



Environmental Liability Directive STAKEHOLDER WORKSHOP

22 November 2022

ELD evaluation: where we are

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ELD 2nd evaluation 2023 – Context



- Evaluation as part of the EU policy cycle and the Better Regulation agenda
- European Parliament [Resolution](#) of 20 May 2021 on the liability of companies for environmental damage
- Court of Auditors' [special report](#) of 5 July 2021 on the polluter pays principle
- EU Action Plan: [‘Towards a Zero Pollution for Air, Water and Soil’](#)
- Polluter Pays Principle – [fitness check of its application to the environment](#) (2024)

ELD 2nd evaluation 2023 – Scope

- Specific legal obligation set out in Article 18 of the ELD
- Evaluation focus:
 - ELD overall functioning
 - Whether the Commission's and Member States' actions have improved the implementation and enforcement of the ELD, since the Commission's first [evaluation](#) of 2016
- Supported by external experts through a study contract
- 5 Evaluation criteria: **effectiveness, efficiency, relevance, coherence, EU added-value**
- 14 questions defined in the Call for evidence

Environmental Liability Directive

Specific objectives of the ELD

(as defined in the context of the ongoing evaluation)

1. To establish the common framework for preventing and remedying environmental damage
2. To ensure that the polluter carries out preventive measures, remedial actions and remedial measures (including primary, complementary and compensation remediation) as applicable
3. To ensure that the costs are borne by the polluter
4. To encourage the availability of financial security at an affordable cost
5. To allow participation of interested parties

ELD 2nd evaluation 2023 - data sources:

- Previous studies, notably recent studies on [Facilitating enforcement of the ELD by MS](#) and [Financial Security for ELD Liabilities](#)
- Feedback received for the [Call for evidence](#) – **16 responses**
- Member States Reporting: Article 18 ELD + Annex VI – **22 reports received**
- Literature review - **desk research**
- Open public consultation – **111 valid responses, 16 position papers**
- Targeted consultations and Interviews – **27 responses, 2 interviews**
- Case studies: covering both ELD and non ELD cases – **14 cases included in the interim report, several further ones in preparation**
- Stakeholder Workshop – **22 November 2022**
- Further interviews and surveys – **ongoing**

ELD 2nd evaluation 2023 - reporting:

Member States to collect information and report to the Commission on their experience in applying the ELD by 30 April 2022

➤ *To include the following*

1. Type of environmental damage, date of occurrence and/or discovery of the damage. The type of environmental damage shall be classified as damage to protected species and natural habitats, water and land as referred to in point 1 of Article 2.
2. Description of the activity in accordance with Annex III.

➤ *Any other information and data deemed useful to allow a proper assessment of the functioning of the ELD, with various examples*

ELD 2nd evaluation 2023 - Timeline:

- **November 2021 – Call for evidence**
 - November – December 2021 – feedback collection (4 weeks)
- **December 2022 - January 2023 – Evaluation Study**
 - January – April 2022 – Inception
 - March – December 2022: evidence gathering & analysis, stakeholder consultations
 - 30 April 2022 – Member States Reporting time limit
 - May - July 2022 - online public consultation (12 weeks)
 - 7 June 2022 - ELD expert group consultation
 - 22-23 November 2022 - Workshop with stakeholders and the ELD expert group consultation
 - October 2022 – January 2023: Study conclusions and final report
- **October 2022 - April 2023 – Commission Staff Working Document**

Court of Auditors' special report on the polluter pays principle

Adopted on 5 July 2021

Recommendations:

- Insufficient criteria used in definition of environmental damage (water and land damage)
- Insufficient take-up of financial security

Commission response:

- The Commission agreed with the concerns raised by ECA
- The Commission agreed to further consider both issues in the context of the evaluation



THANK YOU!