Avosetta Metting
Oslo, 1-2 April 2011
Legal issues related to the promotion and regulation of renewable energy

- Synthesis report[1] -

Background.

The increased use of renewable energies[2] is one of the essential building blocks of climate-protection-policy of the European Union and its Member States. It also forms part of the strategy of energy security and competitive energy supply. These objectives are pursued by various legal instruments of European Union and national law promoting the use of renewable energies. The Union has with Article 194 TFEU a new and potentially far-reaching competence to develop its own energy policy. Directive 2009/28/EC sets ambitious targets for the development of renewable energies in the Member States. The choice of instruments is to a large extent left to the Member States.

This legally based promotion of renewables will however have problematic side-effects on other environmental assets than the climate. For instance, biodiversity will be endangered by biomass monocultures both within the EU and – by way of imports – in third countries. In some countries the development of wind farms and new hydro power plants is contested by the local communities and environmental groups. A new "internal" conflict between conflicting environmental goods appears to be emerging.

The goal of the Avosetta meeting shall be to first summarize EU and national legal strategies of fostering renewables and on that basis explore the said conflict discussing actual or potential legal instruments mitigating unwanted environmental side-effects. Such instruments include the general environmental law framework (as e.g. abatement of noise pollution, protection of species and habitats, land-use planning, etc.) and environmental protection clauses imbedded in the very law that fosters renewables (as e.g. the sustainability criteria of Art. 17 Directive 2009/28/EC).

The members were invited to respond to a questionnaire as a basis for the discussion. They were free to put emphasis on some issues of special national relevance. This synthesis report tries to summarize the main content and impressions from the national reports. As the questions in the questionnaire partly overlap, the issues are here organized under the relevant agenda items of the meeting (which differs slightly from the sequence of questions in the questionnaire).

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[1] This report has been prepared by post doc Christina Voigt and Hans Chr. Bugge on the basis of the received national reports with answers to the questionnaire. Reports (16) were submitted by: Belgium, Czech Republic, Croatia, Finland, Germany, Hungary, Ireland, Italy, Norway, Poland, Portugal, Slovenia, Spain, UK, and the Alpine Convention. We apologize for any inaccuracies and misunderstandings.

[2] For the purpose of the questionnaire and this report, 'energy from renewable sources' means energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases (definition of art. 2 lit. a) of Directive 2009/28/EC).

Issues under Agenda item no. 2 and 3:
EU law related to renewable energy. National legislation to promote renewable energy.

What is the share of renewable energies in overall final energy consumption in your country? From what sources is this renewable energy? How will / should the proportion and composition of renewable energy develop in your country? Can the requirements of the Directive 2009/28/EC be met or exceeded? (Question no 1)

The share of energy from renewable sources in gross final consumption of energy had in 2010 in all countries slightly increased compared to the 2005 share listed in Annex I of the Directive 2009/28/EC.

Sources for renewable energy differ considerably between the countries, depending on differences with regard to natural resources and geography, and political preferences. Biomass (for biofuels and bioliquids), wind and hydro power are the three most important sources. These are also the sources which cause most of the debate around RES.

There is a general optimism as to the ability of reaching the 2020 targets set out in Directive 2009/28/EC. So far this optimism is largely based on strategies and action plans, research and analysis rather than on the factual increases in shares. Some reports, however, states that it will require significant effort to reach the goal (i.a. Croatia, Norway).

Many countries will only be able to reach their targets by a *stronger diversification* of sources. Those that have been developing one particular source, e.g. biomass or hydro, are facing limitations now in terms of available and suitable land (Czech Republic) as well as increased public concern for food security (Germany). Others have fully utilized a particular sector and no further capacity increase can be expected, e.g. hydro power (Alpine region, Norway (large dams), Czech Republic, Finland). Further challenges relate to exhausted grid capacities (Ireland), local opposition (UK), downsizing of forest industry and reduced production of wood products and waste for biomass (Finland).

Some possible questions for discussion under Agenda item 2 and 3:

- *What is the general outlook and prospects for the further needs and development of renewable energy in Europe?*
- *How could a stronger diversification be reached in countries where this is needed?*
- *Is energy security going to become a more important objective than climate change so far? (due to disasters and catastrophes in Australia and Japan, reduction of nuclear power in Germany, insecurity in oil exports from Northern Africa?) How will this affect the implementation of the Directive?*

Describe the key national legislation to promote renewable energies (Question no. 2).

a. **Subsidies and other financial support?**
b. **Purchase guarantees? (example: feed-in tariffs?)**
c. **Quota system? (example: "green certificates"?)**

All countries employ one or more forms of fiscal instruments to promote renewable energies and/or to disincentivize GHG emissions. Most reports list the various instruments without discussing the pros and cons of the different instruments. The legal issues they may raise, for example in relation to EU state aid/competition rules, are not much elaborated either, but sdme examples are given (see below).

It is clear form the reports that *the choice of instruments and their application vary considerably between the countries*. The following list is illustrative (even if not all instruments are necessarily mentioned).

a. Subsidies/ financial support, for example:

- Generally, several types of subvention/subsidy schemes exist for the promotion of investments in renewable energy and energy efficiency measures, both for industry and for ordinary consumers (households).
- Special *funds* with a broad mandate to support investments in various types of renewable energy and energy efficiency exist in several countries. For example, the Slovenian Environmental Public Fund/Eko Fund enables credits and loans to both production and use of renewable energy, as does Croatia's Environmental Protection and Energy Efficiency Fund EPEEF. In Croatia, also Regional Energy Agencies are established which provide financial and other support. Similarly, Norway's Energy Fund through the state company Enova provides various form of financial support both to production of renewable energy and to changes to renewable energy end efficiency in consumption (households and municipalities). In Spain the Autonomous Communities may grant public aids.
- A combination of obligation of use of renewable energies with subsidies for thermal solar collectors, heat pumps and biomass ovens (Germany), regional investment subsidies (Belgium),
- Other types of financial support, e.g. for forest based biomass, in particular small size energy wood in order to save log size wood (Finland), subsidies for biofuels (Croatia), solar (Spain) etc.

Spain reports that a major economic problem is the difference between real energy production costs and regulated prices set out by the central government (thus a general subsidy of the energy sector), and the need to reduce or eliminate this deficit. Other report that subsidies are not sufficient, for example to make off-shore windpower economically feasible (Finland).

Tax reductions or reliefs, for example:

- For energy efficiency improvements of buildings or for companies investing in solar, wind, hydro and/or biomass (Ireland, Spain),
- Income tax exemptions for electric power plants using renewable sources of energy (Czech Republic) and for implementing heat pumps as main heating systems in buildings,
- Federal tax credits for households and companies (Belgium)

Carbon Price Support mechanism (UK) ensuring that the market price for allowances is maintained at a minimum level,

Disincentives:

- Climate change levy (UK): tax on non-domestic energy use (though businesses that have Climate Change Agreements with the Government get a 80% tax reduction)
- Carbon levy (Ireland), electricity tax €1 per MW for non-business use and €0.05 per MW for business users)
- Taxes on diesel fuel for heating and on industrial fuels (Portugal)
- Tax on wind farms to compensate for visual or environmental effects of wind farms (two autonomous communities in Spain)

b. Feed-in-tariffs (FIT)

- A system of feed-in-tariffs seems to play a key role in some countries (for example Slovenia, Croatia, Spain to some extent), and is under introduction in other (Austria).
- For bigger biomass fired power plants over 20 MW(Hungary) or in particular for micro- and small generators with max of 5MW (UK) with the result that the system has become a victim of its own success by a large number of installations and large scale industrial solar farms on agricultural land taking advantage of the system and drawing very large sums of subsidy)
- Priority access to the grid for renewable energy generators and purchase guarantees at guaranteed prices (Germany, Czech Republic, Hungary, Belgium) (“positive discrimination”)
- Feed-in-tariff coupled with premium payments and market price equalisation compensation where the market price falls below a floor price (Ireland), higher feed-in-price for renewable (Portugal)

Financing FIT?: Public service obligation (PSO) levy on all purchasers of electricity (Ireland)

c. Quota systems. Green certificates are used in several countries: Czech Republic, Poland, Belgium, Italy, Slovenia. A common green certificates market for Norway and Sweden will start from 1 January 2012. The UK employs a Renewable Energy Obligation where renewable

generators are issued Renewable Obligation certificates (ROCs) based on the amount of energy they produce. Electricity suppliers are mandated to purchase a number of ROCs each year from generators. Only Italy reports the use of **white certificates** for energy saving measures.

Some countries still have pending notification procedures for state aid (Article 107-109 TFEU) (e.g. Finland). Entering into force of the respective regulations therefore depends on the approval by the Commission.

Some countries raise legal issues related to instruments, such as :

1. Question of state aid and illegal subsidies, discrimination (e.g. Belgium: higher fiscal support for off-shore windfarms compared to terrestrial wind farms), product standards versus freedom of trade (e.g. mixing standards for biofuels)
2. Domestic content requirements for green certificates (e.g. requirement that electricity is generated in a particular area for participating at a FIT scheme) versus free movement of goods (Belgium)

Some possible questions for discussion under Agenda item 3:

In general: What are the (most important) legal problems in relation to these various instruments? For example:

- *Problems in relation to EU state aids/competition and free movements law?*
- *Legal challenges of differential treatment of private actors and discrimination of different electricity production methods?*
- *Which source-neutral instruments exist or could be developed ?*
- *Legal duty versus fiscal incentives: all states had employed fiscal incentives rather than concrete legal duties. What about a mix?*
- *Investment support and subsidies versus windfall profits and increased energy prices: How to (legally) ensure stable prices for end-consumers?*

Is it possible and/or desirable to harmonize the use of instruments within the EU (pros and cons)?

d. A special legal framework for the installation of facilities for the production of renewable energy sources? (short description)

No country transposed the Directive into a single national law. Rather than setting up new legal frameworks, most countries have undertaken - or are undertaking - modifications of and amendments to the general legislation applicable to all installations, usually energy legislation, land use planning law, water acts, etc.

New renewable energy installations, including necessary connection to the grid and the market, require a number of considerations and permits. A useful (and thought-provoking) list, which also covers aspects of the feed in tariff system, is presented in the Croatian report, as follows:

> "Administrative procedure for construction of renewable energy sources and combined heat and power plants and for acquiring status of eligible producer can be summarised as follows: (1) registration of energy activity, (2) preliminary energy approval for plant construction, (3) decision on environmental acceptability of the project (EIA) or/and decision on integrated environmental protection requirements (IPPC procedure), (4) location permit and/or preliminary electroenergy approval and/or contract for grid connection, (5) energy approval for plant construction, (6) decision on concession and contract, (7) construction permit, (8) preliminary decision on acquiring electricity producer status, (9) contract on electricity purchase (takes effect after legal validity of decision on acquiring electricity producer status), (10) electroenergy approval, (11) grid usage contract, (12) usage permit, (13) water permit, (14) licence for energy activity, (15) decision on acquiring electricity producer status.[3]

(This lengthy procedure is seen as "a disincentive to increasing investment in RES" in Croatia.)

A detailed and complex picture of various legal instruments and issues is also described in other reports, and also the need to simplify (i.a. Spain).

The 1998 Energy protocol to the Alpine Convention supports the promotion of RES while at the same time laying down certain principles and rules with a view to mitigate negative environmental effects. These have influenced the law in Austria, where the protocol is directly applicable.

Some possible questions for discussion under Agenda item 3:

- *Given the technical and social complexities: Is the legislation generally well adapted to the task of promoting renewable energy? (links to questions under Agenda item 4).*

- *A number of financial instruments have been put in place to promote renewable energy, while at the same time new renewable energy installations are – as a general rule – in most countries regulated by the ordinary legislation on land planning and resource use. This may appear as inconsistent and imbalanced, but is it basically natural and even a good thing?*

e. Sustainability requirements for biomass/biofuels production? (art. 17-19 of 2009/28/EC)

Surprisingly few countries seem to until now define requirements on sustainability of biofuels and bioliquids. This applies to both domestically or EU-produced biomass as well as biofuels and bioliquids from third countries. (None requirements yet: Poland, Portugal, Ireland, Croatia) Some countries refer to domestic regulation (Czech Republic) without indicating if and how these apply to biofuels from third countries. Some countries prepare legislation to this effect, in accordance with the directive articles 17-19 (Slovenia, Norway).

[3] http://releel.mingorp.hr/UserDocsImages/publikacija%20eng.pdf

Germany already literally transposed the sustainability criteria by sublegal regulations. Likewise, the UK introduced a sustainability reporting for biomass in 2009, based on the criteria of the Directive and will introduce *eligibility standards* from 2013. Belgium applies "sustainability criteria" as *selection criteria* for producers of biofuels that can be put under a "reduced excise duty": (i) biofuels produced in the EU that are in conformity with all relevant social, fiscal and environmental requirements, (ii) primary materials should come from agriculture and (iii) be grown with the use of as less as possible fertilizers and pestizides, (iv) the shortest distance between the place of harvest and the production installation, (v) a positive CO2 balance, (vi) the highest energy efficiency of the production unit. Biofuels that come from outside the EU are considered sustainable if: (i) they come from agriculture, (ii) agricultural land is not deforested recently and (iii)the production must comply with technical, social and environmental standards. These requirements are not yet sufficiently incorporating art. 17-19 of the Directive.

Italy accredited an independent organization for certification, the Institute for Industrial mechanical certification, which has prepared the first Italian scheme for the certification for sustainability requirements for biofuels. The scheme evaluates GHG savings of biofuels as compared to fossil fuels issuing a certification of all elements of the supply chain. It remains unclear whether this scheme applies to both EU produced biofuels and to biofuels from third countries.

Some possible questions for discussion under Agenda item 3:

- *Which role for sustainability requirements? (e.g. mere reporting or eligibility, or conditionalities)*
- *How are sustainability criteria monitored, verified and certified, in particular for biofuels and –liquids from third countries?*
- *How to certify/accredit certification systems/entities?*
- *What are the legal challenges with regards to the evaluation of land-use criteria (in third countries)?*
- *Biofuels and the use of invasive species (Czech Republic) – How does this relate to the sustainability criteria?*
- *Biofuels versus the loss of agricultural lands/food security: which criteria to apply?*

Do the existing or planned national legal instruments promoting renewables already comply with EU law or are important adaptations required?
What is the status of adoption of the new pieces of legislation necessary to transpose into domestic law the new provisions of Directive 2009/28/EC?
Were there already court decisions or infringement procedures taken by the Commission concerning this question? (question no. 7)

Most countries are faithfully transposing the relevant Directives, though the transposition date of Directive 2009/28/EC – proves difficult to meet for the transposition of the entire directive. Some countries report that new legislation or amendments are being prepared in order to implement the directive (Slovenia). The Commissions started infringements procedures against Hungary (January 2011).

Issues under Agenda item no. 4:
National law related to environmental protection issues of renewables

Describe mayor legal instruments, arguments, and court decisions concerning environmental protection issues of renewables (question no. 3).
Most countries report that the ordinary legislation for new projects/developments apply: the land use planning and building permit system, and/or concession by various sector authorities, mainly energy authorities. EIAs are required for projects of a certain size, but the criteria for this seem to vary considerably between the countries (see below).

It is evident from the reports that many renewable energy projects raise sharp controversies. This is particularly true for wind farms (many court cases in Spain for example) and hydropower. In many countries, case law relating to the promotion and use of renewable energy is clearly developing. The general tendency in these cases is not clear and probably differ. However, the Spanish report states that "the Spanish courts are becoming more active in quashing authorisations due to the lack of proper assessment of environmental effects, procedureal deficiencies or lack of motivation of the decision adopted".

Existing case law mainly concerns:

- Extent of planning discretion: e.g. planning authority's competence to consider alternative sites (UK)

- Weighing between different interests: promotion of renewable energies versus other environmental or social interests, e.g. landscape, archaeological sites, historical sites and houses, human health (noise and shadow effect), food safety, tourism, risk to aviation, biodiversity and ecosystems protection, species protection (Spain, e.g. golden eagles (UK), sea eagles (Norway), bats, Milan (Germany)), here in particular questions of:
    a. Threshold levels, tolerance levels (for nuisance).
    b. What weight need to be given to EIAs showing risk of/environmental impacts of renewable energy projects.
    c. Importance of EIA legislation and Bird and Habitat Directives, installations in a Natura 2000 area (Slovenia).
    d. Role of precaution and third party information (Germany).
    e. Standing of NGOs/ project developers against general land-use plans (Germany).

Some possible questions for discussion under Agenda item 4:

- *Does the existing legislation ensure that other environmental concerns than climate are taken adequately into account?*
- *How is, in particular, possible conflicts between environmental concerns in the domestic sphere and abroad seen and treated – as illustrated by production of biofuels?*

- *Is there a general tendency that the courts may play a more active roel in protecting environmental values in RES cases?*
- *Is the "environmental dilemma" – climate change mitigation versus other environmental goals – a new challenge to environmental law as we know it? and if yes, how should environmental law develop to meet this challenge?*

How does Strategic Environmental Assessment and Environmental Assessment apply to renewables in your country? Have any particular legal/procedural issues emerged? How does Natura 2000 influence the promotion of renewables? (question no. 6)

SEAs are required in many countries for regional plans and programmes, which set the framework for renewable energy projects, though in many cases they have not played a major role since the requirement has been recently established. UK has carried out 8 SEAs alone for offshore windfarms. Differences appear with regard to the threshold for an SEA as compared to an EIA. In Belgium, for example, all offshore projects are subject to EIA procedures.

In Norway, the environmental importance of an EIA is often questionable as the project developer and the sector authority in question together carry out the assessment and make all decisions (bias), or where project developers succeed in circumventing the limits triggering an EIA by "salami slicing" of the project.

In some countries, Natura 2000 sites appear to be preferred sites for windfarms (due to distance from human settlement?? Ireland: 50% of all windfarms are in Natura 2000 sites) but getting planning permission proves difficult and slow. Windfarms in Natura 2000 sites seem possible in several countries (Slovenia mention this) but also create conflicts and force the authorities to modify plans (Spain). Other countries, however, ban renewable energy projects in or nearby Nature 2000 sites (Belgium). In Austria, it seems as if EU decisions on Trans-European energy networks may trump Natura 2000 considerations and make local opposition to such power lines very difficult.

Some possible additional questions for discussion under Agenda item 4:

- *How to increase the environmental importance of SEAs and EIAs: determining the threshold for mandatory SEAs/EIAs, comprehensive scope (final project in order to avoid "salami slicing") and third party verification (avoiding biased results).*
- *Defining thresholds for EIAs (Annex II projects): who determines "significant negative effect" and how?*
- *Requirement to address alternative sites in SEAs/EIAs?*
- *Can a project be of strategic relevance, triggering an SEA? (Ireland: windfarms with more than 25 turbines or greater output than 50MW)*

Issues under Agenda item no 5:
The national debate on renewable energies, and the public attitudes.

Is there a national debate about the sense and nonsense of renewable energies, and if so, has this lead to changes or forrections of the regulative framework? (Question 4)

How well do the public accept renewable energy proposals (eg new on-shore and off-shore windfarms, biomass plants etc.) (Question 5)

There seems to be an overall general positive public attitude towards renewable energies, but this varies somewhat with the different types of renewables, solar and biomass generally more acceptable than wind and hydro. Not surprisingly, wind seems to be the most controversial, and also hydro in some countries. Several reports mention ongoing debates on economic justification as well as environmental effects of promoting renewables (Alpine Convention area, Slovenia, Norway). No country reports explicitly that this discussion has resulted in changes in the regulatory framework until now, but under the Alpine Convention new guidelines for small hydropower installations have been adopted as a result of these debates.

Most problems usually arise first when the issue of location is addressed. Local governments, municipalities and individuals can in a given case be hostile to a concrete project, being of the opinion that it is best place somewhere else (NIMBY). Individuals, NGOs and groups may challenge projects in courts because they either face impacts themselves (e.g. noise) or they find that other values (e.g. scenery, landscape, biodiversity, species protection) is being compromised. The renewable industry sector is complaining that permitting/licensing procedures are too time consuming and the legal framework is inconsistent and often an obstacle to the timely realization of a project.

The following gives a brief overview over the arguments and issues that were most frequently raised, and provides elements to the discussion:

1. Functioning of the planning system:
    a. General: How to overcome opposition by local communities?/ How to make them see what they might gain from a RES project rather than loose?/ How to balance gains and losses for local communities?
    b. Level of planning: *central planning* to secure consistency and approvals for large scale infrastructure (and to avoid NIMBY) or more *local empowerment* while accepting that projects may be completely blocked by local opposition?
    c. Limits of planning discretion and framework for weighing and balancing? E.g. what are the limits of interference with other environmental qualities? ("excessive", "significant harm"?) How to protect *other* environmental concerns in case of lacunae and/or wide discretionary margins in environmental law?
    d. Coordination/consistency versus planning flexibility?

e. Fragmentation (horizontal and vertical) of planning and decision-making authorities, e.g. UK where each devolved administration has its own set of renewable targets
f. Compensation for infringements of property rights (e.g. access of hydro power plant operators to their facilities across private lands – Czech Republic)

2. Decision-making authorities:
    a. How to ensure consistency in decisions (sector division)?/ How to ensure that comparable situations are treated alike?
3. Compliance challenges:
    a. Private actors and avoidance strategies: How to avoid 'salami slicing'?
    b. Non-compliance due to limited resources of the inspection authorities (Czech Republic) An issue for capacity building and strengthening of enforcement mechanisms? Which mechanisms? How to strengthen?

Issues under Agenda item 6: A general framework act on climate change?

Is there anything like a general framework act on climate change issues, and if so, what is its main content? If no, is such an act being considered? (Question 8)

Some reports (i.a. Spain) describe various pieces of climate change legislation. However, so far, only the UK has a general Climate Change Act, which came into force in 2008. Excerpt from the UK report:

> "The Act creates a new legal framework for the UK to reduce greenhouse gas emissions to at least *80% below 1990 levels by 2050*. The Government is required to set five-year carbon budgets, which place binding limits on greenhouse gas emissions and define the trajectory towards the 2050 target.
>
> An important element of the new legislation was the setting up of an independent expert Committee on Climate Change which provides regular advice and monitoring of government progress. Following advice received in December 2008 from the Committee the Government announced the level of the first three carbon budgets (2008-2012, 2013-2017, and 2018-2022) and published its response to the Committee on Climate Change's advice alongside the Budget on 22 April 2009. The levels of the first three carbon budgets were approved by Parliament in May 2009, and are now set in law. They require greenhouse gas emissions to be reduced by at least 34% in the third budget period, relative to 1990 levels.
>
> In 2009 the Scottish Parliament passed the Climate Change (Scotland) Act 2009, clearly modelled on the 2008 Act but in some ways enhancing its provisions. It repeats the 80% reduction by 2050 but includes an interim target of a 42% reduction for Scotland by 2020. A Scottish Committee on Climate Change is set up with a similar role to the UK Committee.
>
> A distinctive feature of the Scottish legislation is a general duty placed on all public bodies requiring them to exercise their functions so as best to ensure delivery of the targets The Scottish Government must issue guidance to public bodies concerning their duties and in Sept 2010 issued a draft for consultation.

The unusual features of both these Climate Change Acts are their expression of precise long term targets as a legal duty. This is coupled with largely procedural requirements ensuring that the Government of the day is kept to task in accounting for progress in meeting the targets, particularly to Parliament. It is difficult to see how the long-term target duty could be enforceable by the court in any meaningful way but the duties to report by specific dates clearly are judicially enforceable. Furthermore we are already seeing a number of cases where the existence of the Act has had an impact - for example, the failure of the Government to reassess its policies on the expansion of London airport was held illegal in a 2009 decision of the High Court. The fact that these duties and goals are expressed in primary legislation mean that they are difficult to modify or weaken in the absence of express amendments by Parliament to the legislation, and to date the legislation has received cross-party support. It is all too easy for governments to change or diminish commitments expressed merely as policy, far less so where commitments are contained in legislation."

In Slovenia, a draft climate change act is at present under discussion in Parliament, but is met with resistance from industry.

In Norway, it has been proposed by several that such an act should be adopted. The climate act of United Kingdom is referred to as a possible model. Recently, the State Climate and Pollution Agency presented a formal proposal to the Ministry of the Environment to appoint a special Commission with the task of working out a draft Climate Act. The main elements in such an act should be a formal mechanism whereby the Parliament lays down clear reduction targets for CO2 emissions to be applied by the government, and followed up through regular reporting, much along the same lines as the UK Climate change Act. The second main element is to strengthen the climate change issue in all relevant legislation, across sectors and levels of decision-making. There should be a general obligation to assess future GHG emissions and/or uptake resulting from new policies, plans and project, and also an obligation to take this into account when decisions are made and make the assessment explicit and transparent. Today, climate concerns are probably a relevant factor to consider when exercising discretionary authority under most acts, but not anything like a mandatory consideration.

The issue of such an act is also discussed in Germany and Belgium.
Proposals of such an act did not succeed in: Ireland, Finland.

A possible general question for discussion:

- *What may be the most important function and content of such an act, and what are the pros and cons?*

Oslo, March 25, 2011

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