

COOPERATION WITH NATIONAL JUDGES IN THE FIELD OF EU ENVIRONMENTAL LAW



Trainer's Manual

Module on EU Environmental Assessment Law – Focus on Environmental Impact Assessment & Strategic Environmental Directives



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I. Introduction

This training module on **EU Environmental Assessment Law – Focus on Environmental Assessment Law and Strategic Environmental Assessment Directives**, developed by ERA on behalf of the European Commission, addresses judicial training institutes, networks of judges, national judges, experts from NGOs, academic experts, trainers, any other relevant actors (for example, prosecutors) and end-users of European Union Member States wishing to organise training sessions in the area of EU environmental law with particular focus on the waste legal framework.

Objectives

The training module addresses judges and prosecutors dealing with environmental issues with previous general, and in certain cases specific, knowledge regarding the subject. The module will provide judges and prosecutors with relevant information on the latest developments of the EU environmental law *acquis*, relevant jurisprudence of the Court of Justice of the EU and an in-depth analysis of the topic with a special focus on EU Environmental Assessment Law – Focus on Environmental Assessment Law and Strategic Environmental Assessment Directives. This training module will also assist national judges as well as national prosecutors to apply the relevant EU instruments in detail.

The training module will gather materials in order to conceive a two and a half day workshop with the goal to develop and raise understanding on the key legal aspects of EU Environmental Assessment Law – Focus on Environmental Assessment Law and Strategic Environmental Assessment Directives. The key topics to be covered are:

- Environmental Assessment in EU Environmental Policy
- Environmental Impact Assessment (EIA) under scrutiny
- Strategic Environmental Assessment (SEA) under scrutiny
- Enforcement and Judicial Review under EIA/SEA

- EIA/SEA Procedures at crossroads
- EIA/SEA Procedures and Citizens' Rights

After this training on EU Environmental Assessment Law – Focus on Environmental Assessment Law and Strategic Environmental Assessment Directives, participants will have greater knowledge of international and EU actors and instruments presented. They will have gained a better understanding of the legal aspects related to nature protection law with focus on species protection and implementing EU instruments and they will be in a better position to actively apply EU rules transposed into their respective national legislation. They will also have an excellent opportunity to exchange views regarding implementation practices in their respective Member States with colleagues from other jurisdictions.

Structure

The workshop implementing the training module is designed to last two and a half days.

The workshop programme "How to handle court proceedings invoking non-compliance with EU Environmental Assessment Law – Focus on Environmental Assessment Law and Strategic Environmental Assessment Directives" consists of 11 interrelated but self-standing units. These units can be combined into an implementing workshop depending on the prior knowledge of participants, the time available and the specific training approach.

Environmental Assessment in EU Environmental Policy

- Unit 1: Introduction to the Environmental Impact Assessment (EIA Directive) / Introduction to Strategic Environmental Assessment (SEA) Directive / Overview of the relationship between EIA and SEA Directives

Environmental Impact Assessment (EIA) under scrutiny

- Unit 2: Activities subject to EIA
- Unit 3: Procedure of assessment

- Unit 4: Case Study on the implementation of the EIA Directive

Strategic Environmental Assessment (SEA) under scrutiny

- Unit 5: Scope and screening under the SEA Directive
- Unit 6: Case study on the implementation of the SEA Directive

Enforcement and judicial review under EIA/SEA

- Unit 7: Scope of judicial control under the SEA and EIA procedure

EIA/SEA procedures at crossroads

- Unit 8: Synergies between EIA/SEA Directives and substantive EU Environmental Law

EIA/SEA Procedure and Citizens' rights

- Unit 9: Public participation under the EIA/SEA Directives
- Unit 10: Case study on the role of a judge when dealing with files on EIA/SEA instruments – focus on preliminary ruling
- Unit 11: Closing session – evaluation of the workshop

The various training methods that can be used in future workshops based on this material will also be presented in the module, together with recommendations on how and in which part of the training they may be best employed. Face-to-face presentations can be combined with practical exercises requiring active contribution of participants, IT-supported learning, allowing participants to familiarise themselves with available tools and interactive sessions promoting the exchange of good practice and experience.

II. Methodology

Time frame

The workshop is designed to last approximately two and a half days. The exact structure and length will, of course, be decided by the training providers.

Elements that should be taken into account in each instance when finalising the workshop programme and deciding on the allocation of time between the different sub-sessions include the need to effectively cover all the main features of the subject matter and provide sufficient time for participants to ask questions and interact with the trainers and with each other. The fact that long sessions have proven to be less effective in adult training should be borne in mind. Frequent breaks or changes in teaching style should therefore be introduced in the workshop.

➤ An indicative time allocation for each unit will be provided in Part IV of this trainer's manual.

Trainer's profile

Crucial for the success of the training workshop is the selection of trainers. It has been proven that trainers with a professional background common to that of the participants tend to have a better understanding of their training needs and be more effective when addressing them. For this reason, the composition of the target group is a factor to be considered when selecting the trainers of an implementing workshop.

It is also important to identify the right trainer for each unit. In the units where the emphasis is on practical issues, the involvement of a practitioner, lawyer or judge with personal experience in the issue would be ideal. If the focus of a presentation is the transmission of information or the introduction to concepts or a broader area of law, an academic or a suitable policy officer even with a scientific background could also constitute a good option.

- More concrete input on the trainer's profile seemingly best fitting to each unit will be provided in Part IV of this trainer's manual.

In addition to professional qualifications, the quality of an implementing workshop will also depend on the individual trainer's didactic competences and pedagogical skills. Trainers should not only be knowledgeable, but also be able to effectively transmit information, assist end users in developing new skills and motivate them to actively follow the training. They would have to provide the necessary information in a clear and structured manner, highlight the links between participants' daily work and issues being discussed, retain some flexibility in order to adapt to the specific needs and interests of the end users attending the workshop as they become apparent, and be open and encouraging in discussing and exchanging views with them in the course of the session.

Other skills that potential trainers should ideally possess and which should be considered are the trainer's linguistic skills (when workshops are international), and their familiarity with IT products; the use of technology would be required in at least some parts of the training (IT-training sessions, use of PowerPoint or other audio-visual material, e-learning course, etc.).

For the successful implementation of the workshop and in order to better address participants' training needs, some diversity among the trainers should be sought. Variety between speakers' professional background, gender and (in the context of cross-border training) nationality would enrich the event, offering different perspectives on the issues, employing different teaching methods and ensuring a more comprehensive analysis of waste law.

Finally, although not always easy to assess, the potential trainer's personal motivation could be a factor worth considering. For the implementation of a workshop on the basis of the training module, significant flexibility and commitment, as well as the willingness to interact with end users is expected from the trainers. Engaging experts, who have an

interest in the project and are prepared to make the necessary effort for a successful outcome would bring added value to the workshop, while further motivating the participants.

Criteria for selecting the workshop trainers:

- Good knowledge and expertise in the subject and objectives of each sub-session
- Didactic competences and pedagogical skills
- Linguistic and IT skills
- Professional background similar to that of the workshop's participants
- Diversity in the group of trainers
- Motivation

Teaching methods

Frontal (face-to-face) presentation

The optimal method for the provision of a large amount of information in a limited period of time is face-to-face presentations, conducted in plenary. This method provides the trainer with the necessary time and flexibility to structure and present the content of the sub-session as s/he sees fit.

Supporting material such as outlines and PowerPoint or other presentation tools should be employed during the lecture. This would not only enable participants to follow the presentation better, but constitute a reference document for the future as well, should end users wish to review the main issues of the sub-session.

One of the objectives of the workshop is to familiarise participants with existing legislation. In this context, reference to the material included in the user's pack should be made throughout the lecture and participants should be encouraged to go through the legal texts, identify the provisions and acquire a better understanding of their structure and applicability.

Enriching the lecture with practical examples could also be a means of emphasising the link between theory and practice and better illustrating the application of various legal instruments. Brief exercises or questions could also be formulated by the trainers, requiring participants to reflect and discuss them before presenting the answer. Trainers would thus not only create an atmosphere of dialogue within the group, but also assess whether the concepts have been properly explained.

Time for discussion or Q&A sessions should in all cases be ensured for end users wishing to ask for clarification or further information. Depending on the content and structure of each lecture, questions may be raised during the presentation or in a subsequent discussion session moderated by the trainer or the workshop leader.

Although the key role in face-to-face presentations is played by the trainer, end users should also be encouraged to actively contribute to different sub-sessions. Participants learn not only from the provision of the training per se, but also from hearing questions and problems they have not yet found themselves confronted with. For this reason it is important that all end users attending the workshop are encouraged and feel comfortable enough to share thoughts and ideas and contribute their own experiences. This element is of particular importance in international workshops, where participants have the possibility to expand their knowledge with information on the application of EU environmental law in other Member States, learning from each other.

Workshop case studies

In addition to information on the EU Environmental Assessment Law framework with special focus on EIA/SEA Directives, the training also aims at providing participants with some practical experience in the particularities of the cases on the subject.

In order to further highlight issues requiring special attention and allow participants to develop specific skills, it is important to ensure their involvement in this part of the training. For this reason, specially designed workshop case studies will complement each thematic unit. Another advantage of this method is that the preparation of a case study constitutes an interactive way of learning. After having listened to face-to-face

presentations or read background material, participants would appreciate a change of presentation technique.

- Case studies prepared in working groups

During the workshop exercises, participants will be given the opportunity to use their skills and knowledge to solve case studies related to i. The implementation of EIA Directive, ii. The implementation of SEA Directive, iii. the role of a judge when dealing with files on EIA/SEA instruments through the lens of a preliminary ruling.

A short introduction on the organisational aspects of the task shall be provided to participants by the trainer with the questions and answers session to be followed during the plenary session: which issues shall be discussed in the groups, what results shall be aimed for and which deliverables shall be presented during the plenary session to be followed after the discussions.

Participants should subsequently be divided into smaller working groups and working space provided for each of them. Working in smaller groups has significant advantages for participants: the possibility to focus on case studies will enable them to deepen their recently acquired knowledge by applying it to concrete cases. This approximates a real-life scenario and can constitute valuable experience for the future. The working group format would allow each participant to be actively involved in the debate and improve their communication skills.

As one of the key objectives of the exercise is the exchange of opinions among end users, it is important that the workshop leader allocates participants to the working groups to support this interaction: in international implementing workshops and as long as participants working languages allow it, end users from different Member States or from jurisdictions with different legal traditions should be brought together in the working groups. If a workshop is organised as a national judicial training, judges from different courts could be asked to work together. Further to solving the case, this

diversity would allow participants to obtain better insights into how the questions would be dealt with and how the EU legislation involved are applied in another country, by a different legal profession, in a different city or court.

- As three case studies are recommended for the workshops implementing this training module, altering the composition of the working groups in each exercise would be a way to further increase participant interactivity.

The trainer shall set exact timing for each part of the task during the introductory part of the case study. Depending on the time available, the trainer, coordinating each exercise, will have to decide whether all working groups should deal with all case studies or if specific case studies should be allocated to different groups in order to ensure that end users are able to thoroughly examine all issues.

Once the working groups have been set up, they should organise themselves, develop a working method and identify which member(s) of the group will be responsible for reporting the conclusions of their discussion to other end users. The trainer leading the exercise should be present and following the interaction in each group to a certain extent, offering advice on time management, being available to provide clarification and answering questions, and being prepared to assist participants if they face major difficulties or their discussion becomes derailed. If trainers of other subjects of the workshop are present, they may also get involved in discussions of the chosen smaller group for monitoring the discussion and helping out on the subject matter.

When all the groups complete their work, participants should return to the plenary session room to discuss their conclusions. This will allow them to compare their solutions to the features of the case studies, get further ideas from their colleagues in the other groups and broaden their understanding of the subject matter.

To achieve the objectives of this closing discussion, it is important to ensure that all groups take the floor and present the results of their work. It would be most effective to

discuss one case at a time, invite the rapporteur of one of the groups to present their conclusions and the main elements of their discussion and then ask the end users of the other groups for additional comments, different opinions etc. In conclusion, the trainer should summarise the main points raised in the discussion and give his/her own feedback, so that participants can confirm whether they successfully dealt with the case or whether there could be further improvement.

- IT-supported learning

IT-supported learning can enhance the efficiency of training and give end users the opportunity to gain practical experience by making use of the possibilities the internet offers on issues related to environmental law in general. In this way end users will have the opportunity to become familiar with the various EU websites in the area (such as the E-Justice Portal, the EJTJN website, Eur-Lex, the Curia website, ECLI etc.), where they can acquire further information and advice on how to apply EU instruments covered by the workshop. By efficiently using these websites, participants will actively learn how to find the relevant legal texts and cases and receive assistance on practical problems they may face when applying EU law in this area.

Documents

The documents to be made available at the training workshop consist of the contents of the user's pack. The user's pack will, in particular, include:

- blended e-learning material;
- workshop reader;
- background documentation set;
- workshop programme;
- list of participants;
- list of trainers/ speakers;
- CVs of the trainers;
- speakers' contributions;

- evaluation form.

III. User's pack: the function of different elements of the training module

Introduction

The term 'user's pack' means the entire wealth of material that will be made available to participants of an implementing workshop. This will consist mostly of the blended e-learning material, training material (related printed legal documents, links to online sources of bibliography of legal instruments on the topic on a USB stick, trainers' contributions and case studies) as well as supporting documents, such as the workshop programme, the list of participants, workshop evaluation forms etc.

It is, of course, at the discretion of the workshop organisers and trainers to use the materials provided in the manner they deem most fitting and to also include additional documents where necessary. All key EU legal instruments required for the provision of the training on EU Environmental Assessment Law – Focus on EIA and SEA Directives are already part of the user's pack, but as implementing workshops may be structured with a specific focus, further material could be of use.

The materials for inclusion in the user's pack can and should be provided mainly in electronic format, either using a USB stick or by making the content available online and granting all workshop participants access to it. Material that needs to be regularly referred to during the workshop or that would make it easier to follow proceedings should be provided in a hardcopy for ease of reference during the event:

- workshop programme;
- list of participants;
- list of trainers/ speakers;
- trainers' contributions;
- printed texts of the legal acts to be analysed;
- case studies;
- evaluation forms.

- When presenting the material that should accompany each unit, distinction should be made between 'necessary material' to be provided in hardcopy and 'additional material' that should be included in the electronic documentation.

Blended e-learning

The training module has been structured to include 'blended learning' as a methodological approach, given that it combines the interactivity of face-to-face training during the implementing workshops with the flexibility provided by e-learning material. As the e-learning material has different functions and can be used by the workshop participants at several stages of their learning process, it is important that they have access to it on different occasions: before the implementation of the workshop, in order to prepare for the meeting, while it is taking place, in order to make best use of the available material with the help of the trainers, and after the workshop, as a point of reference for finding information on EU Environmental Assessment Law – Focus on EIA and SEA Directives.

The key function of this e-learning material is to introduce end users to a number of legal instruments with regard to various aspects of EU Environmental Assessment procedures. Namely, the Environmental Impact Assessment (EIA) Directive, the Strategic Environmental Assessment (SEA) Directive as well as their interactions with other pieces of legislation of the substantive EU Environmental Law (i.e. Habitats Directive, Water Framework Directive, Industrial Emissions Directive). Emphasis is given to the enforcement and the scope of the judicial review under the EIA and SEA Directives.

It will include:

- The main international and EU legal instruments as well as case law that will be analysed during the workshop which participants should go through before they attend the course, as well as the corresponding quiz to test their knowledge. The aim is not to replace the face-to-face sessions on these subjects but to complement them by ensuring that all participants have a common basic level of

knowledge before they start and can make the most of the discussion to clarify issues in the face-to-face workshops.

- Access to the bibliography of legal instruments and other relevant source material which participants can refer to at any time.
- Access to the remainder of the e-learning version of the training module to be provided after the face-to-face workshop for participants to use as a refresher and to re-use with their colleagues alongside the face-to-face training materials.

Once participants have been selected, they should receive information on how to access the e-learning materials and be encouraged to go through its contents 7-10 days before the implementation of the workshop. In this way, they will have the possibility to refresh or acquire some basic knowledge and be better prepared for the workshop programme.

Background documentation

Legal texts will make up the large majority of the content of the training materials: international conventions, treaty articles, regulations, directives, case law of the Court of Justice of the European Union etc. will constitute the background to analysis in the workshop. A comprehensive collection of all background documents, which can be referred to after the conclusion of the workshop, should be included in the electronic documentation. Participants are likely to come back to these texts in order to refresh their memory, find a specific provision or judgment, and seek guidance or inspiration if confronted with a case on the subject at a later stage. This format could also support easy further dissemination of this material, which workshop participants could forward to their colleagues if requested.

Further to legal texts, links to online databases, tools and sources, such as the e-justice portal, Eur-Lex, Curia, ECLI and other similar websites should as also be included as background material in the electronic documentation.

- Proposals on which specific material to include in this part of the user's pack are included in Part d) on the analysis of each sub-session of the workshop.

The material should be provided in the language of the workshop. When international workshops are organised, links to EU databases (such as <http://eur-lex.europa.eu/> or <http://curia.europa.eu/>) could be included, so that end users can access EU legal texts in the language of their choice. Further to their inclusion in the electronic documentation, providing the few documents in hard copy that are absolutely essential during the workshop is recommended. Being able to quickly find a provision, see the structure of a legal instrument, make notes etc. could help end users to better follow the training and further familiarise themselves with the legal instruments being discussed.

Workshop exercise material

Three workshop exercises are proposed for the workshops implementing the training module on 'EU Environmental Assessment Law – Focus on EIA and SEA Directives'. All of them are structured on the basis of case studies. Preparatory material supporting the workshops' case studies, such as the tasks of the different cases that are to be discussed or additional legal texts that will be needed for solving the cases must be provided for the participants in hardcopy during the workshop.

Trainer's contributions

In addition to the background documents, every time an implementing workshop on 'How to handle court proceedings invoking non-compliance with EU Environmental Assessment Law – Focus on EIA and SEA Directives' is organised, the trainers involved should be asked to prepare their own supporting material, in the form of PowerPoint presentations, outlines, notes or full texts of their lectures. Trainers should be free to structure the material supporting their presentations as they prefer. The main objective would be to help end users attending the workshop to better follow the presentation, and for this reason particular emphasis should be given to the provision of a clear structure.

Trainers may also be advised to prepare a well-judged number of slides, leaving some time for questions and answers session during the presentation or if an unplanned discussion evolves.

The trainers' contributions could also be used as a reference document for identifying the main points of the subject matter.

Speakers' contributions should additionally be included in the user's pack. They should also be included in hardcopy in the documentation pack.

- Providing some kind of written support of the lectures is always recommended and for this reason always mentioned under 'necessary documents'. Especially an outline of the PowerPoint presentation reflecting the structure of the sub-session allows participants to better understand the structure and follow the lecture.

Additional documents

Further to the training material, a number of documents supporting the organisation of the workshop must be made available to participants. These would be of immediate and continuous use during the workshop and should therefore be provided in hardcopy.

The finalised workshop programme must be provided at the beginning of the training, allowing participants to plan accordingly and better understand the training flow. A list of all workshop participants should be provided, facilitating the interaction between end users attending the workshop. Moreover, by including certain contact details (professional position and postal address) participants are given the opportunity to maintain contact even after the conclusion of the workshop. Finally, in order to achieve an immediate evaluation of the workshop, a questionnaire seeking participant feedback on the workshop content, organisational features and overall effectiveness shall be distributed.

IV. Organising and implementing workshop: structure, content and methodology

For the training module on 'EU Environmental Assessment Law – Focus on EIA and SEA Directives' and its implementing workshops on "How to handle court proceedings invoking non-compliance with EU Environmental Assessment Law – Focus on EIA and SEA Directives", a structure on the basis of thematic units is proposed. Each thematic unit will focus on a specific topic of EU law in this area. Each implementing workshop will thus consist of several units, ensuring the alternation of theoretical and practical elements. The final structure will, however, have to be decided by taking into consideration end users' prior knowledge and training priorities. With the addition of opening and closing units, serving both pedagogical and organisational purposes, an implementing workshop of 2.5 days could be designed as detailed below:

Environmental Assessment in EU Environmental Policy

- Unit 1: Introduction to the Environmental Impact Assessment (EIA Directive) / Introduction to Strategic Environmental Assessment (SEA) Directive / Overview of the relationship between EIA and SEA Directives

Environmental Impact Assessment (EIA) under scrutiny

- Unit 2: Activities subject to EIA
- Unit 3: Procedure of assessment
- Unit 4: Case Study on the implementation of the EIA Directive

Strategic Environmental Assessment (SEA) under scrutiny

- Unit 5: Scope and screening under the SEA Directive
- Unit 6: Case study on the implementation of the SEA Directive

Enforcement and judicial review under EIA/SEA

- Unit 7: Scope of judicial control under the SEA and EIA procedure

EIA/SEA procedures at crossroads

- Unit 8: Synergies between EIA/SEA Directives and substantive EU Environmental Law

EIA/SEA Procedure and Citizens' rights

- Unit 9: Public participation under the EIA/SEA Directives
- Unit 10: Case study on the role of a judge when dealing with files on EIA/SEA instruments – focus on preliminary ruling
- Unit 11: Closing session – evaluation of the workshop

Setting the scene

Short description of the contents

The workshop should always start by welcoming the participants and providing a brief introduction and explanation of the contents of the programme, organisation and implementation of the workshop.

General objectives

The main objective of this first session is to welcome trainers and participants to the workshop, to set the scene by reminding them of the framework of the training course and to encourage their interaction and active participation in the course.

Specific learning points

Introduction of organisers of the workshop

The welcoming session shall be used to introduce the training manager of the workshop, who is responsible for the successful implementation of the content of the programme, chairing of presentations, managing of the questions and answers sessions, arranging and implementing of the practical exercises, and dealing with *ad hoc* issues during the whole workshop. The training manager may be assisted by a judicial training advisor of the workshop, who, ideally, shall be an expert on the topic (a judge, a legal practitioner or an academic) and who is usually involved in preparation of the workshop material from the very beginning (setting the structure of the programme, arranging the content of each presentation as well as of practical exercise to be covered, checking all the prepared presentations to make sure that the material is not duplicating each other and also helping in implementing a workshop, if needed).

Introduction of participants and trainers

The opening session should also be used in order to allow participants to introduce themselves, present their national and professional background, and illustrate their

expectations for the workshop. In this way, end users will be familiar with addressing the group, which should facilitate their active participation in the following sessions and they will also get to know their colleagues' background a little better. Making trainers and participants aware of which nationalities and professional groups are represented in the workshop can be of great relevance in the discussion and an asset in ensuring effective exchange of information and experience. The possibility to discover from participants the experience which they bring with them to the training course and what they are primarily seeking to achieve by their participation could help the workshop leader to better adapt the programme to meet participants specific needs, by emphasising certain aspects, making adjustments on the time allocated in the different sub-sessions, etc.

- This may be achieved by inviting participants to ask a key question they expect to see addressed during the workshop or to indicate which element made them apply for the workshop.

Presentation of the workshop's programme

The workshop should include, at the beginning, a presentation of the programme, scope and objectives. The focus of each unit will be indicated and the expected contribution of the participants in each part of the programme emphasised. It is important that end users realise the goal of each unit and the flow of the workshop programme in order to be better equipped to follow the discussions and make sure they do not miss the opportunity to raise questions or clarify any ambiguity.

Presentation of the training material

The opening session is also the opportunity to present the material included in the user's pack and explain its function, so that end users may use it throughout the workshop. The content of the electronic documentation should be outlined (all related legal texts, links to online sources, suggested solutions to the case studies, etc.) and explanations provided on the documents that will have been made available to the participants in hardcopy for reference during the workshop (e.g. trainers presentations and outlines, key

legal texts, the case studies for the workshop exercises, documents such as the list of participants, the workshop assessment tools etc.).

Presentation of the workshop's organisational aspects

Further to this, all logistical aspects of the workshop will be presented. The locations that will be used during the workshop for the different sessions, the exercises and the lunch and coffee breaks will be indicated, the possibility to use computers, Wi-Fi, a library, a business station etc. laid out and information on the lunches organised and dinners provided. It is important here to ensure that end users are reminded of and are able to profit from all measures taken to facilitate their participation in the workshop, as well as of the importance of the joint activities in allowing a less formal interaction among trainers and fellow participants.

Methodology

While participants are in plenary; everyone is invited to introduce themselves. The programme of the workshop will be presented by the training manager of the workshop.

After welcoming participants and trainers to the workshop, they will be given the opportunity to introduce themselves and express their expectations regarding the workshop. This will improve the atmosphere of the workshop from the very beginning, which is a key element for its success. Participants are more likely to be active during the event if they know their colleagues' backgrounds.

Furthermore, the outline and main objectives of the workshop will be presented. This introduction will contain information on both the programme and the logistics (e.g. which rooms will be available for the participants during the workshop, library, availability of computers and Wi-Fi, coffee breaks and meals, evening programme).

Duration

The time allocated to the opening session will depend on the number of participants attending the workshop. Taking into account that the workshop should ideally have 20 to 30 participants, the opening session should last approximately 30 minutes, in order to ensure sufficient time for all trainers and participants to present themselves, and for the provision of all necessary information on the event.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	Final version of the workshop programme
02	List of trainers
03	Trainers' CVs
04	List of participants

The training manager should demonstrate the entire user pack in this unit, including the electronic documentation, in order to inform participants of all the different features of the pack.

Trainer's profile

The opening session will be held in plenary and coordinated by the training manager, the person responsible for ensuring the coherent management of the workshop, or the judicial training advisor. There would be an added value in assigning the role of the 'workshop manager' to the person responsible for the organisation of the workshop. He or she would be most suitable to present the programme's structure and main objectives, having made all related decisions and given priority to specific features of the training over others.

Unit 1: Environmental Assessment in EU Environmental Policy

Short description of the contents and general objectives

The aim of this presentation is to give a comprehensive introduction to the environmental assessment procedures at EU landscape. The unit focuses on the two main EU pieces of legislation in this field: the Environmental Impact Assessment (EIA) Directive and the Strategic Environmental Assessment (SEA) Directive. Emphasis is given to the genesis and development of these two directives as well their key features. Finally, there is a brief comparative overview of the relationship between the EIA and SEA directives.

Specific learning points

- Concept of EIA and historical development of EIA Directive
- 2014 Amendment of the EIA Directive
- Definition and Objectives of SEA Directive
- Role and significance of SEA Directive
- Interrelations between EIA and SEA Directives

Methodology

The scope of this unit is large and contains a substantial amount of information that is required to fully comprehend and to place into context the more specific units that follow it. This unit therefore provides the preliminary information needed to understand the following units, and the context in which the law described in them exists. The unit is envisaged as a face-to-face presentation in plenary.

Duration

The duration of this unit should be approximately 90 minutes. Due to the broad scope of this unit and the many and complex topics contained in it, it is essential that the trainer

ensures that there is sufficient time for participants to ask questions and to clarify concepts and facts.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint presentation "Environmental Assessment in EU Environmental Policy"
	EU Documents
02	EIA Directive
03	SEA Directive

Trainer's profile

It is vital to identify a trainer with in-depth knowledge of this unit and the ability to present the information in a clear and concise manner. A policy officer from the European Commission (DG Environment) or an experienced professor of environmental law would be an ideal choice.

Unit 2: Activities subject to EIA

Short description of content and general objectives

The general objective of this presentation is to understand the first step of the EIA - process, which is often referred to as 'screening'. The slides give an overview of the screening-process and aims to give an understanding of the purpose of screening, what constitutes a 'project' within the meaning of the EIA directive, when an EIA must be carried out where national law provides that the consent procedure is to be carried out in several stages, cumulative effects and the splitting of projects and also the limits of member states' discretion in the screening-process. All of it, in the light of CJEU case-law.

Specific learning points

- The purpose of 'screening'
- The process of 'screening'
- The subject of 'screening' and some important concepts
 - Project
 - Development consent
 - Consent procedures in several stages
 - Cumulative effects and splitting of projects
- Limits of screening discretion
 - The importance of article 2 (1)
 - Use of the criteria in Annex III
 - The exclusion of projects in advance

This unit should be conducted as a face-to-face frontal presentation in plenary session, encouraging questions and discussion. In the first part of the presentation, there is a number of questions. The purpose of the questions in the first part is not to discuss them, but to give a hint about the presentation, and that the participants hopefully will be able to answer those questions in the end of the presentation. In the end; the same

questions will come again. Ask the questions and let the audience answer (and discuss, if needed), before putting the answer in the picture.

Time frame

The time allocated to this unit will be approximately 60 minutes if you talk rather quickly and if there are not too many questions and discussions. If you talk slow or know that the participants are talkative, maybe 75 minutes would be better.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: "Activities subject to EIA under the EIA Directive"
02	EIA Directive

Additional material (to be included in the electronic documentation – USB stick):

	EU and Member States` Case Law
01	CJEU, Case C-133/94 <i>Commission v. Belgium</i>
02	CJEU, C-72/95 <i>Kraaijeveld and Others</i>
03	CJEU, C-392/96, <i>Commission v. Ireland</i>
04	CJEU, C-2/07 <i>Abraham and Others</i>
05	CJEU, <i>Joined Cases C-128/09 to C-131/09, C-134/09, and C-135/09, Boxus and others.</i>
06	CJEU, C-275/09 <i>Brussels Hoofdstedelijk Gewest and others</i>
07	CJEU, C- 121/11 <i>Pro-Braine and others</i>

Trainer's profile

An ideal speaker may be a professor or a practitioner. It is important the he or she is able to show the audience the importance of the scope and purpose of the directive and how this affect the member states' discretion in the screening process.

Unit 3: Procedure of assessment

Short description of content and general objectives

The general objective of this presentation is to provide an in-depth understanding of the process of environmental impact assessment by going through the different stages of the process (such as scoping, assessment of alternatives, development consent, decision/the reasoned conclusion and monitoring. The slides start with the conceptualisation of EIA from the economic thought of externalities, the internalisation of which is one of the main purposes of environmental law, including EIA. Following the assessment of competent authority and environmental authority, relevant case-law of the Court of Justice of the EU is discussed with relevance to the different stages of EIA.

Specific learning points

- Foundations
 - Economic basis and related legislative intent
 - historical and current grounds
- Scoping
 - "risk reduction" tool
 - Voluntary and mandatory scoping
 - Scoping report and its content
- EIA report
 - Content
 - Assessment of alternatives
- Development consent decision
 - Grant/refuse
 - Reasoned conclusion
- Information on decision
- Monitoring
 - Practical challenges
 - Synergies with other monitoring systems

- Environmental Authority/Competent Authority
 - Differences between the two notions

This unit should be conducted as a face-to-face frontal presentation in plenary session. The order in which the different points of the unit are presented should be defined by the trainer. As for the points of the procedure of assessment, the order should be kept as per indicated by the directive (and the presentation). The subsequent discussion should be moderated either by the trainer or the chair of the event.

Time frame

The time allocated to this unit should be approximately 90 minutes, including the time for questions and answers. Given the length of the presentation, it is suggested that questions from the floor are accepted in the course of the presentation.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: "Procedure of assessment"
02	EIA Directive

Additional material (to be included in the electronic documentation – USB stick):

	EU and Member States` Case Law
01	C-72/95, Kraaijeveld and Others
02	C-435/97, WWF and Others
03	C-2/07, Abraham and Others
04	C-142/07 Ecologistas en Acción-CODA

05	C-275/09, Brussels Hoofdstedelijk Gewest and Others
06	C-420/11 Leth
07	C-287/98 Linster
08	C-201/02 Wells
09	C-348/15, Stadt Wiener Neustadt
10	C-50/09, COM v Ireland

Trainer's profile

The ideal speaker would be a professor or a practitioner with relevant knowledge and/or experience on EIA.

Unit 4: Case study on the implementation of the EIA Directive

Short description of the contents and general objectives

This unit covers the first case study of the seminar, which focuses on the implementation of the EIA Directive. It is about a case of fracking raising issues as regards the scope and the procedures of the EIA Directive.

Specific learning points

- Activities subject to EIA
- Scope of the EIA Directive
- Case of cumulative effects of the activity
- Development consent decision/the reasoned conclusion
- EIA for activities under Natura 2000 sites

Methodology

The trainer will present the case by raising the main factual features. After the introductory presentation, participants will be divided into groups of 6-8 persons. The groups will discuss the case on the basis of the EU law and national (procedural) law. After the group discussion, participants will return to the plenary. Each group will have a rapporteur to explain the results of their discussion and the trainer will comment on their findings.

Duration

The introduction of the case study should take 15 minutes; afterwards participants will divide into groups. The discussion on the case will take 45 minutes, the following discussion in the plenary including the debriefing will take another 30 minutes.

Documentation (see general list of materials)**Necessary material (to be made available in hardcopy during the sub-session):**

01	Case Study on the implementation of the EIA Directive (fracking case)
02	Power point: Solutions to the case study
03	EIA Directive

Trainer profile

The trainer in this session could be an experienced Environmental Law Professor.

Unit 5: Scope and Screening under the SEA Directive

Short description of content and general objectives

The objective of this presentation is to provide an in-depth understanding of which are the plans and programmes that need a strategic environmental assessment (scope) and what is the role of screening and other elements in this procedure. The slides start with the scope of the directive and its interlinkage with elements of EU environmental law. Afterwards, participants are guided through the different stages of the SEA procedure (screening, scoping, environmental report, decision, information on the decision, monitoring). Finally, relevant case-law of the Court of Justice of the EU is discussed.

Specific learning points

- Scope
 - Definition of plans and programmes
 - Links with other pieces of EU law
- Screening
 - Limited nature compared to EIA
 - Screening criteria
- Scoping
 - Mandatory scoping in SEA
 - Scoping report and its content
- Environmental report
 - Content
 - Assessment of alternatives
- Decision and information thereof
- Monitoring
- COM guidance on SEA implementation

This unit should be conducted as a face-to-face frontal presentation in plenary session. The order in which the different points of the unit are presented should be defined by the trainer. The subsequent discussion should be moderated either by the trainer or the chair of the event.

Time frame

The time allocated to this unit should be approximately 60 minutes, including the time for questions and answers.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: "Procedure of assessment"
02	SEA Directive
03	COM guidance on SEA implementation

Additional material (to be included in the electronic documentation – USB stick):

	EU and Member States` Case Law
01	C-105/09 & C-110/09 Terre wallonne and Inter-Environnement Wallonie
02	C-295/10, Valčiukiene and Others
03	C-567/10, Inter-Environnement Bruxelles
04	C-41/11 Inter-Environnement Wallonie and Terre wallonne
05	C-463/11, L v M
06	C-444/15 Associazione Italia Nostra Onlus

07	C-160/17 Thybaut and Others
08	C-671/16 Inter-Environnement Bruxelles and Others

Trainer's profile

The ideal speaker would be a professor or a practitioner with relevant knowledge and/or experience on SEA.

Unit 6: Case study on the implementation of the SEA Directive

Short description of content and general objectives

In this unit a case study ("The Super Supermarket") will be presented. It is about access to justice against an urban plan. This plan was adopted without public participation although the relevant domestic law requires a public participation unless an urban plan "is not likely to have significant effects on the environment." This key requirement stemming from the SEA Directive is in the centre of the case and to be discussed intensively. It should be easy to see that a possible "danger for human life", the test used by the public authority, is a far too high threshold in the given context. Clearly, the urban plan lacks public participation, but what are the legal consequences? This is not easy to answer. Reviewing plans ("normative acts") is a very specific feature of administrative justice and in some Member States not even done in a very comprehensive way. The practitioners should be given the opportunity to share their respective experiences. This exchange of information may lead to the conclusion that national notions on the admissibility of legal actions against urban plans have to be applied and understood in the light of the SEA Directive, the CJEU case law and the Aarhus Convention.

Specific learning points/ questions raised for the case study

- Urban plan as a reviewable administrative act?
- Standing
- Procedural illegality
- Public participation within the adoption of an urban plan
- Notion: "not likely to have significant effects on the environment"
- Thresholds

Methodology

The trainer will present the case by raising the main factual features. After the introductory presentation, participants will be divided into groups of 6-8 persons. The groups will discuss the case on the basis of the EU law and national (procedural) law. After the group discussion, participants will return to the plenary. Each group will have a rapporteur to explain the results of their discussion and the trainer will comment on their findings.

Time frame

The introduction of the case study should take 15 minutes; afterwards participants will divide into groups. The discussion on the case will take 45 minutes, the following discussion in the plenary including the debriefing will take another 30 minutes.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	Case study: The Super Supermarket
02	PowerPoint: Solution to the case study (The Super Supermarket)

Trainer's profile

Continuous training of judges on the subject can be more successful when done by a colleague who has the same professional background ("speaking the same language"). An ideal speaker could therefore be judge experienced in administrative justice.

Unit 7: Scope of judicial control under the SEA and EIA procedure

Short description of content and general objectives

The general objective of this presentation is to give an overview of what might happen after the EIA is supposed to have taken place. First it will cover ex post-assessment, which, does not really exist under the directive but has been accepted, as an exception. Then, it will focus on the judicial control. In order to discuss the possibilities to challenge an EIA and in how it is possible to challenge, the presentation makes a detour via the Aarhus convention. Lastly; a few words on quality control and the role of experts.

Note, that when case law is referenced, Article 10a is often mentioned – Article 10a is the present Article 11.

Specific learning points

- Ex post-assessment
 - C 196/16 and C-197/16 *Comune di Corridonia*
 - The principle of cooperation in good faith
- The principles of equivalence and the principles of effectiveness
- Aarhus convention
 - Slovak brown bear case, *C-240/09 Lesoochránárske Zoskupenie VLK*
- Article 11 of the EIA directive
 - C-263/08, *Djurgården - Lilla Värtans Miljöskyddsförening*
 - C-260/11, *Edwards and Pallikaropoulos*
 - Case C-72/12, *Altrip*
 - Case C-137/14, *Commission v Germany*
- Quality control of the EIA information
 - Article 5 (3) of the EIA directive
 - Expert dilemma

This unit should be conducted as a face-to-face frontal presentation in plenary session, encouraging questions and discussion. Also in this presentation, there is a number of questions. The purpose of the questions when they first are introduced, is not to discuss them, but to give a hint about the presentation that follows, and that the participants hopefully will be able to answer those questions in the end of the presentation. In the end; the same questions will come again. Ask the questions and let the audience answer (and discuss, if needed), before putting the answer in the picture.

Time frame

The time allocated to this unit will be approximately 60 minutes if you talk rather quickly and if there are not too many questions and discussions. If you talk slow or know that the participants are talkative, maybe 75 minutes would be better. If you want to really look up all references to case-law and discuss them, more time will be needed.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: "Scope of the judicial control"
02	EIA Directive

Additional material (to be included in the electronic documentation – USB stick):

	EU and Member States` Case Law
01	<i>CJEU, Case C-263/08, Djurgården - Lilla Värtans Miljöskyddsförening</i>
02	<i><u>Case C-115/09, Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen (Trianel Kohlekraftwerk Lünen)</u></i>
03	<i>CJEU, Case C-240/09 Lesoochránárske Zoskupenie VLK</i>
04	<i>CJEU, Case C-260/11, Edwards and Pallikaropoulos</i>

05	CJEU, Case C-72/12, <i>Altrip</i>
06	CJEU, Case C-137/14, <i>Commission v Germany</i>
07	CJEU, Case C 196/16 and C-197/16 <i>Comune di Corridonia</i>
08	Article; Learned Hand, <i>Historical and Practical Considerations Regarding Expert Testimony</i> , 15 HARV. L. REV. 40, 54 (1901);t Testimony (available online)

Trainer's profile

An ideal speaker may be a professor or a practitioner. It is important the he or she is familiar with the scope and purpose of the directive and how this affect the member states' discretion in the light of the principles of equivalence and effectiveness.

Unit 8: Synergies between EIA/SEA Directives and substantive EU Environmental Law

Short description of content and general objectives

The general objective of this presentation is to describe the role of the EIA/SEA Directives with the Habitats Directive, the Water Framework Directive and the Industrial Emissions Directive and the synergies between them. The presentation provides an overview of all five Directives focusing on their similarities and differences. The presentation intentionally does not provide extensive details of the five Directives, especially due to the complexity of the Habitats, the Water Framework and the Industrial Emissions Directives, and their different – and substantive – provisions and objectives. Instead, the presentation focuses on the requirements in these Directives for assessments and describes how the procedures for these assessments compare with those in the EIA / SEA Directives.

Specific learning points

- Assessment process under the EIA / SEA Directives
- Assessment process under the following Directives
 - Habitats Directive (and the Birds Directive as relevant)
 - Water Framework Directive
 - Industrial Emissions Directive
- Comparison of the three Directives with the EIA / SEA Directives
- Synergies between the three Directives and the EIA / SEA Directives

This unit should be conducted as a face-to-face frontal presentation in plenary session. The unit should begin with a brief overview of the EIA Directive and then the SEA Directive followed by the other three Directives, including similarities and differences with the procedures for assessments in them. Questions should be answered by the trainer.

The subsequent discussion should be moderated either by the trainer or the chair person of the event.

Time frame

The time allocated to this unit should be approximately 90 minutes including time for questions as well as a general discussion with the participants.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: "Synergies between EIA / SEA Directives and substantive EU environmental law"
02	EIA Directive (consolidated version)
03	SEA Directive
04	Habitats Directive
05	Water Framework Directive
06	Industrial Emissions Directive

Additional material (to be included in the electronic documentation – USB stick):

	EU and Member States` Case Law
	None

Trainer's profile

An ideal speaker would be an environmental law professor or a legal practitioner. However, it is important that he or she has the relevant background on the Habitats,

Water Framework and Industrial Emissions Directives to be able to show the participants how the EIA/SEA Directives compare and contrast with these.

Unit 9: Public participation under the EIA/SEA Directives

Short description of content and general objectives

The general objective of this presentation is to raise the awareness of the public participation under the EIA/SEA Directives. The slides give an overview of the main features that are important for deciding cases under the EIA/SEA Directive. Public participation is explained as a fundamental tool for better-decision-making. A special focus is put on access to justice. The Trianel-Judgment is discussed. The case gives a good example of the conflict that may arise between the EU guarantee of access to justice and burdens to it within the national system of administrative justice. Last but not least the interplay between an EU Directives and national law is explored. This is done in a comprehensive way that should be easy to understand.

Specific learning points

- Public participation
 - historical and current grounds
- Public participation under the SEA/EIA
 - aim
 - minimum requirements
 - "in dubio pro" environmental impact assessment
 - procedural steps
 - Trianel Judgment
 - direct effect
 - methodology

This unit should be conducted as a face-to-face frontal presentation in plenary session. The order in which the different points of the unit are presented should be defined by

the trainer. The subsequent discussion should be moderated either by the trainer or the chair of the event.

Time frame

The time allocated to this unit will be approximately 90 minutes and should include some time for discussion with the participants.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: "Public Participation under the EIA/SEA Directives"
02	EIA Directive
03	SEA Directive

Additional material (to be included in the electronic documentation – USB stick):

	EU and Member States` Case Law
01	CJEU, C-115/09, (Trianel case)

Trainer's profile

An ideal speaker may be a professor or a practitioner. However, it is important the he or she is able to show the audience how the EIA/SEA Directives may be relevant when deciding domestic cases.

Unit 10: Case study on the role of the judge when dealing with files on EIA/SEA instruments – preliminary ruling

Short description of content and general objectives

The case study (The Sand Quarry) is based on three - easy to understand - scenarios: "SPQR", "Missing EIA" and "The Exemption". The complexity of the legal questions behind the scenarios covers the full range: from very simple to quite subtle. Again, the session is meant to incite legal discussions among the participating judges who work in different systems of administrative justice and may enjoy to share experience. The Scenario 1 puts the focus on the admissibility of a claim. It might not come as a surprise that – unless it is regulated otherwise - a public entity cannot rely on those procedural rights that are meant for private NGOs. The standing of the neighbour is another interesting feature in this context. Scenario 2 deals with the role and function of the administrative judge. May he or she raise a missing EIA by his or her own motion (so called "ex officio"). The relevant principles of EU law are introduced. The third Scenario is the most demanding: It deals with the triangular situation in neighbourhood cases and leads to the subtle legal problem whether a developer may rely on domestic law that is good for him, however clearly not in line with the (non-transposed) EIA-Directive. This situation may justify a preliminary ruling to clarify whether the direct effect of the EIA Directive may be used against the developer ("reverse direct effect"). Information for launching a preliminary ruling proceeding are provided, especially where to find the relevant recommendations given by the CJEU.

Specific learning points/ questions raised for the case study

- NGO standing / standing of the neighbour
- The scope of an ex officio legal review
- Direct effect / reverse direct effect

- Preliminary ruling
- Practical information for preliminary ruling proceedings

Methodology

The trainer will present the case by raising the main factual features. After the introductory presentation, participants will be divided into groups of 6-8 persons. The groups will discuss the case on the basis of the EU law and national (procedural) law. After the group discussion, participants will return to the plenary. Each group will have a rapporteur to explain the results of their discussion and the trainer will comment on their findings.

Time frame

The introduction of the case study should take 15 minutes; afterwards participants will divide into groups. The discussion on the case will take 45 minutes, the following discussion in the plenary including the debriefing will take another 30 minutes.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	Case study: The Sand Quarry
02	PowerPoint: Solution to the case study (The Sand Quarry)

Additional material (to be included in the electronic documentation – USB stick):

	EU and Member States` Case Law
01	Recommendations to national courts and tribunals, in relation to the initiation of preliminary ruling proceedings from 25 November 2016, (OJ 2016/C 439/01)

Trainer's profile

Continuous training of judges on the subject can be more successful when done by a colleague who has the same professional background ("speaking the same language"). An ideal speaker could therefore be judge experienced in administrative justice.

Unit 13: Closing session – evaluation of the workshop

Short description of content

In the final session of the workshop, conclusions will be drawn and participants will be invited to evaluate the event.

General objectives

Participants will provide feedback on the whole event, the preliminary information, the workshop documentation, the e-learning module and the usefulness of the workshop for their daily work.

Specific learning points

- Summing up the event
- Obtaining the feedback
- Use the feedback and the evaluations to improve the training module (for organisers)

Methodology

Participants will be in plenary. Before the final discussion and evaluation of the event is actually opened, each participant should have already filled in the evaluation form. If possible, all participants, i.e. including the speakers and the training manager and/or judicial training advisor of the workshop, shall participate in this final evaluation session. The training manager of the workshop should encourage the participants to speak openly about their impressions of the workshop.

Time frame

The closing session should take approx. 20-30 minutes.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	Evaluation form
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Trainer profile

The closing session will be chaired by the training manager and/or the judicial training advisor of the workshop.

Annex I: Template indicative workshop programme

HOW TO HANDLE COURT PROCEEDINGS INVOKING NON-COMPLIANCE WITH EU ENVIRONMENTAL ASSESSMENT LAW

Focus on Environmental Impact Assessment & Strategic Environmental Assessment Directives

WORKSHOP FOR JUDGES AND PROSECUTORS

- **Date & Place**

Speakers & training managers

Key topics

- Environmental Impact Assessment (EIA) Directive 2014/52/EU
- Strategic Environmental Assessment (SEA) Directive 2001/42/EC
- Scoping and screening procedures & relevant CJEU case law
- Enforcement & judicial review under EIA/SEA Directives
- Public participation & access to justice
- The role of the judge in applying the EIA/SEA Directives
- Various case studies on the

Day 1

9:15 Arrival and registration of participants

9:45 **Welcome and introduction**

ENVIRONMENTAL ASSESSMENT IN EU ENVIRONMENTAL POLICY

10:00 **Introduction to the Environmental Impact Assessment (EIA) Directive**

- Concept of EIA and historical development of EIA Directive
- 2014 Amendment of the EIA Directive: aims & transposition status

Introduction to Strategic Environmental Assessment (SEA) Directive

- Definition and objectives of SEA Directive
- Role and significance of SEA Directive

Overview of the relationship between EIA and SEA Directives

Speaker

11:30 coffee break

ENVIRONMENTAL IMPACT ASSESSMENT (EIA) UNDER SCRUTINY

12:00 **Activities subject to EIA**

- Concept of "project"
- Screening information, criteria and thresholds
- CJEU case law (splitting projects, dual-purpose projects, cumulative impacts)

Speaker

13:00 lunch break

14:00 **Procedure of assessment**

- Scoping
- Assessment of alternatives
- Development consent decision/the reasoned conclusion
- Monitoring
- Environmental Authority/Competent Authority
- CJEU case law

Speaker

15:30 coffee break

16:00 **Case study on the implementation of the EIA Directive**

- Introduction to the case study
- Working groups
- Plenary discussion of the results

Speaker

17:00 End of the first workshop day

Objective

This two-and-a-half day workshop will provide the participants with an overview of EU environmental assessment law with a focus on the Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) Directives. The focus will be on scope, screening and judicial control under EIA/SEA Directives.

Emphasis will be given to the interaction with other forms of assessment in EU environmental legislation and participatory rights in the context of EIA/SEA Directives.

By addressing these issues that may be relevant for judges, this workshop aims at facilitating the handling of future national court proceedings in this field.

Venue

Who should attend?

Judges and prosecutors interested in environmental law

Your contact persons

Day 2

STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA) UNDER SCRUTINY

- 9:30 **Scope and screening under the SEA Directive**
- Definition of plan and programme subject to SEA
 - Screening procedure and criteria
 - EC guidance on integrating climate change and biodiversity into the SEA
 - CJEU case law
- Speaker*
- 11:00 Coffee break
- 11:30 **Case study on the implementation of the SEA Directive**
- Introduction to the case study
 - Working groups
 - Plenary discussion of the results
- Speaker*
- 13:00 Lunch break

ENFORCEMENT AND JUDICIAL REVIEW UNDER EIA/SEA

- 14:00 **Scope of judicial control under the SEA and EIA procedure**
- Quality control
 - Ex post assessment of an EIA project
 - Role and scope of judicial review
 - CJEU case law
- Speaker*
- 15:30 Coffee break

EIA/SEA PROCEDURES AT CROSSROADS

- 16:00 **Synergies between EIA/SEA Directives and substantive EU environmental law**
- EIA/SEA Directives and the Habitats Directive
 - EIA/SEA Directives and the Water Framework Directive
 - EIA/SEA Directives and the Industrial Emissions Directive
- Speaker*
- 17:30 End of the second workshop day

Day 3

EIA/SEA PROCEDURE AND CITIZENS' RIGHTS

09:00 **Public participation under the EIA/SEA Directives**

- Procedural steps
- Access to justice for NGOs
- CJEU case law

Speaker

10:30 coffee break

11:00 **Case study on the role of a judge when dealing with files on EIA/SEA instruments – preliminary ruling**

- Introduction to the case study
- Working groups
- Plenary discussion of the results

Speaker

12:30 **Evaluation of the workshop**

13:00 **End of the workshop**

For programme updates: www.era.int
Programme may be subject to amendment.

Annex II: Background material to be contained in the user's pack

	1. EU Documents	
	a.) EU Treaties	
1.	<u>Treaty on European Union</u> (consolidated version) 7 June 2016, OJ C202/01	Online
2.	<u>Treaty on the Functioning of the European Union</u> (consolidated version), 7 June 2016, OJ C202/01	Online
	b.) EU Legislation	
3.	<u>Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC</u>	Online
4.	<u>Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment(amending EIA Directive)</u>	Online
5.	<u>DIRECTIVE 2011/92/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (EIA Directive)</u>	Online
6.	Informal consolidated version of the EIA Directive	print
7.	<u>Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (Recast) (Industrial Emission Directive)</u>	print
8.	<u>Directive 2009/147/EC of the European Parliament and of the</u>	Online

	<u>Council of 30 November 2009 on the conservation of wild birds (Birds Directive)</u>	
9.	<u>Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006</u>	Online
10.	<u>DIRECTIVE 2003/35/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice</u>	Online
11.	<u>DIRECTIVE 2001/42/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (SEA Directive)</u>	print
12.	<u>Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (Water Framework Directive)</u>	print
13.	<u>Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (Habitats Directive)</u>	print
	c.) Policy Documents	
14.	<u>Evaluation of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (the Strategic Environmental Assessment – SEA - Directive), Roadmap, 11 July 2017</u>	Online

15.	<u>Environmental Impact Assessment of Projects – Guidance on Screening (Directive 2011/92/EU as amended by 2014/52/EU), European Commission, 2017</u>	Online
16.	<u>Environmental Impact Assessment of Projects – Guidance on Scoping (Directive 2011/92/EU as amended by 2014/52/EU), European Commission, 2017</u>	Online
17.	<u>Environmental Impact Assessment of Projects – Guidance on the preparation of the Environmental Impact Assessment Report (Directive 2011/92/EU as amended by 2014/52/EU), European Commission, 2017</u>	Online
18.	<u>Common Implementation Strategy for the Water Framework Directive and the Floods Directive, Guidance Document No. 36; Exemptions to the Environmental Objectives according to Article 4(7); New modifications to the physical characteristics of surface water bodies, alterations to the level of groundwater, or new sustainable human development activities (2017)</u>	Online
19.	<u>Commission Notice on access to justice in environmental matters (2017/C 275/01)</u>	Online
20.	<u>Commission guidance document on streamlining environmental assessments conducted under Article 2(3) of the Environmental Impact Assessment Directive (Directive 2011/92/EU of the European Parliament and of the Council, as amended by Directive 2014/52/EU) (2016/C 273/01)</u>	Online
21.	<u>Good practice Recommendations on Public Participation in Strategic Environmental Impact Assessment, UNECE Espoo Convention, February 2016</u>	Online
22.	<u>Interpretation of definitions of project categories of annex I and II</u>	Online

	<u>of the EIA Directive, 2015</u>	
23.	<u>DIRECTIVE 2014/52/EU of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, Presentation</u>	Online
24.	<u>(Informal) Checklist for transposition, Directive 2014/52/EU, 2014</u>	Online
25.	<u>Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters, 30 June and 1 July 2014</u>	Online
26.	<u>Streamlining environmental assessment procedures for energy infrastructure Projects of Common Interest (PCIs), July 2013</u>	Online
27.	<u>Guidance on the Application of the Environmental Impact Assessment Procedure for Large-scale Transboundary Projects, May 2013</u>	Online
28.	<u>Guidance on Integrating Climate Change and Biodiversity into Environmental Impact Assessment, March 2013</u>	Online
29.	<u>Guidance on Integrating Climate Change and Biodiversity into Strategic Environmental Assessment, March 2013</u>	Online
30.	<u>European Commission, Links between the Water Framework Directive (WFD 2000/60/EC) and Nature Directives (Birds Directive 2009/147/EC and Habitats Directive 92/43/EEC; Frequently asked questions (December 2011);</u>	Online
31.	<u>Common Implementation Strategy for the Water Framework Directive (2000/60/EC), Guidance Document No. 20; Guidance Document on Exemptions to the Environmental Objectives (2009)</u>	Online
32.	<u>Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context , UNECE 2006</u>	Online

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33.	<u>Environmental Assessment of Projects and Plans and Programmes, Rulings of the Court of Justice of the European Union, 10 October 2017</u>	Online
34.	<u>COM(2017) 234 final REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT under Article 12(3) of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment of 15 May 2017</u>	Online
35.	<u>Progressing quality control in environmental impact assessment beyond legislative compliance: An evaluation of the IEMA EIA Quality Mark certification scheme, by Alan Bond, Thomas B Fischer and Josh Fothergill, December 2016</u>	Online
36.	<u>WORKSHOP ON THE APPLICATION AND EFFECTIVENESS OF THE SEA DIRECTIVE (DIRECTIVE 2001/42/EC) Key messages & Conclusions of 18 May 2016</u>	Online
37.	<u>Protocol on Strategic Environmental Assessment - Facts and Benefits, UNECE May 2016</u>	Online
38.	<u>Study concerning the preparation of the report on the application and effectiveness of the SEA Directive (Directive 2001/42/EC) 2016</u>	Online
39.	<u>First Review of Implementation of the Protocol on Strategic Environmental Assessment (2010-2012), UNECE August 2015</u>	Online
40.	<u>Fourth review of implementation of the Convention on Environmental Impact Assessment in a Transboundary Context (2010-2012), UNECE August 2015</u>	Online
41.	<u>The implementation of the Environmental Impact Assessment</u>	Online

	<u>on the basis of precise examples, IMPEL, final report 12 November 2012</u>	
42.	<u>COM(2012) 628 final Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, 26 October 2012 (no longer in force) (Amendment of the EIA Directive)</u>	Online
43.	<u>SWD(2012) 355 final COMMISSION STAFF WORKING PAPER IMPACT ASSESSMENT Accompanying the document PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment This report commits only the Commission's services involved in its preparation and does not prejudge the final form of any decision to be taken by the Commission, 26 October 2012 (Amendment of the EIA Directive)</u>	Online
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44.	<u>UNECE Convention on Transboundary EIA (Espoo) 1991</u>	Online
45.	<u>CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS done at Aarhus, Denmark, on 25 June 1998 (Aarhus Convention)</u>	Online
46.	<u>European Convention on Human Rights as amended by Protocols Nos. 11 and 14, supplemented by Protocols Nos. 1, 4, 6, 7, 12 and 13</u>	Online
	3. CJEU Case Law	

	a.) Opinions/Ongoing Proceedings	
47.	<u>C-43/18, Compagnie d'entreprises CFE SA v Région de Bruxelles-Capitale lodged on 24 January 2018</u>	Online
48.	<u>C-160/17, Raoul Thyboaut and others v Région wallone, Opinion AG Kokott delivered on 25 January 2018 (only available in French)</u>	Online
49.	<u>C-671/16, Inter-Environnement Bruxelles ASBL, Opinion AG Kokott delivered on 25 January 2018</u>	Online
	b.) Judgements	
50.	<u>Case C-97/17, Judgment of the Court (Second Chamber) of 26 April 2018, European Commission v Republic of Bulgaria</u>	Online
51.	<u>Case C-441/17, Judgment of the Court (Grand Chamber) of 17 April 2018, European Commission v Republic of Poland</u>	Online
52.	<u>Case C-323/17, Judgment of the Court (Seventh Chamber) of 12 April 2018, People Over Wind and Peter Sweetman v Coillte Teoranta</u>	Online
53.	<u>Case C-470/16, Judgment of the Court (First Chamber) of 15 March 2018, North East Pylon Pressure Campaign Limited and Maura Sheehy v An Bord Pleanála and Others</u>	Online
54.	<u>Case C-117/17, Judgment of the Court (Sixth Chamber) of 28 February 2018, Comune di Castelbellino v Regione Marche and Others</u>	Online
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56.	<u>Case C-281/16, Judgment of the Court (Fourth Chamber) of 19</u>	Online

	<u>October 2017, Vereniging Hoekschewaards Landschap v Staatssecretaris van Economische Zaken</u>	
57.	<u>Joined Cases C-196/16 and C-197/16 Judgment of the Court (First Chamber) of 26 July 2017 Comune di Corridonia and Others v Provincia di Macerata and Provincia di Macerata Settore 10 – Ambiente</u>	Online
58.	<u>Case C-60/15 P Judgment of the Court (Fifth Chamber) of 13 July 2017 Saint-Gobain Glass Deutschland GmbH v European Commission</u>	Online
59.	<u>Case C-529/15 Judgment of the Court (First Chamber) of 1 June 2017 Proceedings brought by Gert Folk</u>	Online
60.	<u>Case C-142/16 Judgment of the Court (Second Chamber) of 26 April 2017 European Commission v Federal Republic of Germany</u>	Online
61.	<u>Case C-444/15 Judgment of the Court (Third Chamber) of 21 December 2016 Associazione Italia Nostra Onlus v Comune di Venezia and Others</u>	Online
62.	<u>Case C-645/15 Judgment of the Court (Sixth Chamber) of 24 November 2016 Bund Naturschutz in Bayern e.V. and Harald Wilde v Freistaat Bayern</u>	Online
63.	<u>Case C-461/14 Judgment of the Court (Fifth Chamber) of 24 November 2016 European Commission v Kingdom of Spain</u>	Online
64.	<u>Case C-442/14 Judgment of the Court (Fifth Chamber) of 23 November 2016 Bayer CropScience SA-NV and Stichting De Bijenstichting v College voor de toelating van gewasbeschermingsmiddelen en biociden</u>	Online
65.	<u>C-348/15 Judgment of the Court (First Chamber) of 17 November</u>	Online

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66.	<u>Case C-243/15 Judgment of the Court (Grand Chamber) of 8 November 2016 Lesoochránárske zoskupenie VLK v Obvodný úrad Trenčín</u>	Online
67.	<u>Case C-290/15 Judgment of the Court (Second Chamber) of 27 October 2016 Patrice D'Oultremont and Others v Région wallonne</u>	Online
68.	<u>Case C-379/15 Judgment of the Court (First Chamber) of 28 July 2016 Association France Nature Environnement v Premier ministre and Ministre de l'Écologie, du Développement durable et de l'Énergie</u>	Online
69.	<u>Case C-141/14 Judgment of the Court (Third Chamber) of 14 January 2016 European Commission v Republic of Bulgaria</u>	Online
70.	<u>Case C-137/14 Judgment of the Court (Second Chamber) of 15 October 2015 European Commission v Federal Republic of Germany</u>	Online
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72.	<u>Case C-570/13 Judgment of the Court (Fifth Chamber) of 16 April 2015 Karoline Gruber v Unabhängiger Verwaltungssenat für Kärnten and Others</u>	Online
73.	<u>Case C-534/13 Judgment of the Court (Third Chamber) of 4 March 2015 Ministero dell'Ambiente e della Tutela del Territorio e del</u>	Online

	<u><i>Mare and Others v Fipa Group srl and Others</i></u>	
74.	<u><i>Case C-531/13 Judgment of the Court (Second Chamber) of 11 February 2015 Marktgemeinde Straßwalchen and Others v Bundesminister für Wirtschaft, Familie und Jugend</i></u>	Online
75.	<u><i>Case C-300/13 Judgment of the Court (Seventh Chamber), 27 March 2014 Ayuntamiento de Benferri v Consejería de Infraestructuras y Transporte de la Generalitat Valenciana and Iberdrola Distribución Eléctrica SAU</i></u> (French)	Online
76.	<u><i>Case C-530/11 Judgment of the Court (Second Chamber), 13 February 2014 European Commission v United Kingdom of Great Britain and Northern Ireland</i></u>	Online
77.	<u><i>Case C-72/12 Judgment of the Court (Second Chamber), 7 November 2013 Gemeinde Altrip and Others v Land Rheinland-Pfalz</i></u>	Online
78.	<u><i>Case C-463/11 Judgment of the Court (Fourth Chamber), 18 April 2013 L v M</i></u>	Online
79.	<u><i>Case C-260/11 Judgment of the Court (Fourth Chamber), 11 April 2013 The Queen, on the application of David Edwards and Lilian Pallikaropoulos v Environment Agency and Others</i></u>	Online
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81.	<u><i>Case C-420/11 Judgment of the Court (Fourth Chamber), 14</i></u>	Online

	<u>March 2013 Jutta Leth v Republik Österreich, Land Niederösterreich</u>	
82.	<u>C-416/10 Judgment of the Court (Grand Chamber) of 15 January 2013, Jozef Krížan and Others v Slovenská inšpekcia životného prostredia.</u>	Online
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85.	<u>C-115/09 Judgment of the Court (Fourth Chamber) of 12 May 2011. Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen eV v Bezirksregierung Arnsberg.</u>	Online
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87.	<u>C-50/09 Judgment of the Court (First Chamber) of 3 March 2011, European Commission v Ireland.</u>	Online
88.	<u>C-75/08 Judgment of the Court (Second Chamber) of 30 April 2009, The Queen, on the application of Christopher Mellor v Secretary of State for Communities and Local Government.</u>	Online

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90.	<u>C-156/07 Order of the Court (Sixth Chamber) of 10 July 2008, Salvatore Aiello and Others v Regione Lombardia and Others.</u>	Online
91.	<u>C-215/06 Judgment of the Court (Second Chamber) of 3 July 2008, Commission of the European Communities v Ireland.</u>	Online
92.	<u>C-2/07 Judgment of the Court (Second Chamber) of 28 February 2008, Paul Abraham and Others v Région wallonne and Others</u>	Online
93.	<u>C-508/03 Judgment of the Court (First Chamber) of 4 May 2006, Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland.</u>	Online
94.	<u>C-290/03 Judgment of the Court (First Chamber) of 4 May 2006, The Queen, on the application of: Diane Barker v London Borough of Bromley.</u>	Online
95.	<u>Case C-127/02 Landelijke Vereniging tot Behoud van de Waddenzee, Nederlandse vereniging tot Bescherming van Gogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij (Waddenzee)</u>	Online