

Name of Project: Criteria for the Assessment of the Environmental Damage (CAED)	
ToR Reference No.: 2022-VIII	
Version: <input type="checkbox"/> Draft <input type="checkbox"/> Final <input checked="" type="checkbox"/> Adopted	Date: 10-Mar-22
TERMS OF REFERENCE FOR WORK UNDER THE AUSPICES OF IMPEL	

1. Work type and title

1.1 Identify which Expert Team this needs to go to for initial consideration	
Industry and air	<input type="checkbox"/>
Waste and TFS	<input type="checkbox"/>
Water and land	<input type="checkbox"/>
Nature protection	<input type="checkbox"/>
Cross-cutting tools and approaches	<input checked="" type="checkbox"/>
1.2 Type of work you need funding for	
Exchange visits	<input type="checkbox"/>
Peer reviews (e.g. IRI)	<input type="checkbox"/>
Conference	<input type="checkbox"/>
Development of tools/guidance	<input checked="" type="checkbox"/>
Comparison studies	<input type="checkbox"/>
Assessing legislation (checklist)	<input type="checkbox"/>
Other, (please describe):	<input type="checkbox"/>
Training programs, webinars.	
1.3 Full name of work	
<p>Following the publication (2021) of the Commission Notice “Guidelines providing a common understanding of the term 'environmental damage' as defined in Article 2 of Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage” and the inclusion of CAED in the Multi-Annual ELD Rolling Work Programme (MARWP) 2021-2024 of the EU Commission (in the area of capacity building activities, in particular as activity 1.3: Help(desks) for practitioners, providing information, assistance and assessment support for risk and damage evaluations) and following the work conducted in the first three years of the project, the follow-on of the project aims to define criteria for the assessment of the environmental damage and imminent threat of damage and build technical and procedural capacity in screening cases and determination of clues and evidence of environmental damage and threat of damage under Environmental Liability Directive caused by environmental incidents, violations, eco-criminal acts.</p>	
1.4 Abbreviated name of work or project	
Criteria for the Assessment of the Environmental Damage (CAED)	



2. Outline business case (why this piece of work?)

2.1 Name the legislative driver(s) where they exist

- Directive 2004/35/CE on environmental liability with regard to the prevention and remedying of environmental damage (ELD).
- National laws of Member States, that envisage other systems of liability for environmental damage.
- Resolution of the European Parliament P8_TA(2017)0414 of 26 October 2017.
- Multi-Annual ELD Rolling Work Programme (MARWP) for the period 2021-2024, "Making the Environmental Liability Directive more fit for Purpose".
- Commission Notice "Guidelines providing a common understanding of the term 'environmental damage' as defined in Article 2 of Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage" (to be published in February 2021).
- European Parliament resolution of 20 May 2021 on the liability of companies for environmental damage (2020/2027(INI))

Other connected legislative drivers:

- Directive 79/409/EEC on the conservation of wild birds (Birds Directive).
- Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitat Directive).
- Directive 2000/60/EC establishing a framework for Community action in the field of water policy (Water Framework Directive).
- Directive 2008/56/EC establishing a framework for community action in the field of marine environmental policy.
- Directive 2006/118/EC on the protection of groundwater against pollution and deterioration.

2.2 Link to IMPEL MASP priority work areas

- | | |
|---|-------------------------------------|
| 1. Assist members to implement new legislation. | <input checked="" type="checkbox"/> |
| 2. Build capacity in member organisations through the IMPEL Review Initiatives. | <input type="checkbox"/> |
| 3. Work on 'problem areas' of implementation identified by IMPEL and the European Commission. | <input checked="" type="checkbox"/> |
| 4. Other, (please specify):
Build capacity for environmental damage assessment. | <input type="checkbox"/> |

2.3 Why is this work needed?

There is a variety of environmental events, such as incidents, non-compliances and offences, considered by European and national laws, requiring different Competent Authorities to promptly and effectively screen and determine clues and evidence of possible environmental damage, pursuant to Environmental Liability Directive (ELD) or other legislations. This diversity of situations and ascertaining methods is likely to have sometime resulted in inconsistent and inefficient actions in finding clues and evidence of possible environmental damage and, thus, determined a failure in effectively preventing and mitigating the damage. It is evident that, with proper procedures, criteria, planning and assessment tools for the determination of the environmental damage and threat of damage, the success of preventive or remedial measures can be strengthened and possibly improved.



The CAED project has been included in the ELD Multi-Annual Rolling Work Programme (MARWP) 2021-2024 of the EU Commission (as activity 1.3) as one of the activities for capacity building.

2.4 Desired outcome of the work

Starting from the outcomes of the first three years of the project, in particular, the identification of indicators and the definition of decision-making flowcharts for the determination of the clues of environmental damage, the project aims to enhance the implementation of ELD in MSs by the definition of criteria and the further development of the practical tools for the assessment of the environmental damage and imminent threat of damage. In 2022 the development of criteria and practical tools will address also the issue of the determination of the causal link between the adverse effects and their source/event of damage (identification of the possible responsible operator/operational activity), the determination of the evidence of damage and the determination of the imminent threat of damage. In 2023 and 2024 the project will organise training programs conducted to share practical experiences and identify best practices and lessons learned in the determination of clues and evidence of the environmental damage and threat of damage under ELD. In 2024 the project will organise a final webinar for practitioners, stakeholders, regulators and other European networks to share procedural, technical and practical experiences and best practices used for the screening of cases and for the determination of clues and evidence of environmental damage. In 2025 the product will be the development of a web-tool on the IMPEL website on which convert the CAED criteria and practical tools.

2.5 Does this project link to any previous or current IMPEL projects?

The project is linked to:

- BIOVAL: joint project to value ecological damages for potential use during prosecution of wildlife crime (joint project of EUFJE, ENPE, KU Leuven and IMPEL)
- The “Environmental Incident and Emergency Response” project because CAED project will be the step further the organizational aspects of response management towards the planning of the investigations of environmental damage.
- The “WasteForce” project because CAED project will take advantage of the scientific studies on the impact of illegal waste dumping and management to develop the tools of assessment plans and the check-lists.
- The “Financial Provision and Public Purse” project because CAED project will support the objective of promptly and correctly assess environmental damage to request financial provisions and to protect public purse.
- The IED implementation project because CAED project aims are also to develop practical tools such as check-lists useful for environmental inspectors and officials.
- The “Development of a planning tool for inspections of Natura 2000 sites” project because CAED project will take advantage of the outcomes of this project in order to develop planning tools for the assessment of environmental damage to natural habitats and protected species.



- The “Lessons learnt from industrial accidents” Conferences because CAED project will support the objective of assessing the threat of damage and the environmental damage under ELD and hence the containment, preventive and mitigation measures during and after accidents.

3. Structure of the proposed activity

3.1 Describe the activities of the proposal

The work will be carried out by the whole project team:

- (In 2022) Desk work (Literature review, evaluation of the results from previous phases of the project etc.) and project meetings (in-person and/or virtual) conducted to further develop the existing CAED practical tools also for the determination of the causal-link, the evidence of damage and the threat of damage under ELD.

- (In 2023 and 2024) Training and capacity building programs (virtual training sessions/Webinar/meetings in-person) conducted to share practical experiences, identify best practices and lessons learned (in the determination of clues and evidence of the environmental damage and threat of damage under ELD) and conduct technical and methodological training on case studies. Meetings in-person (conducted in hybrid mode where possible) will be dedicated to conduct training on case studies and to provide common advice on actual cases (on site visits will be conducted where possible).

- (In 2024) In addition to the training activities, a Webinar for the dissemination of the project outputs of the project and for the exchange of opinions and experiences will be organised. The webinar will be conducted online only.

- (In 2025) Development of a web-tool on the IMPEL website on which convert the CAED criteria and practical tools.

3.2 Describe the products of the proposal

The products of the project will be:

In 2022:

- Practical Guide including criteria for the assessment of the clues and the evidence environmental damage and imminent threat of damage under ELD.

- Practical Guide including further developed CAED practical tools for the determination of the causal-link, the evidence of damage and the threat of damage under ELD (check-lists, decision making flowcharts, planning tools for specific case studies).

In 2023 and 2024, training and capacity building materials as well as reports of the training and capacity building activities (virtual training sessions/meetings in-person).



In 2024, the presentations and a report including the outcomes of the Webinar organised for the dissemination of the project outputs and the exchange of experiences and recommendations about ELD enforcement in UE.

In 2025, Web-tool on the IMPEL website on which convert the CAED practical tools.

