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LIABILITY FOR ENVIRONMENTAL CONTAMINATION ON REAL ESTATE

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I. Greek legislation has adopted the "**polluter pays**" principle, in line with the European Union's environmental policy based on the principles of precaution, prevention and remediation of environmental damage at source. More specifically:

The 'polluter pays' principle was implemented by Directive 2004/35/EC of the European Parliament, the Environmental Liability Directive, which aims to prevent and/or remedy environmental damage.

This Directive was incorporated into the Greek legislation by the **Presidential Decree 148/2009** "Environmental Liability for the prevention and remediation of damage to the environment" in full harmonization with Directive 2004/35/EC.

The purpose of the Decree is to establish environmental liability based on the "polluter pays" principle, by laying down measures, terms and procedures so that any operator whose activity has caused environmental damage or imminent threat of environmental damage is in



principle financially responsible for taking the necessary measures to prevent and/or remedy the environmental damage (Article 2 of the Decree - Article 1 of the Directive).

II. **Environmental damage**, according to the article 3 of the Decree and the article 2 of the Directive, is defined as

- Damage to protected species and natural habitats
- Damage to waters
- Damage to soil

The scope of this Decree, according to the Article 4 of the Decree and the article 3 of the Directive, refers to:

(a) environmental damage and any imminent threat of such damage caused by the pursuit of the professional activities listed in Article 21, Annex III, irrespective of the operator's fault.

(b) environmental damage and any imminent threat of such damage caused to protected species and natural habitats by the pursuit of professional activities other than those listed in the aforementioned Annex III, irrespective of the operator's fault.

III. The **competent authority** for the implementation of the Decree is the Ministry of the Environment, Urban Planning and Public Works (which has been renamed as the **Ministry of Environment and Energy**) and the Regions of the country (Article 6 of the Decree - Article 11, paragraphs (1) & (2) of the Directive).

IV. The measures for the prevention and remediation of environmental damage are defined to Chapter B of the aforesaid Decree.

The operator for this purpose has to:

- Take all necessary preventive measures in the event of an imminent threat of environmental damage
- Take all objectively feasible measures to control, contain, remove or manage the damaging factors when environmental damage occurs.
- Pay the cost of assessing the environmental damage.
- Pay the costs of prevention and remediation actions.



V. **The restoration of environmental damage** is divided into three (3) stages:

- Primary
- Supplementary
- Compensatory

Operators of professional activities falling within the scope of this Decree, in order to cover their liability arising from its provisions, may make use of financial security (private insurance as well as other forms of financial guarantees) (Article 14 of the Decree - Article 14 of the Directive).

If the operator has not acted fraudulently or negligently, he may be exempted from liability for the damage caused. This also applies if he acted within the scope of his activity and if the emission or the event that caused the damage was expressly foreseen in the license granted by the public authority for the exercise of his activity.

In conclusion, the person liable for environmental damage to immovable property is the actual polluter, whether or not he is the owner of the property.

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