

The Global Classroom Project:

Class Session: Environmental Law

Required Reading Prior to Class Session:

What is environmental law and why is it important?

- **ON ENVIRONMENTAL LAW, CLIMATE CHANGE, & NATIONAL SECURITY LAW**
<https://eds.s.ebscohost.com/eds/pdfviewer/pdfviewer?vid=18&sid=36cbc38d-328a-4244-babf-dc69d004a006%40redis> (downloaded the full text, will share with students)

- **European Commission, Environment (Law and governance)**
https://environment.ec.europa.eu/law-and-governance_en

- **US:**

[At a glance: enforcement of environmental law in USA - Lexology](#) –Reviews and discusses regulating authorities, judicial proceedings, available defenses, etc.

[Climate Change is Changing the Practice of Law - Environmental & Energy Law Program - Harvard Law School](#) – Illustrates that climate change affects practice in all areas.

[The Keystone XL Pipeline: Everything You Need To Know | NRDC](#) –Provides an overview of Keystone XL, reviews the controversy and presidential action surrounding the pipeline. – an opposing opinion could be found here: [The Truth About The Keystone XL Pipeline \(forbes.com\)](#)

- **Council of Europe**

[European environmental law \(citizensinformation.ie\)](#) –Basic overview of environmental law in the EU.

- **UNITED NATIONS**

United Nations Sustainable Development Goals: Climate Change

Class Session Segments and Group Discussion Questions:

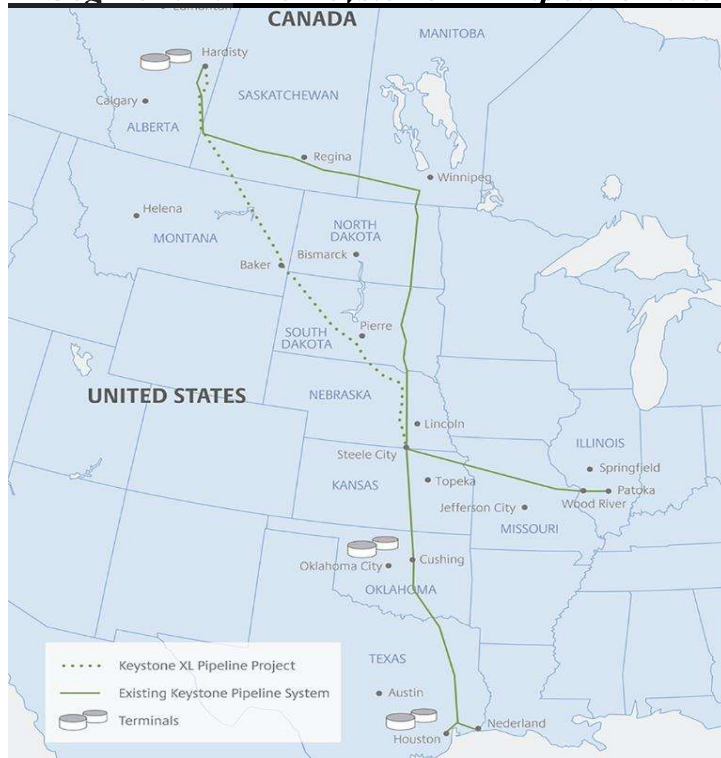
****Segment 1: Climate Change**

*****GROUP DISCUSSION QUESTIONS:**

- What is climate justice?

- Do we need a new legal basis, principles, and formulas for the future generations regarding climate change, lack of energy, water, clean air, food, and other threats?
- The National Climate Assessment estimated that climate change could cost the US economy upward of \$500 billion per-year by the end of the century. Who should be held responsible for climate change? Who is liable?
- What are the main threats of climate change?
- Do you think that oil, gas, and coal companies should be held liable for damages caused by burning fossil fuels?
- How is climate change changing the practice of law?
 - Connects with pre-class readings
- How has climate justice shaped international negotiations?

*****Segment 2: The Keystone XL Pipeline Extension***



The US is currently the world's largest producer and consumer of natural gas. It produced 24.06Tcf of natural gas and consumed 25.5Tcf of natural gas in 2012. The country had more than 210 natural gas pipeline systems as of 2012. The interstate and intrastate transmission pipelines exceed 305,000 miles (490,850km) in length.

*****GROUP DISCUSSION QUESTIONS:**

- What is the Keystone XL Pipeline extension?
- What were the pipelines' threats to climate, ecosystems, drinking water sources, and public health?

- What was the real reason why the project was eventually abandoned?
- Why did the pipeline's cancellation have no impact on current oil prices?
- What made the most impact on cancelling the pipeline extension: the civil protests, the drawn-out legal battles, or the executive orders spanning three presidential administrations?

****Segment 3: The Nord Stream 2 Case Study**



A container is decorated with a map showing the Nord Stream 2 gas pipeline, which was expected to deliver Russian gas to European households, in Lubmin's industrial park, northeastern Germany, on March 1, 2022.

John Macdougall | Afp | Getty Images

Russia holds the largest amount of natural gas reserves in the world. The country was estimated to possess about 1,688 trillion cubic feet (Tcf) of proven gas reserves as of January 2013, accounting for about one fourth of the world's total proven gas reserves. More than half of Russia's gas reserves are located in Siberia. Three of the major Siberian fields, namely Yamburg, Urengoy and Medvezh'ye, account for approximately 45% of the country's gas reserves. The majority of the country's gas reserves under development and production are located in the Nadym-Pur-Taz (NPT) region of upper Western Siberia.

- Why has Nord Stream 2 proved to be such a big political issue?
- Why have the U.S. long been an opponent of the pipeline? Is it right to be fearful of European energy insecurity?
- Evaluate the legal case T-526/19 Nord Stream 2

Questions surrounding the legal case T-536 and C-348/20P:

- What legal changes did the Directive (EU) 2019/692 bring to the Directive 2009/73/EC? Especially to articles:9, 36, and 49a.

- Is the above-mentioned Directive rightfully called “the Nord Stream 2” Directive? Do the provisions of the Directive apply directly and individually to the applicant company?
- What were the pleas in law of the applicant company? Were they answered by the General Court (case T-526/19)? If not, why?
- What did the General Court decide? On what ground?
- Why did the company lodge an appeal in the Court of Justice against the order of the General Court?
- What was the opinion of the Advocate General Michael Bobek?
- What is the recent opinion of the European Court of Justice (C-348/20P)? Does it still find the action for annulment inadmissible?
- Which were the two extraterritorial sanctions of the U.S.A against Nord Stream 2? What was their rationale?
- These extraterritorial sanctions were in accordance with international jurisdiction law? If yes, on what ground?
- Are these sanctions legitimate according to the “protective principle”? What are its limits?

LIST OF DOCUMENTS FOR THE ABOVE QUESTIONS/ LITERATURE:

<https://eur-lex.europa.eu/eli/dir/2019/692/oj>

<https://curia.europa.eu/juris/documents.jsf?num=T-526/19>

<https://curia.europa.eu/juris/documents.jsf?num=C-348/20>

<https://curia.europa.eu/jcms/upload/docs/application/pdf/2022-07/cp220122en.pdf>

https://www.nyujilp.org/wp-content/uploads/2021/08/NYUJILP_53.3_Olivier-Malherbe_US-Sanctions-Nord-Stream-2.pdf

Additional Supplemental Reading for Class Session:

**SOURCES ABOUT THE LEGAL CASE T-526/19 NORD STREAM II AG V
EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION AND
THE COUNCIL OF EUROPE**

1. APPLICABLE EUROPEAN LAW

- DIRECTIVE 2009/73/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC <https://eur->

[lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0073&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0073&from=EN)

- Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (Text with EEA relevance)Text with EEA relevance <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009R0715-20181224>
- EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)
DRAFT FEASIBILITY STUDY ON THE PROTECTION OF THE ENVIRONMENT THROUGH CRIMINAL LAW
<https://rm.coe.int/0900001680a5b770>

2. LEGAL ISSUES / ORDER OF THE GENERAL COURT OF THE EUROPEAN UNION:

- Press Release No 62/20. (20 May 2020). Orders of the General Court in Cases T-526/19 and T-530/19 Nord Stream 2 AG and Nord Stream AG v Parliament and Council. General Court of the European Union. Retrieved from:
<https://curia.europa.eu/jcms/upload/docs/application/pdf/2020-05/cp200062en.pdf>
- Publications Office of the EU. (2019, July 25). Case T-526/19: Action brought on 25 July 2019 — Nord Stream 2 v Parlement and Conseil. Retrieved May 17, 2020, from <https://op.europa.eu/en/publication-detail/-/publication/bd0ba564-d2f8-11e9-b4bf01aa75ed71a1/language-en/format-PDF/source-129259991>
- [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62019TO0526\(01\)&from=EL](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62019TO0526(01)&from=EL)
- <https://curia.europa.eu/juris/documents.jsf?num=T-526/19>
- <https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-10/cp210179en.pdf>
- OPINION OF ADVOCATE GENERAL/OPPOSITION FROM THE GENERAL COURT:
<https://curia.europa.eu/juris/document/document.jsf?text=&docid=247106&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=209408>

3. GEOPOLITICAL DISPUTES CONCERNING THE PIPELINE PROJECT

- Alenga, D. (2021). Nord Stream 2 and the Power of Siberia: What are the Stakes in Russia's Recent Natural Gas Pipeline Policies?
<https://doi.org/10.33728/ijkus.2021.30.1.004>
- Bouzarovski, S., & Konieczny, M. (2010). Landscapes of paradox: Public discourses and policies in poland's relationship with the nord stream pipeline. *Geopolitics*, 15(1), 1-21. <https://doi.org/10.1080/14650040903420362>

- Bundesnetzagentur. (2020, May 15). No derogation from regulation for Nord Stream 2. Retrieved May 18, 2020, from https://www.bundesnetzagentur.de/SharedDocs/Pressemitteilungen/EN/2020/20200515_NordStream2.%20html
- Fischer, S. (2016). Nord Stream 2: Trust in Europe. *Policy Perspectives*, 4, 1–4. Retrieved from: <https://ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/pdfs/PP4-4.pdf>
- Jirušek, M. (2020). The attitude of the Visegrad Group Countries towards Russian Infrastructural Projects in the gas sector. *Energy Policy*, 139(May 2019). <https://doi.org/10.1016/j.enpol.2020.111340>
- Riley, A. (2015). Nordstream 2: Too Many Obstacles-Legal, Economic and Political to be Delivered” Atlantic Council Washington DC, November 2015. Retrieved May 15, 2020, from www.jstor.org/stable/resrep03448
- Riley, A. (2018). A Pipeline Too Far: EU Law Obstacles to Nordstream 2. *International Energy Law Review*. 1–25. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3114202
- Riley, A. (2019, March 7). Nord Stream 2: Myth vs. Fact. Center for European Policy Analysis (CEPA). Retrieved May 5, 2020, from <https://www.cepa.org/nord-stream-2-myth-vs-fact>
- Sytas A. (n.d.). EU leaders sign letter objecting to Nord Stream-2 gas link | Reuters. 2016. Retrieved January 30, 2022, from <https://www.reuters.com/article/uk-euenergy-nordstream/eu-leaders-sign-letter-objecting-to-nord-stream-2-gas-linkidUKKCN0W11YV>
- Volkonsky, V. A., & Kuzovkin, A. I. (2021). Benefits and Losses for European Countries from the Northern Stream-2 Gas Pipeline: Overview of Estimates by Scientists and Energy Industries. *Studies on Russian Economic Development*, 32(6), 689–694. <https://doi.org/10.1134/S1075700721060162>
- Westphal, K. (2021). Nord Stream 2 - Germany ' s dilemma Nord Stream 2 – Germany ' s Dilemma. *Stiftung Wissenschaft Und Politik*, 32. doi:10.18449/2021C32. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-74874-1>