

# **Property and Environment**

**Old and new remedies to protect  
natural resources in the European Context**



**The Common Core of European Private Law  
The Trento Project**

Mauro Bussani and Ugo Mattei, General Editors

Barbara Pozzo

(Editor)

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## Preface

At the Common Core meeting of 1995 a “Working Agenda” was presented to the “Group on Property” with the aim of facing the problem of individualising the common core of European Private Law in the field of property as related to the environment.

It was pointed out that this is actually a field where not only private law, but also many other components play a very important role. As the purpose of the Trento project is basically one of private law, the aim of the Working Agenda and of the following Questionnaire was to focus on the particular question: “Who owns the environment?” On this basis, the “Group on Property”, agreed to give me the task, as co-ordinator of the project on “Property and Environment”, of drafting the questionnaire applying the methodology decided in Trento.

The first version of the questionnaire was presented at the Common Core meeting of 1996 and revised after a discussion with the national reporters and the chairman of the session “Property”, Professor Antonio Gambaro. The revised version was then circulated to environmental law experts from different European countries.

The selection of the contributors as well as the development and refinement of the questionnaire took a considerable amount of time, but I finally reached the objective of collecting case studies from thirteen European jurisdictions, representing civil law countries, common law countries and Nordic countries in a balanced way.

The volume is divided in two main parts: the first one contains three introductory chapters where the authors try to sketch out the general scenario in an historical and comparative law perspective; the second one includes, after a short description of the working agenda and the questionnaire, the case studies of the thirteen European jurisdictions.

Now that the volume is finally coming to completion, I would like to thank all of the contributors. In particular, I express my deepest thanks to all national reporters and contributors for undertaking this task and preparing their reports. Moreover, I would like to thank Valentina Jacometti, research assistant to the chair of Private Comparative Law at the Università degli Studi dell’Insubria, for her assistance with the editing of the volume, and Francesco Castelli for his help with the collection of the bibliographical references and the abbreviations.



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## Abbreviations

### *Austria*

ABGB	Allgemeines Bürgerliches Gesetzbuch
ann.	annotation
BGBI	Bundesgesetzblatt
ecolex	Fachzeitschrift für Wirtschaftsrecht
ed.	edition
EvBl	Evidenzblatt der Rechtsmittelentscheidungen
JBl	Juristische Blätter
JGS	Justizgesetzsammlung
OGH	Oberster Gerichtshof
ÖJZ	Österreichische Juristenzeitung
p.	page
Phi	Produkt- und Umwelthaftpflicht international
RdU	Recht der Umwelt
RGBI	Reichsgesetzblatt
sec.	section
subvol.	subvolume
SZ	Entscheidungen des österreichischen Obersten Gerichtshofs in Zivil-(und Justizverwaltungs-)sachen
vol.	volume
Z	Zahl

### *Denmark*

§	paragraph
Ufr	Ugeskrift for retsvæsen
IPPC	Integrated Pollution Prevention and Control
Cf.	confront
a.m.	ante meridiem
e.g.	exempli gratia

### *England*

All ER	All England Law Reports
WR	Weekly Reporter
WLR	Weekly Law Reports
ChD	Chancery Division of the High Court
AC	Appeal Cases, Law Reports
Ariz	Arizona Law Review

## Abbreviations

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Co. Rep.	Coke's King's Bench Reports
App. Cas	Law Reports Appeal Cases, House of Lords
p.	page
KB	Law Reports, King's Bench Division
Ch	Law Reports, Chancery Division
Co.	Company
DLR	Dominion Law Report
Ibid.	ibidem
I. R.	Irish Reports
Ltd.	Limited
WR	Weekly Reporter
EG	Estates Gazette
QB	Queen's Bench
KB	Law Reports, King's Bench Division
Ph	Phillips' Chancery Reports
Edn	editions
YB	Yearbook
Ed	edition
LMELR	Land Management and Environmental Law Report
s	section
op cit	opus citatum
EC	European Community
NLJ	New Law Journal
P & CR	Property, Planning and Compensation Reports
AC	Appeal Cases
No.	Number
HL	House of Lords
LR	Licensing Review
v.	versus
Bing NC	Bingham. New Cases, English Common Pleas
Corp.	corporation
H. & C.	Hurlstone & Coltman's Exchequer Reports
Salk	Salkeld's King's Bench Reports
Ld. Raym.	Lord Raymond's King's Bench and Common Pleas Reports
NSWR	New South Wales Reports
ExD.	Law Reports, Exchequer Division
CLY	Current Law Year Book
SI	Statutory Instrument
St Tr	State Trials and Proceedings

**France**

p.	page
CUJAS	Editions Juridiques Cujas
LGDJ	Libraire General de Droit et de Jurisprudence
s.	Et suivants
cf.	confronter
Civ.	Recueil Civil
NCPC	Nouvel Code de Procédure Civile
S.	Recueil Sirey
PA	Petites Affiches
PUF	Presses universitaires de France
Éd.	édition
RTD civ.	Revue trimestrielle de droit civil
JCP	Juris-classeur périodique (Semaine juridique)
RD. Imm.	Revue de droit immobilier
Somm.	Sommaires
Obs.	Observations
pp.	pages
jurisp.	jurisprudence
JORF	Journal officiel de la République Française
Op.cit.	opus citatum
GP	Gazette du Palais
D.	Recueil Dalloz-Sirey
Cass. Crim.	Cassation Criminale
Cass. Civ.	Cassation Civile
Concl.	conclusion
Bull.	Bulletin des arrêts de la Cour de cassation

**Germany**

BayObLG	Bavarian State Court of Justice
BayVGH	Superior Administrative Court of Bavaria
BGB	Civil Code ( <i>Bürgerliches Gesetzbuch</i> )
BGBI	Federal Law Gazette
BGH	Federal Court of Justice
BGHZ	Decisions of the Federal Court of Justice in Civil Matters (official collection)
BImSchG	Federal Pollution Control Act ( <i>Bundes Immissionsschutzgesetz</i> )
BVerfGE	Decisions of the Federal Constitutional Court (official collection)

## Abbreviations

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BVerwGE	Decisions of the Federal Administrative Court (official collection)
GewO	Business Practice Act ( <i>Gewerbeordnung</i> )
GG	Basic Law (Constitution <i>Grundgesetz</i> )
GMBL	Federal Ministerial Law Gazette
GVG	Courts Constitution Act ( <i>Gerichtsverfassungsgesetz</i> )
OLG	Court of Appeals
OVG	Superior Administrative Court
TA Lärm	Administrative provision on permissible plants under sec. 16 Business Practice Act ( <i>Gewerbeordnung</i> ), GewO concerning noise ( <i>Technische Anleitung zum Schutz gegen Lärm</i> )
TA Luft	First administrative provision under the Federal Pollution Control Act concerning clean air ( <i>Technische Anleitung zur Reinhaltung der Luft</i> )
VwGO	Administrative Court Procedure Act ( <i>Verwaltungsgerichtsordnung</i> )

## **Greece**

AP	Areios Pagos = Court of Cassation
Arch N	Archeio Nomologhias (legal periodical)
Arm.	Armenopoulos (legal periodical)
art.	article
BGB	Buergerliches Gesetzbuch = German Civil Code
Dir(s).	Directive(s)
Dni	Dikaiosi (legal periodical)
EEC	European Economic Community
EED	Epitheorissi Emporikou Dikaiou (legal periodical)
EEN	Efimeris Ellinon Nomikon (legal periodical)
Ef Ath	Efeteio of Athens = Court of Appeal of Athens
Ell Dni	Elliniki Dikaiosi (legal periodical)
EU	European Union
ff.	following
GCC	Greek Civil Code
ibid.	ibidem
no.	number
NoV	Nomiko Vima (legal periodical)
p.	page
pp.	pages
par.	paragraph
Per Dik	Perivallon kai Dikaio (legal periodical)



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RHDI	Revue Hellénique de droit international = Hellenic Revue of International Law (legal periodical)
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***Ireland***

ILRM	Irish Law Reports Monthly
All ER	All England Law Reports
KB	King's Bench Division
HCL	High Court Litigation
IR	Irish Reports
CMLR	Common Market Law Reports
Ibid.	ibidem
DLR	Dominion Law Reports
AC	Appeal Cases
WLR	Weekly Law Reports
Bing WC	Bingham's Common Pleas Reports Worker's Compensation
CLMD	Current Law Monthly Digest

***Italy***

Art.	article
Vol.	volume
p.	page
Cass.	Corte di Cassazione
Mass.	Massimario
Resp. Civ. e Prev.	Responsabilità Civile e Previdenziale
Giur. It.	Giurisprudenza Italiana
Op. cit.	Opera citata
Riv. Giur. Edil.	Rivista Giuridica Edilizia
Sez.	Sezione
Foro It.	Foro Italiano
Rass. Giur.	Rassegna Giurisprudenziale
Arch. Civ.	Archivio Civile
Cit.	Citato
Enc. Giur.	Enciclopedia Giuridica
Enc. Dir.	Enciclopedia Diritto
Tratt. Dir. Priv.	Trattato Diritto Privato
Ss	seguenti
Riv. Trim. Dir. e Proc. Civ.	Rivista Trimestrale Diritto e Procedura Civile
Cass. Civ.	Cassazione Civile
Pret.	Pretura

## Abbreviations

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Chaps.	Chapters
Giust. Civ.	Giustizia Civile
Trib.	Tribunale
Novissimo Dig. It.	Novissimo Digesto Italiano
c.c.	codice civile
C. Cost.	Corte Costituzionale
Cass. Pen.	Cassazione Penale
Giust. Pen.	Giustizia Penale
Riv. Pen.	Rivista Penale
c.p.	codice penale
Riv. Crit. Dir. Priv.	Rivista Critica Diritto privato
Arts.	Articles
L.	legge
Par.	Paragraph

### ***Portugal***

RJUA	Revista Jurídica do Urbanismo e do Ambiente
p.	page
op. cit.	opus citatum
dact.	dactiloscrito
RLJ	Revista de Legislação e Jurisprudência
pp.	pages
n <sup>o</sup>	number

### ***Spain***

STS/SSTS	Sentencia/Sentencias del Tribunal Supremo
STC	Sentencia Tribunal Constitucional
NGO	non-governmental organisation

### ***Sweden***

NJA	Nytt Juridiskt Arkiv
Ed	edition

### ***The Netherlands***

Art.	article
Arts.	articles
Ed.	Editor
Eds.	Editors

NJ	Nederlandse Jurisprudentie
JCS	National Institute of Public Health and Environmental Protection