



European Union Network for the Implementation
and Enforcement of Environmental Law

Criteria for the Assessment of the Environmental Damage (CAED)

CAED 2021/15 Final Report

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Introduction to IMPEL

The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is an international non-profit association of the environmental authorities of the EU Member States, acceding and candidate countries of the European Union and EEA countries. The association is registered in Belgium and its legal seat is in Brussels, Belgium.

IMPEL was set up in 1992 as an informal Network of European regulators and authorities concerned with the implementation and enforcement of environmental law. The Network's objective is to create the necessary impetus in the European Community to make progress on ensuring a more effective application of environmental legislation. The core of the IMPEL activities concerns awareness raising, capacity building and exchange of information and experiences on implementation, enforcement and international enforcement collaboration as well as promoting and supporting the practicability and enforceability of European environmental legislation.

During the previous years IMPEL has developed into a considerable, widely known organisation, being mentioned in a number of EU legislative and policy documents, e.g. the 7th Environment Action Programme and the Recommendation on Minimum Criteria for Environmental Inspections.

The expertise and experience of the participants within IMPEL make the network uniquely qualified to work on both technical and regulatory aspects of EU environmental legislation.

Information on the IMPEL Network is also available through its website at: www.impel.eu



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<p>Executive Summary</p> <p><i>Keywords</i></p> <p>Environmental Liability Directive (ELD), Environmental Damage, Imminent threat of environmental damage, Determination of environmental damage, Environmental investigations, Environmental incidents, Environmental non-compliance, Environmental offences, Eco-criminal acts, Environmental Crime Directive (ECD)</p>	



Target groups

Competent authorities for environmental damage assessment and enforcement, industrial operators, environmental protection agencies, nature protection bodies, environmental inspectorates, environmental guard departments, environmental monitoring and research institutions, technical universities, environmental associations, NGOs, insurance companies and associations, environmental consultants.

As part of its 2016-2020 Strategic Work Programme, the IMPEL Network set up this project in the environmental damage thematic area, concerning the criteria for the determination of the environmental damage and imminent threat of damage, called CAED - Criteria for the Assessment of the Environmental Damage.

The CAED project takes guidance on key terms and definitions of Environmental Damage as a springboard and focuses on the technical/administrative procedures necessary to make determination of environmental damage.

The CAED project has been included in the ELD Multi-Annual Rolling Work Programme (MARWP) 2021-2024 of the EU Commission (as activity 1.3) as one of the activities for capacity building and it has strong links with the European Commission's publication on 25 March 2021, of the Commission Notice C(2021) 1860 final titled "Guidelines providing a common understanding of the term 'environmental damage' as defined in Article 2 of Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage".

The ultimate goal of the project is to produce a guide proving criteria for the assessment of the environmental damage and imminent threat of damage under ELD, based on reference parameters relating to 'evidence' and to 'clue' of environmental damage or imminent threat of damage.

The objective of this year's CAED project was to conduct trainings sessions on CAED 2020/24 project products and a Webinar on the Environmental Liability Directive (ELD) Enforcement on 27 April 2022.

CAED 2020/24 project products, namely the CAED Practical Guide and Tables downloadable from the IMPEL website, in the CAED project webpage, under "Project Report(s)": <https://www.impel.eu/en/projects/criteria-for-the-assessment-of-the-environmental-damage-caed>.

In line with activity 1.3 of MARWP 2021-2024, the practical guide and trainings and the future work foreseen by the CAED project intend to contribute at improving training and capacity building of practitioners and non-experts in the assessment of environmental damage and imminent threat of damage under ELD.

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Disclaimer

1. This report is the result of a project within the IMPEL network. The content does not necessarily represent the view of the national administrations or the Commission.
2. This report reflects only the authors' views and the authors themselves are not liable for any use that may be made of the information contained therein.
3. The project team is not liable for the information and facts given in the examples.
4. This project report is intended as a reference document for competent authorities and practitioners. It does not prescribe what a competent authority should do. Instead, it aims to provide information to assist competent authorities in making better decisions about the ascertainment of environmental damage. In this way, it should contribute to improve protection of the environment and promote compliance with the "polluter pays principle".



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1 THE CAED PROJECT

1.1 Purpose

The CAED project aims to provide criteria, methods and useful tools to enhance competent authorities and practitioner's capability in promptly and effectively determining the clues and evidence of environmental damage and imminent threats of damage caused by environmental incidents, non-compliances, offences and criminal actions.

It is anticipated that the success of preventive or remedial measures may be improved, with such a framework of procedures, criteria, methods and planning and assessment tools for the determination of the environmental damage and imminent threat of damage. The purpose of this guide is to provide that framework by providing practical tools to support competent authorities in identifying potential cases of environmental damage under the Environmental Liability Directive (ELD). Early identification of clues of damage can facilitate rapid decision making, saving time, effort and money. The guide therefore focuses on preliminary assessments for the evaluation of potential cases of environmental damage and imminent threat of damage under ELD.

1.2 Scope

The Criteria for the Assessment of the Environmental Damage (CAED) project is primarily concerned with the Environmental Liability Directive 2004/35/CE (ELD) which concerns the environmental liability for the prevention and remediation of environmental damage.

In particular, the CAED project concerns the environmental damage to the natural resources protected by the ELD, namely, protected species and natural habitats (included in the so-called Nature Directives), waters (under Water Framework and Marine Strategy Directives) and land. In addition, the scope includes areas protected by national legislation (such as protected areas, national and regional parks, wetlands) and international conventions (RAMSAR).

The CAED project is framed in the administrative procedure for the determination of environmental damage and imminent threat of damage and it is devoted to the early stages of



environmental damage assessment, referred to as the phase of ‘ascertainment’ or the ‘determination of environmental damage’.

The CAED project proposed a new methodology for the ascertainment, divided into three steps of actions: the screening, the determination of clues, the determination of evidence.

Moreover, within this new methodology, the CAED project proposed the use of a new DPSIR (Drivers, Pressures, State, Impact and Response) model adapted to the determination of the environmental damage and provided practical tables of indicators for the preliminary assessments of the environmental damage.

Please read the CAED Report 2019/18 and the CAED Practical Guide and Tables for further details. They are downloadable from the IMPEL website, in the CAED project webpage, under “Project Report(s)”:

<https://www.impel.eu/en/projects/criteria-for-the-assessment-of-the-environmental-damage-caed>

1.3 Background

As part of its 2016-2020 Strategic Work Programme, the IMPEL Network set up the Criteria for the Assessment of the Environmental Damage project (CAED) in the environmental damage thematic area, concerning the criteria for the determination of the environmental damage and imminent threat of damage. This project takes guidance on key terms and definitions of Environmental Damage as a springboard and focusses on the technical/administrative procedures necessary to make determination of Environmental Damage.

The CAED project has been included in the ELD Multi-Annual Rolling Work Programme (MARWP) 2021-2024 of the EU Commission (as activity 1.3) as one of the activities for capacity building and it has strong links with the Commission Notice C(2021) 1860 final titled “Guidelines providing a common understanding of the term 'environmental damage' as defined in Article 2 of Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage” published on 25 March 2021 (hereafter called “EU COM Notice”).



2 CAED project training sessions

2.1 Timeline of training sessions

In 2021-2022 CAED project conducted 3 training events on CAED products:

- 1) 27 October 2021: trial training test to nearly 15 attendees of the CAED project team;
- 2) 23 November 2021: first training session to nearly 40 attendees of practitioners from IMPEL, ENPE and EUFJE Networks and EU ELD Government Expert Group; and
- 3) 9 February 2022: second training session to nearly 40 attendees of practitioners from IMPEL, ENPE and EUFJE Networks, EU ELD Government Expert Group.

Moreover, CAED project organized a Webinar on the Environmental Liability Directive (ELD) Enforcement on 27 April 2022 at which participated more than 75 attendees from IMPEL Network and out of IMPEL Network.

2.2 Content of training sessions

Training activities were conducted on the CAED products, in particular on the use of the Practical Guide and tables for the determination of the environmental damage, accompanied by a brief overview on Environmental Liability Directive 35/2004/CE.

Training material was constituted by the CAED Practical Guide, Practical Tables and 3 Case studies on how to apply the Practical Tables.

The 3 case studies were about, damage to protected species and natural habitats, damage to surface water, damage to land.

The training session was divided into 3 parts:

- a first part of illustration of the Practical Guide and Practical tables content;
- a second part of illustration of the examples of the use of the Practical tables to 3 case studies;



- a third part of Word Café exercise, where attendees have been separated in 3 break-out rooms to apply the Practical Tables on a further case study on water damage, with the assistance of a trainer.

Trainers of training sessions were Francesco Andreotti (IT), Kim Bradley (UK), Linda Dalton O'Regan (IE) (for the first training session), Daniele Montanaro (IT).

The CAED training package is referred to the 2nd training session and it is downloadable from the IMPEL website, in the CAED project webpage, under “Project Report(s)”:

<https://www.impel.eu/en/projects/criteria-for-the-assessment-of-the-environmental-damage-caed>

2.3 Trainings Satisfaction Surveys

At the end of each training session a Satisfaction Survey was conducted, where attendees were asked to express their opinions/suggestions about the training and their wishes about training activities for the incoming years.

The questions of the Survey and the responses are listed in the table below:

Questions/Responses	Trail training test	First training session	Second training session
1) What was good?	<ul style="list-style-type: none"> - Presenting the case study - Participation - Speakers - Supporting documentation - Create work strategies - The explanation 	<ul style="list-style-type: none"> - Good overview of tool - Detailed clarifications - The information - The presentations - Case studies - Assess a potential case - Group work - Good introduction to the methodology 	<ul style="list-style-type: none"> - All the information - Content - Practical examples - Practical exercise
2) What should be improved?	<ul style="list-style-type: none"> - The exercise - Fontsize - Communication - Should be split in rooms 	<ul style="list-style-type: none"> - Longer time for group working - Include a summary of ELD - More time for exercise - Don't speak fast - Change colour codes - More time to read the example - Include drop-down menus 	<ul style="list-style-type: none"> - Excel file reduced - Nothing - Later start time - More detailed guidelines - Recording of training
3) Other suggestions?	<ul style="list-style-type: none"> - Case studies 	<ul style="list-style-type: none"> - Change the colour 	None



	<ul style="list-style-type: none"> - More speakers 	<ul style="list-style-type: none"> codes - Break the seminar - Provide ELD overview 	
4) What topic has your major interest for the Webinar?	<ul style="list-style-type: none"> - Case studies - Environmental damage 	<ul style="list-style-type: none"> - How to assess environmental damage - Practical implementation - Water damage - Interpretation of EU Notice 	<ul style="list-style-type: none"> - Practical tables - Commission presentation
5) What would you like to be trained for in the next years?	<ul style="list-style-type: none"> - Practical onsite training - Evidence gathering 	<ul style="list-style-type: none"> - Biodiversity damage in Natura 2000 sites - Damage in specific areas - How to interpret significance - How to apply criteria nationally - Remediation of damage - Environmental Damage Assessment - How to apply ELD articles - On ground implementation 	<ul style="list-style-type: none"> - Comparative ELD systems - ELD practical application - Technical investigation - More practical cases - Imminent threat of damage under ELD - Case studies

All suggestions for improvement received from the trainees (question no. 2) were considered and put in place, where possible, in each subsequent training session and the Webinar.

As for the training needs (question no. 5), it is evident that the training on practical issues on assessment and remediation by using case studies is the most preferred by practitioners.

3 CAED Webinar

3.1.1 CAED Webinar scope and purpose

As mentioned, the CAED project organized a Webinar on the Environmental Liability Directive (ELD) Enforcement on 27 April 2022 at which participated more than 75 attendees from IMPEL Network and out of IMPEL Network.



IMPEL CAED Webinar was organized to deliver and discuss on various topics related to ELD enforcement:

- Current scenario and future perspectives of ELD enforcement
- EU projects for ELD enforcement
- Member States Guidelines and tools for ELD enforcement
- Member States practical experience on ELD enforcement

Hence, the driving theme of the webinar was mainly enhancing capacity building on ELD enforcement at EU and Member States level.

The CAED Webinar's Summary Report is downloadable from the IMPEL website, in the CAED project webpage, under "Project Report(s)":

<https://www.impel.eu/en/projects/criteria-for-the-assessment-of-the-environmental-damage-caed>



Annexes



ANNEX I. – CAED Training package

CAED Training package is referred to the 2nd training session and it is downloadable from the IMPEL website, in the CAED project webpage, under “Project Report(s)”: <https://www.impel.eu/en/projects/criteria-for-the-assessment-of-the-environmental-damage-caed>. Training package includes 2nd training session Invitation&Agenda and trainers’ presentations and tables referred to CAED 2020/24 project products.

CAED 2020/24 project products, namely the CAED Practical Guide and Tables downloadable from the IMPEL website, in the CAED project webpage, under “Project Report(s)”: <https://www.impel.eu/en/projects/criteria-for-the-assessment-of-the-environmental-damage-caed>