



REPORT OF THE NICOLE Seminar: Basics and Principles of Environmental Law

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www.nicole.org

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 - Pascal Mallien, international partner Antwerp
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 - Mario Deketelaere, associate Antwerp
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 - Richard Weatherhogg, associate London
 - Richard Allen, associate London
- NICOLE Secretariat



NICOLE

NICOLE (Network for Contaminated Land in Europe) was set up in 1995 as a result of the CEFIC “SUSTECH” programme which promotes co-operation between industry and academia on the development of sustainable technologies. NICOLE is the principal forum that European business uses to develop and influence the state of the art in contaminated land management in Europe. NICOLE was created to bring together problem holders and researchers throughout Europe who are interested in all aspects of contaminated land. It is open to public and private sector organisations. NICOLE was initiated as a Concerted Action within the European Commission’s Environment and Climate RTD Programme in 1996. It has been self-funding since February 1999.

NICOLE’s overall objectives are to:

- Provide a European forum for the dissemination and exchange of knowledge and ideas about contaminated land arising from industrial and commercial activities;
- Identify research needs and promote collaborative research that will enable European industry to identify, assess and manage contaminated sites more efficiently and cost-effectively; and
- Collaborate with other international networks inside and outside Europe and encompass the views of a wide a range of interest groups and stakeholders (for example, land developers, local/regional authorities and the insurance/financial investment community).

NICOLE currently has 112 members. Membership fees are used to support and further the aims of the network, including: technical exchanges, network conferences, special interest meetings, brokerage of research and research contacts and information dissemination via a web site, newsletter and journal publications. NICOLE includes an Industry Subgroup (ISG) – with 25 members; a Service Providers Subgroup (SPG) with 41 members; 31 individual members from the academic sector/research community; and 15 members from other organisations, including research planners, non profit making organisations, other networks, funding organisations. Some members are involved in both the ISG and the SPG. For further general information, further meeting reports, network information and links to contaminated land related web sites, please visit NICOLE's web site: www.nicole.org.

Membership fees are currently 3,500 EURO per year for companies (1,750 EURO for smes), and 150 EURO per year for academic institutions. For membership requests please contact:

Ms Marjan Euser
Secretariat NICOLE
Deltares / TNO
PO Box 342
7300 AH Apeldoorn
The Netherlands

Tel: + 31 888 66 2186

Fax: +31 888 66 2249

E-mail : marjan.euser@tno.The Netherlands



1 Executive Summary

Most of European environmental legislation is introduced by Directives. The Member States are obliged to implement these in their national legislation. In Federal countries like Canada and the United States of America, individual states apply Federal Law to their existing civil law and common law systems. The European Union approach, that the Member States are responsible for nationally implementing European legislation, is unique. Also unique is the Court of Justice of the European Union, where if necessary, the European Commission will start a procedure against Member States when implementation does not take place or is not sufficient..

Within each Member State European Law has to be integrated with existing civil and common law, as these are the basis on which legal actions within countries are brought. NICOLE members are often confronted with legal terminology, as well as with legal systems that seem to be different depending on whether you find yourself in an Anglo-Saxon setting or a continental European one. This occurs because of the historic basic differences between both systems. The differences between these systems also explain why the enforcement of the European (environmental) legislation is a matter of the Member State, and why penal sanctions are applied nationally rather than at a European level.

There has been a flurry of new legislative initiatives at an EU level related to soil contamination in recent years: the proposed Soil Framework Directive, the Environmental Liability Directive, the revision of the IPPC Directive, and the recently published Environmental Crime Directive.

NICOLE therefore decided to organise its first seminar to provide its members with a background to the emerging EU-Level legislation and the two broad legal frameworks pertaining to Member States, and how these impact the implementation of environmental law. Its goal was both to provide information, and to promote mutual understanding between professionals who normally work under different legal systems.

The seminar was structured in two broad sections:

- A background to and comparison of common and civil law principles, that exist in the Anglo-Saxon and continental European contexts
- An illustration of the effects of these contexts based on analysis of the implementation of two Directives: the Environmental Liability Directive and the Environmental Crime Directive.

Each context is explored using the same framework:

- sources of law :
 - case law
 - legislation
 - equity / general principles of law
 - constitutional law
 - the role of academics
 - relation with the European law
 - legal procedure
- legal procedure
 - causes of action
 - the court system
 - the adversarial approach
 - legal practitioners

Speakers were provided by the international law firm of Baker & McKenzie LLP. The seminar concluded with a wide ranging question and answer session.

Disclaimer: This seminar is intended to provide a very brief overview of some key principles. This text is by no means a comprehensive overview of civil, common or European law.



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