

The background is a satellite-style image of Europe at night, with city lights visible. Overlaid on this are numerous glowing blue lines that represent energy transmission paths, connecting various points across the continent and extending outwards.

## *The Environmental Liability Directive*

# Brief history



- *Adopted in 2004, to be transposed by 2007*
- *Novel legal instrument at the time*
- *Implementing measure of the polluter pays principle (Article 191(2) TFEU)*
- *Purpose: to prevent and remedy environmental damage*
- *Aim YES: financial consequences of certain types of environmental harm will be borne by the economic operator who caused this harm*
- *Aim NO: right of compensation as a consequence of environmental damage or of an imminent threat of such damage occurring.*



- **3 categories:**
  - “damage to protected species and natural habitats”,**
  - “water damage”**
  - “land damage”**
- **2 liability regimes**
  - strict (in relation to Annex III)**
  - fault-based (in relation to any activity not listed in Annex III and in relation to the 3 above damages)**
- **Damaged resources and services must be returned to baseline conditions**



- ***Competent Authorities***
- ***Operators***
- ***Financial service providers and others***
- ***Enabled Persons***
- ***Other participants (non-Stakeholder) in the process can include experts (science, economics, law) and the public***



- *The IPPC Directive is referred to in Annex III.1*
- *IPPC/IED*
- *LCPs*



ELD requires strict liability for LCPs  
and related mining waste



- *Before 30 April 2007, if the damage and the underlying causative activity occurred wholly before that date;*
- *Events or incidents that took place 30 years before the damage having been detected; and*
- *If more than 5 years have passed since preventive or remedial actions were completed, or the responsible party was identified, whichever is the later*



- ***Coverage by International Conventions, Euratom Treaty***
- ***Act of armed conflict, hostilities, civil war or insurrection***
- ***A natural phenomenon of exceptional, inevitable and irresistible character***
- ***Activities, the main purpose of which is to serve national defence or international security or protection against natural disasters***
- ***Diffuse pollution and causality***

The background is a satellite-style image of the Earth at night, showing city lights. Overlaid on this are numerous glowing blue lines that represent energy transmission paths, connecting various points across the globe.

*Thank you  
for your attention!*

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