

public international law is anything more than a hypocritical pretence at legality in a world dominated by sheer power.¹ Public international law traditionalists deplore the realist position as a threat to the emergence of international order. They insist that public international law is followed by nearly all states nearly all of the time.² Bodansky's efforts to find a middle ground will probably leave both sides unsatisfied.

The Art and Craft of International Environmental Law should provide readers with a better sense of the place of international environmental law within the broader field of transnational environmental law. Bodansky makes a convincing case that international agreements can play a constructive role in addressing global environmental issues. At the same time, he leaves no doubt about the limitations of such agreements. This makes it all the more important to continue to expand other forms of transnational law, such as activities by subnational governmental entities, NGOs, and the business sector. As Bodansky makes clear, climate change is a particularly knotty problem for international environmental law. To find an adequate solution we will need either creative responses from other elements of transnational law or a quantum leap in strengthening international law.

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European Environmental Law: After Lisbon, 4th edn., by Jan H. Jans & Hans H.B. Vedder
Europa Law Publishing, 2012, 570 pp, €52 pb, €110 hb, ISBN 9789089521064 pb, 9789089521057 hb

The fourth edition of this popular textbook by Jan Jans and Hans Vedder provides a useful overview of recent developments in European Union (EU) environmental law. It is also among the first textbooks to incorporate changes introduced by the Treaty of Lisbon.³ In general, the book combines a well-organized systematization of major EU environmental instruments with comprehensive analysis of the relevant case law.

Following a structure similar to the previous edition, the first seven chapters are dedicated to EU law in general. The authors start with an interesting analysis of the status of the environmental integration principle in the post-Lisbon era. The environmental integration principle is now complemented by an integration principle

¹ J. Goldsmith & E. Posner, *The Limits of International Law* (Oxford University Press, 2005).

² A. Chayes & A. Handle Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements* (Harvard University Press, 1995).

³ Cf. L. Krämer, *EU Environmental Law*, 7th edn (Sweet & Maxwell, 2012), which also offers an apt codification with a similar approach.

concerning animal welfare (Article 13 of the Treaty on the Functioning of the European Union (TFEU))⁴ and another concerning energy policy (Article 194 TFEU). As the authors highlight, there is no hierarchy between these ‘new’ integration principles (p. 11). Concerning other changes, the authors draw attention to the new ordinary legislative procedure in Title XX TFEU (‘Environment’), as well as to the enhanced role of the European Parliament. They note ‘although the participation of the European Parliament does not automatically lead to more environmentally friendly legislation, the fact that they are now a genuine co-legislator must nevertheless be welcomed’ (p. 59).

Overall, the Lisbon Treaty did not introduce major changes to EU environmental law. However, the EU’s commitments to sustainable development, the fight against climate change and the development of renewable forms of energy were reinforced.⁵ Notably, the Lisbon Treaty made the battle against climate change at the international level an explicit objective of EU environmental policy (Article 191 TFEU), thereby reinforcing the EU’s long-standing global leadership aspirations in this regard. However, the book devotes surprisingly little attention to the EU’s rapidly evolving legal framework for climate change and renewable energy. The discussions on the TFEU’s energy title and on the integration principles, for example, could have served as bridges for a more detailed consideration of the EU’s 2009 Climate Action and Renewable Energy (CARE) package.⁶ At present, only one page is devoted to the Renewable Energy Directive⁷ (p. 440). Considering the fact that this Directive has raised prominent concerns over its international legal implications and the sustainability of the EU’s ambitious approach towards renewable energy – especially biofuels – this aspect of EU environmental law would have merited a more thorough analysis. In addition, the book could have devoted more attention to exploring those areas of environmental policy where internal EU legislation has extraterritorial implications and impacts on the EU’s external relations.⁸ Thus, despite its prominent role in the book’s title, the analysis of the Treaty of Lisbon and its impact on EU environmental law remains limited in some important respects.

The book devotes ample attention to general EU law (in fact, more than one might expect from an environmental law textbook), for example, concerning the free movement of goods and competition. However, some pertinent issues are rightly emphasized, including in a chapter concerning the legal basis of EU environmental law. Questions concerning legal protection, access to justice, access to environmental information and public participation are also key themes that recur throughout the book. Effective enforcement should be among the priorities in protecting the environment through EU law. However, the present fragmented approach does not necessarily provide effective judicial remedies in environmental matters. The discussion

⁴ [2010] OJ C 83/47.

⁵ See Treaty on the European Union (TEU), Art. 3(5) [2010] OJ C 83/13; and TFEU, Arts. 191(1) and 194(1).

⁶ Available at: http://ec.europa.eu/clima/policies/package/documentation_en.htm.

⁷ Directive 2009/28/EC on the Promotion of the Use of Energy from Renewable Sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC [2009] OJ L 140/16.

⁸ Cf. Krämer, n. 3 above, at pp. 442–4. Krämer’s critical notes on the EU as a global environmental player are a good example of a concise discussion on the topic.

on the Aarhus Convention⁹ is useful given that this area has been a particular challenge for the EU institutions. As a final example of the book's merits regarding general EU law in the context of the environment, the analysis of the Member States' 'inherent competence to derogate' (p. 133) from environmental standards is particularly insightful.

The authors put forward an important argument that environmental protection can no longer be seen purely as a 'responsibility of government' and environmental integration would require a 'more active, more creative' approach in terms of incorporating environmental considerations into EU competition law (p. 335). Indeed, it seems that the nature of EU environmental law is changing and the role of private actors is of growing relevance. The authors could have given this question even more attention, especially in light of their argument that environmental objectives should play a greater part in competition policy in general.

One prominent feature of contemporary EU environmental law is its rapidly evolving character. Thus, even this revised and updated 2012 edition of the Jans and Vedder textbook is already slightly outdated. For example, in November 2012, the European Commission proposed to defer the application of the EU Emissions Trading Scheme with respect to aviation emissions from flights to and from non-European countries.¹⁰ Several other changes are likely to follow. For this reason, an accompanying online platform for updates on central new developments as a complement to the textbook would be worth considering. With respect to style, the extensive coverage of case law is one of the book's strengths. However, the presentation of several cases one after another sometimes runs the risk of distracting the reader from the main argument. Adding short conclusions at the end of each chapter would also have been useful. Finally, the index is rather inadequate having regard to the rich variety of themes covered by the book.

In sum, the most recent edition of *European Environmental Law* by Jans and Vedder provides a comprehensive image of EU environmental law. As detailed discussion is missing on certain key issues of contemporary EU environmental law, such as climate change and renewable energy, the book is bound to leave some readers hoping for more. At the same time, it provides a systematic presentation of all key elements of EU environmental law, the text is easily accessible and the chapters are kept concise. For these reasons, the book remains an excellent textbook and is highly suitable for teaching purposes. Overall, the updated 'post-Lisbon' fourth edition retains its place as a core work on EU environmental law.

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⁹ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus (Denmark), 25 June 1998, in force 30 Oct. 2001, available at: <http://www.unece.org/env/pp/welcome.html>.

¹⁰ COM(2012)697, 20 Nov. 2012.