

**ENVIRONMENTAL
LAW CENTER
AT THE UNIVERSITY OF COLOGNE**

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THE GREEN SHEET

ELC Semester Update

OPENING STATEMENT

Dear friends and members of the Environmental Law Center,

Let's (re)consider specialisation.

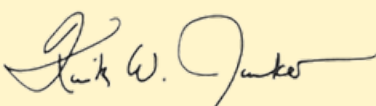
Universities divide themselves into faculties and departments that speak such different languages of specialisation that they cannot converse with one another about matters of importance.

Governments delegate authority to ministries and agencies of technical and economic specialisation. Recent headlines include a seminar in “Analyzing How Technology Can Transform Environmental Rule of Law,” “Plan to Store CO2 Underground,” and “Investing in Sustainable Equity Funds”. With specialization, we promise ourselves expertise and perhaps even progress. But there are other consequences as well. A little over fifty years ago, governments of the world, largely in response to citizen actions and complaints, greatly expanded the notion that we call public environmental law. But at the same time, in the case of environmental law, as in other areas of specialization, the non-specialist citizen was removed from the discussion. With each generation of citizen removed from care for the environment, the assumption that the state would take care of environmental law problems through public law continued to grow. Now, with crises of climate disruption and biodiversity loss, we wait for the state to solve the crises for us, presumably through legislation and its enforcement. But the state has its own challenges and suffers from lobbying and intentional misinformation schemes. One of my colleagues who works in state environmental government for more than thirty years recently admitted that what the state has achieved in that time is in essence, only “controlled degradation.” From a different angle, a student recently noted that states of the “south” (as we like to say) suffer from less access to data and information than those of the north. That hindrance is not limited to states of the south.

When it comes to climate disruption, we have learned through litigation in the USA that Exxon had better data for decades, indicating when and how climate disruption would take place, but refused to tell anyone and in fact, chose instead to spend its money on intentional climate misinformation, through funded politics, artificial think tanks, lobbying and advertising. And when it comes to diesel cars being sold as “clean”, litigation in Germany revealed what the auto makers had not only known, but had intentionally, deceptively planned--producing and selling dirty diesel cars equipped with devices to cheat pollution control inspections. Citizen action has put pressure on polluters to appear to be ecofriendly. Some have complied. Others engage in greenwashing.

As the pendulum swings, now, even if entities are taking any positive step, they often practice green hushing - “Greenhushing Is On the Rise as Companies Go Silent on Climate Pledges.” In this context that we find ourselves, environmental lawyers help citizens to exercise their rights to a healthy environment.

What are we waiting for?



Prof. Dr. Kirk W. Junker, Director, Environmental Law Center
Cologne, April 3, 2024

TABLE OF CONTENTS

| | |
|--|-----------|
| UPCOMING EVENTS IN SUMMER SEMESTER 2024 | 4 |
| PAST EVENTS IN WINTER SEMESTER 2023/24 | 6 |
| ELC ANNOUNCEMENTS | 10 |
| CURRENT PROJECTS AND INITIATIVES | 11 |
| ACADEMIC RESEARCH PROJECTS | 12 |
| ENVIRONMENTAL LAW ALL OVER THE WORLD | 17 |
| ENVIRONMENTAL LAW IN GERMANY | 21 |
| RECOMMENDATIONS | 23 |
| GOOD TO KNOW | 25 |
| HOW TO REACH US | 28 |

UPCOMING EVENTS IN SUMMER SEMESTER 2024

LECTURE ON GERMAN ENVIRONMENTAL LAW

Weekly on-site lecture in German, beginning on April 10, from 8:00 – 9:30 am.

In the upcoming summer semester, Dr. Andreas Hamacher and Dr. Markus W. Pauly - both working as environmental lawyers at PAULY Rechtsanwälte - together with Marvin Jürgens will be teaching German Environmental Law. The lecture will introduce into German and European environmental law but also provide information on more special topics like climate protection law.

Lectures will be held in seminar room S14 on Wednesdays, starting on April 10, from 8:00 – 9:30 am.

Successful participation in this lecture series can be credited towards the Environmental Law Certificate or as part of a lecture in Schwerpunktbereich 8 or 16.

*Places are limited! **Please register through KLIPS or by stating your name, semester and matriculation number** via e-mail to environmental-law-center@uni-koeln.de.*

LECTURE ON INTERNATIONAL ENVIRONMENTAL LAW

Weekly on-site lecture in English, beginning on April 10, from 17:45 – 19:15 pm.

Starting on April 10, Ms. Mrinalini Shinde B.A., LL.B. (Hons.), M.Sc., LL.M. will teach the course “International Environmental Law” on Wednesday from 17:45 – 19:15 pm in room H80.

All lectures will be held in English.

The course delves into the fundamentals of international law, the history of international environmental law, and international lawmaking, adjudication and implementation. The course further focuses on specific sectors within international environmental law such as the Hydrosphere (Transboundary Rivers, Oceans and Fisheries), Atmosphere (UN Framework Convention on Climate Change), Wildlife (Convention on Migratory Species & Convention on International Trade in Endangered Species), Lithosphere (UN Convention to Combat Desertification), Biosphere (Convention on Biological Diversity (CBD) and Cartagena Biosafety Protocol) and Human Rights, and the Right to Public Participation in International Environmental Law.

Successful participation in this lecture series can be credited towards the Environmental Law Certificate.

*Places are limited! **Please register through KLIPS or by stating your name, semester and matriculation number** via e-mail to environmental-law-center@uni-koeln.de.*

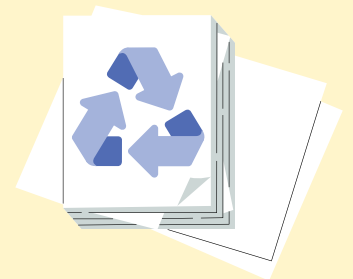
ON-SITE EXCURSION TO REMONDIS PAPER RECYCLING EQUIPMENT ON APRIL 17, 2024

The Environmental Law Center is inviting its students to take part in an on-site plant visit to REMONDIS paper recycling equipment in the Cologne-Niehl location.

The excursion will take place on April 17, 10:00 am.

Participating at the excursion can be credited towards the Environmental Law Certificate.

*There is only a limited amount of places available. If this has piqued your interest, and you would like to register for the excursion, please write to environmental-law-center@uni-koeln.de by **stating your name, semester, and matriculation number.***



PAST EVENTS IN WINTER SEMESTER 2023/24

ROUNDTABLE DISCUSSION WITH DR. ANNE KALLIES ON ENERGY LAW

Money, Time and Justice: The Energy Transition Trilemma

In light of impending climatic tipping points, it is crucial to speed up the energy transition. This statement is neither new, nor groundbreaking. Still, putting it into practice proves extremely difficult. I was first introduced to the topic of (renewable) energy law and the regulatory frameworks of electricity markets at the **roundtable discussion with special guest Dr. Anne Kallies, Senior Lecturer at the RMIT Graduate School of Business and Law**, which took place at the UoC Environmental Law Center in October 2023. Taking part in the discussion were Saskia Münster, Mrinalini Shinde, Prof. Dr. Hebatallah Adam, Dr. Dennis Agelebe, Aren Alexander-Gregorian, Herbert Dakasi and Gabriel Andres Rojas Verdugo. After Dr. Kallies presented her own research on the current state of renewable energy infrastructure and the findings of Ruhl and Salzman's recent article "The Greens' Dilemma: Building Tomorrow's Climate Infrastructure Today", the other discussants had a chance to comment and draw on their own work. Being new to this topic, here is what I learned that evening:

1. There is a profound lack of renewable network capacity, especially transmission lines in countries and regions like the US, the EU, the UK, and Australia. The scale of change that is (urgently) needed is substantial.
2. Multiple jurisdictions identify the pressing need to invest in new energy transmission infrastructure in the next ten years.
3. Depending on the region, the factors working against an accelerated deployment of renewable energy differ, ranging from public opposition, lack of financial resources, overly complex regulatory frameworks, local culture, or reduced access to technology and knowledge.
4. Acceleration measures, often targeted at centralizing and simplifying the system, run the risk of jeopardizing public participation and equitable justice.
5. Finally, the current state of the energy transition was overall criticized for the dominant role of the Global North, with several discussants rightly asking "Why does the Global North come first? Where does this leave the Global South?"

Motivated by the lively debate that I watched that evening, I subsequently delved further into the subject, read Ruhl and Salzman's article and studied international investment law (IIL). What follows are the views I formed during the process. I believe that it is necessary to reform IIL if we want to finance climate infrastructure and phase down fossil fuel production. Yet at the same time, even if it was possible to attract investors, a fast transition, funded in such way, ignores the need for public participation and equitable justice.

One of the key measures needed to bring about the energy transition in time is to align finance flows with this aim. This is reflected in Article 2.1(c) of the Paris Agreement. However, IIL in its current form does not facilitate this. Traditionally, non-investment clauses do not feature in international investment agreements (IIAs). Instead, old generation IIAs focus on investor protection. This negatively impacts the possibility to consider environmental issues in arbitration tribunals. Additionally, it can create what has been coined “a regulatory chill”, a situation where the government of the host state is reluctant to regulate – in this case towards more stringent climate action – because it anticipates that it has to account for such changes by compensating investors. Even newer generation IIAs have not been able to solve this problem because they lack reference to international environmental standards and do not contain mandatory language or effective enforcement mechanisms.

There is some evidence that further reforming treaty language may enable governments to introduce tighter regulations in the context of fossil fuel phase out without having to compensate investors, and consequently tackle climate change more flexibly and resourcefully. However, I remain skeptical. It seems realistic that this would negatively impact the willingness of investors to finance renewable energy projects as greater regulatory flexibility acts as a deterrent to further investments.

The crucial question is therefore how we can nevertheless incentivize climate finance. In his article “Cashing-in on the Energy Transition?”, Matteo Fermeiglia argues for a more “equity-oriented and holistic” assessment of damages in renewable energy arbitration to account for the need to regulate and scale up renewable energy generation without ignoring the right of investors to reasonable profitability. It seems that this approach could solve the issue of overcompensating investors and thereby improve the ability of governments to regulate in the context of climate change, while maintaining the trust of investors in the established system of investor protection. More radically, Ruhl and Salzman suggest with regard to the US that it is necessary to employ streamlining strategies such as “establishing regulatory exemptions”, “centralizing decisions”, setting up “meaningful short timelines for assessment and approval decisions” and “increasing information”. These strategies would apply to a selected number of large-scale, impactful climate infrastructure projects to accelerate the energy transition. Given that such measures would increase the predictability and timeframe of such developments, such projects are likely to attract investors.

Nevertheless, there is an inherent trade-off involved in such proposals, as even Ruhl and Salzman themselves acknowledge. By speeding up the development of infrastructure in this way, there will be less opportunity for challenging such projects, leading to a great likelihood of reduced public participation, conflicts with environmental concerns such as habitat conservation, and distributional injustice.

While Ruhl and Salzman convincingly argue that in this “Greens’ Dilemma”, though risky, it is necessary to prioritize speed in order to avoid irreversible damage, I am skeptical whether these other factors could meaningfully be addressed retrospectively or as a secondary concern. In other words, whether radically prioritizing speed would not sacrifice achieving a just transition. In any case, their outline of possible scenarios highlights the difficulty of reconciling financing, speed and justice concerns in the energy transition.

However, the problem of justice appears to be much more fundamental. As the roundtable discussion described above has shown, it is not just about the potential injustice within a country, for example towards indigenous or marginalized communities. Rather, we must understand the energy transition as a global and intersectional problem and be aware of where energy poverty, profit, and resources are to be found worldwide. We should also critically scrutinize who is and is not given a voice internationally. I would therefore like to conclude by reiterating the questions that were raised in the discussion. Why does the Global North come first? Where does this leave the Global South? Is the Global North repeating past mistakes?

By ELC graduate Cecile M. Schuster

Further information:

- *JB Ruhl and James Salzman, ‘The Greens’ Dilemma: Building Tomorrow’s Climate Infrastructure Today’ (2023) 73 Emory Law Journal 1*
- *Matteo Fermeglia, ‘Cashing-in on the Energy Transition?’ (2022) 23 The Journal of World Investment & Trade 982*

HOW TO BECOME AN ENVIRONMENTAL LAWYER WITH FRANZISKA ALBRECHT (GLI)

On November 29, 2023, Franziska Albrecht, who works for Green Legal Impact (GLI), gave her guest lecture on access to justice as part of the lecture “Environmental Law in the Planning and Permitting Procedure”.

After introducing the Aarhus Convention, she gave insights into its implementation in the EU and Germany as well as the currently planned legislative changes in Germany. During her lecture, she gave insights into her work as an environmental lawyer at the NGO GLI.

Following her presentation, she spoke about her career and the students were able to take part in a discussion about access to justice and on becoming an environmental lawyer.

By ELC member Marvin Jürgens, Mag. Iur.

ENVIRONMENTAL LAW IN THE PLANNING AND PERMITTING PROCEDURE

Last semester, Dr. Andreas Hamacher offered his lecture on German environmental law in the planning and permitting procedure for the first time. While his summer semester lecture on German Environmental Law focuses on the theoretical and dogmatic foundations of German environmental law, the new lecture took an innovative approach and taught German Environmental Law using a case study. In comparison to German Environmental Law, the students learned about the various steps of a permitting procedure. This approach offered both practical insights into the work of an environmental lawyer and theoretical background on German environmental law.

By ELC member Marvin Jürgens, Mag. Iur.

UNIVERSITY OF COLOGNE AT THE 2EUMC IN BIRMINGHAM

In March 2024, the second EUniWell Moot Court (EUMC) took place in Birmingham (United Kingdom). A strong team once again represented the University of Cologne. Led by coach Marvin Jürgens, research assistant at the Chair for US-American law and member of the Environmental Law Center, Franka Berendonk, Matteo Tonietto, Evelina Eidukaityte, and Marcus Nathanael Bauer Llanas competed against the teams from Taras Shevchenko National University of Kyiv (Ukraine) and again from Nantes Université (France).

This year, the teams from the Université de Nantes and the Università degli Studi di Firenze (Italy) made it to the final, in which both teams held impressive pleadings, but the team spirit of the French team made the decisive difference. We congratulate the team from the Université de Nantes!

The EUMC is aimed at students from partner universities who want to improve their knowledge of European and international law in relation to topics from the “EUniWell's key arenas”, in particular in relation to Arena 2 (Individual and Social Well-Being) and SDG 16 (Peace, Justice and strong institutions).

In addition to the competition, the program aims to promote the creation of networks between students and academics with common interests and ideas.

This year, teams from the University of Birmingham, University of Cologne, Taras Shevchenko National University of Kyiv, Nantes Université, and Università degli Studi di Firenze participated in the 2EUMC.



By ELC member Marvin Jürgens, Mag. Iur.

ELC ANNOUNCEMENTS

NEW VICE RECTOR FOR SUSTAINABILITY

More exciting news to share: With effect from October 2023, the University's Council has appointed Prof. Dr. Kirk W. Junker as new Vice Rector for Sustainability.

Staying in close coordination with the Rectorate, the Vice Rector for Sustainability is mainly responsible for the integration of sustainable development in all working areas of the University of Cologne. As Vice Rector for Sustainability, Prof. Dr. Junker is also the chairman of the Sustainability Council ("Nachhaltigkeitsrat") and is further supported in his tasks by the Sustainability Office ("Nachhaltigkeitsbüro") of the University of Cologne.

CURRENT PROJECTS AND INITIATIVES

INVITATION TO THE SECOND SUSTAINABILITY FORUM AT THE UNIVERSITY OF COLOGNE ON APRIL 22, 2024

Dear students, members and friends of the Environmental Law Center, dear sustainability enthusiasts of the University of Cologne!

On Monday, April 22, 2024, from 12:30 – 20:00 pm, the Second Sustainability Forum of the University of Cologne will take place in Aula 2 of the main building.

This year's forum takes up the idea of sustainable action with the guiding theme of Planetary Responsibility. The program includes a series of lectures, a panel discussion and formats for interdisciplinary exchange and further networking.

Please click here for more information and to register for the forum: <https://portal.uni-koeln.de/universitaet/universitaet-auf-einen-blick/nachhaltigkeit/veranstaltungen/zweites-forum-nachhaltigkeit>

Registration deadline is April 9, 2024.

The Sustainability Forum will be held in German.

Please note that this forum is reserved for students and members of the University of Cologne only.

We look forward to your participation and to another successful Sustainability Forum!

ACADEMIC RESEARCH PROJECTS

ARTIFICIAL INTELLIGENCE AND CLIMATE CHANGE: ANOTHER ADDITION TO THE LIST OF CLIMATE POLLUTANTS?

For some time now, Artificial Intelligence (AI) has found its way to the forefront. Many regard it as one of the major enrichments of our time. With that being said, the increasing impact of AI on various areas of life, leads to the need to discuss whether and if so, how AI affects one of the – if not the most – pressing challenge(s) we face in today’s world: Climate Change.

To get a better understanding of the question at hand, a brief understanding of AI is necessary. AI, in simple word, describes an algorithm that conducts a complex task for you. In recent times, there have been groundbreaking new inventions in an AI subdomain referred to as “Machine Learning” (ML). Concretely, ML deals with the extraction and analysis of a concrete pattern from one larger database, which for instance makes it possible to analyze tier one data on artificially developed estimated numbers. The question that remains is how the above correlates with AI.

In fact, this topic is being discussed controvertibly. Here, two sides of the coin need acknowledgement.

First, there is the perspective of AI advocates, whose main argument is based on the apparent AI induced general acceleration of sustainability processes in many areas like the energy sector, production of goods, agriculture, and forestry. They further argue that AI can facilitate political processes and lead to the faster adoption of laws as well as effective measures that actually rely on well-founded data. To name one example: On numerous occasions, where the decision-making by countries, politicians and other experts was hindered by the lack of reliable scientific data, AI could hop in by calculating estimated numbers from the data that already exists. The analysis of e.g., already existing satellite pictures can be used to spot emission intense greenhouse gas sources and areas, and then automatize the analysis of a multitude of satellite pictures.

Further, AI’s influence is not only limited to climate change mitigation, but also can present possible adjustments to inevitable climate change consequences. One important problem to name here would be food security, where the overall situation will even further worsen with extreme weather events such as droughts and floods accelerating. Again, high-resolution satellite pictures and aerial images can be used to monitor harvest conditions and calculate agricultural yields more closely, aiming to improve the food situation of a growing global population. This approach renders the possibility for early warning systems to help obviate crop failures.

Undoubtedly, this would particularly serve as most useful to humans from the Global South, whose impact on climate change has been lower on a relative comparison to the West, but whose suffering has unfortunately led to famine and unthinkable ways of living.

However, AI critics are concerned with negative consequences that will inevitably follow up with the rise of AI work.

For one, AI itself relies on electricity and increases the overall energy consumption. Moreover, statistics show that companies which have already implemented AI into their work, often work on emissions-intensive projects, for instance in areas like the production and extraction of oil and gas. To name another relevant example, autonomous driving is highly dependent on AI systems, which again poses serious climate-damaging risks, which is even further intensifying due to the application of AI. We see here that there is a tangible problem with the overall development in the fields of AI, because companies are ready to exploit AI for their own private benefits.

In conclusion, it is evident, that AI and ML have a broad area of application. Therefore, one cannot simply affirm or negate a mere positive influence of AI on climate change questions. What however stands out is that the practical realization of AI strategies can be helpful, but can also further destroy our climate depending on the concrete context of AI utilization.

There is no denial, that climate policies are highly political. But, with the rise of AI, human influence on these important questions could begin to fade and become more and more irrelevant. This is particularly dangerous in such widely discussed topics like climate policies, where devolving power to AI might result in either great success or the complete opposite. Secondly, in challenging times of the anthropocene where most political decisions still focus mostly on humans' impact on the planet, democratic political debates could become more and more obsolete, if AI takes over the political analysis as a whole. Surely, more laws preventing the exploitation of AI systems for capitalist environment-damaging intentions could help counteract this justified concern. Nevertheless, AI does not rule out climate protection, but these new inventions must certainly be perceived with great care.

By ELC member Milena Ortac

INVESTMENT DIVERSIFICATION BY MIDDLE INCOME COUNTRIES AS A MEANS TO ACHIEVE SUSTAINABLE DEVELOPMENT

Global actors in stopping adverse climate change effects are as diverse as they come. One group of them is encompassed by Middle Income Countries (MICs). According to the World Bank, there are two kinds of MICs, Low MICs, those with a gross national income per capita between \$1,086 and \$4,255 such as Algeria, Bolivia, and Cambodia; and Upper MICs, those with a gross national income per capita between \$4,256 and \$13,205 such as Peru, Serbia, and Thailand. It is relevant to note that most MICs lie south of the Equator.

The importance of MICs resides in the fact that they house up to 75% of the world's population. Another key fact is that 62% of the world's impoverished population live in those countries.

Therefore, while looking at these countries' macroeconomic data may not show widespread hunger, lack of access to healthcare, education, energy, heating, or other public services.

However, the day-to-day lives of many of their citizens are filled with the hardships associated with the lack of these services.

To combat these problems, constant and reliable revenue streams are needed. Allocation of resources is the basis of modern economic discipline. Therefore, governmental decisions on investments are taken by considering the best possible outcome of allocating said resources. Nonetheless, the bulk of investments and development projects made by or in these kinds of countries tend to concentrate in specific sectors instead of diversifying and therefore mitigating risks within their respective portfolios.

No sustainability can come when concentrating economic activities within specific sectors. When looking at high income countries, they have diversified their centres of production. While a state, region or province may specialize in the production of a certain good, it varies from region to region. This occurrence is not found within MiCs. It has been observed that the governments of countries within this spectrum have the bulk of their investments and development projects concentrated on extractive activities such as mining, fishing, and logging.

Moving from these industries it is difficult, of course, as they play a fundamental role in the livelihood of the citizens of these countries. They generate employment and increase investment in public infrastructure to support their operations, what in turn benefits the citizens of the areas close by. However, they also deteriorate the environment around them negatively affecting the quality of life of the citizens. In turn, civil unrest ensues due to the worsening conditions of their existence.

Concentrating industries also leads to lack of competition. Not many companies have the financial resources or technical expertise in the industries described above, even less companies have the required scope to go beyond continental borders and become a worldwide investor. Consequently, markets in MiCs have few players with strong market presence and a large sphere of influence. The metrics of sustainable development require social, economic, and environmental dimensions to be fulfilled. However, by what we have briefly reviewed, none are being achieved.

The proposed solution is an Investment Diversification Program (IDP). The composition of such a program relies on critical analysis of the entire situation regarding the structure of a country's investments. There are a series of considerations which I believe are fundamental to successfully deploy the program and develop the economic standing of a nation to achieve sustainable development, and, as consequence, benefit their citizens.

First, IDP considers the fact that the already existing industries have integrated within a country's culture. For example, Danza de los Mineritos (Miner's Dance) in Bolivia was created to honor miners' work. People have assimilated their jobs as an expression of culture and belonging, and in turn, they now associate them intricately with their way of life. Therefore, any intention to eliminate these industries or to replace them will be seen as rejection of their way of life.

Therefore, to achieve social sustainability, we need to consider the cultural impact of an activity within their zone of influence. Economic and legal measures are only effective if positively received by those who seeks to impact. What can work in theory is not good enough many times in practice. Knowing this, IDP seeks to construct around existing infrastructure, be it to supplement it or to replace aging, inefficient one. This aids in the consecution of the social parameters by integrating the existing communities into the new industries and encouraging school-aged citizens to pursue careers in the newly formed centers of production. Therefore, new jobs and academic opportunities are created both in benefit of the investor and the citizen.

A testament to how a new industry can be integrated and developed from within already existing industries is the renewable energy one, particularly solar. The starting point in our example analysis is the mining industry. This industry takes place in rough terrain, often at high altitudes, where access is limited. Adding to that, most mining operations take place south of the Equator, where sunshine hours double or triple those found in Germany.

This creates adequate conditions for the sprawl of solar energy in mining operations. Said industry requires extensive power use in all its productive phases. To supply that power, the investor could build a fossil fuel plant, if he chooses to do so on-site, a lengthy construction process must take place, along with the required administrative permits and the dangers of building in rough terrain. Which elevate the cost of such option.

Another option could be building power lines stemming from traditional fossil fuel plants and buying that power from the supplier. Of course, this is a far more economical choice than the preceding one. However, this option is limited to the possibility of being able to physically or legally construct the lines. As we have discussed, the terrain may be too rough to build, or it may need to pass through indigenous land, since most indigenous people of the world live in MICs, which could be legally protected from such constructions. Making it even costlier since compliance with social, environmental and labor laws would require specialized legal counsel.

The proposed solution is to invest in solar energy. The necessary panels can be transported such as any other construction equipment to receive on-site power production and require minimum assembly. The power line build cost will also be restricted to the local lines feeding the operation. These considerations turn solar in a cheaper alternative to conventional production. However, it must be said that even with the long sunshine hours, intermittency is a problem that must be addressed. To solve the issue, batteries and storage costs must be considered when taking this option. Which does turn the initial investment costlier. Even with those caveats, switching their energy source to solar would have positive impact on both the economic and environmental sustainable development metrics for the reasons mentioned above.

The role of MICs governments in IDP is to incentivize and safeguard the birth of these new industries. There are different means to achieve these objectives such as public-private partnerships schemes, special tax procedures and rebates for the new industries and lowering bureaucracy costs by offering fast-track options to procure the necessary permits. Consequently, scaling down subsidies and promotion schemes in already established industries is necessary to reallocate said resources in the mentioned promotion schemes of the newer ones.

Throughout the text the example of solar-powered mining has been used to explain how IDP could work in birthing and diversifying investments in MICS. While this is just one of many instances, there are more industries that can be born out of existing extractive ones. The intellectual exercise can, and should, be done to encounter where and which industries create synergies to achieve sustainable development metrics, IDP is just a thought scheme to structure the process. I believe that with these measures in place and following the guidelines for investing set forth by IDP, a better future holds for MICs to further develop their economies and the wellbeing of their citizens.

By Vincenzo Pareja Grippe

ENVIRONMENTAL LAW ALL OVER THE WORLD

POLISH-GERMAN COOPERATION ON FIT FOR 55 IMPLEMENTATION - NEWS AND PERSPECTIVES

The Fit for 55 is a reform package proposal and was first introduced by European Commission in July 2021. It entails a handful of proposals concerning green energy transition, greenhouse gases emissions reduction and biodiversity strategies, which will all be a tool to achieve the targets set in EU Green New Deal. The implementation of Fit for 55 reforms will certainly result in total revolution of Member Countries environmental and energy legislations. This will also undoubtedly require cooperation between the countries. One area, where such cooperation is needed, is undoubtedly the German-Polish relationship.

Polish-German cooperation in the past energy endeavors

Despite the changing political dynamics, the operational cooperation between the two countries have always been quite natural because of the proximity of territories and similarity of basic interests. Especially now, however, the bilateral collaboration in climate and energy matters is in line with parties national interests. Comparing the two countries' strategic documents: Polish Energy Policy by 2040 (PEP 2040) and German national climate and energy goals, it can be certainly seen that two major targets - increasing the share of renewable energy sources in countries' overall energy mix and reduction of GHG emissions - are shared by both countries. Apart from the different approaches to nuclear energy, the goals seem to be increasingly convergent.

The last few decades have been marked by ups and downs in German-Polish relations concerning energy transition policy. There existed some animosities based on the technical issues mostly, such as putting the Polish energy grid under pressure due to loop flows from the electricity produce by wind installations in North Germany. However, there has been a growing trend of common specialist meeting and academic, as well as experts cooperation, such as Deutsch-Polnische Energieplattform.

Oder river case and local-level environmental cooperation

A certainly groundbreaking case, showing how much the environmental protection of both parties should be interconnected was the so called 2022 Oder river environmental disaster. The river Oder, which in its substantial length flows on the Polish-German border, had endured a mass mortality event of the wildlife living in it, which was a never seen before catastrophe for both countries water fauna. This incident highlighted the shared environmental concerns between Poland and Germany along the river basin. In response, both countries engaged in local-level environmental cooperation to address the issue. They collaborated on monitoring water quality, implementing measures to reduce pollution, and enhancing ecological restoration efforts along the riverbanks. Additionally, joint initiatives were launched to raise awareness among local communities about sustainable agricultural practices and the importance of preserving river ecosystems.

Prognosis of the collaboration in the epoch of EU Green Deal

Without a doubt, successful Polish-German cooperation in the environmental and climate endeavors, would positively reaffirm the two countries' position within the European Union. There are certainly possibilities for the academic and infrastructural collaboration, mostly concerning the security infrastructure of the offshore wind farms, which are now perceived in both countries as a potential major driver for the net-zero transition. However, the local and social dimension of the climate action seems to be an especially promising field for the prospective collaboration. A good example of such may be the so-called Joint Future Concept for the German-Polish Border Region, which includes inter alia promoting sustainable growth in the Berlin-Szczecin area. The concept includes initiatives such as infrastructure projects, joint investment efforts and environmental conservation programs aimed at promoting sustainable growth and enhancing the quality of life for residents. It may use as a good example for other EU states currently implementing the EU Fit for 55 and the inspiration for the future good relationship between Poland and Germany.

By Halina Jagielska

ENVIRONMENTAL CITIZEN SCIENCE: BRIDGING THE GAP BETWEEN ENVIRONMENTAL CONFLICT AND PEACE

The ability to observe and sense our surroundings has been crucial to the survival of our species. It allows us to distinguish between poisonous and medicinal plants, read the skies, and respond to changes in nature. It is what sets us apart from other species. However, despite our sensory capabilities, certain elements cannot be sensed in some cases, such as the ongoing, long-term pollution of the air and rivers, which can be just as dangerous as a poisonous plant. What can we do when our senses are insufficient to test the unobservable? Can environmental conflicts disrupt peace? Finally, what is the role of citizens in these scenarios?

Citizens can play a crucial role in environmental monitoring and contribute to environmental peacebuilding.

Environmental Citizen Science, also known as Environmental Civic Monitoring (ECM), allows researchers to establish evidence on the ground up by encouraging people to actively take part in monitoring tasks. This involves not only reporting environmental situations but also holding authorities accountable for their actions.

In recent years, these methodologies have become increasingly popular, particularly due to the emergence of new, affordable technologies that enable people to monitor and collect data in various scenarios. This includes taking pictures with a smartphone, as well as using low-cost atmospheric sensors that meet high scientific standards. While technology is not the only means of civic monitoring, it is one of the most valuable assets that ECM can possess.

ECM initiatives may have various goals, ranging from education and community building to data collection for policymaking or presenting evidence in court. Depending on their goals, scientific method, and data quality may require varying degrees of accuracy to ensure reliability. However, the main challenge remains the same: how to transform data into information and then into reliable knowledge.

Currently, the law guarantees citizens' rights to receive environmental information. However, no international organization has officially acknowledged the potential of the citizens to provide information or evidence on environmental issues.

Nevertheless, one can gain insight into the current international scenario by referring to sources such as Chapter 40 of Agenda 21 of the 1992 Rio Declaration, which states that everyone has the right to use and provide information. Moreover, the Recommendation 5.1 of the European Commission 2020, which outlines various elements to consider when using data contributed by citizens. At the 7th Meeting of the Parties of the Aarhus Convention in 2021, it was also suggested that granting citizens the right to produce environmental information could help fill data gaps and improve monitoring activities.

Citizen science initiatives have also received legal recognition with the US Crowdsourcing and Citizen Science Act (15 USC 3724) and by Article 58 of the Ecuadorean Organic Law of the Amazonian Special Territorial Circumscription.

It is worth mentioning that in June 2019, the US District Court of Southern Texas in the case *San Antonio Bay Estuarine Waterkeeper, et al. v. Formosa Plastics Corporation, et al.* accepted the evidence from citizen scientists without contest from the court or the company, and reached the Dauber standard for evaluating scientific expert testimony, which prompted the amendment of the Federal Rules of Evidence 702.

Despite the acknowledgments mentioned above, CGD (citizen-generated data) has not been included in any international treaty. Its scope needs to be analyzed and taken into consideration, knowing that even the adaptation of the Aarhus Convention foreseeing a right to submit information alone is not sufficient if authorities are not compelled to consider information.

However, the obstacles are not restricted to recognition but extend to the methods employed. These obstacles can be categorized as technical and social. Technical obstacles include data collection design as well as ensuring high standards and reliable results through scientific methodology. Social obstacles include understanding the motivations, expectations, and participation of individuals, as well as the psychology of volunteers and their role in community-building efforts for the initiation and further development of the project, among others.

Environmental Peacebuilding

Environmental civic monitoring initiatives are commonly used to target conservation or measure contamination issues during times of peace. However, they can also be applied in situations where peace is no longer an assumption, such as armed conflict zones.

This is a new topic that is gaining interest among the legal and scientific community. The objective of the task is to gather environmental data to evaluate the impact on the environment for post-conflict reconstruction and recovery efforts and to hold those responsible accountable.

During times of war, ECM faces additional challenges due to safety concerns and communication blockades between occupied and non-occupied territories. It is important to address these obstacles, as well as the lack of specialized personnel, fragmentation of governmental institutions, politicization of environmental data, and power dynamics between different stakeholders.

Environmental issues have often been linked to disruptions of peace. In fact, over 40% of outbreaks of internal armed conflicts in the past sixty years have been attributed to natural resource exploitation and mismanagement.

By following the Grievance theory, one can analyze the interconnection between the environmental matters and a conflict. The theory focuses on the perception of injustice as a stressor on a community, which may react against the disbalance of environmental burdens. This can lead to violence as a mean of correcting the inequalities.

Climate change and environmental issues are becoming increasingly important geopolitical factors and can even contribute to conflicts. For example, of the fifteen countries facing the most severe ecological threats, eleven are currently in conflict and four are at high risk of conflict.

Could international law play a role in addressing this multi-layered issue and contribute to environmental peacebuilding? Could ECM be a tool for conflict prevention and post-conflict recovery? Think tanks, NGOs, and international organizations, including the 'Gromada project Erasmus+', along with seven partners across Europe, are currently addressing those questions. They are working to explore the potential of these methods in zones under armed conflicts.

Without prejudice to what has been argued and presented above, to what extent should the citizens be burdened with the duties to which the State is supposedly obliged? Should we, the citizens, make up for the inefficiencies? Or would it be better to demand the efficiency from the State? Under what methods? To what extent do the boundaries of the legal serve to demand what we believe to be fairer?

By Gabriel Rojas

ENVIRONMENTAL LAW IN GERMANY

IS THE PLASTIC IN OUR BODY HARMFUL?

Microplastics are small plastic particles that are present in almost every product we consume. But how dangerous are microplastics, and what are the consequences of their consumption?

Microplastics are tiny pieces of plastic debris in the environment created from the disposal and breakdown of consumer products and industrial waste. A quarter-century ago, a marine scientist, Richard Thompson, defined Microplastics as particles measuring less than five millimeters across. Microplastics can be found in cosmetics, synthetic garments, drinks, and food. Moreover, whenever synthetic garments like polyester, acrylic, or nylon are washed, they shed microfibers that make their way into our tap water and oceans. Despite implementing filtration systems designed to remove and separate these fibers, microplastics persist and can ultimately end up in the fish we consume. This situation raises an important question: are microplastics detrimental to our health?

Before answering this question, it is important to note that the science surrounding this issue is not settled, but scientists agree that there is cause for concern. The discovery of microplastics in the digestive systems of fish and jellyfish has raised concerns about the safety of consuming seafood. In contrast to fish, shellfish are consumed whole. This insight led to the discovery that people, who regularly eat fish can consume up to 11,000 plastic particles annually. However, further research has revealed that inhaling or ingesting plastic fibers from our air may pose even greater risks than consuming seafood.

In 2022, tiny plastic particles were discovered in the human body, specifically in the lungs of surgical patients and in anonymously donated blood. Now that we know that microplastics, if small enough, can infiltrate our cellular structure, the question remains: How harmful are microplastics to humans? While scientists are concerned about the potential link between microplastics in our environment and disease, they remain cautious about making any drastic claims. Plastics contain harmful chemicals that may contribute to the development of autoimmune diseases, asthma, or cancer, but more research is needed to establish a concrete link between microplastics and these health issues. To decide whether microplastics pose a risk to human health, it is important to determine the level and duration of exposure required to cross the threshold of harm.

One thing is clear: there is a significant knowledge gap about the impact of microplastics on human health. But we can take steps to make plastics safer, even if a plastic-free world is not likely in the near future. The European Union (EU) has already implemented measures to regulate hazardous chemicals and ban the sale of products containing intentionally added harmful substances, which is a positive step in addressing this issue.

This measure also impacts products such as cosmetics, toys, detergents, etc.

However, construction materials and products at industrial sites containing microplastics are exempt from the ban as long as they are not released into the environment.

In addition, all manufacturers are required to report their estimated microplastic emissions on an annual basis and provide instructions on product usage and disposal. The ban applies not only to products manufactured in the EU but also to those imported from abroad.

The EU is aiming for a 30% reduction of microplastic waste by 2030. The ban which is expected to prevent the release of half a million tons of microplastics into the environment, is a first step toward this goal. However, there is still a significant amount of work to be done.

By ELC member Alejandra Kessler

RECOMMENDATIONS

Interested in topics about climate change?

Then you might want to consider these podcasts, films and books:

PODCASTS

- Have you ever felt bored, overwhelmed or frightened by the constant spread of news on climate related topics but still do not want to turn a blind eye? Then you should join the TEDxLondon's podcast "**Climate Curious**" as their hosts Maryam Pasha and Ben Hurst take you on a journey to learn more about everyone's share in fighting climate change. Take the chance to listen to climate psychologist Jessica Kleczka and learn about the climate-positive news and hear from other relatable leading world pioneers as they explain, why sustainability goes beyond the ban of plastic straws. Access here: [Podcasts - TEDxLondon](#)
- Coming from an independent multimedia organization, "**Green New Deal Media**" is a podcast that concentrates on the climate movement both from a local and global perspective. If you have ever wondered who should pay for climate transition or like to hear from NASA scientists' like Peter Kalmus on how to beat climate change, make sure to tune in here: [The Podcast \(gndmedia.co.uk\)](#).
- Finally, yet importantly, do not miss out on the opportunity to get an intersectional perspective on topics such as climate crisis in "**THE YIKES Podcast**". Hosted by Mikaela Loach, this podcast will provide you with inside knowledge on speakers working inside the United Nations COP structure and why - although there exists "a lot to make us Yikes in this world" – there are ways to guide us towards action together. Access here: [The YIKES Podcast - Hosted by Mikaela Loach and Jo Becker \(acast.com\)](#).

BOOKS

- In "**Client Earth**" the environmental lawyers James Thornton and Martin Goodman address the urgent need for more environmental laws which must be enforceable and enforced. With law being a force that gets recognized by all parties involved, it is the beacon of hope in a world, where extreme weather events are accelerating, and every year successively becomes the hottest in human history. Thornton and Goodman take you on a journey to different countries to see how public law can be used for sake of climate protection.

FILMS

- If you prefer films over reading, the 2023 Norwegian documentary “**Fedrelandet**” (“Songs of Earth”) might be the right choice for you. This film is set in the Norwegian fjords and follows the existential journey of the film’s director Margreth Olin through the eyes of her aging 85-year-old father. While this film covers topics such as life, death and nature, viewers are also invited to think about generation gap and perhaps reevaluate what we can learn from older generations in terms of coexisting with nature...

Any recommendations missing from this list that you would like to share with friends and members of the Environmental Law Center? Then do not miss your chance to appear on the next Green Sheet and send us your ideas here: environmental-law-center@uni-koeln.de!

GOOD TO KNOW

EU SUSTAINABLE INVESTMENT SUMMIT IN BRUSSELS

On January 24, I was able to attend the EU Sustainable Investment Summit, which took place in the Charlemagne Building of the European Commission in Brussels.

The keynote address by Valdis Dombrovskis, Vice-President of the European Commission, emphasized the urgent need to reduce emissions and enhance resilience in the face of climate change. Axel van Trotsenburg from the World Bank highlighted the exacerbation of extreme poverty in developing countries due to the climate crisis, advocating for multilateral collaboration and support for adaptation and mitigation efforts.

Transitioning to a net-zero economy is an urgent necessity, requiring substantial changes across production, distribution, and resource recycling. The EU Green Deal Industrial Plan is a significant step towards achieving this, fostering the scaling-up of net-zero technologies to meet climate targets.

In the panel discussion, speakers from business and academic sector underscored the importance of a predictable regulatory framework and investment in renewable energy sources (RES) for greening production. They emphasized smart grids, storage, and innovation for mitigation efforts, particularly in developing countries.

Jim Skea of the IPCC stressed the need for increased investment in mitigation and adaptation, especially in Sub-Saharan Africa. The 7th IPCC cycle aims to address adaptation means and welcomes contributions from academics and practitioners.

The conference was concluded by the Prime Minister of Belgium, who said that despite crises, the EU remains committed to its ambitious Green Deal. The discussion highlighted the necessity for global cooperation and investment to combat climate change effectively, which was also mirrored in the questions posed by the audience.

By Halina Jagielska



- **NEW SCHWERPUNKTBEREICH SUSTAINABILITY ('NACHHALTIGKEIT') AT THE FACULTY OF LAW!**

The Faculty of Law at the University of Cologne has implemented a new Sustainability Focus Area ("Schwerpunktbereich Nachhaltigkeit"). Courses comprising the corresponding topic are inter alia Prof. Dr. Kirk W. Junker's lecture on Environmental Law: Basic and Comparative Studies, Marvin Jürgen's, Mag. Iur. lecture on Environmental Law and Mrinalini Shinde, LL.M on International Environmental Law. If this has attracted your interest, you can access more information on Schwerpunktbereich 16 through this link: [16. Nachhaltigkeit \(uni-koeln.de\)](https://www.uni-koeln.de/schwerpunktbereich16).

- **QS SUSTAINABILITY RANKING: THE UNIVERSITY OF COLOGNE RANKED SECOND IN GERMANY!**

Since 2022, QS Sustainability Ranking compares universities from all over the world and looks at their environmental and social impact as well as their overall governance. The University of Cologne was ranked 2nd out of 48 German universities and 78th out of 1,403 universities on an international level. With reaching a particularly high ranking for the indicators "Environmental Sustainability", Prof. Dr. Kirk W. Junker, the Vice-Rector for Sustainability was left "delighted with the positive result [as] it underlines the great efforts that the University of Cologne is already making in the field of sustainability". But this is just the beginning, as "the high ratings show that we are on the right track and have already successfully implemented important measures such as determining our CO2 footprint and adopting a sustainability strategy. At the same time, there is still a lot of potential, which is why we are taking further steps toward more sustainability at the University of Cologne" said Dr Pamela Kilian, head of the UoC Sustainability Office.

Learn more here: [QS Sustainability Ranking: University of Cologne ranked 2nd in Germany \(uni-koeln.de\)](https://www.uni-koeln.de/qs-sustainability-ranking)

- **EASTWEST EUROPEAN INSTITUTE (EWEI)**

The Eastwest European Institute (EWEI) is an independent organization that offers scientific events and training projects for students and young professionals with an interest in global dynamics and international affairs. For this year's first on-site study course, EWEI invited 50 young professionals to be a part of the "Geneva Experience".

Holding the topic "Bridging Perspectives for Sustainable Impact" participants were provided with the chance to gain insight into Environmental Sustainability and learn how international institutions and private companies interact with new ecological needs.

Visits to international institutions such as the Geneva Sustainability Center, International Red Cross, Permanent Representation of Italy to the UN, WHO, WTO, Palais des nations and many more provided students with the chance to discuss the topic of sustainability with high-level personalities and experts.

In the end, all students agreed that in the face of climate crisis pressing the issue of sustainability is inevitable and therefore implementing the Sustainable Development Goals (SDGs) demands urgent attention.

From my perspective, the visits to the private companies demonstrated very clearly the danger of greenwashing because finding nice words for what is in fact not sustainable at all will only further deviate from actual ecological needs and render the necessitated genuine implementation of all SDGs.



Learn more about EWEI and future study courses here: [Home - eastwest European Institute \(ew-ei.eu\)](http://Home-eastwest-European-Institute(ew-ei.eu))

By ELC member Milena Ortac

• WEBINAR ON NEW ENVIRONMENTAL CRIME DIRECTIVE

On March 26, the European Council voted in favor of criminalizing conduct that is “comparable to ecocide”. By formally adopting a revised Environmental Crimes Directive, EU member states are now granted a 24-month period to incorporate the revised EU Directive into their national laws (transposition). Germany was the only country that did not vote for the revision of the Directive. The movement “Stop Ecocide Germany” is therefore hosting a webinar in German on April 24, 10:00 – 11:30 am, discussing the revised Environmental Crimes Directive. Please make sure to register online if you would like to attend: <https://www.greenlegal.eu/umweltstrafrecht-landingpage/>

By ELC member Tim Nau, LL.M.

HOW TO REACH US

If you would like to appear on the next Green Sheet and share your ideas with friends and members of the Environmental Law Center, do not hesitate to contact us!

Written texts in German are also welcome!

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