



Rat der Gemeinden und Regionen Europas  
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## **Local Government's view on the Environmental Liability Directive**

Local authorities face a substantial burden in remedying environmental damage from a range of sources, including major oil spills such as the Prestige and regular small-scale pollution incidents. The CEMR regards the Environmental Liability Directive as a vital opportunity to clearly identify the responsibility that local authorities and operators hold respectively in cases of environmental damage.

The recent plenary vote in the European Parliament went some way towards clarifying these roles and reinstating the Polluter Pays Principle into an otherwise weak Commission proposal. Local government will continue to conduct a pan-European campaign centred on ensuring that this principle is implemented as fully as possible.

### **Mitigating factors to liability**

Local government retains concerns over the new Article 10 (mitigating factors) introduced by MEPs, which would allow operators to be exempt from liability if they can demonstrate compliance with a permit and would place responsibility directly on local authorities. The European Commission estimates that over 300,000 sites in the Community are definitely or potentially contaminated many beyond remediation. The Commission estimates the clean-up costs to be between €55 - 106 billion. The potential for contaminated sites in the accession states is as yet unquantified but of serious concern to local government across Europe. With this in mind it is likely that the competent authority may be forced to adopt a very restrictive approach to the issuing of permits in order to minimise their risk of exposure to liability. Local authorities in the EU are committed to sustainable development, and balancing the economic needs of a community with environmental protection. Article 10 in its current form could threaten this delicate balance and result in overly strict permits at the expense of local economic development.

### **Financial Security**

Local government welcomed the efforts made by MEPs to ensure that financial security will be mandatory for the majority of operators, set to an upper cap limit. This inclusion is vital to ensure that companies and local authorities can operate with stability and minimal exposure to risk.

Noting the agenda in the Competitiveness Council the CEMR considers there is an urgent need for a detailed debate on the provisions for financial security within the Directive. The apparent polarisation of this debate between the Council and Parliament suggests that more attention needs to be paid to finding a suitable compromise, perhaps involving an extended timetable for the introduction of mandatory financial security and a greater emphasis on non-traditional types of insurance with limited indemnity.

Please find a series of case studies illustrating some of the problems faced by local authorities in remedying environmental damage. If you would like to discuss local government's concerns further please contact Lucy Swan, E-mail: [lswan@bxl-ccre.org](mailto:lswan@bxl-ccre.org) Tel.

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## **Case Studies**

### Major oil pollution incidents

#### *Pembrokeshire & Dyfed, Wales*

The running aground of the Sea Empress released 72,000 tonnes of crude oil. The immediate clean up operation cost £23 million, expedited by the extensive contingency plans that had already been put in place by local authorities. The longer term cost is more difficult to identify, with the spill impacting on 35 SSSI sites and several EC designated Special Protection Areas for birds. The total financial cost estimated by the Environment Agency of England and Wales is between EUR 90 - 160 million. This does not account for the impact on local tourism, which both Dyfed and Pembrokeshire Councils have identified as a problem.

#### *Pays de la Loire & Brittany, France*

At least one quarter of Natura 2000 sites in Southern Brittany were affected by the 11,000 tonnes of oil left over 4 French départements in 1999. 61,000 birds died, and the expenses incurred by the Communes affected was EUR 13 million within 7 months of the disaster.

Clean up costs and compensation to the local community, notably the tourist sector was EUR 6.5 million 6 months after the disaster.

### Damage resulting from changes to infrastructure

#### *Munich, Germany*

The construction of the Frankfurter Ring street in the North of Munich resulted in heating oil polluting the local groundwater resource. Because the damage was identified in a then orphan site the city of Munich had to meet the costs of remediation to the amount of EUR 300,000.

### Local authorities as site managers

#### *Grand-Quevilly, France*

This French commune acquired land previously used as metalworks. Once the land was acquired remediation work had to be undertaken to the level of EUR 2.74 million to rid the area of hydrocarbons and heavy metals.

### Damage to the local water supply

#### *Noormarkku, Finland*

The municipality of Noormarkku faced costs of EUR 232,000 to clean up the effects of an oil cistern that leaked into the soil and local water supply. The municipality had to close the fresh water intake and replace it with a new system. In this case the Finnish Ministry of Environment refunded the remediation costs from its Oil Protection Fund.