SECOND EELF CONFERENCE

ENVIRONMENTAL AND PLANNING LAW ASPECTS OF LARGE SCALE PROJECTS

10, 11 and 12 September 2014

Hermes Building, Brussels
Belgium

Programme
Wednesday 10 September 2014

9.00-10.00: Registration and coffee

First Plenary session: chaired by Prof. dr. Bernard Vanheusden

10.00-10.05: Welcome by host institution
Prof. dr. Tom Van Puyenbroeck, dean Faculty of Economics and Business campus Brussels

10.05-10.15: Welcome by EELF
Dr. Moritz Reese, Chairman of the European Environmental Law Forum

10.15-10.30: Introduction to conference topic
Prof. dr. Anne Mie Draye, dean Faculty of Law, Hasselt University

10.30-11.00: Keynote speaker
Jan Van Lancker, CEO Uplace
“Entrepreneurs require legal certainty”

11.00-11.30: Coffee break

11.30-12.00: Keynote speaker
Prof. dr. Ludwig Krämer, University College London
“Transparency and participation of civil society in large projects”

12.00-12.30: Keynote speaker
Michiel Boodts, deputy chief of staff private office of the Flemish Minister for Environment, Nature and Agriculture
“Towards a new legal framework for large scale projects in Flanders”

12.30-12.40: Practical information on the parallel sessions and short presentation of the first EELF Book

12.40-14.00: Lunch

14.00-15.00: Parallel session 1

15.05-16.05: Parallel session 2

16.05-16.35: Coffee break

16.35-17.35: Parallel session 3

17.35-18.45: Drinks and snacks

19.00-22.30: Conference dinner in “Aux Armes de Bruxelles”
Thursday 11 September 2014

9.00-10.00: Parallel session 4
10.05-11.05: Parallel session 5
11.05-11.30: Coffee break
11.30-12.30: Parallel session 6
12.30-14.00: Lunch
14.00-15.30: Parallel session 7
15.30-15.50: Coffee break

Second Plenary session: chaired by Prof. dr. Valérie Cappuyns and Prof. dr. Sandra Rousseau

15.50-15.55: Introduction
15.55-16.25: Keynote speaker Karl Friedrich Falkenberg, Director-General DG Environment, European Commission "EU environmental and planning policy with regard to large scale projects"
16.25-16.55: Keynote speaker Dr. Carolyn Abbot, Senior Lecturer, School of Law, University of Manchester “EIA as Collaborative Governance: Public v Private Interests”
16.55-17.25: Keynote speaker Prof. dr. Kurt Deketelaere, Professor of Environmental and Energy Law, KU Leuven; Secretary-General, LERU “The role of mediation in the dispute settlement regarding large scale projects”
17.25-17.30: Conclusions
17.30-17.40: Announcement 3rd EELF Conference in Aix-en-Provence in 2015
End of the day
18.00-19.00: EELF Managing Board and Advisory Board meeting Chaired by Dr. Moritz Reese
Friday 12 September 2014

“EU institutions day”

10.00-12.00: Panel debate with amongst others members from the DG Environment and the Legal Service of the European Commission

12.00-13.15: Lunch

13.15-14.00: Walk to the European Parliament

14.00-16.00: Guided visit of the European Parliament with one or two members of the Parliament

16.00-16.30: Walk to the conference location
A general overview of the parallel sessions

<table>
<thead>
<tr>
<th>Parallel session</th>
<th>Room 0105</th>
<th>Room 1201</th>
<th>Room 1102</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Parallel session 1</strong></td>
<td>Critical sectoral regimes: Nature 1</td>
<td>Spatial planning: Strategic environmental assessment</td>
<td>Permitting and review procedures: Access to justice</td>
</tr>
<tr>
<td><strong>Parallel session 2</strong></td>
<td>Critical sectoral regimes: Nature 2</td>
<td>Spatial planning: Energy</td>
<td>Permitting and review procedures: Environmental impact assessment</td>
</tr>
<tr>
<td><strong>Parallel session 3</strong></td>
<td>Spatial planning: Ecosystem</td>
<td>Permitting and review procedures: Public participation 1</td>
<td></td>
</tr>
<tr>
<td><strong>Parallel session 4</strong></td>
<td>Critical sectoral regimes: Water</td>
<td>Horizontal measures: Policy development</td>
<td>Permitting and review procedures: Public participation 2</td>
</tr>
<tr>
<td><strong>Parallel session 5</strong></td>
<td>Critical sectoral regimes: Energy</td>
<td>Horizontal measures: Compliance</td>
<td>Spatial planning: General issues</td>
</tr>
<tr>
<td><strong>Parallel session 6</strong></td>
<td>Critical sectoral regimes: Energy projects</td>
<td>Horizontal measures: Procedure</td>
<td>Critical sectoral regimes: Energy production</td>
</tr>
<tr>
<td><strong>Parallel session 7</strong></td>
<td>Breakout session “Make it work”</td>
<td>Horizontal measures: Policy instruments</td>
<td>Looking outside the EU: Energy and climate</td>
</tr>
</tbody>
</table>
Wednesday 10 September 2014

9.00-10.00  :  Registration and coffee

First Plenary session: chaired by Prof. dr. Bernard Vanheusden

10.00-10.05  :  Welcome by host institution

Prof. dr. Tom Van Puyenbroeck, dean Faculty of Economics and Business campus Brussels

10.05-10.15  :  Welcome by EELF

Dr. Moritz Reese, Chairman of the European Environmental Law Forum

10.15-10.30  :  Introduction to conference topic

Prof. dr. Anne Mie Draye, dean Faculty of Law, Hasselt University

10.30-11.00  :  Keynote speaker

Jan Van Lancker, CEO Uplace
“Entrepreneurs require legal certainty”

11.00-11.30  :  Coffee break

11.30-12.00  :  Keynote speaker

Prof. dr. Ludwig Krämer, University College London
“Transparency and participation of civil society in large projects”

12.00-12.30  :  Keynote speaker

Michiel Boodts, deputy chief of staff private office of the Flemish Minister for Environment, Nature and Agriculture
“Towards a new legal framework for large scale projects in Flanders”

12.30-12.40  :  Practical information on the parallel sessions and short presentation of the first EELF Book

12.40-14.00  :  Lunch
1A: CRITICAL SECTORAL REGIMES: Nature 1
Room 0105
Chair: Prof. dr. Anne Mie Draye
- Habitats’ Impairments Impact Studies and Major Infrastructure Projects. The scope of Article 6(3) of the Habitats directive
  Author: Nicolas de Sadeleer
- Compensatory measures in European nature conservation law
  Author: Geert Van Hoorick
- The protection of cultural heritage in large scale projects
  Author: Stijn Aerts

1B: SPATIAL PLANNING: Strategic environmental assessment
Room 1201
Chair: Prof. dr. Jerzy Jendroska
- How to integrate SEA into zoning plans? Analysis of case-law from the Belgian Council of State and the Court of Justice
  Authors: Jan Bouckaert and Guan Schaiko
- Off track? Environmental assessment of large scale infrastructure – the Copenhagen Metro Cityring case
  Author: Helle Tegner Anker
- Legislative validation in times of enhanced environmental protection: going beyond the deadlock or a road to nowhere?
  Author: Hendrik Schoukens

1C: PERMITTING AND REVIEW PROCEDURES: Access to justice
Room 1102
Chair: Prof. dr. Luc Lavrysen
- Controversies about the authorized projects by Act: environmental impact assessment, participation and access to justice in environmental subjects
  Author: José Ignacio Cubero and Unai Aberasturi Gorriño
- Perspectives on the role of environmental and planning law on tortious liability for personal injury
  Author: Marianne Hoppenbrouwers
- Environmental Impact Assessment in the Context of Urban-Environmental Decision-making: Constraints and Possibilities in Managing Risk and Delivering Environmental Justice
  Author: Larissa Verri Boratti
2A: CRITICAL SECTORAL REGIMES: Nature 2

Room 0105

Chair: Prof. dr. Elizabeth Kirk

- Nature inclusive design: mitigation, conservation measures or compensation?
  Author: Hans Woldendorp

- Natura 2000 assessments and the permitting of large scale projects: Reflections on the encounter between the Member States’ procedural autonomy and EU law requirements
  Author: Jan Darpö

- Through non-navigated waters: how advances on marine protected areas (MPAs) can dictate a new legal order for the oceans and seas of the EU
  Author: Beatriz de Sousa Fernandes

2B: SPATIAL PLANNING: Energy

Room 1201

Chair: Prof. dr. Delphine Misonne

- Renewable Energy Planning and Public Participation: a critical review of decisions from the Aarhus Convention Compliance Committee
  Author: Marjan Peeters

- Large scale energy projects in Belgium: the case of “a heating network”
  Author: Laura De Deyne

- Environmental Impact Assessment of Marine Renewable Energy Projects Sustainability advancing the Blue Economy through Environmental Law
  Author: Glen Wright

2C: PERMITTING AND REVIEW PROCEDURES: Environmental impact assessment

Room 1102

Chair: Isabelle Larmuseau

- Transboundary Environmental Impact Assessment in Cross-border Oil and Gas Pipelines: what Lessons can be Learned from the Espoo Convention and EU EIA Directive 2011
  Author: Mehdi Piri

- Environmental Impact Assessment: how landscape and cultural heritage protection influences and should influence the final decision
  Author: Maddalena Mazzoleni

- Environmental Impact Assessment: Does it achieve environmental protection - Based on the UK High Speed 2 Railway Project
  Authors: Qianqian Wei; Yankun Zhao; Tilak Ginige
16.05-16.35 : Coffee break

16.35-17.35: **Parallel session 3**

### 3A: SPATIAL PLANNING: Ecosystem

**Room 0105**

Chair: Prof. dr. Geert Van Hoorick (tbc)

- An ecosystem approach to spatial planning: a comparative perspective between China and the Netherlands
  
  Author: Yun Ma

- The Water Framework Directive and large scale projects
  
  Author: David Salm

- Integrated Planning to Implement the CBD Strategic Plan and Increase Ecosystem Resilience to Climate Change (“IPP Project”).
  
  Author: Santiago Martinez

### 3B: PERMITTING AND REVIEW PROCEDURES: Public participation

**Room 1201**

Chair: Prof. dr. Helle Tegner Anker (tbc)

- Public participation and access to justice in Italy and in E.U.
  
  Author: Giovanna Mastrodonato

- Public participation and access to justice in large scale infrastructure projects: how deep is the gap between law and reality? A case study of a large scale project development in and around the railway station of Gent Sint-Pieters (Belgium)
  
  Author: An Cliquet

- “Deliberative Arenas”: Engaging Citizens in Environmental Decision-Making
  
  Author: Viviana Molaschi

17.35-18.45 : Drinks and snacks

19.00-22.30 : Conference dinner in “Aux Armes de Bruxelles”
### Thursday 11 September 2014

**9.00-10.00: Parallel session 4**

**4A: CRITICAL SECTORAL REGIMES: Water**

Room 0105

Chair: Prof. dr. Wolfgang Köck

- **Securing major seaport locations versus European Nature Conservation and Water Law: Dredging the tidal rivers Weser and Elbe in the court procedures at the German Federal Administrative Court and the European Court of Justice**
  
  Author: Peter Schütte

- **The permissibility of projects for interbasin water transfer under the prism of the EU water and environmental legislation**
  
  Author: Vicky Karageorgou

- **Certain legal aspects of construction of hydroelectric power plants in Croatia**
  
  Author: Lana Ofak

**4B: HORIZONTAL MEASURES: Policy development**

Room 1201

Chair: Prof. dr. Jan Darpö (tbc)

- **Soft law for hard projects?**
  
  Author: Leonie Reins

- **Noise by Aircraft – Shall the New EU Regulation Help?**
  
  Author: Delphine Misonne

- **Procedures for large scale projects in the light of recent jurisprudence under the Espoo and Aarhus Conventions**
  
  Author: Jerzy Jendroska

**4C: PERMITTING AND REVIEW PROCEDURES: Public participation 2**

Room 1102

Chair: Dr. Carolyn Abbot (tbc)

- **Public Participation in the German Energy Transmission Planning Process**
  
  Author: Jana Bovet

- **Public Participation in Renewable Energy Projects in the UK**
  
  Authors: Yankun Zhao; Qianqian Wei; Tilak Ginige

- **Public Participation, conservation-related EU-directives and Arhus convention: comparative analysis and perspectives**
  
  Author: Volker Mauerhofer
10.05-11.05: Parallel session 5

5A: CRITICAL SECTORAL REGIMES: Energy Room 0105
Chair: Prof. dr. Ari Ekroos
- Public participation and human rights in the context of large-scale energy projects: towards effective environmental governance by indigenous and local communities under international law?
  Author: Ricardo Pereira
- Legal Requirements for German Planning and Approval Procedures for Environment-Related Large Scale Projects by way of the Example of German Energy Grid Expansion
  Authors: Tina Mutert and Monika Ollig

5B: HORIZONTAL MEASURES: Compliance Room 1201
Chair: Prof. dr. Sandra Rousseau
- The Precautionary Case Of Talvivaara: A Developed Legal Order Gone Astray
  Author: Tiina Paloniitty
- The nature of land use regulation in the UK and its oversight and review by the Courts
  Author: Elizabeth Dunn
- Use and Calculation of the Forfeiture of Illegally Acquired Gains
  Authors: Carole M. Billiet and Sandra Rousseau

5C: SPATIAL PLANNING: General issues Room 1102
Chair: Dr. Stijn Verbist
- Legal Instruments for Territory Management in the Basque Country and their Effects in Soil Occupation
  Authors: Iñaki Lasagabaster; Unai Aberasturi Gorriño; Mari Carmen Bolaño Piñeiro
- Planning for Major Infrastructure in the Regions of the European Union: Reforming the Planning System in Wales
  Author: Victoria Jenkins
- Quo vadis infrastructure projects planning in Czech Republic?
  Author: Petra Humlíčková

11.05-11.30: Coffee break
6A: CRITICAL SECTORAL REGIMES: Energy projects
Room 0105
Chair: Prof. dr. Johan Eyckmans
- The development of large-scale EU energy infrastructure
  Author: Alice Whittaker
- Environmental aspects of State aid for the investment in large scale energy projects
  Author: Marcin Stoczkiewicz
- Stinky business: are the differences in the odorization of natural gas across European countries hampering the progress towards EU-wide gas market?
  Author: Anna Butenko

6B: HORIZONTAL MEASURES: Procedure
Room 1201
Chair: Eva Kruzikova
- Compensation & mitigation within a systematic approach to large scale infrastructure projects
  Author: Berthy van den Broek
- The Aarhus Convention and EU Environmental Law: is environmental protection possible without effective access to environmental information?
  Author: Rositsa Pencheva
- Deconstructing Spatial Planning Law in Greece: The case of the strategic investment (‘fast track’) law
  Authors: Antonios Sifakis and Vanna Sfakianaki

6C: CRITICAL SECTORAL REGIMES: Energy production
Room 1102
Chair: Prof. dr. Guido Pepermans
- Enhanced Landfill Mining: legal barriers and opportunities for Sustainable Materials Management in the EU
  Author: Thomas J. de Römpf
- The risks of Cross Border Pollution and the EU Temelin case law – the Status of Nuclear Safety and Licensing in the EU
  Authors: Ludo Veuchelen and Tobias Heldt
- The Phasing-Out requirement of priority hazardous substances as an obstacle to the permission of coal-fired power plants?
  Author: Lisa Löffler
12.30-14.00: Lunch

14.00-15.30: Parallel session 7

7A: BREAKOUT SESSION: “MAKE IT WORK” Room 0105

Breakout session organised by Dr. Lorenzo Squintani and Dr. Kars J. de Graaf

MAKE IT WORK – Towards a roadmap for future EU environmental legislation
Smarter regulation for a more effective and efficient implementation of EU environmental law

→ Refer to separate programme at the end of this programme

7B: HORIZONTAL MEASURES: Policy instruments Room 1201

Chair: Hans Lopatta

- Regulating Uncertainty: the Case of Environmental Harm
  Authors: Chiara Sotis, Ugo Zannini, and Alessandro Romano

- Fragmentised compensation regimes and large scale projects. What improvements can the made regarding a regulation for compensation for a large scale water project?
  Author: Willemijn van Doorn-Hoekveld

- The development of a legal framework on low carbon green growth: The case of Malaysia
  Author: Punitha Silivarajoo-James

7C: LOOKING OUTSIDE THE EU: Energy and climate Room 1102

Chair: Prof. dr. Marjan Peeters

- From host to investor: Enhancing environmental sustainability in the CDM forestry projects
  Author: Yixin Xu

- Facilitating Transparency and the Right to Environmental Information in Large Scale Projects: Lessons from the Kwale CDM Project in Nigeria
  Authors: Damilola S. Olawuyi and Omolola S. Olarinde

- Renewable energies and the environment in North Africa: a European and international law perspective
  Author: Nora Grabmayr

15.30-15.50: Coffee break
Second Plenary session: chaired by Prof. dr. Valérie Cappuyns and Prof. dr. Sandra Rousseau

15.50-15.55: Introduction

15.55-16.25: Keynote speaker
Karl Friedrich Falkenberg, Director-General DG Environment, European Commission
"EU environmental and planning policy with regard to large scale projects"

16.25-16.55: Keynote speaker
Dr. Carolyn Abbot, Senior Lecturer, School of Law, University of Manchester
“EIA as Collaborative Governance: Public v Private Interests”

16.55-17.25: Keynote speaker
Prof. dr. Kurt Deketelaere, Professor of Environmental and Energy Law, KU Leuven; Secretary-General, LERU
“The role of mediation in the dispute settlement regarding large scale projects”

17.25-17.30: Conclusions

17.30-17.40: Announcement 3rd EELF Conference in Aix-en-Provence in 2015

End of the day

18.00-19.00: EELF Managing Board and Advisory Board meeting
Chaired by Dr. Moritz Reese
Friday 12 September 2014

“EU institutions day”

10.00-12.00: Panel debate with amongst others members from the DG Environment and the Legal Service of the European Commission

12.00-13.15: Lunch

13.15-14.00: Walk to the European Parliament

14.00-16.00: Guided visit of the European Parliament with one or two members of the Parliament

16.00-16.30: Walk to the conference location
MAKE IT WORK
Towards a roadmap for future EU environmental legislation

Smarter regulation for a more effective and efficient implementation of EU environmental law

Breakout session organised by Lorenzo Squintani and Kars J. de Graaf

Introduction
In the 7th environmental action programme, the Council and Parliament conclude that the full and even implementation of the environment acquis across the Union is a sound investment for the environment and human health, and also for the economy. As one of the seven priority objectives, the programme undertakes to maximise the benefits of the Union’s environment legislation by improving implementation. The programme states that, in addition to helping Member States improve compliance, the Commission will continue to do its part to ensure that legislation reflects the latest science, takes into account experiences at Member State level with putting Union commitments into effect, is coherent and fit for purpose.

The current body of EU environmental law has come into being over a long period of time. The current acquis covers many important challenges facing the environment in Europe today. However, because it has come into being in a piecemeal manner the body of legislation contains inconsistencies and incoherence. Whilst these may not interfere with the effectiveness of individual legislative acts, they can lead to lack of clarity at the operational level or to unnecessary burdens in the implementation of EU policy. Examples are differences in definition of installation, so that it is not always clear for individual businesses if they fall under the scope of a Directive, or the varying water quality reporting cycles which unnecessarily task water management bodies with multiple reports. Furthermore, inconsistency and incoherence hinders the development of integrated national policy where various pieces of EU legislation are bought under one national policy framework. Improving the consistency and coherence of EU environmental policy can contribute to better implementation of this legislation within the Member States, and thus to the attainment of our collective environmental EU objectives.

Based on these findings, we organise a session in which the Dutch Ministry for Infrastructure and Environment (MI&E) will explain the Make it Work Programme, in search for feedback from the academic world.

Programme
14.00-14.40: Josien Stoop & Jan Teekens (MI&E)
Ongoing trends in a) case law, governance and law-making practice; b) new risks such as nanomaterial, new challenges such as those indicated in the 7th environmental action programme and c) the effects of the increase pressure on environmental values as well as on other values pursued under EU environmental legislation (about 40 minutes)

14.40-15.30: Discussion

1 University of Groningen, Faculty of Law. This breakout session is Commissioned by the Dutch Ministry of Infrastructure and Environment (the Netherlands).