



Annex I

# Latvia

Improving financial security in the context of the  
Environmental Liability Directive

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## 1. INTRODUCTION

Financial security in the form of environmental insurance policies is available in Latvia but only to a very limited extent.

Stand-alone environmental insurance policies are not generally available.

Environmental extensions to general liability policies are available to a limited extent. Cover under them, is very limited.

Environmental extensions to property policies are not generally available.

Latvia transposed the ELD by:

- the Environmental Protection Law (*Vides aizsardzības likums*), as amended;<sup>1</sup>
- Regulation on the criteria to be used when assessing the significance of the effect of damage to species or habitats subject to special protection measures (*Noteikumi par kritērijiem, kurus izmanto, novērtējot īpaši aizsargājamām sugām vai īpaši aizsargājamiem biotopiem nodarītā kaitējuma ietekmes būtiskumu*);<sup>2</sup> and
- Regulation on preventive and remedial measures and a procedure for the assessment of environmental damage and the calculation of the costs of preventive, urgent and remedial measures (*Noteikumi par preventīvajiem un sanācijas pasākumiem un kārtību, kādā novērtējams kaitējums videi un aprēķināmas preventīvo, neatliekamo un sanācijas pasākumu izmaksas*).<sup>3</sup>

Latvia has not introduced mandatory financial security. The Environmental Protection Law simply states that operators may use various types of financial security instruments.

Latvia has introduced mandatory financial security for an applicant for a permit for the transportation or storage of waste, recycling and recovery of waste, a permit for the transportation or storage of waste, recycling and recovery of waste, or a permit for digging up a closed and re-cultivated waste dump and re-grading the waste.

## 2. ENVIRONMENTAL INSURANCE MARKET

In 2017, the Environmental Implementation Review for Latvia suggested that Latvia should 'take further steps to ensure an effective system of financial security for environmental liabilities (so that operators not only have insurance cover available to them but actually take

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<sup>1</sup> Vides aizsardzības likums; <https://likumi.lv/ta/id/147917-vides-aizsardzibas-likums> (in Latvian). An unofficial English translation of the Environmental Protection Law (Official Gazette 183, 15.11.2006), as amended but not including amendments from 1 November 2018, is available at <https://likumi.lv/ta/en/id/147917-environmental-protection-law>

<sup>2</sup> Noteikumi par kritērijiem, kurus izmanto, novērtējot īpaši aizsargājamām sugām vai īpaši aizsargājamiem biotopiem nodarītā kaitējuma ietekmes būtiskumu (Ministru kabineta noteikumi Nr.213 Rīgā 2007.gada 27.martā (prot. Nr.21 32.§)); <https://likumi.lv/doc.php?id=155223> (in Latvian)

<sup>3</sup> Noteikumi par preventīvajiem un sanācijas pasākumiem un kārtību, kādā novērtējams kaitējums videi un aprēķināmas preventīvo, neatliekamo un sanācijas pasākumu izmaksas (Ministru kabineta noteikumi Nr.281 Rīgā 2007.gada 24.aprīlī (prot. Nr.25 31.§)); <https://likumi.lv/doc.php?id=157197> (in Latvian)

it up)<sup>4</sup>. In 2019, the Environmental Implementation Review named a priority action as improving 'financial security for liabilities'.<sup>5</sup>

Stand-alone environmental insurance policies are not generally available. Only one insurer based in Latvia is known to consider possibly offering a stand-alone environmental insurance policy for remediating sudden and accidental pollution. The policy would have a low limit of liability and would not provide cover for complementary or compensatory remediation under the ELD. The insurer would consider offering the policy on an individual basis only (see section 3.6.3 below).

Environmental extensions to general liability policies are available but cover provided by them is limited to measures to remediate off-site pollution from a sudden and accidental incident on an insured's site. Cover is not provided for complementary or compensatory remediation under the ELD, gradual pollution, or environmental damage other than pollution. One insurer offers an extension that provides cover for remediating off-site environmental damage under the ELD (primary remediation) from a sudden and accidental incident on an insured's site.

Cover provided by at least one extension is limited to direct losses caused by a sudden and accidental incident provided that the insured becomes aware of the incident within 72 hours after it has commenced and reports the incident to insurers within seven days after its commencement. The losses covered by the extension are required and reasonably practicable measures to control and contain pollutants, and measures to prevent or reduce further damage to human health and the environment including deterioration in the functions of natural resources. The body of the general liability policy specifically excludes cover for losses from gradual pollution, with the notation that cover is not provided if it is not possible to determine the time and the location of the leakage, emission, dispersal or spreading of pollutants.

Demand for environmental extensions to general liability policies is low.

Environmental extensions to property policies are not generally available with the exception of one extension issued by one insurer that provides cover for the costs of emergency and remedial measures to remove pollution from oil and other chemicals up to a sub-limit. The extension does not provide cover for ELD liabilities. Demand for them is rare.

## **2.1. Commercial insurers**

### *2.1.1. Number of insurers*

As indicated above, only one insurer in Latvia is known to consider possibly offering a stand-alone environmental insurance policy.

To put this into perspective, the Latvian insurance market is small. Nine non-life (and six life) insurers are members of the Latvian Insurers Association (*Latvijas Apdrošinātāju asociācija*). Together, they are responsible for about 99% of the total Latvian insurance market.<sup>6</sup>

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<sup>4</sup> EU Environmental Implementation Review Country Report – Latvia (SWD(2017) 50 final, 3 February 2017), 24; [https://ec.europa.eu/environment/eir/pdf/country-reports-archive/report\\_lv\\_en.pdf](https://ec.europa.eu/environment/eir/pdf/country-reports-archive/report_lv_en.pdf)

<sup>5</sup> EU Environmental Implementation Review Country Report – Latvia (SWD(2019) 124 final, 4 April 2019), 30; [https://ec.europa.eu/environment/eir/pdf/report\\_lv\\_en.pdf](https://ec.europa.eu/environment/eir/pdf/report_lv_en.pdf)

<sup>6</sup> See Latvian Insurers Association; <https://www.laa.lv/about-us/>

*2.1.2. New insurers entering the market since 2009*

Not applicable

*2.1.3. Existing insurers that introduced environmental insurance policies since 2009*

Not applicable

**2.2. Re/insurance pools**

There is no re/insurance pool in Latvia that offers environmental insurance policies.

*2.2.1. Date of establishment*

Not applicable

*2.2.2. Descriptions of policies issued*

Not applicable

**2.3. Mutuels**

No mutual in Latvia offers 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 Latvia.

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

**3.1. Environmental insurance policies**

As indicated in section 2 above, only one insurer in Latvia is known to consider, on an individual basis, offering a stand-alone environmental insurance policy.

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

**3.2. Cover for ELD preventive costs**

One insurer may possibly consider, on an individual basis, offering a stand-alone environmental insurance policy that provides cover for measures to prevent environmental damage under the ELD from a sudden and accidental (not gradual) incident.

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

No stand-alone environmental insurance policy offered to businesses with sites and/or operations only in Latvia would provide cover for complementary or compensatory remediation measures.

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

See section 3.6.3 below.

Stand-alone environmental insurance policies offered by way of passporting provide cover for non-ELD liabilities such as the remediation of pollution under other environmental legislation. Cover is subject to agreement by individual insurers.

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

See section 2.1.1 above.

Stand-alone environmental insurance policies available by passporting provide cover for the costs of remediating environmental damage, including soil and water pollution, caused by an insured to third-party sites as well as the costs of remediating such damage on an insured's own site.

Stand-alone environmental insurance 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*

If an insurer agrees to underwrite a stand-alone environmental insurance policy for businesses with sites and/or operations only in Latvia, the policy would provide only limited cover (see section 2 above).

Policies offered by multinational insurers 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*

Stand-alone environmental insurance policies are underwritten on a claims made basis.

If an extension to a stand-alone environmental insurance policy is issued by a multinational insurer, the policy may have an extended reporting period during which an incident that occurred during the policy period may be reported to insurers.

Extensions to general liability policies are underwritten on an occurrence basis, that is, the environmental incident must occur during the policy period; claims arising from the incident may occur after the policy period.

#### *3.6.3. Policies for operators*

As indicated in section 2, an insurer may possibly consider, on an individual basis, offering a stand-alone environmental insurance policy to a business with sites and/or operations only in Latvia. If the insurer was to do so, the policy would provide cover only for sudden and accidental incidents. Such a policy may include the following:

- the remediation of on-site and off-site environmental damage under the ELD caused by operations, including transportation, carried out by the insured operator;
- the remediation of pollution under other environmental legislation caused by operations, including transportation, carried out by the insured operator; and
- emergency costs and costs of preventive measures under the ELD under the two above bullet points.



Depending on the insurer, stand-alone environmental insurance policies offered by multinationals to operators with sites and/or operations in more than one Member State by passporting may include insuring agreements for the following:

- the remediation of on-site and off-site environmental damage under the ELD caused by operations, including transportation, carried out by the insured operator;
- the remediation of pollution under other environmental legislation caused by operations, including transportation, carried out by the insured operator;
- emergency costs and costs of preventive measures under the ELD under the two above bullet points;
- third-party claims for bodily injury and property damage;
- third-party business interruption;
- the insured's business interruption costs and extra expense caused by environmental damage including pollution; and
- related legal costs.

Only the first and third items 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.

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 stand-alone environmental insurance policies offered by passporting are adapted to reflect – and provide cover for – the legal and licensing situation in Latvia; others are not.

#### *3.6.4. Policies for contractors and others*

Stand-alone environmental insurance policies offered by multinationals to businesses with sites and/or operations in Latvia and other Member States 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 operators, as described in section 3.6.3 above, including liability for remediating environmental damage including pollution at sites at which the contractor is carrying out operations in addition to the insured contractor's own site.

In addition, professional liability policies for construction specialists subject to mandatory requirements provide cover for sudden and accidental environmental damage.

### **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 Latvia.

#### *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**

Stand-alone environmental insurance policies are not generally available in Latvia.

Environmental extensions to general liability policies became available after Latvia began implementing the ELD by including provisions in the Environmental Protection Law on 30 April 2007. As indicated in section 2 above, however, availability is limited.

**3.9. Environmental assessments and audits**

Not applicable

**3.10. Average premium**

Not applicable

**3.11. Average policy limit**

Not applicable

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

Not applicable

**3.13. Average policy period**

Not applicable

**3.14. Sizes of typical insured businesses**

Not applicable

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

Not applicable

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

Not applicable

**3.17. Number and amount of claims**

Not applicable

**3.18. Coverage litigation**

Not applicable

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

Environmental extensions to general liability policies are available but cover provided by them is generally limited to measures to remediate off-site pollution from a sudden and accidental incident on an insured's site. The extensions do not provide cover for ELD liabilities.

One insurer offers cover for remediating off-site environmental damage under the ELD from a sudden and accidental incident on an insured's site. Cover is not available for complementary and compensatory remediation under the ELD.

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

Extensions for ELD liabilities to property policies are not available.

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

##### **4.1. Type(s)**

Voluntary financial security instruments such as bank guarantees 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.

##### **4.2. Availability**

Not applicable

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

Latvia has not imposed mandatory financial security for ELD liabilities. According to the 2017 Environmental Implementation Review for Latvia, it does not intend to do so.<sup>7</sup>

##### **5.1. Competent authority(ies)**

Not applicable

##### **5.2. Legislative provisions**

Not applicable

*5.2.1. Name(s) of legislation*

*5.2.2. Stand-alone requirement or hybrid*

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

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

*5.2.5. Revisions to legislation*

*5.2.6. ELD liabilities covered by mandatory financial security*

*5.2.7. Description of mandatory financial security provisions*

*5.2.8. Exception for low risk sites*

*5.2.9. Exception for ISO 14001 certification or EMAS registration*

*5.2.10. Other exceptions*

##### **5.3. Environmental licence conditions**

Not applicable

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<sup>7</sup> See EU Environmental Implementation Review Country Report – Latvia (SWD(2017) 50 final, 3 February 2017), 24; [https://ec.europa.eu/environment/eir/pdf/country-reports-archive/report\\_lv\\_en.pdf](https://ec.europa.eu/environment/eir/pdf/country-reports-archive/report_lv_en.pdf)

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))**

Article 31(4) of the Environmental Protection Act provides that a competent authority shall recover the costs of its preventive, emergency and remedial measures from an operator whose activities have caused environmental damage in accordance with procedures specified in the Civil Procedure Law.

The Environmental Protection Act does not provide for charges on land or other appropriate guarantees to ensure that the competent authority is reimbursed.

**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**

**9.1. Insurers**

Not applicable

**9.2. Banks and other financial institutions**

Not applicable

**9.3. Sureties**

Not applicable

**9.4. Providers outside Member State**

Not applicable

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

The Latvian Government encouraged the use of financial security for ELD liabilities by article 33 of the Environmental Protection Law, entitled Provision of Financial Guarantees for Definite Activities (*Finansiālo garantiju nodrošināšana noteiktām darbībām*).

Article 33 provides that:

Operators may use types of financial guarantee, also insurance, funds and bank guarantees, in order to insure the performance of preventive, immediate or remedial measures specified by this Law.

*(Lai nodrošinātu šajā likumā noteikto preventīvo, neatliekamo un sanācijas pasākumu veikšanu, operatori var izmantot finansējuma nodrošinājuma veidus, arī apdrošināšanu, fondus un banku garantijas).*

The existence of article 33, without more, however, is of limited assistance in developing financial security markets for ELD liabilities.

No other details of measures taken by the Latvian Government to develop environmental insurance or other financial security markets for liabilities under the Environmental Liability Directive were provided.

## 11. EU ENVIRONMENTAL LEGISLATION WITH MANDATORY FINANCIAL SECURITY PROVISIONS

### 11.1. Landfill Directive

#### 11.1.1. Competent authority(ies)

The competent authority for the Landfill Directive (1999/31/EC), which is implemented in Latvia by the Waste Management Law (*Atkritumu apsaimniekošanas likums*)<sup>8</sup> and Regulations Regarding the Construction of Landfill Sites, the Management, Closure and Re-cultivation of Landfill Sites and Waste Dumps (*Atkritumu poligonu ierīkošanas, atkritumu poligonu un izgāztuvju apsaimniekošanas, slēgšanas un rekultivācijas noteikumi*),<sup>9</sup> is the Ministry of Environment Protection and Regional Development (*Vides aizsardzības un reģionālās attīstības ministrija*).

#### 11.1.2. Financial security provisions

Section 22(4) of the Waste Management Law provides that the owner or operator of a landfill must provide 'financial or equivalent security' (*finansiālu vai līdzvērtīgu nodrošinājumu*) before operation of the landfill to ensure compliance with conditions of the permit as well as requirements concerning the closure of the landfill and environmental monitoring following the closure.

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<sup>8</sup> Atkritumu apsaimniekošanas likums; <https://likumi.lv/ta/id/221378-atkritumu-apsaimniekosanas-likums> (in Latvian). An unofficial English translation which does not include all the amendments is available at <https://likumi.lv/ta/en/en/id/221378-waste-management-law>

<sup>9</sup> Atkritumu poligonu ierīkošanas, atkritumu poligonu un izgāztuvju apsaimniekošanas, slēgšanas un rekultivācijas noteikumi; <https://likumi.lv/ta/id/242189-atkritumu-poligonu-ierikšanas-atkritumu-poligonu-un-izgastuvju-apsaimniekosanas-slegsanas-un-rekultivacijas-noteikumi> (in Latvian). An unofficial English translation which does not include all the amendments is available at <https://likumi.lv/ta/en/en/id/242189-regulations-regarding-the-construction-of-landfill-sites-the-management-closure-and-re-cultivation-of-landfill-sites-and-waste-dumps>

Section 37 of the Transitional provisions provides that the above financial security requirements apply from 1 July 2018, with a transition period until 30 December 2018 at the latest in respect of applications for permits submitted to the competent authority before that date.

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

See section 11.1.2 above.

#### *11.1.4. Templates*

There are no templates for financial security instruments or mechanisms.

#### *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 authority for the Extractive Waste Directive (2006/21/EC), which is implemented in Latvia by the Law on Subterranean Depths (Likums Par zemes dziļēm),<sup>10</sup> is the Ministry of Environmental Protection and Regional Development (*Vides aizsardzības un reģionālās attīstības ministrija*). The State Environmental Service (*Valsts vides dienests*) is responsible for licencing.

Latvia did not have any Category A facilities for extractive waste when this report was published.<sup>11</sup>

#### *11.2.2. Financial security provisions*

Financial security provisions under the Extractive Waste Directive are set out in Cabinet Regulations for the management of mining waste (*Ministru kabineta 2011. gada 11. jūnija noteikumi Nr. 470 "Derīgo izrakteņu ieguves atkritumu apsaimniekošanas kārtība"*).<sup>12</sup>

Section 90 of the Cabinet Regulations requires the operator of a facility for the accumulation or disposal of extractive waste to submit evidence of financial security in the form of an insurance policy or a guarantee by a credit institution (*finansiāla nodrošinājuma, drošības naudas, saistību izpildes apdrošināšanas polises vai kredītiestādes galvojuma*). The originals of the documents must be provided to the State Environmental Service if requested by it. The financial guarantee must provide security for obligations under the permit including management of the extractive waste facility after its closure and its restoration in accordance with the waste management plan and conditions in the permit.

The State Environmental Service determines the amount of the financial guarantee taking into account, among other things, the expected effects of the facility on the environment and

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<sup>10</sup> Likums Par zemes dziļēm; <https://likumi.lv/ta/en/en/id/40249-law-on-subterranean-depths> (in Latvian)

<sup>11</sup> See BIPRO GmbH and Oakdene Hollins, 'Provision and elaboration of information for the preparation of the "Implementation report of Directive 2006/21/EC on the management of waste from extractive industries" (070201/2015/711399/Env.A.2)' (12 April 2016), s 3.2.17; [https://ec.europa.eu/environment/waste/studies/mining/waste\\_extractive\\_industries.pdf](https://ec.europa.eu/environment/waste/studies/mining/waste_extractive_industries.pdf)

<sup>12</sup> Ministru kabineta 2011. gada 11. jūnija noteikumi Nr. 470 "Derīgo izrakteņu ieguves atkritumu apsaimniekošanas kārtība"; <https://likumi.lv/ta/id/232278-derigo-izraktenu-ieguves-atkritumu-apsaimniekosanas-kartiba> (in Latvian)

human health, the category of waste deposited at it, its nature and characteristics, the subsequent use of the restored land and the waste facility, the adequacy of the restoration measures, and monitoring. The amount of financial security also takes into account legislation on evaluating environmental damage and the costs of preventive, emergency and restoration measures.

An independent expert must carry out the assessment to determine the above measures taking into account the likelihood of an unanticipated or premature closure of the extractive waste facility.

The State Environmental Service periodically reviews the amount of the financial guarantee. When the Service accepts the closure of the facility, it issues a written notification to the operator to release the financial guarantee.

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

See section 11.2.2 above.

#### *11.2.4. Templates*

There is no template for the financial security instruments or measures.

#### *11.2.5. Financial security instruments not acceptable*

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

### **11.3. Carbon Capture and Storage Directive**

#### *11.3.1. Status of implementation*

Section 8(2) of the Law of Pollution (*Likums Par piesārņojumu*),<sup>13</sup> prohibits the storage of carbon dioxide in geological formations and the water column in the territory of Latvia, its exclusive economic zone and its continental shelf.

#### *11.3.2. Competent authority(ies)*

The competent authority for the Directive on the Geological Storage of Carbon Dioxide (2009/31/EC), which is implemented in Latvia by the Law on Pollution, is the Ministry of Environmental Protection and Regional Development.

#### *11.3.3. Financial security provisions*

Not applicable (see section 11.3.1 above).

#### *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

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<sup>13</sup> Likums Par piesārņojumu; <https://likumi.lv/ta/id/6075-par-piesarnojumu> (in Latvian). An unofficial English translation is available at <https://likumi.lv/ta/en/en/id/6075-on-pollution>



## **12. EU RECOMMENDATION ON HYDRAULIC FRACTURING**

### **12.1. Status**

Latvia has shale hydrocarbon reserves. The reserves are, however, considered to be too shallow and immature to lead to commercial production.<sup>14</sup> No exploration or development activities involving the hydraulic fracturing (fracking) of shale gas or shale oil had been carried out or was planned in 2016.<sup>15</sup>

The situation had not changed when this report was published. No operations to explore for, or produce, the reserves were ongoing or planned with this report was published.

### **12.2. Competent authority(ies)**

The competent authority for hydrocarbon licensing and carrying out administrative supervision of prospecting, exploration and production of hydrocarbons in Latvia is the Ministry of Economics (*Ekonomikas ministrija*).

### **12.3. Financial security provisions**

There are no financial security provisions that impose financial security for ELD liabilities for fracking.

### **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

## **13. EU ENVIRONMENTAL LEGISLATION WITH NO MANDATORY FINANCIAL SECURITY PROVISIONS**

### **13.1. Industrial Emissions Directive**

#### *13.1.1. Competent authority(ies)*

The Industrial Emissions Directive (2010/75/EU) is implemented in Latvia by the following:

- Law on Pollution;
- Cabinet Regulations “Procedure by Which Polluting Activities of Category A, B and C Shall Be Declared and Permits for the Performance of Category A and B Polluting Activities Shall Be Issued” (*MK noteikumi Nr.1082 “Kārtība, kādā piesakāmas A, B un C*

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<sup>14</sup> See N.H. Schovsbo, H. Doornenbal, S. Nelskamp, C.B. Pedersen, L. Tougaard, M. Zijp and K.L. Anthonsen, ‘Review of results and recommendations’ (Delivery T8 of the EUOGA study (EU Unconventional Oil and Gas Assessment) commissioned by JRC-IET, March 2017), 48-50;  
[https://ec.europa.eu/jrc/sites/jrcsh/files/t8\\_review\\_of\\_results\\_and\\_recommendations.pdf](https://ec.europa.eu/jrc/sites/jrcsh/files/t8_review_of_results_and_recommendations.pdf)

<sup>15</sup> See K.L. Anthonsen, S. Schovsbo and P. Britze, ‘Overview of the current status and development of shale gas and shale oil in Europe’ (Report T3b of the EUOGA study (EU Unconventional Oil and Gas Assessment) commissioned by JRC-IET to GEUS, 2016), 34;  
[https://openecho.jrc.ec.europa.eu/sites/default/files/t3\\_overview\\_of\\_the\\_current\\_status\\_and\\_development\\_of\\_shale\\_gas\\_and\\_shale\\_oil\\_in\\_europe.pdf](https://openecho.jrc.ec.europa.eu/sites/default/files/t3_overview_of_the_current_status_and_development_of_shale_gas_and_shale_oil_in_europe.pdf)

*kategorijas piesārņojošas darbības un izsniedzamas atļaujas A un B kategorijas piesārņojošo darbību veikšanai”);<sup>16</sup> and*

- Cabinet Regulations “Procedures for the prevention, limit and control of the emission of air pollutants from combustion plants” (MK noteikumi Nr. 736, “Kārtība, kādā novērš, ierobežo un kontrolē gaisu piesārņojošo vielu emisiju no sadedzināšanas iekārtām”).<sup>17</sup>

The competent authority is the Ministry of Environmental Protection and Regional Development.

#### *13.1.2. Financial security provisions*

Neither the Law on Pollution nor the Cabinet Regulations contain financial security requirements.

#### *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)*

The competent authority for the Seveso III Directive (2012/18/EU), which is implemented in Latvia by the Law on Pollution, and Cabinet Regulation No 131 “Industrial Accident Risk Assessment Procedures and Risk Reduction Measures” (Ministru kabineta noteikumi Nr 131 “Rūpniecisko avāriju riska novērtēšanas kārtība un riska samazināšanas pasākumi”),<sup>18</sup> is the Ministry of Environmental Protection and Regional Development. The State Environmental Service is responsible for inspections.

#### *13.2.2. Financial security provisions*

Neither the Law on Pollution nor the Cabinet Regulation include financial security requirements in respect of the Seveso III Directive.

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<sup>16</sup> MK noteikumi Nr.1082 “Kārtība, kādā piesakāmas A, B un C kategorijas piesārņojošas darbības un izsniedzamas atļaujas A un B kategorijas piesārņojošo darbību veikšanai”; <https://www.vestnesis.lv/ta/id/222147-kartiba-kada-piesakamas-a-b-un-c-kategorijas-piesarnojosas-darbibas-un-izsniedzamas-atlajas-a-un-b-kategorijas-piesarnojoso-da> (in Latvian)

<sup>17</sup> Ministru kabineta noteikumi Nr. 736, “Kārtība, kādā novērš, ierobežo un kontrolē gaisu piesārņojošo vielu emisiju no sadedzināšanas iekārtām”; <https://likumi.lv/ta/id/295798-kartiba-kada-novers-ierobezo-un-kontrol-gaisu-piesarnojoso-vielu-emisiju-no-sadedzinanas-iekartam> (in Latvian)

<sup>18</sup> Ministru kabineta noteikumi Nr. 131, “Rūpniecisko avāriju riska novērtēšanas kārtība un riska samazināšanas pasākumi”; <https://likumi.lv/ta/id/280652-rupniecisko-avariju-riska-novertesanas-kartiba-un-riska-samazinasanas-pasakumi> (in Latvian)

### 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

## 13.3. **Other legislation**

Section 12 of the Waste Management Law provides that an applicant for a permit for the transportation or storage of waste, recycling and recovery of waste, a permit for the transportation or storage of waste, recycling and recovery of waste, or a permit for digging up a closed and re-cultivated waste dump and re-grading the waste must submit evidence of financial security to the competent authority. The financial security is collateral to ensure that the operator carries out obligations under the permit.

The financial security may take the form of a bank guarantee (letter of credit) or an insurance policy that includes an irrevocable commitment to pay claims by the competent authority on its first request. The type of permit is taken into account in determining the required amount of financial security.

Section 12 further states that the Cabinet of Ministers shall, among other things, specify the procedures for financial security including specimen financial security documentation.

Accordingly, the Cabinet of Ministers adopted Cabinet Regulation on “Procedure for the application of financial security for waste management operations” (“*Finanšu nodrošinājuma piemērošanas kārtība atkritumu apsaimniekošanas darbībām*”) on 8 January 2019.<sup>19</sup>

Point 9 of the Cabinet Regulation provides the following amounts for financial security:

- permit for waste management: EUR 35,000 in 2018; EUR 43,000 in 2019; EUR 50,000 starting in 2020;
- permit for the recycling and recovery of waste: EUR 70,000 in 2018; EUR 86,000 in 2019; EUR 100,000 starting in 2020; and
- digging up a closed and re-cultivated waste dump and re-grading the waste in it: EUR 70,000 in 2018; EUR 86,000 in 2019; and EUR 100,000 starting in 2020.

The Regulation includes specimen formats for an insurance policy and a bank guarantee including provisions to be included in them.

## 14. **MANDATORY FINANCIAL SECURITY FOR OFFSHORE OIL AND GAS OPERATIONS**

### 14.1. **Competent authority(ies)**

The competent authority for hydrocarbon licensing and supervision of prospecting, exploration and production of hydrocarbons in Latvia is the Ministry of Economics.

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<sup>19</sup> Ministru kabineta 2019.gada 8.janvāra noteikumi Nr.2 “Finanšu nodrošinājuma piemērošanas kārtība atkritumu apsaimniekošanas darbībām” <https://likumi.lv/ta/id/304151-finansu-nodrosinajuma-piemerosanas-kartiba-atkritumu-apsaimniekosanas-bank-guaradarbibam> (in Latvian);

## **14.2. Status of offshore oil and gas operations**

Latvia launched the first offshore licensing round for prospecting, exploration and production in 2001. Since that time, Latvia has issued prospecting licences and exploration and production licences for its offshore area. Commercial production had not begun when this report was published. One reason for the delay is a dispute between Latvia and Lithuania on sovereignty over areas in the Baltic Sea exclusive economic zone.<sup>20</sup>

## **14.3. Requirements for financial security**

The Regulations on prospecting, exploration and extraction of hydrocarbons (*Noteikumi par ogļūdeņražu meklēšanu, izpēti un ieguvī*), require a licensee to have insurance for civil liabilities for third-party property damage and harm to the environment, when operating (using and maintaining) oil and gas wells and related infrastructure in the licensee's possession.<sup>21</sup>

## **14.4. Requirement for financial security for ELD liabilities**

See section 14.3 above.

## **15. FAILURE OF FINANCIAL SECURITY**

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

No information was available as to whether there are any cases in which a financial security instrument or mechanism was inadequate to pay the costs of preventing or remediation pollution under any other legislation.

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

No information was available as to whether there are any cases in which environmental damage was not prevented or remediated because an operator had become insolvent and could not pay to prevent or remediate it.

### **15.3. Other**

There were no public reports of other failures of voluntary or mandatory financial security in Latvia when this report was published.

## **16. FUNDS**

Latvia does not have a fund that provides funding to prevent or remediate environmental damage under the ELD if the responsible operator cannot be found or cannot pay.

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<sup>20</sup> See Bio by Deloitte and Stevens & Bolton LLP, 'Civil liability, financial security and compensation claims for offshore oil and gas activities in the European Economic Area; Latvia' (31 October 2014), 375, 381; [https://ec.europa.eu/energy/sites/ener/files/documents/BIO\\_Offshore%20Civil%20Liability\\_Revised%20Final%20Report%20%2831102014%29.pdf](https://ec.europa.eu/energy/sites/ener/files/documents/BIO_Offshore%20Civil%20Liability_Revised%20Final%20Report%20%2831102014%29.pdf); see also 'President: Latvia and Lithuania can agree on sea border treaty', Baltic News Network (23 July 2019); <https://bnn-news.com/president-latvia-and-lithuania-can-agree-on-sea-border-treaty-203394>

<sup>21</sup> Ministru kabineta 2015. gada 22. decembra noteikumi Nr. 805 "Noteikumi par ogļūdeņražu meklēšanu, izpēti un ieguvī"; <https://likumi.lv/ta/id/279081-noteikumi-par-ogludenrazu-meklesanu-izpeti-un-ieguvi> (in Latvian)

**16.1. Name(s)**

Not applicable

**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

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### Latvia

#### Legislation

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Regulation on preventive and remedial measures and a procedure for the assessment of environmental damage and the calculation of the costs of preventive, urgent and remedial measures (*Noteikumi par preventīvajiem un sanācijas pasākumiem un kārtību, kādā novērtējams kaitējums videi un aprēķināmas preventīvo, neatliekamo un sanācijas pasākumu izmaksas*); <https://likumi.lv/ta/id/295798-kartiba-kada-novers-ierobezo-un-kontrole-gaisu-piesarnojoso-vielu-emisiju-no-sadedzinasanas-iekartam><https://likumi.lv/doc.php?id=157197>

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