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CONTENTS

Editorial

The present issue of *elni* Review starts with two articles from the field of chemicals law.

Julian Schenten, Martin Führ und Leonie Lennartz analyse the challenges in the declaration of substances in articles in the supply chain and develop proposals on successful complete declaration. In their article "Substitution requires all possible support" Antonia Reihlen, Heidrun Fammler, Arne Jamtrot, Martyn Futter and Jana Simanovska discuss the background and comment on the discussions of a jointly organised workshop of three EU projects which are dealing with the aim to reduce risks from hazardous chemicals.

In her contribution "EU Dieselgate: unveiling the weirdness of the EU's attitude to compliance on environmental matters" Delphine Misonne asks whether the current inspection landscape, as applicable in the European Union and as far as environmental matters (and emissions into the environment in particular) are concerned, could have taken hold of what is now called 'dieselgate'.

Next Ludwig Krämer comments on case T- 545/11 of November 2018 where the General General ruled that an EU substance approval dossier (for glyphosate) contains no information related to environmental emissions.

The contribution discusses once more the question, of what constitutes an emission to the environment and whether access to this information may be refused to protect confidential commercial and industrial information, unless there is an overriding public interest in disclosure.

William Rundle comments on the complaint of Friends of Earth against the United Kingdom for its failure to comply with the Aarhus Convention when legislating its withdrawal from the EU.

Finally Leonie Lennartz reports on the closing event of the project "Consumer behaviour and innovations for sustainable chemistry (KInChem)" at the Protestant Academy Loccum in September 2018.

We hope you enjoy reading the journal.

The editors welcome submissions of contributions addressing current national and international environmental laws issues in particular on the subject of strategic environmental impact assessment (SEA) for elni Review 2019/01 by April 2019.

Claudia Schreider / Gerhard Roller
December 2018

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Listen to the People: Friends of the Earth challenge 'Brexit' public participation

William Rundle

1 Introduction

It is incredibly important that people have a voice. Citizens should be able to participate in public life in a meaningful way. That includes having a say on the laws that affect them and the environment we all depend on.

Strong and confident governance in a democratic society will not shy away from this or what the people may say. Indeed, that is the whole point: that all views (critical or otherwise) be taken into account so that what is proposed is improved with better information. Established systems of [1] on consultation, and a course of practice by government that shows often consultations do occur. Of course, we have the common law too, which sets out some minimum requirements. However, none of this mandates, consistently, the requirement to always consult and engage the public in the preparation of new laws that can significantly affect the environment. Ministers in power can still choose not to. And that is what Friends of the Earth says happened with legislating for 'Brexit'. There was a vote to leave the EU, but engagement on how we should do so and what that means for the environment was lacking. As anyone can now see (at the time of writing in December 2018) with the chaotic and uncertain events around the withdrawal agreement negotiations between the EU and the UK, the question of 'how' Brexit is to occur is very important. This article relates to that question. It addresses it by describing Friends of the Earth's legal challenge, in the form of a Communication to the Aarhus Convention Compliance Committee[2], alleging breaches under Articles 8 and 3 of the Aarhus Convention[3].

Fundamentally, it's about the UK government's apparent failure to properly engage the public on the environmental governance (and governance in general) should have clear legal frameworks that provide for effective and consistent participation.

Yet in the UK, a mature and established democratic country, we the public find ourselves in the peculiar situation of not having clear or enforceable rights to effective public participation in the environmental field, during the preparation of new laws. That is specifically, when new laws are being prepared by the executive that can significantly impact on the environment. There is a voluntary ministerial code legislative centrepiece for Brexit[4] with regards to how exit from the EU should occur and what that could mean for the environment.

2 Brexit and the Environment

Brexit is probably the biggest political crisis in the UK since the Second World War. It has been driven to a large degree by deep-seated political and social divisions, in the pervasive context of alleged misinformation from various political actors, alongside what the author considers is a general lack of public knowledge over the complex relationship the UK has had with the EU to date. What is clear though is that Brexit was never about the environment. Both the period of the referendum and the political process and turmoil that followed (for example, recall the snap general election) has – in the opinion of the author – left little space for considered and objective debate for the general public on how we would leave the EU in the lead up to the EU Withdrawal Act becoming law. Indeed, the implications for the environment seemed to have barely featured at all during that time. On 23 June 2016 the UK public voted following a highly contentious political campaign. The referendum resulted in 51.9% of voters voting to leave the EU. The Electoral Commission reports a turnout of 72.2% of the UK electorate[5]. In terms of UK environmental governance it was immediately apparent to most practicing environmental lawyers that this could have significant implications in the environmental field. Due to the UK's membership of the EU since the 1970's we have been part of a

[1] The consultation principles are found here: https://www.gov.uk/government/publications/consultation-principles-guidance.

[2] The full documentation can be found here: https://www.unece.org/environmental-policy/conventions/public-participation/aarhus-convention/tfwg/envppcc/envppcccom/acccc2017150-united-kingdom.html

[3] The Aarhus Convention can be accessed here: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=2ahUKEwizqur8nZrfAhVLNOwKHTRnC1wQFjACegQICxAC&url=https%3A%2F%2Fwww.unece.org%2Ffileadmin%2FDAM%2Fenv%2Fpp%2Fdocuments%2Fcep43e.pdf&usg=AOvVaw3NNKr7HDCmBituoGLnfekF

[4] The EU Withdrawal Act 2018: http://www.legislation.gov.uk/ukpga/2018/16/contents/enacted

[5] See here: https://www.electoralcommission.org.uk/find-information-by-subject/elections-and-referendums/past-elections-and-referendums/eu-referendum/electorate-and-count-information

union that has actively and progressively aimed at a high level of environmental protection, essentially as a matter of fundamental constitutional importance (e.g. see Article 191 of TFEU, among other important matters)[6], and unsurprisingly the EU has legislated prolifically with this in mind. Most of the UK's environmental laws derive from or at least interact with EU law (including the majority of the laws that implement the Aarhus Convention as it happens). The House of Lords European Union Committee, in its report *Brexit: environment and climate change* (14 February 2017), stated that:

"The exact proportion of UK environmental law that stems from EU legislation is hard to quantify, but it is substantial. Professor Richard Macrory, Professor of Environmental Law at University College London, noted Kramer's EU Environmental Law (2011) lists 111 Regulations, 256 Directives and 136 Decisions that were in place by 2010. Defra told us that "over 1,100 core pieces of directly applicable EU legislation and national implementing legislation have been identified as Defra-owned", that is to say they relate to policy areas that fall within the remit of the Department [of the environment, food and rural affairs]."[7]

All of this law would now need to be adapted and transferred to a UK only basis. The UK government promoted the so called "Great Repeal Bill" (the "Bill") to do that – and the 'EU Withdrawal Act 2018', after some amendments, became law. According to a more recent report by the National Audit Office published on 12 September 2018,[8] the Department for Environment Food and Rural Affairs still needs to adopt a total of 151 Statutory Instruments, comprising 93 to complete the conversion of EU law into UK law at the point of exit, and 58 for non-EU business (but related to the department's environmental remit) as a result of Brexit. This is, according to the report, "*more than double*" the average number in the 8 years to 2017.[9] So without even getting into the details of any particular issue, it is apparent to anyone with more than a passing acquaintance with EU and UK environmental law that leaving the EU could have significant implications for the environment.

Notwithstanding that (and all the other many complexities that were yet to be worked out), the European Union (Notification of Withdrawal) Act 2017 was passed into law on 16 March 2017 and notification to start the withdrawal process was given to Donald Tusk, on 29 March 2017. This put the UK on course to complete the withdrawal process by 30 March 2019 (subject to any further agreements and transitional arrangements that may be negotiated). On 30 March 2017 the UK Government produced a "White Paper"[10], which set out its main objectives and approach towards legislating to withdraw. However, the White Paper was not a consultation process with the public. There were no questions asked of the public and there has been no published response from the Government in reply to feedback it may have nevertheless received.[11] The Government then called a surprise general election between the publication of the White Paper and the presentation of the "Bill" as draft legislation before Parliament.[12] The Bill itself, formally called the "European Union (Withdrawal) Bill", was given its first reading in Parliament on 13 July 2017 just a few months after the White Paper was published.[13] The terms of the draft legislation were not previously made available to the public. Friends of the Earth believes that under the terms of the Aarhus Convention they should have been. As such, Friends of the Earth became concerned that there had simply been no effective public engagement or consultation at a time when options were open on *how* to effect withdrawal in the environmental context; the terms of a draft bill alongside an explanation as to what that might mean for the environment had never been presented for public comment. In addition to this, the draft Bill, that had now been laid before the legislature, presented a further potential problem. It not only enacted the means for the UK's withdrawal, but also set out a framework through which the whole body of EU law was to be transferred across to a UK only basis, through a series of powers for relevant Ministers.[14] All of which was not restricted in any way by reference to the public participation requirements of Article 8. In fact, there is not even a mechanism in place to identify *if* a significant

6 See Article 191 of TFEU here: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E191:EN:HTML

7 House of Lords European Union Committee, *Brexit: environment and climate change*, 12th Report of Session 2016–17, 14 February 2017, paragraph 17.

8 *Progress in Implementing EU Exit* https://www.nao.org.uk/wp-content/uploads/2018/09/Defra-Progress-Implementing-EU-Exit-Summary.pdf p9 para.11 – accessed 19 October 2018.

9 Ibid.

10 https://www.gov.uk/government/publications/the-repeal-bill-white-paper

11 The White paper did provide an email address for feedback, but did not request public responses as part of an express consultation.

12 After voting for a snap election on the 19th of April, Parliamentary business was formally ended on the 27th of April 2017, campaigning ensued with the general election being held on the 8th of June. Parliament reopened again after the swearing in of new MPs on the 23rd of June. This represents considerable disruption to any informal public engagement with the approach set out in the White Paper during that time; that is notwithstanding that such informal engagement would not satisfy Article 8.

13 http://services.parliament.uk/bills/2017-19/europeanunionwithdrawal.html ; https://www.publications.parliament.uk/pa/bills/cbill/2017-2019/0005/18005.pdf

14 For example see section 8 of the Withdrawal Act.

environmental effect is realistically possible to trigger Article 8 in the first place. This appeared to create a further system that would lead to additional breaches of Article 8.

3 The Aarhus Convention

The Aarhus Convention was signed by the UK on 25 June 1998, and ratified on 23 February 2005. Unfortunately, at no point since then has the UK fully incorporated the Convention into UK national law, and as the UK is a dualist state the public are not able to benefit from all of it.[15] With regards to the Communication in question, the UK has never introduced a statutory legal requirement mandating Article 8 compliance.Nevertheless, the UK is bound by the Convention in international law, and has submitted to the oversight of the Aarhus Convention Compliance Committee in relation to its implementation.

The relevant Convention provisions to the communication are as follows, emphasis added. Article 8:

"Each Party shall strive to promote effective public participation at an appropriate stage, and while options are still open, during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To this end, the following steps should be taken:

(a) Time-frames sufficient for effective participation should be fixed;

(b) Draft rules should be published or otherwise made publicly available; and

(c) The public should be given the opportunity to comment, directly or through representative consultative bodies. The result of the public participation shall be taken into account as far as possible."

These requirements are further supported and reflected in Recitals 9 to 11 of the Preamble to the Convention:

"Recognizing that, in the field of the environment, improved access to information and public participation in decision-making enhance the quality and the implementation of decisions, contribute to public awareness of environmental issues, give the public the opportunity to express its concerns and enable public authorities to take due account of such concerns,

Aiming thereby to further the accountability of and transparency in decision-making and to strengthen public support for decisions on the environment,

Recognizing the desirability of transparency in all branches of government and inviting legislative bodies to implement the principles of this Convention in their proceedings"

Article 3 (1) of the Convention then says this on implementation:

"Each Party shall take the necessary legislative, regulatory and other measures, including measures to achieve compatibility between the provisions implementing the information, public participation and access-to-justice provisions in this Convention, as well as proper enforcement measures, to establish and maintain a clear, transparent and consistent framework to implement the provisions of this Convention."

The Compliance Committee has itself considered Article 8, and provided an instructive advisory opinion to Belarus.[16] Belarus sought clarification on the scope of the obligation in Article 8. In making its findings the Committee considered the Secretariat's response, the Aarhus Implementation Guide, the Maastricht Recommendations, as well as its own jurisprudence. The overall conclusions reached in respect of Article 8 are at paragraph 58 (emphasis added):

"(h) The final version of a normative instrument be in practice accompanied by an explanation of the public participation process and how the results of the public participation were taken into account, bearing in mind that article 8, paragraphs (a) – (c), of the Convention sets forth a minimum of three elements that should be implemented in order to meet the obligation to promote effective public participation, and also that the final sentence of article 8 requires Parties to ensure that the outcomes of public participation is taken into account as far as possible;…"

4 The Friends of the Earth Communication

Based on the legal and factual context broadly summarised above, Friends of the Earth alleges the UK is in breach of both Articles 8 and 3, read together. As can be seen in the UNECE published documentation[17] there are various arguments deployed by both Friends of the Earth and the UK.

[15] Many European countries are monist states. In dualist states a ratified treaty does not alter the laws until it is incorporated into national law by further legislation. This is a constitutional requirement. The European Communities Act 1972 is such an example. Once incorporating legislation is enacted, the national courts may enforce treaty rights and obligations as are incorporated.

[16] See decision with reference: ACCC/A/2014/1

[17] The Communication: https://www.unece.org/fileadmin/DAM/env/pp/compliance/C2017-150/Communication_UK_FoE_31.10.2017.pdf ; and Friends of the Earth's reply to UK observations: https://www.unece.org/fileadmin/DAM/env/pp/compliance/C2017-150/Correspondence_with_the_communicant/frCommC150_21.11.2018_comments_on_the_Party%E2%80%99s_response.pdf

In essence the case is simply that no formal engagement with the public ever occurred, or was even attempted, on the terms of the draft bill and what it meant for the environment. That is, *before* the draft bill was presented to the legislature.

Three main issues were raised.

a) That the preparation of the Bill breached of Article 8 as there had been no formal public consultation in the preparation of the Bill before it was presented to Parliament for making into law. None of the minimum requirements in Article 8 (a) – (c) were met. As a result the UK government has not taken into account the general public's views, nor can it demonstrate that it has done so. (the "first issue")
b) That the preparation of subsequent legislation provided for under the draft Bill will breach Article 8 going forwards. The draft Bill does not provide a legal framework mandating effective public participation in the preparation of subsequent legislation under it when transferring across EU law onto a solely UK basis, where those laws can have a significant effect on the environment. There is no legal requirement to consult the public on changes that can significantly affect the environment and so public participation will consequently not be taken into account, because it will not occur. (the "second issue")
c) There is no clear, transparent and consistent framework to implement Article 8 in the scenarios above or in any event. This amounts to a systemic failure of implementation. (the "third issue")

5 Admissability

A hearing was convened by the Compliance Committee to consider the admissibility of the complaint on 11 December 2017. The UK contested admissibility across all the issues raised, and on three main grounds: that it was an abuse of the right to make such Communications; that it was manifestly unreasonable; and, incompatible with the provisions of the Convention. Of particular interest was the contention that the UK was acting in a legislative capacity and so the Communication was outside the scope of the Convention. In addition, that the allegations with respect to the future operation of provisions contained within the Bill were premature, because the Bill was currently being debated in Parliament and may yet change.In the event, the Compliance Committee gave its preliminary determination on admissibility that the Communication was admissible in respect to the first and third issues, but that it agreed with the UK that the complaint about the future operation of the Bill was premature because those provisions were not yet finalised, and so was inadmissible.

However, subsequently, as the EU Withdrawal Bill has now become law,[18] Friends of the Earth have asked the Committee in its response submissions to revisit its preliminary decision on admissibility on this second issue, because there is now a finalised legal framework in place that will operate as originally complained of. This framework still has no provision for checking for potential significant environmental effects in that process of transferring EU law onto a UK only basis, nor to allow for public participation in accordance with Article 8 should that potential be identified.[19]

6 The UK Response

Notwithstanding the overriding submission that the Communication is without merit and misconceived on all of its grounds, the UK Government nevertheless instructed an experienced Queens Counsel to produce and submit 52 pages of carefully written and lengthy legal arguments, with Annexures.[20]

The UK's arguments are numerous and they are not solely limited to disputing the facts in contention, but perhaps more worryingly (at least to Friends of the Earth) appear aimed at limiting the scope and effect of Article 8 altogether. This may be a new indication of a less than fully compliant (or positive) approach towards the Aarhus Convention by successive UK governments generally, which have been subjected to previous Compliance Committee oversight as mandated by the Meeting of the Parties in relation to costs and other matters (for several years now).[21]

It is worth noting in passing here that the 'Aarhus Convention: an Implementation Guide'[22] ("the Guide") emphasises that the Convention depends on relevant Parties' proactive and constructive engagement with the spirit and purpose of the Convention as much as the letter:

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18 http://www.legislation.gov.uk/ukpga/2018/16/contents/enacted

19 See the latest submission from the Communicant here: https://www.unece.org/fileadmin/DAM/env/pp/compliance/C2017-150/Correspondence_with_the_communicant/frCommC150_21.11.2018_comments_on_the_Party%E2%80%99s_response.pdf ; specifically at pages 3 and 4.

20 See the UK Observations on the Communication here: https://www.unece.org/fileadmin/DAM/env/pp/compliance/C2017-150/Party_s_response_to_communication/frPartyC150_response_to_communication_29.06.2018.pdf

21 For example see United Kingdom Decision V/9n: https://www.unece.org/environmental-policy/treaties/public-participation/aarhus-convention/envpptfwg/envppcc/envppccimplementation/fifth-meeting-of-the-parties-2014/united-kingdom-decision-v9n.html; and in particular the latest report by the Compliance Committee.

22 http://www.unece.org/index.php?id=35869 ; see pages 181 – 185 on Article 8.

"*the effective implementation of the Convention depends on the Parties themselves and their willingness to implement its provisions fully and in a progressive manner*" (p. 15)

In the opinion of the author, the position taken by the UK on this complaint would, if successful, undermine and restrict the purpose and application of the Convention, which would be contrary to the spirit and overall objectives that Parties sign-up to.

6.1 The First Issue – scope of Article 8

This concern is apparent in relation to one of the main points taken by the UK on the first issue (breach of Article 8): that Article 8 only applies to secondary legislation and not primary legislation such as the 2018 Act. Secondary legislation is created by the executive (or other public authority) under powers granted to them in primary legislation (although often requiring parliamentary approval as well). This can be to add information or implement requirements, or to make changes to other primary legislation.The UK argues that the Bill, as primary legislation, does not qualify as relevant *"executive regulations and other generally applicable legally binding rules" (Article 8)*. The submission is that the relevant phrase in Article 8 uses terms that are not actually defined and which should in fact be read down to exclude primary legislation. Furthermore, that because primary legislation can only be enacted by Parliament after a lengthy parliamentary process, then there is a necessary distinction to be made which limits the application of Article 8 to secondary legislation only. However, the attempted distinction drawn between secondary and primary legislation is not entirely straight forward, and will no doubt be a matter for the Compliance Committee to rule upon. For example, should the words in Article 8 'generally applicable legally binding rules' be interpreted broadly and encompass all enacted legislation (both secondary and primary)? This textual and legal analysis is something the Committee must grapple with.

Friends of the Earth also view the terms of Article 8 as making clear that it is applicable to the preparation stage of (all) draft legislation by the executive (before submission to and approval by a legislature, however so done), and so the Compliance Committee will need to decide on the relevance (if any) of the submissions regarding different parliamentary process and the method of final approval or enactment into law (by Parliament or otherwise). A finding for the UK by the ACCC would, in the author's view, significantly limit the application of the Convention. It would exclude the types of legislation that have the greatest and most far reaching legal effect, and thus the legislation that could impact the environment the most. However, it would seem to be exactly that type of legislation where the argument for effective public participation is most compelling under the terms of Article 8.

Indeed, the Guide may be of further assistance here. It makes clear that the scope of Article 8 is wide: it applies to "*executive regulations and other generally applicable legally binding rules*", and that "*the term "rules" is here used in its broadest sense, and may include decrees, regulations, ordinances, instructions, normative orders, norms and rules"* (p. 49; emphasis added). It also explains that the obligation under Article 8 "*includes the participation of the public authorities in the legislative process, up until the time that drafts prepared by the executive branch are passed to the legislature*" (p. 181; emphasis added). The UK does not appear to dispute that the preparation of the 2018 Act was done by the 'Department for Exiting the European Union'.

6.2 Factual compliance

It is worth also highlighting some of the factual issues raised by the UK. They contend that in fact the minimum requirements of Article 8 have been met in what they did, which will need to be assessed by the Compliance Committee with its previous advisory ruling for Belarus in mind. The way in which the Committee eventually decides on this issue will be instructive for future compliance with Article 8.

In summary, in addition to alleging that Article 8 was not engaged at all, the UK alleges:

- that Article 8 can be satisfied by public participation with representative bodies only (and that occurred to a sufficient degree);
- that extensive public participation in fact occurred, and a lack of general public *consultation* is not in and of itself determinative of a failure of Article 8 'public participation'. (Reference is made to the referendum and the snap election campaigns, the publication of a White Paper, stakeholder engagement generally, and the parliamentary process for the bill to be enacted); and

"*That what is key under Article 8 is that any public participation is taken into account. And here it has been*" (paragraph 116 of UK response).

Again, determining this aspect could have significant implications for the application of Article 8 going forwards. It is difficult to see what use there is left for Article 8 if compliance can occur in such a crucial public moment as 'Brexit', where wide-spread public interest abounds over how we will leave the EU, yet:

a) no formal public consultation is called,

b) no publication of the relevant draft legislation occurs,

c) nor alongside any explanation as to potential environmental impact of that draft bill, and

d) there has been no apparent demonstration that any public views have been taken into account , before the draft legislation arrives at Parliament.

6.3 Third Issue – systemic failure

In relation to the third issue (no consistent legal framework), the UK relies on the common law requirements as to consultation, and a set of voluntary consultation principles, as securing and maintaining the requisite public participation. Whilst it may be true that they are valid mechanisms to be taken into account, the issue remains to be determined if they are sufficient to provide a "clear and consistent" framework for both *when* consultation should occur, and in accordance with the minimum requirements of Article 8. It is noteworthy that neither mechanism is said to set out such requirements in terms.

Indeed, it may prove to be the case that this third issue is of continuing importance. By the time that the Compliance Committee is expected to determine the complaints the UK is expected to have left the EU. However, a finding that it lacks the necessary frameworks to maintain consistency with Article 8 could stimulate positive domestic developments to improve the situation.

Should the Compliance Committee agree that there was a breach in respect of Article 8 then, in the authors view, it seems possible, if not likely, that there would also be a finding that compliance with Article 3 (to guarantee Article 8 implementation consistently), is also lacking (as how else would there be a breach?).

7 Conclusion

It will be interesting to see how the Compliance Committee takes these issues as they could have important consequences for how Article 8 of the Aarhus Convention is understood and applied in the future.It is in the author's view regrettable that the UK has taken this opportunity to advance arguments in an effort to undermine and restrict the scope and effect of Article 8. This does not appear to be confident and progressive environmental governance in line with the broad purpose and objectives of the Convention. Should the Compliance Committee find in favour of Friends of the Earth, it is sincerely hoped that the UK would then respond constructively, and propose new and better measures to consistently secure Article 8 going forwards. Such a course would be in the public interest as it would improve democratic public participation in environmental matters in the UK.

A hearing is expected mid-way through 2019.

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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 develop-ing 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

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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

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

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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, focussing 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 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

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.

elni Board of Directors

- Martin Führ - Society for Institutional Analysis (sofia), Darmstadt, Germany;
- Jerzy Jendroska - Centrum Prawa Ekologicznego (CPE), Wroclaw, Poland;
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- Gerhard Roller - Institute for Environmental Studies and Applied Research (I.E.S.A.R.), Bingen, Germany.

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