

Part I: General aspects

§ 2 The unclear nature and systematics of the economic law on natural resources and the environment

I. A field of law in itself or cross-sectional law?

- a *bundle of legal subject matters* touching on *many fields of law* with different traditions and approaches, the relationship between which is not always clear: economic law, administrative law, agricultural law, environmental law, climate protection law and others
- no overarching common basic principles, legal institutions, mechanisms or procedures, but a growing general commitment to sustainable development and greenhouse gas reduction
- so far rather cross-sectional law, which may, however, develop to a field of law in itself in the future

II. Part of public economic law, business administrative law, environmental law or climate protection law? [Öffentliches Wirtschaftsrecht, Wirtschaftsverwaltungsrecht, Umweltrecht or Klimaschutzrecht?]

- most economic law on natural resources and the environment falls within these fields of law, but often not exclusively within one of them
- some areas, such as emissions trading law, are part of public economic law
- but emissions trading law is also part of climate protection law
- climate protection law is currently developing from a part of environmental law and public economic law into an independent field of law
- some areas, such as forestry law, fisheries law, and the relevant planning law, are part of administrative law; mining law is, more precisely, part of business administrative law
- energy law is partially part of public economic law and partially part of environmental law
- this systematic can make the understanding of the law difficult, because it is often not clear if doctrines from one or another field of law apply

III. A highly fragmented body of law

- not a designed system of a few well-coordinated comprehensive laws but an intransparent, fragmented multitude of highly specialised legal sources, each with its own purpose, background and technique, which are barely harmonised with each other
- see for illustration the table of contents of two common collections of laws on environmental law and energy law
- most laws follow a highly bureaucratic and technical approach, are designed for a small target group of highly specialised experts and therefore difficult to study

IV. The lack of a comprehensive European or German Economic Code

- current initiatives for a European Business Code do not include economic law on natural resources and environment

V. The lack of a comprehensive European or German Environmental Code

- in Germany, ambitious plans to codify all environmental law in a comprehensive Environmental Code [Umweltgesetzbuch] were abandoned, although several drafts had been prepared, after they failed twice politically, in the 1990s and 2009