

COMMON MARKET LAW REVIEW

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Aims

The Common Market Law Review is designed to function as a medium for the understanding and implementation of European Union Law within the Member States and elsewhere, and for the dissemination of legal thinking on European Union Law matters. It thus aims to meet the needs of both the academic and the practitioner. For practical reasons, English is used as the language of communication.

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Establishment and Aims

The Common Market Law Review was established in 1963 in cooperation with the British Institute of International and Comparative Law and the Europa Instituut of the University of Leyden. The Common Market Law Review is designed to function as a medium for the understanding and analysis of European Union Law, and for the dissemination of legal thinking on all matters of European Union Law. It aims to meet the needs of both the academic and the practitioner. For practical reasons, English is used as the language of communication.

Editorial policy

The editors will consider for publication manuscripts by contributors from any country. Articles will be subjected to a review procedure. The author should ensure that the significance of the contribution will be apparent also to readers outside the specific expertise. Special terms and abbreviations should be clearly defined in the text or notes. Accepted manuscripts will be edited, if necessary, to improve the general effectiveness of communication. If editing should be extensive, with a consequent danger of altering the meaning, the manuscript will be returned to the author for approval before type is set.

Submission of manuscripts

Manuscripts should be submitted together with a covering letter to the Managing Editor. They must be accompanied by written assurance that the article has not been published, submitted or accepted elsewhere. The author will be notified of acceptance, rejection or need for revision within three to nine weeks. Digital submissions are welcomed. Articles should preferably be no longer than 28 pages (approx. 9,000 words). Annotations should be no longer than 10 pages (approx. 3,000 words). Details concerning submission and the review process can be found on the journal's website <http://www.kluwerlawonline.com/toc.php?pubcode=COLA>

Katelijan van Hende, *Offshore Wind in the European Union. Towards Integrated Management of our Marine Waters*. Alphen aan den Rijn: Kluwer Law International, 2014. 352 pages. ISBN: 9789041156136. EUR 133.

The EU 2020 strategy aims for an EU-wide target of 20% renewable energy in 2020. The exploitation of offshore wind farms is an attractive option to reach these targets. Although it is a good option, offshore wind farms currently face many legal challenges, as Van Hende argues in the book reviewed. In this comprehensive work on planning and licensing of offshore wind farms, she analyses the applicable policy and legal framework, and concludes that they are too fragmented and thus hamper efficient planning and authorization of offshore wind farms. The proposed solution to this fragmentation is to make these frameworks more integrated.

The book is divided in two parts, the first of which focuses on the policy framework for offshore wind farms. The policy framework confers the competence for legislation and policy-making, and the competence to coordinate legislative or policy measures. The current policy framework is fragmented, as the objective of producing renewable energy lies on the cusp of different policy areas, such as climate action, environment, and energy. Moreover, it is unclear which legal basis from the EU treaties is the most suitable for policy and legislative steps. The EU's Integrated Maritime Policy is an example of this, as it has no specific legal basis in the treaties. This book's main subject is the policy framework of offshore wind farms, but it also describes marine spatial planning policy, a more general subject, which can also encompass offshore wind. The policy frameworks of Australia and New Zealand are given as examples of integrated policy frameworks on maritime spatial planning, although they do not regulate offshore wind farms.

The second part focuses on the legal framework on planning, permitting and licensing of offshore wind farms. This framework is also fragmented, at a vertical and horizontal level. The vertical level refers to the different legal levels concerning planning and authorization of

offshore wind farms, as there are applicable laws on an international, European and national level. This may lead to uncertainty about which entity has jurisdiction. The horizontal level refers to the different sectoral interests, as governments and developers have to take into account regulations relating to oil, fisheries, navigation, environment and species protection. There are many interests competing with offshore wind farms for available sea space, and the current legal framework does not provide a mechanism to balance these interests. Van Hende also offers two case studies of offshore wind farms in the European Union, which show that law has influence on the costs and the location of offshore projects, and that there are currently no EU-wide uniform mechanisms to determine these.

Van Hende proposes solutions to the problem of fragmentation. For the policy framework, she proposes an integrated framework with an ecosystem-based approach, which shifts the policy focus from sectoral or inter-sectoral to a focus on a specific ecosystem. This ecosystem-based approach should be applied at a specific scale: in the case of offshore wind farms this should be a marine region. All interests in this region must be balanced against one another. For the legal framework on planning and authorization of offshore wind farms, the proposed solution is a balancing of economic and environmental interests through adjustment of generic goals in secondary EU legislation, a stronger role for the integration principle and a regional focus instead of a sectoral focus. Discussing user-user conflicts as well as user-environment conflicts she proposes an article on “the conflict dimension” which should be included in the Maritime Spatial Planning Directive. In our opinion such a provision could be helpful in more than only the Maritime Spatial Planning Directive. Van Hende acknowledges that it currently may be difficult to bring these solutions into effect. This would entail the Member States conferring competences on the EU, and Member States are reluctant to do so.

Offshore wind farms are an unusual subject for a legal academic book, and this interesting subject is presented in a clear and comprehensible way. Each chapter introduces its aims, subject, argument and conclusion, and the argumentation is solid, leaving little room for doubt or ambiguity. It features brief but insightful introductions to new subjects, regardless of whether they concern principles of EU law, management approaches, or ways in which wind farms can be connected to the electricity grid. This is very helpful for readers who are unfamiliar with the many concepts described here. The book’s value also lies in its content. It is a good example of the need for an integrated approach towards problems posed by fragmented legal frameworks. Fragmentation can make it difficult to solve important societal problems and achieve policy goals such as sustainable energy, but also sustainable marine management. The title of the book may be confusing, focusing first on offshore wind and second on integrated management of marine waters. It is clear that Van Hende focuses on the specific subject of offshore wind farms, instead of the more general subject of integration or fragmentation. Offshore wind requires a tailor-made solution. She provides a comprehensive outlook on many legal and non-legal factors related to the planning of wind-farms, mostly from a policy-maker’s or legislator’s perspective, but also from a project developer’s perspective. She gives insight in how law, policy, competing interests and technology all influence the realization of wind farms. On the other hand, the more general topic of fragmentation and the aim for integrated and adaptive management based on an ecosystem-based approach is one of the most important challenges that must be addressed in the years to come. It has become clear that many solutions for societal challenges face the problem of fragmented legal and policy frameworks. It would be a pity if readers interested in this more general debate missed this book, as it gives many valuable insights and pathways for academic discussions and legislative and practical solutions. We could have imagined that the more general topic of fragmentation would have been the main focus of the book and that offshore wind had been chosen as a case study.

The Introduction states that this book will prove indispensable to lawyers, policymakers, officials, and academics. Of these groups, policymakers are mostly addressed. An important group not mentioned here is the legislature, especially the EU legislature. This book mostly reads as a recommendation to the legislature, but it can also provide practitioners with an overview of the laws and sectors applicable to offshore wind farms, and the problems related to

these laws. It will also be of academic interest, as it is another good example of the need for legal integration on problems which involve many sectors.

Although this book is generally not difficult to understand, it does not always connect its two main subjects clearly. The title addresses offshore wind farms, while the sub-title addresses integrated management of marine water. It can occasionally be difficult to assess whether the main focus is on offshore wind farms, in the context of marine spatial planning, or whether it wants to discuss offshore wind farms and marine spatial planning as separate, although related, subjects. This should not detract from the many qualities of this book, though. It is a good example of the need for integrated legal and policy frameworks, and it makes a good case for the integration of the frameworks regarding offshore wind farms. It does so in a comprehensible way, and thus offers a relevant and fairly accessible introduction to law on offshore wind farms and integration of legal and policy frameworks.

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