

Special Issue on Transnational Risks and Multilevel Regulation

Editors: Alessandra Arcuri, Fabrizio Cafaggi and Marta Simoncini Contributors: Elizabeth Fisher, Sheila Jasanoff, Sara Poli, Anne van Aaken, Marta Simoncini, Giuseppe Contissa

ARTICLES

The Science, Law and Policy of Neonicotinoids and Bees: A New Test Case for the Precautionary Principle Alberto Alemanno

Regulatory Governance of Credit Rating Agencies in the EU Iris H-Y Chiu

Government Promotion of Electric Car: Risk Management or Industrial Policy Bradley W. Lane, Natalie Messer-Betts, Devin Hartmann, Sanya Carley, Rachel M. Krause and John D. Graham

REPORTS

The Labelling of Honey Contaminated by GMO Traces *Ignacio Carreño*

Governing Control over Human Genetic Resources Nicola Lucchi

Sultans of Swing? The Emerging WTO Case Law on TBT Carlo Cantore and Petros Mavroidis

CASE NOTES

Deutsches Weintor: CJEU Approves Ban on Health Claims *Tuomas Mylly*

BOOK REVIEWS

Symposium on the Precautionary Principle Contributors: Susan Rose-Ackerman, Adam Burgess, Jane K. Winn, Maria Weimer,

Replies by: David Vogel, Jonathan B. Wiener, Brendon Swedlow, James K. Hammitt, Michael D. Rogers and Peter H. Sand



https://doi.org/10.1017/51867299X00005961 Published online by Cambridge University Press

New Dimensions of Tobacco Regulation and Fundamental Rights and Freedoms

Basic Questions of Brand Packaging, Product Display and Product Ingredients



The author Prof. Dr. Hans D. Jarass, LL.M. (Harv.), is a law professor and director of the ZIR Research Institute for German and European Public Law at the University of Münster.

Neue Dimensionen der Tabakproduktregulierung und Grundrechte sowie Grundfreiheiten

Grundfragen des Schutzes von Markenverpackungen, der Produktpräsentation in Verkaufseinrichtungen und der Produktzusammensetzung

In this legal study published in English and German, Hans D. Jarass analyses and comments upon some of the most far-reaching and thorniest tobacco control measures which are now to be adopted in the EU, such as standardized packaging for cigarette packets, the prohibition of odorous substances as well as flavouring agents in tobacco products. The current discussion on stricter regulation of tobacco products raises interesting questions which are of relevance to all sectors of economic activity with particular value put on the image of the brand of sold products, going far beyond the segment of tobacco products. These questions especially concern the scope of protection offered in this context by both the fundamental rights of the European Union and the basic rights under German Basic Law.

Fax: +49 30-81 45 06-22 · E-Mail: info@lexxion.de		
Yes, I would like to order		
copies	Name	
New Dimensions of Tobacco Regulation and Fundamental Rights and Freedoms	Address	
Neue Dimensionen der Tabakproduktregulierung und Grundrechte sowie Grundfreiheiten	Postal Code/Country	
Hans D. Jarass Berlin 2012 · 148 pages · bilingual Print: € 38,00 · ISBN 978-3-86965-222-1 E-Book: € 30,40 · ISBN 978-3-86965-223-8	E-Mail	
	Date/Signature	





Contents

Editorial Alberto Alemanno	119
TRANSNATIONAL RISKS AND MULTILEVEL REGULATION: A CROSS-COMPARATIVE PERSPECTIVE	
Opening Editorial and Introduction Alessandra Arcuri, Fabrizio Cafaggi and Marta Simoncini	121
Framing Risk Regulation: A Critical Reflection Elizabeth Fisher	125
Epistemic Subsidiarity – Coexistence, Cosmopolitanism, Constitutionalism Sheila Jasanoff	133
The Member State's Long and Winding Road to Partial Regulatory Autonomy in Cultivating Genetically Modified Crops in the EU Sara Poli	143
Principles and Structures of Risk Governance, or: How (not) to Play a Trust Game <i>Anne van Aaken</i>	159
Against the Failures of Risk Regulation. Liability and Safety in Aviation Marta Simoncini and Giuseppe Contissa	175
ARTICLES	
The Science, Law and Policy of Neonicotinoids and Bees: A New Test Case for the Precautionary Principle Alberto Alemanno	191
Regulatory Governance of Credit Rating Agencies in the EU: The Perils of Pursuing the Holy Grail of Rating Accuracy Iris H-Y Chiu	209
Government Promotion of Electric Car: Risk Management or Industrial Policy Bradley W. Lane, Natalie Messer-Betts, Devin Hartmann, Sanya Carley, Rachel M. Krause and John D. Graham	227
REPORTS	
Biotechnology Exploration and Exploitation of Marine Genetic Resources in Areas beyond National Jurisdiction and Environmental Impact Assessment Arianna Broggiato	247
Food	
The Labelling of Honey in the aftermath of EFSA's Scientific Opinion on Maize MON810 Pollen <i>Ignacio Carreño</i>	252
Intellectual Property	
Governing Control over Human Genetic Resources Nicola Lucchi	254
Regulatory Impact Assessment Smart Regulation and European Private Law – What Linkages? Kristel De Smedt	260
The European Risk Forum Action Plan: A Critical Perspective Jacopo Torriti	263

Risk Communication

The Communication of Cost-Effectiveness Studies of Anti-Malaria Interventions

4)

to Policy Makers Derek Willis	265
Trade, Investment and Risk Sultans of Swing? The Emerging WTO Case Law on TBT Carlo Cantore and Petros Mavroidis	268
CASE NOTES	
CJEU Approves Ban on Health Claims Related to Alcoholic Beverages Tuomas Mylly	271
Air Carrier's Obligation in 'Extraordinary Circumstances' Sophia Tang	275
BOOK REVIEWS	
Symposium on the Precautionary Principle	
Precaution, Proportionality and Cost/Benefit Analysis: False Analogies Susan Rose-Ackerman	281
Missing the Wood for the Trees Adam Burgess	287
Precautionary Schemes Jane K. Winn	293
"It's the Politics, Stupid". Or is the Reality more Complex? Maria Weimer	297
Precautionary Tales – Missing the Problem and its Cause Bill Durodié	307
Replies by the authors:	
Better Ways to Study Regulatory Elephants Jonathan B. Wiener, Brendon Swedlow, James K. Hammitt, Michael D. Rogers and Peter H. Sand	311
A more Sophisticated Understanding of the Politics of Precaution David Vogel	321
MISCELLEANEOUS	
Masthead	III
Imprint	V





MANAGING EDITOR

Alberto Alemanno HEC Paris, France alemanno@hec.fr

ASSOCIATE EDITORS

Articles Submission

Pascal Cardonnel (Law) Court of Justice of the European Union, Luxembourg

Adam Burgess (Social Sciences) University of Kent, Canterbury, United Kingdom

Book Reviews

David J. Hornsby University of the Witwatersrand, Johannesburg, South Africa

Case Notes

Kai Purnhagen Ludwig-Maximilians-University, Munich, Germany

Reports

Enrico Bonadio City University London, United Kingdom

ADVISORY BOARD

Peter Barton Hutt Covington & Burling LLP, Washington DC, USA

Carl Baudenbacher University of St. Gallen, Switzerland President of the EFTA Court, Luxembourg

Marco Bronckers University of Leiden, Netherlands VVGB, Brussels, Belgium

Theofanis Christoforou

European Commission Legal Service,

Brussels, Belgium

Miguel Maduro

European University Institute, Florence, Italy

Giandomenico Majone

European University Institute, Florence, Italy

Anthony Ogus

University of Manchester, United Kingdom

José Esteve Pardo

University of Barcelona, Spain

Jacques Pelkmans

College of Europe, Bruges, Belgium

Michael D. Rogers

Former Member of the Bureau of European Policy Advisers, European Commission, Brussels, Belgium

Giorgio Sacerdoti

Bocconi University, Milan, Italy

Former Chair of the WTO Appellate Body

Nicolas de Sadeleer

University of Saint Louis, Brussels, Belgium

Francis Snyder

University Paul Cézanne, Aix-Marseille III, France, London School of Economics, United Kingdom

David Vogel

University of California, Berkeley, USA

Denis Waelbroeck

Ashurst, Brussels, Belgium

College of Europe, Bruges, Belgium

Vern Walker

Hofstra University School of Law, New York, USA

Thomas Werlen

Quinn Emanuel Urguhart & Sullivan LLP, London,

24.06.2013 11:19:09

United Kingdom

EDITORIAL BOARD

Lucas Bergkamp

Hunton & Williams LLP, Brussels, Belgium

Susana Borrás

Copenhagen Business School, Frederiksberg,

Denmark

Morten Broberg

University of Copenhagen, Denmark

Fabrizio Cafaggi

European University Institute, Florence, Italy

Dirk Detken

European Food Safety Authority (EFSA),

Parma, Italy

Michael Faure

Maastricht University, The Netherlands

Mary Footer

University of Nottingham, United Kingdom

Candido Garcia Molyneux

Covington & Burling LLP, Brussels, Belgium

Liana Giorgi

The Interdisciplinary Centre for Comparative Research in the Social Sciences (ICCR),

Vienna, Austria

Minna Heikkilä

European Chemicals Agency (ECHA), Helsinki,

Finland

Sebastian Krapohl

Otto-Friedrich-University, Bamberg, Germany

Peter Kugel

Attorney at law, Brussels, Belgium

Shen Kui

Peking University Law School, China

Bettina Lange

University of Oxford, United Kingdom

Ragnar Lofstedt

King's College London, United Kingdom

Benn McGrady

Georgetown University, Washington, USA

Sara Poli

University of Rome 'Tor Vergata', Italy

Reinhard Quick

VCI Liaison Office, Brussels, Belgium

Claudio Radaelli

Exeter University, United Kingdom

Andrea Renda

Centre for European Policy Studies (CEPS),

Brussels, Belgium

LUISS Guido Carli University, Rome, Italy

Vincenzo Salvatore

Sidley Austin LLP, Brussels, Belgium University of Insubria – Varese, Italy

Colin Scott

University College Dublin, Ireland

Stijn Smismans

Cardiff University Law School, Wales,

United Kingdom

Geert Van Calster

DLA Piper, Brussels, Belgium

K. U. Leuven, Belgium

Ellen Vos

Maastricht University, The Netherlands

Jonathan Wiener

Duke University School of Law, Durham, USA

CORRESPONDENTS

Biotechnology

Justo Corti Varela

Universidad CEU San Pablo, Madrid, Spain

Shane Morris

University College Cork, Ireland

Maria Weimer

Maastricht University, The Netherlands

Food

Ignacio Carreño

FratiniVergano – European Lawyers, Brussels,

Belgium

Stéphanie Mahieu

Court of Justice of the European Union,

Luxembourg

Intellectual Property

Enrico Bonadio

City University London, United Kingdom





Lifestyle Risks

Jean-Patrick Villeneuve Swiss Graduate School of Public Administration (IDHEAP), Lausanne, Switzerland

Simon Planzer University of St. Gallen, Switzerland

Nanotechnology

Joel D'Silva

European Association of Chemical Distributors (FECC), Brussels, Belgium

Pharmaceuticals

Alessandro Spina

European Medicines Agency (EMA), London, United Kingdom

Anna Pavlou Sidley Austin LLP, Brussels, Belgium

Regulatory Impact Assessment

Lorenzo Allio

allio rodrigo consulting, Lugano, Switzerland Honorary Research Fellow at the University of Exeter, United Kingdom

Jacopo Torriti

University of Reading, United Kingdom

Risk Communication

Sweta Chakraborty University of Oxford, United Kingdom

Trade, Investment and Risk

Alessandra Arcuri Erasmus University Rotterdam, The Netherlands

Alexia Herwig University of Antwerp, Belgium

Lukasz Gruszczynski Institute of Law Studies - Polish Academy of Sciences, Warsaw, Poland

EXECUTIVE EDITOR

Cliff Wirajendi Lexxion Publisher, Berlin wirajendi@lexxion.eu

Publisher

Lexxion Verlagsgesellschaft mbH Güntzelstraße 63 · 10717 Berlin · Germany Phone: +49 30/81 45 06-0 · Fax: +49 30/81 45 06-22 www.lexxion.de

Typeset

G.K.W. Kuhle Werbung GmbH, Berlin

EJRR annual subscription* rates 2013 (4 issues) printed version only 378,00€ printed version + online edition (incl. archive)** 425,00€ online edition only (incl. archive)** 378,00€

- Prices include Postage and Handling. EU Member States: VAT will be added if applicable.
- Single user online access via user name and password.

EJRR is supplied under our terms of sale and supply. Copies of our terms and conditions are available upon request. Lexxion Verlagsgesellschaft mbH. VAT Reg.No. DE 209981990.

For further information please contact info@lexxion.de

Tel.: +49 30/81 45 06-0 · Fax: +49 30/81 45 06-22

Contributions

are welcome and should be submitted according to the EJRR author guidelines. Any such contribution is accepted on the understanding that the author is responsible for the opinions expressed in it.

Photocopying

All rights reserved. No part of this journal may be reproduced in any form whatsoever, e.g. by photo print, microfilm, or any other means, without prior permission of the publisher. This journal was carefully produced in all its parts. Nevertheless, authors, editors and publisher do not warrant the information contained therein to be free of errors. Readers are advised to keep in mind that statements, data, illustrations, procedural details or other items may inadvertently be inaccurate.

Ownership and shareholdings pursuant to Section 7 lit. a No. 2 and Section 2 No. 6 of the Berlin Press Act: Shareholders of Lexxion Verlagsgesellschaft mbH is Dr. Wolfgang Andreae, Publisher, Berlin.

This journal may be cited as [2013] EJRR.

ISSN (Print) 1867-299X · ISSN (Online) 2190-8249

