

Le contrat et l'environnement

Étude de droit comparé

Sous la direction de
Mathilde Hautereau-Boutonnet

DROIT(S) ET DÉVELOPPEMENT DURABLE



bruylant

Contrat L'environnement Etude Droit Compar

Kathleen Armour



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Le contrat et l'environnement Mathilde Hautereau-Boutonnet, 2015-09-15 Routledge Handbook of Private Law and Sustainability Marta Santos Silva, Andrea Nicolussi, Christiane Wendehorst, Pablo Salvador Coderch, Marc Clément, Fryderyk Zoll, 2024-06-05 The Routledge Handbook of Private Law and Sustainability reflects on how the law can help tackle the current environmental challenges and make our societies more resilient to future crises Sustainability has been high on the political agenda since the approval of the Sustainable Development Goals in 2015 and the EU Green Deal in 2019 The Green Agenda aims at making Europe the first climate neutral continent by 2050 but humanity persists in an ecological overshoot that puts at risk the survival of species including that of our own Drawing together a selection of leading thinkers in the field this Handbook provides a curated overview of the most recent and relevant discussions for private lawyers related to environmental and sustainability concerns The authors delve into case study examples from 20 countries in Europe and beyond and discuss a wide range of issues including new property law and consumer law paradigms the use of legal tech for promoting sustainable property management strategies for fighting planned obsolescence eco design the servitisation economy advances on corporate climate litigation and mandated green private sludges Overall the volume is designed to empower new generations of legal scholars to take an active role in the transition to a more sustainable future It will also assist policymakers in producing better policy through pinpointing the main legal issues that need to be addressed and offering a comparative overview of legal solutions and best practices Divided into six key parts and overseen by a team of internationally recognised expert editors this Handbook will be an essential resource for students scholars private lawyers and policymakers who wish to have a comprehensive fundamental overview of how environmental sustainability concerns reflect on private law

Sites contaminés en droit comparé de l'environnement Michel Prieur, 1995-11 *Les Conventions locales de gestion des ressources naturelles et de l'environnement* Laurent Granier, 2006 *Le contentieux climatique : une révolution judiciaire mondiale* Christian Huglo, 2018-05-23 Le droit climatique a été officialisé au Sommet de la Terre en 1992 duquel est issu la Convention cadre des Nations unies sur les changements climatiques Par la suite la société civile a manifesté son intérêt pour faire face aux défis du réchauffement climatique c'est ainsi que sont nées des coalitions d'organisation pour promouvoir la justice climatique comme l'initiative pour la justice environnementale et le changement climatique Les mouvements religieux ont également souligné l'importance de la justice climatique la protection des équilibres climatiques et de l'environnement Les praticiens du droit de l'environnement travers notamment la mission confiée en juin 2015 par le Président François Hollande Corinne Lepage se sont clairement prononcés en faveur d'une justice climatique pour répondre aux appels de la société civile Le texte qui en est issu est un projet de Déclaration universelle des droits de l'humanité dans laquelle l'Homme est appelé ses devoirs vis-à-vis de l'environnement Mais c'est au cours des années 2000 que le juge américain va ouvrir la voie au contentieux climatique national dans l'affaire dite Massachusetts v EPA n° 05 1120 jugée en avril

2007 selon laquelle la plus haute juridiction des tats Unis a impos l Agence am ricaine de protection de l environnement de r glementer les missions des gaz effet de serre sur le fondement du Clean Air Act Par la suite la justice climatique a t mise en uvre par d autres juridictions nationales travers le monde comme l illustrent les affaires Urgenda foundation v Kingdom of the Netherlands Hollande Ashgar Leghari v Federation of Pakistan Pakistan qui vont largir les r gles traditionnelles de proc dure contentieuse comp tence preuve causalit Le succ s du contentieux climatique repose entre les mains des juges nationaux lesquels s appuient g n ralement sur les travaux du GIEC relatif l valuation des risques climatiques De plus certaines d cisions de justice sont all es jusqu proclamer et reconnaitre des droits sup rieurs au droit constitutionnel interne C est dire que le sujet de la justice climatique qui se propage grande vitesse pr s de 700 d cisions de justice recens es aujourd hui devient un extraordinaire laboratoire en vue de l laboration d un droit efficient pour l avenir des hommes et de la plan te Cet ouvrage s adresse aux juristes galement aux non juristes tous les tudients et chercheurs ainsi qu aux praticiens et professionnels du droit

Le mineur consommateur, étude comparée du droit français et du droit brésilien Maxime Péron, 2025-01-30 Influenciadores do consumo de seus pais consumidores aut nomos de produtos e servi os ou v timas de sua utiliza o na Fran a e no Brasil por volta de 78 milh es de crian as e adolescentes s o alvos de incita es comerciais Comuns legisla o de ambos os pa ses os mecanismos de incapacidade n o s o suficientes para proteg los porque negam seu consumo real e n o cobrem todas essas hip teses Questiona se se eles devem ser qualificados como consumidores ou se necess ria uma categoria jur dica de crian a consumidora para proteg los Em face dos riscos do consumo acentuados pelas novas tecnologias suas vulnerabilidades s o agravadas e implicam uma prote o espec fica O m todo do direito comparado permite refletir sobre estas quest es Tal como particularmente encorajado pelo direito brasileiro marcado por uma prote o centrada na qualidade da pessoa a identifica o de uma categoria de crian a consumidora oportuna para promover sua prote o Sua efic cia seria assegurada pelo desenvolvimento de um regime espec fico em torno da rela o de consumo adequado a ambos os ordenamentos jur dicos e em parte inspirado na abordagem contratual dominante no direito franc s Entre as diversas proposi es que integrariam este regime consideram se algumas de car ter geral como a utiliza o da metodologia do di logo das fontes e outras mais espec ficas como o enquadramento dos an ncios publicit rios em fun o da idade cronol gica

La protection conventionnelle des espaces naturels Catherine Giraudel, Centre de recherches interdisciplinaires en droit de l'environnement, de l'aménagement et de l'urbanisme, 2000 Le cri d alarme des scientifiques devant les dommages irr versibles caus s la biodiversit est relay par les juristes Si la prise de conscience in gale des pouvoirs publics dans les pays de droit latin ou anglo saxon s est traduite par des protections r glementaires diversifi es ou par le recours la propri t publique les initiatives priv es issues notamment du mouvement associatif se d veloppent de plus en plus Il s agit pour ces groupements g n ralement de caract re priv dot s de pr rogatives variables d assurer la pr servation des espaces naturels et des habitats de la flore et de la faune sauvages par la ma trise fonci re ou la ma trise d usage D o le recours des instruments

juridiques diversifiés contrats ou servitudes la difficulté tant de pérenniser la protection instaurée Cet ouvrage qui doit beaucoup à Cyrille de Klemm expert auprès de l'IUCN et du Conseil de l'Europe et qui lui est dédié permet une confrontation fructueuse entre les pays de tradition latine et les pays de Common Law Il suggère et anticipe les évolutions vers un développement des mesures volontaires de protection et une sensibilisation plus grande des personnes privées à l'exigence vitale de sauvegarde et de respect de la nature

Le statut juridique de l'air Thierry Largey, 2017-10-15 Qu'est-ce que l'air en droit La réponse à cette question conduit à qualifier cette ressource naturelle vitale en identifiant son statut juridique dans une approche fonctionnelle faisant choisir son rôle systémique Elle s'attache à considérer les enjeux juridiques qui découlent des multiples utilisations de l'air en distinguant ses divers aspects le volume atmosphérique l'air matriciel et la force obligatoire L'analyse du droit positif mène au constat que l'air est une chose commune La présente thèse s'attache dès lors à construire une théorie moderne des communs En droit interne l'air est tour à tour envisagé en tant que non-chose commune domaine public naturel et objet d'un statut sui generis En droit international l'attention est portée sur les concepts de patrimoine commun et de préoccupation commune de l'humanité La recherche s'achève sur l'examen du cadre légal et des principes juridiques applicables à la régulation des droits d'usage de l'air afin d'en préserver durablement le caractère commun et le noyau intangible

Eficácia dos princípios ambientais nos contratos Marcelo Moreira dos Santos, 2020-09-08 Pour mais que se reconheça a forte presença de uma nova tica em favor da natureza a aplicação dos princípios fundamentais a um ambiente ecologicamente equilibrado tem apresentado desafios Neste trabalho destaca-se o problema da incidência dos princípios ambientais nos contratos o que nos faz pensar tanto no crescimento de princípios positivados no Direito Fundamental Ambiental e portanto de sua importância como elemento de interpretação ou mesmo de otimização do sistema jurídico quanto na importância dos contratos nas relações privadas que tenham os bens ambientais como objeto ou ainda mais no que se vem denominando atualmente como contratualização do Direito do Ambiente trecho du livre *Impacts sur l'environnement des incitations économiques à la production agricole* Mohamed Ali Mekouar, 1985 Revue juridique de l'environnement, 2005

L'agriculture biologique, une agriculture durable? Michel Prieur, 1996 Manuel judiciaire de droit de l'environnement en Afrique Emmanuel D. Kam Yogo, E. Lionelle Ngo-Samnick, 2018-08-31 Le Manuel judiciaire de droit de l'environnement en Afrique est un support permettant de soutenir la formation initiale ou pratique des jeunes magistrats Cet ouvrage se veut généraliste pour accompagner une grande diversité decoles de magistrature d'Afrique à développer leurs curricula ou leurs manuels de formation nationale La première partie du manuel expose les bases théoriques et opérationnelles du droit de l'environnement La deuxième partie présente quant à elle l'encadrement juridique des secteurs environnementaux afin d'en contextualiser la diversité cela succède à une troisième partie consacrée aux mécanismes et cadres de mise en œuvre du droit de l'environnement dans les faits africains Pour renforcer la dimension pratique de ce manuel quatre études de cas sont mises à disposition Elles portent respectivement sur la participation des citoyens la gestion de l'environnement la délinquance

faunique la responsabilité civile environnementale et le droit de l'environnement dans les juridictions régionales des droits de l'homme Des exercices pratiques sont de plus proposés et permettent d'aborder plusieurs aspects contentieux *Marine Genetic Resources, R&D and the Law 1* Bleuenn Guilloux, 2018-06-21 Advances in research and development reveal the immense diversity and potential of marine genetic resources Under international law no specific regime applies to these complex and paradoxical objects of use The Law of the Sea Convention sets a framework that is partly inadequate for this new category of resources The Biodiversity Convention and the Nagoya Protocol only address the genetic resources of national areas Patents allow their holder to exercise a monopoly on exploiting biotechnological creations to extensive claims questioning the common nature of biodiversity and related knowledge They hinder research and the objectives of biodiversity law The legal and practical rules of physical and functional access vary in geometry They focus on the valorization of research results crystallizing conflicts of interest between suppliers and users Sustainable research and development is essential to the knowledge and protection of marine biodiversity The qualification of marine genetic resources in common standard contractual tools distributed research and development infrastructures negotiation of an agreement on sustainable use and conservation of biodiversity beyond the limits of national jurisdiction would To remove these inconsistencies

Quel avenir pour le droit de l'environnement ? François Ost, Serge Gutwirth, 1996 La question mûrit de plus en plus l'heure où victime de son succès cette jeune branche du droit risque de voir ses principes se diluer dans le maquis réglementaire et ses finalités se brouiller sous le poids de la rhétorique C'est une réflexion de fond que convie cet ouvrage qui entend croiser les disciplines et déployer les différentes échelles de temps et d'espace sur lesquelles se posent aujourd'hui les questions environnementales Il s'agira dans un premier temps d'clairer les fondements philosophiques et scientifiques de ce droit et d'en interroger les enjeux sociaux et politiques On s'attachera ensuite à gager pour les espaces et les ressources naturels une qualification juridique d'ensemble qui ne se ramène pas celle d'objet ou de bien la fécondité des notions de res communis de patrimoine d'usufruit de trust et de domaine public sera évaluée dans cette perspective On confrontera ensuite les mûres respectifs des différents instruments de régulation juridique qui sont mis en œuvre aujourd'hui de la codification la contractualisation en passant par l'élaboration de principes généraux et la reconnaissance de droits procéduraux aux particuliers et aux associations Une attention particulière sera consacrée à l'institution de la responsabilité qui conditionne le repensé et l'élargie pourrait dynamiser bien des règles tant en droit interne qu'en droit international On interrogera enfin la part que prend la réglementation européenne la consolidation de la protection du milieu Adoptant une perspective résolument prospective cet ouvrage entend ainsi contribuer à gager quelques scénarios d'avenir possibles pour le droit de l'environnement Information Sources in Law J.R. Winterton, Elizabeth M. Moys, 2012-06-21 The aim of each volume of this series Guides to Information Sources is to reduce the time which needs to be spent on patient searching and to recommend the best starting point and sources most likely to yield the desired information The criteria for selection provide a way into a

subject to those new to the field and assists in identifying major new or possibly unexplored sources to those who already have some acquaintance with it The series attempts to achieve evaluation through a careful selection of sources and through the comments provided on those sources

Contrato público e agrobiodiversidade Marcelo Moreira, 2020-05-20 Este livro o primeiro desta série de três estudos realizados pelo autor por ocasião dos créditos acadêmicos no seu doutorado na Universidade de Lisboa Um trabalho acadêmico e que portanto reflete as angústias e características de uma busca ainda incompleta A pretensão do autor e da Editora da Universidade Federal do Amapá partilhar com o público essa série de ensaios onde são confrontados os sistemas de direito brasileiro e europeu com destaque normativa transposta para o direito português Neste primeiro livro a ênfase foi dada ao papel da contratação pública na conservação da biodiversidade agrícola Espera-se contribuir para o debate e uso dos instrumentos jurídicos tradicionais para a proteção da biodiversidade e prevenção da escassez alimentar

Le support en droit d'auteur Olivier Pignatari, 2013-06-04 Aucun texte relatif au droit d'auteur ne donne de définition précise du support Est-ce dire qu'il est purement et simplement indéniable L'admettre serait abusivement explicatif Ainsi l'origine de cet ouvrage pointait la nécessité de préciser les contours de la notion de support Dans cette perspective l'absence de définition légale est avérée salutaire en ce qu'elle donne une certaine latitude à l'analyste permettant une approche lato sensu L'ouvrage se propose alors de considérer la notion de support dans sa diversité tant au stade de la création que de l'exploitation et ce sans négliger l'impact des nouvelles technologies sur les manifestations du support Par ailleurs souvent perçue comme une contingence matérielle le support est en réalité indispensable à l'existence ainsi qu'à la diffusion de toute œuvre Ce premier temps de la recherche devait s'accompagner d'une réflexion d'ensemble relative au régime applicable au support et plus précisément son articulation avec les droits portant sur l'œuvre En la matière c'est également la complexité qui semble régner L'objectif est de montrer qu'au-delà de l'indépendance fondamentale développée dans le champ théorique du Droit le contexte factuel révèle en fait une véritable interférence entre les deux modes servitaires

merge ainsi le constat suivant si l'interférence est double sens elle apparaît inévitable puisque l'impact de la propriété du support sur les droits d'auteur n'est que relatif tandis que l'incidence des droits d'auteur sur les droits grevant le support est prégnante Cet ouvrage qui tend à cerner et montrer travers une étude d'ensemble la complexité du support en droit d'auteur s'adresse tant aux théoriciens du droit d'auteur qu'aux praticiens soucieux d'apporter des éléments de réponse aux nouvelles questions qui leur sont posées

General Reports of the XVIIIth Congress of the International Academy of Comparative Law/Rapports Généraux du XVIIIème Congrès de l'Académie Internationale de Droit Comparé Karen B. Brown, David V. Snyder, 2011-12-30 This title presents twenty nine topics prepared by leading scholars in more than 20 countries providing a comparative analysis of cutting edge legal topics of the 21st century Considering topics of vital moment to contemporary legal scholars the title includes pieces on Surrogate Motherhood The Balance of Copyright in Comparative Perspective International Law in Domestic Systems Constitutional Courts as Positive Legislators Same sex Marriage Climate Change and

the Law The Regulation of Private Equity Hedge Funds and State Funds and Regulation of Corporate Tax Evasion Each chapter surveys legal developments in the U S and Canada Europe Asia Latin and South America Africa and the Middle East in a format that permits the reader easy access to similarities and differences in the approaches of the selected national regimes This comprehensive volume tells the story of parallel trends in the evolution of legal doctrine despite jurisdictional cultural and political barriers While each of the covered countries stands alone as a sovereign in a technologically advanced world their disparate systems nonetheless have converged to adopt comparable strategies in dealing with complex legal issues The volume is a critical addition to the library of any scholar hoping to keep abreast of the major trends in contemporary law

Contrat social Fouad Sabry, 2024-09-04 D couvrez la gouvernance moderne avec Contrat social Contrat social un volume cl de la s rie Science politique explore les th ories fondamentales de la gouvernance et de l unit sociale Essentiel pour comprendre la l gitimit politique et l volution du pouvoir de l tat ce livre examine les contrats sociaux depuis leurs racines philosophiques jusqu leurs applications contemporaines Aper u du chapitre 1 Contrat social pr sente le concept et son impact sur la gouvernance 2 John Locke les contributions de Locke sur le gouvernement et les droits individuels 3 Loi naturelle principes guidant les contrats sociaux et les normes morales 4 Philosophie politique aper u des principaux penseurs et de leur influence 5 Souverainet l autorit de l tat et sa relation avec les citoyens 6 Position originale id e de Rawls pour valuer l quit du contrat social 7 tat de nature fondement des contrats sociaux et des soci t s politiques 8 Droits naturels et droits l gaux leur pertinence et leur protection 9 Consentement des gouvern s L gitimit politique par le consentement 10 Philosophie des droits de l homme Les droits de l homme et leur r le dans la gouvernance 11 David Gauthier Choix rationnel et dimensions morales des accords 12 Volont philosophie Impact de la volont sur les contrats sociaux 13 Vie libert et poursuite du bonheur leur r le dans la gouvernance d mocratique 14 Libert positive Agir selon le libre arbitre dans le cadre des contrats sociaux 15 Souverainet populaire Son importance dans les syst mes d mocratiques 16 Libert n gative La libert de contraintes et son r le dans la th orie 17 Philosophie sociale Pertinence pour les contrats sociaux 18 Volont g n rale Le concept de Rousseau et son impact sur la l gitimit 19 Philosophie moderne volution de la th orie du contrat social 20 Deux trait s de gouvernement L influence de Locke sur la pens e moderne 21 Amour de soi l id e de Rousseau et son impact sur les contrats sociaux Contrat social propose une analyse approfondie de ces sujets enrichissant votre compr hension de la th orie politique et de son application aux questions modernes Cet ouvrage d taill est d une valeur inestimable pour les professionnels les tudients et les passionn s offrant des perspectives qui d passent l investissement en lecture

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