Environmental law seems particularly susceptible to compliance problems. This holds especially true with regard to the European Union’s environmental law. EU environmental law is strongly dependent on multilevel transposition by both national legislators and local administrations. It is often shaped rather vague in order to enable compromises and accommodate the political priorities of, at least for another while, 28 Member States. In more and more fields EU environmental legislation has also resorted to a “programmatic” steering approach building on long term objectives and action programs, thus opening wide room for maneuver and making it very difficult to observe whether the States and regions are actually on track.\(^1\) Experience has shown that effective implementation of such types of EU environmental laws cannot satisfactorily be ensured by means of “top-down” oversight of the Commission and through infringement procedures alone. It is obvious that, above all, EU citizens must be activated as advocates of the protected environmental goods, and they must be entitled to effectively claim correct implementation of the environmental law before the courts in a complementary bottom-up approach.

To this extent, in June 2017 the European Environmental Law Forum (EELF) held a workshop focusing on the functioning of the preliminary ruling procedure according to Article 267 TFEU as a compliance mechanism of EU environmental law. From the very beginning of the European integration project, it has been considered that the preliminary reference procedure would be beneficial for the effectiveness of EU law (see Case 26/62 – Van Gend en Loos), and it seems that this procedure is particularly important in the field of EU environmental law for the reasons mentioned above. Apparently, the reference procedure is forming an essential element of an effective “bottom-up” route of compliance control. Through this procedure, individuals or NGOs can bring national practice to a European scrutiny and obtain a uniform interpretation of European law.

\(^1\) On this phenomenon, see L. Squintani and M. van Rijswick, Improving Legal Certainty and Adaptability in the Programmatic Approach, JEL 2016, DOI:10/1093/jel/eqw022.
Besides, the preliminary ruling procedure has been gaining importance also from the perspective of enhancing the European Union’s compliance with the Aarhus Convention. To this extent, the *Vereniging Milieudefensie* (C-401/12) and *Stichting Natuur en Milieu* (C-165/09) cases showed that in the actual state of development of EU law, Article 267 TFEU is used by the Court of Justice to integrate the legality review procedure under Article 263 TFEU and thereby implement the Aarhus Convention. The intervention of the European Commission in several key judgments concerning access to justice in environmental matters, on the basis of which the Commission is working on a Non-Paper on Access to Justice in environmental matters, points in this same direction.

Despite the pivotal function that Article 267 TFEU plays as regards compliance with international and European environmental standards and the uniform interpretation of the latter, very little research is available on the functioning and optimal use of the preliminary ruling procedure as a compliance mechanism. Building upon the presentations and discussion occurred during the Workshop of 17 June 2016, this issue of JEEPL provides a set of articles showing the room for improving the system for ensuring compliance with EU environmental law.

The first four articles published here, show first that the interaction between infringement proceedings and the preliminary reference procedure in ensuring compliance with EU environmental standards do not lead to a coherent system. Eliantonio & Grashof’s study of the effects of the *Trianel* (C-115/09), *Altrip* (C-72/11) and *Commission v Germany* (C-137/14) cases on the manner in which EU standards on access to justice in environmental matters are complied with in Germany shows that the two procedures can be complementary in theory, but might not be in practice. Indeed, even after three procedures, many questions remain open and none of the procedures has solved the practical problems caused by a patchwork of rules and cases.

Shortcomings in the relationship between the infringement procedure and the preliminary reference procedure in ensuring compliance with EU environmental law are also highlighted in the contributions by Krämer and Darpo. Krämer points at the limited number of preliminary references and highlights the facts that the enforcing effects of these procedures are widely unknown and likely to be low. He also points at the lack of transparent and systematic enforcement practice under Article 258 TFEU. Darpo confirms the validity of Krämer’s findings by providing an in depth analysis of how both procedures for the enforcement of EU environmental law failed to reach a satisfactory outcome in the context of protecting the wolf in Sweden.

Finally, Squintani & Plambeck show the existence of obstacles to the effectiveness of the ‘national route’ to ensure compliance with the Aarhus Convention.
in the context of access to justice. By focusing on access to justice in the context of plans and programmes having a regulatory purpose, they show the existence of cases in which the national “bottom-up route” simply does not exist. As regards plans and programmes affecting the environment, Article 9(3) of the Convention is neither implemented in EU environmental law nor, in some cases at least, at national level. So far, the legislators at EU level and in countries such as the Netherlands do not seem willing to redress this lacuna. In that view, Squintani & Plambeck show how the case law of the Court of Justice on the duty to reconsider definitive acts could be used as a tool to put pressure on the legislative power in order to fully implement Article 9(3) of the Aarhus Convention.

This issue also features two interesting articles beyond its focus section. Calliess & Dross evaluate the current state of the ongoing negotiations for a Transatlantic Trade and Investment Partnership (TTIP) between the EU and the US as to the possible effects on environmental law. They point out that adverse environmental impacts can only be avoided if TTIP implies harmonization of environmental standards at a high level, and they show how the precautionary principle is particularly relevant in this regard. Moreover, they point to the great relevance of often overlooked sub-statutory regulations and private sector standardization referring to the recent example of vehicle emission testing standards.

Lastly, Sever, Đulabić & Kovač present a comparative regional analysis of construction permitting procedures in Slovenia and Croatia. Their contribution provides interesting insights in the state and development of planning and permitting systems of these younger, eastern EU Member States. It shows how the administrative systems are still influenced by the political history of the countries and how both countries are similarly striving towards (further) simplification and acceleration of planning and permitting procedures.

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