



PRESS RELEASE

Green law group says facts deny major European environmental news agency ENDS Europe and consulting company specialised in environmental policy

[Brussels, 15 July 2013]

The ELD -the EU environmental liability directive- is a framework to prevent and remedy environmental damage to protected species and habitats, water and land.

An article by Barbara Goldsmith (president of Barbara J. Goldsmith & Company, a consulting firm specialised in environmental policy and corporate practices, and director of the *Ad Hoc* Industry Natural Resource Management Group) published in ENDS Europe says the EU's ELD "*needs time to succeed*".

The question soon becomes timely because the European Commission completes its review of the ELD by 30 April next year as required under the EU law. In its report, the Commission will detail how well the directive is working and if any amendments are needed.

As the author of the article says: "*the ELD is working pretty much as envisioned by its crafters and as those of us working on its implementation would expect.*"

J&E thinks that if it is true, it only reveals that neither was there a serious intention of the legislator to stop environmental damage nor is there an interest in a real and strong implementation by industry.

ELD transposition was already considerably delayed and infringement procedures had to be started in 23 Member States. J&E collected sufficient evidence during years of practical work and found that national provisions transposing the directive vary considerably, and no European wide level-playing field on the prevention and remediation of environmental damages has been created so far.

As the existing system does not work for its purpose there is a need for a comprehensive European environmental liability regime with not only the potential but the pragmatism to effectively prevent/impede further site contamination and greater loss of biodiversity in the future. In addition, it is urgent that its regime is extended to activities taking place in the marine environment given the projected expansion in the Blue Growth Communication within the framework of the EU Integrated Maritime Policy. Thus, ELD needs to be revised towards a more stringent system including procedural and organizational specifications, providing more detailed guidelines for the Member States. Therefore J&E highly recommends the corresponding revision of ELD towards the establishment of an effective and practiced system aiming at a sustainable protection of our environmental goods.

As Thomas Alge, Chairman of J&E said:

“We are convinced that an amendment of the ELD is not “premature” and would not “unnecessarily upset the stability needed to allow a reasonable, balanced and predictable practice arena to develop relative to the ELD as it presently exists” as ENDS suggests. On the contrary, amendment of the ELD after more than five years of practical failure is a must.”

ENDS

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

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:143:0056:0075:EN:PDF>

[2] European Commission – Environmental Liability:

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

[3] Justice and Environment - Environmental Liability

[http://justiceandenvironment.org/_files/file/2012/2012%20ELD%20position%20paper\(1\).pdf](http://justiceandenvironment.org/_files/file/2012/2012%20ELD%20position%20paper(1).pdf)

Notes to editors

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