

THE ENVIRONMENTAL LIABILITY DIRECTIVE (ELD) IN PRACTICE

- Challenges in Implementation
- Future Perspectives

Brussels, 29-30 November 2018

**UP
GRADE**
YOUR LEGAL
EXPERTISE

**Environmental
Law**



Speakers

Lucas Bergkamp, Partner, Hunton Andrews Kurth, Brussels;
Professor at Erasmus University Rotterdam

Kim Bradley, Scottish Environment Protection Agency,
Edinburgh

Nicolas de Sadeleer, Professor of Environmental Law,
Facultés Universitaires Saint-Louis, Brussels

Valerie Fogleman, Professor of Law, Cardiff University School of
Law and Politics; Consultant, Stevens & Bolton LLP

Benedek Javor, Member of the European Parliament (MEP),
Brussels

Hans Lopatta, Policy Officer, DG Environment, European
Commission, Brussels

Karl Ortmann, Manager, Liability and Aviation Insurance, German
Insurance Association (Gesamtverband der Deutschen
Versicherungswirtschaft – GDV)

Stavroula Pouli, Head of the Coordination Office for the
Implementation of Environmental Liability (COIEL), Athens

Ugo Salanitro, Professor of Law, University of Catania

Christoph Sobotta, Legal Secretary (AG Kokott), CJEU,
Luxembourg

Key topics

- Genesis, development and objectives of the ELD
- Definition of “environmental damage” under the ELD
- Prevention and remediation regime
- Financial security mechanisms for environmental liability
- National experiences and practices
- Implementation opportunities and challenges

Language
English

Event number
418D94

Organiser
Dr Kleoniki Pouikli (ERA)



With the support of the Erasmus+
programme of the European Union

Thursday, 29 November 2018

8:45 Arrival and registration of participants

9:15 **Opening of the seminar**
Kleoniki Pouikli

I. FRAMING AND MAPPING THE ENVIRONMENTAL LIABILITY DIRECTIVE

9:30 **The Environmental Liability Directive (ELD) in a nutshell**

- Background and genesis
- Adoption and historical development
- Key provisions and concepts

Hans Lopatta

10:15 Discussion

II. ENVIRONMENTAL DAMAGE: DEFINITION AND DELIMITATION

10:30 **Unpacking the concept of environmental damage-**

- Interplay with EU substantive legislation
- Threshold and baseline information sources
- Article 2(1) and Annex I of the ELD

Valerie Fogleman

11:15 Coffee break

11:45 **Causation under the Environmental Liability Directive**

- Causal link for environmental damages
- Polluter Pays Principle (PPP)
- CJEU case law

Christoph Sobotta

12:15 Discussion

III. REMEDIATION OF ENVIRONMENTAL DAMAGE: THE ELD IN PRACTICE

12:30 **The remediating regime under the Environmental Liability Directive**

- Primary, compensatory and complementary remediation
- Difficulties in assessing environmental harm
- Practical experiences

Lucas Bergkamp

13:15 Lunch

14:30 **Remediation of historical soil contamination**

- Case C-534/13 *Fipa Group*
- National examples
- Limits under Article 16 of the ELD

Ugo Salanitro

15:00 Discussion

IV. FINANCIAL SECURITY UNDER THE ELD: A TOOL TO ENHANCE ITS IMPLEMENTATION

15:15 **Environmental liability and financial security systems**

- Article 14 of the ELD: state of play among Member States
- Developing financial security tools for environmental damages

Kim Bradley
Karl Ortmann

16:00 Coffee break

Objective

The aim of this seminar is to provide a comprehensive overview of the Environmental Liability Directive (ELD) addressing the challenges of its enforcement at national level and highlighting its implementation opportunities and perspectives. Emphasis will be given to the practical aspects related to prevention, remediation and financial security under the ELD as well as to national experiences of its application so far.

Who should attend?

Legal practitioners, in-house counsel, staff of regulatory authorities, public administrations and NGOs in the field of environmental law.

You will learn...

- about the concept of “environmental damage” and the threefold regime of its remediation
- why the remediation of historical soil contamination constitutes a thorny problem under the ELD
- how the existing financial security mechanisms address environmental liability
- about the current state of play in ELD enforcement at national level
- what are the perspectives and opportunities for enhancing the ELD’s practical implementation
- whether the discussions about a potential compensation fund for environmental damage are moving forward

Venue

Rue de l’Aqueduc/
Waterleidingsstraat 118
B-1050 Brussels

CPD

ERA’s programmes meet the standard requirements for recognition as Continuing Professional Development (CPD). This event corresponds to **10 CPD hours**.

Your contact persons



Dr Kleoniki Pouikli
Course Director
E-Mail: KPouikli@era.int



Sabine Framing
Assistant
E-Mail: SFraming@era.int

16:30 **Compensation funds: an alternative for ensuring remediation?**

- Obstacles and perspectives
- Examples

Benedek Javor

17:00 Discussion

17:30 End of first seminar day

Friday, 30 November 2018

V. THE ENVIRONMENTAL LIABILITY DIRECTIVE AT NATIONAL LEVEL

09:15 **Overview of ELD implementation by Member States**

- Procedural and substantive fragmentation
- More stringent provisions under Article 16 ELD
- Inherent ambiguities of the ELD text

Kleoniki Pouikli

09:45 **PANEL DISCUSSION:
National experiences of ELD application**

- Hungary: Benedek Javor
- Italy: Ugo Salanitro
- Belgium: Nicolas de Sadeleer
- Greece: Stavroula Pouli

Coordinator: *Kleoniki Pouikli*

10:45 Discussion

11:00 Coffee break

VI. THE ENVIRONMENTAL LIABILITY DIRECTIVE: THE WAY FORWARD

11:30 **Actions and initiatives at EU level**

- REFIT
- Multi-Annual Programme
- European Parliament 'Resolution to improve harmonisation of the ELD'

Hans Lopatta

12:00 **Revision of the Environmental Liability Directive?**

- Inserting mandatory financial security?
- Extending the strict liability scope?
- Re-considering exceptions and defences?

Valerie Fogleman

12:30 Discussion

13:00 End of seminar

For programme updates: www.era.int

Programme may be subject to amendment.

Save the date

Annual Conference on European Environmental Law 2019

Trier, 1-2 April 2019

Summer Course on European Environmental Law 2019

Trier, 24-28 June 2019

e-Presentations on Environmental Law

Lack of Transparency in EU Environmental Legislative Process

March 2016, Anaïs Berthier

Enforcement of Environmental Law: New Tendencies in Access to Justice

March 2016, Darren Abrahams

Access to Justice in Environmental Law – National Cases

March 2016, Matthias Keller

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Registration

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Brussels, 29-30 November / Event Number: 418D94



Europäische Rechtsakademie
Academy of European Law
Académie de Droit Européen
Accademia di Diritto Europeo

Registration

Fax: +49 (0) 651 93737-773

E-mail: info@era.int

Online registration:
www.era.int/?127451&en

Postal address:

ERA
Postfach 1640
D-54206 Trier

Location

Rue de l' Aqueduc/Waterleidingsstraat 118
B-1050 Brussels

Language

English

Contact Person

Sabine Framing
Assistant
sframing@era.int
+49 (0)651 93737-421

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Registration until 29 October 2018	€ 531.00 <input type="checkbox"/>	€ 318.60 <input type="checkbox"/>	€ 398.25 <input type="checkbox"/>
Registration after 29 October 2018	€ 590.00 <input type="checkbox"/>	€ 354.00 <input type="checkbox"/>	€ 442.50 <input type="checkbox"/>

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** Young lawyers & other groups

- For young lawyers up to 30 years of age (important: the participant must provide a copy or details of his or her passport or identity card on registration);
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