

BELGIUM: RECENT DEVELOPMENTS IN ENVIRONMENTAL LAW

I. Legislation

A. FEDERAL

- Act of 8 January 2012 – Amendment of the Act of 5 May 1997 concerning the coordination of the federal policies concerning sustainable development
 - o Introduction of long term vision on sustainable development
 - o Introduction of sustainability impact assessment¹
 - o Prolongation of running Federal Sustainable Development Plan 2004-2008

B. REGIONAL

Flemish Region

- Executive Order 18 December 2011, standards for GSM Antennas
- Decree of 17 February 2012, tax on the first use of cars – varying according environmental characteristics of the cars
- Decree of 23 December 2011 on the sustainable management of cycles of materials and wastes + Executive Order of 17 February 2012 – Implementation of Directive 2008/98/EC
 - o Much more extended producer responsibility
 - o First steps in development of sustainable use of materials
- Decree of 23 March 2012 amending Decree of 5 April 1995 concerning general provisions of environmental policy - adaptation of EIA legislation to ECJ, Case C-435/09, Commission v. Belgium, 24 March 2011
- Decree of 29 June 2012 – Approval of Cooperation agreement on the implementation of REACH

Walloon Region

- Executive Order 9 February 2012, standards for GSM Antennas
- Decree of 10 May on waste + Executive Order of 10 May 2012 – Implementation of Directive 2008/98/EC

¹ Erik Paredis, An Heyerick, Ruddy Doom, Tom Bauler, Edwin Zaccai, Marco Waktare, Alessandro Bonifazi, Paul-Marie Boulanger, Benoit Lussis, Frédéric Varone, Luc Lavrysen, Pieter Thomaes and Nathalie Risse, *Methodology and feasibility of sustainability impact assessment. Case: federal policy processes*, Belgian Science Policy 2006, 110 p.

- Decree of 7 June 2012 – Approval of Cooperation agreement on the implementation of REACH

Brussels Capital Region

- Executive Order 12 January 2012, amending Executive Order 30 October 2009, standards for GSM Antennas
- Different Environment Covenants concerning producer responsibility (used cars, waste oils, used tires, electronic and electric equipments, old medicaments)
- Ordinance of 1 March 2012 amending Ordinance of 7 March 1991 concerning preventive and management of waste , replaced by Ordinance of 14 June 2012 – Implementation of Directive 2008/98/EC
- Ordinance of 1 March concerning nature protection (restatement of nature protection legislation)
- Ordinance of 10 May 2012 – implementation of Directive 2008/99/EC (eco-crime)
- Executive Order of 12 July 2012 – approval of the Water Management Plan for the Region

II. Jurisprudence

- Council of State, N° 217.043 23 December 2011, *Delta AirLines Inc* (and different other similar judgments) - Council of State, N° 217.104, 4 January 2012, *TUI Airlines Belgium* (and different other similar judgments) – Council of State, N° 217.771, 7 February 2012, *Thomas Cook Airlines Belgium* (and a similar judgment) – Council of State, n° 217.775, 8 February 2012, *Thomas Cook Airlines Belgium*– rejection of a range of claims against imthe position of fines for violation of noise standards of the Brussels Capital Regional by airplanes that use Brussels National Airport (situated in the Flemish region)
- Constitutional Court , N° 76/2012, 14 June 2012 – annuls partially Decree of 6 October of the Walloon Region– emission trading relating aviation has to be regulated by a co-operation Agreement between the federal State and the Regions
- Constitutional Court , N° 95/2012, 19 July 2012 – annuls partially an Amendment to the Brussels Town Planning Code because local land use plan can be cancelled without an SEA – implementation of ECJ, Case C-567/10, 22 March 2012, *Inter-Environnement Bruxelles*
- Constitutional Court, N° 144/2012, 22 November 2012 - follow-up of ECJ cases *Boxus c.s.* and *Solvay c.s.*