>, Seveso II Directive, RoHS, Waste shipments).

**2.** The EEB wishes to see Recommendation 2001/331/EC used as a basis for a binding instrument of a general character on environmental inspections. Nevertheless, the scope of that instrument should be broader, and include not only controlled installations, but also other activities such as projects and plans as well as cover all environmental directives or regulations in force. The following issues are of particular concern to the EEB and should be included in the directive:

- The Member States should be obliged to carry out routine and non-routine environmental inspections to the private and public sector facilities, project sites and plans:
  - i) by skilled and trained personnel accredited as independent and complying with quality assurance mechanisms;
  - ii) following a previously created plan;
  - iii) with minimal frequencies for site visits, which should take place at least annually for low-risk installations, complying with EMAS and proven record of compliance;
  - iv) with sufficient personnel and financial resources;
  - v) vested with a robust mandate for inspection including the right to enter facilities, demand documents from operators and authorities and the possibility of legally enforcing these rights; and
  - vi) as well as the right to legally enforce the relevant requirements of environmental law.
- The inspection plans and information generated by environmental inspections should be publicly available. Inspection reports shall be made publicly available on the internet within 3 months after the site visit has taken place.
- The public and environmental authorities should be able to demand inspection of particular facilities.

<sup>17</sup> COM (2007) 707 final, Brussels 14 November 2007.

<sup>18</sup> European Parliament resolution of 20 November 2008 on the review of Recommendation 2001/331/EC providing for minimum criteria for environmental inspections in the Member States.

<sup>19</sup> See also further articles on the Industrial Emissions Directive in this issue of the elni Review.

- An independent Community environmental inspection force should be established to supervise - within the scope of inspections - how Member States implement European environmental law and to accompany national inspectors in their inspection tasks, including site visits as it exists under other Community policies as competition.
- There should be a reporting and evaluation obligation of the Member States every twelve months, regarding the functioning and the results of environmental inspections carried out by national authorities.

### **Latest News:**

## **Access to Justice in Slovakian Environmental Impact Assessment proceedings: NGOs strengthened**

Since 2007, the Slovak government began to systematically weaken the position of civic associations and environmental NGOs in permit proceedings that are subject to Environmental Impact Assessment (EIA) and other permit proceedings that can have a serious impact on nature (e.g. the killing of protected animals, the use of pesticide in protected areas).

The laws enacted in the following years suspended the obligation for public participation with the effect that comments and positions of environmental NGOs were not considered in a compulsory manner by the public authorities anymore. Moreover, the NGOs had no right to challenge unlawful permit decisions in court. Legitimate interests of the civil population were therefore ignored.

An infringement procedure in September 2008 of the European Commission against the Slovak Republic on the basis of the violation of the EU Directive 2003/35/EC on public participation and the access of the public to justice was induced by a complaint of VIA IURIS (see [www.viaiuris.sk/english](http://www.viaiuris.sk/english)). In the following, several actions were taken by VIA IURIS to put more pressure on the Ministry of Environment and, therefore, assure a prompt submission of a proposal for amendments to the law that would correct nonconformities with the EU Law.

Finally, on 19 June 2009 the National Parliament in Slovakia passed an amendment to the Environmental Impact Assessment Act that again enacted participation rights and rights of access to justice (to the court) for environmental NGOs in permit proceedings that are subject to EIA – according to European requirements.

Nevertheless, not all nonconformities with the EU legislation related to public participation have been eliminated. Individuals continue to have a weak position in the permit proceedings.

## **Report from the European Commission on the application and effectiveness of the EIA Directive**

The European Commission published a report on the application and effectiveness of the Environmental Impact Assessment (EIA) Directive in July 2009. The Report points out implementation deficits, overlappings with other fields of laws and contradictions with other directives and policies. Moreover, it provides suggestions for improvements.

On the one hand, the criticism particularly concerns screening and scoping on the grounds that Member States have exceeded their margins of discretion. On the other hand, the report states that the overall objective of the EIA Directive has been achieved. Against the background of growing environmental challenges in the area of biodiversity and climate change, and the EU enlargement in 2004 and 2007, the report is considered to be a first step towards an adjustment of the EIA Directive.

## Imprint

**Editors:** Hendrik Acker, Regine Barth, Nicola Below, Martin Führ, Gerhard Roller

**Editors in charge of the current issue:**

Martin Führ and Nicola Below

**Editor in charge of the forthcoming issue:**

Gerhard Roller (roller@fh-bingen.de)

The Editors would like to thank **Vanessa Cook** (Öko-Institut) for proofreading the *elni Review*.

Manuscripts should be submitted as files by email to the Editors using an IBM-compatible word processing system.

The *elni Review* is the double-blind peer reviewed journal of the Environmental Law Network International. It is distributed twice a year at the following prices: commercial users (consultants, law firms, government administrations): €52; private users, students, libraries: €30. Non-members can order single issues at a fee of €20 incl. packaging. The Environmental Law Network International also welcomes an exchange of articles as a way of payment.

The *elni Review* is published with financial and organisational support from Öko-Institut e.V., and the Universities of Applied Sciences in Darmstadt and Bingen.

*The views expressed in the articles are those of the authors and do not necessarily reflect those of elni.*

## Authors of this issue

**Marta Ballesteros**, Lawyer specialising in European Law and Institutions at the University of Louvain-la-Neuve, Belgium. She works as a Senior Lawyer on climate and energy issues at ClientEarth in Brussels, and is also Executive Secretary at Eco-sphere in Brussels, mballesteros@clientearth.org

**Ana Barreira**, Lawyer, LL.M London University and LL.M New York University, Director of Instituto Internacional de Derecho y Medio Ambiente (IIDMA) in Spain, and is also a member of the IUCN Commission on Environmental Law, ana.barreira@iidma.org

**Nicola Below**, Lawyer specialising in IP, IT and information law. He is a research assistant at the Society for Institutional Analysis (sofia), University of Applied Sciences in Darmstadt, Germany, below@sofia-darmstadt.de

**Michael Benske**, Lawyer specialising in IP, IT and e-commerce law. He is a former trainee at the Delegation of the European Commission in Beijing, China, and has worked on Sino-European intellectual property law issues and strategies, michael@benske.de

**Julien Bétaille**, PhD candidate and lecturer at the Interdisciplinary Centre of Research in Environmental, Urban and Planning Law (CRIDEAU-OMIJ EA 3177) at the University of Limoges, France, julien.betaille@unilim.fr

**Pavel Černý**, Lawyer working for Environmental Law Service (ELS) in Brno, the Czech Republic and for the Justice & Environment Association, pavel.cerny@eps.cz

**Marie-Catharine van Engelen**, Lawyer at Pels Rijcken & Droogleever Fortuijn in the practice group European and Competition Law, at The Hague, The Netherlands, mc.vanengelen@pelsrijcken.nl

**Lesley James**, Specialist for industrial management and power plants, and a Campaigner on Acid Rain at Friends of the Earth (FoE – England, Wales & Northern Ireland). She also works on the European Commission's IPPC Review Advisory Group, Hayfield, United Kingdom, lesley.james@foe.co.uk

**Christian Schaible**, Lawyer specialised in environmental law, and is EU Policy Officer for Industrial Policies and Chemicals at the European Environmental Bureau (EEB) in Brussels, Belgium, christian.schaible@eeb.org

### elni membership

If you want to join the Environmental Law Network International, please use the membership form on our website: <http://www.elni.org> or send this form to the **elni Coordinating Bureau**, c/o IESAR, FH Bingen, Berlinstr. 109, 55411 Bingen, Germany, fax: +49-6721-409 110, mail: Roller@fh-bingen.de.

The membership fee is €52 per year for commercial users (consultants, law firms, government administration) and €21 per year for private users and libraries. The fee includes the bi-annual elni Review. Reduced membership fees will be considered on request.

Please transfer the amount to our account at **Nassauische Sparkasse** – Account no.: **146 060 611, BLZ 510 500 15**, IBAN: DE50 5105 0015 0146 0606 11; SWIFT NASSDE55XXX.

“Yes, I hereby wish to join the Environmental Law Network International.”

Name: \_\_\_\_\_

Organisation: \_\_\_\_\_

Profession: \_\_\_\_\_

Street: \_\_\_\_\_

City: \_\_\_\_\_

Country: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

The Öko-Institut (Institut für angewandte Ökologie - Institute for Applied Ecology, a registered non-profit-association) was founded in 1977. Its founding was closely connected to the conflict over the building of the nuclear power plant in Wyhl (on the Rhine near the city of Freiburg, the seat of the Institute). The objective of the Institute was and is environmental research independent of government and industry, for the benefit of society. The results of our research are made available of the public.

The institute's mission is to analyse and evaluate current and future environmental problems, to point out risks, and to develop and implement problem-solving strategies and measures. In doing so, the Öko-Institut follows the guiding principle of sustainable development.

The institute's activities are organized in Divisions - Chemistry, Energy & Climate Protection, Genetic Engineering, Sustainable Products & Material Flows, Nuclear Engineering & Plant Safety, and Environmental Law.

#### **The Environmental Law Division of the Öko-Institut:**

The Environmental Law Division covers a broad spectrum of environmental law elaborating scientific studies for public and private clients, consulting governments and public authorities, participating in law drafting processes and mediating stakeholder dialogues. Lawyers of the Division work on international, EU and national environmental law, concentrating on waste management, emission control, energy and climate protection, nuclear, aviation and planning law.

#### **Contact**

##### **Freiburg Head Office:**

P.O. Box 50 02 40  
D-79028 Freiburg  
Phone +49 (0)761-4 52 95-0  
Fax +49 (0)761-4 52 95 88

##### **Darmstadt Office:**

Rheinstrasse 95  
D-64295 Darmstadt  
Phone +49 (0)6151-81 91-0  
Fax +49 (0)6151-81 91 33

##### **Berlin Office:**

Novalisstrasse 10  
D-10115 Berlin  
Phone +49(0)30-280 486 80  
Fax +49(0)30-280 486 88  
[www.oeko.de](http://www.oeko.de)

The University of Applied Sciences in Bingen was founded in 1897. It is a practiceorientated academic institution and runs courses in electrical engineering, computer science for engineering, mechanical engineering, business management for engineering, process engineering, biotechnology, agriculture, international agricultural trade and in environmental engineering.

The *Institute for Environmental Studies and Applied Research* (I.E.S.A.R.) was founded in 2003 as an integrated institution of the University of Applied Sciences of Bingen. I.E.S.A.R. carries out applied research projects and advisory services mainly in the areas of environmental law and economy, environmental management and international cooperation for development at the University of Applied Sciences and presents itself as an interdisciplinary institution.

The Institute fulfils its assignments particularly by:

- Undertaking projects in developing countries
- Realization of seminars in the areas of environment and development
- Research for European Institutions
- Advisory service for companies and know-how-transfer

Main areas of research:

- **European environmental policy**
  - Research on implementation of European law
  - Effectiveness of legal and economic instruments
  - European governance
- **Environmental advice in developing countries**
  - Advice for legislation and institution development
  - Know-how-transfer
- **Companies and environment**
  - Environmental management
  - Risk management

#### **Contact**

Prof. Dr. jur. Gerhard Roller  
University of Applied Sciences  
Berlinstrasse 109  
D-55411 Bingen/Germany  
Phone +49(0)6721-409-363  
Fax +49(0)6721-409-110  
roller@fh-bingen.de

[www.fh-bingen.de](http://www.fh-bingen.de)

The Society for Institutional Analysis was established in 1998. It is located at the University of Applied Sciences in Darmstadt and the University of Göttingen, both Germany.

The sofia research group aims to support regulatory choice at every level of public legislative bodies (EC, national or regional). It also analyses and improves the strategy of public and private organizations.

The sofia team is multidisciplinary: Lawyers and economists are collaborating with engineers as well as social and natural scientists. The theoretical basis is the interdisciplinary behaviour model of *homo oeconomicus institutionalis*, considering the formal (e.g. laws and contracts) and informal (e.g. rules of fairness) institutional context of individual behaviour.

The areas of research cover

- Product policy/REACH
- Land use strategies
- Role of standardization bodies
- Biodiversity and nature conservation
- Water and energy management
- Electronic public participation
- Economic opportunities deriving from environmental legislation
- Self responsibility

sofia is working on behalf of the

- VolkswagenStiftung
- German Federal Ministry of Education and Research
- Hessian Ministry of Economics
- German Institute for Standardization (DIN)
- German Federal Environmental Agency (UBA)
- German Federal Agency for Nature Conservation (BfN)
- Federal Ministry of Consumer Protection, Food and Agriculture

#### **Contact**

##### **Darmstadt Office**

Prof. Dr. Martin Führ – sofia  
University of Applied Sciences  
Haardtring 100  
D-64295 Darmstadt/Germany  
Phone +49(0)6151-16-8734/35/31  
Fax +49(0)6151-16-8925  
fuehr@sofia-darmstadt.de  
[www.h-da.de](http://www.h-da.de)

##### **Göttingen Office**

Prof. Dr. Kilian Bizer – sofia  
University of Göttingen  
Platz der Göttinger Sieben 3  
D-37073 Göttingen/Germany  
Phone +49(0)551-39-4602  
Fax +49(0)551-39-19558  
bizer@sofia-darmstadt.de

[www.sofia-research.com](http://www.sofia-research.com)

## elni

*In many countries lawyers are working on aspects of environmental law, often as part of environmental initiatives and organisations or as legislators. However, they generally have limited contact with other lawyers abroad, in spite of the fact that such contact and communication is vital for the successful and effective implementation of environmental law.*

*Therefore, a group of lawyers from various countries decided to initiate the Environmental Law Network International (elni) in 1990 to promote international communication and cooperation worldwide. Since then, elni has grown to a network of about 350 individuals and organisations from all over the world.*

*Since 2005 elni is a registered non-profit association under German Law.*

*elni coordinates a number of different activities in order to facilitate the communication and connections of those interested in environmental law around the world.*

### Coordinating Bureau

The Coordinating Bureau was originally set up at and financed by Öko-Institut in Darmstadt, Germany, a non-governmental, non-profit research institute.

Three organisations currently share the organisational work of the network: Öko-Institut, IESAR at the University of Applied Sciences in Bingen and sofia, the Society for Institutional Analysis, located at the University of Darmstadt. The person of contact is Prof. Dr. Roller at IESAR, Bingen.

### elni Review

The elni Review is a bi-annual, English language law review. It publishes articles on environmental law, focusing on European and international environmental law as well as recent developments in the EU Member States. It is published by Öko-Institut (the Institute for Applied Ecology), IESAR (the Institute for Environmental Studies and Applied Research, hosted by the University of Applied Sciences in Bingen) and sofia (the Society for Institutional Analysis, located at the University of Darmstadt). The Coordinating Bureau is currently hosted by the University of Bingen. elni encourages its members to submit articles to the Review in order to support and further the exchange and sharing of experiences with other members.

### elni Conferences and Fora

elni conferences and fora are a core element of the network. They provide scientific input and the possibility for discussion on a relevant subject of environmental law and policy for international experts. The aim is to gather together scientists, policy makers and young researchers, providing them with the opportunity to exchange views and information as well as to develop new perspectives.

The aim of the elni fora initiative is to bring together, on a convivial basis and in a seminar-sized group, environmental lawyers living or working in

the Brussels area, who are interested in sharing and discussing views on specific topics related to environmental law and policies.

### Publications series

- Access to justice in Environmental Matters and the Role of NGOs, de Sadeleer/Roller/Dross, Europa Law Publishing, 2005.
- Environmental Law Principles in Practice, Sheridan/Lavrysen (eds.), Bruylant, 2002.
- Voluntary Agreements – The Role of Environmental Agreements, elni (ed.), Cameron May Ltd., London, 1998.
- Environmental Impact Assessment – European and Comparative; Law and Practical Experience, elni (ed.), Cameron May Ltd., London, 1997.
- Environmental Rights: Law, Litigation and Access to Justice, Deimann/Dyssli (eds.), Cameron May Ltd., London, 1995.
- Environmental Control of Products and Substances: Legal Concepts in Europe and the United States, Gebers/Jendroska (eds.), Peter Lang, 1994.
- Dynamic International Regimes: Institutions of International Environmental Governance, Thomas Gehring; Peter Lang, 1994.
- Environmentally Sound Waste Management? Current Legal Situation and Practical Experience in Europe, Sander/Küppers (eds.), P. Lang, 1993.
- Licensing Procedures for Industrial Plants and the Influence of EC Directives, Gebers/Robensin (eds.), P. Lang, 1993.
- Civil Liability for Waste, v. Wilimowsky/Roller, P. Lang, 1992.
- Participation and Litigation Rights of Environmental Associations in Europe, Führ/Roller (eds.), P. Lang, 1991.

### Elni Website: elni.org

On the elni website [www.elni.org](http://www.elni.org) one finds news of the network and an index of articles. It also indicates elni activities and informs about new publications. Internship possibilities are also published online.