



How can the Environmental Liability Directive Be More Effective?

The latest Justice and Environment Studies on Environmental Liability draw a differentiated picture.

[Brussels, Nov 23rd] Justice and Environment (J&E) released today its latest comparative study on existing environmental liability regimes and their practical application in European Member States. The study shows that although a broad variety of liability regimes exist and are applied vividly within national practice, these systems do not entirely and adequately serve the EU's goal pursued by the Environmental Liability Directive.

With the Environmental Liability Directive (ELD) [2], the EU [3] tried to establish a common liability framework for the prevention and remediation of damage to animals, plants, natural habitats, water resources and soil damage. Since the ELD was transposed into national law in July 2010 by the last EU Member State there is still very little experience on the prevention and remediation of environmental damages under the ELD regime available.

Thus J&E put its efforts in gathering and disseminating information on the practice and functioning of environmental liability systems (strengths and weaknesses) to bring more clarity on the interaction of legislation implementing the ELD with other liability regimes.

Besides showing the wide application in the national practice, the networks' analytical work also reveals that the ELD stumbles across its narrow scope which presumably hinders its practical application in a range of European Member States – e.g. in Austria, Czech Republic, Estonia, Slovenia, Spain. Only water, land and biodiversity damages are covered by the Directive. The severity thresholds are comparatively high and liability is limited to particular operational activities. One of the main purposes of the Directive was to establish the “polluter pays principle” with respect to environmental damages – nevertheless this principle has not been adopted consequently by this same Directive.

Consequently J&E calls for an early ELD revision towards the establishment of an effective and practical environmental liability system aiming at a sustainable protection of our environmental goods.

“The ELD needs to be revised towards a more stringent system including procedural and organizational specifications, providing more detailed guidelines for the Member States. We need a comprehensive European environmental liability regime with not only the potential but the pragmatism to effectively prevent and impede further site contamination and greater loss of biodiversity in the future”

- states Thomas Alge, Chair of the association Justice and Environment.

ENDS

[1] J&E Studies on Environmental Liability:

<http://www.justiceandenvironment.org/publications/eld-2012>

[2] Environmental Liability Directive (2004/35/CE):

[http://eur-](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:143:0056:0075:EN:PDF)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:143:0056:0075:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:143:0056:0075:EN:PDF)

[3] European Commission – Environmental Liability:

<http://ec.europa.eu/environment/legal/liability/index.htm>

Notes to editors

Justice and Environment (J&E) is an association of public interest environmental law organizations. The objective of J&E is to contribute to a better status of environment and human health in Europe where J&E is active through the use of law (European and national environmental laws) and the improvement of access to information, public participation and access to justice in environmental matters by legal means. To learn more visit <http://justiceandenvironment.org/>

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