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The impact of eu legislation, principles and case law on the national contaminated land regimes

Parte II

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1. Introduction

Contaminated Land Regimes (CLRs) cover one of the few areas of environmental law where **detailed legislation is not in place at the EU level**. Important policy decisions are thus left to the discretion of the Member States. Arguably, the most important of these decisions concerns the allocation of the burden and costs of remediation.

> **The main research question this study aims to address is whether and to what extent national CLRs are receptive to several early and recent developments in the EU legislation and case law. In particular, we intend to focus on the (likely) effect on the national CLRs of:**
> **1) the implementation of the Baseline Report obligation under the recent Industrial Emissions Directive 2010/75/EU (IED);**
> **and**
> **2) the recent European Court of Justice (ECJ) case law on the Environmental Liability Directive 2004/35/EC (ELD).**

To answer this question, we have conducted a comparative analysis of the relevant legal framework in four EU countries where the presence of contaminated land is a major policy problem. The research consists of **three main parts**.

The **first part** (Chapter 2 and Chapter 3) focuses on the legislation of some European countries (UK, Italy, Spain and France) and on the relevant environmental principles adopted by the European Union. In particular, Chapter 2 has been devoted to studying the CLRs of four European countries: the UK, Italy, Spain and France.

These countries have been chosen because of their industrial history, the existence of large contaminated areas on their territories and the possibility, for the researcher, to read legal sources in their original language. How the CLRs identify the liable party is the main aspect we have analysed.

The cost allocation in cases of multiple party causation and what happens when nobody voluntarily implements the remediation are two further problems which are particularly relevant to this research. Chapter 3 reviews, the relevant EU principles, namely the polluter-pays principle, the stewardship principle, the precautionary principle, and the principle of environmental harm.

The **second part** (Chapter 4 and Chapter 5) investigates the influence of EU legislation and case law on the national CLRs. Chapter 4 examines whether and how early EU legislation and case law has affected national CLRs. We have focused my attention, in particular, on the ELD (Environmental Liability Directive), the WFD (Waste Framework Directive), and the ECJ (European Court of Justice) decision of 9 March 2010, analysing whether their tendency to refer to the polluter-pays principle only was mirrored in the national CLRs.

Chapter 5 analyses the influence of recent developments in EU legislation and case law on the CLRs. In particular, it investigates in detail how the Baseline Report obligation established by the IED is being implemented by the Member States.

According to the IED, an increase in the pollution level triggers the obligation to return the site at least to the state described in the Baseline Report. However, the features of the remediation obligation as a whole are not defined by the IED, but rather left to the discretion of the Member States.

What is peculiar here is that the Baseline Report will interfere with the CLRs by requiring the enactment of an administrative procedure uniform at European level.

This stage of my research examines whether national legislation and guidelines implementing the Baseline Report obligation explicitly take into account their links with the national CLRs.

To this end, it reviews the European Commission Guidance concerning baseline reports, and compares it to the national guidelines of the four chosen Member States. In addition, this chapter includes a discussion of the recent ECJ decision of 4 March 2015, as in this decision the ECJ modified its previously very rigid interpretation of the polluter-pays principle.

The **third and conclusive part** (Chapter 6) presents the output of the comparative analysis, discusses the tendency towards the approximation of the national CLRs and presents some policy considerations related to the advantages of a common EU Contaminated Land Regime) CLR and of a shared - though possibly ‘vague’ - Contaminated Land Language (CLL?).

> **Studying the CLRs does imply some terminological issues . The two most important ones are related to the use of the word 'contamination' (instead of 'pollution') and of the word 'land' (instead of 'site')[1]. 'Contamination' is properly used, as it covers the state of both soil and groundwater. we would personally prefer to use the word 'site' instead of the word 'land', as it is more evident that the former also embraces groundwater, which is very often the most problematic target of any remediation activities.**

However, the expression 'Contaminated Land Regime' is now commonly accepted, on the assumption that here land also refers to some bodies of water, according to the different national regulations.

* * *

PART 2: EU LEGISLATION AND CASE LAW AFFECTING THE NATIONAL CLRs

4. Early EU Legislation and ECJ Case Law Affecting the National CLRs

I. The Environmental Liability Directive 2004/35/EC (ELD)

The **Environmental Liability Directive** 2004/35/EC (ELD) establishes **a common framework for liability with a view to preventing and remedying damage** to, *inter alia*, water resources and land. Although the ELD does not elaborate on the technicalities for the remediation procedure, it is relevant for the effective implementation of the remediation activities, in that it requires the decontamination to be undertaken according to the polluter-pays principle.

> **The Directive defines "environmental damage" as damage to protected species and natural habitats, damage to water and damage to soil. Operators carrying out dangerous activities listed in Annex III of the Directive fall under strict liability.**

Operators carrying out other occupational activities than those listed in Annex III are liable for fault-based damage to protected species or natural habitats. The establishment of a causal link between activity and damage is always required. Affected natural or legal persons and environmental NGOs have the right to request the competent authority to take remedial action if they deem it necessary.

On the basis of the national reports submitted in 2013 by the Member States to the Commission and of other relevant information, the Commission had to **report** in 2014 **on the experience gained in the application of the Directive**. Due to delays in reporting and evaluation and due to the changes at EU political level in 2014, the report was only adopted in April 2016.

The **key findings** emerging from this report – as they are described in the EU Commission website - are that the Directive has improved:

- the standards of prevention and restoration of environmental damage,
- the application of the 'polluter pays' principle,
- strict liability across the EU for environmental damage,
- EU-wide liability for biodiversity damage, and
- public participation and access to justice for people affected and NGOs.

At the same time, **implementation still varies significantly from one Member State to another** in terms of the number of ELD cases and the way the Directive is being implemented. The observed 'patchwork' of environmental remediation, together with the lack of some key data on implementation and on the cost, is a major challenge addressed by the Commission Report and the upcoming Action Plan[2].

The European Parliament adopted Resolution of 26 October 2017 on the implementation of the Environmental Liability Directive (2016/2251(INI)), which highlights some limits to the effectiveness of the ELD and suggestions to improve harmonization of the ELD. Interestingly, one of the suggestion calls for any operator benefiting from the carrying-out of activities to be also liable for any environmental damage or pollution caused by those activities[3].

> **The Definition of "Operator", contained in the Directive, is particularly relevant to the CLRs. Operator means any natural or legal, private or public person who operates or controls the damaging occupational activity or, where this is provided for in national legislation, to whom decisive economic power over the technical functioning of such an activity has been delegated, including the holder of a permit or authorisation or the person registering or notifying such an activity.**

II. The Waste Framework Directive 2008/98/EC (WFD)

Another relevant piece of EU legislation is the **Waste Framework Directive** 2008/98/EC (WFD), which requires that waste be managed without endangering human health and the environment, and in particular without risk to, *inter alia*, water and soil. When there is an ongoing remediation, the WFD establishes that, with few exceptions, any waste found must be disposed, whatever the environmental harm that such waste actually poses.

This is in clear accordance with the high standards required by another established principle of environmental law: the precautionary principle. Under the precautionary principle, when a phenomenon, product or process may imply an identified risk, some precautionary measures have to be implemented even if a preliminary scientific evaluation does not allow the risk to be determined with absolute certainty.

Within the CLRs, this principle is often invoked in order to establish very costly remediation targets, which increases the practical relevance of the decision on **how to allocate their burden**.

III. The ECJ decision of 9 March 2010 (Case C-378/08) on environmental liability and the polluter-pays principle

The most significant ECJ case law for the purposes of this research pertains the ELD.

> **The first important case is related to a situation where there was an ongoing remediation of a contaminated area that had been polluted by waste dumping (ECJ decisions of 9 March 2010; Cases C-378/08, C-379/08 and C-380/08[4]).**

In Case C- 378/08, the ECJ decided as follows:

"Where, in a situation entailing environmental pollution, the conditions for the application ratione temporis and/or ratione materiæ of Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage are not met, such a situation is governed by national law, in compliance with the rules of the Treaty, and without prejudice to other secondary legislation.

Directive 2004/35 does not preclude national legislation which allows the competent authority acting within the framework of the directive to operate on the presumption, also in cases involving diffuse pollution, that there is a causal link between operators and the pollution found on account of the fact that the operators' installations are located close to the polluted area.

However, in accordance with the 'polluter pays' principle, in order for such a causal link thus to be presumed, that authority must have plausible evidence capable of justifying its presumption, such as the fact that the operator's installation is located close to the pollution found and that there is a correlation between the pollutants identified and the substances used by the operator in connection with his activities.

Articles 3(1), 4(5) and 11(2) of Directive 2004/35 must be interpreted as meaning that, when deciding to impose measures for remedying environmental damage on operators whose activities fall within Annex III to the directive, the competent authority is not required to establish fault, negligence or intent on the part of operators whose activities are held to be responsible for the environmental damage.

On the other hand, that authority must, first, carry out a prior investigation into the origin of the pollution found, and it has a discretion as to the procedures, means to be employed and length of such an investigation. Second, the competent authority is required to establish, in accordance with national rules on evidence, a causal link between the activities of the operators at whom the remedial measures are directed and the pollution".

Despite a very fragmented legal scenario, the 2010 ECJ decision clearly supports an interpretation of the ELD which pushes the Member States towards a rigid application of the polluter-pays principle in the allocation of responsibility. On the one hand, the polluter is identified as the only party that should carry the economic burden of the remediation. On the other hand, the criteria which are considered appropriate to identify the polluter are not very rigid.

"***Plausible evidence***" is said to be appropriate, while no evidence "***beyond any reasonable doubt***" is required[5].

IV. Conclusions: Effects of early EU legislation and case law on the CLRs (overwhelming role of the polluter-pays principle)

Early EU legislation and case law was in favour of a **rigid interpretation of the polluter-pays principle**. Both the ELD and the WFD show such an approach, as does the ECJ case law of 2010.

Hence, despite not explicitly regulating contaminated land, early legislation and case law at the EU level had the potential to nudge the national CLRs towards assuming, in a first phase, the polluter-pays principle only as their leading rule.

5. Recent EU Legislation and Case Law Affecting the National CLRs

I. The Industrial Emissions Directive 2010/75/EU (IED), entered into force in 2013, and the Baseline Report

Prior to 2010, the ELD and the WFD were the major EU directives relevant to the national CLRs. The WFD required high standards of precaution (and thus high costs) in the remediation process, while the ELD suggested that such burden and costs should be borne by the polluter.

The Industrial Emissions Directive 2010/75/EU (IED) presents, however, new important implications for the debate. This Directive is the main EU instrument regulating pollutant emissions from industrial installations.

It aims to achieve a high level of protection of human health and the environment taken as a whole by reducing harmful industrial emissions across the EU, in particular through better application of Best Available Techniques (BAT). The IED is based on several pillars, in particular (1) an integrated approach, (2) use of best available techniques, (3) flexibility, (4) inspections and (5) public participation.

> **The IED introduces a new obligation: the redaction of a Baseline Report. In order to ensure that the operation of an installation does not deteriorate the quality of soil and groundwater, the industrial operator is required to produce a Baseline Report describing their state, in order to assess possible changes upon definitive cessation of the activities.**

The obligation to produce a Baseline Report introduces **the duty for the operator of an activity to investigate and disclose the contamination of soil and groundwater, if any**. Depending on the features of the specific national CLR, such mandatory disclosure can generate remediation obligations for different parties, which would otherwise have arisen much later, or not at all[6].

More specifically:

- **article 22**(1) of Directive 2010/75/EU on industrial emissions (IED) provides that, '*Without prejudice to Directive 2000/60/EC, Directive 2004/35/EC, Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration (1) and to relevant Union law on soil protection, the competent authority shall set permit conditions to ensure compliance with paragraphs 3 and 4 of this Article upon definitive cessation of activities*';

- **article 22**, paragraphs 2 to 4, contains provisions for the definitive cessation of activities involving the use, production or release of relevant hazardous substances in order to prevent and tackle potential soil and groundwater contamination from such substances. A key tool in this respect is the establishment of a ‘ ***baseline report***’. Where an activity involves the use, production or release of relevant hazardous substances and having regard to the possibility of soil and groundwater contamination, a baseline report is to be drawn up before starting the operation of the installation or before a permit for the installation is updated for the first time after 7 January 2013. The report will form the basis for a comparison with the state of contamination upon definitive cessation of activities;
- **article 3**(19) of the IED clarifies that the baseline report needs to provide information on the state of soil and groundwater contamination by relevant hazardous substances;
- **article 22**(2) specifies that a baseline report should contain at least the following information: *‘(a) information on the present use and, where available, on past uses of the site; and (b) where available, existing information on soil and groundwater measurements that reflect the state at the time the report is drawn up or, alternatively, new soil and groundwater measurements having regard to the possibility of soil and groundwater contamination by those hazardous substances to be used, produced or released by the installation concerned.’*

II. European guidelines for implementing the Baseline Report obligation

According to the last subparagraph of Article 22(2) of the IED, ‘*the Commission shall establish guidance on the content of the baseline report.*’

The Communication 2014/C 136/03 contains the **European Commission Guidance** concerning baseline reports under Article 22(2) of Directive 2010/75/EU on industrial emissions. Such a guidance is established for the Member States to use in the course of IED implementation.

> **The Commission thinks it is in the operator’s interest to ensure that the state of contamination of soil and groundwater identified in the baseline report is sufficiently detailed, as this information will be used to determine which contamination has been added in the course of the operation of the installation concerned since the baseline has been established.**

The Communication aims to clarify in a practical manner the wording and intent of the IED so that Member States implement it in a consistent manner. However, the only legally binding text remains that of the IED itself.

The guidance, however, does not cover those elements of Article 22 concerning actions required at the definitive cessation of activities as described in Article 22(3) and (4). This specification is important and inevitable. It is important, as the operators must be aware that at the definitive cessation of their activities they should check their national requirements. And it is inevitable, as the EU law does not regulate the content of the obligation to remediate contaminated areas.

As to the **general aspects of the Baseline Report (BR) regulation**, the most important points of the Communication are the following:

- '**The possibility of soil and groundwater contamination at the site of the installation**' (Article 22(2), first subparagraph), that covers a number of important elements. Firstly, due consideration should be given in a baseline report to the quantities of hazardous substances concerned (where very small quantities are used, produced or released on the site of the installation then the possibility of contamination is likely to be insignificant for the purpose of producing a baseline report). Secondly, baseline reports must consider the soil and groundwater characteristics of the site and the impact of those characteristics on the possibility of soil and groundwater contamination taking place. Thirdly, for existing installations, their characteristics may be considered where they are such that it is impossible in practice that contamination can take place.
- The concept of '**Quantified comparison**' (Article 22(2) second subparagraph), that requires the comparison of both the extent and the degree of contamination between a baseline state and the state at the time of the definitive cessation of activities. It is in the operator's interest to ensure that quantification is sufficiently accurate and precise to enable a meaningful comparison at the definitive cessation of activities.
- The fact that the '**information necessary to determine the state of soil and groundwater contamination** ' (Article 22(2), second subparagraph) is understood as including at least the following two elements: a) information on the present use and, where available, on past uses of the site; b) information on the concentrations in the soil and groundwater of those relevant hazardous substances that will be used, produced or released by the installation.

A number of **key tasks** should be undertaken **both to determine whether a baseline report needs to be produced for a particular situation and to produce the baseline report itself**. Eight stages have been identified in this process, covering the following main elements:

- Stages 13: to decide whether a baseline report is required;
- Stages 47: to determine how a baseline report has to be prepared;
- Stage 8: to determine the content of the report.

III. National guidelines for implementing the Baseline Report obligation

THE UK

DEFRA issued, **on February 2013, a document containing Industrial emissions Directive EPR Guidance on Part A installations**.

This document contains a few comments on the Baseline Report. According to the document, " *Operators must bear in mind that, since the permit conditions and subsistence charges will remain in place until the regulator is satisfied, by reference to the baseline report, that no deterioration in site condition has occurred, it is in their interest to have a robust baseline report*."

> **DEFRA also points out that, when an operator wishes to surrender a permit, the state of soil and groundwater contamination by relevant hazardous substances used, produced or released by the installation, must be assessed. If it is found that significant pollution has been caused compared to the state established by the baseline report, the operator must demonstrate in the surrender application that the measures necessary to return the site to that state have been taken.**

Where a baseline report is not available (for example, in the case of some existing installations in operation before 7 January 2013 or where a report is not required), the operator must take the necessary actions to remove, control, contain or reduce relevant hazardous substances so that the site ceases to pose any significant risk to human health of the environment.

ITALY

The Italian Ministry of Environmental Protection issued a specific regulation on the Baseline Report (BR) in 2014 *(Ministerial Decree n. 272 of 13 November 2014)*, which has been annulled by the Lazio Regional Administrative Court. On 15th April 2019 the Ministry issued a new regulation on the baseline report.
This Decree refers expressly to the Communication 2014/C 136/03 containing the **European Commission Guidance on the Baseline Report**.

> **Strong emphasis is given to the procedure for the identification and the measurement of those relevant hazardous substances that will be used, produced or released by the installation. After having being measured, such substances must be confronted with a set of limit threshold, in order to determine whether or not a release or contamination might happen.**

When the answer to this question is positive, the Baseline Report must be prepared. The content of the Report is specified better than in the IED Directive or in the EU Commission Guidance document. For instance, the BR must contain detailed information on the future use of the area, as well as on the geological and hydrogeological framework.
For the purpose of this research, it is interesting to observe that the Ministerial Decree introduce a specific reference to the remediation proceeding. In particular, it is established that substances that during any remediation process were found to be present in quantities exceeding the contamination threshold concentrations (CSC) must always be considered as relevant hazardous substances.

FRANCE

The French Ministry of Ecology, Sustainable Development and Energy also issued a specific regulation on the Baseline Report (BR) ***(Ministère de l'Écologie, du Développement durable et de l'Énergie - Secrétariat general. Guide méthodologique pour l'élaboration du rapport de base prévu par la Directive IED - version 2.2 – October 2014)***.

> **This guidance specifies into a higher detail the requisites described in the Communication 2014/C 136/03 containing the European Commission Guidance on the Baseline Report.**

Great relevance is given to the correct identification of the geographical area which might be affected by contamination, in case an accident causes the release of hazardous substances.

SPAIN

Spain has not issued a national guidance on the implementation of the Baseline Report. However, in the Murcia Region, on 25 October 2013 the Environmental Directorate approved a Resolution containing guidance ***"sobre la aplicacion del informe de base "*** (Baseline Report, officially named as "***informe de la situacin de partida***").

Apart from providing a useful list of the hazardous substances that might come into consideration, this guidance does not contain relevant specifications to the European regulation of the Baseline Report.

IV. The ECJ decision of 4 March 2015 (Case C?534/13) on environmental liability and The Italian CLR

A recent decision of the ECJ has taken an approach which is slightly, but significantly, different from the previous 2010 ECJ decision, illustrated above. In 2015, the ECJ has determined that, in circumstances where it is impossible to identify the polluter or to have that person implement the remediation, EU law precludes national legislation from *not* requiring the landowner to take on at least some burden of remediation (ECJ of 4 March 2015 – ECJ Case C-534/13)[7]. The Court, deciding in relation to the Italian CLR, concluded as follows:

"*Directive 2004/35/EC … on environmental liability must be interpreted as not precluding national legislation … which, in cases where it is impossible to identify the polluter of a plot of land or to have that person adopt remedial measures, does not permit the competent authority to require the owner of the land (who is not responsible for the pollution) to adopt preventive and remedial measures, that person being required merely to reimburse the costs relating to the measures undertaken by the competent authority within the limit of the market value of the site, determined after those measures have been carried out*".

Contrary to its previous tendency to support a rigid interpretation of the polluter-pays principle (insistently advocated also in the Opinion of the Advocate General Kokott), with this decision the ECJ gives new strength to the stewardship principle.

Although the decision allows national CLRs not to force the 'innocent' landowner to implement directly and fully the remediation, it does imply a minimum standard of obligation for the landowner in cases where it is impossible to have the remediation implemented by the polluter. In such situations, the decision implies that the ELD must be now interpreted as **providing national CLRs with a choice between the following two options only:**

1. **requiring the 'innocent' landowner to adopt full preventive and remedial measures,**
   or, at the very least,
2. **requiring the 'innocent' landowner to reimburse the costs related to the measures undertaken by the competent authority up to the limit of the market value of the site following the remediation**.

> **In both cases, the burden imposed on the landowner is rather heavy, as – first of all - an application of the stewardship principle would require.**

More recently, in a case concerning the application of Hungarian legislation, the EU Court of Justice affirmed also that Directive 2004/35:
does not preclude nation legislation, such as that at issue in the main proceedings, which identifies another category of persons who, in addition to those using a land on which unlawful pollution was produced, share joint and several liability, namely the owners of the land, without it being necessary to establish a causal link between the conduct of the owners and the damage established, provided that such legislation complies with the general principles of EU law, all relevant provisions of the EU and FEU Treaties and of acts of secondary law of the European Union.

V. Conclusions: Effects of recent EU legislation and case law on the CLRs (improved balance among the different environmental principles, accountability of the landowner and of the operator)

Whether and to what extent national CLRs are receptive to the developments in the recent EU legislation and case law outlined above?

As evidenced by the discussion above, despite an initial reliance on the polluter-pays principle alone, recent developments in EU legislation and case law have given increased prominence to the stewardship principle. Hence, despite not explicitly regulating contaminated land, legislation and case law at the EU level have the potential to nudge the national CLRs towards mitigating the polluter-pays through the stewardship principle. The specific features of this balance have not been precisely identified so far.

> **The answer to this question may also shed light on some further development currently taking place in this area of law: the deepening of the public/private divide and the emerging significance of a third actor, the operator of the activity.**

First, it emerges that some CLRs contain rules which differentiate the public from the private law domain, particularly in the crucial area of the allocation of the remediation costs. In the former, the stewardship principle seems to prevail, whereas the latter is dominated by the polluter-pays principle. Thus, the CLRs are an excellent site to examine the increasing relevance of the "public/private divide" in European environmental law[8].

Second, contrary to what common knowledge of environmental liability might suggest, both the ELD and the recent ECJ case law extend the application of remediation rules to three – rather than two – different parties. Apart from the polluter and the 'innocent' landowner, the ELD also refers to the operator, defined by Art. 2(6) as

"*any natural or legal, private or public person who operates or controls the occupational activity or, where this is provided for in national legislation, to whom decisive economic power over the technical functioning of such an activity has been delegated, including the holder of a permit or authorisation for such an activity or the person registering or notifying such an activity.*"

According to this definition (which is very similar to the definition of the operator provided by art. 3 of the IED), the operator does not necessarily coincide with either the polluter or the 'innocent' landowner.

Per visualizzare la parte I clicca qui.

[1] For a terminological discussion of this kind, see Brandon, E. *Global Approaches to Site Contamination Law* (2013 Springer), 6-7.

[2] In response to the Directive REFIT evaluation, which, as indicated in the EC Commission Website, 'showed a clear knowledge gaps and implementation deficiencies that need to be tackled in a more structured and systematic way' the Multi-Annual Work Programme (MAWP) 2017 – 2020 has been developed. The Multi Annual Work Programma is available at the following link: http://ec.europa.eu/environment/legal/liability/index.htm#Multi-AnnualWorkProgramme2017-2020 , last accessed 21.6.2019.

[3] European Parliament resolution of 26 October 2017 on the application of Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (the 'ELD') (2016/2251(INI)).

[4] Judgment of 9 march 2010, *Raffinerie Mediterranee (ERG) SpA, Polimeri Europa SpA and Syndial SpA v Ministero dello Sviluppo economico and Others* C-378/08, ECLI:EU:C:2010:126, and Judgment of 9 march 2010, *Raffinerie Mediterranee (ERG) SpA, Polimeri Europa SpA and Syndial SpA v Ministero dello Sviluppo economico and Others* (C-379/08) and *ENI SpA v Ministero Ambiente e Tutela del Territorio e del Mare and Others* (C-380/08), ECLI:EU:C:2010:127.

[5] This creates a serious problem in the countries where unfulfilling the administrative obligation to remediate triggers criminal liability. Actually, the obligation to remediate depends on a party being identified as a (or the) polluter. Such an identification only requires "*plausible evidence*". Thus, the need for evidence "*beyond any reasonable doubt*" becomes almost unimportant, contrary to the general principles of criminal law. A party identified (due to "*plausible evidence*" only) as the polluter risks criminal conviction for unfulfilling ("*beyond any reasonable doubt*") the subsequent administrative obligation to remediate.

[6] See, on this topic, L. Butti, ‘The National Contaminated Land Regimes in the EU and the Baseline Report Provided for by the IED Directive. European or National Rules for the Remediation of Soil and Groundwater?’ IUCN Academy of Environmental Law Journal 6: 101-05.

[7] On this topic see also M. Cenini, *“La responsabilità della Terra inquinata: responsabilità, circolazione e garanzie”*, (2017) Giuffrè, pp. 154-158.

[8] E Fisher, ‘Is the Precautionary principle justiciable?’ Journal of Environmental Law, (2001), 13(3).

TAG: *European Union, Regolamento UE, law and economics*
