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### Introduction

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# INTRODUCTION

Martha M. ROGGENKAMP and Catherine BANET

The European Energy Law Report XIII presents an overview of the most important developments in the field of International, European Union (EU) and national energy and climate law as discussed at the 29th and 30th European Energy Law Seminars, which were held on 22–23 January 2018 and on 21–22 January 2019, respectively, in The Hague, the Netherlands. Although a wide range of topics and developments were discussed at the seminars, we recognise that the common thread is the liberalisation of the energy market in combination with the increased use of renewable energy sources (RES). New types of RES are being introduced and more and more often they take the form of distributed energy sources. As a result, new market parties are gradually emerging, which play an increasingly important role as providers of flexibility services. However, changes are also taking place with regard to traditional RES, i.e. hydropower. Countries like Norway, France, Italy and Portugal, where hydropower has traditionally played an important role, are currently assessing the existing legal regime and the extent to which these markets need to be further liberalised or even privatised. The energy transition process is thus faced with new investments, which can take many shapes and forms. One of them is using Guarantees of Origin (GOs), a certificate-based tracking system for electricity generation attributes. In addition, the European Commission has presented a Regulation that aims at the screening of foreign direct investments into the EU. However, the process of energy transition has also led to an opposite development: the closure of coal-fired power plants and nuclear facilities due to climate change or environmental concerns. Closely related to the latter is the issue of the decommissioning of oil and gas installations in the North Sea. Although the issue of ‘decommissioning’ involves the removal of disused installations, coastal states are faced with the need to balance economic and environmental interests when deciding about the extent to which installations need to be removed. The issue of decommissioning can be linked to the use of carbon capture and storage (CCS) technologies, which are one of the instruments to reduce carbon dioxide (CO<sub>2</sub>) emissions and which may rely on the opportunity to re-use and re-purpose offshore installations. Last but not least, RES generation and CCS are climate mitigation instruments that can be

used to reduce CO<sub>2</sub> emissions; both are often considered in national climate plans and climate laws, which are examined in the last part of the book.

Those issues are discussed successively in the six parts of this volume. As a preliminary to the abovementioned analyses, the book starts with an overview of recent EU case law with relevance for the energy sector.

In Chapter 1, Adrien de Hauteclocque, Elise van Dijk and Daphne ter Telgte offer a comprehensive review of the most notable court case decisions delivered by EU courts in 2018. The judgments have not been numerous but have concerned important points of law. Despite Brexit, the UK still generates important cases, with two notable examples for this time period. First, in *Austria v Commission* (T-356/15), the General Court confirmed the decision of the European Commission to declare aid to the nuclear energy project ‘Hinckley Point C’ compatible with Article 107(3)(c) of the Treaty on the Functioning of the European Union (TFEU). Second, in *Tempus Energy v Commission* (T-793/14), the General Court annulled a decision taken by the Commission not to raise objections and to declare the UK capacity mechanism compatible with the internal market, with the consequence of imposing a ‘standstill period’ on the UK’s Capacity Market and on requiring the Commission to open a formal investigation. Both cases are currently under appeal. As pointed out by the authors, these two cases set important precedents for the assessment of state funding in favour of nuclear energy and capacity mechanisms. Another series of case concerns ‘ongoing sagas’ related to the Agency for the Cooperation of Energy Regulators (ACER) decision on the capacity allocation regions in Austria/Germany and the OPAL pipeline. In addition to those cases focused purely on energy, the chapter analyses other landmark cases with high significance for the wider energy sector, such as: the judgment in *Scuola Elementare Maria Montessori e.a. v Commission* (Joined Cases C-622/16 P to C-624/16 P) concerning conditions for admissibility in state aid cases; the *Achmea* judgment (C-284/16) on the legality of arbitration procedures under intra-EU bilateral investments treaties; and the judgment in *Ville de Paris e.a. v Commission* (T-339/16, T-352/16 and T-391/16) concerning the action for annulment brought by the cities of Paris, Brussels and Madrid against the emission limits for oxides of nitrogen adopted by the Commission. As a final point, the authors review the ongoing reform of the institutional framework of the CJEU.

## NEWCOMERS IN THE ELECTRICITY MARKET: AGGREGATORS AND STORAGE

Aggregators have appeared as a new category of market actors in the aftermath of the electricity market liberalisation. They provide a new type of service based

on the grouping of the energy consumption or generation of several consumers. The next two chapters examine two approaches to the regulation of aggregators, one from Europe and one from the United States.

In Chapter 2, Thierry D'hoore reviews the growing role of aggregators in the EU electricity market and looks more closely at their regulation in Belgium. First, the author makes the link between electricity market liberalisation and the development of aggregators, reviewing the different steps in EU liberalisation legislation, from the first liberalisation directive of 1996 to the Clean Energy Package of 2019. The author then stresses the multiple interactions between aggregators and transmission system operators (TSOs), including in terms of the balancing of the system, ancillary services such as demand responses and, more generally, market efficiency. There is also a discussion of the necessary adaptations made to the Belgian legislation in order to let aggregators operate.

In Chapter 3, Joel B. Eisen analyses aggregation of distributed energy resources (DERs) in the United States as an important part of the ongoing energy transition. The author explains how aggregation can address many of the challenges raised by the integration of DERs into the electric grid. Particular attention is given to the programs and initiatives in place to expand wholesale market participation through third-party DER aggregators. Although there is little DER aggregation beyond wholesale market demand response programs, the author makes clear that this is expected to change. Notably, there is an assessment of DER aggregation at the distribution level. The chapter reviews both state and federal regulators initiatives in order to support the further deployment of aggregated DERs to provide grid services.

The need to store electricity is becoming more and more apparent as without storage, there is a lack of flexibility and the possibility of unbalance in the grid. Following the introduction of a new Electricity Directive in January 2019, a provision on electricity storage has finally been included, thus acknowledging the need for such storage. When assessing this provision, we can note that it reflects the ongoing discussion regarding the position of storage in the market and the breadth of the definition used. One of the key issues is the extent to which storage should be considered as a flexibility tool to be applied by network operators, and thus being regulated, or as a market-based activity. The European legislator clearly prefers the latter but also recognises that market parties may not be interested in being involved. As some Member States have already introduced a storage regime or are in the process of doing so, it remains to be seen whether these national regimes coincide with the new EU regime. With regard to the second point, the European legislator has taken a very broad view on the concept of storage as it clearly also aims to include electricity conversion, i.e. from power to gas or from power to heat. This book will discuss both of these developments.

Silke Goldberg and Jannis Bille discuss in Chapter 4 the regulation of electricity storage in the UK and analyse the potential hurdles involved. The chapter discusses the concept and definition of electricity storage from a UK perspective, as well as its regulatory framework, ownership rights, subsidies and the role of TSOs and DSOs. The main obstacles identified are to be found in the existing planning regime and the financing of investments in storage facilities. Chapter 5 continues by assessing ‘power-to-gas’ and hydrogen for energy storage under EU energy law. Gijs Kreeft and Ruven Fleming focus in particular on the conversion of electricity from RES to hydrogen (green hydrogen). After discussing some of the available techniques, the authors examine the EU legal framework. This entails an interrogation of the concept of power-to-gas and how this fits into the definition, which has recently been included in the Electricity Directive, but also how this relates to the definition of storage in the Gas Directive. Last but not least, the chapter discusses the potential technical and safety standards that may apply to hydrogen and the injection of hydrogen into the gas system.

## HYDROPOWER CONCESSIONS IN THE EU: A NEED FOR LIBERALISATION OR PRIVATISATION?

Hydropower remains the dominant source of renewable energy generation in the EU. Although exploited for a long time, hydropower is facing a series of challenges where the European Commission is questioning the compatibility of the legal regime applied in several Member States with internal market legislation and competition rules. In March 2019, the Commission sent letters of formal notice to seven Member States (Austria, France, Germany, Poland, Portugal, Sweden and the UK) and a second complementary letter of formal notice to Italy, with the objective of ensuring that public contracts in the hydroelectric power sector are awarded and renewed in conformity with EU law. The provision of hydropower is typically organised under two frameworks in the Member States, either authorisations, falling under the Services Directive 2006/123/EC, or concessions, falling under the public procurement rules of Directive 2014/23/EU. In the view of the Commission, completing the internal energy market also entails ensuring a level playing field between companies within the hydropower sector, which therefore justifies taking action to remove any barriers to this. This book presents four national case studies – Norway, France, Italy and Portugal – where the legal regime for hydropower has been challenged under EU/EEA rules.

Knut F. Kroepelin examines in Chapter 6 the main areas of influence of EU law on the Norwegian hydropower concession system through the application of the EEA Agreement. The two main issues which have arisen relate to public

ownership and environmental restrictions. On the first issue, ironically, the judgment of the EFTA Court in the ‘Waterfall’ case against the Norwegian government (*Hjemfall*, Case E-02/06) resulted in a consolidation of the public ownership model. On the second issue, the Norwegian government has been challenged for its implementation and application of environmental protection rules as enshrined in the Water Framework Directive.

In Chapter 7, Bernard Kieffer provides an analysis of the hydroelectric licensing regime applied in France. After retracing the history of the legal framework from the 1919 Act relating to the use of hydraulic power to the latest amendments to the Energy Code following the 2015 Law on Energy Transition for Green Growth, the chapter reviews the components of the hydroelectric license – which constitutes simultaneously both a license of public works and one of public service. The chapter then examines the remaining issues related to the competitive tendering for hydroelectric licenses and the opening of competition for the award of licensing contracts.

In Chapter 8, Filippo Donati similarly retraces the evolution of the Italian legislation on hydropower concessions from a system of state monopoly to a progressive introduction of competition as a consequence of the entry into force of the First Electricity Directive. However, instead of fostering competition, the Italian government has tried to slow down the liberalisation process by extending the duration of the concessions already granted, notably through the adoption of the 1999 Bersani Decree. The chapter reviews the later influence of EU law on the Italian regime through a series of infringement procedures initiated by the European Commission which challenged both the preference granted to the outgoing concessionaire and the automatic extension of the concessions in force when the Bersani Decree came into force. As a consequence, the Bersani Decree was repealed in 2005 and new competitive rules for granting hydroelectric concessions were introduced. Despite these changes, the concessions have been further extended by the government without being subjected to competition. While the Commission has been arguing that those extensions provided an unjustified advantage to existing operators and was contrary to the freedom of establishment for other operators, the Constitutional Court has disputed the competence of the state to legislate with such detail on hydropower concessions and undermining the competence of the regions. The competence issue was later clarified in a 2012 legislative decree providing for the conditions for launching new competitive tenders for the award of new hydropower concessions. Despite this new reform, the Commission is still questioning, through infringement procedures, the alleged distortions of competition deriving from the excessive duration of Italian concessions and the lack of effective competition.

In Chapter 9, Lourenço Vilhena de Freitas and Inês de Abreu Régio offer a fourth national example of a regulatory approach to hydroelectric concessions.

Similarly to the French and Italian examples, moving from a situation of national monopoly to the opening up to competition has been the main challenge in terms of compliance with EU law. A particularity of the Portuguese model is to provide for direct capacity payment mechanisms to guarantee the availability of hydropower plants and, consequently, the security of supply.

A common reflection shared by several of the above chapters is whether the launch of separate infringement procedures outside of a more harmonised legislative framework at EU level could, paradoxically, result in greater imbalances between the countries and, in doing so, negatively impact the functioning of the internal market by creating even more distortions.

## INVESTMENTS AND DISINVESTMENTS IN THE ENERGY SECTOR

The increased use of RES and the subsequent process of energy transition has led to the need for new investment in the production of electricity using RES, often through new and/or innovative technologies, and, at the same time, to the need to close down existing facilities such as coal-fired power plants and nuclear facilities due to a variety of climate change or environmental concerns. This section of the book addresses both developments.

Dirk van Evercooren examines in Chapter 10 the EU approach to the regulation of guarantees of origin (GO). The chapter starts by discussing the arguments about why electricity is such a different product from others and how this influences consumer information about the origin of the electricity supplied and consumed. It continues with a history of the GO and an analysis of the EU regulation of electricity disclosure. Indeed, the certificate-based tracking system that the GO embodies offers a reliable mechanism of compliance with the disclosure requirement and enables suppliers to inform consumers about the way they source their electricity. Therefore, there is a close correlation between the disclosure obligation and the empowerment of consumers through the free choice of suppliers. The GO system contributes to this mechanism and indirectly provides financial support to renewable energy producers. The chapter analyses the new provisions of the Clean Energy Package on GOs and questions the newly-introduced compliance obligation with CEN/CENELEC standard EN16325.

In Chapter 11, Cees Verburg focuses on the new Regulation 2019/542 that aims to 'screen' foreign direct investments into the European Union. This Regulation has been 'inspired' by Chinese attempts to acquire shares in European companies, i.e. the Belgian and Portuguese TSOs. The author discusses this new Regulation within the broader framework of the EU merger regulation, but also with other EU trade and investment agreements

such as the Energy Charter Treaty (ECT) and the more recent EU-Canada trade agreement (CETA). Both the ECT and CETA provide for national security and public order considerations as a possibility for the justification of measures that restrict foreign investment. The author concludes that the new Regulation fits in seamlessly with this trend and that its effects should not be underestimated.

By contrast to the investments needed in RES, several Member States are planning to close down existing power plants. Romain Mauger, in Chapter 12, explores the developments in Germany, Sweden and France. These countries have some of the highest levels of electricity produced from nuclear energy and have either decided to completely phase out this type of generation (Germany and Sweden) or at least to reduce it significantly (France). Decisive factors are the nuclear accidents in Chernobyl, pushing for the phase-out in Sweden and Germany, and, more recently, in Fukushima, which reinforced the German commitment and led to a decision in France to reduce the share of nuclear energy in the total electricity generation. This chapter first discusses the national policies and strategies to close down these nuclear plants and, thereafter, the legal, organisational and financial consequences of these policies. The author concludes that the three countries assessed have chosen different approaches and that key factors for a stable and fiscal revenue-saving nuclear shutdown are foreseeability and legal certainty.

The need for regulatory certainty is also one of the key issues in the two countries where the closure of coal-fired power plants has been assessed: the Netherlands and Germany. Lolke Braaksma and Ruven Fleming examine the relevant procedures and legal frameworks in Chapter 13. In the Netherlands, the need to close down coal-fired power plants follows on from the need to reduce the country's CO<sub>2</sub> emissions, especially from the ruling in the *Urgenda* case. It therefore not only affects older coal-fired power plants but also relatively new generators, which are highly efficient. The chapter presents the background for the decision to close down these modern plants and the accompanying legal framework. Instead of introducing law that requires the closure of all coal-fired power plants, the legislator has introduced a law that forbids the use of coal in power plants. Although the government claims that de facto there is no direct interference in the property rights of companies, and thus no or limited need for financial compensation, it remains to be seen whether this will indeed be the case. The situation in Germany is slightly different as it involves older power plants and the discussion consists more of a societal debate, i.e. job security and unemployment levels. Apart from political and societal discourse about the technicalities of actually ending electricity production from coal-fired power plants, the debate is concentrating on the need for structural, monetary support for those *Länder* where the coal-fired power plants are located. Both examples show, however,



that there is barely a role for the EU to play in this process and that although states try to avoid expropriation claims, this is difficult to achieve and does rely on proper legal instruments.

## OFFSHORE DECOMMISSIONING IN THE NORTH SEA

The next four chapters focus on the decommissioning of oil and gas installations in the North Sea. The process of decommissioning relates to the stage at which an installation is getting to a state of disuse and a decision needs to be made about its removal. As in the case of the phase out of nuclear installations and coal-fired power plants, an EU legal framework is absent. However, there are instead provisions in international law (UNCLOS) that govern the abandonment and removal of disused installations. These are based on the concept that fixed installations may basically intervene with the freedom of navigation and fishery and should only be permitted as long as exploration and production of oil and gas are ongoing.

Dinand Drankier and Martha M. Roggenkamp present in Chapter 14, first, the relevant international legal framework and, in particular, what 'disused' means in relation to the possible re-use of installations for other purposes. Second, they analyse the situation on the Dutch continental shelf and the legal framework governing abandonment and removal. In contrast to most other North Sea states, the situation in the Netherlands is relatively clear. The Dutch part of the North Sea consists of relatively shallow waters and, therefore, the installations need to be entirely removed when they are no longer in use. Given the smaller size of the fields and installations, some experience has already been gained. The authors also note that there is uncertainty about the possible removal of disused cables and pipelines. The legal framework governing the construction and use of offshore pipelines is unclear, as are the rules on removal. The current debate focuses on the possibilities for re-use for other purposes. So long as these new uses are not related to oil and gas activities, an appropriate legal regime remains absent – though necessary.

Greg Gordon and John Paterson follow this theme on in Chapter 15 by discussing the legal regime on the UK continental shelf. The regime differs from the Dutch one given the deeper waters, larger continental shelf and bigger installations involved. Therefore, the extent to which a disused installation needs to be removed entails a difficult balancing act between economic and environmental costs of complete or partial removal. In order to set the scene, they also assess the international legal framework and the possibility for re-use as part of a rigs-to-reef option. Thereafter, they discuss the UK legal framework, which covers not only the handling of abandonment plans but also the relevant commercial and contractual issues involved (Joint Operating Agreements and

Decommissioning Security Agreements), as well as the introduction and use of a standard decommissioning contract.

Chapter 16 examines the Danish legal framework. Clara Greve Brett begins with an in-depth overview of the history of oil and gas developments in Denmark. As in the Netherlands, the activities and installations take place in relatively shallow waters and the Danish continental shelf is now also considered a 'mature province'. Nevertheless, no meaningful decommissioning activities have so far been carried out, but it is expected that this will change soon. Following a review of the applicable legal framework, the author raises the issue of which party is liable for decommissioning, for accidents during or following decommissioning and how to secure these liabilities. There is then a discussion on the need to remove offshore pipelines. Although no decommissioning has taken place as of yet, production in some fields is rapidly declining and it now remains to be seen whether the existing legal framework meets the expectations and the requirements of the international legal framework.

The last chapter of this section focuses on the legal framework that applies to the Norwegian continental shelf. Dag Erlend Henriksen presents the decommissioning practice in Norway. The situation is to some extent comparable with the UK as it involves a large continental shelf and deep waters. The situation is also challenging given the fact that more use is made of concrete platforms than elsewhere. Although some platforms have been decommissioned and the lifetime of many other platforms has been extended, it is expected that in the next few years many of them will reach end-of-life and need to be decommissioned. The author thus presents the existing legal regime and pays particular attention to the role of the decommissioning plan under the Petroleum Act, the requirements applying to a decision on disposal and the obligation to implement a disposal decision. This is followed by an analysis of the (secondary) liability of decommissioning costs and the role of the Joint Operating Agreements in the decision-making process. In contrast to other North Sea countries, a discussion of any re-use of installations has not yet started. So far the emphasis has been on the possibilities of prolonging the activities as much as possible and postponing decommissioning.

## CCS AS A CLIMATE TOOL: NORTH SEA PRACTICE

One of the possibilities for re-using and/or repurposing installations is by using them for subsoil storage of CO<sub>2</sub>. To be sure, this will depend on the choice of storage location. When using saline aquifers there are no installations in place to be re-used, but this may be possible if use is made of (almost) depleted oil and gas fields. In this part, three regimes governing CO<sub>2</sub> will be discussed: those of Norway, the UK and the Netherlands. In contrast to the decommissioning regime

discussed above, CO<sub>2</sub> storage is governed by EU law (Directive 2009/31/EC on the geological storage of carbon dioxide (the CCS Directive)).

In Chapter 18, Sofie Fogstad Vold presents the main components of the Norwegian CCS policy, which, at the moment, is structured around the completion of one full-scale demonstration project to be operational by 2023/2024. The chapter gives an in-depth description of the CCS Directive before reviewing its implementation into Norwegian law. It analyses the implementation technique, the resource management principles (coinciding with the principles from the petroleum regulation), and the permit system for exploration and storage of CO<sub>2</sub> on the Norwegian continental shelf.

John Paterson presents in Chapter 19 the legal framework for carbon capture and storage (CCS) in the UK. In similar fashion to the directive, the focus is on the part governing storage of CO<sub>2</sub>. Following an introduction discussing the background and need for CCS, an analysis of the EU directive and the way in which it has been implemented in UK law is put forth. The chapter then proceeds to discuss the particle impacts. Several attempts have been made to develop some demonstration projects and so far these have not been successful, primarily due to the high costs involved and lack of financial support. The author then turns to some recent developments presented in an action plan and which represent a shift from CCS to CCUS and a new model for re-use of installations, which may bring down transport and storage costs. The option of enhanced recovery is also addressed. The author notes that enhanced recovery could be considered as a type of use in the CCUS chain. The author concludes that despite some false starts, the UK appears to be in a relatively strong position in relation to the development of CCS as the legislative and regulatory regime appears to be well bedded in. However, the current uncertainty in the UK surrounding Brexit means that what will happen next is difficult to predict.

The last chapter in this section is on CCS in the Netherlands. Martha M. Roggenkamp examines in Chapter 20 the long and winding process governing CO<sub>2</sub> transport and storage. Interestingly, the process started around the year 2000 with the idea of using CO<sub>2</sub> instead of natural gas in greenhouses, thus saving the use of natural gas. This approach has encountered some problems as the CO<sub>2</sub> used is not permanently stored and remains (partially-)emitted, while the greenhouse growers were not accountable for the CO<sub>2</sub> emissions as they were not subject to the ETS. In addition, the initial idea was to store CO<sub>2</sub> onshore in depleted oil and gas fields; this was facilitated by the storage regime of the Mining Act of 2003. Nevertheless, onshore storage was not achieved due to large-scale opposition. Therefore, the attention shifted to carbon storage offshore. The chapter surveys the developments in the legal framework, the transposition of the EU Directive in the Mining Act and some of the attempts to permanently store CO<sub>2</sub> offshore. The first major attempt – the ROAD project – was successful in the sense that all permits had been awarded.

However, given the fact that a coal-fired power plant would initially be the main supplier of CO<sub>2</sub>, there are financial uncertainties relating to government attempts to close down these plants as discussed in Chapter 13, this project was terminated. More recently, a new project has been proposed: the Porthos project. This project is being developed as an open access project. The chapter analyses these developments and concludes that a CCS project will possibly be realised in the Netherlands soon.

## FROM EU CLIMATE GOALS TO NATIONAL CLIMATE LAWS

The last part of the book is dedicated to the analysis of three different approaches to climate legislation, as an increasing number of countries have adopted climate laws during the past few years.

In Chapter 21, Thomas L. Muinzer and Gavin McLeod Little provide a detailed analysis of one of the pioneering climate laws, the UK's Climate Change Act 2008 (CCA). They review the background for the adoption of the CCA as well as its main provisions. A common feature in all climate laws is that they are driven by targets. In the case of the UK, the CCA applies a 34 per cent greenhouse gas (GHG) emissions reduction target for the UK to attain by 2020, with the emissions reduction percentage based on 1990 emissions levels. It also applies an 80 per cent GHG emissions reduction target based on 1990 levels for 2050. In 2019, the UK government has legislated for a 'Net Zero' 2050 target, which means the 2050 target has increased from 80 to 100 per cent. The authors have characterised these two reduction markers as the regime's 'milestone' targets. The targets are economy-wide and cover emissions arising all over the UK. The 2020/34 per cent and 2050/100 per cent milestone targets outline an emissions reduction trajectory for a carbon budgeting scheme. This carbon budgeting scheme covers all major socio-economic sectors and activities within the UK and is divided into successive five-year periods that roll on continually, one after the other. An interesting feature of the CCA is that the primary duties and obligations under the terms of the CCA are generally borne by the Secretary of State. Another key actor in the CCA institutional framework is the Committee on Climate Change, which plays the role of an expert advisory and reporting body. The second part of the chapter is dedicated to the evaluation of the legal research base for the CCA.

Kristina Forsbacka analyses in Chapter 22 a much more recent climate legislative framework, the 'Climate Policy Framework' and the Climate Act adopted in 2017 by the Swedish Parliament. The Climate Policy Framework is a key component in fulfilling Sweden's obligations under the Paris Agreement and is, according to Forsbacka, the most significant climate reform in

Swedish history. The author systematically reviews the three main components of the Swedish Climate Policy Framework, which are: the new ambitious long-term climate targets; the Climate Act; and the Climate Policy Council.

Rounding off the Report in Chapter 23, Gerrit van der Veen and Kars de Graaf present a review of the efforts made in the Netherlands to follow up the decision in the *Urgenda* case and to develop a Dutch Climate Act. A further development analysed in the chapter relates to the efforts made by the administration, in close cooperation with industry and societal parties, to work towards an agreement on voluntary measures to reduce the emission of greenhouse gases in the Netherlands (*Klimaatakkoord*, or Climate Agreement). The Climate Agreement is an agreement between a multitude of Dutch stakeholders with the aim of devising measures to reduce global warming as a result of greenhouse gas emissions, allowing the Netherlands to meet European and international targets for 2030 and 2050 respectively. The Climate Agreement follows up on the decision in the *Urgenda* case and complements the Climate Act since the Act itself does not incorporate any measures to reduce the emission of greenhouse gases, but does impose upon the government the obligation to draft a document incorporating such measures for the purpose of achieving the targets laid down in the Act.