Annex I

Slovenia

Improving financial security in the context of the Environmental Liability Directive
No 07.0203/2018/789239/SER/ENV.E.4
May 2020
Final

Prepared by:
Valerie Fogleman, Stevens & Bolton LLP,
Cardiff University School of Law and Politics
Disclaimer: The information and views set out in this assessment are those of the author(s) and do not necessarily reflect the official opinion of the European Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission’s behalf may be held responsible for the use which may be made of the information contained therein.
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Table of Contents</strong></td>
<td>3</td>
</tr>
<tr>
<td>1. <strong>Introduction</strong></td>
<td>5</td>
</tr>
<tr>
<td>2. <strong>Environmental Insurance Market</strong></td>
<td>5</td>
</tr>
<tr>
<td>2.1. Commercial insurers</td>
<td>6</td>
</tr>
<tr>
<td>2.2. Re/insurance pools</td>
<td>6</td>
</tr>
<tr>
<td>2.3. Mutuels</td>
<td>6</td>
</tr>
<tr>
<td>2.4. Other</td>
<td>7</td>
</tr>
<tr>
<td>3. <strong>Voluntary Insurance Policies for ELD and Other Environmental Liabilities</strong></td>
<td>7</td>
</tr>
<tr>
<td>3.1. Environmental insurance policies</td>
<td>7</td>
</tr>
<tr>
<td>3.2. Cover for ELD preventive costs</td>
<td>7</td>
</tr>
<tr>
<td>3.3. Cover for ELD primary, complementary and compensatory costs</td>
<td>7</td>
</tr>
<tr>
<td>3.4. Cover for non-ELD liabilities</td>
<td>7</td>
</tr>
<tr>
<td>3.5. Nature of policies (liability only or liability and on-site remediation)</td>
<td>7</td>
</tr>
<tr>
<td>3.6. Description of policies</td>
<td>7</td>
</tr>
<tr>
<td>3.7. Model terms and conditions</td>
<td>7</td>
</tr>
<tr>
<td>3.8. Date of general availability of environmental insurance policies</td>
<td>8</td>
</tr>
<tr>
<td>3.9. Environmental assessments and audits</td>
<td>8</td>
</tr>
<tr>
<td>3.10. Average premium</td>
<td>9</td>
</tr>
<tr>
<td>3.11. Average policy limit</td>
<td>9</td>
</tr>
<tr>
<td>3.12. Average deductible or self-insured retention</td>
<td>9</td>
</tr>
<tr>
<td>3.13. Average policy period</td>
<td>9</td>
</tr>
<tr>
<td>3.14. Sizes of typical insured businesses</td>
<td>9</td>
</tr>
<tr>
<td>3.15. Industrial and commercial sectors that typically purchase policies</td>
<td>9</td>
</tr>
<tr>
<td>3.16. Industrial and commercial sectors with limited or no accessibility to policies</td>
<td>9</td>
</tr>
<tr>
<td>3.17. Number and amount of claims</td>
<td>9</td>
</tr>
<tr>
<td>3.18. Coverage litigation</td>
<td>9</td>
</tr>
<tr>
<td>3.19. Cover for ELD liabilities in general liability policies</td>
<td>9</td>
</tr>
<tr>
<td>3.20. Cover for ELD liabilities in property policies</td>
<td>10</td>
</tr>
<tr>
<td>4. <strong>Other Voluntary Financial Security Instruments and Mechanisms</strong></td>
<td>10</td>
</tr>
<tr>
<td>4.1. Type(s)</td>
<td>10</td>
</tr>
<tr>
<td>4.2. Availability</td>
<td>10</td>
</tr>
<tr>
<td>5. <strong>Mandatory Financial Security for ELD Liabilities (Article 14(1))</strong></td>
<td>10</td>
</tr>
<tr>
<td>5.1. Competent authority(ies)</td>
<td>10</td>
</tr>
<tr>
<td>5.2. Legislative provisions</td>
<td>10</td>
</tr>
<tr>
<td>5.3. Environmental licence conditions</td>
<td>12</td>
</tr>
<tr>
<td>5.4. Date of introduction</td>
<td>12</td>
</tr>
<tr>
<td>5.5. Effective date</td>
<td>12</td>
</tr>
<tr>
<td>5.6. Key reasons for introduction</td>
<td>12</td>
</tr>
<tr>
<td>5.7. Withdrawal of mandatory financial security</td>
<td>12</td>
</tr>
<tr>
<td>5.8. Guidance</td>
<td>13</td>
</tr>
<tr>
<td>5.9. Operators subject to mandatory financial security</td>
<td>13</td>
</tr>
<tr>
<td>5.10. Amounts and limits of mandatory financial security</td>
<td>13</td>
</tr>
<tr>
<td>5.11. Growth of mandatory financial security</td>
<td>13</td>
</tr>
<tr>
<td>6.1. Review of financial security instruments or mechanisms</td>
<td>13</td>
</tr>
<tr>
<td>6.2. Financial security instruments and mechanisms accepted</td>
<td>13</td>
</tr>
<tr>
<td>6.3. Financial security instruments and mechanisms not acceptable</td>
<td>13</td>
</tr>
<tr>
<td>6.4. Time of review</td>
<td>13</td>
</tr>
</tbody>
</table>
1. **INTRODUCTION**

Financial security in the form of insurance policies for ELD and other environmental liabilities in Slovenia is almost non-existent because Slovenia does not have a mature or even a fledgling environmental insurance market.

Stand-alone environmental insurance policies are not generally available.

In 2018 and 2019, EcoLex Life, which carried out a project to raise awareness of the ELD in Slovenia with financial contribution from the LIFE programme of the EU, discussed the potential development of stand-alone environmental insurance policies to provide cover for ELD and other environmental liabilities with various insurers and insurance organisations. Investigations showed, however, that there was little demand for them, leading insurers to postpone their development until demand increased.

Environmental extensions to general liability policies are not generally available.

Environmental extensions to property policies are not available.

Slovenia transposed the ELD by an Act (ZVO-1B)\(^1\) and two regulations that established detailed criteria to determine environmental damage and the types of measures to remediate it. ZVO-1B amended the Environmental Protection Act (V.a - Zakon o varstvu okolja, ZVO-1),\(^2\) which is Slovenia’s framework environmental legislation, to include a new chapter consisting of new articles 110.a to 110.i.

There is no *ex ante* mandatory financial security for ELD liabilities in Slovenia. The Ministry of Agriculture and the Environment (*Ministrstvo za kmetijstvo, gozdarstvo in prehrano*), now the Ministry of the Environment and Spatial Planning (*Ministrstvo za okolje in prostor*) carried out studies to consider whether to introduce it in 2010 and 2012. The Ministry decided on both occasions not to do so because it considered that the disadvantages outweighed the advantages.

Slovenia has *ex post* mandatory financial security under article 8(2) of the ELD. An operator that has caused environmental damage must provide evidence of financial security for the estimated costs of remediating the damage.

2. **ENVIRONMENTAL INSURANCE MARKET**

Slovenia does not have an environmental insurance market.

Insurers based in, or with branches in, Slovenia may offer stand-alone environmental insurance policies to businesses with sites and/or operations only in Slovenia only if the insurer obtains the agreement of its reinsurer. If the reinsurer agrees, the policies do not provide cover for gradual pollution. If multinational insurers offer stand-alone environmental

---

\(^1\) Law on amendments and additions to the Law on Environmental Protection (Zakon o spremembah in dopolnitvah Zakona o varstvu okolja) (ZVO-1B); [http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5035](http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5035) (in Slovenian)

insurance to such policies, cover is also limited to sudden and accidental pollution. Demand is very low.

Some insurers may offer limited environmental extensions to general liability policies by agreement with their reinsurers. The extensions provide cover only for remediating off-site pollution from a sudden and accidental incident on an insured’s site. They do not provide cover for ELD liabilities. Further, they are subject to low sub-limits of liability. Demand is low.

Due to the lack of environmental insurance, small and medium size enterprises have difficulty in obtaining insurance for ELD and other environmental liabilities even when they are aware of the liabilities, which many are not.

Large industrial and commercial operators may obtain environmental insurance for their facilities in Slovenia as part of an EU-wide, or global, insurance programme by means of passporting.

2.1. Commercial insurers

No insurers based in Slovenia offered stand-alone environmental insurance policies except on demand and with the agreement of reinsurers when this report was published.

A few insurers offer cover for remediating environmental damage as an extension to a general liability policy but only with agreement of their reinsurers.

Some multinational insurers offered cover for facilities in Slovenia but generally only as part of a global programme, that is a programme that covers the operations of an insured large business in States, including Member States, outside as well as inside Slovenia.

2.1.1. Number of insurers

Not applicable

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 are no re/insurance pools for ELD or other environmental liabilities in Slovenia.

2.2.1. Date of establishment

Not applicable

2.2.2. Descriptions of policies issued

Not applicable

2.3. Mutuals

No mutuals offer insurance policies for ELD or other environmental liabilities in Slovenia.

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 Slovenia.

3. VOLUNTARY INSURANCE POLICIES FOR ELD AND OTHER ENVIRONMENTAL LIABILITIES

3.1. Environmental insurance policies
There are no stand-alone environmental insurance policies in Slovenia except on demand.
Stand-alone environmental insurance policies that provide cover to multinational operators for liabilities under the ELD and other environmental legislation in States including but not limited to Slovenia are available from insurers based in other Member States by means of passporting.

3.2. Cover for ELD preventive costs
See section 3.1 above.

3.3. Cover for ELD primary, complementary and compensatory costs
See section 3.1 above.

3.4. Cover for non-ELD liabilities
See section 3.1 above.

3.5. Nature of policies (liability only or liability and on-site remediation)
Not applicable

3.6. Description of policies
Not applicable

3.6.1. Format

3.6.2. Claims made or occurrence based

3.6.3. Policies for operators

3.6.4. Policies for contractors and others

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 Slovenia.

3.7.1. Organisation issuing model terms and conditions
Not applicable
Improving financial security in the context of the Environmental Liability Directive

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

When this report was published, stand-alone environmental insurance policies were not generally available for operators with sites and/or operations only in Slovenia. Limited extensions to general liability policies that provide cover for ELD liabilities were available but provided only very limited cover.

The team that carried out the EcoLex Life project, entitled ‘Raising awareness on Environmental Liability Directive’, which was enabled with financial contribution by the LIFE programme of the EU, worked with environmental and insurance experts to develop 30 comprehensive risk profiles of key small and medium sized operators for each of the five regions that have the highest risk of environmental damage in Slovenia, for a total of 150 risk profiles.

A survey carried out by EcoLex Life indicated that two thirds of small and medium sized operators in Slovenia were not aware of the concept of environmental liability, with one third of small operators not being aware that they could be liable for preventing and remediating environmental damage. The survey further indicated that over half of the businesses that were contacted had no environmental liability insurance or that they believed that environmental liability insurance was the same as property insurance. Of these, nearly one third stated that they did not need environmental insurance, with just under one third stating that they could not find appropriate insurance. Nearly a tenth of the businesses surveyed concluded that environmental liability insurance was too expensive.3

In 2018 and 2019, EcoLex Life had meetings about the potential development of environmental insurance policies with several insurers and organisations including Triglav Insurance Company (Zavarovalnica Triglav d.d.; ZT), the leading insurance company in Slovenia, Wiener Städtische, BMA Insurance Partner (BMA Partnerji, d.o.o.), and the Slovenian Insurance Association (Slovensko zavarovalno združenje).

ZT was especially interested in developing environmental insurance policies and had previously carried out its own investigations, including gathering data on market demand and practices in other States. In mid-2019, however, ZT concluded that there was insufficient demand and postponed development of environmental insurance policies until demand increased.

Stand-alone environmental insurance policies that provide cover to multinational operators for liabilities under the ELD and other environmental legislation in States including but not limited to Slovenia have been available since the late 1990s/early 2000s.

3.9. Environmental assessments and audits

Insurers that offer policies to large industrial and commercial operators for their insurance programmes for sites and/or operations inside and outside the EU, with cover for facilities in

3 See EcoLex, ‘About the project; The reasons for the project EcoLex LIFE’; https://ecolexlife.si/about-the-project/
Slovenia, tend not to 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
Not applicable because environmental insurance policies for facilities in Slovenia tend not to be offered solely for operations there.

3.11. Average policy limit
Not applicable because environmental insurance policies for facilities in Slovenia tend not to be offered solely for operations there.

3.12. Average deductible or self-insured retention
Not applicable because environmental insurance policies for facilities in Slovenia tend not to be offered solely for operations there.

3.13. Average policy period
Not applicable because environmental insurance policies for facilities in Slovenia tend not to be offered solely for operations there.

3.14. Sizes of typical insured businesses
There is no typical size of business that purchases insurance for preventing and remediating environmental damage in Slovenia; demand is low.

3.15. Industrial and commercial sectors that typically purchase policies
Large commercial and industrial businesses with operations within Slovenia as well as other States often purchase environmental insurance policies. Small and medium sized enterprises typically do not purchase them (see section 3.8 above).

3.16. Industrial and commercial sectors with limited or no accessibility to policies
There is no general availability of environmental insurance policies for small and medium sized enterprises in any industrial and commercial sectors.

3.17. Number and amount of claims
There had been no claims due to the lack of environmental insurance policies in Slovenia when this report was published.

3.18. Coverage litigation
There was no coverage litigation that concerns environmental insurance policies for operations in Slovenia when this report was published.

3.19. Cover for ELD liabilities in general liability policies
Individual insurers may agree to provide insurance for ELD and other environmental liabilities as part of a general liability policy subject to agreement by its reinsurer. As indicated in section 3.8 above, however, insurance for ELD and other environmental liabilities is rare. In addition, cover provided by the extensions is limited to the remediation of off-site pollution from an incident on the insured’s site.
3.20. **Cover for ELD liabilities in property policies**

Extensions that provide cover for ELD and other environmental liabilities in property policies are not available.

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

No voluntary financial security instruments or mechanisms are available for ELD and other environmental liabilities in Slovenia other than described in section 3.8 above.

4.1. **Type(s)**

Not applicable

4.2. **Availability**

Not applicable

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

5.1. **Competent authority(ies)**

Not applicable

5.2. **Legislative provisions**

5.2.1. **Name(s) of legislation**

No legislation in Slovenia imposes mandatory financial security for liabilities under the ELD. The chapter in the Environmental Protection Act that implements the ELD does not contain any provisions to establish mandatory financial security for ex ante ELD liabilities although it does contain provisions that establish mandatory financial security for ex post ELD liabilities (see section 8.1 below).

Article 115 of the Environmental Protection Act, which was in force before the ELD was transposed into Slovenian law and which requires persons who cause an ‘environmental burden’ to remediate it, provides as follows:

1. The Government may impose on the entities causing [an environmental] burden the obligation of ensuring a financial guarantee for the payment of any costs of environmental burdening caused during the operation of the activity or after its cessation.
2. The financial guarantee referred to in the preceding paragraph shall be ensured in particular in the form of taking out insurance or obtaining bank guarantee.
3. In the regulation referred to in the first paragraph of this Act, the Government shall lay down in particular.
   1. cases for which financial guarantee must be ensured,
   2. person entitled to financial guarantee funds in case of termination of entity causing burden, and
   3. amount of financial guarantee funds and the guarantee time, while taking into account in particular the extent of activity or operation that is subject to the guarantee, and the prescribed requirements concerning the measures during the performance of activity or after its cessation.
Article 115 had not been applied to require mandatory financial security for ELD liabilities when this report was published.

5.2.2. Stand-alone requirement or hybrid
Not applicable

5.2.3. Consideration of mandatory financial security legislation (if not enacted)
In 2010 and 2012, the Ministry of Agriculture and the Environment (now the Ministry of the Environment and Spatial Planning) carried out two studies on the feasibility of introducing mandatory financial security; it decided both times not to do so.

The first study reviewed financial security instruments available in Slovenia for the costs of preventing and remediating environmental damage. Focusing on operators of integrated pollution prevention and control facilities (now facilities under the Industrial Emissions Directive), the study analysed the demand for financial security instruments. The study concluded that mandatory financial security was not appropriate at that time. It recommended the design and implementation of a strategy for promoting the availability and use of financial security instruments by all stakeholders. In addition, it recommended that the insurance industry should be encouraged to develop an ‘ELD product’ and to raise awareness of the need for such insurance policies, promotion of the acquisition of an EU Eco-Management and Audit Scheme (EMAS) certificate or International Organisation for Standardisation (ISO) 14001 (UNE-EN ISO 14001:1996) certification by operators, and informing persons responsible for preventing and remediating environmental damage about the issue.4

The second study reviewed and analysed the feasibility of introducing mandatory financial security in order to ensure that financial security existed for liability for preventing and remediating environmental damage. The study concluded that mandatory financial security should not be introduced at that time because the arguments against its introduction ‘vastly outweigh[ed]’ arguments in favour of it.5

5.2.4. Reasons for decision not to enact mandatory financial security legislation
The Ministry of Agriculture and the Environment concluded that the arguments against the introduction outweighed those for its introduction (see section 5.2.3 above).

---


5.2.5. **Revisions to legislation**  
Not applicable

5.2.6. **ELD liabilities covered by mandatory financial security**  
Not applicable

5.2.7. **Description of mandatory financial security provisions**  
Not applicable

5.2.8. **Exception for low risk sites**  
Not applicable

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

5.2.10. **Other exceptions**  
Not applicable

5.3. **Environmental licence conditions**  
No environmental licences or permits in Slovenia require the holder to have mandatory financial security for ELD liabilities.

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**  
Not applicable

5.6. **Key reasons for introduction**  
Not applicable

5.7. **Withdrawal of mandatory financial security**  
No mandatory financial security for ELD liabilities has been withdrawn because none has been introduced.
Improving financial security in the context of the Environmental Liability Directive

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**

There is no regulatory oversight of financial security instruments and mechanisms for *ex ante* ELD liabilities because mandatory financial security for such liabilities does not exist.

6.1. **Review of financial security instruments or mechanisms**
Not applicable

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

The Environmental Protection Act requires financial security for the costs of remediating *ex post* environmental damage under the ELD in the form of a lien, bank guarantee or insurance (see section 8 below).

6.2.1. **Templates**
Not applicable

6.2.2. **Requirements for environmental insurance policies**
Not applicable

6.2.3. **Form of mandatory environmental insurance policy**
Not applicable

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 110.f of the Environmental Protection Act provides as follows concerning financial security for *ex post* environmental damage under the ELD:

...  

(3) At the same time as issuing a decision on preventive or remedial measures, the Ministry shall propose the entering of a lien on the property of the causer of environmental damage or an imminent threat of such damage, and request from him a bank guarantee or other form of payment insurance in favour of the Ministry, in the amount of the estimated costs of implementing the measures should the Ministry be required to implement them itself in accordance with the provisions of Articles 110.d and 110.e of this Act.

(4) The Ministry shall propose the deletion of the lien or take other actions necessary to terminate the insurance payment referred to in the preceding paragraph if the causer of the damage successfully implements all preventive or remedial measures in accordance with the provisions of this Act.

Articles 110.d and 110.e require the operator that caused the damage to carry out preventive or remedial measures, respectively.

Thus, article 110.f establishes mandatory financial security on an operator that has caused environmental damage under the ELD in the form of a lien on the operator’s property as well as a bank guarantee or insurance in favour of the Ministry of Agriculture and the Environment (now the Ministry of the Environment and Spatial Planning). The operator must have financial security in the form of a bank guarantee or insurance whether or not the operator or the Ministry carries out the remedial works.

The legislation does not specify whether the lien may be on any property owned by the operator, or whether it must be on the property that is being remediated.

8.1. **Date legislation or policy for mandatory financial security introduced**

ZVO-1B, which contains the provisions set out in section 8 above, entered into effect on 26 July 2008.

8.2. **Effective date for *ex post* mandatory financial security**

As indicated in section 8 above, the provisions that require *ex post* mandatory financial security became effective on 26 July 2008.

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

See section 8 above.

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

The legislation does not indicate any financial security instruments or mechanisms that are not acceptable.
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
Insurers in some Member States other than Slovenia provide financial security instruments in the form of environmental insurance policies to operators with facilities in Slovenia as well as other States, including Member States.

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

The study carried out by the Ministry of Agriculture and the Environment (now the Ministry of the Environment and Spatial Planning) on the feasibility of introducing mandatory financial security in 2010 recommended that the insurance industry should be encouraged to develop an ‘ELD product’ and to raise awareness of the need for such insurance policies. The report also stated that the acquisition of EMAS and ISO Standard 14001 by operators should be promoted and that persons responsible for preventing and remediating environmental damage should be informed about the issue (see section 5.2.3 above).

The EcoLex Life project, which ran from 15 July 2017 to 31 December 2019, raised awareness of the ELD, including financial security for liabilities under it, in Slovenia, especially among small and medium sized enterprises.

As indicated in section 3.8 above however, even though insurers considered developing an insurance policy to provide cover for ELD and other environmental liabilities, its development was postponed due to the lack of demand for such policies.

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 was transposed into Slovenian law by the Environmental Protection Act and the Decree on Waste Landfill (Uredba o odlagališčih odpadkov), is the Ministry of the Environment and Spatial Planning.

---

6 Uredba o odlagališčih odpadkov (Ur.l. RS, no. 10/14, 54/15, 36/16 and 37/180 (consolidated version); http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED6660 (in Slovenian)
11.1.2. Financial security provisions

Article 42 of the Decree on Waste Landfill provides that acceptable financial security instruments for closure and post closure (aftercare) are a bank guarantee, an insurance policy or a secure deposit at a bank.

The beneficiary of the financial security instrument is the Ministry of the Environment and Spatial Planning which may redeem the instrument if the operator does not submit a new financial security instrument by 30 days before maturity of the existing instrument or fails to carry out closure or post closure measures despite an inspector’s decision that the operator must do so and the measures are carried out by a third party.

If the operator of the landfill is a public entity that is solely owned by a municipality or a group of municipalities, the operator may provide a declaration of financial security instead of the above instruments. The declaration must contain an undertaking by the operator that it has a provision in its accounts devoted exclusively to closure and post-closure costs. Further, the municipality(ies) must confirm the declaration as well as confirming that the authority(ies) has approved the financial security provision as part of the risk management plan for the landfill.

If the State is the operator of the landfill, it does not have to provide any financial security.

The amount of financial security that is required may change depending on the closure and/or post closure measures already carried out, and still to be carried out, by the operator.

11.1.3. Financial security instruments and mechanisms accepted

See section 11.1.2 above.

11.1.4. Templates

There are no applicable templates.

11.1.5. Financial security instruments and mechanisms not acceptable

The only financial security instruments and mechanisms that are acceptable are those described in section 11.1.2 above.

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 Slovenia by the Decree on the management of waste from extractive industries (Uredba o ravnanju z odpadki iz rudarskih in drugih dejavnosti izkoriščanja mineralnih surovin), is the Ministry of the Environment and Spatial Planning.

11.2.2. Financial security provisions

Article 14 of the Decree provides that, before commencing any activity that involves the accumulation or deposit of mining waste, the operator must submit a financial guarantee to the competent authority in the form of a financial deposit, including a mutually agreed guarantee, or an equivalent guarantee (‘finančno garancijo v obliki finančnega pologa, vključno z vzajemno zajamčenimi finančnimi sredstvi, ki so jih zbrale gospodarske družbe, ali

7 Uredba o ravnanju z odpadki iz rudarskih in drugih dejavnosti izkoriščanja mineralnih surovin surovin (Uradni list RS, št. 43/08 in 30/11): http://pisrs.si/Pis.web/pregledPredpisa?id=URED4693 (in Slovenian)
enakovredno finančno jamstvo"). Article 14 further states that the amount of the guarantee shall fluctuate as remedial measures are carried out, and are still to be carried out.

Slovenia does not, however, have any facilities that are subject to the Extractive Waste Directive.

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

Not applicable

11.2.4. **Templates**

Not applicable

11.2.5. **Financial security instruments not acceptable**

Not applicable

11.3. **Carbon Capture and Storage Directive**

11.3.1. **Status of implementation**

Slovenia does not permit the geological storage of carbon dioxide on its territory with the exception of research and development purposes due to its geological conditions. An assessment of the technical and economic feasibility of retrofitting carbon capture and storage on a large scale combustion plant in Slovenia concluded that it was not economically feasible.

11.3.2. **Competent authority(ies)**

Not applicable

11.3.3. **Financial security provisions**

Not applicable

---


11.3.4. Financial security instruments and mechanisms accepted
Not applicable

11.3.5. Templates
Not applicable

11.3.6. Financial security instruments and mechanisms not acceptable
Not applicable

12. EU Recommendation on Hydraulic Fracturing

12.1. Status
There was no commercial fracking in Slovenia when this report was published.
A joint venture between Ascent Resources plc, an independent oil and gas exploration and production company headquartered in London, and concessioner Geoenergo, a Slovenian company that is co-owned by Petrol and Nafta Lendava (a Slovenian state-controlled energy company), carried out low volume hydraulic stimulation at the Petišovci concession in eastern Slovenia in 2011.

When this report was published, the wells had not been re-stimulated due to a demand by the Environment Agency (Agencija Republike Slovenije za okolje; ARSO) for an environmental impact assessment and a challenge to ARSO’s order by Geonergo and Ascent Resources.12

12.2. Competent authority(ies)
Not applicable

12.3. Financial security provisions
No applicable

12.4. Financial security instruments and mechanisms accepted
Not applicable

12.5. Templates
Not applicable

12.6. Financial security instruments and mechanisms not acceptable
Not applicable

---

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

13.1. **Industrial Emissions Directive**

13.1.1. *Competent authority(ies)*
The competent authority for the Industrial Emissions Directive (2010/75/EU), which is implemented in Slovenia by the Environmental Protection Act, is the Ministry of the Environment and Spatial Planning.

13.1.2. *Financial security provisions*
There are no requirements for financial security for operations that are subject to the provisions of the Environmental Protection Act that implement the Industrial Emissions Directive.\(^{13}\)

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 Slovenia by the Environmental Protection Act, is the Ministry of the Environment and Spatial Planning.

13.2.2. *Financial security provisions*
There are no requirements for financial security for operations in Slovenia that are subject to the provisions of the Environmental Protection Act that implement the Seveso III Directive.\(^{14}\)

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

---


\(^{14}\) See ibid
13.3. **Other legislation**

There is no other legislation in Slovenia that requires financial security for ELD or other environmental liabilities or responsibilities or civil liabilities involving environmental damage.

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

14.1. Competent authority(ies)

Not applicable

14.2. Status of offshore oil and gas operations

Slovenia is not carrying out any offshore oil and gas operations. Nor does it plan to do so in the foreseeable future.\(^{15}\)

14.3. Requirements for financial security

Not applicable

14.4. Requirement for financial security for ELD liabilities

Not applicable

15. **Failure of financial security**

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

As indicated throughout this report, financial security in the form of insurance policies for ELD and other environmental liabilities is not generally available in Slovenia. Extensions to general liability policies that provide cover for ELD and other environmental liabilities are available but only to a very limited extent. There are, therefore, no reports of inadequacies.

When this report was published, there was no reported information on the failure of other types of financial security agreements such as bank guarantees or bonds.

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

Article 29 of the Environmental Protection Act, which was in force before the ELD was transposed into Slovenian law, provides in pertinent part that:

\[\ldots\]

\((4)\) Bankruptcy panel shall exclude from the bankruptcy estate and transfer to the State the financial resources in the amount determined by the court appraisal referred to in the preceding paragraph before the owners of the bankrupt person responsible for burden are repaid.

\((5)\) Financial resources referred to in the preceding paragraph shall constitute State budget revenue and shall be used for the implementation of measures necessary

for the prescribed waste-management practice and polluted movables or immovables.

That is, if an operator causes environmental damage under the ELD (or otherwise causes pollution due to waste), assets in the bankruptcy estate are transferred to the State to pay to remediate the damage before creditors of the estate are entitled to the assets.

In addition, article 3 of the ZVO-1B amended article 9 of the Environmental Protection Act.

Article 9, which is in the part of the Environmental Protection Act that sets out the basic principles of environmental protection, had previously provided as follows:

1. The person responsible for an excessive burden shall be held criminally responsible and liable for damages in accordance with the law.

2. The person referred in the preceding paragraph and the successor in title shall eliminate, in accordance with the law, the source and consequences of the excessive burden.

3. The person responsible for environmental burden shall be responsible for such burden even in the case of liquidation or bankruptcy in accordance with this Act.

Following the amendments, article 9 reads as follows:

1. The causer of pollution shall be responsible for eliminating the source of excessive negative effects on the environment and its consequences in accordance with this Act.

2. The causer of pollution shall be responsible for the prevention and remedying of environmental damage in accordance with this Act.

3. The causer of pollution shall also be liable for environmental impact in the event of bankruptcy or liquidation in accordance with this Act.

Article 9 does not clearly state whether it means that the assets of the bankruptcy estate must be used for remediation measures before creditors of the estate are entitled to any assets from it, or whether this is not the case.

If the bankruptcy estate does not have sufficient assets to remediate environmental damage caused by the bankrupt operator, the Slovenian Government (Vlada Republike Slovenije) pays the costs or the damage is not remediated.

15.3. Other

No other instances of the failure of financial security for environmental liabilities were available.

16. Funds

There are no funds in Slovenia that provide funding for preventing and remediating environmental damage if the operator that caused the damage cannot be found or is not sufficiently financial viable.

16.1. Name(s)

Not applicable
16.2. Extension of existing fund to cover remedial costs under the ELD

The 2012 study carried out by the Ministry of Agriculture and the Environment, described in section 5.2.3 above, considered whether a public fund should be created for preventing and remediating environmental damage. The study concluded that a public fund should not be introduced, especially because (it concluded) no Member State had such a fund and, therefore, there was no experience of one to analyse or analogise.

The study recommended examination of the feasibility of the Slovenian Environmental Fund (Nataša Cernila Zajc; also known as the Eco Fund) to provide funding to remediate environmental damage when the Slovenian Government becomes liable for the costs of the remedial measures under the ELD.

The Eco Fund was established pursuant to articles 143 to 146 of the Environmental Protection Act. Its main purpose is to promote development in the area of environmental protection including providing loans for environmental projects.16

The Eco Fund had not been extended to provide funding for preventing and remediating environmental damage when this report was published.

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

---

BIBLIOGRAPHY

European Union

Reports


Slovenia

Legislation

Decree on the management of waste from extractive industries (Uredba o ravnanju z odpadki iz rudarskih in drugih dejavnosti izkoriščanja mineralnih surovin); [http://pisrs.si/Pis.web/pregledPredpisa?id=URED4693](http://pisrs.si/Pis.web/pregledPredpisa?id=URED4693)

Decree on Waste Landfill (Uredba o odlagališčih odpadkov); [http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED6660](http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED6660)

Environmental Protection Act (V.a - Zakon o varstvu okolja (ZVO-1, Ur.l. RS št. 39/2006); [https://www.tax-fin-lex.si/Dokument/Predogled?rootEntityId=ae_82d3cc16-3fd9-497a-80f0-ba2fbb251c6d](https://www.tax-fin-lex.si/Dokument/Predogled?rootEntityId=ae_82d3cc16-3fd9-497a-80f0-ba2fbb251c6d) and [http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1545](http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1545)

Law on amendments and additions to the Law on Environmental Protection (Zakon o spremembah in dopolnitvah Zakona o varstvu okolja (ZVO-1B)); [http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5035](http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5035)

Reports

‘Eco Fund, Slovenian Environmental Public Fund’; [https://www.ekosklad.si/information-in-english](https://www.ekosklad.si/information-in-english)

‘Eko sklad, Slovenski okoljski javni sklad’; [http://www.ekosklad.si/](http://www.ekosklad.si/)

Ministry of Agriculture and the Environment, ‘Definition of potential financial security instruments and related markets for the purpose of insuring liability for preventing and remediying environmental damage’ (Ljubljana, 2010)

Ministry of Agriculture and the Environment, ‘Feasibility study on financial security for preventing and remediying environmental damage in the form of mandatory insurance or a public fund’ (Ljubljana, 2012)

Improving financial security in the context of the Environmental Liability Directive

30.4.2004, p. 56; the ELD), in accordance with Article 18(1) of that Directive’ (2013); http://ec.europa.eu/environment/legal/liability/pdf/eld_ms_reports/SV.pdf

**Articles and reports**


EcoLex, ‘About the project; The reasons for the project EcoLex LIFE’; https://ecolexlife.si/about-the-project/

‘Petišovci refinery gets green light but fracking permit still pending’ (8 April 2019); https://www.investslovenia.org/it/media-e-notizie/ultime-novita/petisovci-refinery-gets-green-light-but-fracking-permit-still-pending-5550/
