

# Avosetta Meeting on ELD (Ghent, 1-2 June 2007)

## Belgian Report

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### INTRODUCTION

Environmental policy in Belgium falls largely within the remit of the three autonomous regions: the Flemish Region, the Walloon Region and the Brussels-Capital Region. This is particularly the case for *environmental protection (including soil protection and water management) and nature conservation* (Art. 6(1), of the Special Act of 8 August 1980 on institutional reform (further: SAIR)<sup>1</sup>. However, in some areas, which are relevant to the subject matter dealt with, the federal authority is competent.

In the first place, the *marine environment* falls out the territorial competence of the regions. The application of the ELD in the Belgian part of the North Sea is thus a federal competence. In the second place the *organisation of justice and civil law (including civil liability)* is a federal matter. Pursuant to the first point of the second paragraph of Article 6(1) SAIR, the federal Government is also responsible for drawing up *product standards*. Product standards are defined as “*standards that establish the degree of pollution or nuisance which may not be exceeded in the composition or during the emission of a product, or which include specifications concerning product characteristics, methods of use, sampling standards, packaging, marking and labelling*”. A product standard is applicable *when the product is placed on the market, inter alia*, at the time of its introduction, importation or possession, for the purpose of sale or making available to a third party, offer for sale, offer for rent, rent etc.<sup>2</sup> Requirements relating to environmental protection which apply *after* the product has been placed on the market, such as those concerning the use or release of products, come under the power of the Regions and not of the federal authorities<sup>3</sup>. Federal Government is also competent for *transit of waste, civil protection, transportation of dangerous goods, the regulation of dangerous substances, biocides and plant protection products* and some aspect of *biotechnology*<sup>4</sup>.

The first step in the implementation process in Belgium was to figure out which level of government should do what for the implementation of the ELD. Therefore a study was conducted by Ghent University<sup>5</sup>. Although the main proposal – to conclude a Cooperation Agreement between the Federal and Regional Governments for the implementation of the ELD - was not followed, the conclusions of the study on the division of competences between the federal and regional governments were accepted by all this governments and were taken as guidelines for the implementation.

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<sup>1</sup> E. DE PUE, L. LAVRYSEN and P. STRYCKERS, *Milieuzakboekje 2005*, Wolters Kluwer Belgium, Mechelen, 2005, p. 23.

<sup>2</sup> D. MISONNE et al., *Legal constraints on national measures to promote environment-friendly products*, Brussels, Belgian Science Policy, 2004, p. 13

<sup>3</sup> *Ibid.*, p. 14.

<sup>4</sup> See L. LAVRYSEN, Avosetta Meeting on GMOs (Siena, 29-30 September 2006), Belgian Report, pp. 1-3

<sup>5</sup> H. BOCKEN, L. LAVRYSEN, F. MAES, G. VAN HOORICK, A. CLIQUET, S. DELODERRE, P. DE SMEDT, L. GOETHALS, G. GONSAELES, R. SLABBINCK, T. VAN NIEUWERBIRGH, *Impactstudie Richtlijn Aansprakelijkheid Milieuschade (I.R.A.M)*, Ghent, 2005.

In general terms we can say that the bulk of the ELD has to be transposed by the 3 regions<sup>6</sup>, but that a federal initiative was necessary for introducing the provisions on preventive actions in the federal legislation on GMO's, the federal legislation on transport of dangerous goods and the transit of waste and in the federal legislation on civil protection.

Given this division of competencies it is obvious that it was impossible in Belgium to regulate the whole issue in one piece of legislation applicable for the whole country. Furthermore some of the regions are more ahead than others in the implementation process.

**I. CAN YOU GIVE SOME CONCISE INFORMATION ABOUT YOUR NATIONAL ENVIRONMENTAL LIABILITY SYSTEM?**

- Are there special provisions on civil liability for environmental damage?
- Are there other (administrative type of) special provisions and procedures concerning the prevention and remedying of environmental damage? Do they have a general nature or are they only applicable in one or another environmental field (e.g. soil pollution) ?

With regard to certain environmental effects or incidents, the Belgian legislators created a number of specific environmental liabilities in addition to the application of general rules of tort law. In the context of the transposition of the Environmental Damage Directive, especially the Flemish Decree of 22 February 1995 on soil sanitation<sup>7</sup>, the Federal Act of 20 January 1999 on the protection of the marine environment in the maritime areas under the jurisdiction of Belgium<sup>8</sup> and the 'GMO clause'<sup>9</sup> merit particular attention.

*Soil contamination*

Whoever causes soil pollution by an emission is liable for the costs of decontaminating the soil, including the exploratory soil examination, the descriptive soil examination, the soil remediation or other measures taken, and for the damage that may result from these activities or measures as well as from the restrictions on the use of the land or the precautionary measures. However, if the emission causing the soil pollution originates from an establishment or an activity for which an environmental licence or notification is required, it is the operator of this establishment or activity who is liable. In cases of several persons liable for one and the same instance of soil pollution, they will be held jointly and severally liable.

This (no-fault) liability rule only applies to soil contamination which has occurred after 29 October 1995, *i.e.* the date of entry into force of the Decree. Similar to the Directive, the Decree makes a distinction between the liability for decontamination costs (cost allocation) and the obligation to carry out the soil remediation. In the first place the latter is imposed on the permit or licence holder of the land where the soil contamination originated. In other cases this obligation is channelled to the proprietor or the person in control. Under some conditions, these persons can invoke the 'innocent landowner' defence. The person who had to carry out the decontamination, may be able to recover the expenses thereof from the person who caused the pollution.

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<sup>6</sup> Except as far as the marine environment is concerned, which is a complete federal issue.

<sup>7</sup> *Belgian Official Journal* 29 April 1995.

<sup>8</sup> *Belgian Official Journal* 12 March 1999.

<sup>9</sup> Royal Decree of 21 February 2005 regulating the deliberate release in the environment and the placing on the market of genetically modified organisms or derived products, *Belgian Official Journal*, 24 February 2005.

The objective of the clean-up is to bring the contaminated land back to the quantitative soil quality standards set out in the Order of the Flemish Government concerning the Establishment of the Flemish Regulation on Soil Remediation ('VLAREBO')<sup>10 11</sup>.

### *Marine environment*

The Federal Act of 20 January 1999 deals with the protection of the marine environment in the marine areas under Belgian jurisdiction<sup>12</sup>. One of the objectives is to safeguard the integrity and the biodiversity of the marine environment. This is realized by measures to repair damage and to restore environmental disruption 'to its original condition as much as possible'. 'Damage' is defined as "any damage, loss or prejudice suffered by an identifiable natural or legal person as a result of degradation of the marine environment, whatever its cause"<sup>13</sup>. 'Environmental disruption' ('milieuverstoring') is "the negative impact on the marine environment, insofar it does not amount to damage"<sup>14 15</sup>. The law specifically addresses biodiversity damage and damage to coastal habitats. Strictly liable will be any person, who, as a result of an accident or a breach of legislation, negatively affected the marine areas. The victim suffering damage has a right of reparation, as does the state in the case of environmental disruption. Further, the liable party is required to reimburse the costs of remedial measures taken by others insofar these costs are not unreasonably high in the light of the results to be achieved for protection of the marine environment.

### *Genetically Modified Organisms*

According to Article 13, § 2, f of the Royal Decree of 21 February 2005 regulating the deliberate release in the environment and the placing on the market of genetically modified organisms or derived products, the notifier has to make the following statement: "I, signatory, the notifier, assume full civil liability concerning all damages caused to human or animal health, to goods or to the environment as a result of trial testing".

- Is your country party to the international conventions listed in the annexes IV and V of Directive 2004/35/EC?

Belgium is party to

- the Protocol of 27 November 1992 amending the International Convention on Civil Liability for Oil Pollution Damage (CLC)<sup>16</sup>;
- the International Convention of 27 November 1992 on the Establishment of an International Fund for Compensation for Oil Pollution Damage (IOPCF)<sup>17</sup>;
- the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy and the Brussels Supplementary Convention of 31 January 1963<sup>18</sup>;

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<sup>10</sup> *Belgian Official Journal* 27 March 1996.

<sup>11</sup> The Walloon and Brussels Region recently adopted resp. the Decree of 1 April 2004 regarding the sanitation of contaminated land and the redevelopment of factory spaces and the Ordinance of 13 May 2004 regarding the management of contaminated land. See also the Background Document of S. DELODDERE & D. RYCKBOST, "Liability for Contaminated Sites", Ghent, 1997, 16p, available on <http://europa.eu.int/comm/environment/liability/background.htm>

<sup>12</sup> See in this respect L. PROOT and H. BOCKEN, "Environmental Damage and Belgian Law" in *Marine Resource Damage Assessment*, F.MAES (ed.), Springer, Dordrecht, 2005, 27-42.

<sup>13</sup> Article 2, 6°.

<sup>14</sup> Article 2, 7°.

<sup>15</sup> This approach was inspired on Part 9 (compensation of damage caused by pollution) of the Draft Decree on Environmental Policy as elaborated by the Interuniversity Commission for the reform of environmental law in the Flemish Region, a.k.a. the Bocken Commission.

<sup>16</sup> Act of 10 August 1998, *Belgian Official Journal* 16 March 1999.

<sup>17</sup> Act of 10 August 1998, *Belgian Official Journal* 16 March 1999.

<sup>18</sup> Act of 22 July 1985, *Belgian Official Journal* 31 August 1985.

- the Brussels Convention of 17 December 1971 relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material<sup>19</sup>.

At the moment, in view of the application of the Directive, Belgium is considering accession to the International Convention of 23 March 2001 on Civil Liability for Bunker Oil Pollution Damage (Bunker Oil Convention) and the International Convention of 3 May 1996 on Liability and Compensation in connection with Carriage of Hazardous and Noxious Substances by Sea (HNS).

## II. IMPLEMENTATION OF DIRECTIVE 2004/35/EC

### 2.1. General status of implementation:

- Has Directive 2004/35/EC already been fully implemented?

**Flemish Region:** not yet.

**Walloon Region:** not yet.

**Brussels Region:** not yet.

**Federal Authority:** not yet.

- If not, is it under way?

**Flemish Region:** The decree on environmental damage is under way (further amendments to the draft decree as a result of the advice of 17 April 2007 of the Council of State – adopted by the Flemish government – will be submitted to the Flemish Parliament before July 2007 – further government legislation is required).

**Walloon Region:** The process is under way (second reading at the Walloon Parliament – waiting for the opinion of the Council of State).

**Brussels Region:** Still in internal consultation process, not yet submitted to the Brussels Parliament.

**Federal Authority:** An amendment to the law of 31 December 1963 on civil protection and a new period of limitation for the recovery of costs by the public authorities in the civil code is published in the Belgian Official Journal of 8 May 2007. An amendment to the Federal Act of 20 January 1999 on the marine environment is published in the Belgian Official Journal of 10 May 2007, but further government legislation is needed. Royal Decree's on the deliberate introduction of GMO's and the transport of dangerous goods and the transit of waste are submitted to the federal ministerial council.

- Have deficiencies of the Directive been identified during national discussions ?

Yes. For instance:

- a lack of clarity in the definition of operator (is the inclusion of “*the holder of a permit or authorisation for such an activity or the person registering or notifying such an activity*” automatic or left to the choice of Member States?);
- the precise scope of the notion of “occupational activity”;
- the possible link to environmental impact assessment processes and remediation mechanisms;
- an apparent contradiction between Art.8 and Art.14 regarding financial guarantees (Cfr H. BOCKEN, “Financial Guarantees in the Environmental Liability Directive – Next Time Better”, *EELR*, January 2006, p.13);
- a contradiction between Article 5.3.d EDD and Article 5.4 EDD (the competent authority may, *at any time*, take the necessary preventive measures itself (Article 5.3.d EDD), but the

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<sup>19</sup> Act of 11 April 1989, *Belgian Official Journal* 6 October 1989.

competent authority *shall* also require that the preventive measures are taken by the operator (Article 5.4 EDD)). Idem for Article 6.2.e and Article 6.3.

- Identifying ‘additional responsible parties’ (Article 16.1 EDD). It is unclear whether the Directive allows the competent authority to act directly against this ‘additional’ party (for instance, the owner or occupier of the polluted land when he is not the operator having caused the pollution) instead of the operator.

## 2.2. *General approach of implementation.*

- Has your country reduced the level of environmental protection as a consequence of the Directive?

No appraisal yet

- Did your country opt for a comprehensive piece of legislation to transpose the Directive? A Separate Act or a new Chapter of a General Act?

**Flemish Region:** A comprehensive piece of legislation: a new chapter (‘Environmental Damage’) in the Decree containing General Provisions on Environmental Policy, with a horizontal dimension.

**Walloon Region:** The Directive is implemented via a new Chapter inserted in the Environmental Code (Part I, General provisions), due to its horizontal dimension (not a sector by sector approach).

**Brussels Region:** The Directive shall be implemented by a separate Act (because there is no general codification of Environmental Provisions in the Brussels Region yet), with a horizontal dimension (not a sector by sector approach).

**Federal Authority:** Several pieces of legislation (see below).

- Did your country opt for amending several pieces of legislation?

**Flemish, Walloon and Brussels Region:** See below

**Federal Authority:** Due to its competence in some areas, several / sectoral pieces of legislation are amended / created: Amendments to the law of 31 December 1963 on civil protection and the Federal Act of 20 January 1999 on the marine environment – A new provision in the Civil Code containing a period of limitation for the recovery of costs by the public authorities – draft Royal Decree’s on (1) the deliberate introduction of GMO’s and (2) the transport of dangerous goods and the transit of waste.

- Did your country opt for a combination of these two approaches?

**Flemish Region:** Only the remedying of land damage is separated from the Decree on Environmental Damage. The soil clean-up regime in the Decree on Soil Sanitation of 22 December 1995 is maintained and amended.

**Walloon Region:** The second approach is used as a complement to the first approach, where necessary: a few small adaptations are being made to the Decree on Nature Conservation.

**Brussels Region:** The second approach is used as a complement to the first approach, where necessary: small adaptations to the “Decree” (so-called Ordonnance) on Environmental Inspection and, possibly, to sectoral legislation such as the Nature Conservation Decree are also being made.

**Federal Authority:** See above

- Did your country opt for a mere transposition of the minimum requirements of the Directive or introduced stricter provisions?

**Flemish Region:** Minister for the environment says ‘no gold-plating’

**Walloon Region:** no stricter provisions

**Brussels Region:** plans to adopt a few stricter provisions.  
**Federal Authority:** no stricter provisions

### ***2.3. Options taken during the transposition process (please focus on innovations in your country legislation with respect to the text of the Directive)***

#### ***2.3.1. Definitions***

- How is the definition of environmental damage implemented?

**Flemish Region:** provisions of the Directive + links to the decree on nature conservation, the decree on integral water policy and the decree on soil sanitation.

**Walloon Region:** provisions of the Directive + specific links to contaminated land and water quality legislation.

**Brussels Region:** provisions of the Directive + specific links to contaminated land and water quality legislation.

**Federal Authority:** provisions of the Directive.

- Did your country include in the notion ‘protected species and natural habitats’ habitats or species, not listed in the Annexes of the Birds and Habitat Directives? (art. 2.3 (c) )

**Flemish Region:** Additional protected species and natural habitats can be indicated by the Flemish Government.

**Brussels Region:** Plans to include other protected areas, such as all forest areas.

- Is land damage protected just in case of significant risk of adverse effect on human health?

**Flemish Region:** significant risk of adverse effects not only on human health but also on the environment.

**Walloon Region:** Yes, indeed.

**Brussels Region:** Yes, indeed.

- When is the conservation status of a natural habitat taken as favourable?

**Flemish Region:** Cfr. the definition of the Directive.

**Walloon Region:** Link to Nature conservation legislation (cfr Habitat Directive)

**Brussels Region:** Cfr definition of the Directive.

- What about the definition of “operator”? Are persons ‘to whom decisive economic power over the technical functioning of such an activity has been delegated, including the holder of the permit or authorization for such an activity or the person registering or notifying such an activity’ included? (art. 2.6)

**Flemish Region:** Yes (The decree on environmental damage uses the definition of the Directive). On the other hand, the decree on soil sanitation still refers to the definition of operator in the decree on environmental permits, which is narrower.

**Walloon Region:** Absorbs the definition at large, as a principle, but streamlines it where the activity is submitted to a permit or a notification. Art. D-94, 8°: when the occupational activity is submitted to an environmental permit (which is required for most activities which are a potential source of nuisance, and not only for IPPC listed ones), the operator is (and only is) the holder of the permit. When the occupational activity is submitted to a notification requirement, the operator is (and only is) the

notifier. As a consequence, the possibility to call the person with “the decisive economic power” remains very narrow.

**Brussels Region:** Large definition, including the decisive economic power.

**Federal Authority:** Yes (Cfr. the definition of the Directive)

### 2.3.2. Scope

- Did your country opt for a double system of liability (strict and fault based) or for a more stringent regime as allowed by art 3.2?

**Flemish Region:** No stricter regime.

**Walloon Region:** No stricter regime.

**Brussels Region:** No stricter regime.

**Federal Authority:** No stricter regime.

### 2.3.3. Exceptions

- Which are the exceptions to the scope of the liability regime in your country? (art 4)

**Flemish Region:** Idem art.4.

**Walloon Region:** Idem art.4.

**Brussels Region:** Idem art.4.

**Federal Authority:** Idem art.4.

- What about the permit defence and the state of the art defence (art. 8.4)?

#### Permit defence

**Flemish Region:** Adopts the permit defence

**Walloon Region:** In its first draft, the Walloon Region did not plan to adopt the permit defence but soon changed its position after the consultation round with the main stakeholders.

**Brussels Region:** Does not plan to adopt the permit defence, so far. Is thinking about a possible modulation: the permit defence would only be admitted for the authorizations which are delivered or renewed after the entry into force of the new legislation. This solution would prevent the possibility to benefit from a defence offered by old permits, and probably provoke a general renewal of the administrative authorisations.

**Federal Authority:** The amended Federal Act of 20 January 1999 on the marine environment does not adopt the permit defence.

#### State of the Art

**Flemish Region:** Adopts the state of the art defence

**Walloon Region:** Adopts the state of the art defence

**Brussels Region:** Plans not to adopt the state of the art defence (because it would not be compatible with a precautionary approach).

**Federal Authority:** The amended Federal Act of 20 January 1999 on the marine environment does not adopt the state of the art defence.

### 2.3.4. Preventive and remedial actions

- When are preventive (art 5) and remedial (art 6) actions taken by the operator?

**Flemish Region:** Idem Directive + the decree on soil sanitation contains a lower threshold for the remediation of land damage (and is thus more stringent).

**Walloon Region:** Idem Directive + Link to existing legislations on contaminated land (Decree 1<sup>st</sup> April 2004) and water quality.

**Brussels Region:** Idem Directive.

**Federal Authority:** Idem Directive.

- Which is the role of the competent authority?

**Flemish Region:** Idem Directive.

**Walloon Region:** Idem Directive.

**Brussels Region:** Idem Directive.

**Federal Authority:** Idem Directive.

- Is there any way for environmental organisations to participate in the negotiations between the polluter and the administration on the restoration ? Are these discussions public ?

**Flemish Region:** No specific public consultation.

**Walloon Region:** No specific public consultation.

**Brussels Region:** No specific public consultation.

**Federal Authority:** No specific public consultation.

- Are there provisions to develop in further details the common framework concerning the remedying of environmental damage (Annex II)?

**Flemish Region:** No. The decree on soil sanitation has an own procedure for the remediation of land damage.

**Walloon Region:** Nothing specific except for the link to the existing legislation on contaminated land (Decree 1<sup>st</sup> April 2004).

**Brussels Region:** Nothing specific except for the link to the existing legislation on contaminated land and water quality.

### ***2.3.5. Preventive and remedial costs***

- Is there a system of security over property or other appropriate guarantees (art. 8.2)? Is it a preventive system or shall such measures only be taken after environmental damage has occurred? How the system works?

**Flemish Region:**

Decree on Environmental Damage: Is left to the Government.

Decree on Soil Sanitation: The decree allows the competent authority to require the liable party to provide financial guarantees as a condition for the approval of a clean up project or for the transfer of polluted land. The financial guarantees thus are only required after the soil pollution has been established.

**Walloon Region:** Art. D-128, §2. A financial guarantee can be required by the public authority. Four possibilities: an unlimited bank guarantee, a bank deposit, a security bond or a mortgage bond.

**Brussels Region:** further details left to the Government.

- Is there a special provision to give effect to art. 8.3, *in fine* (appropriate measures to enable the operator to recover the costs incurred in cases the operator shall not be required to bear the cost of preventive or remedial actions)? Must the operator in such cases nevertheless take the remedial measures? Or are they taken by the authorities?



**Flemish Region:** The Flemish Government shall take the necessary steps to enable the operator to recover the costs. The operator must take the remedial measures itself.

**Walloon Region:** Art.D-132. There is a special provision indeed. The operator can obtain the refund of his costs (after the remedial actions), due to the respect of nine conditions:

1° a specific request must be sent to the Competent authority;

2° a copy of the request must be sent to the owner of the property and to any person who introduced a request for action;

3° and 4° the Competent authority must confirm, within 20 days after the reception of the request, that no other data are required – or say which other documents are required;

5° the operator and other interested persons are heard by the Competent authority;

6° the Competent authority takes a decision as to the adequateness of the remedial actions;

7° and 8° the decision is notified to the operator, within 90 days after the notification of the good reception of the request and specifies the other possible legal remedies (D.134: appeal to the Walloon Government). If the Competent authority does not notify its decision on time, a notice can be given by the operator, to which the defect of reaction within 30 days means the rejection of the demand for reimbursement.

9° other provisions deal with the possibility to call for refund by third party (Art.8.3.a).

**Brussels Region:** further details left to the Government.

**Federal Authority:** Draft Royal Decree's on the deliberate introduction of GMO's and the transport of dangerous goods and the transit of waste: left to the competent minister.

### **2.3.5. Cost allocation**

- Are there national provisions within the meaning of article 9?

**Flemish Region:** solidarity

**Walloon Region:** common rules apply (solidarity)

**Brussels Region:** solidarity is the rule in cases of multiple party causation.

### **2.3.6. Competent authority**

- Which authority or authorities were designated for the purposes of article 11?

**Flemish Region:**

Decree on Environmental Damage: The Flemish Government will assign the competent authority within the Department for Environment, Nature & Energy of the Flemish Ministry. One or more tasks can be delegated to the agencies in the Department for Environment, Nature & Energy.

Decree on Soil Sanitation: the Public Waste Agency of Flanders ('OVAM') stays the competent authority.

**Walloon Region:** various authorities are designated: the regional administration in charge of the Environment, the Walloon Government itself or its delegates, the municipalities.

**Brussels Region:** various authorities are designated: the regional Institute for the Environment, specific regional administrations (waste management authorities, water protection authorities, the municipalities).

**Federal Authority:** The Federal Public Service Environment is the competent authority.

- Which remedies are available when preventive or remedial measures are imposed? (art. 11.4)

**Flemish Region:** Decree on Environmental Damage: appeal to the Minister for the environment.

**Walloon Region:** nothing specific (Council of State).

**Brussels Region:** appeal to a specific administrative jurisdiction, the "College for the Environment"

### **2.3.7. Request for action**

- Which of the alternatives listed in art. 12.1. were chosen ?

**Flemish Region:** a and b and the legal persons who can claim cfr. the law of 12 January 1993 on the right to claim for the protection of the environment

**Walloon Region:** a and b

**Brussels Region:** a and b

**Federal Authority:** Draft Royal Decree's on (1) the deliberate introduction of GMO's and (2) the transport of dangerous goods and the transit of waste: a

- Is article 12 only applied in cases of remediation of environmental damage or also in cases of imminent threat of damager ? (art. 12.5)

**Flemish Region:** only remediaton

**Walloon Region:** only remediation

**Brussels Region:** also imminent threat of danger

**Federal Authority:** Draft Royal Decree's on (1) the deliberate introduction of GMO's and (2) the transport of dangerous goods and the transit of waste: also imminent threat of danger

- What type of review procedure is available under national law ? (art. 13)

**Flemish Region:** Decree on Environmental Damage: appeal to the Minister for the environment (+ Council of State)

**Walloon Region:** nothing specific (Council of State). Regarding the request for action (art.12), there is also a specific review by Walloon Government (D-139)

**Brussels Region:** appeal to a specific administrative jurisdiction, the "College for the Environment". Regarding the request for action (art.12), there is also a specific review by the Minister in charge of the Environment.

**Federal Authority:** Council of State.

### **2.3.8. Financial security**

- How was article 14 implemented?

**Flemish Region:** The Flemish Government organised a stakeholder meeting on financial security on 17 April 2007. The meeting was attended by representatives from the Flemish and federal environment administrations, the ministry for economy, the Belgian insurance association and two insurers, the Belgian banking federation and four banks, industry organisations, the Environment and Nature Advisory Council, the Flemish Socioeconomic Council, environmental NGO's and academics. The purpose of the meeting was to exchange information on the state of the transposition of the Environmental Liability Directive in Belgium and to have an informal discussion on (1) possible instruments of financial security for environmental damage, (2) the role of the government in this process to encourage such financial security, (3) the idea to set up a contact group. The report of this meeting shall be transmitted to the European Commission and other Member States.

**Walloon Region:** Nothing specific

**Brussels Region:** Nothing specific

**Federal Authority:** Nothing specific.

### **2.3.9. National law**

- Were additional activities included in the scope of the regime? Were additional responsible parties identified?(art. 16.1)

**Flemish Region:** NO, but in our opinion nearly all occupational activities fall under the scope of the ELD

**Walloon Region:** NO

**Brussels Region:** A few additional activities might be included, in order to match the current categories of classified installations: the proposal plans to include all classes IA and IB, which cover more than IPPC installations.

- Are there special provisions to prevent a double recovery of costs in cases of concurrent action ? (art. 16.2)

**Flemish Region:** Nothing specific

**Walloon Region:** Nothing specific

**Brussels Region:** Nothing specific

**Federal Authority:** Nothing specific

### ***2.3.10. Temporal application***

- How was article 17 implemented?

**Flemish Region:** idem Directive.

**Walloon Region:** idem Directive.

**Brussels Region:** idem Directive.

**Federal Authority:** idem Directive.

### ***2.3.11. Transboundary environmental damage***

- How the system works in case of environmental damage in a transboundary context ?

**Flemish, Walloon and Brussels Region:** a common clause is supposed to organize the inter-state or inter-regions cooperation, in order to impose an appropriate information exchange, with no many details though.