Annex I

Finland

Improving financial security in the context of the Environmental Liability Directive
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1. **INTRODUCTION**

Financial security for ELD liabilities in the form of insurance policies for companies with sites and/or operations based only in Finland is available.

Stand-alone environmental insurance policies that provide cover for ELD liabilities are available from a limited number of insurers.

Environmental extensions to general liability policies are widely available.

Extensions to property policies are widely available.

Stand-alone environmental insurance policies that provide cover for ELD and other environmental liabilities offered by multinational insurers to businesses with sites/facilities in Finland and other States, are widely available by passporting. Cover is generally not limited to pollution but includes other types of environmental damage under the ELD.

Finland transposed the ELD by the Act on the Remediation of Certain Environmental Damages (*Laki eräiden ympäristölle aiheutuneiden vahinkojen korjaamisesta*) of 1 July 2009 (Environmental Liability Act)¹ and the Decree on the Remediation of Certain Environmental Damages (*Valtioneuvoston asetus eräiden ympäristölle aiheutuneiden vahinkojen korjaamisesta*),² as well as by amending the Nature Conservation Act (*Luonnonsuojelulaki*),³ the Environmental Protection Act (*Ympäristönsuojelulaki*),⁴ the Water Act (*Vesilaki*),⁵ the Gene Technology Act (*Geenitekniikkalaki*),⁶ and the Act on Transport of Dangerous Goods (*Laki vaarallisten aineiden kuljetuksesta*).⁷

Finland has not imposed mandatory financial security for ELD liabilities.

Finland has imposed mandatory insurance for claims for compensation for bodily injury, property damage and economic loss caused by environmental damage. The Environmental Damage Insurance Act, as amended (*Laki ympäristövahinkovakuutuksesta*),⁸ which entered

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into force on 1 June 1999, requires operators to have mandatory insurance for civil liabilities specified in the Act on Compensation for Environmental Damage (laki ympäristövahinkojen korvaamisesta), as amended, which entered into force on 1 June 1995. The Environmental Damage Insurance Act is accompanied by the Environmental Damage Insurance Decree (Valtioneuvoston asetus ympäristövahinkovakuutuksesta). As described in section 2 below, the Environmental Damage Insurance Act is solely for the benefit of claimants against insurers subject to the Act.

Compensation payable under the mandatory insurance scheme pursuant to the Environmental Damage Insurance Act theoretically includes some costs for preventing and remediating environmental damage under the ELD in addition to compensation for bodily injury, property damage and economic loss (see section 2 below).

Finnish law also provides that a competent authority may require an operator that is subject to the legislation that implements the Industrial Emissions Directive (2010/75/EU) to provide financial security for restoration of the environment if a permit under the Directive is challenged and the operator proceeds with activities subject to it.

2. ENVIRONMENTAL INSURANCE MARKET

The environmental insurance market in Finland for stand-alone environmental insurance policies is not well developed. Demand by small to medium sized businesses is low but steadily growing. Demand by large businesses is higher but is still low although it is also steadily growing.

Businesses with sites and/or operations only in Finland generally purchase environmental insurance in the form of extensions to general liability and property policies rather than stand-alone environmental insurance policies.

Environmental extensions to general liability policies provide cover for remediating off-site pollution (not other environmental damage) from a sudden and accidental incident on an insured’s site. They do not provide cover for gradual pollution or ELD liabilities. In addition, they tend to require an insured to notify the insurer of the pollution within a specified period of time. Demand for the extensions is low but is higher than demand for stand-alone environmental insurance policies.

Some insurers offer extensions to property policies, often called Decontamination and Cleanup Expense Extensions. The extensions provide cover for the cost of preventing and remediating environmental damage on an insured’s own site and thus may also provide cover for the cost of preventing the migration of pollution from the site. They tend to be purchased by operators to prevent damage to insured property in the form of industrial buildings or warehouses. They provide cover for damage only from sudden and accidental pollution incidents in connection with property damage. They typically provide cover for the


remediation of soil or water (including its disposal) that has been contaminated during emergency measures to mitigate environmental damage. They do not provide cover for complementary or compensatory remediation. They are thus somewhat similar to enhanced cover for debris removal. Demand for them is low but is higher than demand for stand-alone environmental insurance policies.

The statutory framework established by the Environmental Damage Insurance Act is an exception to the normal insurance market in Finland. Its purpose is the protection of persons who suffer bodily injury, property damage or economic loss when the person that caused the loss cannot be found or is insolvent. It is a collective scheme that operates differently from normal circumstances in which an injured person would bring a claim for compensation against the person that injured it or by way of that person’s insurer.

In order to understand the environmental insurance market in Finland, the following briefly describes the Act on Compensation for Environmental Damage and mandatory insurance for it under the Environmental Damage Insurance Act, including differences with and the potential for overlap with liabilities under the legislation that implements the ELD.

➢ Act on Compensation for Environmental Damage

Section 1 of the Act on Compensation for Environmental Damage, as amended, provides that:

Compensation shall be paid for a loss defined in this Act as environmental damage, caused by activities carried out in a certain area and resulting from:

1) pollution of the water, air or soil (veden, ilman tai maaperän pilaantumisesta);

2) noise, vibration, radiation, light, heat or smell (melusta, tärinästä, säteilystä, valosta, lämmöstä tai hajusta); or

3) other similar nuisance (muusta vastaavasta häiriöstä).

Section 3 provides that compensation is payable if the claimant shows that ‘there is a probable causal link between the activities and the [above] loss’. Section 3 further provides that ‘[i]n assessing the probability of causality, consideration shall be given, among other things, to the type of activity and loss and to the other possible causes of the loss’.

Section 5 refers specifically to compensation for bodily injury and property damage and, pure economic loss if the loss is not minor. That is, compensation is for claims for civil liabilities; it is not compensation for measures to prevent or remediate environmental damage itself.

Sections 7 and 8 provide for strict and joint and several liability, respectively.

Section 6, entitled Costs of prevention and reinstatement (Vahingontorjunta- ja ennallistamiskustannukset) provides that:

Compensation shall also be paid by virtue of this Act for:

1) the costs of the measures needed to prevent environmental damage, as referred to in section 1, threatening the person undertaking the measures, or to reinstate a damaged environment [kustannukset niistä tarpeellisista toimenpiteistä, joihin joku on ryhtynyt itselleen koskevan, 1 §:ssä tarkoitetun ympäristövahingen uhan torjumiseksi tai vahingoittuneen ympäristön palauttamiseksi ennalleen];

2) the costs, incurred by authorities, of measures to prevent the threat or the effects of a nuisance referred to in section 1, or to reinstate a polluted environment to its original state, if the costs are reasonable relative to the nuisance or the threat thereof, and to the benefit gained by the measures
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3) the costs of investigations that proved unavoidable in carrying out the preventive measures or reinstatement referred to above in subparagraphs 1 and 2 (kustannukset niistä selvityksistä, jotka ovat olleet välttämättömiä edellä 1 ja 2 kohdassa tarkoitetun torjuntatoimenpiteen tai ennalleen palauttamisen suorittamiseksi).

Section 6 thus provides for a potential overlap with the ELD in that liability is imposed for the costs of some preventive and reinstatement measures for environmental damage. Crucially, however, liability under the Act is imposed for compensation for the costs of such measures and not a requirement to carry out preventive and/or reinstatement measures. Liability for compensation for bodily injury, property damage and economic loss is not covered by the ELD.11

➤ Environmental Damage Insurance Act

Enactment of the Environmental Damage Insurance Act resulted in insurance companies that provided policies pursuant to it to establish the Environmental Insurance Centre (Ympäristövakuutuskeskus) to administer a scheme to handle claims for compensation under those policies. Insurers, including branches of some multinational insurance companies, that offer statutory EIL policies are required to be members of the Centre. Funding for compensation payments and operation of the scheme is from premiums for statutory EIL policies.

The Environmental Damage Insurance Act provides that all companies whose activities involve a significant risk of environmental damage, or whose operations generally cause harm to the environment, must obtain a statutory EIL policy within three months of commencing operations subject to it.12

If an operator that is subject to the Act, as indicated above, fails to obtain a statutory EIL policy, it is subject to a penalty premium of up to 10 times the average premium.13 In 2017, the amount of penalty premiums from uninsured operators was approximately EUR 6,500.14

The requirement to have a statutory EIL policy applies to companies that have:

- a permit granted by the Regional State Administrative Authority (aluehallintovirasto);

or

11 Recital 14 provides that the ELD ‘does not apply to cases of personal injury, to damage to private property or to any economic loss and does not affect any right regarding these types of damages’.

12 See Environmental Insurance Centre, ‘Where can you get an insurance policy’? (24 March 2015); https://www.yvk.fi/en/insurance-cover/where-can-you-get-an-insurance-policy/

13 See ibid

• a permit granted by the Finnish Safety and Chemicals Agency (Turvallisuus- ja kemikaalivirasto; Tukes) for processing or storing hazardous chemicals or explosives.\textsuperscript{15}

The requirement does not apply to the following:

• one-person businesses;
• private law companies that have an environmental permit granted by a municipal environmental authority; and
• activities related to the storage or distribution of oil or oil products, the manufacturing of lubricants, the remediation of contamination, or the handling of waste unless the activities require an environmental permit by the state environmental authority for another reason.\textsuperscript{16}

The reason for the exception for the storage or distribution of oil or oil products is because compensation for damage caused by them must be sought from the person that caused the damage pursuant to the Oil Pollution Compensation Fund (see section 16.1 below).

The statutory EIL policy is designed to reflect liabilities imposed by the Act on Compensation for Environmental Damage.\textsuperscript{17} The policy thus provides cover for environmental damage caused by polluted water, air or soil, noise, vibration, radiation, light, heat or odour, or a similar disruption, in a specific area. The harm resulting from such environmental damage is bodily injury or property damage under the Tort Liability Act (Vahingonkorvauslaki),\textsuperscript{18} pure property damage other than minor damage, other environmental damage to a reasonable extent, and remediation and restoration costs.\textsuperscript{19}

In 2017, there were 1,441 statutory EIL policies; an increase from 1,425 in 2016. The share of premiums by insurers that offered statutory EIL policies, and were thus members of the Environmental Insurance Centre, in 2017 was EUR 1,900,000. Of this amount, EUR 1,700,000 was allocated to cover the risk of environmental damage caused by unknown and uninsured parties; EUR 200,000 was allocated to reinsurance premiums covering the risk of insolvent insureds.\textsuperscript{20}


\textsuperscript{17} See Matti Sjögren, Topic IV – Pollution Insurance – Methods, Coverage and Beneficiaries Questionnaire, AIDA World Congress, Rio de Janeiro, October 2018 (prepared 22 November 2017), s 2.3.1; http://www.aida.org.uk/docs/FINLAND%20-%20AnswersPollution%20Ins%20Questions.pdf


\textsuperscript{19} See Environmental Insurance Centre, ‘What will be compensated?’ (24 March 2015); https://www.yvk.fi/en/compensation/what-will-be-compensated/

In theory, the statutory EIL policy could provide compensation for the costs of preventing damage to land/soil and water, and reinstating it, under the ELD.\textsuperscript{21} It does not provide cover for the costs of preventing or remediating damage to species or natural habitats protected under the Birds Directive (2009/147/EC) or the Habitats Directive (92/43/EEC).\textsuperscript{22} Further, it does not provide cover for the costs of complementary or compensatory remediation under the ELD.

A potential example of an overlap is the remediation of contaminated land/soil as a remedy for a claim for property damage.\textsuperscript{23} The theoretical coverage has not been tested due to there being only two ELD incidents in Finland when this report was published, neither of which involved a missing or insolvent operator. Any overlap in cover, however, would be extremely limited.

Claims for compensation for damage covered by statutory EIL policies must be submitted to the Environmental Insurance Centre in writing within three years from the date on which the injured party was notified that compensation could not be collected from the person that was liable for the damage, or that it was not possible to identify that person.\textsuperscript{24}

Compensation is payable only if the environmental damage occurred after the Act entered into force on 1 January 1999. Further, compensation is payable only if it is not possible to collect the compensation in full from the liable party under the Act on Compensation for Environmental Damage or from the liable person’s insurance policy, or the liable person is insolvent or cannot be found. Compensation is not payable for damage caused by the transportation of chemicals, contaminated land, or damage from waste. It also, by its nature, does not apply to damage caused by a company that is still operating.\textsuperscript{25}

The maximum amount of compensation is EUR 6,000,000 per occurrence with an aggregate of EUR 10,000,000 for all occurrences during a calendar year. A deductible of EUR 300 applies if the injured party is a natural person; a deductible of EUR 3,000 applies if the injured party is a legal person.\textsuperscript{26}

Approximately two or three claims are made against the Environmental Insurance Centre each year. There is no average amount of a claim; claims have varied between a few thousand Euros to EUR 8,000,000.


\textsuperscript{24} See Environmental Insurance Centre, ‘Reporting damage’ (9 June 2016); https://www.yvk.fi/en/compensation/reporting-damage/


\textsuperscript{26} See Environmental Insurance Centre, ‘Maximum compensation and deductible’ (24 March 2015); https://www.yvk.fi/en/compensation/what-will-be-compensated/
In 2017, one new environmental damage report was filed. In two cases that were already pending in that year, the matter was referred to a public court of law with the Centre as a recourse creditor.

Also in 2017, the Environmental Insurance Centre paid EUR 27,400 in compensation payments; the amount in 2016 was EUR 71,900.27

Mandatory insurance under the Environmental Damage Insurance Act has been criticised. In 2011, the Finnish Environmental Institute (Suomen ympäristökeskus) carried out a survey on the functionality of the scheme. Among other things, the survey assessed alternatives including expanding the scope of the Act or abolishing insurance required under it.

A further evaluation of the Environmental Damage Insurance Act will be carried out during implementation of the government programme for 2019 to 2023, probably beginning in 2020.

2.1. Commercial insurers

2.1.1. Number of insurers

Eight insurers based in, or with branches in, Finland offer statutory EIL policies. A smaller number of insurers offer stand-alone policies for preventing and remediating environmental damage under the ELD and other environmental legislation.

In comparison, approximately 35 non-life insurers are based in, or have branches in, Finland.28 A further 18 non-life insurers based in other Member States are authorised to conduct insurance business in Finland. The five largest non-life insurers represent 93% of the insurance market in Finland.

All the main non-life insurers that offer general liability policies offer extensions to them for remediating off-site pollution from a sudden and accidental incident on an insured’s site. Some non-life insurers that offer property policies offer extensions to them for remediating on-site sudden and accidental pollution.

In addition, multinational insurers offer environmental insurance policies to companies with sites in Finland as well as other Member States by passporting.

2.1.2. New insurers entering the market since 2009

No new insurers have entered the environmental insurance market in Finland since 2009 although approximately two insurers have entered the general non-life insurance market.

2.1.3. Existing insurers that introduced environmental insurance policies since 2009

Insurers in Finland have offered statutory EIL policies since the requirement for them entered into force in 1999. The policies are always stand-alone policies.

After the ELD was transposed into Finnish law in July 2009, some insurers broadened the scope of their policies to provide cover for preventing and remediating environmental damage under the ELD.

2.2. Re/insurance pools

There are no re/insurance pools in Finland.


2.2.1.  Date of establishment  
Not applicable

2.2.2.  Descriptions of policies issued  
Not applicable

2.3.  Mutuals  
Two of the five largest insurers in Finland are mutual insurance companies as opposed to joint stock insurance companies. The mutual insurance companies, which represent about 45% of the insurance market in Finland, offer general insurance policies; they do not specialise in stand-alone environmental insurance policies.

2.3.1.  Date of establishment  
Not applicable

2.3.2.  Descriptions of policies issued  
Not applicable

2.4.  Other  
There are no captives or other types of providers of environmental insurance policies in Finland.

3.  VOLUNTARY INSURANCE POLICIES FOR ELD AND OTHER ENVIRONMENTAL LIABILITIES

3.1.  Environmental insurance policies  
Policies that provide cover for preventing and remediating environmental damage under the ELD are available, but not widely available, for operators with sites and/or operations only in Finland.

A major reason for their limited availability is that, after the ELD was implemented in Finland, insurers began to develop stand-alone environmental insurance policies known as Environmental Costs Insurance Policies, the wording for which was based directly on the ELD. The general practice, however, became for operators not to purchase the stand-alone policies but rather to purchase extensions to their general liability policies into which cover for ELD liabilities had been integrated, usually in the form of an endorsement.

One ELD stakeholder in the insurance industry commented that the reason for the low demand for insurance for ELD liabilities in Finland is that there have only been a few reported ELD incidents in Finland.

3.2.  Cover for ELD preventive costs  
Environmental insurance policies offered to companies with sites and/or operations only in Finland provide cover for ELD preventive costs, with the scope of preventive and emergency costs depending on individual insurers.

Extensions to general liability and property policies provide cover for preventive costs under the ELD.

3.3. **Cover for ELD primary, complementary and compensatory costs**

Environmental costs insurance policies provide cover for primary, complementary and compensatory remediation under the ELD.

Environmental insurance policies offered by multinational insurers to large companies with sites and/or operations in Finland and other States provide cover for primary, complementary and compensatory costs under the ELD.

3.4. **Cover for non-ELD liabilities**

Environmental costs insurance policies do not typically provide cover for non-ELD liabilities or risks such as claims for bodily injury and property damage from environmental damage.

Stand-alone environmental insurance policies offered by multinational insurers provide cover for a broad range of risks including non-ELD liabilities (see section 3.6.3 below).

3.5. **Nature of policies (liability only or liability and on-site remediation)**

Stand-alone environmental insurance costs policies provide cover for the costs of preventing and remediating environmental damage under the ELD at an insured’s own site as well as third-party sites.

The policies do not provide cover for damage to on-site property in the form of buildings, other structures and equipment unless, under some policies, the damage results from carrying out remediation measures themselves.

3.6. **Description of policies**

3.6.1. **Format**

Stand-alone environmental insurance policies offered by national as well as multinational insurance companies with branches in Finland to businesses with sites and/or operations based only in Finland generally have a basic cover section. Extensions are usually provided by endorsements.

Stand-alone environmental insurance policies offered by multinational insurers for large companies with sites and/or operations in Finland and other States generally have a menu-based format to enable operators to select the insuring agreements they wish.

3.6.2. **Claims made or occurrence based**

All policies underwritten for risks in Finland are subject to the Insurance Contracts Act (Vakuutussopimuslaki).\(^{30}\) Section 73 of the Act provides that claims against insurance policies must be made to insurers within one year from the date on which a claimant is aware of its loss with a long stop of 10 years from the date of the event resulting in the loss.

Extensions to general liability and property policies that provide cover for pollution are underwritten on an occurrence basis. That is, the policy that is on the risk when a pollution incident occurs provides cover, not the policy that is on the risk at the time at which the claim for damage caused by the incident is made. Depending on the individual insurer, claims must be made for such costs no later than 365 days after the date of the loss caused by the pollution event.

incident. As a practical matter, the claim must occur during the policy period because the extensions are limited to cover for sudden and accidental pollution.

In respect of statutory EIL policies, section 17(1) of the Environmental Damage Insurance Act provides that a claim for compensation may be made up to three years after the injured party became aware that compensation could be recovered from the liable party or that it was impossible to identify the liable party. Section 17(2) provides that if there is ‘special cause’, a claim can be considered later, with a long stop of 10 years. Further, if an action for damages for the same loss is pending in court, the claim for damage or injury may be made within one year of the judgment having legal force, notwithstanding the above two clauses of section 17.

Environmental costs insurance policies and policies that provide cover for preventing and remediating environmental damage under the ELD and other environmental legislation are claims made. That is, the policies provide cover for claims that are made against the insured during the policy period and reported to insurers during the same policy period. Many such policies have an extended reporting period that extends the period for notifying claims to insurers for environmental damage that has occurred during the policy period for a specified period beyond the policy period.

3.6.3. Policies for operators

As indicated in section 2 above, all operators subject to the Environmental Damage Insurance Act are required to have statutory EIL policies. Also as indicated in section 2, the Act is focused on compensation (monetary damages) for claims for bodily injury, property damage and economic loss from environmental damage. It is not focused on providing cover for the costs of measures that an operator must carry out to prevent and remediate environmental damage under the ELD or any other environmental legislation.

Stand-alone environmental insurance policies offered by multinational insurers to operators, including large operators with sites in other States as well as Finland, include the following, depending on the individual insurer:

- costs of preventive and remediation measures under the ELD (including primary, complementary and compensation remediation) at and emanating from an insured’s site;
- costs of preventive and remediation measures under other environmental legislation for pollution at an insured’s site and pollution emanating from an insured’s site;
- environmental damage including pollution caused by the insured’s operations, including transportation, outside the insured’s site;
- claims for bodily injury and property damage;
- third-party business interruption resulting from pollution or other environmental damage;
- first-party business interruption resulting from pollution or other environmental damage;
- costs of remediating damage resulting from the insured’s waste at a non-owned disposal site;
- crisis/disaster management costs (to protect an insured’s reputation in the event of environmental damage);
- emergency measures to prevent or remediate environmental damage, including pollution, that occurs during the policy period; and
- legal expense.
Only the first and third items are liabilities under the ELD. The policies are thus designed to include, not only protection under the ELD but also protection under other public law as well as civil law and non-liability requirements.

All stand-alone environmental insurance policies offered by multinational insurers to operators with sites and/or operations only in Finland as well as sites and/or operations in Finland and other States are not necessarily designed for Finnish operators. Some policies are specifically designed to reflect – and provide cover for – the legal and licensing situation in Finland; others are not.

3.6.4. Policies for contractors and others

Environmental insurance policies that provide cover for ELD and other environmental liabilities are also available for contractors. The policies tend to provide similar types of cover as the policies for companies with sites and/or operations only in Finland (see section 3.6.3 above).

3.7. Model terms and conditions

There are no model terms and conditions for environmental insurance policies, endorsements to other policies, or any other financial security instruments for ELD or other environmental liabilities in Finland.

3.7.1. Organisation issuing model terms and conditions

Not applicable

3.7.2. Description of model terms and conditions

Not applicable

3.7.3. Relationship between policies with model terms and conditions and environmental insurance policies

Not applicable

3.8. Date of general availability of environmental insurance policies

Statutory EIL policies became widely available in Finland following enactment of the Act on Compensation for Environmental Damage, which entered into force on 1 June 1995.

Stand-alone environmental insurance policies that provide cover for preventing and remediating environmental damage under the ELD and other environmental legislation have been available in Finland, especially for large companies with sites and/or operations in other States as well as Finland, since the ELD was transposed into Finnish law in 2009. Although such policies are available to businesses with sites and/or operations only in Finland demand was low but steadily growing, especially by small and medium sized operators, when this report was published.

Environmental extensions to general liability and property policies are widely available; demand for them is higher than it is for stand-alone environmental insurance policies.

3.9. Environmental assessments and audits

A business that applies for an environmental insurance policy is not generally required to carry out an environmental assessment or audit of site(s) to be covered by the policy before the policy is placed. If the prospective insured already has information on the environmental
condition of site(s) to be insured, this information is provided to the insurer. The insurer then considers the information as part of the underwriting process.

At least one Nordic insurer requires a prospective insured to have carried out an environmental risk analysis of the nature of its operations that is satisfactory to the insurer before it offers a policy.\footnote{31}{See ‘Liability insurances’; \url{https://www.if-insurance.com/large-enterprises/insurance-solutions/liability-insurances}}

3.10. **Average premium**

The average premium for a stand-alone environmental insurance policy varies depending on factors such as whether the insured is a large business or a small or medium sized business. Other factors include the number and type of facilities operated by the insured.

One ELD stakeholder stated that the average premium for a large operator with a site(s) in Finland is EUR 100,000.

The premium for a general liability or property policies with an environmental extension depends on factors other than the extension.

3.11. **Average policy limit**

The average policy limit for a stand-alone environmental insurance policy varies depending on factors such as whether the insured is a large business or a small or medium sized business. Other factors include the number and type of facilities operated by the insured.

One ELD stakeholder stated that the average policy limit for a stand-alone environmental insurance policy for a site(s) in Finland is EUR 10,000,000.

3.12. **Average deductible or self-insured retention**

The average deductible for a stand-alone environmental insurance policy varies depending on factors such as whether the insured is a large business or a small or medium sized business. Other factors include the number and type of facilities operated by the insured.

The range of deductibles for large operators varies between EUR 50,000 and EUR 1,000,000, with the average range between EUR 250,000 and EUR 500,000.

3.13. **Average policy period**

Stand-alone environmental insurance policies for businesses with sites and/or operations only in Finland tend to be underwritten on an annual basis which like other policies in Finland is automatically renewed unless the insured terminates it.

Stand-alone environmental insurance policies offered by multinational insurers tend to have policy periods between one and three years.

3.14. **Sizes of typical insured businesses**

All sizes of businesses subject to the Act on Compensation for Environmental Damage must purchase statutory EIL policies provided that their activities pose a significant risk to the environment or generally cause harm to it.
Small and medium sized businesses do not tend to purchase environmental insurance costs policies or other stand-alone environmental insurance policies that provide more extensive cover than environmental extensions to general liability and property policies.

Large businesses, especially those with sites in other Member States as well as Finland, tend to purchase broader scope environmental insurance policies although demand for these policies is low for businesses that have sites and/or operations only in Finland.

3.15. **Industrial and commercial sectors that typically purchase policies**

As indicated above, businesses that carry out activities that are subject to the Act on Compensation for Environmental Damage and that pose a significant risk to the environment or that generally cause harm to the environment must purchase statutory EIL policies.

No information was provided on industrial and commercial sectors that typically purchase stand-alone environmental insurance policies.

3.16. **Industrial and commercial sectors with limited or no accessibility to policies**

No information was provided that indicated that any industrial or commercial sectors have limited or no accessibility to environmental insurance.

3.17. **Number and amount of claims**

No information was provided about the number of claims by insureds against stand-alone environmental insurance policies or environmental extensions to general liability or property policies.

3.18. **Coverage litigation**

Two cases have been brought concerning the Environmental Damage Insurance Act. The central issue in both was the criminal liability of the operators, with civil liability and insurance claims being secondary to that issue. Both cases involved insolvent companies that had abandoned hazardous waste following bankruptcy proceedings.

There are no public reports of coverage litigation involving stand-alone environmental insurance policies or environmental extensions to general liability or property policies.

3.19. **Cover for ELD liabilities in general liability policies**

All the main insurers that underwrite general liability policies offer environmental extensions to them.

The extensions provide cover only for remediating sudden and accidental pollution, not gradual pollution and not environmental damage other than pollution. Further, they provide cover only for remediating off-site pollution that has migrated from an insured operator’s site.

3.20. **Cover for ELD liabilities in property policies**

Some insurers that underwrite property policies offer Decontamination and Cleanup Expense Extensions to them.

4. **OTHER VOLUNTARY FINANCIAL SECURITY INSTRUMENTS AND MECHANISMS**

4.1. **Type(s)**

Voluntary financial security instruments such as bank guarantees, bonds, etc. are not generally available for liabilities under the ELD or other environmental legislation. There is no demand
for them because they are geared towards mandatory financial security requirements for known responsibilities such as closure and post-closure of a landfill, not voluntary financial security for accidental ELD incidents.

4.2. Availability
Not applicable

5. MANDATORY FINANCIAL SECURITY FOR ELD LIABILITIES (ARTICLE 14(1))

Finland has not imposed mandatory financial security for ELD liabilities.

5.1. Competent authority(ies)
Not applicable

5.2. Legislative provisions

5.2.1. Name(s) of legislation
Not applicable

5.2.2. Stand-alone requirement or hybrid
Not applicable

5.2.3. Consideration of mandatory financial security legislation (if not enacted)
The Finnish Government has not considered enacting mandatory financial security for preventing and remediating environmental damage under the ELD. The Government considered that the development of environmental insurance should be led by the insurance market.

5.2.4. Reasons for decision not to enact mandatory financial security legislation
Not applicable

5.2.5. Revisions to legislation
Not applicable

5.2.6. ELD liabilities covered by mandatory financial security
Not applicable

5.2.7. Description of mandatory financial security provisions
Not applicable

5.2.8. Exception for low risk sites
Not applicable

5.2.9. Exception for ISO 14001 certification or EMAS registration
Not applicable

5.2.10. Other exceptions
Not applicable
5.3. Environmental licence conditions
Not applicable

5.3.1. Stand-alone requirement or hybrid

5.3.2. Revisions to licensing requirements

5.3.3. ELD liabilities covered by mandatory financial security

5.3.4. Description of mandatory financial security conditions

5.4. Date of introduction
Not applicable

5.5. Effective date
Not applicable

5.6. Key reasons for introduction
Not applicable

5.7. Withdrawal of mandatory financial security
Not applicable

5.8. Guidance
Not applicable

5.9. Operators subject to mandatory financial security
Not applicable

5.10. Amounts and limits of mandatory financial security
Not applicable

5.11. Growth of mandatory financial security
Not applicable

6. REGULATORY OVERSIGHT OF FINANCIAL SECURITY INSTRUMENTS AND MECHANISMS

6.1. Review of financial security instruments or mechanisms
Not applicable

6.2. Financial security instruments and mechanisms accepted
Not applicable

6.2.1. Templates

6.2.2. Requirements for environmental insurance policies
6.2.3. **Form of mandatory environmental insurance policy**

6.3. **Financial security instruments and mechanisms not acceptable**
Not applicable

6.4. **Time of review**
Not applicable

6.5. **Regulatory costs of review**
Not applicable

6.6. **Requirements for operator to review**
Not applicable

7. **ENFORCEMENT OF FINANCIAL SECURITY REQUIREMENTS**
Not applicable

8. **EX POST ENVIRONMENTAL DAMAGE MANDATORY FINANCIAL SECURITY (ARTICLE 8(2))**

The legislation that transposed the ELD does not include any provisions for charges on land or other types of financial security to cover the costs of remediating environmental damage caused by an operator.

8.1. **Date legislation or policy for mandatory financial security introduced**
Not applicable

8.2. **Effective date for ex post mandatory financial security**
Not applicable

8.3. **Financial security instruments and mechanisms accepted**
Not applicable

8.4. **Financial security instruments and mechanisms not acceptable**
Not applicable

9. **PROVIDERS OF MANDATORY FINANCIAL SECURITY INSTRUMENTS**
Not applicable
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9.1. Insurers

9.2. Banks and other financial institutions

9.3. Sureties

9.4. Providers outside Member State

10. MEASURES TAKEN BY MEMBER STATE TO DEVELOP FINANCIAL SECURITY MARKETS

The Finnish Government has not taken any measures to develop financial security markets because it has not observed the need for administrative guidance to assist in their functioning.

It is anticipated that the Government will develop and possibly restructure the environmental liability system, including the statutory environmental liability insurance scheme, in 2020.

11. EU ENVIRONMENTAL LEGISLATION WITH MANDATORY FINANCIAL SECURITY PROVISIONS

11.1. Landfill Directive

11.1.1. Competent authority(ies)

The competent authorities under the Landfill Directive (1999/31/EC), which is implemented in Finland by the Environmental Protection Act and relevant Government Decrees such as the Government Decree on Environmental Protection (Valtioneuvoston asetus ympäristönsuojelusta),32 are:

- Regional State Administrative Agencies (Aluehallintovirasto) in respect of environmental permits for landfills; and
- Centres for Economic Development, Transport and the Environment (Elinkeino-, liikenne- ja ympäristökeskus; ELY Centre) as supervisory authorities for landfills.

There are six Regional State Administrative Agencies and 15 ELY Centres in Finland.

11.1.2. Financial security provisions

Financial security is required for landfills but not necessarily other waste treatment operations.

Section 59 of the Environmental Protection Act provides as follows:

Operators engaged in waste treatment shall provide a financial guarantee to ensure appropriate waste management, monitoring and control, and actions needed for the cessation of operations or thereafter. Operators other than those engaged in landfill operations may be exempt from the requirement for a financial guarantee, if the costs to be covered by the guarantee upon the cessation of operations are minor in scale, considering the quantity and nature of the waste and other aspects. Further provisions may be issued by government decree on the conditions under which a financial guarantee is not necessary.

Section 60 provides that a financial guarantee for a landfill must:

32 Valtioneuvoston asetus ympäristönsuojelusta; http://www.finlex.fi/fi/laki/smur/2014/20140713 (in Finnish)
cover the costs of monitoring and control, treatment of leachate and gases, and other aftercare following the closure of the landfill, for a minimum period of 30 years, unless the operator demonstrates that other measures are sufficient.

The amount of the guarantee may fluctuate to reflect measures that have been carried out and/or are still to be carried out.

Section 60 also states that the government may issue further provisions for calculating the amount of financial guarantee and its accrual, with the proviso that the financial guarantee for small-scale operations may be specified as a fixed sum and be no more than EUR 10,000.

Section 61 provides that the financial guarantee must remain valid or be renewed at regular intervals for a minimum of three months after measures covered by the guarantee have been carried out and the supervisory authority has been notified about them. A financial guarantee for a landfill must remain valid until monitoring and post closure (aftercare) has ended.

Section 10 of the Government Decree on Waste (Valtioneuvoston asetus jätteistä)\(^{33}\) provides that, in addition to the provisions of section 60 of the Environmental Protection Act, factors to be taken into account in determining the amount of financial security shall include the classification of the waste, properties of the waste that is deposited, the future use of the site and other factors set out in annex 5 of the Decree. Section 10 also provides that ‘it shall be taken into account that the measures to be covered by the guarantee are assessed or taken by a party other than the operator or the authority’.

Annex 5 sets out the following factors that must be considered, as a minimum, to determine the amount of the financial guarantee for a waste facility.

1. The likely impacts of the waste facility on human health and on the environment.
2. The need for rehabilitation of the waste facility, including its future use.
3. The applicable environmental standards and objectives, including the physical stability of the waste facility, the minimum requirements for soil and water quality, and the maximum concentrations of contaminants to be released.
4. The technical measures necessary to achieve the environmental objectives, in particular, measures to ensure the stability of the waste facility and to limit environmental damage.
5. The necessary measures to achieve the objectives during and after the operation of the waste facility, including, as necessary, soil rehabilitation, aftercare and monitoring, and measures taken to restore biological diversity.
6. The estimated duration of the impacts and measures to mitigate them.
7. An independent and qualified assessment of the costs incurred by the measures necessary for soil rehabilitation, for closure of the waste facility closure and for aftercare, including potential monitoring or treatment of contaminants during aftercare; the assessment shall consider the possibility of unplanned or early closure of the waste facility.

Section 235 of the Environmental Protection Act, as amended, provides in pertinent part as follows:

If an environmental permit has been issued for waste treatment operations prior to 1 May 2012 and if the financial guarantee set for the operations does not comply with

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sections 59–61, the permit regulation concerning the guarantee shall be reviewed no later than when:

1) an application for a permit for a substantial change in the activity is submitted ...;
2) the permit is reviewed ...;
3) the permit is amended ...; or
4) the permit authority issues [orders] regarding measures for ceasing operations.

11.1.3. Financial security instruments and mechanisms accepted

Section 61 of the Environmental Protection Act states that guarantees, insurance and a pledged deposit are acceptable financial security instruments for waste facilities such as landfills that are subject to the mandatory financial security requirements. Section 61 further provides that the person issuing the financial guarantee must be a credit or insurance institution, or another commercial financial institution domiciled in a European Economic Area (EEA) country.

The Ministry of the Environment published a guide on financial guarantees for waste managers (Jätevakuusopas – Opas jätehuollon toimijoilta vaadittavista vakuuksista) in 2012.34 The guide provides more details on acceptable financial security instruments by referring to section 2 of the Guaranties and Third-Party Pledges Act 1999/361 (Laki takauksesta ja vierasvelkapanttauksesta 1999/361), as amended.35

Section 2 of the Guaranties and Third-Party Pledges Act defines guarantees, secondary guarantees, sureties and third-party pledges as follows.

Section 2(1): A guaranty is defined as an undertaking where the undertaking party (guarantor) promises to answer for the repayment of another person’s (debtor) obligation (principal debt) to a creditor.

Section 2(2): A secondary guaranty is defined as a guaranty where the guarantor is liable for the principal debt only if the debtor fails to repay.

Section 2(3): A surety is defined as a guaranty where the guarantor is liable for the principal debt as if it were the guarantor’s own.

Section 2(8): A third-party pledge is defined as an undertaking where the undertaking party (pledgor) hands over property (pledge) to the creditor as security for the repayment of the obligation of another person.

The guide states that a guaranty must be covered by a secondary guaranty unless otherwise agreed with the competent authority. It further states that a third-party pledge is normally recommended because they are easy to liquidate and also retain their value but they are not suitable for landfills and other similar long-term activities.


11.1.4. **Templates**

The guide on financial guarantees for waste managers includes templates for bank guarantees and first demand guarantees (see section 11.1.3 above).

11.1.5. **Financial security instruments and mechanisms not acceptable**

There is no list of financial security instruments or mechanisms that are not acceptable.

11.2. **Extractive Waste Directive**

11.2.1. **Competent authority(ies)**

The competent authorities for the Extractive Waste Directive (2006/21/EC), which is implemented in Finland by the Environmental Protection Act and the Government Decree on Extractive Waste, as amended (Valtioneuvoston asetus kaivannaisjätteistä),\(^\text{36}\) are:

- Regional State Administrative Agencies in respect of environmental permits for extractive waste facilities; and
- Centres for Economic Development, Transport and the Environment as supervisory authorities for extractive waste facilities.

11.2.2. **Financial security provisions**

Section 60 of the Environmental Protection Act requires operators of waste facilities for extractive waste (as well as landfill operators) to provide a financial guarantee (see section 11.1.2 above).

In respect of extractive waste facilities, section 60 provides that the environmental permit for the operator’s financial guarantee for a facility for extractive waste shall correspond, as much as possible, to the costs of ceasing operations and aftercare when it is assessed. The guarantee must also cover the costs of restoring the land area impacted by the waste facility to a satisfactory state as set out in the waste management plan.

Section 236 of the Environmental Protection Act provides that:

Sections 113–115 shall not apply to waste facilities for extractive waste if:

1) the waste facility for extractive waste has been closed in accordance with the relevant legislation before 1 June 2008; or

2) the waste facility has not accepted extractive waste after 30 April 2006 and the closure of the waste facility has been ordered in the environmental permit of the facility, or if an application for the closure has been filed on or before 1 July 2008 and the waste facility has been effectively closed since 31 December 2010.

However, section 115, subsection 1, applies to waste facilities for extractive waste posing a risk of major accident in the situations referred to above in subsection 1, paragraph 2.

As of 1 May 2014, the obligations regarding the financial guarantee referred to in sections 59–61 apply to waste facilities for extractive waste for which an environmental permit has been granted before 1 June 2008. In order to supplement the financial

guarantee, the environmental permit shall be amended where necessary. However, if an application for an environmental permit for a substantial change in the activity is submitted before the above-mentioned date, the permit regulation on the financial guarantee shall be reviewed, at the same time, for compliance with sections 59–61.

Sections 113 to 114, indicated above, concern regulations on extractive waste and the waste management plan for extractive waste. Section 115, also as indicated above, sets out requirements for facilities for extractive waste that pose the risk of a major accident.

11.2.3. Financial security instruments and mechanisms accepted

Section 61 of the Environmental Protection Act also applies to extractive waste facilities (see section 11.1.3 above).

Also see section 1.1.3 above describing details of acceptable financial instruments in the Ministry of the Environment guide on financial guarantees for waste managers.

11.2.4. Templates

As indicated in section 11.1.2 above, the Ministry of the Environment published a guide on financial guarantees for waste managers in 2012. The guide includes templates for bank guarantees and first demand guarantees.

11.2.5. Financial security instruments not acceptable

There are no lists of financial security instruments or mechanisms that are not acceptable.

11.3. Carbon Capture and Storage Directive

11.3.1. Status of implementation

Section 3 of the Law on Carbon Capture and Storage (Laki hiilidioksidin talteenottamisesta ja varastoinnista), which implements the Directive on the geological storage of carbon dioxide (2009/31/EC) in Finland, prohibits the storage of carbon dioxide geologically, in the water column in Finland, or in the Finnish exclusive economic zone.

Section 3 of the Law on Carbon Capture and Storage provides an exception from the prohibition for the geologic storage of carbon dioxide provided the amount stored is less than 100,000 tonnes and the purpose of the storage is research, development and testing.

A research project that was carried out between 2008 and 2010 concluded that Finland’s geological structure is generally not favourable to large-scale carbon dioxide storage facilities.

A further research programme on carbon capture and storage, carried out between 2011 and October 2016, concluded that opportunities for carbon capture and storage were good but


38 See Heike Rütters and CGS Europe partners, ‘State of play on CO2 geological storage in 28 European countries’ (June 2013), 24; http://www.cgseurope.net/UserFiles/file/News/CGS%20Europe%20report%20_D2_10_State%20of%20play%20on%20CO2%20storage%20in%2028%20European%20countries(1).pdf

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follow-up funding would be necessary as well as more specifications for pilot plants. The study recommended continued research and testing on carbon capture, storage and utilisation.\(^{40}\)

11.3.2. **Competent authority(ies)**
Not applicable

11.3.3. **Financial security provisions**
Not applicable

11.3.4. **Financial security instruments and mechanisms accepted**
Not applicable

11.3.5. **Templates**
Not applicable

11.3.6. **Financial security instruments and mechanisms not acceptable**
Not applicable

12. **EU Recommendation on Hydraulic Fracturing**

12.1. **Status**
Finland does not have any commercial unconventional (or conventional) oil production.\(^{41}\)

12.2. **Competent authority(ies)**
Not applicable

12.3. **Financial security provisions**
Not applicable

12.4. **Financial security instruments and mechanisms accepted**
Not applicable

12.5. **Templates**
Not applicable

12.6. **Financial security instruments and mechanisms not acceptable**
Not applicable

\(^{40}\) Sebastian Tier, Antti Arasto, Risto Sormunen, Jatta Jussila-Suokas and Pia Saari, ‘Carbon Capture and Storage’ (undated), 16-17; [http://ccspfinalreport.fi/attachments/CCSP_Summary_Report_ENG.pdf](http://ccspfinalreport.fi/attachments/CCSP_Summary_Report_ENG.pdf)

13. EU ENVIRONMENTAL LEGISLATION WITH NO MANDATORY FINANCIAL SECURITY PROVISIONS

13.1. Industrial Emissions Directive

13.1.1. Competent authority(ies)

The competent authority for the Industrial Emissions Directive, which is implemented in Finland by amendments to the Environmental Protection Act in 2014, is the Regional State Administrative Authority. Appendix 1 of the 2014 Act lists activities that require an environmental permit. The activities are broader in scope than those in the Industrial Emissions Directive.

13.1.2. Financial security provisions

The Environmental Protection Act does not include any mandatory financial security provisions for measures to prevent or remediate environmental damage for facilities subject to the Industrial Emissions Directive.

Section 199 of the Environmental Protection Act, however, provides that the competent authority may require an operator to provide financial security for restoration of the environment if a permit under the Industrial Emissions Directive is challenged and the operator proceeds with activities subject to it.

An example of the use of section 199 is permission that was granted to Vantaan Energia by the Vaasa Administrative Court to carry out activities subject to a permit that had been challenged by Friends of the Earth. In order to continue with the activities, the Vaasa Administrative Court required Vantaan Energia to provide financial security in the amount of EUR 25,000.

All facilities subject to the Industrial Emissions Directive are subject to the mandatory financial security provisions of the Act on Compensation for Environmental Damage, and thus must have insurance for civil liabilities.

13.1.3. Financial security instruments and mechanisms accepted

Not applicable

13.1.4. Templates

Not applicable

13.1.5. Financial security instruments and mechanisms not acceptable

Not applicable
13.2. **Seveso III Directive**

13.2.1. **Competent authority(ies)**

Tukes is the competent authority for the Seveso III Directive (2012/18/EU), which is implemented in Finland by:

- Act on the Safe Handling and Storage of Dangerous Chemicals and Explosives 390/2005 (Laki vaarallisten kemikaalien ja räjähteiden käsittelyn turvallisuudesta);\(^{44}\)
- Government Decree on the Monitoring of the Handling and Storage of Dangerous Chemicals 685/2015 (Valtioneuvoston asetus vaarallisten kemikaalien käsittelyn ja varastoinnin valvonnasta);\(^{45}\)
- Government Decree on Safety Requirements for Industrial Handling and Storage of Dangerous Chemicals 856/2012 (Valtioneuvoston asetus vaarallisten kemikaalien teollisen käsittelyn ja varastoinnin turvallisuusvaatimuksista);\(^{46}\) and
- Government Decree on the Safety Requirements of Liquid Gas Plants 858/2012 (Valtioneuvoston asetus nestekaasulaitosten turvallisuusvaatimuksista).\(^{47}\)

13.2.2. **Financial security provisions**

The legislation that implements the Seveso III Directive in Finland does not contain any mandatory financial security provisions for ELD liabilities.

The legislation does, however, include provisions that require persons that have permits granted by Tukes for processing or storing hazardous chemicals or explosives to have insurance to satisfy requirements of the Environmental Damage Insurance Act (see section 2 above).

13.2.3. **Financial security instruments and mechanisms accepted**

Not applicable

13.2.4. **Templates**

Not applicable

13.2.5. **Financial security instruments and mechanisms not acceptable**

Not applicable

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13.3. Other legislation

Section 52 of the Mining Act (Kaivoslaki)\(^{48}\) provides that a mining permit must include provisions for ‘collateral, in accordance with Chapter 10, associated with mine-closure alongside other obligations related to termination of mining activities and those after termination’.

Section 107 of chapter 10 of the Mining Act provides that exploration permit holders and gold panners:

- shall deposit collateral for the purpose of offsetting potential damage and inconvenience and performing after-care measures, unless this can be deemed unnecessary in view of the quality and extent of operations, the special characteristics of the operating area, permit regulations issued for the operations, and the applicant’s solvency.

Section 108 of chapter 10 provides that the collateral shall be for the purpose of termination and aftercare measures as required by the Mining Act and collateral required by other legislation.

Section 109 of chapter 10 provides that the permit authority shall determine the type and quantity of collateral for individual permits, with the amount to be revised as necessary.

14. Mandatory financial security for offshore oil and gas operations

14.1. Competent authority(ies)

Not applicable

14.2. Status of offshore oil and gas operations

Finland does not have any commercial production of offshore (or onshore) oil and gas.

14.3. Requirements for financial security

Not applicable

14.4. Requirement for financial security for ELD liabilities

Not applicable

15. Failure of financial security

15.1. Inadequate level of financial security instrument or mechanism to pay claims

Section 67 of the Insurance Contracts Act provides that a claimant has the right to a direct action against the insurer of a company under a general liability policy if, among other things, the company becomes insolvent.

See also section 15.2 below.

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15.2. **Insolvency of operator leading to failure of financial security instrument or mechanism**

Claims have been made under the Environmental Damage Insurance Act for removing hazardous waste from the property of operators that were insolvent or were not sufficiently financially viable to pay the costs of removal themselves. The removal of waste that threatens to cause bodily injury or property damage is a cost of preventing damage to a third party, which is covered.

If a claim was not covered by a statutory EIL policy held by the operator, the Finnish Government paid the costs of preventing and remediating the environmental damage.

The most notorious case in Finland of an operator with environmental liabilities becoming insolvent involved the Talvivaara nickel and zinc mine in Sotkamo in the Kainuu Region in Eastern Finland, which began operations in 2008. In March 2012, following various environmental problems, there were three incidents of environmental damage caused by leakages of pollutants. These were followed in November 2012 by a fourth severe leakage from the gypsum waste pond. The fourth leakage was determined to have caused water damage under the ELD.50

At the time of the leakages, Solidium Oy, a holding company of the State of Finland, owned approximately 8.9% of the stock of the operator, the Talvivaara Mining Company Plc. In spring 2013, after the operator had encountered financial difficulties, Solidium Oy increased its stock to 16.7%.

Following attempts to restructure the company to reduce its debt, and its creditors subsequently refusing to accept the restructuring plan, the company entered into bankruptcy in 2015. The reasons for the failure of the company included the impact of the markets, problems with the technology used at the mine, and environmental problems. The operator eventually came to be owned by Terrafame Oy, a state-owned company. When this report was published, the mine was still in operation.

The Finnish Government paid for measures costing EUR 100,000,000 to prevent damage to nearby lakes. The amount of financial security provided by the operator’s insurance policies, which covered only sudden and accidental environmental damage, has not been reported.

A further case after 2015 involved an insolvent mining company in Nivala that caused an imminent threat of environmental damage to groundwater and a river. The Finnish Government paid for measures costing EUR 21,000,000 to prevent the damage.51

There have been developments in the Finnish Parliament on potential revisions to insolvency legislation concerning responsibility for environmental damage.52 In 2019, the Constitutional

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52 See also Karl Marttinen, Tarja Pirinen, Minna Juhola and Outi Iso-Markku (HPP Attorneys Ltd), ‘Environmental Law 2019; Finland’ (Chambers & Partners, 7 December 2018), s 16.7; https://practiceguides.chambers.com/practice-guides/environmental-law-2019/finland/16-transactions;
Law Committee of the Finnish Parliament concluded that a proposed regulation concerning responsibility (not civil liability) for environmental damage breached the Finnish Constitution. The committee stated that the proposed regulation should be removed from the government proposal and re-drafted. When this report was published, it was unclear whether a new regulation would be drafted.

15.3. Other

There are no public reports of other failures of voluntary or mandatory financial security.

16. Funds

No fund has been established in Finland to cover the costs of preventing and remediating environmental damage under the ELD in the event of the liable operator becoming insolvent/bankrupt or otherwise being financially unable to cover the costs. Further, there is no wide-ranging environmental fund in Finland.53

There is, however, the Oil Pollution Compensation Fund, described in section 16.1 below, with the caveat that this is a collective system.

See also section 5.2.1 above concerning compensation payable under the Environmental Damage Insurance Act.

16.1. Name(s)

The Act on the Oil Pollution Compensation Fund (Laki öljysuojarahastosta)54 established an Oil Pollution Compensation Fund to reimburse the costs of remediating soil and groundwater contaminated by oil spills, marine oil spills, and oil spill response when the person that caused the damage is unknown, cannot be located, or is unable to reimburse the costs to the Ministry of the Environment. A further condition in respect of soil and groundwater contamination is that it is not considered reasonable to require the person that owns contaminated land to remediate it.55

The Fund is a revolving fund in that the persons who cause damage or another person with primary liability for it must reimburse the Ministry. It is funded by levies on oil that is imported to, or transported through, Finland; which means in practice that it is funded by three companies. If the vessel transporting the oil is not completely double-skinned, double the fee is payable. The Fund is also funded by transfers from the Budget. Approximately EUR 10,000,000 in compensation is paid annually from it, most of which is for equipment.


The Fund may also be used on a discretionary basis as part of the Jaska project to remediate sites historically polluted with oil in high risk areas. A previous programme, called the Soili soil restoration programme, remediated oil-contaminated soil at closed service and distribution stations between 1997 and 2017.\(^5^6\) In addition, the fund is used to reimburse regional rescue services for funds spent in acquiring oil response equipment, maintaining oil spill prevention response preparedness, and training.

16.2. **Extension of existing fund to cover remedial costs under the ELD**

Not applicable

16.3. **Purpose**

Not applicable

16.4. **Type**

Not applicable

16.5. **Source(s) of funding**

Not applicable

16.6. **Number and amount of claims**

Not applicable

\(^{56}\) See Oil Pollution Compensation Fund; [https://www.ym.fi/en-US/The_environment/Finnish_Oil_Pollution_Fund](https://www.ym.fi/en-US/The_environment/Finnish_Oil_Pollution_Fund)
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Act on Transport of Dangerous Goods (*Laki vaarallisten aineiden kuljetuksesta*);

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