

Five Cases

**underpinning the importance of
environmental liability**

Contribution by Helmut Burtscher-Schaden to the ELD Stakeholder Workshop in

Brussels on 22.11.2022

#1 The ÖSTAB Case

Unattended toxic waste from bankrupt toxic waste disposal company ÖSTAB endangering residents and contaminating soil





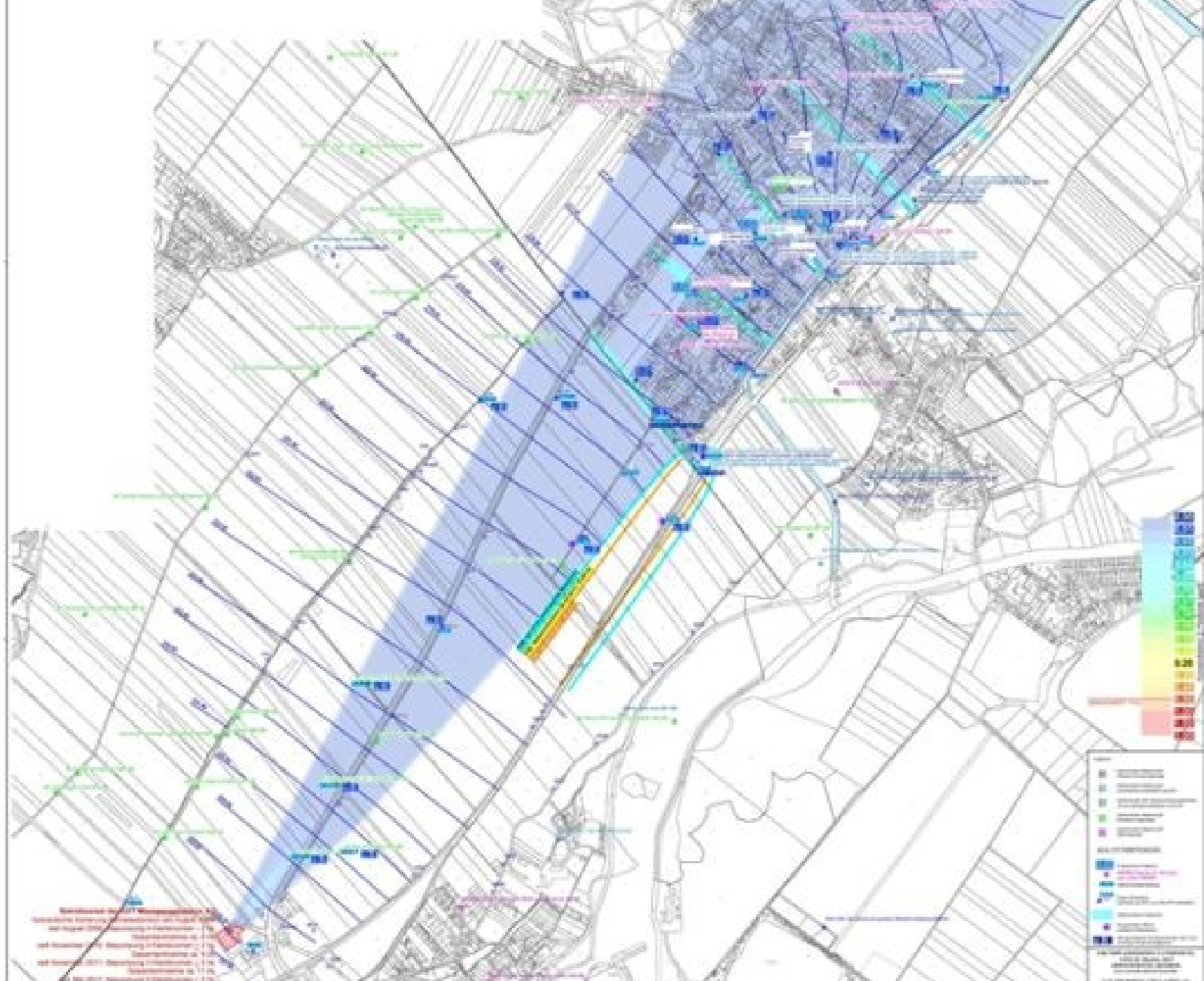
GLOBAL 2000 activity	Authorities and courts	Final outcome
<ul style="list-style-type: none"> → problem uncovered & media informed → causes researched → heavy metal contamination above the action threshold detected → criminal complaint 	<ul style="list-style-type: none"> → toxic waste (1400 tonnes!) was disposed → public prosecutor's office started investigations → GLOBAL 2000 was not a party (did not ask for) 	<ul style="list-style-type: none"> → criminal investigations were discontinued because an expert contradicted the soil tests results provided by GLOBAL 2000 → remediation of the site „not necessary“



#2 The GAT Case

Ground- and drinkingwater contamination by pesticide producer GAT.



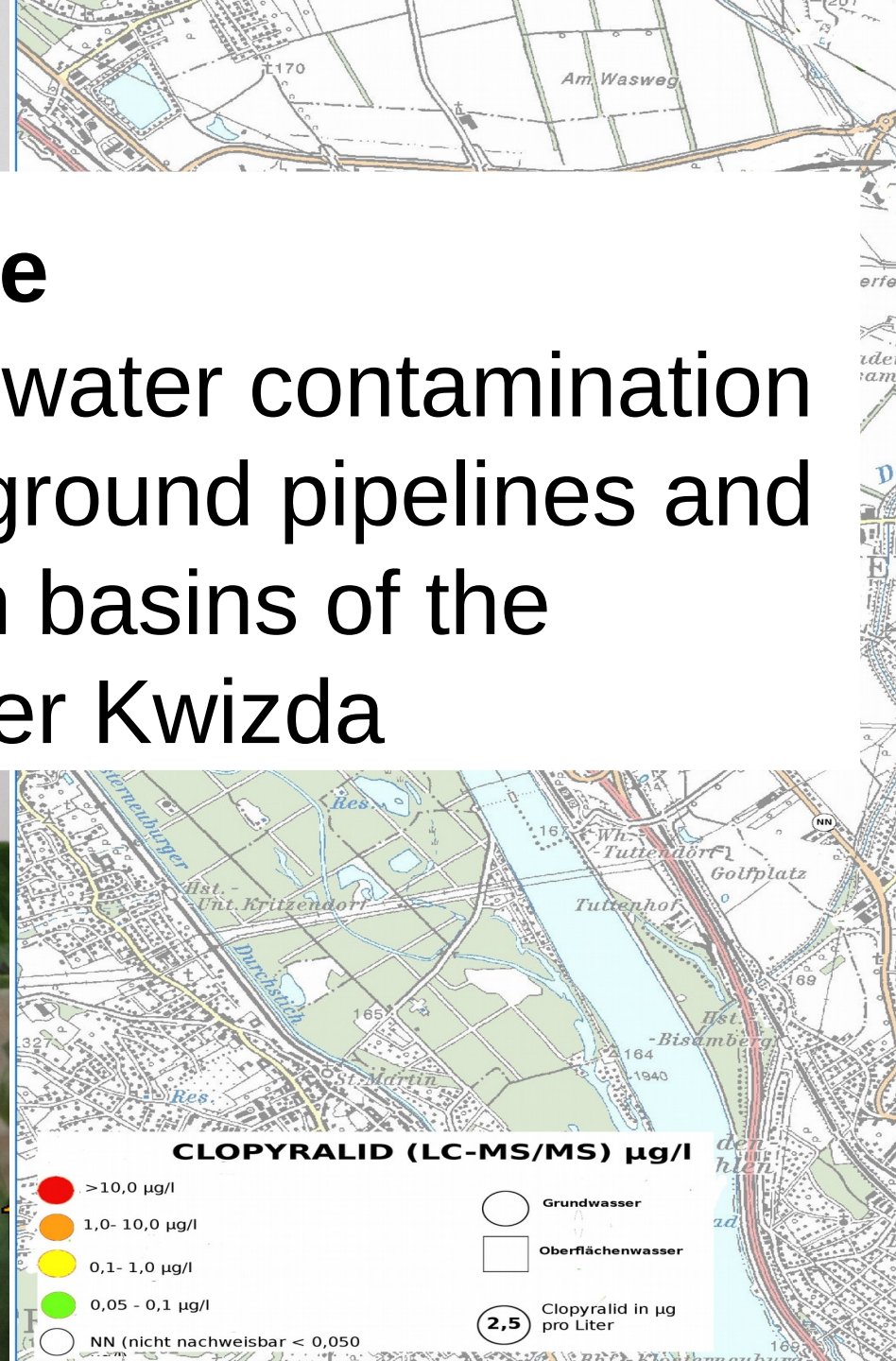


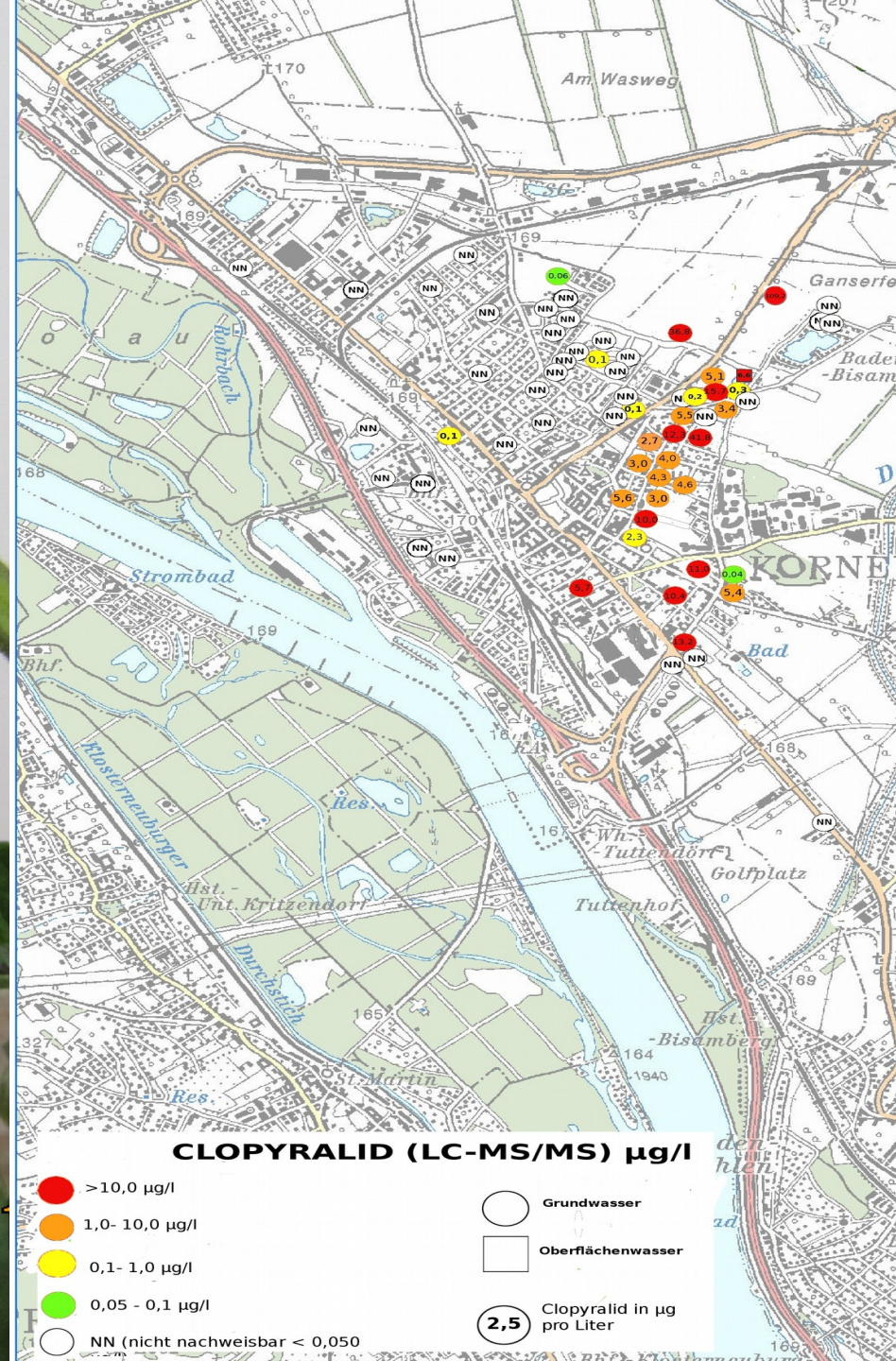
Global 2000 activity	Authorities and courts	Final outcome
<ul style="list-style-type: none"> → GLOBAL 2000 not interfering → application for party status in court 	<ul style="list-style-type: none"> → court proceedings with GLOBAL 2000 as a party → guilty verdict with a <u>conditional fine</u> of 360 daily rates, i.e. Euro 16,000 	<ul style="list-style-type: none"> → Redevelopment of the company premises → Stricter conditions for the company GAT

#3 The Kwizda Case

Ground- and drinkingwater contamination due to leaking underground pipelines and wastewater collection basins of the pesticide manufacturer Kwizda

23/06/2012






GLOBAL 2000 activity	Authorities and courts	Final outcome
<ul style="list-style-type: none"> → Uncovering the extent of groundwater contamination → uncovering the discharge of pesticide-contaminated pump water into the Danube → Pressing charges against unknown perpetrators → Exposure of the contamination of drinking water for 50,000 customers → extensive research → Commissioning of expert opinions → Environmental liability complaint → Complaint against authorities on suspicion of aiding and abetting 	<ul style="list-style-type: none"> → Immediate stop of the discharge of pump water from the Kwizda hot spot → immediate closure of the "Bisamberg well field" → GLOBAL 2000's environmental liability complaint rejected with grotesque arguments → Court proceedings without GLOBAL 2000 as a party → reconstruction of the leaking pipeline systems → Sheet piling of the contaminated site → Superficial hot-spot remediation 	<ul style="list-style-type: none"> → court case ends with diversion (arguments of the judge's decision clearly contradict the published evidence presented by GLOBAL 2000). → Superficial hot-spot remediation (→ most of the pesticides are discharged into the Danube) → Contaminated waste (from the remediation) is illegally dumped in another Bundesland and causes large-scale groundwater contamination there (once again, drinking water supply is also affected)



#4 The Ohlsdorf Case

Groundwater contamination due to illegal disposal of waste from Kwizda remediation in the municipality of Ohlsdorf



Asamer Sonde 26
KW 49/14: <0,05

BETRETEN
des Bergbaugeländes
DURCH UNBEFUGTE
Gemäß § 8
der Allgemeinen Bergpolizeiverord-
NUNG VERBOTE



GLOBAL 2000 activity	Authorities and courts	Final outcome
<ul style="list-style-type: none"> → GLOBAL 2000 expert was invited to an expert advisory board by the responsible environmental provincial councillor → remediation and monitoring measures were accompanied → no party position applied for by GLOBAL 2000 in court 	<ul style="list-style-type: none"> → thorough monitoring → transparent reporting → police investigations 	<p>Guilty verdicts:</p> <ul style="list-style-type: none"> → Six months conditional and an unconditional fine of 15,300 euros for an employee of a waste management company, → three months conditional and 3,600 euros unconditional for a landfill employee.

#5 The Görtschitztal Case

Contamination of water, soil, farm animals as well as exposure of humans to HCB as a result of improper incineration of lime waste from a contaminated landfill





W&P

GLOBAL 2000 activity	Authorities and courts	Final outcome
<p>GLOBAL 2000 uncovers:</p> <ul style="list-style-type: none"> → use of an unsuitable health-based guidance value for dietary exposure for the human toxicological risk assessment → incorrect official risk assessment for breast milk → HCB contamination in meat, hay samples, etc. → HCB in human blood samples → environmental complaint, joined by 578 residents 	<ul style="list-style-type: none"> → Authority admits calculation errors in mother's milk contamination → Competent medical experts admit that initially chosen ADI was not suitable (henceforth work with correct EU ADI) for determining acceptable HCB levels in food → authorities started with human biomonitoring (HCB in blood) 	<ul style="list-style-type: none"> → Cement plant to be modernised - Contaminated landfill was secured (accordingt to authorities) → Environmental complaint is rejected → 578 residents and GLOBAL 2000 were asked to pay processing fees.

Conclusions:

- Environmental liability complaints are not successful, at least not in Austria
- Environmental crime allows for high profits with a relatively low risk of detection and - quite often - with lenient penalties“ (Eurojust, 2014)
- Non-transparent remediation measures in camera can cause new problems while trying to solve existing ones.
- The quality of public authority decisions and measures in environmental matters could - at least in Austria - be significantly improved through the participation of NGOs
- A strengthening of the EDL would be very welcome