WORKSHOP IMPLEMENTATION GUIDE
ON ENVIRONMENTAL LAW

TRAINING MODULE ON
PRINCIPLES OF EU ENVIRONMENTAL LAW
1 Introduction into the Workshop Implementation Guide

The Training programme for Judges consists of thematic “modules” designed for support of training workshops in EU environmental law.

A “module” is made up of a set of training materials, legislation and supportive documents dedicated to a specific field of European environmental law targeting an audience of judges and prosecutors from EU Member States. Each module is split into interrelated but self-standing 10-15 “sessions” so that a training programme for a workshop later can be set up individually based on this set of sessions and related materials, depending on the specific training approach and time available.

This workshop implementation guide describes for each session in detail the most relevant aspects such as the objectives, learning points, methodology and materials to be used. Insofar it shall serve as an instruction manual on a thematic module for both the organisers of training events and for trainers / speakers in charge of single sessions – it is intended to help for preparing largely participatory learning workshops.

Training materials have been developed, tested and revised by competent experts in English language on a range of thematic modules. They complement this instruction manual and annexed to the respective module. The same goes for other materials useful for the achievement of a successful training event for judges and prosecutors, such as print-out of links to useful sources in internet for further information on the topics addressed, reprinted legislation and EU Communications.

Most training materials are accompanied by specific speakers’ notes. These notes should enable other experts then the original authors to make use of the materials and adapt them to individual needs. The overall goals of the training events to be organised with the help of this manual are basically threefold, namely:

a) to develop and raise the understanding on the key legal aspects of EU legislation in a given field of environment law and their practical relevance for domestic jurisdiction and

b) to exchange views of judges / prosecutors from one or various EU Member States on a given topic, i.e. to foster the dialogue between judges / prosecutors of different nationalities / from different institutions and

c) to develop and promote contacts between European Commission services and national judges / prosecutors.

The participatory approach is a key assumption of the workshops to be implemented by using the developed materials. This implies that no workshop should be organised for more than 25-30 participants including expert speakers. It is proposed that each session shall be implemented or guided by an expert who will make use of the training materials provided for in this implementation guide.
The guide does not address logistic aspects like travel, accommodation, event locations, translation or interpretation. As for the latter, if required, simultaneous interpretation is the preferred option, at least for plenary sessions.

At the end of each session-chapter of this guide, there are additional notes. These notes provide for a range of useful complementary suggestions and aspects to be taken into account for the conduction of the respective sessions.

All thematic workshop modules addressed in workshop implementation guides have been tested by EIPA on several occasions. Programmes for 2.5 day workshops for judges and prosecutors from several EU Member States have been designed and constantly improved in accordance with the test results and feed-back given by the participants as well as amended EU legislation and new jurisprudence.

A few aspects need to be stressed:

1. **Duration of sessions:**
   We propose durations of all sessions based on the materials developed and tested. However, we made the experience that virtually all sessions have its own dynamics. It depends largely on the participants to which extent discussions are wanted and how many questions, comments and remarks are given at the end of - or during - a session. This may consume more or less time than planned. As stated above, the exchange of opinions is considered to be a primary goal of the training modules. This should be explained to all participants at the beginning of a workshop and also that the schedule of the programme will be applied in a flexible manner, so that all attendees are aware of this. Nevertheless, it is important that the moderator of a session strictly reminds that contributions shall be short.

2. **Arrangement of sessions:**
   Six thematic modules developed so far have been tested in different arrangement of sessions. It turned out that the main criteria for the set-up of a programme is the alternation of sessions with front-teaching and interactive methodology. Day 1 should not be overloaded with teaching sessions at the expense of work in working groups on cases. Of course, the arrangement of sessions also depends on fixed dates such as lunch or coffee breaks or end dates as well as the availability of speakers.

3. **Materials / workshop reader:**
   Workshop readers have been assembled for all six modules containing of the materials produced by experts under the respective module, main legislation in that area and other useful information. It is recommended that such readers are being used is order to reach a sustainable effect which goes beyond the training event; a reader can be used well as reference book for daily practice.
2 Module on Principles of EU Environmental Law

The module on Principles of EU Environmental Law was the fifth of a range of modules developed. Its sessions and materials prepared by competent experts have been tested during three 2.5 days workshops by EIPA.

In the course of the training event, we propose that the participating judges and prosecutors shall receive in the form of hand-outs teaching materials and those legislative texts which are relevant for the sessions (see below, Workshop Reader content). The overall objectives of the implementation of this module are

- to enhance knowledge on the meaning and practical relevance of principles of EU environmental law for European and national environmental legislation (see in particular sessions 4, 6, 8, 11 and 12);
- to understand the role of national courts and the European Commission as concerns the implementation of European environmental legislation and the respective legal procedures after the Lisbon Treaty entered into force as well as the concept of direct effect (see in particular session 2);
- to understand the importance of access to justice in environmental matters (see in particular session 3);
- to enhance knowledge on EU policy and legislation on environmental liability (Liability Directive) (see session 7);
- to practice the application of principles of EU environmental law at national courts and to understand the implications of CJEU cases on environmental principles (see in particular sessions 5, 9 and 10);
- to exchange views on national practice related to the application of environmental principles in national courts (see in particular session 13)
- to be informed on easy access to relevant EU documents on the internet (see session 14)

As stated above, the training module on “Principles of EU Environmental Law” is divided into a number of sessions. The sessions proposed and prepared for this module are as follows:

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<thead>
<tr>
<th>Session-No</th>
<th>Session Title</th>
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<tbody>
<tr>
<td>1</td>
<td>Opening of workshop (welcome and introductory session)</td>
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<td>2</td>
<td>EU Environmental Law and National Courts: the Key Role of the National Judge</td>
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4 Workshop Implementation Guide Principles of EU Environmental Law
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<thead>
<tr>
<th>Session-N°</th>
<th>Session Title</th>
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<td>6</td>
<td>Application of the Polluter Pays and the Producer Responsibility Principle in other areas of EU environmental law</td>
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<td>7</td>
<td>Environmental Liability Directive 2004/35/EC</td>
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<td>Exchange Session</td>
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<td>15</td>
<td>Evaluation of workshop – closing of the event</td>
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In principle all sessions stand for themselves as they are described below. However, they are closely interrelated and some of the sessions build on a preceding session. This goes in particular for the case sessions which should be conducted after the introductory sessions to the respective principles.

The proposed sequence of the case studies II and III could be changed, of course. The sessions on access to justice and on environmental liability can be held any time, however, the topic of environmental liability fits best after the sessions on the polluter pays principle as both topics are interrelated.

It turned out to be more effective with regard to the attention of participants if front teaching sessions and interactive sessions are alternated.

Attached to this module you can find the potential agenda for a 2.5 day workshop based upon the learning objectives and the pedagogic content of this manual as well as the experience gained during the four test workshops conducted by EIPA.

This agenda gives an example for similar training events, but can, of course, be adapted according to the experience of the workshop participants and the exact objectives that have been set by training organisers. However, it is suggested that workshop trainers do not stray too far from the outline agenda that we have proposed.

**Workshop Reader content**

We suggest that the material prepared for the module on “Principles of EU Environmental Law” should be put together for a reader given to the participants at the beginning of the workshop. This reader should be composed of the following documents:
1. Workshop agenda and information on logistics useful during the workshop as well as names and contact data of speakers and participants (see Session 1)

2. Hand-outs of presentations of sessions 2, 3, 4, 6, 7, 8, 11 and 13

3. Facts of the cases used in the case study sessions 5, 9 and 10

4. Overview on useful internet sources addressed in session 14

5. Relevant legislation and legislation extracts such as:
   a) Text of Articles 258 – 260 and 267 and of the Environmental chapter XX, Articles 191 – 193 TFEU (Treaty on the Functioning of the European Union)
   c) Environmental Liability Directive 2004/35/EC
   d) Regulations 1829/2003 and 178/2002 (on GMO)
   e) Article 23 of GMO Release Directive 2001/18/EC
   f) Articles 1, 8, 15 of (old) Waste Framework Directive 2006/12/EC
   g) Articles 3, 4, 8, 14, 16 of Waste Framework Directive 2008/98/EC
   h) Articles 1, 2, 10 and Rect. 29 of Landfill Directive 1999/31/EC
   i) Articles 3, 4, 5, 8 and 9 of WEEE Directive 2002/96/EC
   j) Articles 7 – 10 and 16 of Batteries Directive 2006/66/EC
   k) Articles 4, 7 and 15 of Packaging Directive 94/62/EC
   l) Article 9 of Water Framework Directive 2000/60/EC

6. The following documents:
   
   Optional: Workshop evaluation questionnaire

It is advisable not to send the facts of the case studies prior to the workshop to participants since they are based partly on CJEU case law. Otherwise they could be examined prior to the workshop which would contravene the purpose of the case sessions which is the exchange of views on application / interpretation of EU legislation.

Case solutions should be distributed only at the beginning of the debriefing part of the respective case session!

The authors
2.1 Session 1: Opening of workshop (introductory session)

a) **Short description of content**

The starting point of each training event should be a short introductory session on the entire programme through the chair of the event.

b) **General objectives**

The objectives of the opening session are to welcome the participants, to introduce the trainers/facilitators of the single sessions and to explain the main objectives (learning and exchange of information and experiences, promotion of contacts) of the training event as well as the methodology applied. A short overview on the content of the reader should be given. Besides, the opening session should give a platform for a short introduction of all participants (e.g.: where do I come from, which position do I hold, what is my experience on the themes addressed, what is my motivation for attendance, what are my expectations of the workshop).

This session also serves as a “warming up” exercise in order to encourage participants to contribute actively to the workshop.

c) **Specific learning points**

The participants shall become familiar with the content of the workshop programme and its sessions as well as the timing and location of sessions (at least those of day 1) and logistic issues such as programme breaks and meals (where, when) etc.

The introduction of all attendees serves as an “ice-breaking” part of the session, i.e. participants get to know each other and the respective professional background and the atmosphere usually becomes more relaxed so that people feel more comfortable to join discussions.

d) **Methodology to be applied (organisation)**

The introduction of the programme and the objectives should be presented to the participants in a plenary session (front presentation). Whether the programme is presented on the screen or just by reference to the hand-outs (reader) that each participant has in front of him is up to the chair.

e) **Duration**

The introductory session should last no longer than 45 minutes of which at least one minute should be calculated for the introduction of each participant. In our experience, often workshops start with a short delay of up to 15 minutes. Such delay should also be taken into account in order to avoid time pressure from the very beginning.
Training aids / materials

The Workshop Reader should contain especially the hand-out of the programme (agenda) and PowerPoint presentations, as well as word documents containing the facts of the cases (for the case studies) to be solved by the participants. The answers to the case studies should be given separately at the end of each case.

Supportive documents

A draft agenda of a training event should be set up by the event organisers in due time prior to an event and sent to the invited participants together with the invitation. It might be useful for the proper planning of the workshop that the invited persons confirm their presence and/or if needed prepare in advance on the topic at hand (for example, by bringing relevant pieces of legislation or being prepared to share their own experience of practical cases with other participants).

Assuming that this has been done, any updates on the programme or any relevant information on logistics are to be given in the first session. It is recommended that the workshop reader which is composed of various documents is also distributed at this stage (or even when participants enter the room).

Additional Notes

The introduction should be given jointly by the Chair and possibly the host of the event. The Chair could be any competent person who takes the overall responsibility for the smooth coordination of the event. It should be stressed during the opening session that the time schedule will not be applied very strict. Interesting discussions shall not be cut off unless there is time pressure. Always bear in mind that the exchange of views should be one key purpose of the event.
2.2 Session 2: EU Environmental Law and National Courts: the Key Role of the National Judge

a) Short description of content

This session is not directly related to “principles of EU Environmental Law”; it deals with horizontal aspects and is insofar of particular relevance for all environmental fields.

In this session an introduction to the relevance of EU environmental legislation for national legislation and national court decisions in general (direct effect of EU law) shall be given.

Furthermore both, the infringement procedure of the European Commission as well as the preliminary references mechanism of national courts to the CJEU shall be explained in detail and what it means in practice for the EU Member States and national courts.

b) General Objectives

The participants from the national judiciary/ies shall increase their knowledge on

- the relevance of European environmental law for the EU Member States and the national courts in particular through an introduction into the concept of direct effect,
- infringements in EU environmental law by topic and by country,
- the “curing” system of the infringement procedure,
- the meaning and procedure of preliminary references of national courts to the CJEU.

Participants shall also be encouraged to promote or make use of the preliminary reference mechanism themselves when appropriate.

c) Specific learning points

More specifically, participants shall improve their understanding of European environmental law application in the Member States and how infringements may be cured with the help of national courts, the European Commission and the CJEU\(^1\).

Participants will learn the details and effects of the infringement procedure on the implementation of environmental law provisions, i.e. how the interpretative CJEU case-law is achieved as a result from European Commission intervention under Articles 258 TFEU ff. and under the preliminary references mechanism under Article 267 TFEU\(^2\).

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1 Insofar reference is made to Commission Communication COM (2008)773 on implementing European Community Environmental Law where the role of judges is stressed
2 Insofar reference is made to the Commission Communication COM (2007) 502, A Europe of results – applying Community law
Participants are informed in more detail about the preliminary reference mechanism and the concept of “direct effect” of a Directive. Especially this part of the session should be of particular practical relevance for a national judge, who shall ensure compliance of his / her decisions with EU law requirements.

d) Methodology to be applied

The proposed methodology for this session is front-teaching with the use of power point presentation tools. Examples may be given by the trainer, to demonstrate the cycle and duration of the infringement procedure / preliminary reference mechanism in practice. Reference to key CJEU decisions should be made in order to explain the concept of “direct effect”. The subsequent discussion should be moderated by either the trainer or the chair of the event.

e) Duration

The entire session shall last about 50 – 60 minutes including plenary discussion.

f) Training aides / materials

Materials that should be handed out to the participants are preferably (selected) power point slides of the trainer and printed copies of the text of Articles 258 – 260 and 267 TFEU.

g) Supportive documents

Additionally the above mentioned Commission Communications COM (2007)502 and COM (2008)773 or extracts thereof could be copied and distributed (they are 12 respectively 14 pages long).

h) Additional notes

The trainer / facilitator in this session should be highly familiar with the infringement and the preliminary rulings procedure and the concept of “direct effect” and related cases.

It is important that there is some room left for discussion (up to 1/4 of the length of this session) in order to consolidate the understanding of information presented by the trainer and to offer participants the chance to clarify any issues that they have not fully understood.
2.3 Session 3: Access to Justice in Environmental Matters

a) **Short description of content**

Session 3 addresses the issue of Access to Justice in Environmental Matters in accordance with the provisions of the Aarhus Convention. Access to Justice is a condition to bring cases to the knowledge of courts.

In our experience this issue is subject of controversy discussions especially if judges from several EU Member States are attending the workshop as the access is regulated and applied quite differently in the Member States and even individual courts.

b) **General Objectives**

The EU itself, and all EU Member States have ratified the “Aarhus Convention on access to information, public participation in decision making and access to justice in environmental matters”. However, Pillar III of the Convention, which is on “Access to Justice” in environmental matters has never been transposed into an EU Directive addressed to the EU Member States. Therefore, the main objective of this session is to understand the Aarhus Convention (Article 9(3)) requirements and its legal effect based on a recent judgement of the CJEU as to how access to justice should be regulated / interpreted nationally.

Besides, participants shall exchange views on how access to justice is regulated in their country (and interpreted in the respective courts) and which obstacles exist.

c) **Specific learning points**

Specifically, participants shall be informed about the Treaty on the European Union (TEU) requirements as regards access to courts and of the Aarhus Convention as concerns its so called third pillar (access to justice). The focus of the session, insofar, is on the question of direct effect of Article 9(3) Aarhus Convention which has been addressed by CJEU Case C-240/09 recently.

d) **Methodology to be applied**

The proposed methodology for this session is front-teaching in the plenary with the use of power point presentation tools. An example is given by the trainer to explain how the CJEU interpreted the applicability of Aarhus Convention in a particular case.

At the end of the session there should be given some room for discussion of open questions as well as for discussion on how access to justice is regulated and applied in the EU Member States.

e) **Duration**

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3 Regulation 1367/2006 lays down rules to apply the provisions of the Aarhus Convention to Community institutions and bodies only
The duration of this session should be about 50 – 60 minutes. At least 1/4 should be dedicated to the discussion part.

f) **Training aides / materials**

The participants should receive print outs of the power point slides prior to the session.

g) **Supportive documents**

Article 9 of the Aarhus Convention should be reprinted and become part of the workshop reader.

h) **Additional notes**

The trainer should be an expert on Aarhus Convention requirements in particular as concerns access to justice matters. S/he should get familiar with the facts of the CJEU case presented so that she/he can briefly summarize the essentials of the case or answer questions related to it. Be aware that it is not easy to summarize both, facts of a case and an CJEU decision visually with just a few lines on a power point slide; the trainer has to have more details of the case in mind telling the audience.

As for the exchange of views on access to justice it is important that the moderator of this session strictly reminds that contributions shall be short.
2.4 Session 4: Introduction to the Polluter Pays Principle

a) **Short description of content**
   Session 4 aims to introduce participants to the historical background, functions and substance of the Polluter Pays Principle (PPP) in International, European and national environmental law.

b) **General Objectives**
   The objectives are to inform participants about the PPP, i.e. its history and functions in environmental law.

c) **Specific learning points**
   The session focuses primarily on the historical development and functions of the PPP in International, European and national law. Another focus is on the substance of the principle, i.e. who is considered to be the polluter, what is pollution and how much has to be paid. Eventually relevant instruments in environmental law to implement the PPP are explained.

d) **Methodology to be applied**
   The proposed methodology for this session is front-teaching in the plenary with the use of power point presentation tools. At the end of – or during – the session there should be given some room for discussion of open questions.

e) **Duration**
   Based on our experience we propose that this session should last approximately 45 minutes including about 10 minutes time for questions for clarification.

f) **Training aides / materials**
   The participants should receive print outs of the power point slides designed by the trainer as hand-outs for that session prior to the session start.

g) **Supportive documents**
   None.

h) **Additional notes**
   The trainer should be very familiar with the history, functions and substance of the PPP in environmental law and instruments to implement the PPP.
2.5 **Session 5: Case study I – Polluter Pays Principle**

a) **Short description of content**

Session 5 is the first case session. Within case sessions real or fictional cases should be solved by the judges mainly on the basis of EU legislation, i.e. here the provisions of the waste Framework and the Landfill Directives. The case focuses on the understanding and practical application of the PPP in the field of waste management.

b) **General Objectives**

The general objective of this session is to become familiar with the practical relevance of the PPP in waste law as interpreted by the CJEU and its effect on national jurisdiction. Besides, judges from different EU Member States shall exchange opinions on the case(s) presented and discuss potential solutions based on both, their national legislation and their interpretation of the EU directive requirements in the light of the PPP.

c) **Specific learning points**

The main learning points are to understand and interpret the PPP with respect to selected EU waste legislation correctly (here: Articles 1, 8 and 15 Waste Framework Directive 2006/12/EC, Article 14 Waste Framework Directive 2008/98/EC and Articles 1, 2 and 10 Landfill Directive), to discuss potential solutions of the case based on these provisions and the PPP as well as exchanging opinions on case solutions based on the participants’ national legislation (“How would this case be solved at my court”).

d) **Methodology to be applied**

We propose the following methodology:

The case to be solved here consists of two small cases which are presented by the trainer (expert) to the plenary (optionally with some power point slides). The cases are also available to the participants as hand-out.

After the presentation of the case the plenary should be divided into 2-4 smaller working groups with no more than 6-7 persons/group. Each group shall appoint a moderator and a rapporteur (these persons may be identical). Within the working groups questions to the cases shall be discussed based on the legislation provided for in order to find joint solutions to the case.

Small working group discussions have several advantages:

- They create variety, including a change of physical position, which will help to stimulate concentration.
- They allow greater participation and more time for each participant to speak.
• They encourage reluctant participants who may be nervous about speaking to the plenary.

Depending on the time available, we propose that 2 working groups focus on case 1 and its questions whilst the other two groups focus on case 2. If any group finishes its case earlier, it should then continue discussing the other case.

After the discussions in the working groups all participants shall meet again in the plenary. There the rapporteur of each working group should present the findings of their discussion in short statements. We suggest that each working group gives its answers and opinions on a question followed by the next working group on the same question. Naturally, Case 1 should be discussed first and afterwards Case 2.

Once a question has been addressed by all working groups this is followed by a debriefing of the question by the trainer (expert), who presents the answer of the CJEU, before the next question is addressed by the working groups again, and so on. This has the advantage that each question can be discussed one by one.

e) **Duration**

The cases presentation should take about 10 minutes, followed by the discussion of the cases in the parallel working groups for about 60 minutes. In the plenary the presentation of working group findings and the final debriefing (and discussion) could take another 45 minutes.

f) **Training aides / materials**

The cases prepared for this session are based on the CJEU preliminary rulings in C-254/08 (Futura Immobiliare and Others) and Case C-172/08 (Pontina Ambiente). The hand-outs for the participants consist of precise descriptions of the facts of the case and hints on the relevant EU legislation provisions necessary to solve the case as well as guiding questions and complementary considerations to be addressed during the working group meeting and the subsequent de-briefing.

Detailed “Answers to the Questions”, based on CJEU decisions in this field should be handed out to the participants at the end of the debriefing meeting, not before!

g) **Supportive documents**

The relevant Articles extracted from the Waste Framework Directives 2006 and 2008 and the Landfill Directive should have been distributed to the participants.

h) **Additional notes**

The trainer / expert making the presentation of the case must be an expert on the PPP and have good knowledge on the Waste Directives and especially on the two decisions made by the CJEU. However he/she must not be the author of the case, as this is fully self-explanatory. The trainer is strongly advised to read the decisions C-254/08 and C-172/08.
The case should be handed out to the participants at the beginning of the workshop or the case session itself and not before, so that participants cannot identify the related CJEU decisions and thus potentially hamper the working group discussions.

Working groups should be picked up randomly and represent a mix of countries / regions / courts. Make sure that each group has a rapporteur – someone who will report its conclusions to the plenary. Other criteria for the mixing of the working groups may be the professional experience or knowledge, gender, language skills, in a way that all working groups will function well.

As concerns the determination of the moderator and rapporteur for each working group – these persons should be quickly selected internally by each working group.

The moderator should promote a full group discussion so that no one is disadvantaged by not having taken part (ask questions to everybody on his/her opinion). It is highly advisable to make use of the guiding questions which have been prepared for each case but participants should feel free to bring up questions from their own experience for discussion.

None of the working groups should be required to address both cases and all questions on the cases – for the learning effect it is rather advisable that they manage to find suitable answers to at least some of the questions!

The moderator should also be responsible for controlling and managing the time available for the working group meeting and be available for assistance to the groups if required by them.

This case session should be done after the introduction session into the PPP (session 4).
2.6 Session 6: Application of the Polluter Pays and the Producer Responsibility Principle in other areas of EU environmental law

a) **Short description of content**
Session 6 aims to inform participants on the application of the PPP and the Producer Responsibility Principle in other areas – beyond those addressed in sessions 4 and 5 – of EU environmental law.

b) **General Objectives**
The objectives are to enhance the knowledge and understanding of participants of the practical relevance and functions of the PPP and the Producer Responsibility Principle in EU environmental law.

c) **Specific learning points**
Starting with cases of the CJEU on an oil pollution accident (C-188/07, Erika) and on nitrates pollution of groundwater (C-293/97, Standley) the session first focuses on the criteria for the application of the PPP on waste disposal and on the Nitrates Directive. The session then addresses the relevance of the PPP for the water pricing requirements under the Water Framework Directive, the role of PPP for the Emission Trading System (ETS) established in the EU in 2005 and the incorporation of the PPP in the draft Soil Protection Directive (which has not been adopted yet).

In the second part of the session it is explained how the extended Producer Responsibility Principle, which is based on the PPP, has influenced the design of waste stream related legislation such as the Packaging Directive, the WEEE Directive and the Batteries Directive and what obligations derive from that principle in practice.

d) **Methodology to be applied**
The proposed methodology for this session is front-teaching in the plenary with the use of power point presentation tools. Examples may be given by the trainer, to explain the practical meaning of a provision. At the end of the session there should be given some room for discussion of open questions.

e) **Duration**
Based on our experience we propose that this session should last up to 45 minutes including 10 minutes time for questions for clarification.

f) **Training aides / materials**
The participants should receive print outs of the power point slides designed by the trainer as handouts for that session prior to the session start.

g) **Supportive documents**
Extract of laws such as:

- Articles 3, 4, 5, 8 and 9 of WEEE Directive 2002/96/EC
- Articles 7 – 10 and 16 of Batteries Directive 2006/66/EC
- Articles 4, 7 and 15 of Packaging Directive 94/62/EC, and
- Article 9 of Water Framework Directive 2000/60/EC

should be copied and distributed to the participants as hard copy.

h) **Additional notes**

The trainer should have a good knowledge on the substance of the PPP and the extended Producer Responsibility Principle in the areas and environmental legislation addressed in this session. S/he shall be familiar with the CJEU decisions C-188/07 and C-293/97 highlighted in this session.
2.7 Session 7: Environmental Liability Directive 2004/35/EC

a) Short description of content
Session 7 aims to introduce participants to the background and main features of the Environmental Liability Directive 2004/35/EC and the obligations deriving from it for EU Member States.

b) General Objectives
The objectives are to inform participants about the background, concept, objectives and obligations under the Environmental Liability Directive.

c) Specific learning points
The session will focus on historical background and the concept behind the Liability Directive. Basic features and main definitions as well as key requirements of the Directive are explained in detail. Insofar the CJEU decision in case C-378/08 (Rada die Augusta) is highlighted. Besides, the transposition of certain elements of the Directive, such as defences, multiple party causation and financial security in EU Member States are presented.

d) Methodology to be applied
The proposed methodology for this session is front-teaching in the plenary with the use of power point presentation tools. Examples may be given by the trainer, to explain the practical meaning of a provision. At the end of the session there should be given some room for discussion of open questions.

e) Duration
Based on our experience we propose that this session should last about 60 minutes including 10 minutes time for questions for clarification.

f) Training aides / materials
The participants should receive print outs of the power point slides designed by the trainer as handouts for that session prior to the session start.

g) Supportive documents
The text of the Environmental Liability Directive including its Annexes in the most suitable language should be copied and distributed to the participants as hard copy.

h) Additional notes
The trainer should be very familiar with the concept and provisions of the Environmental Liability Directive and the CJEU decision in case C-378/08.
2.8 Session 8: Introduction to the Preventive and Precautionary Principles

a) **Short description of content**
Session 8 aims to introduce participants to the Preventive and Precautionary Principles in International, European and national environmental law.

b) **General Objectives**
The objectives are to inform participants about the historical background, functions, and substance of the Preventive and Precautionary Principles in environmental law and their practical application.

c) **Specific learning points**
The session focuses on the historical development and integration of both principles in International, and national environmental law as well as in the TFEU. Besides, the instruments and criteria for implementation of these principles are explained in more detail, as well as the difference between “prevention” and “precaution”.

d) **Methodology to be applied**
The proposed methodology for this session is front-teaching in the plenary with the use of power point presentation tools. Examples may be given by the trainer, to explain the practical meaning of a provision. At the end of the session there should be given some room for discussion of open questions.

e) **Duration**
Based on our experience we propose that this session should last approximately 45 minutes including 10 minutes time for questions for clarification.

f) **Training aides / materials**
The participants should receive print outs of the power point slides designed by the trainer as handouts for that session prior to the session start.

g) **Supportive documents**
The text of the Environmental chapter XX, Articles 191 – 193 TFEU in the most suitable language as well as the Commission Communication COM(2000) 1 final on the Precautionary Principle should be copied and distributed to the participants as hard copy.

h) **Additional notes**
The trainer should be very familiar with the history, functions and criteria for application and difference of the Preventive and the Precautionary Principles which are not defined and largely not codified explicitly in law.
2.9 Session 9: Case Study II - Precautionary Principle  
(GMO Maize Case)

a) Short description of content

Session 9 follows the model of session 5 with a different legislative focus and case presented and to be discussed and answered. As stated above, the case sessions will consume considerable time of a workshop.

In this session a case shall be solved by the judges dealing with questions related to the application of the precautionary principle related to the planting of a genetically modified line of maize seeds in accordance with specific EU legislation on Genetically Modified Organisms (GMO).

b) General Objectives

The general objective of this session is to become familiar with the practical relevance of the Precautionary Principle in environmental law (in a wider sense) as interpreted by the CJEU and its effect on national jurisdiction. Besides, judges from different EU Member States shall exchange opinions on the case presented and discuss potential solutions based on both, their national legislation and their interpretation of the EU legal requirements in the light of the Precautionary Principle.

c) Specific learning points

The main learning points are to understand and interpret the Precautionary Principle with respect to selected EU GMO legislation correctly (here: selected Articles from EU legislation on GMO), to discuss potential solutions of the case based on these provisions and the Precautionary Principle as well as exchanging opinions on case solutions based on the participants’ national legislation (“How would this case be solved at my court”).

d) Methodology to be applied

As for the proposed methodology we recall the approach proposed for session 5:

The case to be solved is presented by the trainer (expert) to the plenary as hand-out and optionally with some additional power point slides.

After the presentation of the case the plenary should be divided into 2-4 smaller working groups with no more than 6-7 persons per group. Each group shall appoint a moderator and a rapporteur (these persons may be identical). Within the working groups questions to the case shall be discussed based on the legislation provided for in order to find joint solutions to the case.

After the discussions in the working groups all participants shall meet again in the plenary. There the rapporteur of each working group shall present the findings of their discussion in short statements. We suggest that each working group gives its answers and opinions on a question followed by the next working group on the same question.
Once a question has been addressed by all working groups this is followed by a
debriefing of the question by the trainer (expert), who presents the answer of the
CJEU in joined cases C-58/10 – C-68/10 (Monsanto), before the next question is
addressed by the working groups again, and so on. This has the advantage that each
question can be discussed one by one.

e) **Duration**

The case presentation should take about 10 minutes, followed by the discussion of the
cases in the parallel working groups for about 60 minutes. In the plenary the
presentation of working group findings and the final debriefing (and discussion) could
take another 50 minutes.

f) **Training aides / materials**

The case prepared for this session is a fictional case based on the CJEU ruling in
joined cases C-58/10 – C-68/10 (Monsanto). The hand-outs for the participants
consist of precise descriptions of the facts of the case and references to the relevant
EU legislation provisions necessary to solve the case as well as guiding questions and
complementary considerations to be addressed during the working group meeting and
the subsequent de-briefing.

Detailed “Answers to the Questions”, based on potential interpretation of the
provisions in question are handed out to the participants at the end of the de-briefing
meeting, not before!

g) **Supportive documents**

The selected provisions, namely

> Article 23 of GMO Release Directive 2001/18/EC,
> Articles 20 and 34 of Regulation 1829/2003 and
> Articles 53 and 54 of Regulation 178/2002

should have been distributed to the participants.

h) **Additional notes**

The trainer / expert making the presentation of the case must be an expert on the
Precautionary Principle and be familiar with GMO legislation in the EU. S/he should
have studied carefully the preliminary ruling of the CJEU in joined cases C-58/10 –
C-68/10 (Monsanto). However he/she must not be the author of the case, as this is
fully self-explanatory.

The case should be handed out to the participants at the beginning of the workshop or
the case session itself and not before.

Working groups should be picked up randomly and represent a mix of countries /
regions / courts. Make sure that each group has a rapporteur – someone who will
report its conclusions to the plenary. Other criteria for the mixing of the working

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groups may be the professional experience or knowledge, gender, language skills, in a way that all working groups will function well.

As concerns the determination of the moderator and rapporteur for each working group – these persons should be quickly selected internally by each working group.

The moderator should promote a full group discussion so that no one is disadvantaged by not having taken part (ask questions to everybody on his/her opinion). It is highly advisable to make use of the guiding questions which have been prepared for each case but participants should feel free to bring up questions from their own experience for discussion.

None of the working groups should be required to address all questions and alterations on the case – for the learning effect it is rather advisable that they manage to find suitable answers to at least some of the questions!

The moderator should also be responsible for controlling and managing the time available for the working group meeting and be available for assistance to the groups if required by them.

The session should be conducted after session 8 which provide a comprehensive introduction to the Precautionary Principle.
2.10 Session 10: Case Study III - Precautionary Principle  
(Wind Energy Case)

a) **Short description of content**

Session 10 follows the model of session 9 with a different legislative focus and case presented and to be discussed and answered. As stated above, the case sessions will consume considerable time of a workshop.

In this session a case shall be solved by the judges dealing with the conflict between an expansion of renewable energy installations colliding with nature protection interests by taking into account the Precautionary Principle.

The case focuses on the understanding and practical application of the Precautionary Principle in the field of the EU Habitats Directive.

b) **General Objectives**

The general objective of this session is to become familiar with the practical relevance of the PPP in waste law as interpreted by the CJEU and its effect on national jurisdiction. Besides, judges from different EU Member States shall exchange opinions on the case(s) presented and discuss potential solutions based on both, their national legislation and their interpretation of the EU directive requirements in the light of the PPP.

c) **Specific learning points**

The main learning points are to understand and interpret the Precautionary Principle with respect to selected EU environmental legislation (here: Article 6 Habitats Directive 92/43/EEC) and national legislation (here: Article 34 German Nature Protection Law which transposes the Habitats Directive) correctly, to discuss potential solutions of the case based on these provisions and the Precautionary Principle as well as exchanging opinions on case solutions based on the participants’ national legislation (“How would this case be solved at my court”).

d) **Methodology to be applied**

As for the proposed methodology we recall the approach proposed for session 9:

The case to be solved is presented by the trainer (expert) to the plenary as hand-out and optionally with some additional power point slides.

After the presentation of the case the plenary should be divided into 2-4 smaller working groups with no more than 6-7 persons per group. Each group shall appoint a moderator and a rapporteur (these persons may be identical). Within the working groups questions to the case shall be discussed based on the legislation provided for in order to find joint solutions to the case.
After the discussions in the working groups all participants shall meet again in the plenary. There the rapporteur of each working group should present the findings of their discussion in short statements. We suggest that each working group gives its answers and opinions on a question followed by the next working group on the same question. Once a question has been addressed by all working groups this is followed by a debriefing of the question by the trainer (expert), who presents an opinion of the deciding German court (there is no CJEU answer on this matter), before the next question is addressed by the working groups again, and so on. This has the advantage that each question can be discussed one by one.

e) **Duration**

The case presentation should take about 10 minutes, followed by the discussion of the cases in the parallel working groups for about 60 minutes. In the plenary the presentation of working group findings and the final debriefing (and discussion) could take another 50 minutes.

f) **Training aides / materials**

The case prepared for this session is based on a case decision of the German Administrative Court of Appeal of North Rhine Westphalia of 2010. The hand-outs for the participants consist of precise descriptions of the facts of the case and a reprint of the relevant EU and national legislation provisions necessary to solve the case as well as guiding questions and complementary considerations to be addressed during the working group meeting and the subsequent de-briefing.

Detailed “Answers to the Questions”, based on potential interpretation of the provisions in question are handed out to the participants at the end of the debriefing meeting, not before!

g) **Supportive documents**

None.

h) **Additional notes**

The trainer / expert making the presentation of the case must be an expert on the Precautionary Principle and be familiar with nature protection legislation in the EU. The author must neither be the author of the case, nor read the entire case (which is only available in German language!) as this is fully self-explanatory; the answers give a complete picture of the case.

The case should be handed out to the participants at the beginning of the workshop or the case session itself and not before.

Working groups should be picked up randomly and represent a mix of countries / regions / courts. Make sure that each group has a rapporteur – someone who will report its conclusions to the plenary. Other criteria for the mixing of the working
groups may be the professional experience or knowledge, gender, language skills, in a way that all working groups will function well.

As concerns the determination of the moderator and rapporteur for each working group – these persons should be quickly selected internally by each working group.

The moderator should promote a full group discussion so that no one is disadvantaged by not having taken part (ask questions to everybody on his/her opinion). It is highly advisable to make use of the guiding questions which have been prepared for each case but participants should feel free to bring up questions from their own experience for discussion.

None of the working groups should be required to address all questions and alterations on the case – for the learning effect it is rather advisable that they manage to find suitable answers to at least some of the questions!

The moderator should also be responsible for controlling and managing the time available for the working group meeting and be available for assistance to the groups if required by them.
2.11 Session 11: Application of the Preventive and the Precautionary Principles in other areas of EU environmental law

a) **Short description of content**

Session 11 aims to inform participants on the application of the Preventive and the Precautionary Principles in other areas – beyond those addressed in sessions 8 – 10 of EU environmental law (in a wider sense as it also includes a WTO case).

b) **General Objectives**

The objectives are to enhance the knowledge and understanding of participants of the practical relevance and functions of the Preventive and the Precautionary Principles in EU environmental law.

c) **Specific learning points**

In this session three different areas are addressed. It starts with the decision of the European Commission on emergency measures to protect against BSE and the ruling of the CJEU on this decision (*C-157/96 and C-180/96, Mad cow disease*). The main focus of this session, though, is on the relevance of the Preventive Principle for measures to be taken under the Seveso Directive. This is illustrated here through information on several industrial accidents and the decision of the CJEU in Case C-53/10 (*Müksch*). The relevance and practical consequences of the use of the Precautionary Principle will then be explained on the example of the EC Hormones Case, i.e. the dispute between the EU and the USA and Canada on the import of hormones treated beef under the WTO regime.

d) **Methodology to be applied**

The proposed methodology for this session is front-teaching in the plenary with the use of power point presentation tools. Case examples are given by the trainer, to explain how the CJEU interpreted a provision in a particular case. At the end of the session there should be given some room for discussion of open questions.

e) **Duration**

Based on our experience we propose that this session should last about 45 minutes including 10 minutes time for questions for clarification.

f) **Training aides / materials**

The participants should receive print outs of the power point slides designed by the trainer as hand-outs for that session prior to the session start.

g) **Supportive documents**

None.

h) **Additional notes**
The trainer should be very familiar with the concept of the Precautionary and the Preventive Principle. S/he should know well the Seveso Directive and the Müksch Case (C-53/10) ruling of the CJEU and know or familiarize him-/herself well with the BSE and the Hormones cases. The session should conclude the topic “Prevention and Precaution” in this module.
2.12 Session 12: Further Principles of EU environmental law

a) **Short description of content**
   Session 12 aims to introduce participants to other principles of EU environmental law.

b) **General Objectives**
   The objectives are to inform participants about several other principles which are regulated in the TEU and TFEU and have to be taken into account in environmental decision making.

c) **Specific learning points**
   The session gives a brief introduction into the “High level of protection” and the subsidiarity principle before explaining the practical meaning of the source and the proximity principles on the example of two CJEU cases (C-364/03, *Linoperamta* and C-2/90, *Walloon Waste*). The session concludes with the explanation of the safeguard clause under Article 192(2) TFEU.

d) **Methodology to be applied**
   The proposed methodology for this session is front-teaching in the plenary with the use of power point presentation tools. Two case examples are given by the trainer, to explain how the CJEU interpreted a Directive’s provision in a particular case. At the end of the session there should be given some room for discussion of open questions.

e) **Duration**
   Based on our experience we propose that this session should last about 45 minutes including 10 minutes time for questions for clarification.

f) **Training aids / materials**
   The participants should receive print outs of the power point slides designed by the trainer as hand-outs for that session prior to the session start.

g) **Supportive documents**
   The text of the Environmental chapter XX, Articles 191 – 193 TFEU in the most suitable language should be copied and distributed to the participants as hard copy.

h) **Additional notes**
   The trainer should be very familiar with the Environmental chapter of the TFEU and the meaning and relevance of the principles of EU environmental law addressed in this session. S/he should familiarize him-/herself with the CJEU decisions in Cases C-364/03, *Linoperamta* and C-2/90, *Walloon Waste*. 
2.13 Session 13: Exchange of views and national experience

a) Short description of content

Another main purpose of the workshop to be designed is the exchange of views and experience of judges as regards the application of principles of EU environmental law in their courts and / or Member States’ practice. This is based on the assumption that the relevance and practical use of these principles and related jurisdiction are quite different in the Member States.

b) General Objectives

In this session judges / prosecutors are given the opportunity to exchange with colleagues from other jurisdictions their experience related to practical application of principles of EU environmental law in their countries. This includes the exchange on cases related to environmental liability issues.

c) Specific learning points

Which principles and which aspects of the application shall be discussed is foremost up to the participants who have the opportunity to present their own cases or ask questions related to specific provisions and issues. If there is little input from the participants – which may be the case at the beginning of this session – the moderator, who should be an expert, may initiate the discussion through additional case law from the CJEU or a Member State on selected issues which are of particular relevance based on his/her experience or on the discussions in earlier sessions of this workshop.

Besides, horizontal issues such as environmental liability and access to justice (density of control, legal standing of parties, dispute solving mechanisms on national / regional level, interim relief measures etc.) could be discussed during this session.

d) Methodology to be applied

The proposed methodology for this session is an open plenary discussion moderated by the workshop Chair or – even better - an experienced expert.

e) Duration

The duration of this session could be between 30 – 60 minutes, depending on the time available and the discussion atmosphere in previous sessions. The more attendees seemed to have enjoyed discussions and gave input in other sessions the more time should be left for this “open” session.

f) Training aides / materials

None

g) Supportive documents

None

h) Additional notes
This session shall only be included in the programme if there is a need for “exchange” – which may be not / less the case if participants come from only 1 or 2 Member States.

Regardless of the fact that the main actors in this session should be the attendees the session should be well structured by the moderator in order to ensure effectiveness. We recommend that the moderator asks at the beginning who would like to present a case to be discussed and then decides which case comes first. Alternatively or additionally s/he may make notes during the entire event to collect questions/remarks which were posed in previous sessions but could not be discussed in detail. S/he may also initiate the discussion though outlining other CJEU or national cases to be discussed.

It is important that the moderator is able to guide and steer the discussion in order to have learning benefit. If attendees are eager to present and discuss examples from their national or court experience, this session can be very fruitful for everybody.
2.14 Session 14: How to access relevant EU documents in internet

a) **Short description of content**
   Session 14 is a short session advising participants how to track down relevant EU documents in internet.

b) **General Objectives**
   This session has been incorporated into this module on particular request of EIPA’s testing workshop participants. Given the diversity of EU legislation and policy documents on Principles of EU Environmental Law as well as CJEU case law, during this session the participants are advised how to use EUR-LEX <curia-europe.eu> as concerns CJEU decisions and other useful sources of information.

c) **Specific learning points**
   The participants are instructed on the search tools and options of the several websites and what can be found there in order to make use of these sources in their daily practice.

d) **Methodology to be applied**
   This session will only work out if there is online access of the trainer to internet. She/he will then access the relevant websites, such as the EUR-LEX, the DG Environment and the CJEU websites and explain in short its features and gives examples how to find cases, policy papers and legislative texts. During the session there should be given some room for questions and additional practical advices given by participants who have used certain websites for their work.

e) **Duration**
   Session 14 should last no longer than 30 minutes in total.

f) **Training aides / materials**
   An overview on relevant websites and links could be provided for the participants – online access of the trainer to internet must be ensured.

g) **Supportive documents**
   None

h) **Additional notes**
   Session 14 can take place any time. The trainer should have some practical experience working with EUR-LEX, DG Environment and <curia-europe.eu> websites.
2.15 Session 15: Workshop evaluation – closing of the event

a) **Short description of content**

The final session of the workshop should draw conclusions from lessons learnt and include an evaluation of the thematic sessions of this module.

b) **General Objectives**

Apart from thanking all trainers and participants for their contributions, the focus of the closing event should be the collection of feedbacks on the sessions and the materials by the participants.

This evaluation is very important for the improvement of the content of the module and the corresponding training and information materials but also to improve and redesign the programme of future training events.

c) **Specific learning points**

For the organiser: to improve the training module and the design of the training event.

d) **Methodology to be applied**

The proposed methodology for this session is an open plenary discussion moderated by the Chair of the event. Besides oral comments, however, evaluation sheets on the entire workshop (its programme, content, shortcomings, speakers etc.) could be filled out by the participants.

e) **Duration**

The closing session may last no more than about 30 minutes, depending on the number of participants.

f) **Training aides / materials**

An evaluation form could be handed out to the participants at the beginning of the workshop – it may be part of the workshop reader. A proposed text and design of this evaluation form is attached to this module. This evaluation form should be filled out by everybody anonymously at the latest during this final evaluation session and collected by the Chair of this session. The form shall encompass an evaluation of all sessions conducted during the workshop. It will help to improve the session’s design and especially the training material.

g) **Supportive documents**

None

h) **Additional notes**

Participants should be encouraged by the Chair to give critical feedback and highlight the pros and cons of the training event. We propose that the Chair asks all attendees for their feedback one-by-one without pressure. Those who do not like to say anything, of course, should have the right to keep silent.