



## **ANNUAL EELF CONFERENCE 2017**

### **SUSTAINABLE MANAGEMENT OF NATURAL RESOURCES – LEGAL APPROACHES & INSTRUMENTS**

**30. AUGUST – 1. SEPTEMBER 2017**

**COPENHAGEN, DENMARK**

Venue: University of Copenhagen, Faculty of Science  
Bülowsvej 17, Frederiksberg

### **GENERAL PROGRAMME**

**Sponsored by:**

**COWIfonden**

## GENERAL PROGRAMME

### Wednesday 30<sup>th</sup> August:

9:00-10:00: Registration

10:00-10:30: Welcome and practical information

10:30-12:30: Plenary session and discussion

- [Ecological Sustainability as a Fundamental Principle of Law](#), Klaus Bosselmann, Auckland University
- State of the environment in the EU, Hans Bruyninckx, European Environment Agency (EEA)
- [Sustainable management of natural resources by the EU](#), Ludwig Krämer, Derecho y Medio Ambiente, Madrid

12:30-13:30 Lunch

13:30-15:15 Parallel sessions I

Coffee

15:45-17:30 Parallel sessions II

19:00 Conference dinner, Copenhagen Admiral Hotel, Toldbodgade 24-28 (entrance from Toldbodgade or the seaside)

### Thursday 31<sup>st</sup> August

9:00-10:45: Parallel sessions III

Coffee

11:00-12:30: Plenary session and discussion – chair: Moritz Reese

- Sustainability, Natural Resources and Ecosystems Management in International Law, Marie-Claire Cordonier Segger, Full Professor of Law, Faculty of Environment, University of Waterloo, Canada and Senior Fellow, CEENRG, University of Cambridge / Rapporteur, Natural Resources Committee, International Law Association
- [Squaring the circle: towards more coherence in EU policy and law regarding sustainable management](#), Wybe Th. Douma, T.M.C. Asser Institute
- [Untapped potentials of Article 260 TFEU - deterrence as a means to respond to implementation deficit in EU environmental law](#), Sanja Bogojević, Oxford University

12:30-13:30: Lunch

13:30-15:15: Parallel sessions IV

Coffee

15:45-17:30: Parallel sessions V

### **Friday 1<sup>st</sup> September**

9:00-10:45: Parallel sessions VI

Coffee

11:00-12:00: Plenary session and conclusions

12:00-12:30: Lunch

12:30-17:00: Excursion (harbour cruise and visit to Natura 2000 site/Naturcenter Amager)

We will take the Metro from Forum to Kgs. Nytorv and get on the boat at **13:15, at Inderhavnsbroen**. After a one hour boat tour we will take the Metro from Kgs. Nytorv to Vestamager and go to Naturcenter Amager for a guided walk in the Natura 2000 area until 16:30. Then we will take the Metro back to the city centre or you can go the airport if you need to catch a flight.

For parallel sessions see the detailed programme.



**ABSTRACTS OF  
PLENARY SESSION SPEAKERS**

Annual EELF Conference 2017 “Sustainable Management of Natural Resources: Legal Approaches and Instruments”, Copenhagen, 30 August - 1 September 2017:

## **Ecological Sustainability as a Fundamental Principle of Law**

Klaus Bosselmann

New Zealand Centre for Environmental Law, University of Auckland

### Abstract

*The paper argues for taking ecological sustainability seriously by making three points.*

*First, we need to locate sustainability in a wider geological and socio-economic context. The history of life on Earth teaches us a remarkable dialectic of collapse and recovery – one follows the other in a never-ending evolutionary process. The fate of humans in this process is no different from the fate of other species. Human civilizations have oscillated from (degrees of) sustainability to collapse and back again.*

*Second, in the Anthropocene we are facing global civilizational collapse as humans are overstepping planetary boundaries. Unless humanity finds some extreme solutions (e.g. escaping the planet or radically shrinking in numbers), the only viable option is to prioritize preserving and restoring the integrity of Earth’s ecological systems.*

*Third, international environmental law has increasingly acknowledged the fundamental importance of ecological integrity. For policy and law-making, ecological sustainability is not everything, but everything is nothing without it. It is time, therefore, to recognize ecological sustainability as a fundamental legal principle akin to the recognition of fundamental human rights.*

# **Sustainable management of natural resources by the EU**

Ludwig Krämer

*It is often assumed that the management of natural resources is to be ensured by public authorities at national, regional or local level. However, since the legislation on the management of natural resources is, to a considerable part, elaborated at EU level, the management of that legislation and, subsequently, of the natural resources themselves, also has a European dimension. Often, EU legislation is seen as "foreign" legislation, which does not fully fit into the management system established within an EU Member State, and the management of which is left to the EU institutions.*

*This contribution tries to perceive the EU space as an area in which the vast coordination of legislation concerning natural resources also requires cooperation and coordination in the management of these resources. It intends to examine the management activities, as regards the four subsections of the topic - water, biodiversity, air quality and raw materials and waste -, by the European institutions, mainly by the Commission. The contribution will in particular attempt to address the following aspects: the interplay of national and EU management activities; transboundary management; instruments of EU management activities; coordination, transparency in and accountability of the management systems; coherence in the management activities; enforcement of management decisions; management costs; public management and civil society; sustainability of the system; lacunae of the system.*

## **Short biography**

Ludwig Krämer

Studies of law and history in Kiel, München and Paris (ENA). Judge at the Landgericht Kiel (1969 till 2004). Official of the Commission of the European Community, environmental department (1972 till 2004), successively responsible of legal and enforcement issues, waste management and environmental sustainability. Retired from both functions.

LL.D University Hamburg. Visiting Professor at University College London. Lecturing activity on EU environmental law in more than 60 European and North American universities. Director of an environmental law consultancy "Derecho y Medio Ambiente" in Madrid.

Specialisation: EU environmental law (publication of some 20 books and more than 260 articles on that subject).

# **Squaring the circle: towards more coherence in EU policy and law regarding the sustainable management of natural resources**

Abstract for the cross-cutting theme 'Ecological sustainability – fundamental questions and implications for environmental law and governance'

Wybe Th. Douma

T.M.C. Asser Institute, The Hague, The Netherlands

## **Abstract**

*Over time, the European Union has developed separate policy instruments with distinct features for numerous individual natural resources. These instruments cover a variety of resources, such as forestry products, fisheries, air, water, waste, conflict minerals and biofuels. Building on previous research by the author (notably on EU biofuels policy, waste and forestry) and the research of others, the legal history and existing evaluations of the instruments in question, and against the background of the EU policy commitments regarding ecological aspects of sustainable development and the EU's Thematic Strategy on the Sustainable Use of Natural Resources, this paper will make an inventory of selected corresponding and diverging aspects of these individual instruments. Aspects to be investigated include the use of due diligence systems, licensing, prohibitions, resource efficiency, adherence to principles of environmental law, sanctions and enforceability.*

*On the basis of this inventory and the sources mentioned above, it will be examined whether the differences in the approaches followed can be explained through the specific ecological characteristics of the natural resources in question, and/or whether other factors can be identified that play a role. Where differences in approaches are identified that lack a clear ecological or other justification, it will be investigated whether these differences could be overcome by introducing a more coherent approach in EU policy and law regarding the sustainable management of natural resources. Where such possibilities could be envisaged, the paper will explore which general and/or specific elements could contribute towards such an enhanced coherence of the EU's policy regarding sustainable management of natural resources.*

*Theses:*

- *The different approaches followed in EU instruments regarding sustainable management of natural resources do not allow for sufficient policy coherence.*
- *A stronger involvement of stakeholders and improvements in environmental compliance assurance systems are among the options to increase policy coherence where sustainable management of natural resources by the EU is concerned.*

## **Biography**

Dr. Wybe Douma is senior research fellow at the T.M.C. Asser Institute and lecturer of International Environmental Law at Hague University (both in The Hague, The Netherlands). He specialises in EU environmental law and international trade law. His working experience of over 20 years includes advising on European and international environmental law in the EU and its neighbouring countries, South America and Asia to students, civil servants, judges, public prosecutors and diplomats. Furthermore, he worked in a wide range of legal projects, notably dealing with environmental law. He was also seconded to the Legal Department of the Dutch Ministry of the Environment, where he dealt with a wide range of EU and international environmental law issues. He also regularly provides advice to ministries, the European institutions, NGOs and others, and publishes frequently on issues of environmental law.

## **Synopsis of a conference paper to be presented at the European Environmental Law Forum Conference 2017 in Copenhagen**

### ***Sustainable Management of Natural Resources***

Name: Dr Sanja Bogojević  
Position: Associate Professor of Law  
Institutional affiliation: Lady Margaret Hall, Oxford University  
E-Mail: sanja.bogojevic@lmh.ox.ac.uk

### **Subtheme**

Untapped potentials of Article 260 TFEU – deterrence as a means to respond to implementation deficit in EU environmental law

### **Outline**

The analytical framework of this paper is to investigate how the Commission and the Court of Justice of the European Union (CJEU) apply Article 260 TFEU to non-implementation of EU environmental law. As such, it is a study of deterrence under Article 260 TFEU, focusing on environmental law for two main reasons.

First, Article 260 TFEU is the only judicial remedy that can be used to sanction States financially for violations of their duty to transpose under the Treaties. It is for this reason, and not to argue that environmental law is only concerned with state action or public law that focus is placed on this particular provision. Second, almost half of the existing case law on Article 260 TFEU deals with environmental law, and more precisely, with the failure of a Member State to transpose an environmental directive following a Court judgment under Article 258 TFEU, or to communicate to the Commission the measures adopted to transpose an environmental directive. Environmental law thus constitutes a useful and representative vantage point to study the sanctions imposed to deter States from violating their duty to transpose.

Based on preliminary findings what this study shows is that soft deterrence seems to prevail in relation to EU environmental law with regard to how the purpose of the fines is ascribed; the method which is followed to determine the fine; and the procedure that the Court and the Commission need to follow to set the fine. What this shows is that there are institutional hurdles that amount to untapped potentials of preventing implementation deficit of EU environmental law. This paper sets out to draw attention to this and call for a more rigid deterrence approach on non-implementation of EU environmental laws.