

MASARYK  
UNIVERSITY  
MONOGRAPHS

# EU PUBLIC CONSTRUCTION LAW

VOJTĚCH VOMÁČKA





**MUNI**  
**PRESS**



SCIENTIA  
EST  
POTENTIA



**MASARYK  
UNIVERSITY  
MONOGRAPHS  
VOL . 9**

# **EU public construction law**

**Vojtěch Vomáčka**

Department of Environmental Law and Land Law  
Faculty of Law, Masaryk University

## AUTHOR

Vojtěch Vomáčka is an Associate Professor and Head of Department at the Faculty of Law, Masaryk University. He also serves as a Legal Advisor to the Supreme Administrative Court of the Czech Republic. His expertise is recognised at the European level through his membership in the European Commission's expert group on access to justice in environmental matters. He is also a regular contributor to the training of judges and prosecutors for several national judicial academies as well as the Academy of European Law (ERA) in Trier.

## KEYWORDS

Public construction law; EU law; harmonisation; spatial planning; construction permitting; land use; public participation; Aarhus Convention; environmental impact assessment; Natura 2000; waste management; prevention of industrial hazards; noise pollution, maritime spatial planning; Trans-European Transport Network; energy efficiency of buildings; climate change; European Green Deal

This book will be made open access within three years of publication thanks to Path to Open, a program developed in partnership between JSTOR, the American Council of Learned Societies (ACLS), the University of Michigan Press, and the University of North Carolina Press to bring about equitable access and impact for the entire scholarly community, including authors, researchers, libraries, and university presses around the world. Learn more at <https://about.jstor.org/path-to-open/>.

The book has been reviewed by:

Dr. Kleoniki Poukli (*Utrecht University School of Law*)

JUDr. Matúš Michalovič, PhD. (*Faculty of Law, Comenius University in Bratislava*)

© 2025 Masaryk University

© 2025 Text by Vojtěch Vomáčka

© Cover by Vojtěch Vomáčka

© Layout by Václav Mekyska

ISBN 978-80-280-0779-9

ISBN 978-80-280-0778-2 (print)

<https://doi.org/10.5817/CZ.MUNI.M280-0779-2025>

# Table of contents

<b>Abbreviations</b> . . . . .	11
<b>List of Tables</b> . . . . .	15
<b>List of Cases</b> . . . . .	17
Court of justice of the european union . . . . .	17
Judgments and orders . . . . .	17
Opinions of Advocates General . . . . .	21
Aarhus convention compliance committee . . . . .	22
<b>Foreword</b> . . . . .	23
<b>Chapter 1 Introduction: The Dissonance of EU Public Construction Law</b> . . . . .	25
1.1 The Central Thesis: Legal Dissonance in a de facto Field of EU Law . . . . .	25
1.2 State of knowledge, aims, and methodology . . . . .	29
1.3 Core Terminology . . . . .	33
<b>Chapter 2 The Path to Indirect Harmonisation: The Failure of a Common Spatial Policy</b> . . . . .	37
2.1 Early Supranational Ambitions: The Council of Europe and the ERSP Charter . . . . .	39
2.2 The European Community's Approach: From Europe 2000 to the ESDP. . . . .	41
2.3 The Sovereignty Barrier: Why Direct Harmonisation Failed . . . . .	42
2.4 Public Participation in the Early Discourse . . . . .	48
2.5 A New Path Forward: The Rise of Environmental Law as an Indirect Driver . . . . .	49
2.6 Partial Conclusions and Takeaways . . . . .	62
<b>Chapter 3 The Normative and Procedural Framework</b> . . . . .	67
<i>Part I: The Procedural Baseline: Environmental Assessment</i> . . . . .	67
3.1 Project-Level Scrutiny: The Environmental Impact Assessment (EIA) Directive . . . . .	67
3.1.1 Evolution, Purpose, and Implementation Challenges . . . . .	67
3.1.2 The Scope of Assessment: Defining 'Project'. . . . .	73
3.1.3 The Screening Obligation: Thresholds and the Limits of Member State Discretion . . . . .	78

3.1.4	The Scope of Application: Defining ‘Development Consent’ . . . . .	81
3.1.5	Special Cases and Derogations . . . . .	86
3.2	Strategic-Level Scrutiny: The Strategic Environmental Assessment (SEA)	
Directive	. . . . .	89
3.2.1	Purpose and Procedural Significance of the SEA . . . . .	89
3.2.2	The First Condition: An Act “Required by Law”. . . . .	93
3.2.3	The Second Condition: “Setting the Framework” . . . . .	95
3.2.4	The Assessment of “Reasonable Alternatives”. . . . .	97
3.2.5	Public Participation in the SEA. . . . .	100
3.3	The Ecological Backstop: Appropriate Assessment under the Habitats	
Directive	. . . . .	102
3.4	Partial Conclusions and Takeaways . . . . .	109
	<i>Part II: The Aarhus Regime: Environmental Democracy as a Legal Mandate</i> . . . . .	110
3.5	The Three Pillars in EU Law: A Piecemeal Transposition . . . . .	116
3.6	Filling the Gaps: The CJEU’s Role in Enforcing the Aarhus . . . . .	129
3.7	Partial Conclusions and Takeaways: The Establishment of a Fragmented	
Procedural Framework	. . . . .	136
<b>Chapter 4</b>	<b>The Substantive Drivers of Harmonisation and Dissonance</b> . . . . .	<b>139</b>
4.1	Driver 1: Protective Regimes and Precautionary Balancing . . . . .	140
4.1.1	Nature Protection: The Substantive Obligations of the Natura 2000	
Directives	. . . . .	141
4.1.2	Water Protection: The Non-Deterioration Principle of the WFD. . . . .	142
4.1.3	Industrial Emissions Control: The IPPC/IED Framework. . . . .	151
4.1.4	Major Accident Hazards and Land-Use Planning: The Seveso	
Framework	. . . . .	156
4.1.5	Air Quality Protection and the New AAQRD Framework . . . . .	162
4.1.6	Environmental Noise Management. . . . .	165
4.1.7	Waste Management and the Circular Economy . . . . .	171
4.2	Driver 2: Prescriptive Targets and Accelerated Development . . . . .	176
4.2.1	Accelerating the Energy Transition: The Renewable Energy Directives. . . . .	177
4.2.2	Building Trans-European Networks (TEN-T and TEN-E) . . . . .	183
4.2.3	Mandating Alternative Fuels Infrastructure (The AFIR). . . . .	191
4.2.4	Mandating Building Performance: The EPBD Framework . . . . .	192
4.2.5	Mandating Overall Energy Savings: The Energy Efficiency Directive	
(EED). . . . .	. . . . .	195
4.3	Driver 3: Harmonisation through Market Regulation . . . . .	199
4.3.1	The Construction Products Regulation (CPR) . . . . .	199
4.3.2	Chemical Safety: The Reach of REACH and Asbestos Regulation . . . . .	202
4.3.3	Product Performance: Ecodesign and Energy Labelling . . . . .	204

4.4 Driver 4: Harmonisation through Financial Conditionality and Soft Governance . . . . .	206
4.4.1 Soft Governance: The Discourse of Territorial Cohesion. . . . .	206
4.4.2 Hard Governance: The Power of the EU Purse . . . . .	216
4.4.3 Governance through Procurement: The Role of GPP . . . . .	217
4.5 An Exception to the Rule: Direct Harmonisation of Maritime Spatial Planning . . . . .	218
4.6 Partial Conclusions and Takeaways: The Overall Impact of Dissonant Substantive Drivers. . . . .	222
<b>Chapter 5 The Green Deal Synthesis: A New Paradigm? . . . . .</b>	<b>235</b>
5.1 The Green Deal's Ambition: A New Legal and Economic Vision . . . . .	235
5.2 New Tool 1: Proactive Ecological Restoration (The Nature Restoration Law) . . . . .	237
5.3 New Tool 2: Digitalisation and Lifecycle Regulation (The CPR and DPPs) . . . . .	239
5.4 New Frontiers in Regulation: Soil, Waste, and Water Resilience . . . . .	240
5.5 Partial Conclusions and Takeaways: Towards a New Paradigm of Substantive Harmonisation. . . . .	243
<b>Chapter 6 Conclusions. . . . .</b>	<b>245</b>
6.1 The Enduring Dissonance . . . . .	245
6.2 The Trajectory of EU Law: Towards Substantive Harmonisation and Public Empowerment. . . . .	247
6.3 The Enduring Democracy Deficit . . . . .	248
6.4 The Contours of EU Public Construction Law: A Final Synthesis . . . . .	249
6.5 Final Reflections and Future Challenges . . . . .	254
<b>References . . . . .</b>	<b>257</b>
Journal articles . . . . .	257
Monographs. . . . .	266
Chapters in monographs . . . . .	268
Conference proceedings . . . . .	270
Policy documents and reports . . . . .	270
Guidelines . . . . .	273
Datasets, statistics and analyses . . . . .	275
Press releases and other documents . . . . .	276



# Abbreviations

**1979 Birds Directive** Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds

**1985 EIA Directive** Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment

**2002 EPBD** Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings

**2010 EPBD** Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (recast)

**2011 CPR** Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC

**2024 CPR** Regulation (EU) 2024/3110 of the European Parliament and of the Council of 27 November 2024 laying down harmonised rules for the marketing of construction products and repealing Regulation (EU) No 305/2011

**Aarhus Convention** UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters

**ACCC** Aarhus Convention Compliance Committee

**Air Quality Framework Directive** Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe

**Ambient Air Quality and Resilience Directive (AAQRD)** Directive (EU) 2024/2881 of the European Parliament and of the Council of 23 October 2024 on ambient air quality and cleaner air for Europe (recast)

**ARE Regulation** Council Regulation (EU) 2022/2577 of 22 December 2022 laying down a framework to accelerate the deployment of renewable energy

**Asbestos at Work Directive** Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work

**BATs** Best available techniques

**CDW** Construction and demolition waste

**CEAP** 2015 Circular Economy Action Plan [COM (2015) 614 final]

**CEN** European Committee for Standardization

**CENELEC** European Committee for Electrotechnical Standardization (*Comité Européen de Normalisation Électrotechnique*)

**CJEU** Court of Justice of the European Union

- CEMAT** European Conference of Ministers responsible for Regional Planning
- COTER** Commission for Territorial Cohesion Policy and EU Budget
- DG MOVE** Directorate-General for Mobility and Transport
- Directive on waste** Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste
- EAD** European Assessment Document
- EED** Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC
- Environmental Noise Directive** Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise – Declaration by the Commission in the Conciliation Committee on the Directive relating to the assessment and management of environmental noise
- EPCs** Energy Performance Certificates
- EPB Standards** Energy Performance of Buildings Standards
- EPBD** Directive (EU) 2024/1275 of the European Parliament and of the Council of 24 April 2024 on the energy performance of buildings (recast)
- EPD** Environmental Product Declaration
- EPER** European Pollutant Emission Register
- EPRTR** European Pollutant Release and Transfer Register
- ERDF** European Regional Development Fund
- ERDF Regulation** Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund
- ERSP Charter** European Regional/Spatial Planning Charter
- ESDP** European Spatial Development Perspective
- ESPON** European Spatial Planning Observation Network
- Espoo Convention** UNECE Convention on Environmental Impact Assessment in a Transboundary Context (1991)
- ETA** European Technical Assessment
- ETSI** European Technical Standard Institute
- EUDR** Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010
- Euratom** European Atomic Energy Community
- European Climate Law** Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law')
- GPP** Green Public Procurement

- IED** Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (recast)
- IED 2.0** Revised Industrial and Livestock Rearing Emissions Directive (2010/75/EU) as amended by Directive 2024/1785
- ILO** International Labour Organization
- INSPIRE Directive** Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)
- IPPC** Integrated Pollution Prevention and Control
- IPPC Directive** Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control
- LTRS** Long-Term Renovation Strategy
- LULUCF** Land Use, Land Use Change and Forestry
- Maastricht Treaty** Treaty on European Union (1992)
- Maritime Spatial Planning Directive** Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning
- MSP** Maritime Spatial Plan
- Nature Restoration Law** Regulation (EU) 2024/1991 of the European Parliament and of the Council of 24 June 2024 on nature restoration and amending Regulation (EU) 2022/869
- nCEAP** 2020 new Circular Economy Action Plan [COM (2020) 98 final]
- Nitrates Directive** Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources
- NGO** Non-governmental organisation
- NZEBs** Nearly Zero-Energy Buildings
- OJ** The Official Journal of the European Union
- REACH Regulation** Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC
- RED I** Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC
- RED II** Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources
- RED III** RED II amended by Directive (EU) 2023/2413 of the European Parliament and of the Council of 18 October 2023 amending Directive (EU) 2018/2001, Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652

- SAVE Directive** Council Directive 93/76/EEC of 13 September 1993 to limit carbon dioxide emissions by improving energy efficiency (SAVE)
- SEA** Strategic environmental assessment
- SEA Directive** Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment
- Seveso I Directive** Council Directive 82/501/EEC of 24 June 1982 on the major-accident hazards of certain industrial activities
- Seveso II Directive** Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances
- Seveso III Directive** Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC
- TAB** Technical Assessment Body
- TEIA** Transboundary environmental impact assessment
- TEN-E** Trans-European Energy Network
- TEN-E Regulation** Regulation (EU) 2022/869 of the European Parliament and of the Council of 30 May 2022 on guidelines for trans-European energy infrastructure, amending Regulations (EC) No 715/2009, (EU) 2019/942 and (EU) 2019/943 and Directives 2009/73/EC and (EU) 2019/944, and repealing Regulation (EU) No 347/2013
- TEN-T** Trans-European Transport Network
- TEN-T Directive** Directive (EU) 2021/1187 of the European Parliament and of the Council of 7 July 2021 on streamlining measures for advancing the realisation of the trans-European transport network (TEN-T)
- TEN-T Regulation** Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU
- UK** United Kingdom
- UN** United Nations
- UNCED** United Nations Conference on Environment and Development
- UNECE** United Nations Economic Commission for Europe
- Waste Framework Directive** Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives
- WEEE Directive** Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (recast)
- WFD** Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy

# List of Tables

<b>Tab. 1:</b> Evolution of noise limits for specific equipment used in construction (chapter 4.1.6) . . . . .	170
<b>Tab. 2:</b> Targets of selected eu energy legislation relevant to public construction law (chapter 4.2) . . . . .	177
<b>Tab. 3:</b> Main eu environmental requirements and their impact on public construction law (chapter 4.6) . . . . .	225
<b>Tab. 4:</b> Public participation requirements of the relevant eu environmental directives (chapter 4.6) . . . . .	231
<b>Tab. 5:</b> Eu incentives, policies and legislation relevant to public construction law (chapter 6.4) . . . . .	250
<b>Tab. 6:</b> Main legislative requirements relevant to public construction law (chapter 6.4) . . . . .	251
<b>Tab. 7:</b> Aims and references of the main plans or programmes mandated by eu law (chapter 6.4) . . . . .	252



# List of Cases

## Court of justice of the european union

### *Judgments and orders*

1. CJEU judgment of 27 March 1980, *Salumi and Others* (C-66/79, 127/79 and 128/79, EU:::)
2. CJEU judgment of 21 September 1983, *Deutsche Milchkontor and Others* (205/82 to 215/82, EU::1983:)
3. CJEU judgment of 8 July 1987, *Commission v. Belgium* (C-247/85, EU:C:1987:339)
4. CJEU judgment of 8 July 1987, *Commission v. Italy* (C-262/85, EU:C:1987:340)
5. CJEU judgment of 13 October 1987, *Commission v. Netherlands* (C-236/85, EU:C:1987:436)
5. CJEU judgment of 27 April 1988, *Commission v. France* (C-252/85, EU:C:1988:202)
6. CJEU judgment of 15 March 1990, *Commission v. Netherlands* (C-339/87, EU:C:1990:119)
7. CJEU judgment of 30 May 1991, *Commission v Germany* (C-361/88, EU:::)
8. CJEU judgment of 2 May 1996, *Commission v Belgium* (C-133/94, EU:::)
9. CJEU judgment of 24 October 1996, *Kraaijeveld and Others* (C-72/95, EU:::)
10. CJEU judgment of 18 December 1997, *Inter-Environnement Wallonie* (C-129/96, EU:C:1997:628)
11. CJEU judgment of 14 July 1998, *Safety Hi Tech* (C-284/95, EU:C:1998:352)
12. CJEU judgment of 16 July 1998, *Oelmühle and Schmidt Söhne* (C-298/96, EU:::)
13. CJEU judgment of 29 April 1999, *The Queen v Minister of Agriculture, Fisheries and Food, ex parte Standley and Others* (C-293/97, EU:C:1999:215)
14. CJEU judgment of 16 September 1999, *WWF and Others* (C-435/97, EU:C:1999:418)
15. CJEU judgment of 21 September 1999, *Commission v. Ireland* (C-392/96, EU:C:1999:431)
16. CJEU judgment of 3 February 2000, *Dounias* (C-228/98, EU:::)
17. CJEU judgment of 15 June 2000, *ARCO Chemie Nederland and Others* (C-418/97 and C-419/97, EU:C:2000:318)
18. CJEU judgment of 4 July 2000, *Commission v Greece* (C-387/97, EU:::)
19. CJEU judgment of 19 September 2000, *Linster* (C-287/98, EU:::)
20. CJEU judgment of 7 December 2000, *Commission v. France* (C-38/99, EU:C:2000:674)
21. CJEU judgment of 24 September 2002, *Grundig Italiana* (C-255/00, EU:::)
22. CJEU judgment of 11 September 2003, *AvestaPolarit Chrome* (C-114/01, EU:C:2003:448)
23. CJEU judgment of 7 January 2004, *Wells* (C-201/02, EU:C::)

24. CJEU judgment of 7 September 2004, *Van de Walle and Others* (C-1/03, EU:C:2004:490)
25. CJEU judgment of 7 September 2004, *Waddenvereniging and Vogelbeschermingsvereniging* (C-127/02, EU::2004:)
26. CJEU judgment of 16 September 2004, *Commission v Spain* (C-227/01, EU:C:2004:528)
27. CJEU judgment of 20 October 2005, *Commission v United Kingdom* (C-6/04, EU:C:2005:626)
28. CJEU judgment of 16 March 2006, *Commission v Spain* (C-332/04, EU::)
29. CJEU judgment of 26 October 2006, *Commission v Portugal* (C-239/04, EU:C:2006:665).
30. CJEU judgment of 9 November 2006, *Commission v Ireland* (C-216/05, EU::)
31. CJEU judgment of 1 March 2007, *KVZ retec* (C-176/05, EU:C:2007:123)
32. CJEU judgment of 13 March 2007, *Unibet* (C-432/05, EU::)
33. CJEU judgment of 10 May 2007, *Thames Water Utilities* (C-252/05, EU:C:2007:276)
34. CJEU judgment of 5 July 2007, *Commission v Italy* (C-255/05, EU:C:2007:406)
35. CJEU judgment of 18 December 2007, *Frigerio Luigi & C.* (C-357/06, EU::)
36. CJEU judgment of 28 February 2008, *Abraham and Others* (C-2/07, EU::)
37. CJEU judgment of 3 July 2008, *Commission v Ireland* (C-215/06, EU::)
38. CJEU order of 10 July 2008, *Aiello and Others* (C-156/07, EU:C:2008:398)
39. CJEU judgment of 25 July 2008, *Ecologistas en Acción-CODA* (C-142/07, EU:C:2008:445)
40. CJEU judgment of 25 July 2008, *Janecek* (C-237/07, EU::)
41. CJEU judgment of 20 November 2008, *Commission v Ireland* (C-66/06, EU:C:2008:637)
42. CJEU judgment of 4 December 2008, *Lahti Energia* (C-317/07, EU::)
43. CJEU judgment of 30 April 2009, *Mellor* (C-75/08, EU:C:2009:279)
44. CJEU judgment of 16 July 2009, *Commission v Ireland* (C-427/07, EU:C:2009:457)
45. CJEU judgment of 15 October 2009, *Djurgården-Lilla Värtans Miljöskyddsförening* (C-263/08, EU::)
46. CJEU judgment of 10 December 2009, *Umweltanwalt von Kärnten* (C-205/08, EU:C:2009:767)
47. CJEU judgment of 14 January 2010, *Stadt Papenburg* (C-226/08, ::)
48. CJEU judgment of 4 March 2010, *Commission v France* (C-241/08, EU:C:2010:114)
49. CJEU judgment of 15 April 2010, *Barth* (C-542/08, EU::)
50. CJEU judgment of 17 June 2010, *Terre wallonne and Inter-Environnement Wallonie* (C-105/09 and C-110/09, EU::)
51. CJEU judgment of 3 March 2011, *Commission v Ireland* (C-50/09, EU:C:2011:109)
52. CJEU judgment of 17 March 2011, *Brussels Hoofdstedelijk Gewest and Others* (C-275/09, ::)
53. CJEU judgment of 24 March 2011, *Commission v Belgium* (C-435/09, EU:C:2011:176)
54. CJEU judgment of 12 May 2011, *Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen* (C-115/09, EU::)
55. CJEU judgment of 26 May 2011, *Stichting Natuur en Milieu and Others* (C-165/09 to C-167/09, EU::)
56. CJEU judgment of 15 September 2011, *Franz Mücksch* (C-53/10, ECLI:EU:C:2011:585)
57. CJEU judgment of 22 September 2011, *Valčiukienė and Others* (C-295/10, EU:C:2011:608)

58. CJEU judgment of 18 October 2011, *Boxus and Others* (C-128/09, EU::)
59. CJEU judgment of 8 November 2011, *Q-Beef and Bosschaert* (C-89/10 and C-96/10, EU::)
60. CJEU judgment of 24 November 2011, *Commission v Spain* (C-404/09, EU:C:2011:768)
61. CJEU judgment of 15 December 2011, *Møller* (C-585/10, EU:C:2011:847)
62. CJEU judgment of 16 February 2012, *Solvay and Others* (C-182/10, EU::)
63. CJEU judgment of 28 February 2012, *Inter-Environnement Wallonie and Terre wallonne* (C-41/11, EU:C:2012:103)
64. CJEU judgment of 22 March 2012, *Inter-Environnement Bruxelles and Others* (C-567/10, EU::159)
65. CJEU judgment of 19 April 2012, *Pro-Braine and Others* (C-121/11, EU::)
66. CJEU judgment of 21 June 2012, *Sillogos Ellinon Poleodomon kai Khorotakton* (C-177/11, ::2012:)
67. CJEU judgment of 11 September 2012, *Nomarchiaki Aftodioikisi Aitoloakarnanias and Others* (C-43/10, EU::2012:)
68. CJEU judgment of 19 December 2012, *Commission v Italy* (C-68/11, EU:C:2012:815)
69. CJEU judgment of 15 January 2013, *Križan* (C-416/10, EU::)
70. CJEU judgment of 14 March 2013, *Leth* (C-420/11, EU:C:2013:166)
71. CJEU judgment of 21 March 2013, *Salzburger Flughafen* (C-244/12, EU:C:2013:203)
72. CJEU judgment of 11 April 2013, *Edwards and Pallikaropoulos* (C-260/11, EU::)
73. CJEU judgment of 18 July 2013, *Deutsche Umwelthilfe* (C-515/11, EU:C:2013:523)
74. CJEU judgment of 3 October 2013, *Commission v Latvia* (C-267/11 P, EU:C:2013:46)
75. CJEU judgment of 7 November 2013, *Gemeinde Altrip and Others* (C-72/12, EU::712)
76. CJEU judgment of 19 November 2013, *ClientEarth* (C-404/13, EU::)
77. CJEU judgment of 19 December 2013, *Fish Legal and Shirley* (C-279/12, EU:C:2013:853)
78. CJEU judgment of 16 January 2014, *Pohl* (C-429/12, EU::)
79. CJEU judgment of 13 February 2014, *Commission v United Kingdom* (C-530/11, EU::)
80. CJEU judgment of 27 March 2014, *Iberdrola Distribución Eléctrica* (C-300/13, EU:C:2014:188)
81. CJEU judgment of 16 April 2015, *Gruber* (C-570/13, EU::)
82. CJEU judgment of 1 July 2015, *Bund für Umwelt und Naturschutz Deutschland* (C-461/13, ::)
83. CJEU judgment of 16 July 2015, *Sommer Antriebs- und Funktechnik* (C-369/14, EU:C:2015:491)
84. CJEU judgment of 6 October 2015, *East Sussex County Council* (C-71/14, EU::)
85. CJEU judgment of 15 October 2015, *Commission v Germany* (C-137/14, EU:C:2015:683)
86. CJEU judgment of 14 January 2016, *Grüne Liga Sachsen and Others* (C-399/14, EU::)
87. CJEU judgment of 4 May 2016, *Commission v Austria* (C-346/14, EU::)
88. CJEU judgment of 27 October 2016, *D'Oultremont and Others* (C-290/15, ::)
89. CJEU judgment of 8 November 2016, *Lesoochránárske zoskupenie II* (C-243/15, EU:C:2016:838)

90. CJEU judgment of 10 November 2016, *Eco-Emballages SA* (C-313/15 and C-530/15, EU:C:2016:859)
91. CJEU judgment of 17 November 2016, *Stadt Wiener Neustadt* (C-348/15, EU:::)
92. CJEU judgment of 24 November 2016, *Bund Naturschutz in Bayern and Wilde* (C-645/15, EU:::898)
93. CJEU judgment of 21 December 2016, *Associazione Italia Nostra Onlus* (C-444/15, :::)
94. CJEU judgment of 5 April 2017, *Commission v Bulgaria* (C-488/15, EU:C:2017:267)
95. CJEU judgment of 1 June 2017, *Folk* (C-529/15, EU:::)
96. CJEU judgment of 26 July 2017, *Comune di Corridonia and Others* (C-196/16 and C-197/16, EU:::)
97. CJEU judgment of 27 September 2017, *Puškár* (C-73/16, EU:::)
98. CJEU judgment of 20 December 2017, *Protect Natur-, Arten- und Landschaftschutz Umweltorganisation* (C-664/15, EU:C:2017:987)
99. CJEU judgment of 22 February 2018, *Commission v Poland* (C-336/16, EU:C:2018:94)
100. CJEU judgment of 28 February 2018, *Comune di Castelbellino* (C-117/17, EU:C:2018:129)
101. CJEU judgment of 7 June 2018, *Inter-Environnement Bruxelles and Others* (C-671/16, :::)
102. CJEU judgment of 7 June 2018, *Thybaut and Others* (C-160/17, EU:C:2018:401)
103. CJEU judgment of 21 June 2018, *Poland v Parliament and Council* (C-5/16, EU:C:2018:483)
104. CJEU judgment of 7 August 2018, *Prenninger and Others* (C-329/17, EU:C:2018:640)
105. CJEU judgment of 17 October 2018, *Klohn* (C-167/17, EU:::)
106. CJEU judgment of 7 November 2018, *Coöperatie Mobilisation for the Environment and Others* (C-293/17 and C-294/17, EU:::)
107. CJEU judgment of 7 November 2018, *Holohan and Others* (C-461/17, EU:C:2018:883)
108. CJEU judgment of 7 November 2018, *Coöperatie Mobilisation for the Environment and Others* (C-293/17 and C-294/17, :::)
109. CJEU judgment of 8 May 2019, *Verdi Ambiente e Società (VAS) — Aps Onlus and Others* (C-305/18, EU:C:2019:384)
110. CJEU judgment of 12 June 2019, *Terre wallonne* (C-321/18, EU:C:2019:484)
111. CJEU judgment of 26 June 2019, *Craeynest and Others* (C-723/17, EU:C:2019:533)
112. CJEU judgment of 29 July 2019, *Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen* (C-411/17, :::)
113. CJEU judgment of 11 September 2019, *Călin* (C-676/17, EU:::)
114. CJEU judgment of 3 October 2019, *Wasserleitungsverband Nördliches Burgenland and Others* (C-197/18, EU:::)
115. CJEU judgment of 7 November 2019, *Flausch and Others* (C-280/18, EU:::)
116. CJEU judgment of 19 December 2019, *Deutsche Umwelthilfe* (C-752/18, EU:C:2019:1114)
117. CJEU judgment of 28 May 2020, *Land Nordrhein-Westfalen* (C-535/18, EU:C:2020:391)

118. CJEU judgment of 25 June 2020, *A. and Others* (C-24/19, EU::)
119. CJEU judgment of 9 September 2020, *Friends of the Irish Environment* (C-254/19, EU::)
120. CJEU judgment of 14 October 2020, *Sappi Austria Produktion and Wasserverband 'Region Gratkorn-Gratwein'* (C-629/19, EU:C:2020:824)
121. CJEU judgment of 14 January 2021, *Stichting Varkens in Nood and Others* (C-826/18, EU:C:2021:7)
122. CJEU judgment of 13 January 2022, *Commission v Slovakia* (C-683/20, EU:C:2022:22)
123. CJEU judgment of 24 February 2022, *Namur-Est Environment* (C-463/20, EU:C:2022:121)
124. CJEU judgment of 31 March 2022, *Commission v Portugal* (C-687/20, EU:C:2022:244).
125. CJEU judgment of 2 June 2022, *FCC Česká republika* (C-43/21, EU:C:2022:425)
126. CJEU judgment of 8 November 2022, *Deutsche Umwelthilfe (Réception des véhicules à moteur)* (C-873/19, EU:C:2022:857)
127. CJEU judgment of 17 November 2022, *Porr Bau* (C-238/21, EU:C:2022:885)
128. CJEU judgment of 22 December 2022, *Ministre de la Transition écologique and Premier ministre (Responsabilité de l'État pour la pollution de l'air)* (C-61/21, EU:C:2022:1015)
129. CJEU judgment of 25 May 2023, *WertInvest Hotelbetrieb* (C-575/21, EU:C:2023:425)
130. CJEU judgment of 6 July 2023, *Hellfire Massy Residents Association* (C-166/22, EU:C:2023:545).
131. CJEU judgment of 4 October 2024, *Friends of the Irish Environment* (C-727/22, EU:C:2024:825).
132. CJEU judgment of 8 May 2025, *Provincie Oost-Vlaanderen and Sogent* (C-236/24, EU:C:2025:321).

### **Opinions of Advocates General**

133. Opinion of Advocate General Fenelly of 16 September 1999, *Commission v France* (C-256/98, EU:C:1999:427)
134. Opinion of Advocate General Léger of 11 January 2000, *Linster* (C-287/98, EU::)
135. Opinion of Advocate General Stix-Hackl of 22 June 2006, *Commission v Ireland* (C-216/05, EU::006:)
136. Opinion of Advocate General Sharpston of 2 July 2009, *Djurgården-Lilla Värtans Miljöskyddsförening* (C-263/08, EU::)
137. Opinion of Advocate General Kokott of 4 March 2010, *Terre wallonne and Inter-Environnement Wallonie* (C-105/09 and C-110/09, EU:C:2010:120)
138. Opinion of Advocate General Kokott of 23 September 2010, *Stichting Natuur en Milieu and Others* (C-266/09, EU::)
139. Opinion of Advocate General Sharpston of 16 December 2010, *Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen* (C-115/09, EU:C:2010:773)
140. Opinion of Advocate General Sharpston of 19 May 2011, *Boxus and Others* (C-128/09 to C-131/09, C-134/09 and C-135/09, ::)

141. Opinion of Advocate General Kokott of 28 June 2011, *Commission v Spain* (C-404/09, :::)
142. Opinion of Advocate General Kokott of 13 October 2011, *Nomarchiaki Aftodioikisi Aitolokarnanias and Others* (C-43/10, :::)
143. Opinion of Advocate General Kokott of 14 July 2016, *D'Oultremont and Others* (C-290/15, :::561)
144. Opinion of Advocate General Kokott of 10 November 2016, *Commission v Bulgaria* (C-488/15, EU:C:2016:862)
145. Opinion of Advocate General Kokott, 30 March 2017, *Comune di Corridonia* (C-196/16 and C-197/16, EU:::)
146. Opinion of Advocate General Bobek of 19 October 2017, *North East Pylon Pressure Campaign and Sheehy* (C-470/16, EU:::)
147. Opinion of Advocate General Kokott of 25 January 2018, *Inter-Environnement Bruxelles and Others* (C-671/16, EU:C:2018:39)
148. Opinion of Advocate General Kokott of 30 April 2020, *Friends of the Irish Environment* (C-254/19, :C::)
149. Opinion of Advocate General J. Kokott of 27 January 2022, *FCC Česká republika* (C-43/21, EU:C:2022:64)
150. Opinion of Advocate General Pikamäe of 3 February 2022, *Czech Republic v Poland (Mine de Turów)* (C-121/21, EU:C:2022:74)
151. Opinion of Advocate General Kokott of 21 March 2024, *Friends of the Irish Environment* (C-727/22, EU:C:2024:266).

## **Aarhus convention compliance committee**

1. Case *Spain* ACCC/C/2009/36
2. Case *Armenia* ACCC/C/2009/43
3. Case *Ukraine* ACCC/C/2004/3, ACCC/S/2004/1
4. Case *Belgium* ACCC/C/2005/11
5. Case *Bulgaria* ACCC/C/2011/58
6. Case *European Union* ACCC/C/2010/54
7. Case *Netherlands* ACCC/C/2014/104
8. Case *Slovakia* ACCC/C/2009/41

# Foreword

Across Europe, few issues touch citizens' daily lives more directly than decisions about what gets built, where it is located, and how it affects the environment. Roads, bridges, housing developments, energy infrastructure, waste facilities—these are the visible expressions of law in action. And yet, as Vojtěch Vomáčka demonstrates in *EU Public Construction Law*, the legal framework that governs these decisions is anything but straightforward. It is fragmented, contested, and often hidden from view.

This book tells the story of how the European Union, without ever adopting a “common construction code,” has come to shape national planning and permitting systems more deeply than many realize. What began as isolated sectoral measures—an environmental directive here, a renewable energy target there—has, over time, accumulated into a comprehensive framework that no planner, regulator, or investor can ignore. The result is what the author aptly calls *legal dissonance*: a patchwork of ambitious but inconsistent rules that pull Member States in multiple directions at once.

For policymakers, this dissonance is not an abstract legal puzzle; it is a practical challenge with real consequences. A city that hopes to expand its housing stock may find its plans delayed by environmental impact assessments under the EIA Directive. A region eager to attract investment in renewable energy may struggle with overlapping requirements of the Renewable Energy Directive and the Habitats Directive. A government seeking EU funding for infrastructure must align with cohesion policy rules, green public procurement obligations, and energy-efficiency mandates. Each of these examples illustrates how European law is woven into the daily fabric of public construction.

One of the strengths of this volume is its ability to connect the dots. Chapter 2 shows how early efforts at a common spatial policy faltered, leaving environmental law to fill the vacuum. Chapter 3 unpacks the procedural foundations—the Environmental Impact Assessment, Strategic Environmental Assessment, and Aarhus regimes—that anchor public participation and ecological safeguards. Chapter 4 maps the substantive drivers of change, from Natura 2000 protections to the Construction Products Regulation. And Chapter 5 demonstrates how the European Green Deal is setting an entirely new course, with binding targets for restoration, digitalisation, and resilience.

These analyses matter because they equip decision-makers with the knowledge to navigate complexity. For a local mayor, understanding why EU noise directives

constrain urban development is as important as knowing which EU funds can support sustainable transport. For a national legislator, appreciating the scope of “development consent” under the EIA Directive can prevent costly litigation. For investors, the lesson is equally clear: the EU’s regulatory framework is not a peripheral constraint but a central determinant of project feasibility.

The book also does not shy away from hard truths. As Vomáčka notes, EU law has advanced sustainability, but it has also deepened the *democracy deficit*. Citizens have gained new rights to information and participation through the Aarhus Convention, yet these rights remain uneven in practice. If Europe is to achieve its climate and energy goals, it must also ensure that decision-making is transparent and accountable.

At a moment when Europe is investing billions in the green transition, this book could not be more timely. It provides a roadmap for aligning construction practices with climate goals, while warning of the pitfalls of fragmented regulation. It calls on policymakers to recognize the cumulative effect of EU rules, and on practitioners to embrace the opportunities they create. And it challenges all of us—lawyers, judges, planners, engineers, and citizens—to see public construction not as a narrow technical field but as a frontline of Europe’s future.

*EU Public Construction Law* is both a guide and a wake-up call. It reveals the invisible European layer beneath our buildings and roads, and it insists that we confront the dissonance that layer creates. In doing so, it empowers us to imagine a more coherent, democratic, and sustainable framework for the built environment.

*Jan M. Passer, Judge at the European Court of Justice*

# Chapter 1

## Introduction: The Dissonance of EU Public Construction Law

### 1.1 The Central Thesis: Legal Dissonance in a *de facto* Field of EU Law

Who holds the ultimate authority over land use in Europe? While the formal answer points to national parliaments and local planning offices, the substantive reality is that this power is now profoundly shaped by a fragmented and often dissonant European legal order that operates indirectly, without a formal mandate.

This book contends that a *de facto* field of **EU Public Construction Law** has emerged, not through deliberate design, but as the by-product of decades of uncoordinated sectoral policies. Its central characteristic, and the core thesis of this work, is a state of legal dissonance: a condition in which ambitious but conflicting EU requirements—for environmental protection, climate action, market integration—clash within the confines of national planning and permitting systems.

This book provides a comprehensive analysis of public construction law within the European Union. To be clear from the outset, there is no single EU legislative act for spatial planning or a harmonised building code. Yet, it is equally clear that European integration has revolutionised the construction industry, from the post-war industrialisation policies founded on coal and steel to the modern common market enabling the free movement of construction workers, building materials, and services.<sup>1</sup>

The EU's influence on national systems of spatial planning and construction permitting is complex, increasing, and often an unintended by-product of various sectoral measures. It is striking that, despite this profound influence, there is no comprehensive overview of these EU requirements. From a practical standpoint, therefore, it is both possible and necessary to conceptualise 'EU Public Construction Law' as the sum of this indirect regulation, which now imposes a comprehensive, albeit fragmented, set of requirements upon the Member States.

International projects and other cross-border activities have become a standard part of the European construction scene, and it is in the Union's interest to coordinate the development of its territory – especially as climate change has recently become a dominant topic in international, European, and national politics. This also applies to local politics, where it is reflected in climate policy objectives and urban land-use planning decisions, and, at the regional level, in spatial planning.

---

<sup>1</sup> See Drevet, J. *Histoire de la politique régionale de l'Union européenne*. 2008, Paris: Edition Belin, 285 p.

On the one hand, EU rules may restrict specific planning initiatives; on the other hand, they may stimulate developments in the spatial planning system. Similarly, individual projects can be significantly accelerated or postponed due to EU legal requirements and funding.

The **economic and societal significance** of this field cannot be overstated. The construction sector's gross value added constitutes approximately 5.5% of the EU's GDP,<sup>2</sup> with the European construction market valued in the trillions of euros.<sup>3</sup> The trajectory of this market is now explicitly driven by EU-level mandates; with stringent energy-efficiency regulations in place, the sector is focusing on the development of energy-efficient and sustainable designs. This growing influence<sup>4</sup> is primarily channelled through the EU's established sectoral competencies.

In particular, the environmental policy (Art. 191 TFEU), energy policy (Art. 194 TFEU), and transport policy concerning projects of common interest (Arts. 171 and 172 TFEU) give substantive shape to public construction law in the Member States. These policies and their corresponding legal instruments have defined the playing field for national legislators by focusing on the impacts of construction activity and the imperatives of sustainability. A wide range of EU legislation and incentives is relevant – not only traditional regulation, but also EU funding mechanisms, as well as the agenda and discourse set by European institutions.<sup>5</sup> This relationship works in both directions. As Blaas aptly points out, *“EU-policies have a lot of spatial impacts, and the spatial structures are, at the same time, a precondition and the subject matter of various EU policies.”*<sup>6</sup>

2 Eurostat. Gross fixed capital formation by AN\_F6 asset type [online]. 2022 [accessed on: 11 February 2023]. Available at: <[https://ec.europa.eu/eurostat/databrowser/view/NAMA\\_10\\_AN6\\_\\_custom\\_1514561/bookmark/table?lang=en&bookmarkId=e05fdc50-ed14-439a-8623-c5205dc1835a](https://ec.europa.eu/eurostat/databrowser/view/NAMA_10_AN6__custom_1514561/bookmark/table?lang=en&bookmarkId=e05fdc50-ed14-439a-8623-c5205dc1835a)>.

3 EMR. Europe Construction Market Share, Size, Analysis, Trends: By End Use: Residential, Healthcare, Hospitality, Others; By Residential Buildings and Single Units: Apartments/Flats, Detached Houses, Semi-Detached, Terraced Houses, Others; Regional Analysis; Competitive Landscape; Key Trends and Developments in the Market; 2023-2028 [online]. 2023 [accessed on: 10 March 2023]. Available at: <<https://www.expertmarketresearch.com/reports/europe-construction-market/toc>>, Research and Markets. Europe Construction Market Report and Forecast 2023–2028 [online]. 2023 [accessed on: 10 March 2023]. Available at: <<https://www.researchandmarkets.com/reports/5775269/europe-construction-market-report-forecast>>.

4 See Battis, U. *Öffentliches Baurecht und Raumordnungsrecht*. 2022, Kohlhammer Verlag, p. 2: *„In der EU, die auf einem Binnemarkt und ein hohes Maß an Umweltschutz un territorialem Zusammenhalt ausgerichtet ist, wird das öffentliche Baurecht zunehmend verändert, insbesondere durch die Pflicht zur Umsetzung umwelt- oder wirtschaftsrechtlicher Richtlinien.“*

5 COTER. Spatial planning and governance within EU policies and legislation and their relevance to the New Urban Agenda, 2018, p. 2.

6 Blaas, W. Introduction and Summary. In: Blaas, W. (ed.) *A New Perspective for European Spatial Development Policies*. 2019, Routledge, p. 11.

The primary thesis of this book is that this emergent field is defined by a state of **legal dissonance**. This term refers to a situation in which EU law shapes national public construction law through a web of advanced, overlapping, yet fundamentally uncoordinated, and at times contradictory, requirements. For instance, public participation is simultaneously encouraged and hindered by ambitious but inconsistent legislation. This dissonance is partly structural: the nature of EU decision-making, which must accommodate diverse national interests, often compels legislators to adopt loosely worded or vague legislation.

While this allows for flexibility, it also creates legal uncertainty – making it unclear, for example, what constitutes a “plan” or a “project” for assessment purposes. The legislation offers space for interpretation, leaving it vulnerable to the accusation of being too vague.<sup>7</sup> A narrowly interpreted scope can frustrate EU objectives, whereas an overly broad one can overburden investors and authorities.

This aim of this book is to determine the extent of this indirect harmonisation and to map the scope and nature of the resulting dissonant requirements. It seeks to answer three fundamental questions: *How did we arrive at this state? What are its current contours? What are its systemic challenges?* Such an analysis is essential. For national legislators, it is crucial to understand how much room for manoeuvring EU legislation provides; for building authorities and other administrative bodies, the ability to interpret the law in line with EU requirements is critical. Failures in this regard not only undermine the protection of the environment and other public interests, but also make urban development more expensive and increase the costs of public administration. This work concludes that, while the harmonisation of public construction law has advanced significantly through various EU policies, this development has been inconsistent, leaving a considerable degree of inventive transposition work to the Member States. It might seem that proper application of EU law is natural or even self-evident<sup>8</sup> but in practice, the level of enforcement by Member States is often unsatisfactory.

To maintain a clear analytical focus, a complex analysis of certain related areas of EU law remains outside the scope of this book – namely, **state aid, corporate social responsibility, market access, and worker safety**. While their impact on planning and construction practice, including emerging concepts such as smart cities<sup>9</sup>, is undoubtedly significant, these domains belong to public construction law (and other

---

7 Beunen, R. European nature conservation legislation and spatial planning: For better or for worse? *Journal of Environmental Planning and Management*, 2006, vol. 49, no. 4, p. 611.

8 See Farber, D. A. Taking Slippage Seriously: Noncompliance and Creative Compliance in Environmental Law. *Harvard Environmental Law Review*. 1999, vol. 23, p. 299.

9 See Vergnon, B. Warum Smart City ohne Corporate Social Responsibility scheitert. In: Herzner, A., Schmidpeter, R. (eds.) *CSR in Süddeutschland. Unternehmerischer Erfolg und Nachhaltigkeit im Einklang*. Berlin: Springer Gabler, p. 67–80.

legal fields<sup>10</sup>) in the broadest sense, much broader than the already extensive scope addressed here. Moreover, many measures in these areas are either voluntary in nature or apply only once certain thresholds are met. This also holds true for other policies that affect spatial development indirectly<sup>11</sup> within the framework of the common market.<sup>12</sup>

**State aid** law is a core pillar of EU competition law. Its fundamental rationale is to prevent the distortions of the internal market – a regulatory philosophy distinct from any of the four drivers analysed in this book, which are primarily concerned with environmental protection, energy transition, and regional cohesion. While a State aid decision may enable the construction of a factory, the legal test it applies (e.g., the Market Economy Operator Principle) is entirely different from an Environmental Impact Assessment or the conditions attached to for Cohesion Policy funding. Including State aid would therefore necessitate the explanation of a separate and highly specialised body of law, diverting attention from the book’s central focus on the legal dissonance among environmental, energy, and governance-based drivers.

State aid exceeding a certain threshold must be notified to the European Commission, which assesses whether the aid is permissible. State aid may be allowed if it does not distort the national or international market, or if overriding public interests are at stake.<sup>13</sup> However, it is not always clear whether particular policies, investments, or transactions should be classified as State aid in the context of spatial planning. In practice, the Commission adopts an expansive interpretation of what constitutes State aid, covering not only the payment of subsidies but also measures such as the sale of land below its market value. If the Commission harbours doubts about the compatibility of a measure with EU State aid rules, particularly with reference to the Guidelines on Regional State Aid,<sup>14</sup> it may launch an in-depth investigation. This occurred recently, for example, in the case of public support for the construction of a new automotive components plant in Hungary.<sup>15</sup>

---

10 Legislation in these areas plays an important role to play in enabling and supporting the Union in fulfilling its Green Deal policy objectives. See European Commission. Communication from the Commission – Guidelines on State aid for climate, environmental protection and energy 2022. OJ C 80, 18. 2. 2022, p. 1–8.

11 See Lezaun, J., Groenleer, M. Food control emergencies and the territorialization of the European Union. *European Integration*, 2006, vol. 28, no. 5, p. 437–455.

12 See Korthals Altes, W., K. The Single European Market and land development. *Planning Theory and Practice*, 2006, vol. 7, no. 3, p. 247–266.

13 See the Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codification). OJ L 248, 24. 9. 2015, p. 9–29.

14 European Commission. Communication from the Commission Guidelines on regional State aid. C (2021) 2594, OJ C 153, 29. 4. 2021, p. 1–46.

15 European Commission. State aid: Commission opens in-depth investigation into Hungarian support for new auto parts plant in Észak Magyarország. Press Release, 27. 10. 2022, IP/22/6371.

**Corporate Social Responsibility (CSR)** is not a form of EU law that harmonises Member State public construction rules. CSR frameworks are primarily voluntary, corporate-led initiatives. While concepts like “smart cities” may draw on these frameworks, CSR does not constitute a legal driver of harmonisation imposed by the EU on public authorities. This book focuses on the binding legal and regulatory obligations that define the field of EU Public Construction Law; CSR, by contrast, operates in a distinct, non-binding normative sphere.

**Market access** requirements are undoubtedly of high importance to the construction industry. However, EU provisions on the freedom to provide construction services<sup>16</sup> apply only to conditions concerning access to, or the exercise of, a service activity. They do not extend to substantive requirements such as rules on spatial planning, construction permits, or building standards.

**Worker safety** is likewise excluded as a distinct and specialized area of law,<sup>17</sup> except where it closely overlaps with construction material regulation – most notably in relation to asbestos (see Chapter 4.3.2). It is a field of EU social policy, based on Article 153 TFEU, with objectives centred on the protection of workers rather than the harmonisation of land-use planning or building rules. While the directive on safety at construction sites does apply to construction processes, it does not regulate what may be built or where. Excluding this area reinforces the analytical clarity of the book’s focus on the specific legal drivers that shape planning and permitting. The exception for asbestos is justified where market regulation of a product (via REACH) and worker safety legislation intrinsically intersect.

## 1.2 State of knowledge, aims, and methodology

A comprehensive study of this nature is necessitated by a distinct gap in current legal and planning scholarship. While several influential monographs<sup>18</sup> have provided invaluable insights into the economic and social aspects of European planning systems, they have not yet engaged in sufficient depth with the emergent legal dimension of EU public construction law. Much of the existing literature focuses on the Europeanisation of spatial planning as a policy *discourse*, carried forward by instruments such as the

---

16 Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market. OJ L 376, 27. 12. 2006, p. 36–68.

17 See, for example, Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC). OJ L 245, 26. 8. 1992, p. 6–22.

18 See Newman, P., Thornley, A. *Urban Planning in Europe. International competition, national systems and planning projects*. 1996, London: Routledge, 304 p.; Balchin, P., Sýkora, L., Bull, G. *Regional Policy and Planning in Europe*. London: Routledge, 1999, 304 p.; Larsson, G. *Spatial Planning Systems in Western Europe. An Overview*. Stockholm: Royal Institute of Technology, 2006, 290 p.

European Spatial Development Perspective (ESDP), the INTERREG programmes, and the research of the European Spatial Planning Observation Network (ESPON).<sup>19</sup> These works have successfully tracked the influence of EU policies on national planning systems, with some scholars concluding that policy content is more susceptible to convergence than underlying policy structures or styles.

However, the specific legal requirements arising from EU policies are typically analysed in isolation, without a holistic understanding of their cumulative and interactive effects on planning and construction processes. A wide range of publications discusses the problematic implementation of environmental directives in particular Member States<sup>20</sup> or the impact of EU law on national environmental policies.<sup>21</sup> For example, Liefferink and Jordan<sup>22</sup> conclude that while the EU has influenced some aspects of the contents of national environmental policies, it has not succeeded in altering their fundamental composition or design. In other words, policy content is more susceptible to convergence under EU influence than policy structures or administrative styles. This observation highlights the increasing relevance of EU-level legal regulation, which must be implemented in a prescribed manner.

Many scholars have sought to articulate the benefits of public intervention in spatial planning, implementation, and control. Some have specifically examined EU influences, particularly Faludi, who effectively summarises arguments concerning public intervention as responses to externalities, lost opportunities, public goods, and equity considerations,<sup>23</sup> and Waterhout, who focuses on the institutionalisation of European spatial planning.<sup>24</sup>

---

19 See Böhme, K., Schön, P. From Leipzig to Leipzig. Territorial Research Delivers Evidence for the New Territorial Agenda of the European Union. *disP – The Planning Review*, 2006, vol. 42, no. 165, p. 61–70.

20 See Hiedanpää, J. European-wide conservation versus local well-being: the reception of the Natura 2000. Reserve Network in Kaarvia, SW-Finland. *Landscape & Urban Planning*, 2002, vol. 61, p. 113–123; Krott, M., Julien, B., Lammertz, M., Barbier, J.-M., Jen, S., Ballestreros, M. & De Bovis, C. Voicing Interests and Concerns: Natura 2000: An ecological network in conflict with people. *Forest Policy and Economics*, 2000, no. 1, p. 357–366; Ledoux, L., Crooks, S., Jordan, A. & Kerry Turner, R. Implementing EU biodiversity policy: UK experiences. *Land Use Policy*, 2000, vol. 17, p. 257–268.

21 See Ravesteyn, N. van, Evers, D. Unseen Europe. *A survey of EU politics and its impact on spatial development in the Netherlands*. The Hague/Rotterdam: Ruimtelijk Planbureau/NAI Uitgevers, 2004, 86 p.

22 Liefferink D., Jordan A. An 'Ever Closer Union' of National Policy? The Convergence of National Environmental Policy in the European Union. *Queens papers*, 2002, no. 10.

23 See for example Faludi, A. The performance of spatial planning, *Planning Practice & Research*, 2000, vol. 15, no. 4, p. 299–318; Faludi, A. Centenary paper: European spatial planning: past, present and future. *Town Planning Review*, 2010, no. 81, p. 1–22.

24 Waterhout, B. *The institutionalisation of European Spatial Planning*. Amsterdam: IOS Press 2008, 240 p.

The Europeanisation of spatial planning through territorial cooperation has been a recurring subject in academic discourse.<sup>25</sup> However, environmental law and public participation have often been excluded from such analyses, with only limited exceptions. As Evans noted in 1997,<sup>26</sup> planning has been found insufficient in addressing the complex environmental challenges of contemporary society. In 2008, Meijer and Visscher observed that the building regulatory field had not yet attracted sustained scholarly attention.<sup>27</sup>

There remains a notable gap in the literature: there is still no comprehensive account of which planning concepts and construction projects are subject to the full suite of environmental and energy-related requirements, how overlapping assessments might be streamlined, or how disparate permitting procedures could be integrated. At present, the domains of public construction law, European legal harmonisation, and public participation are largely treated as separate areas of academic inquiry. This central contribution of this book is to bridge these gaps by providing an integrated analysis that focuses on the underlying issues within a full legal framework.

The contemporary analysis of EU Public Construction Law must also acknowledge a paradigm shift. The Union's policy orientation has evolved from predominantly framework-based environmental regulation to a more assertive, outcome-driven strategy aimed at achieving profound transformation, most vividly embodied in the European Green Deal. The "new tools" introduced by this agenda, such as the legally binding quantitative targets of the Nature Restoration Law,<sup>28</sup> signify a shift towards ensuring measurable environmental improvements. These developments require substantive amendments to national legal frameworks.

Against this backdrop, the **primary objective of this book** is to identify and analyse the most essential legal requirements that indirectly shape EU public construction law. The analysis focuses on provisions applicable during the preparation of major land-use plans and the permitting of significant construction projects, both public and private, that may have a substantial impact on the surrounding environment. Requirements concerning building materials and the energy efficiency of buildings, which necessarily affect the construction sector more broadly, are also taken into account.

---

25 For an overview academic papers, see Dühr, S., Stead, D., Zonneveld, W. The Europeanization of spatial planning through territorial cooperation. *Planning Practice & Research*, 2007, vol. 22, no. 3, p. 291–307.

26 Evans, B. From town planning to environmental planning in Blowers, A., Evans, B. (eds.) *Town planning into the 21st century*. London: Routledge, 1997, p. 1–14.

27 Meijer, F., Visscher, H. Building regulations from an European perspective. *COBRA 2008: The construction and building research conference of the Royal Institution of Chartered Surveyors*, 2008, p. 5.

28 Regulation (EU) 2024/1991 of the European Parliament and of the Council of 24 June 2024 on nature restoration and amending Regulation (EU) 2022/869. OJ L, 2024/1991, 29. 7. 2024.

The **methodology** adopted is analytical and historical rather than purely descriptive. There are two principal approaches to such an analysis: one may offer a static overview of the legislation, or one may explain when and why these requirements were incorporated into EU law. This book adopts the latter approach, as it better highlights the gradual, often spontaneous, and path-dependent evolution of EU law in this field. This method allows for an examination not only of the current legal framework but also of legislative shortcomings and alternative trajectories that were ultimately not pursued, putting greater emphasis on the process by which these requirements came into being.

To assess the intensity of individual requirements, this study applies the concept of **coupling**, as introduced by scholars such as Evers and Tennekes.<sup>29</sup> This concept categorises the relationship between an EU policy and a national procedure as either strong or weak based on whether the requirement is expressive and direct, or merely implies relevance. Strong coupling denotes direct, expressive requirements that must be integrated into national public construction law procedures. Weak coupling refers to requirements whose relevance is indirect or implied, yet for which public construction law procedures offer a suitable vehicle for implementation.

The **structure of the book** follows a thematic logic designed to unpack the legal dissonance.

- **Chapter 2** traces the historical development of indirect harmonisation, explaining the failure of early attempts to establish a common spatial policy.
- **Chapter 3** sets out the overarching normative and procedural framework, covering the core assessment mechanisms (EIA, SEA, Habitats) and the environmental-democratic principles of the Aarhus regime.
- **Chapter 4** forms the analytical core, examining the substantive drivers of harmonisation and dissonance by contrasting the regulatory models of protective regimes, prescriptive targets, market regulation, and financial-governance mechanisms.
- **Chapter 5** analyses the European Green Deal as an attempt to create a new synthesis and examines its transformative impact on the field.
- **Chapter 6** provides the final conclusions.

This approach involves certain acknowledged **limitations**. The extensive scope of the book does not allow for an exhaustive analysis of every relevant issue. The focus is therefore placed on the most critical issues identified: the interpretation of general legal concepts and the content of public participation requirements. Furthermore, the selection of which “other” EU policies to include is inevitably subjective to some

---

<sup>29</sup> See Evers, D., Joost, T. *The Europeanisation of spatial planning in the Netherlands. Policy Report*. Hague: PBL Netherlands Environmental Assessment Agency, 2016, 106 p.

extent. Finally, the analysis necessarily focuses more on procedural and framework requirements than on the full substance of all applicable technical rules, a reflection of the process-oriented nature of much EU harmonisation law.

This book is based on the legal situation as of **1 June 2025**.

### 1.3 Core Terminology

The central concept, **public construction law**, is conceived in line with the German legal tradition of *Öffentliches Baurecht*. It is understood as the body of law encompassing not only construction permitting but also the antecedent processes of land-use planning,<sup>30</sup> as well as the substantive technical standards and environmental protection requirements governing them.<sup>31</sup> It is a field oriented, above all, to the interests of the common good.<sup>32</sup> Although the EU itself does not formally employ this term, the concept is reflected in the cumulative effect of its regulations<sup>33</sup> and is a recognised feature of numerous Member State legal systems. This book clearly distinguishes it from private construction law, which lies outside the scope of this analysis.

The terms **spatial planning** and **construction permitting** are used in a deliberately neutral manner, avoiding favouritism towards any specific national system<sup>34</sup> and adhering to the supranational, “Euro-English” character of the legal requirements. The fact that EU law covers a wide variety of planning instruments without imposing direct harmonisation, makes this neutral approach necessary, which also applies to the interpretation of areas of various plans and programmes.

---

30 See Battis, U. *Öffentliches Baurecht und Raumordnungsrecht*. 2022, Kohlhammer Verlag, p. 1: “Das öffentliche Baurecht umfasst die Gesamtheit der Rechtsvorschriften, die die Zulässigkeit un Grenzen, die Ordnung und die Förderung der Nutzung des Bodens, insbesondere durch Errichtung baulicher Anlagen, deren bestimmungsgemäße Nutzung, wesentliche Verärderung und Beseitigung betreffen.“

31 See Conrad, C. *Öffentliches Baurecht und die Genehmigungsvoraussetzungen Schnelleinstieg für Architekten und Bauingenieure*. Springer Vieweg, 2020, p. VII: “Der eigentlichen Bauausführung voraus geht im weitesten Sinne das öffentliche Baurecht. Dieses befasst sich mit der Frage der Genehmigungsnotwendigkeit und -fähigkeit eines Bauwerks, mit den von ihm zu erfüllenden technischen Standards in Bezug auf die zu verwendenden Materialien, der Frage der Ausführung in Bezug auf Standsicherheit und Feuerbeständigkeit und den sonstigen Anforderungen wie bspw. Der Energieeffizienz oder des Abstands zwischen Bauwerken. Es kann grob eingeteilt werden in das Raumordnungsrecht, das Landesplanungsrecht, das Bauplanungsrecht, das Bauordnungsrecht und das sonstige öffentliche Baurecht, bspw. die Musterrichtlinien der Gefahrenabwehr im Brandschutz.“

32 See Muckel, S., Ogorek, M. *Öffentliches Baurecht*. C.H. Beck: München, 2014, p. 5.

33 See examples in Wirth, A., Schneeweiß, A. *Öffentliches Baurecht praxisnah. Basiswissen mit Fallbeispielen*. 2019, Springer Vieweg, p. 2.

34 A number of definitions of spatial planning exist and the scope of spatial planning differs greatly from one country to another. See UNECE. *Spatial Planning: Key Instrument for Development (ECE/HBP/146)*. Economic and Social Council. Geneva: UNECE, 2008, p. 5.

For example, the terms *development of land* and *town and country planning* used by the CJEU<sup>35</sup> should not be interpreted as having a specific legal meaning that restricts the scope of application of EU requirements, but instead, they function as general categories covering all acts subject to Art. 3(2)(a) of the SEA Directive, regardless of how both terms are translated into national languages.<sup>36</sup>

Spatial planning is used relatively frequently in EU legislation. It is broadly understood as the set of methods used by the public sector to influence the distribution of activities across specific locations. As the EU Compendium of Spatial Planning Systems and Policies notes, the term when used in an EU context should not be seen as a direct equivalent to national terms such as *aménagement du territoire* or *Raumordnung*.<sup>37</sup> Within this broad category, a distinction is made:

- **Spatial development policy** is used to refer to the broader, strategic, and often political dimension of planning, as seen in instruments like the ESDP and the Territorial Agenda.
- **Land-use planning** is used more specifically to denote the procedural and legal effect of EU environmental requirements on the concrete planning instruments of the Member States. This distinction is embedded in much of the EU's environmental legislation.

Within the broad category of spatial planning, the EU is more active in shaping *spatial development policy* (long-term strategy) than in the *mere* development or planning procedures (*land-use planning*). The spatial development policy aligns with the broader meaning than the concept of development, which is why it is more appropriate to use when relating to general policy issues addressed, for example, in the European Spatial Development Perspective (ESDP) and the Territorial Agenda. Therefore, the term *spatial development* is used mainly to emphasise the predominantly political dimension of spatial planning, whereas *land use planning* is used to emphasise the indirect effect of the EU environmental requirements on the specific procedure of spatial planning. This distinction between *land-use planning* and *development policy* is also present in EU environmental legislation – and has existed since the early 1990s.<sup>38</sup>

35 CJEU judgment of 22 March 2012, *Inter-Environnement Bruxelles and Others* (C-567/10, EU:., paras 28–29).

36 The French text of the SEA Directive uses the words “*l’aménagement du territoire*” and “*l’aménagement des sols*”, the German version “*Raumordnung*” and “*Bodennutzung*”, Italian “*assetto del territorio*” and “*pianificazione del territorio*”, Dutch text refers in both cases to “*de ruimtelijke ordening*”, Polish text uses “*planów zagospodarowania przestrzennego lub użytkowania gruntu*”, similarly to Slovak (“*plánovanie miest a vidieka alebo využívanie územia*”) language version, while the Czech translation seems too literal regarding the latter term (“*územního plánování nebo využívání půdy*”).

37 European Commission. The EU compendium of spatial planning systems and policies, 1997, para. 23.

38 See the Habitats Directive, preamble: “...*land-use planning and development policies should encourage the management of features of the landscape which are of major importance for wild fauna and flora*”.

**Construction permitting** is not a term explicitly used in EU law, which instead refers either to a specific act (*development consent*) or to a process (*development and construction*). For the sake of clarity, this book employs *construction permitting* as an umbrella term encompassing all necessary procedures for authorising a particular project. This may include separate land-use and building permits or a single, integrated procedure leading to what EU law often terms “development consent”.

While this book does not aim to resolve long-standing terminological debates, such as the nuanced distinction between “**spatial**” and “**territorial**”, the very existence of such ambiguities is symptomatic of the legal dissonance that is the subject of this study. The distinction between the two terms is analytically crucial, as the EU’s direct influence is typically exerted at the level of ‘spatial development policy’ through soft law instruments, whereas its binding legal requirements indirectly constrain ‘land-use planning’ through sectoral legislation. Likewise, a detailed theoretical examination of the various concepts of **public participation** (e.g., *civic engagement, public involvement, advocacy planning, citizen participation, collaborative planning, inclusive partnership*<sup>39</sup>) is deferred to the relevant analytical chapter. For the purposes of this introduction, the term is used in its general sense as it most commonly appears in EU law, encompassing both consultation and active involvement.

Finally, the terms **EU** or **European Union** are used interchangeably to refer to both the current entity and its predecessor, the European Community, unless the historical context requires a specific distinction. A similar logic is applied to references to EU institutions and to the term **Member States**, which includes the United Kingdom in historical discussions. The *Court of Justice* and the *General Court/Tribunal* are generally distinguished when citing individual decisions, although the Court of Justice is typically referred to as the CJEU.

---

39 See Healey, P., Civic Engagement, Spatial Planning and Democracy as a Way of Life. *Planning Theory and Practice*, 2008, vol. 9, no. 3, p. 379–382.



## Chapter 2

# The Path to Indirect Harmonisation: The Failure of a Common Spatial Policy

To comprehend the contemporary landscape of legal dissonance that defines EU public construction law, one must first understand its historical origins. The present-day system of indirect, fragmented, and sectoral regulation did not emerge from deliberate design but evolved in response to a political and legal vacuum left by the failure of early ambitions to establish a coherent, EU-wide spatial planning policy. Understanding this history is not merely a descriptive exercise; it is fundamental to the central argument of this book, as the ‘ghost’ of this failed direct harmonisation continues to haunt the fragmented system that exists today.

This chapter elucidates that historical contingency. It traces the various attempts, from the 1960s to the turn of the century, to integrate spatial planning into the broader European project.

There have been several attempts to make spatial planning part of the embryonic European project.<sup>40</sup> Even without formal success, the relationship – and, given the definition of EU competencies, the imbalance – between EU policies and the regulation of public construction law in individual Member States has long been perceived and addressed. Therefore, as early as the **early 1960s**, there were efforts to steer and coordinate the starting points and objectives of the spatial planning processes in European countries.<sup>41</sup>

These attempts closely mirrored developments at the national level. The benefits of cross-border collaboration on spatial development issues have long been recognised. Initiatives such as the Conference of Regions of Northwest Europe (CRONWE), set up in 1962, or the establishment of the German-Dutch Spatial Planning Commission (*Deutsch-Niederländische Raumordnungskommission*) in 1967, helped raise awareness of the interdependencies among European states and regions, and the need for coordinated action. The Benelux countries were arguably most active in spatial planning cooperation, followed by the Baltic Sea Region countries.<sup>42</sup>

By contrast, requirements for construction materials and permitting procedures remained largely absent from early discussions. For a long time, the focus of

---

40 Faludi, A., van der Valk, A. J. *Rule and Order: Dutch Planning Doctrine in Century*, Dordrecht Kluwer, 1994, 318 p.

41 Faludi, A. Centenary paper: European spatial planning: past, present and future. *Town Planning Review*, 2010, no. 81, p. 1–22.

42 See Dühr, S., Stead, D., Zonneveld, W. The Europeanization of spatial planning through territorial cooperation. *Planning Practice & Research*, 2007, vol. 22, no. 3, p. 291.

negotiations at the European level was more on *how to develop* in the shared European territory than on *how to build*. This is hardly surprising, as, unlike political disputes over synergy or cooperation of the most important urban areas of the continent, there was no significant political or social incentive to initiate harmonising building rules.

The situation substantially changed as the common market strengthened and matured. The construction industry could no longer escape efforts to remove technical barriers to trade. One milestone was the development of the construction products *acquis* in the late 1980s.

A second, closely related factor, was the growing concern for public health and safety. For example, the European standardisation of fire and safety measures did not begin until the 1990s. The key growth period in this field occurred between 2000 and 2010 and witnessed the finalisation of EN test methods, the development of the EN 13501 classification standards, the adoption of extended applications rules, and the issuance of European Technical Approvals.<sup>43</sup>

Finally, environmental concerns gradually emerged on the European scene long before the establishment of an EU stand-alone environmental policy. Many of the environmental requirements set by the EC/EU have significantly influenced both spatial planning and construction permitting. However, as will be seen, these requirements are not directly or explicitly aimed at public construction law, thereby placing greater demands on their interpretation and implementation by the Member States.

Public participation requirements were not a core element of the first attempts to harmonise public building law at the European level. At the national level, however, it is possible to observe commitments to deepening democracy through broader citizen participation, often dating back to the 1970s.<sup>44</sup> It was arguably these national commitments and their associated tendencies, later intensified following the collapse of the communist regime in Central and Eastern Europe, that set the stage for public engagement at the EU level, either directly or indirectly through the implementation of the Aarhus Convention.

---

43 See Lopéz, S. Benefits and Disadvantages of the European Standardisation. In: Carvel, R. (ed.) *Fire & Building Safety in the Single European Market*. University of Edinburg, School of Engineering and Electronics, 2008, p. 34–38.

44 See Healey, P., Civic Engagement, Spatial Planning and Democracy as a Way of Life. *Planning Theory and Practice*, 2008, vol. 9, no. 3, p. 379–382.

## 2.1 Early Supranational Ambitions: The Council of Europe and the ERSP Charter

The first significant initiatives concerning spatial planning at the European level were advanced not within the European Community, but through the Council of Europe. As early as 1961, this body passed a resolution highlighting the spatial dimension of human rights.<sup>45</sup> This early discourse was carried forward by the European Conference of Ministers responsible for Regional Planning (CEMAT), whose work culminated in the adoption of the **European Regional/Spatial Planning Charter (ERSP Charter)** in Torremolinos in 1983.

The ERSP Charter was a landmark document that aimed to define the discipline of spatial planning and its objectives on a continental scale. It defined regional/spatial planning as a scientific discipline, an administrative technique, and a policy developed as “*an interdisciplinary and comprehensive approach directed towards balanced regional development and the physical organisation of space according to an overall strategy*”.<sup>46</sup> Its aim was to ensure spatially balanced and sustainable development in accordance with the principle of a “polycentric approach” to spatial planning. In accordance with the principle of a ‘polycentric approach’ to spatial planning, a concept designed to counter the trend of development concentrating in a single ‘core’ of Europe.<sup>47</sup>

Crucially, the ERSP Charter identified shared planning principles that would later be echoed in binding EU environmental legislation. These included the pursuit of balanced socio-economic development, ensuring the quality of life, the responsible management of nature and the environment, and the rational use of land.<sup>48</sup> The influence of these principles was significant, with many being gradually embodied in EU environmental law and incorporated into national and regional planning legislation across Europe.<sup>49</sup> This early framework, conceived outside the Community’s legal order, thus provided the intellectual groundwork and normative vision for a harmonised approach, even if it lacked the legal force to mandate it.

While the ERSP Charter was a normative milestone, its status as a non-binding instrument from outside the Community’s legal order meant that its direct influence

45 See Déjeant-Pons, M. The European Conference of Ministers responsible for Regional Planning (CEMAT). *Informationen zur Raumentwicklung*. 2003, no. 7, p. 401–410.

46 ERSP Charter, Art. 9.

47 Davoudi, S. Polycentricity in European Spatial Planning: From an Analytical Tool to a Normative Agenda. *European Planning Studies*, 2003, vol. 11, no. 8, p. 979–999.

48 ERSP Charter, Art. 14–17. See Albers, G. Die Ziele der Raumplanung und die Charta von Torremolinos, *disP – The Planning Review*, 1987, vol. 23, no. 87, p. 5–12.

49 See Öhlinger, T., Weimar, R. (eds.) *Die Europäische Raumordnungscharta – The European Regional/Spatial Planning Charta-La Charte Européenne de l’Aménagement du Territoire*, 1991, Peter Lang GmbH, Internationaler Verlag der Wissenschaften, 362 p.

Vážení čtenáři, právě jste dočetli ukázkou z knihy ***EU public construction law***.  
Pokud se Vám ukázka líbila, na našem webu si můžete zakoupit celou knihu.