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elni REVIEW

CONTENTS

Editorial

Environmental issues are international issues. Many would agree with this statement when thinking of climate change, biodiversity loss and globalised markets. Environmental impacts in particular do not cease at country borders. For this reason the current issue of elni Review (2/2010) focuses on the environmental law of countries outside the EU – especially those considered to be developing or emerging countries. Questions of law arising in those legal spheres are likely to be different in nature, because developments in social and environmental law generally occur more slowly than developments in economic law do.

This issue of *elni Review* (2/2010) contains valuable insights on this subject, based on the following contributions:

First off, *Richard Gutierrez* tackles 'new age' trade agreements and their possible contribution to toxic trade in his article, examining the legal provisions under the Japanese economic partnership agreements that gave rise to the concerns over toxic waste trade and dumping. He also discusses the corresponding implications, particularly on the implementation of the Basel Convention on the Transboundary Movement of Hazardous Wastes and Their Disposal by the Southeast Asian countries.

In an article entitled 'WTO Compatibility of Border Tax Adjustments as a Means for Promoting Environmental Protection', *Rike U. Krämer* analyses the rationale behind Border Tax Adjustments, its contribution to a level-playing field, and its legality under WTO law.

'Intellectual Property Rights, Genetical Resources and Traditional Knowledge: An Approach from the Perspective of Megadiverse Countries' by *Aírton Guilherme Berger Filho* discusses biodiversity as well as biopiracy issues against the background of intellectual property rights and the rights of the native populations and the local communities regarding their territory, their cultural and environmental goods.

Jimena Murillo Chávarro and *Frank Maes* provide details on the Andean Community, its legal instruments and a corresponding decision in their article 'The Legal Nature of the Biodiversity Provisions adopted by the Andean Community'.

In 'Convergence with the Water Framework Directive in the Context of the European Neighbourhood Policy', *Claire Dupont* and *Gretta Goldenman* look at the differences between approximation and convergence processes in the light of EU water legislation, drawing on interesting practical experiences gathered in Moldova and Georgia.

Alongside articles covering environmental law issues of developing and emerging countries, this issue of *elni Review* also deals with three additional issues:

From a broader perspective *Stefan Scheuer* provides a critical analysis of the repercussions of the EU Water Framework Directive in 'The Phase-Out of Hazardous Substances in Troubled Waters'.

Furthermore, *Hanna D. Tolsma* looks at the legal instrument of integrated environmental permitting, discussing in the process the integrated approach under the IPPC Directive and recent developments on integrated permitting in the Netherlands.

Finally, we cover recent developments in the law on island protection in China and provide a brief summary of the ELNI-VMR-VVOR congress 2010. The latter addressed the environmental effects of industrial installations the European Directive on Industrial Emissions (IED/current IPPC Directive) and took place in Ghent on 17 September 2010.

Contributions for the next issue of the elni Review are very welcome. Please send contributions to the editors by mid-February 2011.

Nicola Below/Martin Führ

October 2010

European Environmental Law Forum Kick-off Symposium:

19th and 20th May 2011
in Leipzig, Germany

"Key Challenges and Developments of European Environmental Law"

The German Helmholtz Centre for Environmental Research (UFZ) is organising a European expert symposium to promote exchange in the field of European environmental jurisprudence.

The symposium is divided into two parts. In the first part the key challenges and developments of environmental law will be discussed. There will be presentations on central topics of European environmental law, followed by open debate. In the second part, the situation with regard to the exchange of ideas and information on environmental law amongst experts of this field will be addressed with a view to establishing a European Environmental Law Forum. This forum is to be a common open network and shall encompass regular European conferences.

Please note that this symposium is only open to invited experts.

For more information on the Helmholtz Centre for Environmental Research (UFZ), please visit http://www.ufz.de/

Intellectual Property Rights, Genetical Resources and Traditional Knowledge: An Approach from the Perspective of Megadiverse Countries

Aírton Guilherme Berger Filho

1 Introduction

In recent years, the press has reported on diverse cases of research, appropriation and commercialisation by multinational companies of medicines, agricultural seeds and other by-products of biodiversity, without respect for the rights of the native populations and the local communities regarding their territory, their cultural and environmental goods. This practice, known as biopiracy, seeks to obtain the rights of intellectual property, mainly so as to acquire the patent of products and processes derived from research and innovations on the uses of biological diversity which is often guided by study of traditional knowledge..

From the "ethnobioprospecting" concept used to explore biological information based on traditional knowledge, scientists have facilitated the discovery of new active principles and new species in megadiverse regions, reducing the time and the costs of obtaining new substances and products[1].

There are high expectations about the uses that could be made of the exploitation of genetic diversity, bearing in mind that most biodiversity is barely studied or known. According to Arnt[2]*, only 5 percent of the world flora has been studied up to now, and only 1 percent is used as commodity. Due to the millions of existing species, it is practically impossible to be exact about figures, but there is still much to be discovered, which is interpreted as a future potential for science and for the international market.*[3] *As a result there have been intense debates in law and in international relations about the access and intellectual appropriation of biodiversity, and the related traditional knowledge. It is considered a matter of a geopolitical onslaught*[4] *among, on the one hand, the developed countries, rich in science and technology, with a financial, though poor, abundance of resources in genetic and cultural diversity, and, on the other hand, the developing countries, with scarce technological, scientific, and financial resources, but with the vast majority of the genetic resources and its associated traditional knowledge.*

2 Convention on biological diversity

At present, the diplomacy of the countries known as megadiverse, jointly with the Environmentalists Non-governmental Organizations and representatives from the Local Communities and Native Populations, head the efforts to form a system of international norms that enable the countries to participate in the adoption of concrete measures for conservation and sustainable utilisation of biodiversity (genetic resources, species and ecosystems), and the preservation, and respect for the environmental and cultural patrimony of the indigenous peoples.

The first step had already been taken in 1993, when the Convention on Biological Diversity (CBD) went into force. The Convention was open for signature at the Earth Summit of 1992 which was held in Rio de Janeiro. It is an international treaty that embeds the conservation of biodiversity in the context of economic and social questions, beyond the purely environmental ones. Upon ratification, 187 national governments committed themselves to establishing national policies and cooperating in the national and international implementation of measures for the purpose of reaching the explicit objectives laid down in Art. 1: "*The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.*"[5]

The CBD recognises rights and obligations that interconnect states: the affirmation of the sovereignty of the countries over their biological resources and the recognition of the fundamental role of the native and local communities in the conservation and sustainable use of biodiversity. By textually supporting the sover-

1 According to Shiva: "Of the 120 compounds currently isolated from the higher plants and widely user in modern medicine, 75 percent have uses that were identified by traditional systems. Fewer than a doze are synthesized by simple chemical modification; the rest are extracted directly of plants and the purified. The use of traditional knowledge reportedly increases the efficiency of pinpointing plants' medicinal uses by more than 400 percent." Shiva, Vandana. Biopiracy: The Plunder of Nature and Knowledge. Cambridge, Massachusetts: South End Press. 1996. p. 74.

2 ARNT, Ricardo. Tesouro verde, In: Exame, ano 35, nº 9, 2/5/2001, pp. 52-64.

3 ARNT, Ricardo. Tesouro Verde. In: Revista Exame, ano 35, nº 9. 2001 p. 54.

4 ALBAGLI, Sarita. Geopolítica da Biodiversidade. Brasília: IBAMA. 1998.

5 For more information, see LÉVÊQUE, Christian. La biodiversité. Paris: Presses Universitaires de France. 1997. REAKA-KUDLA, Marjorie L.; WILSON, Don E.; WILSON, Edward O. Biodiversity II: understanding and protecting our biological resources. Washington: Joseph Henry Press, 1997. GROSS, Tony, JONSTON, BARBER, Charles Victor. The Convention on Biological Diversity: Understanding and Influencing the Process. United Nations University Institute of Advanced Studies, The Equator Initiative. 2006.

eignty of the countries on their natural resources, even the biological ones, the CBD recognises the sovereign right of the states to exploit their own resources according to their environmental policies, but also imposes the responsibility to preserve them. Thus the authority to determine the access to genetic resources belongs to national governments and depends on the national legislation (Art. 15. 1). In this sense, the CBD indicates a number of elements which should be considered by Member States in their regulations of access to genetic resources. This extends to the access to the associated traditional knowledge, emphasising[6]: a) the need of 'prior informed consent' of the community, holder of the traditional knowledge or of the territory in which the genetic resource is found, as an indispensable measure for the authorisation by national authorities; b) the importance of signing contracts that get the parts involved together in the access to genetic resources; c) the imposition of norms related to the just and fair distribution of the results of research and of the development of genetic resources and of other benefits derived from their commercial usage. As for the rights of the peoples, Art. 8 lit. j[7] – which deals with the conservation 'in situ' – makes reference to the need for each state member of the Convention to be, as far as possible, in conformity with its national legislation: a) to respect, to preserve and to maintain knowledge, innovations and practices of the local communities and native populations with traditional ways of life relevant to the conservation and to the sustainable utilisation of the biological diversity; b) to encourage its more extensive application with the approval and the participation of the bearers of that knowledge, innovations and practical know-how; and c) to encourage the fair distribution of benefits coming from the usage of that knowledge, innovations and practices.

Among the most noticeable efforts of the megadiverse countries presented at the 8th Conference of the Members of the Convention on Biological Diversity (COP-8) which took place in 2006 in Curitiba, Brazil, is the proposal to introduce an international regulation which imposes rules on the access and distribution of benefits and takes into consideration the rights of the local communities and native populations on their knowledge and the genetic resources of their territories. This discussion places, on the one side, the representatives of the megadiverse countries, willing to accelerate the process of creation of regulations of access and distribution of benefits, from a binding protocol that determines obligations to the CBD signatory countries, and also, applicable sanctions to the non-fulfillment of it. On the other side, there are the delegations of the developed countries, the United States of America, the European Union (except Spain), Japan, Canada, Australia and New Zealand, who are willing to postpone a decision in this context. As no consensus could be established, the decision was deferred to COP-10, the Conference of the Parties to the Convention on Biological Diversity Nagoya, Aichi Prefecture, Japan, 18 – 29 October 2010. However, even if it is approved at that Conference, it still remains uncertain whether it will be so carried out by the signatory countries. This is because many of the decisions of the CBD have found little effectiveness, somewhat in contrast to the multilateral treaties and bilateral agreements on commerce which address questions such as new agricultural technologies and rights of intellectual property.

3 CBD X TRIPS: Main Contradictions

Besides the debates in the CBD, a large share of the disagreement about the uses of biodiversity and associated traditional knowledge involves the rights of intellectual property. At present, the debates concentrate on the contradictions between the terms of the TRIPS[8], the main agreement of the WTO related to intellectual property and the objectives and principles established in the CBD. In such cases, the decisions adopted in the World Trade Organization (WTO) are

6 "Art. 15. Access to Genetic Resources".
1. Recognizing the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.
2. Each Contracting Party shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and not to impose restrictions that run counter to the objectives of this Convention.
3. For the purpose of this Convention, the genetic resources being provided by a Contracting Party, as referred to in this Article and Articles 16 and 19, are only those that are provided by Contracting Parties that are countries of origin of such resources or by the Parties that have acquired the genetic resources in accordance with this Convention.
4. Access, where granted, shall be on mutually agreed terms and subject to the provisions of this Article. 5. Access to genetic resources shall be subject to prior informed consent of the Contracting Party providing such resources, unless otherwise determined by that Party.
6. Each Contracting Party shall endeavour to develop and carry out scientific research based on genetic resources provided by other Contracting Parties with the full participation of, and where possible in, such Contracting Parties.
7. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, and in accordance with Articles 16 and 19 and, where necessary, through the financial mechanism established by Articles 20 and 21 with the aim of sharing in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms."

7 "Art. 8. In-situ Conservation [...] Each Contracting Party shall, as far as possible and as appropriate: Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;"

8 The TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights) has played a central role in the resolution of conflicts and in the discussions referring to the unification of regional and national laws that deals with commerce-based intellectual rights.

regarded as prevailing over the decisions adopted at the Conferences of the Members of the CBD. Moreover, the World Intellectual Property Organization (WIPO), United Nations Food and Agricultural Organization (FAO), and the International Union for the Protection of New Varieties of Plants (UPOV) are important forums of multilateral discussion in the questions involving the immaterial appropriation of the genetic resources.

The greater objections to the TRIPS in terms of genetic diversity and associated traditional knowledge, refer to Art. 27 (3) lit. b[9], which address patents for biological resources. The article defines the types of intervention which governments should consider in need of protection by patents (e.g. products and procedures and, with some exceptions, all the fields of technology) and those which are not. Art. 27 (3) lit. b permits governments to exclude from patentability some types of invention, such as plants, animals and procedures which are essentially biological. Nevertheless, it imposes microorganisms, non-biological procedures and microbiological ones should be object of patents, in the national laws. Vegetable by-products should be subject to patents or another 'sui generis' system, or both.

For many, the article cited above – even containing some exclusions of patentability – is not clear enough about the prohibitions and possibilities of immaterial appropriation of living beings, since non-biological procedures include transgenic ones. Art. 27 (3) lit. b of TRIPS makes the patenting of processes for obtaining genetically modified animals and vegetables possible. It is not clear which and how the 'sui generis' system of intellectual property on vegetables should be. Some understand that it would be simply applicable to the system of harvests of the treaties UPOV of 1978 and 1991. Others defend the possibility of developing national differentiated systems, including new forms of protection over traditional knowledge associated to biodiversity.

The norms on intellectual property rights, established by the TRIPS, omit the protection of traditional knowledge and the respect for the sovereignty on the genetic resources. The TRIPS enables the immaterial appropriation of products and processes derived from the uses of genetic resources and associated traditional knowledge, without requiring the verification of its origin, without determining the consent and the participation in the results of the local and native populations, directly or indirectly involved in the gathering of new technologies. In this way, biopiracy is stimulated because there is no forceful restriction against its practice within the international legal plan.

4 The proposal of megadiverse countries

Trying to change this reality, the group of megadiverse countries, headed by Brazil and India and other developing countries, a proposal has been made that the TRIPS Agreement should be amended in order to oblige Members to require that an applicant for a patent relating to biological materials or to traditional knowledge provide the following information, as a condition of acquiring patent rights:

(i) the source and country of origin of the biological resource and of traditional knowledge used in the invention;

(ii) evidence of prior consent from the authorities under the corresponding national regime; and

(iii) evidence of fair and equitable benefit-sharing under the relevant national regime.[10]

According to those in favour of such proposals, they would engender a number of benefits in the application of the CBD objectives. The incorporation of those obligations in the TRIPS would make compulsory the internalisation of the requirements of access, consent and distribution of benefits in national laws of intellectual property of the member countries of the WTO.

Once these modifications are approved, the countries that remain with their internal legislations in disagreement with the new rules of the WTO will be subject to imposed sanctions by the Dispute Settlement Body. Another important argument from the practical point of view is that through the revision of Art. 27(3) lit. b there were more efficient mechanisms to impede biopiracy, before the registration of patent is granted, avoiding the need of the promotion of

9 "Art. 27 Patentable Subject Matter
1. Subject to the provisions of paragraphs 2 and 3, patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application. (5) Subject to paragraph 4 of Article 65, paragraph 8 of Article 70 and paragraph 3 of this Article, patents shall be available and patent rights enjoyable without discrimination as to the place of invention, the field of technology and whether products are imported or locally produced.
2. Members may exclude from patentability inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect "ordre public" or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by their law.
3. Members may also exclude from patentability:
(a) diagnostic, therapeutic and surgical methods for the treatment of humans or animals;
(b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, Members shall provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof. The provisions of this subparagraph shall be reviewed four years after the date of entry into force of the WTO Agreement."

10 WORLD TRADE ORGANISATIONS (WTO), The Relationship Between the TRIPS Agreement and the Convention on Biological Diversity: Summary of Issues Raised and Points Made IP/C/W/368/Rev.1, 8 February 2006, Available: <www.wto.org/english/tratop_e/TRIPS_e/ipcw368r1c1.doc> Accessed 10 December 2008. p. 28.

costly and often delayed judicial processes for the repeal of patents. It is worth noting that the local communities and native populations, the vast majority of them expropriated by biopiracy, do not have the necessary resources to fight against each patent that violates their rights in other countries.

5 Critics on the position of the USA

Adopting an oppositional position by remaining in favour of maintaining the present system of intellectual property and resisting any modification that diminishes the rights of large transnational enterprises, many developed countries are opposed to the modifications in the TRIPS proposed by megadiverse countries. Among the most radical, the USA, has not confirmed the Convention on Biological Diversity to date and has not recognised the sovereign rights of the countries in terms of their genetic resources. The US government is opposed to any initiative that seeks to link the concession of patents to requirements of consent from the local and native communities, distribution of benefits and disclosure of the origin of the biological resources.

The USA supports its opposition to the modifications of Art. 27 (3) lit. b of the TRIPS, arguing that it would be easier to reach the objectives of the CBD by means of national laws and contractual dispositions based on the legislation, which could include commitments on the disclosure of any commercial application of the genetic resources and associated traditional knowledge. The US position raises a number of questions: a) Would such a proposal would legitimise biopiracy, disguised as extensively favorable contracts to the companies? b) Would the rights of the communities be protected only by contracts between totally uneven parties in economic, political, legal terms and in their technical training as are native communities and large corporations of research and pharmaceutical product development? c) Would the governments and local organs be prepared to impose fair terms in the contracts facing companies with greater annual turnover than their gross domestic product (GDP)? d) What are the legal limits of the intentions of multinationals? Is it reasonable to think that the laws of developing countries may impose appropriate practices to multinationals? Generally, the laws of the countries in Development have limited effectiveness and their government agencies do not have the technical capacity and necessary infrastructure, as well as possibilities for enterprises to corrupt public officials.

Decades ago, the diplomacy of the USA imposed massive adherence of countries to TRIPS through economic and political pressure. For US companies it is important to maintain an international system of intellectual property, with extensive possibilities of patenting of the biotechnology, though badly adapted for the protection of traditional knowledge.

In the system adopted by the majority of countries under pressure from the US, the native knowledge of substances, remedies, food, seeds, or forms of cultivation will only be valid if they are registered as industrial property, e.g. through patents. As a result, such knowledge or techniques would need to fill the requirements of novelty, inventive activity, industrial application, and descriptive sufficiency incompatible with their characteristics. Most of the time, traditional knowledge is diffused among diverse groups of society; in the public domain (knowledge extensively diffused) and found 'in the state of the technique'; therefore the forms of application of that knowledge would not be recognized as new. The ways of creating and transforming nature by the native and local communities are developed collectively and informally. They differ extensively from the criteria adopted in science and modern technology. In the vast majority of cases, traditional knowledge has not been described on paper, but has passed orally from generation to generation; as a result, it cannot satisfy the demands relating to inventive activity and descriptive sufficiency. In the life of the local and native communities the technologies for utilising nature do not have what is called 'industrial application' required by the patents – such knowledge is for craft application, which is very different to industrial production in scale.

Among other inadequacies of the patents as a way of enabling protection of the rights of the peoples in terms of their traditional knowledge are: a) the high costs and the demand of technical training for registration of the industrial property, inaccessible for a great number of natives and local populations; b) the fact that such rights do not take into consideration consuetudinary laws already existing in relation to the rights of collective property of the native peoples; c) the reduced time of protection. The rights granted to the holders of a patent grant a determined time limit of monopoly during which the intellectual property can be economically exploited; at the end of that time limit the rights of their holder cease and return to the public domain. This means that the traditional persons who opt to register their industrial property have the 'protection' of their knowledge for a short period of time, which affects the rights of the future populations to obtain benefits.

Acquiring patents on products and derived processes of traditional knowledge makes negotiable an immaterial cultural patrimony, fruit of the adaptation to the environment, of the formation of values, beliefs and practices developed along many generations. As a simpler way of obtaining new products to exploit in the market, the associated traditional knowledge should be understood as a non-available good, linked to the rights of collective identity and of self-determination of the peoples; therefore they should not be appropriated by private property.

Still, by the present system of international intellectual property, the local communities and natives have not assured their right to impede the undue use of their cultural and genetic patrimony. Except for the existence of some national legislation on access to the genetic resources and associated traditional knowledge, in most countries there is no obstacle to the undue appropriation of the tradition that can be appropriated by the first that reveals their 'mysteries', that knows how to translate them into modern inventions and patents them.

For example, the genetic resources and associated traditional knowledge accessed in Brazil will only be patented in the country if the requirements established by the Measure Provisional n.º.186-16, of 2001 continue. Nevertheless, the same products and processes can be freely patented in the USA, Japan or any other country that does not require the concession of patents, the requirements of access, consent and benefit-sharing.

6 Conclusions

Almost two decades after the Convention on Biological Diversity was opened for signature, few advances have been made in creating a global strategy of conservation and benefit-sharing of the sustainable use of the biodiversity are observed. Less has been done for the protection of the sovereignty of the countries on its biological resources and the creation of norms that guarantee the rights of the native populations and local communities. Moreover, many years have passed since the TRIPS went into force without the necessary modification in its Art. 27 (3) lit. b; this was requested by the megadiverse countries as a way of harmonising it with the Convention on Biological Diversity and was opposed by developed countries, especially the USA. Looking at the present international legal system, it could indeed be argued that the rights of industrial property are better protected than the rights relating to the conservation of biological diversity and the protection of traditional knowledge. This produces an unfavorable situation in terms of the intentions of the CBD, especially with regard to: a) the legal protection and appreciation of the access to genetic resources as a way of generating resources for preserving biodiversity and encouraging the sustainable use and the benefit-sharing derived from new technologies; and b) the cultural protection of native populations and local communities, who are recognised as important actors in the formation of global and local alternative localities of social, ecological, and economic sustainability.

Imprint

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We invite authors to submit manuscripts to the Editors as files by email using an IBM-compatible word processing system.

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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.

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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:
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  - Know-how-transfer
- **Companies and environment**
  - Environmental management
  - Risk management

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sofia

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 conversation
- Water and energy management
- Electronic public participation
- Economic opportunities deriving from environmental legislation
- Self responsibility

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- 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 Na-ture Conservation (BfN)
- Federal Ministry of Consumer Protection, Food and Agriculture

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Institut für angewandte Ökologie
Institute for Applied Ecology

I·E·S·A·R
Institute for Environmental Studies and Applied Research
FH Bingen

sofia

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, focussing 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 researches, 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 Industria Plants and the Influence of EC Directives, Gebers/Robensin (eds.), P. Lang, 1993.
- Civil Liability for Waste, v. Wilmowsky/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 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.

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