

Jens Hamer

Jens Hamer is a German Lawyer specializing in European Environmental Law and EC Competition Law. He studied German and French Law at the [University of Trier](#), Germany, where he specialised in Community law before obtaining a French degree from the [University Paul Cézanne - Aix-Marseille III](#), a Maîtrise in European and International Law. After completing his legal education with the second state examination in Germany, Jens started work at the [Academy of European Law Trier](#) (ERA) where he was, among others, responsible for European Environmental Law. Since 2003 he has been Head of the [Section European Business Law](#) at ERA. Jens gives various speeches and presentations at conferences in EEL but also in his other legal fields of interest. He was also a Lecturer on European Environmental Law at the [Paul Verlaine Law Faculty of the University of Metz](#) from 2004 to 2006. In January 2007 Jens joined the Chamber of Judge Ciuca at the Court of First Instance of the European Communities as a Référendaire.

Working experience:

- * Jens has a broad European work experience starting with internships with a French local authority and with a French lawyer in Marseille. He also worked as an In-house Business Lawyer with [Groupe Genoyer](#) in Vitrolles (France).
- * From 1999 to 2002 he lectured Constitutional Law and Civil Law at Trier University before becoming (and still being) a Private Tutor in Community Law for the German First State Examination.
- * From 2000 to 2007 Jens has been employed at ERA, where he covered, among others, the field of European Environmental Law. He has organised and set up various conference and workshops in this area and also has considerable lecturing experience.
- * In addition to this, Jens is an independent consultant in European Environmental Law, working e.g. on expert opinions and doing consultancy work for international and Europe-wide operating law firms and enterprises and even the European institutions amongst others on Waste issues, the EU implementation of the Aarhus Convention, Climate change and ETS, REACH, Environmental Criminal Law and Implementation and enforcement issues.
- * He was also a Lecturer on Environmental Law at the University of Metz (2004 to 2006); he lectured in EC Law, EC Environmental Law, EC Competition Law and European Business Law on various occasions, e.g. as a TAIEX expert.
- * Since 2007 he is Legal Secretary (Référendaire) in the Chambers of Judge Ciuca at the Court of First Instance of the European Communities.
- * Editor in chief of the [European Environmental Law Homepage](#)
- * Editor for Economic Environmental Law and State Aid in the “[European Law Reporter](#)”

Professional fields of interest:

* EC Law, all fields of European Environmental Law; Food Safety, European Business Law (Competition, State aids, Mergers, Public Procurement, Basic Freedoms)

Some publications:

- * Case note on ECJ C-244/05, Bund Naturschutz in Bayern on the protective regime of Natura 2000 sites in *Review of European Community and International Environmental Law* ([RECIEL](#)) forthcoming in February 2007
- * „Das Schutzregime natürlicher Lebensräume und wildlebender Tiere und Pflanzen (Natura 2000 Netzwerk) vor der Aufnahme in die Liste von gemeinschaftlicher Bedeutung“- Case annotation of C-244/05 Bund Naturschutz in Bayern u.a.; [European Law Reporter](#) 2006, p. 493 ff

- * „Umweltabgabe auf Granulate = unzulässige Beihilfe?“- Case annotation of T-210/02 Bund Naturschutz in Bayern u.a.; [European Law Reporter](#) 2006, p. 500 f
- * Case comment on ECJ C-244/05 (Bund Naturschutz in Bayern u.a. vs. Federal State of Bavaria) in *Zeitschrift für Europäisches Umwelt- und Planungsrecht* ([EurUP](#)) 2006, p. 263 f
- * Case comment on ECJ T-210/02 (British Aggregates Association) in *Zeitschrift für Europäisches Umwelt- und Planungsrecht* ([EurUP](#)) 2006, p. 265 F
- * Case note on ECJ C-215/04, Marius Pedersen v. Miljøstyrelse on shipment of waste in *Review of European Community and International Environmental Law* ([RECIEL](#)) 15-3 forthcoming in November 2006
- * “Energy and the Environment: The European Dimension”, in: Micheal Rodi (ed.) *Environmental Policy Instruments in Liberalized Energy Markets*, 2006
- * Case comment on ECJ C-209/04 (European Commission vs. Republic of Austria) in *Zeitschrift für Europäisches Umwelt- und Planungsrecht* ([EurUP](#)) 2006, p. 102 ff
- * Case comment on ECJ C-215/04 (Pedersen) in *Zeitschrift für Europäisches Umwelt- und Planungsrecht* ([EurUP](#)) 2006, p. 50 ff
- * Case comment on CFI T-178/ 05 (UK vs. European Commission) in *Zeitschrift für Europäisches Umwelt- und Planungsrecht* ([EurUP](#)) 2005, p. 294- 295
- * * „Die Substitution gefährlicher Stoffe im europäischen Recht – Teil 1, 2 und 3” [Stoffrecht](#) 2005, p. 198 – 203, p. 262 – 272 und 2006, p. 58 – 66; together with Dr. Georg Herb
- * Case comment on CFI T-366/ 03 et T-235/03 (Federal State Oberösterreich and Republic Austria vs. European Commission) in *Zeitschrift für Europäisches Umwelt- und Planungsrecht* ([EurUP](#)) 2005, p. 252 – 253
- * Case comment on ECJ C-304/02 (European Commission vs. French Republic) in *Zeitschrift für Europäisches Umwelt- und Planungsrecht* ([EurUP](#)) 2005, p. 193 – 194
- * „Die Rechtsprechung der Gemeinschaftsgerichte zum Umweltrecht im Jahre 2004“; [ERA Forum](#) 2 / 2005, p. 245 ff
- * „The role of the National Judge under Regulation 1/2003“; [European Law Reporter](#) 2005, p. 230 ff
- * „General and persistent breach of EC Environmental Law - Case annotation of C-494/01 Commission vs. Ireland“; [European Law Reporter](#) 2005, p. 230 ff
- * „The role of the National Judge under Regulation 1/2003“; [European Law Reporter](#) 2005, p. 230 ff
- * “Systematische Verletzung der Abfallrahmenrichtlinie – C-494/01 Kommission gegen Irland“, [Abfallrecht](#) 2005, p. 35 ff
- * Case comment on ECJ C-531/03 (Commission vs Germany – EIA), C-225/04 (Commission vs Finland – Maritime Safety), C-186/04 („Housieux“ - EIA) and C-494/01 (Commission vs Ireland) in *Zeitschrift für Europäisches Umwelt- und Planungsrecht* ([EurUP](#)) 2005, p. 144, p. 143 and p. 140
- * Case comment on ECJ C-463/01 and C-309/02 („deutsches Dosenpfand“) and C-277/02 („EU Wood Trading“) in *Zeitschrift für Europäisches Umwelt- und Planungsrecht* ([EurUP](#)) 2005, p. 46 f. and 48
- * „Bodenschutz- und Umwelthaftungsrecht made in Luxemburg? Case Annotation of C-1/03 van der Walle u.a.“; [European Law Reporter](#) 2004, p. 195 ff
- * „Dezentrale Anwendung im System der Legalausnahme: Die neue Durchführungsverordnung 1/2003/EG zur Anwendung der Artikel 81 und 82 EG“; *Juristische Arbeitsblätter* ([JA](#)) 2004, p. 830 ff
- * „Die Nichtigkeitsklage nach Artikel 230 EG“; *Juristische Arbeitsblätter* ([JA](#)) 2004, p. 728 ff
- * „Der Umfang gerichtlicher Überprüfung von EG-Fusionskontrollentscheidungen“; *Europäisches Wirtschafts- und Steuerrecht* ([EWS](#)) 2004, p. 217 ff

- * „Zulässigkeit der Nichtigkeitsklage einer juristischen Person gegen eine Verordnung – Aufrechterhaltung der Plaumannformel? Case Annotation of C-263/02P Jégo-Quéré“; [European Law Reporter](#) 2004, p. 195 ff
- * Editor of Volume 15 of ERA Publications Series „[Environmental Liability in the EU](#)“; 2002
- * „Die Durchsetzung der EG-Wettbewerbsregeln im Rahmen der VO 1/2003“; [ERA Forum](#) 1 / 2004
- * „Recent developments in European State Aid Law“; European State Aid Law Quaterly [European State Aid Law Quaterly](#) Issue 1 / 2004, p. 3 ff
- * „Dienstleistungen von allgemeinem wirtschaftlichen Interesse: Staatliche Beihilfen oder nicht? Urteilsbesprechung zur Rs. C-126/01 GEMO und verb. Rs. C-34/01 –C-38/01 Enirisorse“; [European Law Reporter](#) 2003, p. 454 ff
- * „Berücksichtigung der Finanzierungsweise von Beihilfen bei der Untersuchung durch die Kommission“ Urteilsbesprechung zu verb. Rs. C-261/01 und C-262/01; [European Law Reporter](#) 2003, p. 472 ff
- * „Die Rolle des nationalen Richters im Rahmen der VO 1/2003 – Tagungsbericht“; Europäisches Wirtschafts- und Steuerrecht ([EWS](#)) 2003, p. 415 ff
- * „Neueste Entwicklungen im Rechtsschutzsystem der EG“; Juristische Arbeitsblätter ([JA](#)) 2003, p. 666 ff
- * „Umwelthaftung in der EU“; DNR EU-Rundschreiben 7+8 2001, p. 62
- * Regular contributor to „Case reports of the Community Courts“ in [ERA Forum](#)
- * „Die Institutionen der EG und ihre lebensmittelrechtlichen Bezüge“; Zeitschrift für das gesamte Lebensmittelrecht ([ZLR](#)) 1997, p. 197 ff

Selected lectures and conferences:

- * The Role of the ECJ in commercial disputes, European Law Institute, Slovenia June 2003
- * TAIEX expert Workshop on the Free Movement of Goods and the Implementation of the Principle of Mutual Recognition, Prague 22 and 23 September 2003, Ref: CG 7804
- * Judicial review in EC Merger cases, First Annual European Law Days, Institute for European Studies, Slovenia November 2003
- * European Environmental Law, Expert for the Lodz Bar Association (Poland) February 2004
- * Foundations of European Environmental Law at the International Summer Academy “Energy and the Environment”, Greifswald July 2004
- * Sustainable Energy Supply: Requirements under European Law at the International Summer Academy “Energy and the Environment”, Greifswald, July 2004
- * Expert EC Law EU / PHARE Twinning project “Building competence in European Law in the Estonian Judiciary”; Tartu, September 2004
- * Implementation of EC Law: Practical Aspects; Study visit of a high ranked Bosnian Delegation organized by the Deutsche Stiftung für internationale rechtliche Zusammenarbeit e.V.; Trier, October 2004
- * Implementation of EC Public Procurement Law (G/1 h); Study visit of a high ranked Bosnian Delegation organized by the Deutsche Stiftung für internationale rechtliche Zusammenarbeit e.V., Trier, October 2004
- * Environmental case law of the Community Courts, Conference “Recent developments in European Environmental Law”, Trier, October 2004
- * European Environmental Law, Expert for the European Institute, Lodz (Poland), November 2004
- * The Modernisation of EC Competition Law: Regulation 1/2003, Second Annual European Law Days, Institute for European Studies, Slovenia, November 2004

- * Expert EC Law EU/ Phare Twinning project “Building Competence in European Law in the Estonian Judiciary”; Tartu, November 2004
- * Expert European Environmental Law, Project “Technical assistance for the preparation of a recruitment and training strategy for the judiciary”, Europeaid 113343/D/SV/BG”, January 2005, Sandanski, Bulgaria
- * TAIEX expert Workshop RTP 11626 ”Recent Developments in EC Environmental Law”, February 2005, Warsaw: “The Aarhus Convention and its’ EC Implementation” and “Climate change and ETS”
- * Expert EC Law EU/ Phare Twinning project “Building Competence in European Law in the Estonian Judiciary”; Tartu, March 2005
- * “Regulation 1/2003 and its importance for the National Judiciary”, Training of National Judges in Slovenia, April 2005, Bled, Slovenia
- * Workshop “Implementation and Enforcement of European Environmental Law”, Third Annual European Law Days, November 2005, Kranjska Gora, Slovenia
- * Expert European Environmental Law, EU PHARE Project “Training in Administrative Law for Lithuania”, January 2006, Vilnius
- * “Substitution of dangerous substances”, Conference “REACH – A new EU chemicals policy”, together with Dr. Georg Herb, 3 and 4 February 2006, ERA, Trier
- * “Regulation 1/2003 and its importance for the National Judiciary”, Training of National Judges in Portugal, 16 and 17 February 2006, Lisbon
- * “Regulation 1/2003 and its importance for the National Judiciary”, Training of National Judges in Lithuania, 3 and 4 May 2006, Vilnius
- * “Recent developments in EC Environmental Law”, Conference “Recent developments in EC Law”, 18 and 19 May 2006, ERA Trier
- * “European requirements on the content of the contract - Directive 90/314/EEC on package travel, package holidays and package tours”, TAIEX expert Workshop on Freedom to provide services IM 21999 for the Bucharest Chamber of Commerce and Industry, 17 May 2006, Bucharest
- * “Case-law of the Community Courts in environmental matters”, Training of Swedish Civil Servants, ERA and Forum Europa Regeringskansliets förvaltningsavdelning, 20 June 2006, Stockholm
- * “Recent developments in EC Environmental Law – Aarhus, REACH, Waste issues as well as Implementation and Enforcement”, Training for the Staff of the European Investment Bank, 27 September 2006, Luxembourg
- * “Free movement of goods – Case-law of the ECJ” Fourth Annual European Law Days, November 2006, Kranjska Gora, Slovenia
- * “Competition rules and free movement of lawyers – Case-law of the ECJ” Fourth Annual European Law Days, November 2006, Kranjska Gora, Slovenia

Other fields of interest:

- * Literature
- * Sport (tennis, soccer)
- * Traveling

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**Overview on EC Environment
Policy and Law**

- **Ass. jur. Jens Hamer, Maître en droit européen**
- **Chambers of Judge Ciuca, CFI**

2

**Development of the EC
Environmental Law**

- **EC Environmental Policy not mentioned in EEC Treaties**
- **Since then five phases:**
 1. **Summit meeting Paris 1972**
 2. **Single European Act 1987**
 3. **Treaty of Maastricht 1993**
 4. **Treaty of Amsterdam 1997**
 5. **Now and future (6th EAP)**

3

Treaty provisions relating to the Environment

- Art. 2: Tasks of the Community
- Art. 3: EC Environmental Policy
- Art. 5: Subsidiarity Principle
- Art. 6: Environmental Integration Requirement
- Art. 174 ff.: Title XIX „Environment“

4

Art. 2: Tasks of the EC

- high measure of environmental protection and of improvement of the quality of the environment
- sustainable development of the economic life
- head of the general principles of the Treaty (ECJ C-167/73)

5

Art. 2: Tasks of the EC

- 1957: Art. 2 Treaty of Rome does not mention environment, but interpretation
- 1992 Maastricht: „sustainable and non-inflationary-growth respecting the environment “
- 1997 Amsterdam: current wording

6

Art. 3: European Environmental Policy

- concretises the task of Art. 2
- sets goals on its own
- inserted by Treaty of Maastricht
- contents arranged by Art. 174

7

Art. 5: Subsidiarity Principle

- Developed from Art. 130r Par. 4 EEC Treaty
- Environmental law is shared competence
- EC has to consider Art. 5 (2)

8

Art. 6: Environment Integration Requirement

- First wording in SEA: „Environmental protection requirements shall be a component of the Community’s other policies.“ (Art. 130r Para. 2 S. 2 EEC Treaty)
- First revision by Treaty of Maastricht: „Environmental protection requirements must be integrated into the Community’s other policies .“ (Art. 130r Para. 2 S.3 EC Treaty)

9

Art. 6: Environment Integration Requirement

- current version by Amsterdam
- high-profile position
- changes to strengthen the position of environmental protection

10

Art. 174 (1): objectives of Community Environmental Policy

- introduced by Single European Act (Art. 130r)
- no essential modifications through Maastricht or Amsterdam
- Objectives described in a general way
- Notion of the environment: Art. 3 Directive 85/337
 - Human beings, fauna and flora
 - Soil, water, air, climate and landscape
 - Material assets and cultural heritage
- open term for further development

11

Art. 174 (1): Objectives of Community Environmental Policy

- Preserving, protecting and improving the quality of the environment
- Protecting human health
- Prudent and rational utilisation of natural resources
- Promoting measures at international level to deal with regional or worldwide environmental problems

12

Art. 174 (2): Principles of European Environmental Policy

- **Development**
- **Preventive action should be taken**
 - Developed out of 1st Environment Action Programme
 - Avoidance of environmental damage
- **Precautionary Principle**
 - Avoidance of environmental damage
 - Introduced by the Amsterdam Treaty
 - Communication of the Commission: COM (2000) 1 final
 - ECJ C-355/90, C-157/96, C-180/96; T-199/96, T-70/99

13

Art. 174 (2): Principles of European Environmental Policy

- **Rectification of the environmental damage of source**
 - New formulation by Maastricht
 - Supplement to preventive and precautionary principle
 - ECJ C-2/90
- **“Polluter-pays“ principle**
 - Developed by first EAP (1973)
 - Repressive and preventive impact

14

Art. 174 (3): Conditions for legislative Action

- **Available scientific data**
- **Regional environmental conditions**
- **Potential benefits and charges**
- **Economic and social developments**

15

Legal Bases: Art. 175

- Art. 175 (1) applies co-decision procedure regulated in Art. 251
- European Parliament twice consulted
- No longer difference with Internal Market legislation
- Art. 175 (2): derogations
- Requirement of unanimity

16

Legal Bases: Importance of Art. 176

“The protective measures adopted pursuant to Article 175 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with this Treaty. They shall be notified to the Commission.”

17

Legal Bases: Other Bases

- Art. 95
- Agriculture
- Transport
- Taxation
- R&D
- Energy

18

Instruments

- Environmental Action Programmes
- International Treaties

19

6th Environment Action Programme

- Definition
- Four priority areas:
 - Climate change
 - Nature and Biodiversity
 - Environment and Health
 - Natural Resources and Waste

20

6th Environment Action Programme

- The five key approaches are to:
 - ensure the implementation of existing legislation
 - Integrate environmental concerns into all relevant policy areas
 - Work closely with business and consumers to identify solutions
 - Ensure better and more accessible information on the environment for citizens
 - Develop a more environmentally conscious attitude towards land use
