



# INTERNATIONAL FOCUS PROGRAMME HANDBOOK

2016

How to implement  
Environmental Law in  
your Local and National Group

*elsa*

The European Law Students' Association

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# Foreword

## Introduction

In the past two centuries, humanity's impact on the environment has gone from minor to extreme. We are not just changing the landscape anymore: the air is becoming unbreathable, climate is changing, the oceans are dying. And with them, so are we.

And yet, legal framework to limit the impact of our activities has only just started being created, with too little progress up to now. This means that human activities in the future will have to be even more controlled, whilst also avoiding the other extreme of controlling too much.

The result is that in the following years, there needs to be a huge development of Environmental Law. It will be crucial to ensuring that civilisation as we know it can perpetuate.

The reason ELSA strives to give our members the tools and education not given in standard curricula is to let them fulfil their role as the future masters of the legal world. It is up to the law students and young lawyers of today to create the legal framework which, tomorrow, will help make this world a better place.

Therefore, this International Focus Program on Environmental Law has two goals: firstly, to reassert the primary goals of ELSA, which are to encourage young lawyers and law students to fully realise their role in the forming of society and help them be up to the challenge; and secondly, to bring their attention on the long-neglected, yet essential legal topic that is Environmental Law.

## About Handbook

This Handbook provides officers with general information about the International Focus Programme, description of tasks of Local and National officers, ways how to implement Environmental Law in Local and National Groups as well as the legal overview of the respective field of law. The main purpose of this document is to help the officers on all levels in searching for a right project or event related to Environmental Law.

Our aim for next three years is to unite all the officers and to raise the awareness about the Environmental Law. Let's organise as many Environmental Law related projects as possible with as high quality academic programme as possible!

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# What is the Environmental Law IFP?

## What is an IFP?

IFP stands for International Focus Programme: it is a hot legal topic chosen by the Council in order to focus the potential of the ELSA Network into raising awareness and interest in that topic.

The point of the International Focus Programme is therefore to get all the local groups of our Network to start organising events around the same topic; if done properly, this can become a major factor in forming the general opinion and mindset of young lawyers and law students. Most notably, it can help ensure that problematic issues of a certain topic are treated from a legal point of view.

## What is Environmental Law?

### Definition

Environmental Law is a body of Law which regulates human activities which have an impact on the natural environment and thereby endanger it if left unregulated. Environmental Law also regulates and plans human activities that aim to preserve and replenish the environment.

Environmental law consists of numerous sub-branches of law such as energy law, pollution law, natural resources law, waste management law, air and water quality law to name a few.

## Development of Environmental Law

### International Environmental Law

Environmental Law began to develop as an independent body of law through international conferences between states.

THE **DECLARATION OF THE UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT 1972** emphasised that **defending and improving the environment had become an imperative goal: it is a human right** and therefore a key responsibility for both individuals and states.

The **UN ENVIRONMENTAL PROGRAMME (UNEP)** was established as a subsidiary organ of the General Assembly to **ensure compliance with the declaration**. Unfortunately, the environment continued to deteriorate such that **UNEP was considered to be relatively weak**.

The **UN CONFERENCE ON ENVIRONMENT AND DEVELOPMENT (UNCED)** took place in 1992 in order to address the ongoing destruction of the environment and **adopt a political commitment** at the highest level.

**AGENDA 21** was agreed as a global action plan regarding development, which sought to **create a strong global partnership between states**.

The **COMMISSION ON SUSTAINABLE DEVELOPMENT** (CSD) was set up to **complement the work of UNEP** by regulating the specific goals of Agenda 21 as well as the Global Environmental Facility (GEF) to help states abide.

To complete UNEP, the **GLOBAL MINISTERIAL ENVIRONMENT FORUM** (GMEF) was created in 1997. This later became the Governing Council/Governmental Ministerial Environmental Forum. Ministers for the environment would **meet up to actively discuss issues on a regular basis**, rather than at the occasional conference.

Since 1997, the UN Joint Inspection Unit has adopted several reports on the **efficiency of the environmental governance system**:

The first was the **MANAGEMENT REVIEW** of Environmental Governance in the UN System which was published in 2009. This report identified a complex definition of international environmental governance and proposals were offered for an enhancement of UNEP or a new independent agency.

The second was the **POST RIO+20 REVIEW** of Environmental Governance in the UN System which was published in 2014.

## **Environmental Rights**

The recognition of environmental rights is a contemporary debate in the area of Environmental Law which seeks to **clarify the relationship of Environmental Law and human rights**.

**No real consideration had been made** of this relationship as sustainable development had been the key focus of international law until the late 20th century.

The UN has been instrumental in incorporating human rights into environmental law by enacting and protecting so-termed 'environmental rights' since 1972, mainly by organising summits.

The first of these summits led to the adoption of **three key international agreements**:

- the Framework Convention on Climate Change 1992,
- the Convention on Biological Diversity 1992
- the Convention to Combat Desertification 1996

The UN has tended to focus on the environmental dimension of human rights, rather than expressly recognising it as a right unto itself. It is very rare for instruments to recognise a right to a safe and clean environment.

Whilst there are some exceptions, ***environmental rights are largely recognised as part of pre-existing substantive rights*** or indirectly as procedural rights.

At a national level, more explicit recognition of environmental rights can be seen. In European law, **the Aarhus Convention**, is a very important procedural instrument that indirectly ensures a fundamental right to the safe and healthy environment by obliging states to afford it sufficient consideration as part of the ratification process of domestic law.

## Environmental Crime

There are three conventions which criminalise environmental damage:

- **The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) 1975** criminalises the **trade in or possession of specimens of endangered species**. For example, article 3 of CITES provides for the sanction and confiscation of illegally traded items.
- **MARPOL** criminalises **pollution from vessels** as the principal convention concerning spillages. Whilst it relies on the voluntariness of party states to introduce law, some have proved to be commendably proactive. The EU is pioneering in this area and passed Directive 2008/99/EC to impose liability for negligent spillages, unrecognised by MARPOL.
- **The Basel Convention** (on the Control of Transboundary Movements of Hazardous Wastes and their Disposal) 1989 criminalises **the illegal movement of waste**. Unlike the other conventions, it only results in indirect criminal law as it is purely advisory. The Basel Convention is far less precise than CITES and results in greater problems in practice.

## European Union Law

### Evolution of the Legal Framework

Environmental law was not included in the European Economic Treaty (EET) 1957 but has been a concern since 1972 as environmental action plans had been drafted.

The Single European act recognised protection of the environment, but not as a formal aim.

**The Treaty of Maastricht** introduced environmental protection as a formal aim.

The following treaties (Amsterdam 1999, Nice 2001, Lisbon 2009) integrated protection in greater capacity but made little new progress.

The most important sources of EU Environmental Law today are the Charter of Fundamental Rights of the EU (CFREU) 2000, the Treaty of the European Union 2007 (TEU) and the Treaty on the Functioning of the European Union (TFEU) 2007.

These treaties identify environmental protection as an aim of the EU (Art. 3), and address issues such as sustainable development (Art. 11), animal welfare (Art. 13) and quantitative exports (Art. 34).

They also substantially outline the key objectives of EU environmental policy and provide the legal basis for protection to achieve these objectives.

Since 1972, the EU has also enacted secondary environmental law, but only where economic principles of the EU are considered. Indicative cases include the West Oils Case (1985) and the Dutch Law on Birds Case (1990).

An important example of secondary law is the Strategic Environmental Assessment (SEA) Directive 2001/42/EC which implements an environmental assessment procedure. The procedure assesses all plans and programmes with environmental effects and, where these effects are negative, evaluates any alternative solutions.

# Why implement the Environmental Law IFP?

## Why implement the IFP

IFP topics are chosen because they are the most urgent and interesting topics in current legal development. This means that events organised on an IFP topic will naturally **attract more people** because they have immediate and widespread implications. Therefore, organising an IFP event goes a long way to solving the problem which several local groups have with **visibility**.

The other advantage of tackling an important and current legal topic is that legal **experts will have a tendency to be more interested in speaking at your events**. This in turn, makes the event more credible and will be the deciding factor in getting people to actually attend the event, as opposed to simply knowing it's happening.

The combination of these two factors – better visibility which means more people know about the event, and better credibility which will make an informed person more likely to attend – results in a much **higher attendance**. From there, it will only get easier to have more events, and bigger: the goal of this is, in the end, to attract more members which will bring more to you as a local group, and to the legal development of the IFP topic. This is, after all, the goal of ELSA.

Also, beyond simply attracting more members to your events, the sheer size of the events gives another opportunity: to recruit, and thereby solve any problems in Human Resources. A big event can be organised by an OC rather than a single person, and seeing people deal with smaller tasks generally gives a good indication as to how well they'll do if given larger responsibilities. This means IFP events, beyond being a good tool for growth, are also **very useful for recruiting**.

## How is Environmental Law interesting?

As said in the foreword, Environmental Law is embarking on a long and large-scaled development. However, Environmental Law is a fairly limited subject, in and of itself. It does have one major advantage though: **it crosses with virtually every other domain, both legal and scientific**.

Organising an event on Environmental Law will almost always involve giving background information on the objective facts that are treated – global warming, sea levels, CO<sub>2</sub> levels in the atmosphere, etc. Since presenting these facts through endless tables of statistics is boring for your participants, and often leads to sterile discussions because lawyers don't understand all the numbers, it can be a good idea to invite an **expert from outside law** – for example, a biologist, or a climate scientist.

Even when the focus of the event is not put on how to preserve the environment, but rather on the impact of restraining human activities and the impact on society, the event can benefit from having legal experts from several domains: an event on corporate responsibility could include an expert on human rights, or an expert on business law.

All these interactions give any Environmental Law event the potential to be more interesting than the average lecture or conference. More than any other domain, it is aimed at more than just a particular branch of Law students. It can hold an interest for almost anyone, whether they're in **any branch of law or even if they study something else!**



## The key issues

### Institutions & Environmental Law

#### Challenges/issues:

As with all International Law, there are always problems when it comes to actually **enforcing the law**. Moreover, the development of the law itself is not always correctly supported.

With these subtopics, try to focus on whether institutions have the sufficient means to fulfil their tasks and, in some cases, consider their goals and structure.

- National, regional and International Level: Law and Policy Development.
- Implementation of Environmental Law
- Regulatory agencies
- Institutional organisations
- Dispute settlement and dispute settlement bodies

### Rights & Environmental Law

#### Challenges/issues:

Environmental Law and Human Rights are closely related, and often contribute to one another. With these subtopics, try to look at the **how violations of Environmental Law affect Human Rights** (and vice versa)

- Human Rights & Environmental law
- Legal values & Environmental Law, the law and balancing environmental values

### Private Law and environmental liability

#### Challenges/issues:

Often, the major reason for a breach of Environmental Law is an **economic interest**. Try to look at these subtopics by considering how - and if - such breaches are punished, but also how, in some cases, Environmental Law imposes restrictions to economic and industrial liberties.

- Environmental crimes and enforcement
- Statutory liabilities and remedies
- Corporate Social Responsibility
- Business Compliance
- Protection of the Environment (World Heritage Sites etc.)
- Protection of Biodiversity
- Energy law

### The challenges of Environmental Law for administrative law

#### Challenges/issues:

Given the novelty of the issues in Environmental Law, **administrative has not always been able to assess** fully the extent to which it should protect the Environment as a public interest.

These subtopics address that directly: how the administration has adapted, how it hasn't, and potentially, how it should adapt.

- Environmental protection, public interest.
- (Town and country) Planning Law
- Migrations

## **International trade and the environment**

### Challenges/issues:

Recently, international Environmental Law has been adopted that **affects international trade**: the implications of these regulations have deep impact on several aspects of commerce. Use these subtopics to look at the effects of these new and developing laws, and the world which they are shaping.

- Environment and WTO: Trade measures in international environmental agreements
- TTIP (Transatlantic Trade and Investment Partnership) and Environment Issues

## **Protecting Public Health and handling pollution**

### Challenges/issues:

Major effect of pollution is rendering the environment unhealthy, and thus **endangering public health**. This problematic is one of the biggest in Environmental Law, and these subtopics are the best suited to help you assess it with your events.

- Environmental impact assessment
- Environmental permitting regime and IPPC
- Climate change, ozone depletion and air quality
- The law relating to land contamination
- Water and air pollution
- Waste prevention and management
- Integrated pollution control
- Soil and groundwater protection
- Legal implications of GMOs (Genetically Modified Organisms)

## **Bioterrorism**

### Challenges/issues:

Bioterrorism is a new phenomenon, and little thought has been given to it so far. Therefore, important questions emerge; typically, **what kind of threat does bioterrorism pose**, and is the international legislation sufficient to combat it?

- Environment and armed conflicts
- Biological, chemical and nuclear weapons

# How to implement the IFP

## Responsibilities

### Of the National Boards

It is expected of all National Boards, and of the Key Area Officers in particular, that they **train their local officers on the IFP**. Unfortunately, today, most local groups in the Network are unaware of what an IFP is, or that it will soon be Environmental Law. This means that the IFP cannot be implemented, since it has to be the local groups who effectively create the IFP events. Therefore, we arrive at this paradox: the IFP needs to concern the local groups first and foremost, yet the local groups are completely unaware of it.

It's the National Board's responsibility to avoid that paradox. The coaches of the local groups must ensure that they are capable of organising events, and **aware of the responsibilities** they have to raise awareness of the IFP topic.

Moreover, the National Board is obliged to keep the local groups **updated on the IFP**, and must forward them any information relative to it.

Finally, the National Board must keep track of the **IFP's implementation** and provide ELSA International with a list and evaluations of IFP events at the end of the three years.

#### a) August 2016 – February 2017

- Establish contacts with partners and sponsors through engaging them in introductory IFP events (lawyers at works events, seminars, lectures).
- Establish national IFP implementation plan for the next three years.

#### b) March 2017 – August 2017

- Coordinate IFP week in April throughout the whole of the network to increase the IFP awareness. In this week each Local Group should prepare several IFP events.
- Use IFP week reports and the results of the events in publications.

#### c) September 2017 – February 2018

- Continue with publishing IFP related articles in publications.
- Organise international projects focused on IFP.
- Encourage members to participate in the International Legal Research Group on IFP.

#### d) March 2018 – August 2018

- Coordinate second IFP week in April.
- Participate at the Mid IFP conference.

#### e) September 2018 – February 2019

- Focus the Moot Court Competition topics on IFP.

- Engage partners, speakers, participants, and former ELSA officers, who were in charge of the IFP, in order to discuss the impact of the programme on the development of Environmental Law.

f) March 2019 – July 2019

- Produce summaries and reports of the IFP events of the past 3 years in various forms, including videos, pictures, scientific and other publications.
- Provide ELSA International with evaluation reports and articles.

## Of the Local Boards

The responsibilities of the Local Boards are rather straightforward: **organise events on the IFP topic**. This requires three things; first, to be sufficiently informed on the subject to determine what parts of Environmental Law are worth organising an event about; secondly, to be able to correctly organise an IFP event; thirdly, you need the motivation and interest to actually organise these events.

There exist Handbooks for the first two points – this Handbook for the first point and the S&C or AA Handbooks for the second – but the third is where the real work must be done by the local officers. Generally, the fact that you are active members means you have the motivation; the interest usually requires a first step from the officer, who first needs to dive into Environmental Law to see how vast and exciting this domain of law is. However, once you do it – we’re confident you’ll be ready, able and willing to convey that interest to your members.

The Local Board is responsible for the **implementation** of the IFP, and must organise sufficient events to correctly implement it. The recommended timeline of implementation is the following:

a) August 2016 – February 2017

- Organise introductory IFP events such as lawyers at works events, seminars, and lectures in order to raise the awareness about the IFP.
- Establish contacts with partners and sponsors through engaging them in introductory IFP events.
- Organise at least one Institutional Visit focused on Environmental Law.

b) March 2017 – August 2017

- Host IFP week in April in order to increase the IFP awareness. This week consists of several IFP events.
- Use IFP week reports and the results of the events in various publications.

c) September 2017 – February 2018

- Liaise with the university to engage them further in all IFP related activities.
- Continue with publishing IFP related articles in publications.
- Organise international projects focused on IFP.
- Organise at least one Study Visit focused on Environmental Law.

d) March 2018 – August 2018

- Host second IFP week in April.

e) September 2018 – February 2019

- Focus the Moot Court Competition topics on IFP.

f) March 2019 – July 2019

- Host final IFP week in April to present and elaborate on the conclusions of the previous years.

As with every other event, but more importantly in the case of the IFP, the Local Board must **evaluate** their event for their National Group and ELSA International.

## Avoiding political positions

As in all truly important subjects, Environmental Law will lead you into conversations where it will be all too easy to jump from hard facts and actual law to policies and politics. However, ELSA is a non-political organisation, and it is important that we remain that way. Therefore, here is a small checklist of what to do to **avoid ELSA taking any political position**.

Before the event, **remind your speakers** that the event must concentrate on the legal aspect of the subject; if evolutions in the law are absolutely essential to the conversation, then have them presented as objectively as possible (if it is not possible for the speaker to do this, don't hesitate to have a couple presentation slides yourself).

During the event, if necessary, **moderate any discussion** (if you have several speakers) and/or subtly signal the speaker to stay more concrete or legal-minded (the best way to do this is by asking a question, along the lines of “but from a purely legal point of view, what is the current status quo?”)

The participants might form their political opinions but the bottom line is that you have presented the facts to them in an impartial manner and did not contribute to orient them in one direction or the other. ELSA must always thrive to present the issues and information without colouring it, so that the **participants can form their opinion on their own**.

## Sponsors and Partners

### Who to approach

#### Institutes and Professors

The easiest way to find a partner would be to research whether you have a professor or even an institute at your university who deals with Environmental Law or any related field of law. Depending on your status in your university, try to get in touch directly or approach them through another professor you already know.

#### Institutions

A simple extensive Google search can show you who is dealing with environmental issues in your city and what their main focus is. Often such institutions have a page on their website listing their partners, which you can then also research.

Virtually all these institutions are easily reachable for event partnerships, either via mail or a contact form on their website.

## **Law Firms**

Though it's generally easier to approach law firms through pre-existing partnerships, you can also approach them directly. Most big law firms have a department dealing with Environmental Law and any related fields of Law.

Besides those law firms, smaller firms dealing with more niche fields of law are also a good partner, especially for any event where they can be in contact directly with the participants.

Law Firms are the partners who can provide the most diverse types of support and can cooperate for virtually any event, such as a L@W Event, STEP traineeship or general financial contribution.

## **How to approach**

After you have done your research on who is working in the field of Environmental Law in your city/region you should write an individualised email to approach the potential partner.

**For this email, we recommend the following structure:**

Short ELSA Introduction

Followed by a short introduction of the IFP

Main Part:

List of what you are able to offer

List of what you want to receive from the partner

Some nice wording for the end and the note that you reserve to call them within the next 14 days.

Potential partners often have little time, and therefore they should be able to quickly grasp all the essential information: use the main part of the email to present **what you can offer and what you are looking for**; this is where the partner will look first, and only then will an interested partner read the (short!) introduction on ELSA and the IFP.

Throughout your entire email, stay to the point: don't give too many obvious explanations if the partner doesn't ask for them. (KISS: **Keep It Short & Simple**)

The final note that you will call them in the next **14 days** is not to put pressure on them but to just set a time frame and notify the partner beforehand.

## **What to offer to Partners and Sponsors**

What you can offer to your partners or sponsors depends on the event you are organising; by telling your partner the type, size, and audience of event, you can start talking about how close your partner can be to the participants. They will also know if the event interests them, and might tell you why it doesn't if that's the case.

Remember people working in Environmental Law are generally very enthusiastic about it, and contact with the next generation of lawyers holds great appeal. Insist on the fact that **participants will mainly be interested law students**.

Also, some institutions or law firms known for activity in another field (corporate law firms, Red Cross) may find it interesting to **gain visibility for their environmental commitment**. Keep that in mind when writing your email. During the event, **include your partner as much as possible**, and keep them up to date on your progress. This creates an atmosphere of trust and reliability which makes your partner more satisfied and more likely to work with you again. Moreover, a partner that sees you are in difficulty (despite working correctly) will feel more sympathetic and more committed to helping you out.

### **What to request from Partners and Sponsors**

Again, this is very dependent on your project or event. Naturally, the most important resource is **money**. Prepare a detailed budget to improve any negotiations, but keep the introductory mail simple (“financial support”, “financial contribution”) so as not to limit yourself too early.

**Academic support** is much easier to obtain. Be very clear on what type of support you would need: a speaker, a patron, a judge etc. Avoid proposing any form of remuneration, because you cannot afford the true value of their participation. However, you could reimburse them for their expenses such as travel costs.

Most institutions, law firms or legal experts have a wide **network of colleagues** and like-minded acquaintances. Don't hesitate to talk with your partner about accessing their network for marketing or for researching new partnerships to provide what your current sponsor can't. For most partners, this actually makes them feel more involved – and closer to you.

### **Key Areas: How to approach environmental Law**

Environmental Law can be approached just like any other domain of law: find an expert on a (very) specific subject, find a venue, and host an event. It doesn't have to be mind-boggling.

However, Environmental Law also offers many possibilities. Namely, it is much easier to organise panel debates with non-lawyers, and even if you wish to stay within legal considerations, there's still the possibility to have experts from several domains of law.

Here are some quick **tips & tricks** to help you really get the most out of your IFP event.

I. Know **what type of event to organise**; this can only be done by looking at a couple criteria:

Who do you aim for to participate? How many participants do you want? How interactive do you want the event to be? (more participants = less interaction, and vice versa)

- **S&C** events tend to be aimed at anyone who has some time on their hands, whereas **AA** events generally require their participants to have a decent amount of legal background. The advantage with AA is that every participant actually participates.
- **Conference, Panel Discussion, Seminar** or a **Lecture** (from an interesting speaker) would have rather high affluence, but low interaction (the Conference could have workshops).

- **Workshops**, however, are organised with fewer people, but they have the opportunity to really work together and learn. Be sure your speaker has planned a moment for the participants to practice the application of the knowledge he gives them.
- **Law review** would be a lasting event, and involve a lot of people.
- **Moot court**, on the other hand, would be a long event but doesn't necessarily have to be repeated in order to be relevant. It does however generally require more infrastructure and organisation.

## II. Know **where you're going with the event.**

Most events are relevant on their own, but any event can be repeated depending on what you want. Be careful though; the more organisation is required, the more difficult and stressful a repetition will be. If you aim to do several lectures or conferences, it's best to have as much organised as possible, as early as possible. Some larger local groups have semester-long conference cycles, which are ready by the end of the preceding semester.

Also, lots of events rarely leave any written trace. If you're organising a conference, it's an interesting idea to try to keep minutes, or to ask for a copy of the speaker's supports. This can be published leading to a boost in your credibility.

## III. Remember to **broaden the scope of the event.**

The great advantage with Environmental Law is that it has connections to almost every other legal or scientific domain. This means that you can easily involve several experts from different backgrounds for a legal debate to increase the potential audience, or have an expert in two fields of law explore how they connect. A review on Environmental Law will have a wider audience and also a wider base of writers, because it can be approached from almost any angle.

Interdisciplinarity is more than just a nice idea; when correctly implemented, it truly boosts your event, and ensures its success. The best part is: it never gets old! People always want to know more and to explore how what they might already know and find boring becomes once again new, relevant and interesting when it comes into contact with something else.

## Contact

Do not hesitate to contact us for any further information.

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