

# elni

## REVIEW

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### Articles with focus on environmental law networks

- The Importance of International Environmental Enforcement Networks: INECE as an example
- European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL)
- NEEL: the Network of EU Environment Lawyers
- The Nordic Environmental Law Network (NELN)
- Networking in the Nordic Countries
- The Avosetta Group

### Articles with focus on other topics

- Towards an integrated approach for sustainability labelling and certification
- REACH: How far will the chemicals legislation reach to protect human health and the environment from hazardous chemicals?
- Rethinking the Role of Information in Chemicals Policy: Implications for TSCA and REACH

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## European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL)

*Terry Shears*

### 1 Development of the network

IMPEL was set up in 1992 in Chester, UK, and its original name was the Chester Network. At the time it was established, a concern had been expressed that the growth of environmental legislation was not being matched by improvements in the quality of the environment. The conclusion was that all the links in the environmental chain needed to be strong with an implication that implementation and enforcement were two of the weaker links. Furthermore, disparities in enforcement systems were seen as likely to impose unequal burdens on industry across the Community. There was a proposal that an environmental enforcement network should be created within Member States and that subsequently attention might be focused on developing common enforcement standards and approaches.

This was indeed quite a common concern at that time. Industry, Member States and the Commission all wanted to have a "level playing field" in regard to the enforcement of environmental legislation across the European Union. Some indeed in the EU favoured the setting up of a European Environmental Inspectorate while others wanted to see and Audit Inspectorate or "Inspectorate of Inspectorates." Inevitably, these suggestions caused some concern in Member States and perhaps as a compromise solution there was a proposal to establish a Network of Environmental Enforcement Agencies whose inaugural meeting was held in Chester, UK, in November 1992. The then twelve Member States and the European Commission attended the meeting.

The Commission was not at that time a member. However, Chapter 9 of the 5<sup>th</sup> Environmental Action Programme required the establishment of an "Implementation and Enforcement Network of environmental inspectors and enforcement bodies" so the Commission decided that it would watch developments and consider how to discharge this responsibility. The Commission joined the network following the 3<sup>rd</sup> Plenary Meeting in December 2003.

Initially, the work of the network was organised into four working groups with Plenary meetings being held every six months and organised by the Presidency country. It was clear that there were enormous difficulties in reaching a mutual understanding of the common characteristics and differences of national regulatory systems. It was also clear that national regulators shared many common

problems and that they could benefit tremendously from learning how other countries tried to solve these problems.

By 1996 there was a feeling that the network should be producing more tangible outputs. This feeling coincided in October 1996 with the Commission's adoption of a communication on the implementation of environmental law. It said: "The Commission will consider the existing position of the informal IMPEL Network as a useful instrument of cooperation and capacity building, and will make proposals for improving, developing and reorganising its tasks." It also noted "the need to ensure that minimum inspection tasks are carried out" and that "The IMPEL network could also assist in defining these minimum criteria for inspections."

### 2 Structure

Under its current structure, IMPEL has thirty membercountries consisting of the 25 Member States, the two accession countries (Bulgaria and Romania), two candidate countries (Croatia and Turkey) and Norway. The European Commission is also a member and acts as co-chair of the network with the country holding the Presidency of the EU at the time (currently Austria). Plenary meetings are held twice a year which provide the management for the network, agree its work programme, adopt reports on completed projects and receive reports on projects in progress. There is an IMPEL Secretary located in the offices of DG Environment and each IMPEL member has an IMPEL coordinator who acts as focal point for the network. Many member countries also have internal environmental networks.

### 3 Projects

The essence of the IMPEL network is the projects it undertakes. Among the earliest projects were those related to capacity building such as the Exchange Programmes. These were hosted by each of the then 15 Member States and gave an opportunity for inspectors from different countries to meet and to see how environmental regulation was carried out in the host country. Projects such as this helped establish the network and gave those who took part the chance to look beyond their normal day-to-day horizons and to compare their own methods for environmental regulation with those in other countries.

Another series of projects from those earlier days in the network were those concerned with the minimum criteria for inspections. Those projects were much appreciated in the candidate countries and accession countries as well as in the Member States. These projects contributed substantially towards the development of the Recommendation 2001/331/EC on Minimum Criteria for Environmental Inspections.

In turn this recommendation has itself prompted the IMPEL network to carry out a series of projects. Examples of these include the IMPEL Review Initiative under which a group of five or six environmental practitioners from other Member States spend a week examining the regulatory practices of the environmental regulator in the host country. Following an initial trial in Denmark, these reviews have taken place in a further seven countries (Belgium, France, Germany, Ireland, Spain, Sweden and The Netherlands). The projects have identified good practice and areas for further development and have proved invaluable both for the host countries and for everybody else involved. Another project initiated as a result of this recommendation is the one on Best practices concerning training and qualifications for environmental inspector. The project identifies core competencies for an inspector/permit writer and also looked at the extent to which inspectors were competent in these core competencies once they have completed their training and have some experience.

An important area of IMPEL's work is in the area of the Transfrontier Shipment of Waste. Work on the Seaports Project is still continuing which aims at improving and harmonising the level of enforcement of EU regulations concerning the export of hazardous waste in Member States. Vehicles, ships and containers carrying waste materials were inspected during the project, as were storage locations in port areas. Special attention was paid to the export of waste materials from the European Union to countries not belonging to the Organisation for Economic Cooperation and Development (OECD), including a number of countries in Africa and Asia. An important goal of the project is for the environmental inspectors of the countries involved to exchange information and experiences, which has led to a number of countries to improve their enforcement methods.

As IMPEL is a network of environmental regulators and policy makers with experience of implementation on the ground, it is well placed to provide feedback to lawmakers on how legislation works in practice. With this in mind, it has recently set up a working group on Better legislation, part of whose function will be to provide feedback to the Commission. There will shortly be a project on the inter-

face between the Council Directive 96/61/EC on Integrated Pollution Prevention and Control (IPPC) and other relevant directives that will feed into the review of the IPPC Directive being carried out by the EU Commission.

## 4 Conferences

IMPEL has so far held two conferences to promote its work and to develop ideas for its future activities. The first of these was held in Villach in Austria and the second was in Maastricht in The Netherlands. Both conferences were very successful and the next one is to be held in Riga, Latvia on 28-30 September 2006.

## 5 Achievements

The greatest achievement is probably the creation of the network itself. As a result, there is now an EU-wide forum that allows environmental regulators, policy makers and Commission officials to come together for informal exchange of information about the practical implementation of environmental law. There is little doubt as to its value as a contribution to "levelling of the playing field" on enforcement of environmental legislation across the EU, and to development of operational systems within the Member State enforcement agencies as well as assisting in the process of capacity building.

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

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

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

The areas of research cover

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

sofia is working on behalf of the

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

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## elni

*In many countries lawyers are working on aspects of environmental law often with environmental initiatives and organisations or as legislators, but have limited contact with other lawyers abroad, although such contact and communication is vital for the successful and effective implementation of environmental law.*

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

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

*elni coordinates a number of different activities:*

### **Coordinating Bureau**

The Coordinating Bureau was originally set up at and financed by the Öko-Institut in Darmstadt, Germany, a non-governmental, non-profit making research institute. The Bureau is currently hosted by the University of Applied Sciences in Bingen. The Bureau acts as an information centre where members can obtain information about others working in certain areas thus promoting the development of international projects and cooperation.

### **elni Review**

The elni Coordinating Bureau produces and sends to each member the elni Review twice a year containing members' reports on projects, legal cases and developments in environmental law. elni therefore encourages its members to submit such articles to be published in the Review in order to allow the exchange and sharing of experiences with other members.

### **elni Conferences and Fora**

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

### **Publication Series**

The elni publications series contains 12 volumes on different topics of environmental law.

- Environmental Law and Policy at the Turn to the 21st Century, Liber amicorum, Betty Gebers, Ormond/Führ/Barth (eds.) Lexxion 2006.
- Access to Justice in Environmental Matters and the Role of NGOs, de

Sadeleer/Roller/Dross, Europa Law Publishing 2005.

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

### **elni Website: elni.org**

The elni website at <http://www.elni.org> contains news about the network and an index of elni articles, gives an overview of elni activities, and informs about elni publications. Internships for young lawyers/law students at the Öko-Instituts environmental law division are also offered on the web.