



European Union Network for the Implementation
and Enforcement of Environmental Law

Criteria for the assessment of Environmental Damage (CAED)

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



Title of the report: Criteria for the Assessment of the Environmental Damage (CAED)	Number report: 2019/18
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Executive Summary <i>Keywords</i> Environmental Liability Directive (ELD), Environmental Damage, Imminent threat of environmental damage, Environmental investigations, Environmental incidents, Environmental non-compliance, Environmental offences, Eco-criminal acts, Environmental crime <i>Target groups</i> 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 focusses on the technical/administrative procedures necessary to make determination of Environmental Damage. The project therefore builds on the ELD Multi Annual Rolling Work Programme and has strong links with the European Commission's publication, later in 2020, of guidance on environmental damage and imminent threat 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 national legislation of Member States, 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 identify, both from a regulatory, practical and technological point of view, how the clues and the evidences of environmental damage and threats of damage can be detected, identified and evaluated. This was done by the analysis of a collection of ascertainment practices of 32 'ELD cases' and 'non-ELD cases' across Member States to identify criteria to assess environmental damage and imminent threat of environmental damage.	



This report also provides an evaluation of guidance provided by some jurisdictions, with particular reference to the parts related to the determination of environmental damage.

Finally, the CAED project intends to contribute at improving the evidence base, envisaged as one of the working areas of the Multi-Annual ELD Work Programme (MAWP) for the period 2021-2024, by providing a better picture of the state of implementation of ELD in the process of the determination of the environmental damage and imminent threats of damage.

Acknowledgements

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1. Ministries of the Environment, Environment Protection Agencies, Inspectorates, Municipalities, Local Authorities, Insurance Consortia across Europe
2. DG Environment (Mr. Hans Lopatta)
3. Bayern AG
4. CEFIC (European Chemical Industry Council)

In particular, Bayern AG contributed to the project works providing a confidential case study. CEFIC provided views expressed in the past on the key review points (of the ELD) of concern to the chemical sector, which are also related to present IMPEL Project. In this regard, the project team believes that the CAED project won't conflict with CEFIC's view.

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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 or the official position of IMPEL, the national administrations or the European 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 case studies.
- 4) This report is subject to the Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information.

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.



TABLE OF CONTENTS

1	THE CAED PROJECT	8
1.1	Introduction	8
1.2	Project background	9
1.3	Project scope and objectives	10
1.4	The Administrative Procedure	11
1.5	The Determination of the Environmental Damage	11
1.5.1	The screening process	12
1.5.2	The determination of clues	13
1.5.3	The determination of evidence	15
1.6	Project methodology	16
1.7	Genesis of the questionnaire-based survey	16
1.8	Questionnaire settings and contents	18
1.9	Terminology	19
1.10	Acronyms	21
2	QUESTIONNAIRE-BASED SURVEY RESULTS	22
2.1	Overview	22
2.2	Authorities that conduct the ascertainment, the assessment and the enforcement	30
2.3	The Determination of the Environmental Damage	31
2.3.1	The screening process	31
2.3.2	The determination of clues	32
2.3.3	The determination of evidence	32
2.4	Legal and technical requirements	33
2.5	Tools/equipment and methods used	33
2.6	Key findings and lessons learned	34
2.7	Training needs	35
2.8	Collected Guidance documents	36
2.9	Suggestions from the contributors of the case studies	46
3	EVALUATION OF THE QUESTIONNAIRE-BASED SURVEY RESULTS	47
3.1	The Determination of the Environmental Damage	47
3.1.1	The screening process	47
3.1.2	The determination of clues	48
3.1.3	The determination of evidence	49
3.2	Authorities that conduct the ascertainment, assessment and the enforcement	52



3.3	Legal and technical requirements	52
3.4	Tools/equipment and methods used	53
3.5	Key findings and lessons learned	54
3.6	Training needs	55
4	CONCLUSIONS	57
5	FOLLOW UP	58
6	REFERENCES	59
	ANNEX I. AUTHORITIES THAT CONDUCT THE ASCERTAINMENT, THE ASSESSMENT AND THE ENFORCEMENT	62
	ANNEX II. CASE STUDIES	79
	ANNEX III. OTHER CASE STUDIES	183
	ANNEX IV. QUESTIONNAIRE	186
	ANNEX V. LEGISLATIVE BACKGROUND	193