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REVIEW

Land degradation neutrality under the SDGs: National and international implementation of the land degradation neutral world target

Elizabeth Dooley, Ennid Roberts and Stephanie Wunder

Perspectives and actions to improve water quality in European Union Member States

Giuseppe Sgorbati and Nicoletta Dotti

Enforcement of the EU ETS in the Member States

Jonathan Verschuuren and Floor Fleurke

Access to the transposition of EU environmental law by Member States: Only if no infringement proceedings initiated

Anaïs Berthier

Recent Developments

Investor-to-state dispute settlement mechanisms: Five new questions and one old problem

Innovations for sustainability: The perception of chances and risks (Conference report)

Governing environmental impact assessment in Turkey

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Editorial

On 25 September 2015, in New York, 193 Heads of State and Government adopted a resolution entitled ‘Transforming our world: the 2030 Agenda for Sustainable Development’ in the United Nations General Assembly. This Resolution defines 17 Sustainable Development Goals as well as 169 targets and can be considered the final integration of ecological, economic and social Sustainable Development objectives, supported by a separately established financing framework, the Addis Ababa Action Agenda, as well as a transparent and inclusive reporting system to observe progress as to the achievement of its goals and targets.

elni Review puts the spotlight on the current state of play as regards legal arrangements and implementation in respect to some of the Resolution’s major objectives. Among these is the target to, “by 2030, combat desertification, restore degraded land and soil, including land affected by desertification, drought and floods, and strive to achieve a land degradation-neutral world”. Measured by this benchmark, and having in mind that 2015 was the “International Year of Soils”, researchers from the *Ecologic Institut* (Berlin) analyse the national and international implementation of the “land degradation neutral world” target.

The impact of water quality, as well as quantity of quality water, on Sustainability Development is inter

alia reflected in Goals 6 and 14 of the Agenda 2030. In addition, according to certain EU Water Framework Directive objectives, European waters have to achieve “good ecological and chemical status” by 2015. Against this background, experts from the *EU Network for Implementation and Enforcement of Environmental Law (IMPEL)* assess perspectives and actions to improve water quality in Europe.

Another sustainable development hotspot is the climate, which is addressed inter alia in the Resolution’s 13th Goal. Amongst the most prominent instruments to combat climate change are emissions trading systems (ETS). *Jonathan Verschuuren* and *Floor Fleurke* examine the enforcement of the EU ETS in the Member States.

Furthermore, *Anaïs Berthier* questions access to the transposition of EU environmental law by Member States by analysing a ruling of the EU General Court in case C-612/13P (*ClientEarth v Commission*).

This issue’s *Recent developments* section provides an update on the TTIP-related ISDS discussions, a conference report on how the perception of chances and risks affect innovations for sustainability as well as a statement on environmental impact assessment law in Turkey.

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Perspectives and actions to improve water quality in European Union Member States

Giuseppe Sgorbati and Nicoletta Dotti

1 Introduction

Although the European rules on water, which are mainly based on the Water Framework Directive (WFD 2000/60/EC), have been in force for many years, the quality of waters in Europe still have huge room for improvement before they can fulfil the objectives set by the WFD and by its 'daughters Directive'. Two questions are key here: Are the European rules adequate for this challenging goal? If yes, are the rules applied homogeneously and correctly in European Union Countries or do many issues remain which prevent their full implementation?

The EU institutions, beginning with the Commission, are continuously monitoring the degree of implementation of EU Directives, as action provided for by the Directives themselves, and they continuously evaluate the possibility and opportunity of improvement of these rules, often coming up with amendments to increase their effectiveness.

From a different perspective, European Countries have not been able to accomplish full implementation of EU rules, with the degree of implementation varying from country to country. There are many reasons for this lack of full implementation, including: passive behavior in the transposition of Directives into national laws, scarcity of resources, absence of adequate information on environment conditions, and the insufficiency of technical support at environmental institutions level. Furthermore, inadequate sanctions are considered among the most important causes for the failure to fully implement EU rules in the environmental field, as shown by a focal study developed by IMPEL (European Union Network for Implementation and Enforcement of Environmental Law¹) to understand the extent and the reasons for this 'implementation gap'².

The following will provide a broad overview of water issues in Europe, focusing on the level of fulfillment of requisites from EU legislation and the level of its implementation in Member States. This point of view has been adopted because an uneven implementation of EU laws prevents several European citizens from fulfillment of their right to a healthy environment and a good water resource quality and, furthermore, endangers the level playing field across Europe, from a social and economic point of view.

2 A general overview of water condition in Europe and the state of European policy on tackling water pollution implementation

At the heart of EU water policy is the Directive 2000/60/EC Water Framework Directive (WFD)³, which aimed to achieve a good status for all European waters by 2015.

WFD and 'daughter directives' identify quality standards, firstly as a basis to define, under a shared vision, the conditions of European water environment and, subsequently, objectives to be fulfilled in a reasonable time frame.

The brief description of the state of water bodies that follows is based on these standards and definitions, and uses the reporting of the state of the environment required by the WFD itself, and the documents from European Environmental Agency (EEA), in particular the most recent State of Environment Report (SOER) 2015⁴.

Looking at the state and evolution, in recent years, of the ecological status of European surface water bodies, the big picture that is emerging is not satisfactory. From 2009 to today, the percentage of surface water bodies that have a good or high ecological status has increased only by 10% each year. By the end of 2015 - the year set by the Water Framework Directive for reaching at least a good ecological status for all surface water bodies - the result will probably not exceed 53%. The situation is not an even one: areas with high densities of population and/or heavy agriculture activities, in particular in central and north-western Europe, are concerning. River and transitional waters are, in general, worse than lakes and coastal waters.

Diffuse pollution significantly affects 90% of river basin districts, 50% of surface water bodies and 33% of groundwater bodies across Europe. Agriculture is an important source of diffuse pollution of surface waters: nutrient enrichment of water bodies due to fertilizer run off and pesticides - both in surface and underground water bodies - are the two main undesired consequences of agricultural practices. Households also significantly contribute to diffuse pollution: the heavy infrastructural investments needed in sewage systems and treatment facilities, necessary to control this phenomenon, are a strong limiting factor for the decrease of the pollution from this source.

1 See <http://www.impel.eu>.

2 See also <http://impel.eu/news/impel-study-confirms-that-significant-challenges-remain-in-implementing-eu-environmental-law/>.

3 See http://ec.europa.eu/environment/water/water-framework/index_en.html.

4 See <http://www.eea.europa.eu/soer>.

Large differences can be found between the group of EU 15 countries (which are generally more compliant) and the group of EU 13 countries (which have made less progress in the implementation of Directives in spite of great efforts and investments).

From the point of view of chemical status, the situation is apparently better compared to that of ecological status: from the available information, poor chemical status affects about 10% of lakes and rivers in the EU, due to the general presence of heavy metals and, mainly in rivers, of Polycyclic Aromatic Hydrocarbons. Poor chemical status is also present in 25% of ground water, mostly because of the presence of nitrate. But it should be considered that the chemical status of water bodies is known only for 60% of the cases; the absence of information for the remaining 40% is worrisome.

Not only qualitative, but also quantitative problems affect water resources in Europe, not only as a result of climate changes also evident in Europe. Over-exploitation of water resources occurs when abstraction exceeds the renewal capacity of the water body, underground or surface. It is estimated that over-abstraction take place in 20% of aquifers and 10% of surface bodies. Poor planning and illegal abstraction are the main causes of these situations. The problem is particularly common in the southern part of Europe, also because of water scarcity problems, but also zones considered rich in waters are not free from the problem.

Hydromorphological pressures (i.e. the modification of water bodies due to human interventions that modify the natural flows of the water to obtain advantages as hydropower, navigation improvement works, irrigation channels, etc.) are possibly related to poor water quality, the worsening of biodiversity, all the problems related with water availability degradation, and land function modification.

The WFD has - as the main instrument to overcome these problems - River Basin Management Plans (RBMPs) that must provide for environmental objectives for all water bodies in each river basin in Europe, and Programme of Measures (POMs) aimed at these objectives.

To date, Member States have adopted and reported their RBMPs (Greece and Spain have still not adopted some of the required RBMPs).

The EC assesses the existing policy and publishes its findings in the context of the Blueprint to Safeguard Europe's Water Resources⁵. The Blueprint highlights the experience gained to date and uses it to promote actions for the better implementation of the legislation on water and for integration of its policies in the context of other policies, as fundamental to the success of the sectoral legislation. Particular attention is paid to

the issues of the size of reserves of water and efficiency of its use.

The Fourth Implementation Report – assessment of the Water Framework Directive Programmes of Measures (POMs) and the Flood Directive⁶ - was published in March 2015. The report is based on the contents and assessments of the reports on the implementation of the Programme of Measures (POMs) in their River Basin Management Plans submitted by Member States and it also provides for suggestions for the improvement of future RBMPs and POMs, due by 22/12/2015 at the latest. The report also includes a section on the assessment of the implementation of the Floods Directive (FD) because of strict relationships between the Directives and the resulting opportunity to identify and build on existing synergies.

The Fourth Implementation Report consists of a Commission Communication⁷ and an European Overview, two Commission Staff Working Documents on the WFD Programme of Measures and on the Floods Directive, an Assessment of the River Basin Management Plans for five countries, and Member State specific in-depth assessments on the WFD Programme of Measures in the form of consultant reports.⁸

The Report point out actions made and criticalities still present, from the point of view of water pollution in agriculture, industry and households areas: the above-mentioned information on the quality of waters in Europe derives largely from this document. Also water over-abstraction problems are handled in the Fourth WFD implementation report.

As the instrument aimed at protection of water bodies from nitrates, the Nitrate Directive (Directive concerning the protection of waters against pollution caused by nitrates from agricultural sources 91 / 676 /EEC), which today has to be considered as an integral part of the WFD, addresses an important part of diffuse pollution problems. It is based on important actions, to be adopted by Member States, such as the identification of water polluted zones or at risk of pollution, on the base of specific standards, the designation of Nitrate Vulnerable Zones (NVZs), the establishment of Codes of Good Agricultural Practice to be implemented by farmers on a voluntary basis, the establishment of action programmes to be implemented by farmers within NVZs on a compulsory basis and the national monitoring and reporting⁹.

Despite a slight improvement of nitrate pollution stemming from agriculture, 63% of rivers basins show

5 See http://ec.europa.eu/environment/water/blueprint/index_en.htm.

6 See http://ec.europa.eu/environment/water/water-framework/impl_reports.htm#fourth.

7 The Water Framework Directive (WFD) and the Floods Directive (FD): Actions towards the 'good status' of EU water and to reduce flood risks.

8 The related documents can be found *ibid*.

9 The periodic report from the Commission on the implementation of Nitrate Directive, due every four year, based on Member State reports for the period 2008–2011 and last published in 2013, can be found at: <http://ec.europa.eu/environment/water/water-nitrates/reports.html>.

that implementation of Nitrate Directive is insufficient to tackle this type of diffuse pollution. Further measures, necessary to obtain the goals of WFD, have to be added.

Also synergies with other relevant EU instruments, as the Common Agricultural Policy (CAP),¹⁰ must be further developed, particularly in terms of support for environmental sustainability implementation and the enforcement of rules.

Alongside general objectives and actions defined by the WFD, 'daughter Directives' were adopted at European level which tackle definite pressures or potential or actual risks, also taking into account specific aquatic environments.

The Directive 2006/118/EC on the protection of groundwater against pollution and deterioration (GWD) was adopted in accordance with Article 17 of the WFD. It has been transposed by Member States into national legislation, although with some non-conformity problems.

The GWD provides that groundwater quality standards were to be established by the end of 2008; it also provides that pollution trend studies to be carried out using data already collected and data mandatory from the WFD. The directive also requires the adoption of measures to control the introduction of pollutants in ground water. Also the compliance with good chemical status criteria, based on EU standards of nitrates and pesticides and on threshold values established by Member States, was required. Other requirements are also set.¹¹

Annex II of GWD is under revision: in the working proposal now under the scrutiny of European Institutions, Member States have to provide clear information about the pollutants and their indicators for which limits were defined. Also additional pollutants should be considered by Member States for fixing specific limits.

The Directive 2008/105/EC on environmental quality standards in the field of water policy¹² adopted in accordance with Article 16 of the WFD - also known as Priority Substances Directive - was also analysed in terms of its implementation in EU Countries, which showed diffuse non-conformity problems.

In amendment of Directives 2000/60/EC and 2008/105/EC, with regard to priority substances in the field of water policy, the new Directive 2013/39/EU¹³ was issued, with a transposition deadline of 14 September 2015. In the framework of this new directive,

the EC has to set up a first list of substances for Watch List monitoring.

In the first decade of this century, consciousness of the importance of managing of floods became widespread: there have been hundreds of floods causing major damage in Europe, including catastrophic ones, with more than a thousand deaths, and damage amounting to a tenth of a billion Euro, which convinced the EU to adopt the Directive 2007/60/EC on the assessment and management of flood risks, which has since been transposed in all Member States; the implementation of directive has been checked for conformity for all the EU countries.

In the framework of this directive, 23 Member States have set up and notified the Commission of their reports on Flood Risk and Hazard Maps by August 2014. In the future (by March 2016), Member States also have to report to the European Commission their Flood Risk Management Plans¹⁴.

With regard to bathing water quality covered by Directive 2006/7/EC concerning the management of bathing water quality (BWD) (repealing Directive 76/160/EEC)¹⁵, the situation in 2014 and the trend in recent years has been encouraging, as shown in the annual Bathing Water Report¹⁶. As relevant novelty, starting from the 2014, the bathing water report published in May 2015 (see above) also contains information on the compliance of Member States in order to address some legal requirements of the BWD.

In 2014, in the EU, 95.1% of all bathing waters and 96.8% of coastal bathing waters in the EU met the minimum water quality standards set by the Bathing Water Directive; there is a steady tendency toward improving of these indicators. Bathing waters are also rated as excellent (85.5% for coastal and 78.2% for inland bathing waters) have a positive trend.

The new Directive 2006/7/EC had to be implemented in 2014, ending the transition with the former Bathing Water Directive 76/160/EEC. The first classification according to the requirements of new BWD is to be provided by the end of the 2015 bathing season (report to be published in 2016). Measures aimed at achieving at least sufficient bathing water quality also have to be undertaken by Member States.

Considering wide implications with health and commercial issues, in all European Countries are information is available in all European countries on national or local websites, often interactively¹⁷.

The BWD, in accordance with its Article 14, must be reviewed in 2020 at the latest, also taking into account

10 See http://ec.europa.eu/agriculture/cap-overview/2014_en.pdf.

11 See <http://ec.europa.eu/environment/water/water-framework/groundwater/framework.htm>.

12 See http://ec.europa.eu/environment/water/water-dangersub/pri_substances.htm.

13 See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:226:0001:0017:EN:PDF>.

14 See http://ec.europa.eu/environment/water/flood_risk/.

15 See http://ec.europa.eu/environment/water/water-bathing/index_en.html.

16 See <http://www.eea.europa.eu/publications/european-bathing-water-quality-in-2014>.

17 See <http://www.eea.europa.eu/themes/water/interactive/bathing/state-of-bathing-waters>.

relevant recommendations by the WHO (World Health Organization).

An important pressure factor for water quality is the appropriate treatment of urban wastewater: Directive 91/271/EEC aims to fulfil this objective¹⁸.

The implementation of this Directive has differentiated deadlines for different Member States: while requirements about collection and treatment of waste waters have to be fulfilled by the EU-15 Member States at present, for the EU-13 Member States implementation must be achieved no later than 2015, with some further exceptions for small areas in Romania (2018) and for Croatia (2024).

With regard to main areas of the Directive, the data in the 2013 Commission Implementation report¹⁹, states that the average collection rate of pollution load was about 100% for EU15 countries and about 72% for other EU countries, with an unsatisfactory compliance rate lower than 30% for five Member States. Also for secondary treatments there are large differences among EU countries.

The average European compliance rate is 82% overall, with very different compliance rates for EU 15 and EU (90 – 100%) and EU 12 (39%).

Again, also in sensitive areas where more stringent treatment is required, large differences in compliance rates between EU 15 and EU 12 Countries are found. An average 77% compliance rate at EU 27 level derives from a very low 14% average from EU 12 MS whereas the rates for EU 15 countries are mostly above 80% and in several cases amount to 100%.

The situation is generally better in the case of the big cities (with a population above 150,000people): approx. 91% of the pollution load is subject to more stringent treatment, although the situation is non-homogeneous.

The drinking of water by EU citizens is protected by the Directive 98/83/EC on the quality of water intended for human consumption. At present, in general, Europe has high-quality drinking water, thanks to the joint efforts from EU institutions, Member States and service providers in implementation of this Directive²⁰.

In general, large water supplies are of good quality. However, small water supplies (e.g. local supplies in remote or isolated areas, and sometimes in rural area) need further improvement that could be achieved by implementing better management practices.

Emerging pollutants represent an issue to be considered both for large and small supplies, and this shall affect, in future, the planning of monitoring and the techniques to be used for analysing waters. It is likely that a specific approach for small supplies will be developed in future. A more efficient and effective enforcement activity should be deployed, in future, using a risk-based approach.

In order to evaluate the possible improvement of drinking water across Europe, the Commission is engaged in various initiatives.

As a reply to recent European Citizens' Initiative (ECI) Right2Water, the Commission performed an EU-wide public consultation on the Drinking Water Directive in 2014. The evaluation of the replies is still ongoing. The Commission undertook several actions with regard to the ECI Right2water²¹: in particular, a roadmap for the evaluation of the Drinking Water Directive has been published, also calling for comments and proposals²².

The activity is in support of the assessment of the need to improve EU drinking water policy and to find instruments to achieve this goal.

The WHO has also been involved in the initiative with regard to drinking water quality parameters. The Commission is expected to produce an assessment document as a basis for the revision of the Directive in the first half of 2016.

With the aim of improving the implementation of the WFD, helping the coordination with the implementation of other water-related directives, and promoting the integration of water policy with other environmental policies (e.g. nature and agriculture), a Common Implementation Strategy (CIS) has been in operation since 2001²³. Under this structure, composed by the European Commission and Water Directors of Member States and by other relevant stakeholders, workgroups take care of major implementation issues in the framework of the Water Blueprint vision²⁴ and produce relevant documents and positions aimed at filling implementation gaps and at making easy the solution, on a shared basis, of problems related to WFD. The CIS carries out its activities in multi-annual programs, the most recent of which encompass the period 2013–2015²⁵.

The marine environment is also considered in the environmental policy of the EU and the Directive

18 See http://ec.europa.eu/environment/water/water-urbanwaste/index_en.html.

19 Based on data from 2009/10, see http://ec.europa.eu/environment/water/water-urbanwaste/implementation/implementationreports_en.htm.

20 The latest Synthesis Report, edited by the Commission in 2014 issued on the basis of information from 2008 to 2010, is available at: http://ec.europa.eu/environment/water/water-drink/reporting_en.html.

21 See <http://ec.europa.eu/citizens-initiative/public/initiatives/finalised/answered?!g=en>.

22 See http://ec.europa.eu/smart-regulation/roadmaps/docs/2015_env_041_drinking_water_en.pdf; http://ec.europa.eu/dgs/secretariat-general/lookup_actions/citizens_initiative_en.htm.

23 See: http://ec.europa.eu/environment/water/water-framework/objectives/implementation_en.htm.

24 See http://ec.europa.eu/environment/water/blueprint/index_en.htm.

25 See: <http://ec.europa.eu/environment/water/water-framework/objectives/pdf/Work%20Programme%202013-2015.pdf>.

2008/56/EC Marine Strategy Framework Directive (MSFD)²⁶, which established a framework for community action in this field. It is important to remember problems related to marine environment when discussing inland water quality: among factors endangering marine quality there is also the pollution brought into seas by rivers in, for example, the case of nitrates.

The goal of the MSFD is the achievement of Good Environmental Status (GES) for the EU's marine waters by 2020.

MSFD also has a Common Implementation Strategy (CIS)²⁷ that, for the above reasons, works in strict partnership with the WFD CIS.

The information available at present²⁸ states that European seas do not have a “good environmental status” for several reasons.

Overfishing affects 39% of stocks in north-east Atlantic and 88% in the Mediterranean and Black Sea, with slow improvement of the situation. Also an overall presence of pollutants above the acceptance level is a reason for concern. Furthermore, litters are continuously increasing in seas, which contribute to the presence of plastic debris and other pollutants in the body of marine birds and fishes, for which the overall final effects of the phenomenon are not yet clear but could, at least, affect the human food chain.

A comprehensive approach is adopted with this Directive: it takes into account the sea as an ecosystem and the human activities having an impact on it while promoting a sustainable use of this vital resource.

Decision 2010/477/EU²⁹ is a fundamental act stemming from the MSFD and was adopted in 2010. It lays down criteria and methodological standards for marine waters to achieve a good environmental status. The contents of the decision should be reviewed and possibly updated by 2016, taking into account new scientific information and measures adopted to manage the problem; the timescale of the revision is derived from the six year cycle on which the directive is based.

If not under the provisions of MSFD, new threats to marine ecosystems brought about by climate change must also be considered.

Among many issues endangering every type of water body, soil condition and pollution are a major threat. Soil is also one of the major fresh water reservoirs. Soil pollution can affect not only underground water,

but also rivers, lakes, and seas through the run-off of contaminants.

At the same time, soil carries out many vital functions (e.g. food production) that could be degraded because of the presence of polluted water.

Pollution due to industries is sometimes responsible for the contamination in water bodies. Installations under Directive 2010/75/EU on industrial emissions (IED)³⁰ have to put in place safeguards against pollution, also for soil protection, based on best available technologies and have to continuously assess releases into the environment. This can prevent future contamination problems from this kind of installation. Industries not encompassed by the IED are subject, anyway, to inspection of ‘enforceable duties’ set by European and national legislation. However, at present, no specific obligations for this kind of compliance check are in place.

The situation of underground water pollution is very complex due to soil contamination already in place, in active or ex industrial sites; human activities such as mines, landfills, storage and transport of hydrocarbons and others chemical substances can also endanger the quality of surface and underground waters, locally or even on a larger scale. The consequences of this type of pollution are often a direct impact on the quality of waters to be used for human consumption, which sometimes prevents their use. The absence of a specific EU Directive on soil protection does not help in developing remediation actions under a homogeneous framework, and even hinders a clear view of the situation across Europe.

This is the reason why a comprehensive policy on waters is inadequate if not paired with a soil strategy.

As a result, the EC adopted the Thematic Strategy on Soil Protection on 22 September 2006³¹. The objective of the STS is the development of common principles, aims and actions for soil protection, in a homogeneous and complete manner across EU countries.

After the adoption of the STS, the European Parliament began the road toward a Directive creating a binding framework for soil protection, with a specific proposal for the Soil Framework Directive in 2007.

The proposal was based on a systematic approach for identifying and combating soil pollution and every other form of degradation, implementing precautionary measures and integrating soil protection into other policies. This approach would align soil protection with instruments already adopted by the EU in other fields such as air, nature, marine environment, water. The proposal was withdrawn in May 2015, because of the impossibility of reaching an agreement among all European Countries, despite a good majority of countries having been in favour.

26 See http://ec.europa.eu/environment/marine/eu-coast-and-marine-policy/marine-strategy-framework-directive/index_en.htm.

27 See <http://ec.europa.eu/environment/marine/eu-coast-and-marine-policy/implementation/>.

28 See the 2014 report COM(2014) 97 final from the Commission on the first phase of implementation of the MSFD at http://ec.europa.eu/environment/marine/eu-coast-and-marine-policy/implementation/reports_en.htm.

29 See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:232:0014:0024:EN:PDF>.

30 See <http://ec.europa.eu/environment/industry/stationary/ied/legislation.htm>.

31 See http://ec.europa.eu/environment/soil/process_en.htm.

Nevertheless, the European Commission reaffirmed the importance of establishing such a directive, and also the Seventh Environment Action Programme (7th EAP)³², which entered into force in January 2014, which addresses this issue by setting objectives. One example of a strategic area of water quality protection that should be treated in this directive is the remediation of contaminated sites, which is currently managed in very different ways across Europe.

3 IMPEL and the implementation challenge in the field of waters and soil protection

IMPEL (European Union Network for Implementation and Enforcement of Environmental Law), which came into being voluntarily in 1992 from a first cluster of Authorities concerned in Environmental Enforcement from different European countries, gave itself the mission of contributing to protecting the environment by promoting the effective implementation and enforcement of EU environmental law. At present, it consists of 48 members from 34 countries including all EU Member States, the former Yugoslav Republic of Macedonia, Turkey, Albania, Iceland, Switzerland and Norway.

Activities of IMPEL are conducted under the indications of a Memorandum of Understanding on cooperation between IMPEL and the European Commission, which was signed in 2009. Furthermore, the role of IMPEL is also recognized in the 7th Environment Action Programme.

Its mission is carried out by means of a number of initiatives, such as exchange of information, capacity building, peer review, identifications and development good and best practices, produce guidance, tools and common standards, which contribute to improvements as regards inspection, permitting, monitoring, reporting and enforcement of EU environmental law.

Among many other tasks, IMPEL provides feedback on regulation issues about new and existing EU environmental law to the European Commission and other EU institutions, gathering information on experience of implementing and enforcing this law, from the practitioners' point of view.

IMPEL recently carried out a project to establish the reasons for incomplete or lack of implementation of European environmental laws across Europe³³.

The study contains information about the general reasons for the presence of the implementation gap, as already mentioned, but the study also highlights a number of challenges relating to the implementation of EU environment law, including the Water Framework Directive's aim to achieve a 'good ecological

status', physical modification, over-abstraction and pollution from diffuse sources.

The study³⁴ identifies key implementation challenges:

- Diffuse-source pollution from agriculture.
- Over-abstraction of water (over-allocation of water resources, illegal abstractions).
- Continuing water pollution problems caused by inadequate investment and failing wastewater treatment and sewage systems. High costs of installing and maintaining wastewater infrastructure.
- Monitoring and assessment of priority chemicals in water bodies.
- Physical modification of water bodies (affecting hydro-geomorphology/ good ecological status); restoration of water and wetland habitats.
- Regulation for soil protection.
- The environmental impacts of flood protection measures

In order to address the challenges in the implementation of water European Laws, IMPEL has developed a number of specific projects, including³⁵:

- Linking the WFD and IPPC/IED Directives - development of checklists for water protection
- Achieving better compliance in the agricultural sector: facilitating partnership between envi & agri inspectorates
- Sharing good practice in tackling diffuse pollution and nitrate loss from farms and farmsteads
- Improving permitting and inspection of IPPC/ IED pig farming installations by developing practical guidance
- DECO Project – decontamination and monitoring procedures of groundwater and soils in polluted ex-industrial sites.

At present, in the framework of new IMPEL's organization, which provides for expert teams, one of which is dedicated to water and land, the following new projects related to waters are ongoing:

- the prosecution of the project on Sharing good practice in tackling diffuse pollution and nitrate loss from farms and farmsteads
- over abstraction and illegal abstraction, which is being tackled by the use of remote sensing techniques also with regard to Copernicus program
- risk criteria and risk analysis tool in support of inspection programming also in agricultural field
- IED and baseline report
- Pan European Manual on WFD implementation
- pesticide use in Agriculture

32 See <http://ec.europa.eu/environment/action-programme/>.

33 C.f. the project Challenges in the practical Implementation of EU Environmental Law at <http://impel.eu/news/impel-study-confirms-that-significant-challenges-remain-in-implementing-eu-environmental-law/>.

34 See <http://impel.eu/wp-content/uploads/2015/03/Implementation-Challenge-Report-23-March-2015.pdf>.

35 See <http://impel.eu/category/projects/>.

- monitoring of priority substances.

Many further projects are currently in the present and are to be proposed to IMPEL General Assembly for 2016 development. They follow the IMPEL's goal of supporting the implementation of European laws as an instrument to improve the quality of life of European citizens by protecting the environment in which they live.

4 Recent Developments

This trend and the willingness of IMPEL members to address issues regarding water, land and soil was highlighted during the 2015 IMPEL Soil Conference, which was held in Milan on 7–8 October 2015 in the framework of International Year for Soils and Milano EXPO2015.

The conference focused on agriculture, industry, waste and land management as activities that actually or potentially put soil at risk.

The conference, attended by the Food and Agriculture Organization of United Nations (UN FAO), the European Commission, the Joint Research Centre and IMPEL members from fifteen countries, evidenced many strengths and weakness in soil protection and in water, as environmental compartments directly connected with soils, and possible ways to overcome the problems, not only from the practitioners' point of view.

It has been pointed out once more that a Soil Directive is needed so as to homogenize Members States' behavior in a sector critical from the point of view of health and of urban development.

A widespread monitoring of soils has been identified as a basic instrument for planning and awareness-raising at every level. IMPEL's members have far-reaching experience in this field and envisage possible support to EU Member states in soil monitoring. Parts of the conference will be soon available on the IMPEL website.

5 Conclusion

The growth of issues related to water, soil and land highlights the need to protect these environmental compartments and to repair damage that has already occurred. Awareness of these problems is increasing too.

Water over-abstraction, land taken due to the widespread increase in urban expansion, the introduction of new chemicals in agriculture and industrial activities, brown field regeneration and soil reclaiming, the increase of droughts and floods rate and intensity are only a few examples of the challenges that Europe faces with regard to water, soil and land.

Unfortunately, objectives set by EU directives in these fields by the WFD and the daughter directives are frequently far from fulfilment and many underlying

reasons, also of economical nature, are barely affordable in this historical period, which complicates and slows the needed solutions.

Compared to other activities in environmental protection, such as compliance assurance of installations, the protection of water, soil and land requires a much longer time perspective and policies directed to a systemic view of the environment and to the relationships between the various environmental media. The situation also needs strong planning capacities.

From this perspective, the capability of setting of priorities and the optimization of the actions, in a cost vs. benefit sense, needs to be significantly improved.

Dialogue and exchange of experiences, the finding of a common understanding and solutions for problems, starting from the practitioners' level, may help in a substantial way and offer important advice for policy makers.

This approach is consistent with the IMPEL way of working and the recent increase of its potential in water, soil and land.

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.

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We invite authors to submit manuscripts to the Editors as files by email 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 once or 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.

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

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.

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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
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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

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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. 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

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. elni encourages its members to submit articles to the elni Review in order to support and further the exchange and sharing of experiences with other members.

The first issue of the elni Review was published in 2001. It replaced the elni Newsletter, which was released in 1995 for the first time.

The elni Review 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).

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

elni publishes a series of books entitled "Publications of the Environmental Law Network International". Each volume contains papers by various authors on a particular theme in environmental law and in some cases is based on the proceedings of the annual conference.

elni Website: elni.org

The elni website www.elni.org contains news about the network. The members have the opportunity to submit information on interesting events and recent studies on environmental law issues. An index of articles provides an overview of the elni Review publications. Past issues are downloadable online free of charge.

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