Annex I

Greece

Improving financial security in the context of the Environmental Liability Directive
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# TABLE OF CONTENTS

## 1. INTRODUCTION

## 2. ENVIRONMENTAL INSURANCE MARKET

### 2.1. Commercial insurers

### 2.2. Re/insurance pools

### 2.3. Mutuals

### 2.4. Other

## 3. VOLUNTARY INSURANCE POLICIES FOR ELD AND OTHER ENVIRONMENTAL LIABILITIES

### 3.1. Environmental insurance policies

### 3.2. Cover for ELD preventive costs

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

### 3.4. Cover for non-ELD liabilities

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

### 3.6. Description of policies

### 3.7. Model terms and conditions

### 3.8. Date of general availability of environmental insurance policies

### 3.9. Environmental assessments and audits

### 3.10. Average premium

### 3.11. Average policy limit

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

### 3.13. Average policy period

### 3.14. Sizes of typical insured businesses

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

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

### 3.17. Number and amount of claims

### 3.18. Coverage litigation

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

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

## 4. OTHER VOLUNTARY FINANCIAL SECURITY INSTRUMENTS AND MECHANISMS

### 4.1. Type(s)

### 4.2. Availability

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

### 5.1. Competent authority(ies)

### 5.2. Legislative provisions

### 5.3. Environmental licence conditions

### 5.4. Date of introduction

### 5.5. Effective date

### 5.6. Key reasons for introduction

### 5.7. Withdrawal of mandatory financial security

### 5.8. Guidance

### 5.9. Operators subject to mandatory financial security

### 5.10. Amounts and limits of mandatory financial security

### 5.11. Growth of mandatory financial security

## 6. REGULATORY OVERSIGHT OF FINANCIAL SECURITY INSTRUMENTS AND MECHANISMS

### 6.1. Review of financial security instruments or mechanisms

### 6.2. Financial security instruments and mechanisms accepted

### 6.3. Financial security instruments and mechanisms not acceptable

### 6.4. Time of review
Improving financial security in the context of the Environmental Liability Directive

6.5. Regulatory costs of review ................................................................. 18
6.6. Requirements for operator to review .............................................. 18

7. ENFORCEMENT OF FINANCIAL SECURITY REQUIREMENTS ................................................. 18

8. EX POST ENVIRONMENTAL DAMAGE MANDATORY FINANCIAL SECURITY (ARTICLE 8(2)) .................................................. 18
8.1. Date legislation or policy for mandatory financial security introduced ........................................ 18
8.2. Effective date for ex post mandatory financial security ......................................................... 18
8.3. Financial security instruments and mechanisms accepted ...................................................... 18
8.4. Financial security instruments and mechanisms not acceptable ............................................. 18

9. PROVIDERS OF MANDATORY FINANCIAL SECURITY INSTRUMENTS ............................................ 18
9.1. Insurers ......................................................................................... 19
9.2. Banks and other financial institutions ....................................................... 19
9.3. Sureties .......................................................................................... 19
9.4. Providers outside Member State ........................................................... 19

10. MEASURES TAKEN BY MEMBER STATE TO DEVELOP FINANCIAL SECURITY MARKETS ................. 19

11. EU ENVIRONMENTAL LEGISLATION WITH MANDATORY FINANCIAL SECURITY PROVISIONS .. 19
11.1. Landfill Directive ............................................................................ 19
11.2. Extractive Waste Directive ............................................................... 20
11.3. Carbon Capture and Storage Directive ............................................. 21

12. EU RECOMMENDATION ON HYDRAULIC FRACTURING ........................................................................ 23
12.1. Status ............................................................................................. 23
12.2. Competent authority(ies) .................................................................. 23
12.3. Financial security provisions ............................................................. 23
12.4. Financial security instruments and mechanisms accepted ......................... 23
12.5. Templates ....................................................................................... 23
12.6. Financial security instruments and mechanisms not acceptable ...................... 23

13. EU ENVIRONMENTAL LEGISLATION WITH NO MANDATORY FINANCIAL SECURITY PROVISIONS ....... 23
13.1. Industrial Emissions Directive ............................................................ 23
13.2. Seveso III Directive ......................................................................... 24
13.3. Other legislation ............................................................................... 25

14. MANDATORY FINANCIAL SECURITY FOR OFFSHORE OIL AND GAS OPERATIONS ....................... 25
14.1. Competent authority(ies) .................................................................. 25
14.2. Status of offshore oil and gas operations ............................................... 26
14.3. Requirements for financial security .................................................... 26
14.4. Requirement for financial security for ELD liabilities ............................... 27

15. FAILURE OF FINANCIAL SECURITY ......................................................................................... 27
15.1. Inadequate level of financial security instrument or mechanism to pay claims ........................ 27
15.2. Insolvency of operator leading to failure of financial security instrument or mechanism ................ 27
15.3. Other .............................................................................................. 27

16. FUNDS .............................................................................................. 27
16.1. Name(s) ......................................................................................... 28
16.2. Extension of existing fund to cover remedial costs under the ELD .................... 28
16.3. Purpose ............................................................................................ 28
16.4. Type ................................................................................................ 28
16.5. Source(s) of funding .......................................................................... 28
16.6. Number and amount of claims ............................................................ 28

BIBLIOGRAPHY ...................................................................................... 29
1. **INTRODUCTION**

Financial security for ELD liabilities in the form of stand-alone environmental insurance policies that provide cover for sites and/or operations in Greece are available on a very limited basis.

Environmental extensions to general liability policies are available on a limited basis.

Environmental extensions to property policies are available on a limited basis.

Stand-alone environmental insurance policies that provide more extensive cover for liabilities under the ELD and other environmental legislation are offered by multinational insurers to companies with sites and/or operations in Greece and other States. These policies are widely available by passporting. Some of these policies have been adapted for the Greek legal and licensing systems; others have not.


Greece has enacted legislation to impose mandatory financial security for ELD liabilities. The legislation to bring the requirements into force had not been enacted when this report was published.

Greek legislation requires operators that have a permit to transport hazardous waste, or a permit to handle, store, dispose of, or recover hazardous waste at their sites to have mandatory financial security for their operations. Most of the demand for environmental insurance (and to a lesser extent bank guarantees) in Greece is from these operators.

2. **ENVIRONMENTAL INSURANCE MARKET**

The environmental insurance market in Greece is in an early stage of development except for insurance that provides cover for businesses involved in hazardous waste operations that are subject to mandatory financial security in the form of insurance policies or bank guarantees.

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1 Π.Δ. 148/29-9-2009 (ΦΕΚ Α’ 190); “Περιβαλλοντική ευθύνη για την πρόληψη και την αποκατάσταση των ζημιών στο περιβάλλον – Εναρμόνιση με την οδηγία 2004/35/ΕΚ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 21ης Απριλίου 2004, όπως ισχύει”; [http://www.ypeka.gr/LinkClick.aspx?fileticket=fqP1Ao5KL9Y%3d&tabid=229&language=el-GR](http://www.ypeka.gr/LinkClick.aspx?fileticket=fqP1Ao5KL9Y%3d&tabid=229&language=el-GR) (in Greek)

2 Ν. 4014/21-9-2011 (ΦΕΚ Α’ 209); “Περιβαλλοντική αδειοδότηση έργων και δραστηριοτήτων, ρύθμιση αυθαίρετων σε συνάρτηση με δημιουργία περιβαλλοντικού ισοζυγίου και άλλες διατάξεις αρμοδιότητας Υπουργείου Περιβάλλοντος”; [http://www.ypeka.gr/LinkClick.aspx?fileticket=Y1xOrJ90MSE%3D](http://www.ypeka.gr/LinkClick.aspx?fileticket=Y1xOrJ90MSE%3D) (in Greek)
Due to the lack of general demand from operators, cover for ELD and other environmental liabilities is generally excluded from annual reinsurance treaties with very few potential exceptions. As common practice, an insurer can request a reinsurance broker to obtain facultative cover to meet the demands of a specific insured. This limitation of availability applies to stand-alone environmental insurance policies, extensions to general liability policies, and extensions to property policies.

Stand-alone environmental insurance policies are available but only for remediating pollution, not other types of environmental damage under the ELD. They tend to be offered only by special demand and agreement by the reinsurer. Demand for them is very low.

Environmental extensions to general liability policies are available but only for remediating off-site pollution from a sudden and accidental incident on an insured’s site. They do not provide cover for complementary or compensatory remediation. They are generally only available on special request to an insurer, with agreement by its reinsurer. Demand for them is very low.

If multinational insurers provide extensions to general liability policies, they tend to limit cover, like national insurers, to losses that arise from a sudden and unexpected incident.\(^3\)

Environmental extensions to property policies are available but generally only on special request to an insurer, with agreement by its reinsurer. They do not provide cover for complementary or compensatory remediation. Even when offered, they tend to be enhanced waste cleanup and debris removal clauses. In this respect, it is important to note the provisions of article 23 of Law 2496 (Government Gazette Series I, 87/1997) “Insurance contract, amendments to legislation on private insurance and other provisions” (16.5.1997) (Ν. 2496 “Ασφαλιστική σύμβαση, τροποποιήσεις της νομοθεσίας για την ιδιωτική ασφάλιση και άλλες διατάξεις”)\(^4\) which stipulates the following for insurance policies issued by companies licensed to carry out insurance business in Greece:

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1) Unless otherwise agreed, insurance of environmental damage includes the expenses incurred for the restoration of the natural environment; those expenses shall also include those relating to the removal of waste and debris resulting from the occurrence of the insurance risk.

2) Insurance compensation shall be payable only in relation to sums actually paid for expenses, and only to the extent that the loss has resulted from a sudden and unexpected event.

Demand for the extensions to property policies is very low.

2.1. Commercial insurers

2.1.1. Number of insurers

Approximately three insurance companies offer stand-alone environmental insurance policies for businesses with sites and/or operations only in Greece and potentially for Greek commercial interests outside Greece.

\(^3\) See Ioannis Rokas, *Private Insurance – The Greek law relating to insurance contracts & insurance enterprises* (11 edn 2006), 414

\(^4\) N. 2496 “Ασφαλιστική σύμβαση, τροποποιήσεις της νομοθεσίας για την ιδιωτική ασφάλιση και άλλες διατάξεις”; [http://www.eaee.gr/cms/sites/default/files/n2496.pdf](http://www.eaee.gr/cms/sites/default/files/n2496.pdf) (in Greek)
Three more insurers offer cover under the mandatory financial security system for operators that manage on-site, or that transport, hazardous waste (see section 13.3 below). A further insurer offers cover under the mandatory financial security system for operators that transport hazardous waste as an endorsement to a goods’ transport insurance policy. The latter two types of insurance do not include cover for ELD liabilities.

A slightly larger number of insurers offer environmental extensions on demand to general liability and property policies.

Five reinsurance brokers participate in the provision of reinsurance for ELD and other environmental liabilities for operators with sites and/or operations in Greece.

In comparison, there are 35 non-life insurers in the Greek insurance market, six life insurers, and 14 insurers that offer non-life and life policies. Further, there are 36 insurers, 16 licensed branches of insurers based outside Greece, and three mutual cooperatives.5

2.1.2. New insurers entering the market since 2009

As indicated above, environmental insurance is occasionally offered by insurers in the Greek market in the absence of demand by businesses and the consequent offer of cover by reinsurers.

Insurers have offered cover for environmental liabilities that arise from hazardous waste activities since approximately 2006 when mandatory insurance or bank guarantees were required for such activities (see section 13.3 below).

2.1.3. Existing insurers that introduced environmental insurance policies since 2009

See section 2.1.2 above.

2.2. Re/insurance pools

There is no re/insurance pool in Greece.

2.2.1. Date of establishment

Not applicable

2.2.2. Descriptions of policies issued

Not applicable

2.3. Mutuals

No mutuals in Greece offer environmental insurance.

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 Greece.

3. VOLUNTARY INSURANCE POLICIES FOR ELD AND OTHER ENVIRONMENTAL LIABILITIES

3.1. Environmental insurance policies

Stand-alone environmental insurance policies that provide cover for ELD and other environmental liabilities exist in Greece but they are limited due especially to low demand for them.

The adoption of legislation in 2006 imposing mandatory financial security for projects and activities concerning the transportation and management of hazardous waste (see section 13.3 below) was the main trigger for the development of a market for environmental insurance policies.

Environmental insurance policies provided by multinational insurers to businesses with sites and/or operations in Greece and other Member States by passporting are available. Some of these policies provide meaningful cover for legal and licensing requirements under Greek law; others provide limited cover due to the lack of adaptation to Greek legal and licensing requirements.

3.2. Cover for ELD preventive costs

A small number of stand-alone environmental insurance policies provide cover for the costs of preventive measures to respond to an imminent threat of, or actual environmental damage, as defined by the ELD and P.D. 148/2009, with a view to preventing or minimising the damage.

Environmental extensions to general liability and property policies do not provide cover for preventive measures under the ELD.

3.3. Cover for ELD primary, complementary and compensatory costs

Most stand-alone environmental insurance policies provide cover for primary and complementary remediation up to the limit of liability of the policy. Compensatory remediation costs are usually not covered by the policies with a single exception that offers cover to all three types of costs on the basis of allocation of measures by the competent authority.

3.4. Cover for non-ELD liabilities

Stand-alone environmental insurance policies and extensions to general liability and property policies in Greece provide cover for third-party claims for bodily injury and property damage from pollution. They may also include, if required by the insured and accepted by the insurer, additional cover such as loss of profits resulting from business interruption as a result of environmental damage.

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

Stand-alone environmental insurance policies offered for risks in Greece provide cover primarily for the costs of remediating pollution under the ELD and other environmental legislation on an insured’s own site as well as pollution that migrates from the insured’s site to a third-party site.
A few policies also provide cover for damage to the insured’s own site. In such a case, the policies provide cover for damage to on-site property in the form of buildings, other structures and equipment but only if the damage results from carrying out measures to remediate pollution at the site or if the property damage is a direct result of the pollution incident.

3.6. Description of policies

3.6.1. Format

Stand-alone environmental insurance policies offered by multinational insurers with branches in Greece to small and medium sized enterprises and large enterprises with sites and/or operations only in Greece as well as large operators with sites and/or operations in other States as well as Greece generally have a menu format so that an insured may select the insuring agreement(s) it requires. There is a wide range of such policies (see section 3.6.3 below).

3.6.2. Claims made or occurrence based

Extensions to general liability policies that provide cover for ELD and other environmental liabilities are underwritten on an occurrence basis. That is, the policy that is on the risk when pollution occurs provides cover, not the policy that is on the risk when a claim is made. As a practical matter, the claim must occur during the policy period because such extensions tend to cover – at most – sudden and accidental pollution. In addition, the policies tend to require an insured to notify the insurer of the pollution incident within a specified period of time.

Stand-alone environmental insurance policies are underwritten on a claims made basis rather than an occurrence basis. That is, a claim must be made against the insured during the policy period and reported to insurers during the policy period or, if available, the extended reporting period.

3.6.3. Policies for operators

The three insurers based in, or with branches in, Greece offer stand-alone environmental insurance policies that are adapted to the legal and licensing system in Greece. Their policies are offered for operators with sites and/or operations only in Greece and Greek commercial interests outside Greece.

Depending on the insurer, the policies provide the following cover subject to the insured and insurer agreeing to the various insuring agreements:

- costs of remediating on-site and off-site environmental damage under the ELD (including primary, complementary and – sometimes also - compensatory remediation) on the basis of allocation by the competent authority;
- costs of remediation measures, including emergency measures, under other environmental legislation for pollution at an insured’s site;
- costs of preventive measures under the ELD;
- costs incurred to remediate pollutants that have migrated from the insured’s site to a third-party site or in general restoration/remediation of off-site pollution;
- claims arising from managing, that is, storing, processing, disposing, recovering, and transporting (including marine transportation) goods and/or hazardous waste;
- claims for first party and/or third party bodily injury and property damage resulting from pollution;
- first-party business interruption from environmental damage;
• crisis/disaster management costs (to protect an insured’s reputation in the event of environmental damage);
• costs of remediating historic contamination at an insured’s site but only if the historic contamination was not known by the insured and was not detected during an on-site environmental audit, usually performed by the insurance company before the inception of the policy); and
• related legal expenses.

Only the first and third, and sometimes the fourth, items above are ELD liabilities. 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.

Some of the above policies are specifically designed to provide cover only for operations involving hazardous waste (see section 13.3 below).

Other insurers, mainly from the London insurance market, offer stand-alone environmental insurance policies if they obtain agreement from reinsurers through reinsurance brokers. These policies do not tend to be adapted for the legal and licensing system in Greece and, as a consequence, provide only limited cover for ELD and other environmental liabilities.

3.6.4. Policies for contractors and others

Policies provided for contractors and others tend to provide similar cover as policies for operators with the difference that they are provided for a contractor’s operations. As indicated in section 2 above, there is little demand for environmental insurance policies outside the hazardous waste industry.

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 Greece.

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

As indicated in section 2, stand-alone environmental insurance policies are not generally available.

3.9. Environmental assessments and audits

Most insurers have established a mechanism for carrying out – at a minimum - a desk audit, that is, an audit that ensures that the business to be insured has obtained and possesses all permits, licences and authorisations required by applicable legislation. In most cases, especially regarding mandatory financial security under hazardous waste legislation, insurers
also demand that the prospective insured carries out an on-site environmental audit by a company either selected by the insurer or selected by the insured and approved by the insurer. The audit is considered to be an extremely useful tool, because it constitutes a baseline report, reflects the environmental performance of the prospective insured, and may affect the terms to be included in the policy, as well as the premium.

Insurers that offer policies to large industrial and commercial operators for their insurance programmes for sites in and outside the EU, with cover for facilities in Greece, may not require prospective insureds to carry out environmental assessments and audits for their operations. If the operators have already carried out such assessments and audits, they provide them to insurers as part of the underwriting due diligence process.

3.10. **Average premium**

An estimate of an average premium is EUR 7,000 for an annual stand-alone environmental insurance policy that provides cover for ELD liabilities. The amount of premium however depends on the risks covered by the policy, the number of sites, etc.

An average premium for a policy that provides cover under the mandatory financial guarantee system for the handling and transportation of hazardous waste is between EUR 3,000 and EUR 6,000.

3.11. **Average policy limit**

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

Policy limits for stand-alone environmental insurance policies for large operators with sites and/or operations only in Greece tend to range from EUR 500,000 to EUR 5,000,000.

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

The average deductible for a stand-alone environmental insurance policy for a large operator with sites and/or operations only in Greece is 10% of the limit of liability of the policy with a minimum between EUR 5,000 and EUR 10,000 depending on the risks covered by the policy, etc.

3.13. **Average policy period**

The average policy period for a stand-alone environmental insurance policy is one year.

3.14. **Sizes of typical insured businesses**

The size of typical insured businesses is not the issue; the issue is generally whether the business carries out hazardous waste operations or not.

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

Operators in the waste industry, especially the hazardous waste industry, are the largest purchasers of stand-alone environmental insurance policies in Greece.

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

When this report was published, there was no sector that had limited or no accessibility to environmental insurance policies with the exception of offshore energy operations and mining/extractive activities where (1) their level of exposure to environmental risks is intense, (2) there is no baseline condition data/information prior to commencement of their activities,
and (3) there is no financial capacity from local insurers and reinsurers to bind the pertinent risks.

In addition, local insurers are reluctant to insure solid and liquid waste operations operated by municipal authorities due to their default in the timely payment of their premiums. Underwriting guidelines on whether to accept or reject a risk, of course, vary among insurance companies.

3.17. Number and amount of claims

No public information was available on the number and amount of claims for policies that provide cover for hazardous waste operations or other environmental insurance policies.

3.18. Coverage litigation

There is no reported coverage litigation for environmental insurance policies in Greece.

3.19. Cover for ELD liabilities in general liability policies

Cover for ELD liabilities by an extension to a general liability policy is not generally available unless reinsurers agree specifically to provide cover to the insurer (see section 2 above).

3.20. Cover for ELD liabilities in property policies

Cover for ELD liabilities by an extension to a property policy is not generally available unless reinsurers agree specifically to provide cover to the insurer (see section 2 above).

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 (aftercare) of a landfill, not voluntary financial security for accidental ELD.

Note, however, that bank guarantees are specifically identified as acceptable financial security for hazardous waste operations (see section 13.3 below) although, as noted in that section, their high cost means that they are rarely used in practice.

4.2. Availability

Not applicable

5. Mandatory financial security for ELD liabilities (Article 14(1))

5.1. Competent authority(ies)

The competent authority for the ELD is the Ministry of Environment and Energy, Coordination Office for the Implementation of Environmental Liability (Συντονιστικό Γραφείο Αντιμετώπισης Περιβαλλοντικών Ζημιών (ΣΥΓΑΠΕΖ); ICOIEL).
5.2. Legislative provisions

5.2.1. Name(s) of legislation


5.2.2. Stand-alone requirement or hybrid

The mandatory financial security requirements of P.D. 148/2009 reflect a stand-alone requirement, with the caveat that the joint ministerial decision to adopt them was not issued when this report was published.

5.2.3. Consideration of mandatory financial security legislation (if not enacted)

Not applicable, but note that the financial security provisions of P.D. 148/2009 had not been brought into force when this report was published.

Also, when this report was published, there was extensive discussion regarding the adoption of the relevant Ministerial Decision with an internal draft having been prepared by the Ministry.

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 because the mandatory financial security requirements had not been brought into force, and thus were not specified, when this report was published.

5.2.7. Description of mandatory financial security provisions

P.D. 148/2009 authorises, among other things, the Minister of Environment, Energy and Climate Change (Υπουργός Περιβάλλοντος και Ενέργειας; ΥΠΕΝ) and ‘any possible jointly responsible Minister’ to issue decisions concerning mandatory financial security. The Decree further authorises a joint ministerial decision by the Minister and the Minister of Development and Investments (Υπουργείο Ανάπτυξης και Επενδύσεων) concerning the proposed mandatory financial security system.

Article 14(1) of P.D. 148/2009 states that operators subject to the ELD may use financial security instruments such as insurance policies and other forms of financial guarantees developed by appropriate economic and financial operators, including financial mechanisms in the case of insolvency. It further provides that operators should ensure that the terms of insurance and other forms of financial security should provide the most extensive possible cover for the remediation of potential environmental damage at a reasonable cost and subject to reasonable conditions.

Article 14(2) states that mandatory financial security, as indicated in article 14(1) for annex III operators under P.D. 148/2009 (equivalent to annex III under the ELD) should begin on 1 May 2010. In this respect, the Minister of Environment, Physical Planning and Public Works (now
the Ministry of Environment and Energy)\(^6\) as well as any other jointly responsible Minister should issue decisions indicating the exact deadline for each activity or category of activities in annex III. The decisions should take into account the European Commission’s report directed by the ELD and the ability of the financial market to provide comprehensive and financially feasible financial security.

Article 14(3) provides that if a system of mandatory financial security such as insurance policies and other forms of financial guarantees had already been established for some of the activities in annex III before P.D. 148/2009 entered into force, those activities should remain subject to the prior system.

Article 14(4) provides that the Ministry of Economy and Finance, as the competent authority for existing legislation, should determine the amount of financial security for the activities indicated in article 14. Those amounts should not affect any determination of an operator’s liability for environmental damage. The method used to determine the above amount shall be established in a joint ministerial decision taken by the Minister of Economy and Finance and the Minister of Environment, Physical Planning and Public Works. The method shall be based on technical criteria capable of ensuring a homogenous assessment of risk scenarios and corresponding remediation costs and shall ensure uniform insurance cover for each activity.

The Greek Government anticipated that the mandatory financial security system would be phased in by the end of 2012. Its introduction was subsequently postponed until 31 December 2012 by Law 4014/2011. This date was subsequently unofficially postponed.

Article 14 of P.D. 148/2009 was partially amended by article 22 of Law 4014/2011. The amendments provided for a joint ministerial decision to be issued by the Minister for the Environment, Energy and Climate Change (now the Ministry of Environment and Energy) and the Minister for Finance and Development – Competitiveness (now the Ministry of Development and Investments) to determine the type and amount of financial security for annex III activities. Article 22 provides that that the decision shall take account of the type of activity, the severity of potential contamination, and the environmental impact of contamination on soil, water and protected species and natural habitats, and the degree of the risk of the occurrence of environmental damage.\(^7\)

In 2012/2013, the Ministry of Environment, Energy and Climate Change established a working group, including the Hellenic Bank Association, the Hellenic Association of Insurance

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Companies, and the Hellenic Federation of Enterprises, to advise on the Decision. The main points of the draft Decision, which has been slightly adapted, are as follows:

- annex III operators should use financial instruments such as insurance and/or other forms of financial security through appropriate economic and financial organisations;
- annex III operators should ensure that the financial security instrument, or a combination of financial security instruments, achieves the fullest possible coverage to remediate potential environmental damage;
- financial security instruments should include at a minimum the costs of restoring environmental damage to soil and water; and
- annex III operators should be subject to compulsory insurance, with the amount of indemnity based on three main categories of environmental damage; high risk, medium risk, and low risk, taking into account:
  - characterisation of the location of the activities carried out by the operator such as land use (protection zones, distance from a water body, type and volume of waste, methods of waste treatment, waste monitoring indicators, and impact on human health), and the migration of pollutants; and
  - characterisation of measures taken by operators such as compliance with conditions for environmental impact assessments, implementation of an environmental management scheme, existence of an emergency contingency plan, history of breaches of applicable law, possible types of damage, likely extent and intensity of damage, and the cost of measures for the optimal remedial of environmental damage.

Any annex III activities that were already subject to mandatory financial security, such as hazardous waste management operations, would remain under that financial security system.8

The Decisions had not been issued when this report was published.

5.2.8. Exception for low risk sites

P.D. 148/2009 does not include any exceptions for low risk sites.

5.2.9. Exception for ISO 14001 certification or EMAS registration

P.D. 148/2009 does not include any exceptions for operations that are certified by International Organisation for Standardisation (ISO) 14001 (UNE-EN ISO 14001:1996) or registered under the EU Eco-Management and Audit Scheme (EMAS).

However, pursuant to article 37(c) of Law 3982 “Simplification of licensing of technical professional and manufacturing activities and business parks and other provisions” (17.06.2011) (παρ. γ. Ν. 3982 “Απλοποίηση της αδειοδότησης τεχνικών επαγγελματικών και μεταποιητικών δραστηριοτήτων και επιχειρηματικών πάρκων και άλλες διατάξεις”), processing/manufacturing operators that possess a valid EMAS certification are entitled to 50% off the limits of financial security under the mandatory financial guarantee system for hazardous waste management activities. Further, certification under environmental standards (ISO and EMAS) also affects the insurance premium, reflecting a potentially better environmental performance and thus a lower risk.

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8 Ibid 17-18
In September/October 2019, Greece had 1,334 EMAS sites, the third highest number in the EU after Italy and Germany. Greece also had 37 EMAS certified organisations, the joint ninth highest number in the EU.\(^9\)

The ISO survey of 2018 (the latest survey when this report was published) showed that Greece had 2,382 sites and 1,415 ISO 14001 certifications in 2018, the thirteenth highest number of sites in Europe and the twelfth highest number of certifications in Europe.\(^{10}\)

### 5.2.10. Other exceptions

P.D. 148/2009 does not contain any other exceptions to mandatory financial security.

### 5.3. Environmental licence conditions

As described in section 5.2 above, the Greek Government has proposed establishing mandatory financial security for ELD liabilities by legislation. There are no proposals to establish mandatory financial security for ELD liabilities by conditions in environmental licences in the absence of such legislation.

#### 5.3.1. Stand-alone requirement or hybrid

Not applicable

#### 5.3.2. Revisions to licensing requirements

Not applicable

#### 5.3.3. ELD liabilities covered by mandatory financial security

Not applicable

#### 5.3.4. Description of mandatory financial security conditions

Not applicable

### 5.4. Date of introduction

Not applicable

### 5.5. Effective date

P.D. 148/2009 entered into force on 29 September 2009, with retrospective effect to 30 April 2007. The effective date for introduction of the mandatory financial security system for ELD liabilities has been postponed (see section 5.2 above).

### 5.6. Key reasons for introduction

The main reasons for introducing mandatory financial security for ELD liabilities in Greece were, as indicated in article 14 of the ELD, encouraging operators to obtain financial security instruments to cover their potential liabilities under the ELD and to reduce public expenses in cases of operators becoming insolvent.

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10 See ISO, ISO 14001 – data per country and sector – 2018; [https://isotc.iso.org/livelink/livelink?func=ll&objId=18808772&objAction=browse&viewType=1](https://isotc.iso.org/livelink/livelink?func=ll&objId=18808772&objAction=browse&viewType=1)
Greece chose to be pro-active due to national circumstances that included many cases of environmental damage in which the owner of a project or activity was unable to remediate the damage mainly due to insolvency. This led to sites with historical contamination, which in turn led to the costs of remedial measures having to be borne by public funds.

In addition, the introduction of a mandatory financial security scheme was perceived as an effective preventive tool. During the financial crisis, the number and rate of environmental inspections significantly decreased. In a mandatory financial security scheme, insurance in particular would constitute a prerequisite for environmental licences. In turn, insurers would require a detailed on-site environmental audit to be conducted prior to placement of a policy, a requirement that was also confirmed by the Hellenic Federation of Insurance Companies. This audit could be considered as an effective preventive tool, channelling the projects and activities towards best environmental practice, since it would be very difficult for companies with poor environmental performance (or even with environmental breaches) to purchase an environmental insurance policy.

5.7. Withdrawal of mandatory financial security

The draft Decision to impose mandatory financial security for ELD liabilities has not been withdrawn; it had not been issued when this report was published however.

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

Not applicable

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))**

There are no legislative provisions that specifically require *ex post* mandatory financial security for liabilities under the ELD.

Article 11(2) of P.D. 148/2009 provides that a competent authority may recover, through insurance coverage or other financial guarantees according to article 14, costs incurred by the authority in relation to preventive and remediation measures carried out by the authority. Article 11(2) sets out procedures for determining the amount of the costs.

That is, the *ex post* financial security provisions are linked to the *ex ante* financial security provisions mandated by article 14. Article 11(2) presupposes that an annex III operator will have mandatory financial security in place if the operator causes an imminent threat of, or actual, environmental damage. Article 11(2) provides that, in such a case, the competent authority will recover any costs incurred by it from the insurance policy or other financial guarantee in place.

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**
Article 11(2) does not indicate financial security instruments or mechanisms other than by referring to financial security instruments and mechanisms that are acceptable under article 14.

8.4. **Financial security instruments and mechanisms not acceptable**
There is no list of financial security instruments or mechanisms that are not acceptable.

9. **PROVIDERS OF MANDATORY FINANCIAL SECURITY INSTRUMENTS**

Not applicable due to the mandatory financial security system not having been introduced when this report was published.
Improving financial security in the context of the Environmental Liability Directive

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 Greek Government has taken various measures to develop financial security markets for environmental liabilities under the ELD. The measures include work on the Joint Ministerial Decision on financial security,11 and ICOIEL having taken measures to introduce mandatory financial security.12

11. EU ENVIRONMENTAL LEGISLATION WITH MANDATORY FINANCIAL SECURITY PROVISIONS

11.1. Landfill Directive

11.1.1. Competent authority(ies)


Competent authorities for the environmental permitting of landfills are:

- the Ministry of Environment and Energy;
- Decentralised Administrations (Divisions of Environment and Spatial Planning); and
- regional authorities for operating licences.

11.1.2. Financial security provisions

Article 9 (para 2.2(h)) of the Decision on Measures and Conditions for Sanitary Landfilling requires applicants for licences for non-hazardous and inert waste and hazardous waste to include in their application for authorisation, a study on the organisation, construction and operation of the landfill that includes financial guarantees or other equivalent security in accordance with article 10(d) of the Decision. The competent authority may decide not to require financial security for an inert waste landfill.

Article 10(d) states that before operation of the landfill may commence, the applicant must provide a sufficient guarantee, in the form of a financial or other equivalent guarantee, to

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12 Ibid 46
ensure compliance with the obligations of the authorisation including closure and post-closure care. Article 12 provides, among other things, that post closure should be for at least 30 years. The nature and manner of the guarantee is determined by the competent authority.

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

The Ministry of Environment and Energy has the discretion to determine the nature and manner of financial security.

11.1.4. **Templates**

There are no templates for financial security instruments.

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 Greece by Joint Ministerial Decision 39624/2209/E103/09 “Measures, conditions and limitations for the management of waste of the extractive industry” (Official Government Gazette B 2076) (ΚΥΑ 39624/2209/E103/09 (ΦΕΚ Β’ 2076) “Μέτρα, όροι και περιορισμοί για τη διαχείριση των αποβλήτων της εξορυκτικής βιομηχανίας”),14 are:

- the Ministry of Environment/General Directorate for the Environment/Environmental Permitting Authority; and
- decentralised environmental authorities.

11.2.2. **Financial security provisions**

Article 11 of the Decision on Measures, conditions and limitations for the management of waste of the extractive industry states, among other things, that a financial guarantee or equivalent instrument should be determined in accordance with article 16 as a prerequisite for granting an authorisation for an extractive waste facility.

Article 16 provides, among other things, that the amount of the financial guarantee is specified by an environmental conditions approval decision to ensure that:

- all obligations that arise from that decision are complied with including provisions applicable in the post-closure phase; and
- funds in the financial guarantee are immediately available at any time for rehabilitation of the land affected by the waste facility, as described in the waste management plan.

Article 16 further provides that the amount of the financial security is calculated on the basis of the likely environmental impact of the extractive waste facility taking into account, in particular, the category of the facility under the Extractive Waste Directive, characteristics of the extractive waste, measures necessary to restore the land affected by the facility and its

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14 ΚΥΑ 39624/2209/E103/09 (ΦΕΚ Β’ 2076) “Μέτρα, όροι και περιορισμοί για τη διαχείριση των αποβλήτων της εξορυκτικής βιομηχανίας”;

http://www.ypeka.gr/LinkClick.aspx?fileticket=sEO%2bPgzU1Lo%3d&tabid=824&language=el-GR (in Greek)
future use, and taking into account necessary restoration measures by authorised independent third parties that are qualified to carry out specific restoration measures.

The amount of the guarantee is adjusted every five years in accordance with the required rehabilitation work on the land affected by the extractive waste facility.

When the licensing facility has approved the closure of the facility, it provides the operator with a written statement to release it from obligations under the authorisation with the exception of post-closure obligations.

If an operator fails to comply with the obligations pursuant to the Decision on Measures, conditions and limitations for management of waste of the extractive industry, it forfeits the financial guarantee to the State as well as being subject to other applicable penalties.

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

The Decision on Measures, conditions and limitations for the management of waste of the extractive industry refers to a ‘financial guarantee or equivalent instrument’.

The Ministry of the Environment accepts bank guarantees as well as other financial security instruments, but the high cost of such guarantees as a result of the prolonged financial crisis in Greece, as well as the struggle by banks to cope with the severe problem of non-performing equities, means that virtually no-one has opted to use them.

11.2.4. **Templates**

There are no templates for financial security instruments.

11.2.5. **Financial security instruments not acceptable**

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

11.3. **Carbon Capture and Storage Directive**

11.3.1. **Status of implementation**

There were no storage facilities for carbon dioxide in Greece when this report was published.

11.3.2. **Competent authority(ies)**


11.3.3. **Financial security provisions**

Article 8 of the Decision on Measures and conditions for the geological storage of carbon dioxide provides that an applicant for a permit to store carbon dioxide must submit an application to the General Secretariat for Energy and Climate Change that includes, among

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other things, evidence that the financial guarantee as set out in article 20 of the Decision will be valid and effective before any carbon dioxide is injected into the storage facility.

Article 10 provides that the amount of financial security is determined on the basis of the costs of compliance with the permit.

Article 12 provides that the competent authority shall issue a new storage permit or close the storage facility if a permit is withdrawn, in which case the authority shall recover costs incurred by it from, among other things, the amount of financial security. Article 17 further provides that the authority may recover the cost of measures carried out by it in respect of leaks or other significant irregularities.

Article 15 provides that the operator must submit proof of the establishment and maintenance of financial security to the competent authority at least once a year.

Article 20 provides that an application for a storage permit must include a financial guarantee in the form of a letter or guarantee in favour of the State as proof that the operator can carry out appropriate measures to satisfy all obligations arising from the permit including closure and post-closure requirements and any other applicable obligations.

The financial security must be valid and effective prior to the injection of any carbon dioxide. It must remain valid and effective until:

- the storage facility has been closed or responsibility for the site has been properly transferred to the competent authority; or
- the storage permit has been withdrawn and either a new storage permit has been issued or the site has been properly transferred to the competent authority.

The amount of financial guarantee is adjusted every five years to take account of changes in the estimated risk of leakage and the estimated costs of all liabilities arising from the storage permit and other applicable liabilities.

If the operator fails to comply with the obligations pursuant to the Decision on Measures and conditions for the geological storage of carbon dioxide, it forfeits the financial guarantee to the State and the amount of the guarantee is deposited in a special account in favour of the Green Fund (see section 16 below).

Article 20 also provides that the Ministers of Finance and the Environment, Energy and Climate Change may issue a joint decision concerning financial security equivalent to the financial guarantee.

When the mandatory financial security system for ELD liabilities enters into force, financial security for such liabilities will be required for storage facilities for carbon dioxide due to their inclusion in annex III of P.D. 148/2009 (and annex III of the ELD).

11.3.4. Financial security instruments and mechanisms accepted

Acceptable financial security instruments are a letter or guarantee from a financial institution in favour of the State.

11.3.5. Templates

There are no templates for financial security instruments.

11.3.6. Financial security instruments and mechanisms not acceptable

There is no list of financial security instruments and mechanisms that are not acceptable.
12. EU RECOMMENDATION ON HYDRAULIC FRACTURING

12.1. Status
Greece did not have any commercial unconventional oil production when this report was published.

12.2. Competent authority(ies)
See section 14.1 below. There are no provisions in Greek oil and gas legislation specifically for unconventional oil and gas production.\(^{16}\)

12.3. Financial security provisions
There are no specific requirements for financial security for ELD liabilities in Greek oil and gas legislation (see sections 14.3 and 14.4 below).

12.4. Financial security instruments and mechanisms accepted
As indicated in section 14.4 below, there are no specific requirements for financial security for ELD liabilities concerning oil and gas operations in Greek legislation.

12.5. Templates
Not applicable

12.6. Financial security instruments and mechanisms not acceptable
Not applicable

13. EU ENVIRONMENTAL LEGISLATION WITH NO MANDATORY FINANCIAL SECURITY PROVISIONS

13.1. Industrial Emissions Directive

13.1.1. Competent authority(ies)
The competent authorities for the Industrial Emissions Directive (2010/75/EU), which is implemented in Greece by Joint Ministerial Decision 36060/1155/E.103/13-06-2013 “Definition of framework of rules, measures and procedures for the integrated prevention and control of environmental pollution from industrial activities” (Official Government Gazette 1450/14-06-2013) (Κοινή Υπουργική Απόφαση υπ’ αριθμ.36060/1155/E.103/13-06-2013, ΦΕΚ 1450/14-06-2013, “Καθορισμός πλαισίου κανόνων, μέτρων και διαδικασιών για την ολοκληρωμένη πρόληψη και τον έλεγχο της ρύπανσης του περιβάλλοντος από βιομηχανικές δραστηριότητες”),\(^{17}\) are:

- the Ministry of Environment/General Directorate for the Environment/Environmental Permitting Authority; and
- decentralised Administrations.

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\(^{17}\) “Κοινή Υπουργική Απόφαση υπ’ αριθμ.36060/1155/E.103/13-06-2013, ΦΕΚ 1450/14-06-2013, Καθορισμός πλαισίου κανόνων, μέτρων και διαδικασιών για την ολοκληρωμένη πρόληψη και τον έλεγχο της ρύπανσης του περιβάλλοντος από βιομηχανικές δραστηριότητες”; https://www.e-nomothesia.gr/kat-periballon/apobleta/kya-36060-1155-e103-2013.html (in Greek)
13.1.2. **Financial security provisions**

The Decision on the Definition of framework of rules, measures and procedures for the integrated prevention and control of environmental pollution from industrial activities does not contain any financial security provisions.

Article 20 of Law 4014/2011 states that decisions on environmental permits for projects and activities listed in annex I of the Ministerial Decision may require a condition in the permit for the deposit of a financial guarantee or other equivalent. Article 20 further provides that the financial security will be forfeited to the State if the operator does not comply with the decision that approves the environmental conditions of the permit (Απόφαση Έγκρισης Περιβαλλοντικών Όρων).

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

There is no list of acceptable financial security instruments and mechanisms.

13.1.4. **Templates**

There are no templates for financial security instruments.

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

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

13.2. **Seveso III Directive**

13.2.1. **Competent authority(ies)**

The competent authorities for the Seveso III Directive (2012/18/EU), which is implemented in Greece by Joint Ministerial Decision 172058/2016 on Definition of rules, measures and conditions for managing risk from major accidents at installations, due to the presence of dangerous substances (Official Government Gazette B’ 354/2016) “Καθορισμός κανόνων, μέτρων και όρων για την αντιμετώπιση κινδύνων από ατυχήματα μεγάλης έκτασης σε εγκαταστάσεις ή μονάδες, λόγω της ύπαρξης επικίνδυνων ουσιών”) (ΚΥΑ 172058/2016 (ΦΕΚ 354/Β/17.2.2016)), are:

- the Ministry of Environment/General Directorate for the Environment/Environmental Permitting Authority; and
- decentralised Administrations.

13.2.2. **Financial security provisions**

The Decision on the Definition of rules, measures and conditions for managing risk from major accidents at installations, due to the presence of dangerous substance does not contain any financial security provisions.

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

Not applicable

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18 ΚΥΑ 172058/2016 (ΦΕΚ 354/Β/17.2.2016) “Καθορισμός κανόνων, μέτρων και όρων για την αντιμετώπιση κινδύνων από ατυχήματα μεγάλης έκτασης σε εγκαταστάσεις ή μονάδες, λόγω της ύπαρξης επικίνδυνων ουσιών”; [http://www.ypeka.gr/LinkClick.aspx?fileticket=A60VpqHzCwU%3D&tabid=548&language=el-GR](http://www.ypeka.gr/LinkClick.aspx?fileticket=A60VpqHzCwU%3D&tabid=548&language=el-GR) (in Greek)
13.2.4. **Templates**

Not applicable

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

Not applicable

13.3. **Other legislation**


established a mandatory financial security system for businesses that handle hazardous waste.

JMD 13588/725/2006 was issued in 2006, before the ELD was transposed into Greek law. It does not, therefore, refer specifically to liabilities under the ELD.

Article 7 of JMD 13588/725/2006 provides that all operators that have a permit to transport hazardous waste, or to handle, store, dispose of, or recover hazardous waste at their sites are subject to the mandatory financial security system. The hazardous waste referred to in JMD 13588/725/2006 is hazardous waste as specified in the European List of Waste.

The financial security requirement does not apply to hazardous waste landfills because there are no licensed hazardous waste landfills in Greece.

Acceptable financial security instruments are insurance and a bank guarantee against environmental damage.

As indicated in section 11.2.3, above, due to the prolonged financial crisis in Greece, as well as the struggle by banks to cope with the severe problem of non-performing equities, the cost of bank guarantees has risen to a scale that makes the instrument so costly that virtually no-one has opted to use it.

An acceptable insurance policy must provide cover for activities carried out by the operator involving hazardous waste. Cover must be provided for liability for third-party civil liability claims and restoration of the environment to its condition before the damage. Submission of a valid and effective insurance policy to the competent authority is a prerequisite to the authority granting an environmental permit to the operator. The limit of liability provided by the policies ranges between EUR 500,000 and EUR 1,000,000.

14. **Mandatory financial security for offshore oil and gas operations**

14.1. **Competent authority(ies)**

Law 2289/1995, Prospecting, Exploration and Production of Hydrocarbons ("Αναζήτηση, έρευνα και εκμετάλλευση υδρογονανθράκων και άλλες διατάξεις" Government Gazette,

19 "Μέτρα όροι και περιορισμοί για την διαχείριση επικινδύνων αποβλήτων σε συμμόρφωση με τις διατάξεις της οδηγίας 91/689/ΕΟΚ «για τα επικίνδυνα απόβλητα» του Συμβουλίου της 12ης Δεκεμβρίου 1991"; http://www.elinyae.gr/el/lib_file_upload/383b_06.1152697467738.pdf (in Greek)

Improving financial security in the context of the Environmental Liability Directive

Series I, No 27/1995 (ΦΕΚ Α’27)), as amended by Law 4001/2011 (“Για τη λειτουργία Ενεργειακών Αγορών Ηλεκτρισμού και Φυσικού Αερίου, για Έρευνα, Παραγωγή και δίκτυα μεταφοράς Ύδρυγονανθράκων και άλλες ρυθμίσεις” Government Gazette, Series I, No 179/2011 (ΦΕΚ Α’ 179)), is the main legislation that governs the prospecting, exploration and production of hydrocarbons in Greece.

A State owned company, Hellenic Hydrocarbon Resources Management SA, manages the exploration and production of hydrocarbons on behalf of the Greek Government.


14.2. Status of offshore oil and gas operations

Greece has a long history of offshore oil and gas exploration and production. Commercial production was being carried out, albeit on a limited scale, when this report was published.

14.3. Requirements for financial security

Law 4409/2016 requires an applicant for a prospecting licence, an exploration licence and an exploitation licence to provide evidence of financial capability to carry out the obligations of the licence. The requirements focus on obligations under the licence or a lease agreement.

Article 7 of Law 4409/2016 provides that, without prejudice to the scope of liability relating to the prevention and remediation of environmental damage pursuant to the ELD, the licensee is financially liable for the prevention and remediation of environmental damage, caused by offshore oil and gas operations carried out by, or on behalf of, the licensee or the operator.

Article 7 tracks article 7 of the Offshore Safety Directive.

Law 2289/1995 requires an operator to take all necessary measures to minimise environmental damage and, if any such damage is caused, to remediate it. The operator may be required to provide financial security in an amount to be determined by the Minister of the

21 “Αναζήτηση, έρευνα και εκμετάλλευση υδρογονανθράκων και άλλες διατάξεις” Government Gazette, Series I, No 27/1995 (ΦΕΚ Α’27); http://www.ypeka.gr/LinkClick.aspx?fileticket=YbMlG%2F4mE1s%3D&tabid=765&language=el-GR (in Greek)

22 “Για τη λειτουργία Ενεργειακών Αγορών Ηλεκτρισμού και Φυσικού Αερίου, για Έρευνα, Παραγωγή και δίκτυα μεταφοράς Ύδρυγονανθράκων και άλλες ρυθμίσεις” Government Gazette, Series I, No 179/2011 (ΦΕΚ Α’ 179); http://www.ypeka.gr/LinkClick.aspx?fileticket=9rVkIH6aN2E%3D&tabid=506&language=el-GR (in Greek)


24 N. 4409/2016 “Πλαίσιο για την ασφάλεια στις υπεράκτιες εργασίες έρευνας και εκμετάλλευσης υδρογονανθράκων, ενσωμάτωση της Οδηγίας 2013/30/ΕΕ, τροποποίηση του Π.δ. 148/2009 και άλλες διατάξεις”; http://www.elinyae.gr/el/item_details.jsp?cat_id=848&item_id=11771 (in Greek)

Improving financial security in the context of the Environmental Liability Directive

Environment and Energy upon the recommendation of the Hellenic Hydrocarbon Resources Management SA, or an insurance policy with an international insurer against all risks including environmental risks.26

14.4. Requirement for financial security for ELD liabilities

There is no specific requirement for financial security for ELD liabilities other than the reference to the licensee being financially liable for preventing and remediating environmental damage under the ELD in article 7 of Law 4409/2016.

15. Failure of financial security

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

No information was available on an inadequate level of financial security instruments or mechanisms to pay claims other than as indicated in section 5.6 above.

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

The annotated list of ELD incidents submitted by Greece to the European Commission in 2013 according to then article 18(1) of the ELD contained the following incidents involving the bankruptcy of an operator.

On 6 October 2010, 25 tonnes of chemical waste stored at an abandoned plant in Athens leaked into the soil. The operator, which manufactured sealing and insulating materials, had become bankrupt. The Municipality of Athens paid for remedial measures in the form of the collection and removal of the materials and contaminated soil by a licensed operator.27

15.3. Other

No other types of failures of financial security instruments were available.

16. Funds

There is no fund that specifically provides funding for preventing or remediating environmental damage pursuant to the ELD in Greece.

The Green Fund, established by Law 3889/2010 “On Financing environmental intervention projects, Green Fund” (Official Government Gazette Series I, 182/2010) ("Χρηματοδότηση Περιβαλλοντικών Παρεμβάσεων, Πράσινο Ταμείο, Κύρωση Δασικών Χαρτών και άλλες διατάξεις")28 supervised by the Ministry of Environment and Energy, may provide funding in case of an emergency if an operator becomes insolvent or bankrupt.


28 "Χρηματοδότηση Περιβαλλοντικών Παρεμβάσεων, Πράσινο Ταμείο, Κύρωση Δασικών Χαρτών και άλλες διατάξεις”; www.prasinotameio.gr/images/documents/n3889_10%20prasino%20tameio.pdf (in Greek)
Priority criteria has also been established, in co-operation with the Green Fund, for funding activities to remediate environmental damage when the operator causing the damage cannot be identified.²⁹

16.1. **Name(s)**
Not applicable

16.2. **Extension of existing fund to cover remedial costs under the ELD**
No existing fund has been extended to provide cover for preventing or remediating environmental damage under the ELD.

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

Improving financial security in the context of the Environmental Liability Directive

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http://www.ypeka.gr/LinkClick.aspx?fileticket=A60VpqHzCwU%3D&tabid=548&language=el-GR


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