



European Union Network for the Implementation
and Enforcement of Environmental Law

Criteria for the Assessment of the Environmental Damage (CAED)

CAED Webinar 2022 Summary 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> <p><i>Target groups</i></p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>	



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 providing 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>.

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; and
- 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 Webinar provided an extensive overview on some examples of Reference Guides and Tools as well as organisational activities that already exist at EU and Member States level, nevertheless, there are still some issues to solve in practice to fill the gaps and achieve a complete and effective enforcement of ELD directive.

Cooperation of all stakeholders at national and international level can make the enforcement of the ELD directive and the polluter pays principle more powerful in the incoming years. At this regard, the IMPEL CAED project, included in the activity 1.3 of the MARWP as an IMPEL reference for capacity building activities on ELD enforcement, is willing to have a role in the next future by providing a room for multidisciplinary and multinational experience and expertise sharing.

Acknowledgements:

This report has been peer reviewed by a wider IMPEL project team and by the IMPEL Cross Cutting Expert Group, to whom we sincerely are thankful.



The project manager is extremely thankful to all attendees and, in particular, IMPEL, EUFJE, ENPE, EnviCrimeNet Networks, as well as OECD and UNEP for their kind participation. Moreover, the project manager is extremely thankful to Mr. Stefano Laporta (President of the Italian Institute for Environmental protection and research - ISPRA) and Mrs. Olga Kurpisz (DG ENV.E4) for their kind and effective participation as speakers at the CAED Webinar.

The project manager wishes to thank the colleagues of ISPRA (Italian Institute for Environmental Protection and Research) of the Area for the Ascertainment, the Assessment and the Remediation of Environmental Damage, for their valuable suggestions: Laura Calcagni, Marina Cerra, Paola Di Toppa, Antonio Guariniello, Patrizia Scotto Di Carlo, Daria Vagaggini.

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 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 Webinar Summary Report

2.1 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.

The CAED Webinar's Invitation and Agenda is available in Annex 1.

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; and
- 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 Webinar has been recorded for the purposes of producing notes. Moreover, IMPEL has provided the recording of the Webinar by request of the Organization for Economic Co-operation and Development (OECD) for the only purpose of subsequent translation and dissemination to practitioners of environmental liability in Eastern Partnership countries beneficiary of the EU4Environment Action. Credits of the authors will be ensured. IMPEL will not assume any responsibility for these translations and for any consequent use of OECD.

2.2 CAED Webinar speakers and attendees

2.2.1 CAED Webinar speakers

Most of the speakers are also project members of the IMPEL CAED project and members of the ELD Government Experts Group of the Member States working together with the Commission or, in the case of Pool Ambiente, part of the ELD Stakeholder group of the Commission.



Speakers of the Webinar are listed below:

Mr. Stefano Laporta - *President of Italian Institute for Environmental Protection and Research (ISPRA) and the National System for Environmental Protection (SNPA)*

Mr. Francesco Andreotti – *Environmental Technologist, Italian Institute for the Environmental Protection and Research (ISPRA), Area for the Ascertainment, the Assessment and the Remediation of Environmental Damage, Italy*

CAED project manager, webinar organizer and moderator under the auspices of the IMPEL Network. He is environmental engineer and Master's Degree in Environmental and Energy Management and he works for the Italian Institute for the Environmental Protection and Research (ISPRA), in the Area for the Ascertainment, the Assessment and the Remediation of Environmental Damage.

Mrs. Olga Kurpisz - *Legal and Policy Officer, Environmental Liability Directive, DG ENV.E4. Compliance & Better Regulation*

She recently joined DG Environment of EU Commission, Unit E4 dealing with Environmental Rule of law and Governance, replacing Mr. Hans Lopatta after his retirement as of December 2021. She has a legal background with a LLM and an European Law Master's degree and she works as a legal and policy officer in charge of the ELD and also supervise the Commission cooperation with and funding of the European environmental enforcement networks.

She previously spent 18 years working in the Commission Secretariat General, on various institutional and citizens' rights related issues, such as the European citizens' initiative.

Ms. Kim Bradley - *Principal Policy Officer – Environmental Liability, Scottish Environment Protection Agency (SEPA), United Kingdom*

She is a Chartered Geologist and Fellow of the Geological Society of London. Over the past 30 years she has worked in the private public and third sectors in the fields of waste management, IED, contaminated land, environmental auditing and environmental liability. Kim is currently SEPA's Principal Officer for the ELD and she enjoys collaborating with external partners to work



towards successful implementation of the ELD. Kim is also the project manager for IMPELs work on Financial Provision.

Mrs. Stavroula Pouli - Head of Coordination Office for the Implementation of ELD, Ministry for the Environment, Energy and Climate Change, Hellenic Republic (Greece)

Head of Coordination Office for the Implementation of ELD in the Ministry for the Environment, Energy and Climate Change of Hellenic Republic (Greece). She has been working for the Ministry for Environment and Energy in various sectors such as natural environment management, environmental permitting, inspectorate and environmental liability. She participates at Government Expert Group of ELD. She is currently the project manager of LIFE PROFILE project.

Mr. Isaac Sánchez Navarro - Technical Advisor, Directorate General for Environmental Quality and Assessment, Ministry for the Ecological Transition and the Demographic Challenge, Spain

He is Bachelor of Science in Earth Science. He started working in the private sector in 1999 in different European projects on the use of GIS and Earth Observation techniques for the management of natural resources. In 2003 he started working in the Ministry for the Environment, at the Directorate-General for water, participating different working groups or the European Commission for in the implementation of the Water Framework Directive and the Groundwater Directive. Since 2010 he works at the Directorate-General for Environmental Quality and Assessment of the now Ministry for the Ecological Transition and the Demographic Challenge, in the implementation of the environmental liability legislation. He is the Secretary of the Technical Commission on Prevention and Remediation of Environmental Damages, that coordinates the implementation of this legislation with the different competent authorities in Spain, and he is the representative of Spain in the Government Experts Group on Environmental Liability of the European Commission.

Mrs. Regina Vilão - Division Director, Division of Environmental Liability and Contaminated Soils, Department of Waste, Portuguese Environment Agency, Portugal.

She has been Head of Unit for more than 17 years at the Portuguese Environment Agency, she is responsible for areas such as Environmental Strategies and Policies, Sustainable Development,



Environmental Liability and Contaminated Soils. She coordinated several national policies and strategies, action plans, the Environmental National Information System, the Environmental State Reports for several years and proposals for numerous legal regimes. She worked as seconded national expert at DG ENV and was nominated national expert in the area of environment and health next to WHO.

Mr. Roberto Ferrari - *Claims manager and Risk analyst, "Pool Ambiente" Consortium, Insurance and Reinsurance Pool, Liability for Damage to the Environment, Italy.*

He is a geologist and he worked as a consultant in site contamination and remediation projects over the past 20 years, he presently works as Claims Manager for the Pool Ambiente, that is the Insurance and reinsurance Consortium among most insurance companies covering environmental risks in Italy.

Mrs. Miljenka Klicek - *State Inspectorate of the Republic of Croatia, Regional Office Varaždin, Head of Regional Environmental Inspection and Water Inspection service, Rep. of Croatia.*

She works for State Inspectorate of the Republic of Croatia, in Regional Office Varaždin, as a Head of Regional Environmental Inspection and Water Inspection service. She is a chemical engineer and she has been working as an environmental inspector specialist for 19 years and performed more than 1500 on-site inspections in environmental protection area.

Mr. Daniele Montanaro - *Environmental Technologist, Italian Institute for the Environmental Protection and Research (ISPRA), Area for the Ascertainment, the Assessment and the Remediation of Environmental Damage, Italy*

He is a Chemical Engineer and a PhD in Chemical Engineering, he has been working for ISPRA in the Area for the Ascertainment, the Assessment and the Remediation of Environmental Damage for more than 5 years.

2.3 Attendees

CAED Webinar attendees were nearly 75 persons (more than 20 Countries), mainly from the public sector: among them, IMPEL, EUFJE, ENPE, EnviCrimeNet Networks, Competent authorities,



Courts and Attorneys, international organisations (OECD and UNEP), environment and nature protection agencies, environmental inspectorates, law and technical universities, public environmental associations.

Only a few from the private sector, namely, Private legal/technical consultants.

3 CAED Webinar content

IMPEL CAED Webinar was structured in 4 parts, according to the main topics of interest on ELD enforcement, namely:

- 1) Introduction - Current scenario and future perspectives of ELD enforcement;
- 2) Part I - EU projects for ELD enforcement;
- 3) Part II - Member States Guidelines and tools for ELD enforcement; and
- 4) Part III - Member States practical experience on ELD enforcement.

Before the first presentation, the webinar started with a video-message of institutional welcome by Mr. Stefano Laporta, President of Italian Institute for Environmental Protection and Research (ISPRA) and the National System for Environmental Protection (SNPA), who apologised for not being present at the webinar due to other institutional commitments.

Text of the video-message is the following:

“Dear Mrs. Kurpisz (European Commission – DG ENV.E4. Compliance & Better Regulation),

Dear Speakers,

Dear Webinar attendees,

My name is Stefano Laporta and I am the President of Italian Institute for Environmental Protection and Research (ISPRA) and in this role I also have the honour to chair the Italian National System for Environmental Protection (SNPA) which, according to law n. 132 of 2016, gathers in a formal network all Italian Regional EPAs.

ISPRA is member of the EPA Network of the Heads of Environment Protection Agencies and for IMPEL acts as the National Coordinator of the Italian IMPEL members which, as you know, are, a part from ISPRA, the Ministry of Ecological Transition, ARPA Lombardia and AssoArpa.

Let me thank the IMPEL Network and the organizer for their invitation to contribute to the opening of this IMPEL CAED Webinar. I regret that I cannot participate in person, but with this video-message I wanted to send you my sincere greetings and wishes of good work.

Among the main achievements of ISPRA and SNPA Network, which act as technical support to the Ministry of Ecological Transition for the ELD enforcement in Italy, are: 2 biannual reports of the



ascertained environmental damage cases in Italy in 2017-2018 and 2019-2020; a national guideline on the Methodologies and Reference Criteria for the Assessment of Environmental Damage, issued in 2021.

I am very glad to say that among these achievements is the IMPEL CAED project, which was included in the Multi-Annual ELD Rolling Work Programme (MARWP) 2021-2024 of the EU Commission, in the area of capacity building activities.

I am sure that this CAED webinar links very well up to the efforts undertaken in Italy and at EU level to increase the enforcement of the Environmental Liability Directive and I thank all speakers who have accepted to contribute to this achievement of IMPEL and ISPRA and I wish to thank in advance all participants for their kind listening and their possible active participation in the Q&A sessions.

Now, I leave the floor to the organiser Mr. Andreotti and I wish you all an interesting and fruitful Webinar. All the best.”

3.1 Introduction - Current scenario and future perspectives of ELD enforcement

3.1.1 Presentation of the “Environmental Liability Directive Implementation and enforcement update”

Mrs. Kurpisz updated about ELD implementation and enforcement in EU and, in particular, about EU Commission activities on ELD evaluation.

Topics of the intervention were:

- ELD 2nd evaluation 2023;
- Court of Auditors’ special report on the polluter pays principle;
- European Parliament Resolution on the liability of companies for environmental damage;
- Study – Facilitating the enforcement of the ELD by Competent Authorities; and
- Guidelines on Environmental Damage.

In particular, the issues that the 2nd ELD evaluation will investigate are:

Effectiveness

- To what extent have the objectives of the ELD been achieved since 2016?
- Are there any factors that have limited the effectiveness of the ELD?

Example sub-issues:



- What national legislation has been used to handle ELD occurrences instead of national ELD legislation (IED legislation, national liability legislation, etc.)?
- Have the preventive/remedial measures under national non-ELD legislation ensured the same minimum standard of environmental protection as the ELD?
- Can national non-ELD legislation be applied jointly with national ELD legislation instead of being applied instead of national ELD legislation?
- What is the extent to which stakeholders have been engaged in the process of improving the implementation of the ELD at national level?

Efficiency

- To what extent have costs of the ELD been justified, overall and for different stakeholder groups, given any benefits that the ELD has delivered?
- Are there significant differences between Member States in implementation and efficiency, and if so, what is causing them?
- To what extent have actions undertaken by the Commission and Member State since 2016 (particularly in response to the REFIT Evaluation) made the ELD more efficient?
- Is the current approach, where financial security for ELD liabilities is not mandatory, appropriate?
- Can the efficiency of the ELD be further improved?

Relevance

- Does the ELD still correspond to the current needs of the EU?
- Is the scope of the ELD still appropriate?
- Has the ELD been flexible enough to respond to new and/or emerging issues?

Coherence

- To what extent is the ELD internally consistent and coherent?
- To what extent is the ELD coherent with other EU environmental policies and wider EU policies?



EU added value

- What is the EU added value of the ELD compared to what is likely to have been achieved by Member States in its absence?

The relevant milestones of the ELD 2nd evaluation are listed below:

- *November 2021* – Call for evidence published
- *November – December 2021* – feedback collection (4 weeks)
- *January - April 2022* – Study inception phase
- *March - October 2022* – Study execution: evidence gathering and analysis, stakeholder consultations
- *30 April 2022* – Member States Reporting time limit
- *May - July 2022* - online public consultation (12 weeks)
- *7 June 2022* - next meeting of the ELD Expert Group
- *September 2022- January 2023* – Study execution: conclusions and final report
- *November* - Workshop with stakeholders
- *November* - ELD expert group consultation
- *30 April 2023* – legal deadline to publish the evaluation

Other important information and useful links can be found in the presentation.

3.2 Part I - EU projects for ELD enforcement;

3.2.1 Presentation “IMPEL PROJECT - Criteria for the Assessment of the Environmental Damage (CAED)”

Mr. Andreotti presented the work of the CAED project for supporting ELD enforcement at EU level, in particular, CAED scope and objectives, products 2019-2021, trainings in 2021-2022, plans for 2022-2024.

In the aim of the CAED project is to support the ELD enforcement, in particular, focusing on providing criteria, methodologies, and tools to non-experts for the screening and the first assessments of the ELD cases of damage and imminent threat of same, in order to solve the issues of the gaps of knowledge on ELD, the time delays of reactions, shortage of human resources. In



fact, the first screenings and assessments are the trigger for rapid responses and reactions to potential environmental damages.

Other important information can be found in the presentation; products of the CAED project 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>

3.2.2 Presentation of the “Financial Provision – Protecting the Environment and the Public Purse”

Ms. Bradley speech concerned the “IMPEL Financial Provisions project” outputs and a brief summary of the Scottish Guide to support the ELD enforcement.

The presentation highlighted that the environment and the public purse are at risk where there are insufficient funds to pay for environmental restorations and clean-ups. Financial provision that is secure, sufficient and available when required can help protect the environment and the public purse. This is recognised by the EU Commission who have included actions for Financial Security under EU Environmental Liability Directive (ELD) in the Multi Annual Rolling Work Programme 2022-2024.

Ms. Bradley went on to introduce IMPELs work and publication of a practical guide on financial provision to help regulators gain confidence in better decision-making to ensure that sufficient secure funds are available when called upon to clean-up the environment. An update was provided about the current work on implementing a web-based tool of the Financial Provision project on IMPEL website.

Ms. Bradley also provided her positive reaction to some of the apparently emerging themes mentioned in the report “Improving the Financial Security in the Context of ELD” of prof. Valerie Fogleman, such as:

Increased operator demand for financial security;



Extension of Financial security requirements for more sectors and scenarios such as the waste chain, IED, SEVESO;

Move away from less secured provisions e.g. self provision and financial viability health checks; and

Move towards extending liability to directors and others.

Finally, the Scottish Technical Guidance on ELD was briefly presented and illustrated with a case study. The case study is a success story of compensatory remediation for water damage which demonstrates that appropriate financial provision can protect both the environment and the public purse.

Other important information can be found in the presentation and products of the Financial Provision project at this link: <https://www.impel.eu/en/projects/financial-provisions>

3.2.3 Presentation of the “EU LIFE project on “Promoting financial instruments for liability on environment”

Mrs. Pouli illustrated interim achievements of the EU LIFE PROFILE project on “Promoting financial instruments for liability on environment”, which is focused on the economic evaluation of environmental damage (especially focusing on biodiversity damage) and, among its products, has the development of risk assessment scenarios for ELD Annex III activities that may cause environmental damage, in order to identify realistic ceilings for the financial guarantees.

The Coordinating Beneficiary of the EU LIFE PROFILE project is the Ministry for Environment & Energy (MEE) Coordination Office for the Implementation of Environmental Liability (COIEL), and the Associated Beneficiaries are Green Fund, National Technical University of Athens, Panteio University (UEHR), Griffin, National Observatory of Athens (NOA), Hellenic Association of Insurance Companies (HAIC), National and Kapodistrian University of Athens, Griffin Environmental Consulting LP.

Main objectives of the project are:



- Improvement of Environmental Liability Directive ELD (2004/35/EE) implementation for environmental damage mitigation;
- Development of risk assessment for identifying & quantifying risk assessment scenarios for ELD Annex III activities;
- Development & implementation of a national plan on ELD;
- Enhancing of financial security for environmental damage remediation;
- Support operators to fulfill their obligations regarding ELD and raise awareness of stakeholders and public on ELD; and
- Demonstration to other MS best practices.

Key deliverables of the project will be:

- IT tool for environmental risk assessment;
- Economic evaluation of damage; and
- Estimation of financial security needed.

Expected Policy Outcomes:

- Issuing and implementation of ministerial decision on financial security for environmental damage remediation (according to ELD and national legislation);
- Development of the IT-tool for environmental risk assessment: available to operators and the general public;
- Consultation Forum establishment: will provide the “environment” for an open dialogue among stakeholders for the improvement of environmental liability application;
- Development of the National Plan for the improvement of environmental liability implementation; and
- Creation and operation of a web-based platform that will provide information on ELD cases to authorities and public.

Expected impacts:

- Compliance and Enforcement: ELD cases recorded on web-based platform & register, potential ELD cases detected through Environmental Inspectorate, operators using the IT tool



- Training: targeted to public authorities and operators with seminars/ webinars/ training tool & platform
- Citizen and NGO involvement: Public and NGOs involved in project activities, users of the web-based platform developed by the project

Other important information can be found in the presentation and products of the EU LIFE PROFILE project on “Promoting financial instruments for liability on environment” at this link:

<https://www.uehr.gr/en/projects/life-profile>

3.3 PART II – MSs Guidelines and tools for ELD enforcement

3.3.1 Presentation of the “Spanish Guidelines for environmental damage assessment”

The speech of Mr. Sanchez Navarro concerned the guideline documents developed in Spain for the implementation and enforcement of the ELD and Law 26/2007. In particular, the presentation included the role of significance of damage in the implementation of ELD, the Spanish guidelines for environmental damage assessment, other initiatives for the implementation of ELD in Spain.

Among these initiatives, worth to mention is recent launching of the Environmental Liability Information System (SIRMA).

SIRMA gathers all the information related to the Environmental Liability Law 26/2007, as well as access to all the documents, guideline documents and tools developed to facilitate its implementation in Spain.

It also provides access to the Environmental Risk Analysis (ARM), Environmental Damage Index (IDM) and Environmental Liability Supply Model (MORA) computer applications, developed with the aim of helping all operators to carry out their environmental risk analysis and determine the amount of the mandatory financial security foreseen in Law 26/2007.

The Environmental Liability Information System (SIRMA) is available both in Spanish and English, including SIRMA User’s guide, and most of the guidance documents and protocols also available through SIRMA have been also translated into English.



Mr. Sanchez Navarro pointed out that these tools, guidance documents and protocols, and the introduction of the mandatory financial security scheme, are very important for achieving the Directive's objectives. Specially, although their effect is difficult to quantify, all these measures introduced in the context of Law 26/2007, have had a significant preventive and deterrent effect, and have contributed to the implementation of the prevention of environmental damage. Therefore, Mr. Sanchez Navarro suggested these to be taken into account in the evaluation of the Directive.

Other important information can be found in the presentation and in the SIRMA web page (where you may consult any ELD guidance documents and have access to the online web-tools) at this link:

https://aplicaciones-pre.tragsatec.es/mora/login.action;jsessionid=D6FB0FAD28E981132FFB9DA5AD3157DE.worker51?request_locale=en

3.3.2 Presentation of the “Portuguese Environmental Liability Legal Regime National Reports and Communication System”

The speech of Mrs. Vilão concerned the Portuguese Environmental Liability Legal Regime, the National Reports and the Communication System.

In particular, Mrs. Vilão presented the 2008-2021 National ELD Reports main results, achievements and trends, conclusions. Moreover, relevant developments in ELD implementation and enforcement in Portugal were presented by an overview on technical guidance documents, yearly implementation reports and the National Communication System, which was showed in its structure and content.

The National Communication system is also in English language and may be tested, provided that while completing it you state that it is only for testing purposes.

Mrs. Vilão also included important recommendations and upcoming challenges for ELD implementation and enforcement, such as:



At national level:

- Derogation of financial guarantees for low-risk activities, based on a Simplified Risk Assessment; and
- Awareness-raising of the regime.

At EU level:

- Introduction of a mandatory system of financial guarantees for operators carrying out activities listed on Annex III of the ELD, with the development of a harmonized methodology for calculating the amount of the financial guarantees; and
- Development of a risk assessment methodology for human health to support the identification of cases of damages/imminent threats of damages to soil.

Links to the following technical guidance documents, yearly implementation reports and the National Communication System are included in the presentation:

- “Guide for the Assessment of Imminent Threats and Environmental Damages – Environmental Liability” (APA, 2011)
- “Environmental Liability Legal Regime – Prevention and Remediation of Environmental Damage – Operator Support Manual” (APA, 2016)
- “Technical Guide – Risk analysis and risk acceptability criteria” (APA, 2011)
- Document with answers to the most Frequently Asked Questions (including, among other aspects, the requirements that must be met by the operators for the constitution of the accepted types of financial guarantees)
- “Report on the Experience Gained in the Application of Decree-Law No. 147/2008 of 29 July 2008” (APA, 2013)
- “Environmental Liability Legal Regime – Environmental Cases Report – Year 2019” (APA, 2019)
- “Environmental Liability Legal Regime – Environmental Cases Report – Year 2020” (APA, 2021)

The link to the National Communication System is <https://ra.apambiente.pt/form>

Other important information can be found in the presentation and at the following link:

<https://www.apambiente.pt/avaliacao-e-gestao-ambiental/responsabilidade-ambiental>



3.3.3 Presentation of the “Reference practice UNI/PdR 107:2021 “Protected Environment””

The speech of Mr. Ferrari concerned the Reference practice UNI/PDR 107:2021 "Protected Environment - Guidelines for the prevention of damage to the environment - Technical criteria for effective management of environmental risks" for the incoming issuing of the “Protected Environment” Certification. This Reference Practice was promoted by the “Pool Ambiente” Consortium and issued in June 2021 by UNI – the Official Italian Standardization Body.

The Reference Practice is available in Italian and English languages.

Mr. Ferrari clarified that the Reference practice UNI/PDR 107:2021:

- is a list of best practices to be applied to your plants, your staff and your organization in order to decrease the probability and intensity of any damage to the environment, due to sudden and / or cumulative exceeding of the ecosystem tolerability thresholds; and
- will be updated, commented and if it will become a sector practice it will be converted into an official standard within 5 years.

Moreover, difference of the Reference practice for the “Protected Environment” Certification from ISO 14001 and EMAS standards is that:

- ISO14001 and EMAS focus on information management – “SOFTWARE”;
- PdR Protected Environment focuses on the management of plants and human resources – “HARDWARE”; and
- In fact, these rules can be integrated with each other,

Main characteristics of the Reference practice are:

- 3 Levels: Basic, Medium and Advanced;
- For sites of all sizes and any production sector;
- It is linked to the single production site;
- Three-year duration, annual surveillance;



- It is possible to exclude specific branches of activity and / or offices, motivating and explaining; and
- It is applicable anywhere, all over the world.

The Reference Guide is downloadable (in the Italian and English versions) at the following link:

http://store.uni.com/catalogo/uni-pdr-107-2021?josso_back_to=http://store.uni.com/josso-security-check.php&josso_cmd=login_optional&josso_partnerapp_host=store.uni.com

Other important information can be found in the presentation and at the following link:

<https://www.poolambiente.it/certificazione-ambiente-protetto/>

3.4 PART III – MSs practical experience on ELD enforcement

3.4.1 Presentation of the “Environmental Inspectors and ELD Enforcement – Case Study on Land Contamination””

The speech of Mrs. Kliček, concerned a case study concerning land contamination caused by buried waste.

After an overview of ELD implementation and enforcement in Croatia, Mrs. Kliček described relevant information about the installation in question, a metal processing company that surface treatment processes such as shot blasting and spraying, and key elements of the inspection findings, inspection enforcement and crime investigation.

In particular, during a routine inspection on site inspector found that construction works on new fence were going on. He noticed that some barrels were buried on site, so he ordered the operator to dig out all buried barrels.

After sampling and analysis of the waste and the contaminated land by a licensed laboratory, a contamination in the agriculture land outside the fence resulted. Hence, the operator was obliged to remove all the waste and contaminated soil and give it to the licensed company.

Conclusions of the case study were:



- The screening in observed case was done by the Environmental Protection Inspector according to his findings in on-site inspection. These findings were complemented by investigation of the land use and the existence of protected species and/or natural habitats on the contaminated area or in the vicinity of contaminated area; and
- The described case was not considered as environmental liability case, but other environmental national legislation was implemented and polluter pays principle was fully implemented.

Final remarks from Mrs. Kliček were:

- The clear decision about the appearance of the environmental damage was very difficult to deliver. It is related to the determination of 'and 'adverse effects as well as of the consequences over time to the environmental resources;
- Coordination between different competent authorities is crucial for delivering the decision about the environmental damage;
- Continuous improving of practical knowledge, skills and competences among all stakeholders is necessary for environmental damage prevention as well as for recognition and processing of ELD cases; and
- The guideline on the criteria for the determination of the environmental damage and imminent threat of environmental damage, focused on the aspects of the ascertainment would help to consist approach and overcome problems in the enforcement of ELD.

Other important information can be found in the presentation.

3.4.2 Presentation of the "The role of ISPRA in the ELD enforcement in Italy"

The speech of Mr. Montanaro concerned the environmental damage in the Italian legal system, the role and activities of ISPRA for ELD implementation and enforcement, a case of damage to a protected natural habitat.



The Role of ISPRA for ELD implementation and enforcement is to assure technical and scientific support to the Ministry of Ecological Transition, which is the unique competent authority for ELD implementation and enforcement in the whole Italian territory. The Unit of ISPRA appointed for this support is “Area for the ascertainment, assessment and remediation of environmental damage”.

Some actions that ISPRA implemented to enhance efficiency and effectivity of ELD enforcement are:

- Creation of the ISPRA Operative Network for the environmental damage, made of technologists and researchers of ISPRA with expertise in relevant legislations (Nature, WF and MSF, IE and EIA Directives) to support the Area for the ascertainment, assessment and remediation of environmental damage
- Creation of an SNPA Operative Network for the environmental damage, which gathers representatives of Regional Environmental Agencies cooperating with ISPRA for the environmental damage assessment according to a defined official protocol. SNPA national network system for the protection of the environment (SNPA). This Network is made of 21 Environmental Regional Agencies (ARPA / APPA) and ISPRA is the reference point of it for the national environmental policies.
- Training activities: Regional Agencies need specific training on the legislation and technical requirements for environmental damage assessment and remediation. Hence, ISPRA (Area for the ascertainment, assessment and remediation of environmental damage) organizes biannual training courses for the Regional Agencies offices on environmental damage assessment.
- ISPRA National Reports on activity for environmental damage assessment: ISPRA published to National biannual reports (2017-2018, 2019-2020) on all the cases investigated by ISPRA/SNPA (ELD cases and not-ELD cases) in the whole Italian territory in order to focus on the main environmental criticalities. It is a useful tool for promoting knowledge of the basic principles of national environmental damage legislation and the implementation of the EU directive, its issues and perspectives.
- SNPA Guidelines “Methods and reference criteria for the assessment of the environmental damage”: Describes the procedural steps of the administrative action of the competent authority for the assessment of the environmental damage, it represent a reference document for the screening and the ascertainment phases of environmental damage assessment, it introduces the



notions of “clues” and “evidences” of environmental damage referred to the specific natural resources.

- Other important actions of ISPRA are: participation to most important Italian conferences (environmental, industrial, remediation technology sectors), publication of papers about environmental damage on specialized journals, discussions and collaborations with other ELD stakeholders (e.g. insurance companies).

Main results of these actions of ISPRA are:

- Time of response: The definition of procedures allows to ensure support in a reasonable time, compatible with the administrative procedure terms of the Competent Authority or the procedural terms of a court (an average of 60 days for ELD cases requiring specific investigation for the assessment of the significance of the adverse effects).

- Larger group of specialists (national and local level): involving a larger group of specialists on environmental issues from different sectors helps having uniform criteria for the environmental damage assessment and having a more in-depth and direct knowledge of the local issues (environmental issues, planning and management tools of the territory, etc.) and it is also a key aspect for the design of remedial measures.

- Strengthening of the administrative procedure: promoting interest in environmental damage regulation and provide a more accurate ascertainment of damage based on a technical and scientific assessments of groups of specialists in tight cooperation make the actions of the competent authority more efficient.

- Relevance of the screening activity: The identification of the most serious cases allows the Ministry to initiate a dialogue with local authorities aiming to verify the implementation of other environmental procedures and regulations and to promote the solution of the environmental problems.

In the last part of the presentation, a case study of environmental damage to protected habitat was described, concerning depositing of residual waste in a natural area for many years, determining frequent landslides of waste over time and a deep morphological modification of the site and destruction of the vegetation.

Other important information can be found in the presentation.



3.5 CAED Webinar Conclusions

The webinar provided an extensive overview on some examples of Reference Guides and Tools as well as organisational activities that already exist at EU and Member States level, nevertheless, there are still some issues to solve in practice to fill the gaps and achieve a complete and effective enforcement of ELD directive.

Capacity building initiatives and activities such as production of national technical guidelines, web-based tools (for financial security calculation), databases (of ELD and non-ELD cases), national reports and IT platforms for notification and information gathering, organizational procedures, agreements and protocols among stakeholders, as well as conduction of training activities and development of synergies among specialists of different relevant legislations, should be promoted and supported by the EU Commission in order to bolster the ELD enforcement and prepare a solid foundation for a possible future new ELD legislation.

In fact, the cooperation of all stakeholders at national and international level can make the enforcement of the ELD directive and the polluter pays principle more powerful in the incoming years. At this regard, the IMPEL CAED project, included in the activity 1.3 of the MARWP as an IMPEL reference for capacity building activities on ELD enforcement, is willing to have a role in the next future by providing a room for multidisciplinary and multinational experience and expertise sharing.



Annexes



ANNEX I. – CAED Webinar’s Invitation&Agenda and Presentations

CAED Webinar’s Invitation&Agenda and Presentations of speakers 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>