

Liability for Prevention and Remedying of Environmental Damage Act

Promulgated, State Gazette No. 43/29.04.2008, amended, SG No. 12/13.02.2009, effective 1.01.2010(*) - amended, SG No. 32/28.04.2009, amended, SG No. 35/12.05.2009, effective 12.05.2009, SG No. 77/1.10.2010, SG No. 98/14.12.2010, effective 1.01.2011, SG No. 92/22.11.2011, supplemented, SG No. 14/17.02.2012, effective 17.02.2012, amended, SG No. 53/13.07.2012, effective 13.07.2012, amended and supplemented, SG No. 62/14.08.2015, effective 14.08.2015, amended, SG No. 101/22.12.2015, effective 22.12.2015, SG No. 58/18.07.2017, effective 18.07.2017, amended and supplemented, SG No. 96/10.11.2020, amended, SG No. 102/23.12.2022, effective 1.01.2023

*Note: An update of the English text of this Act is being prepared following the amendments in SG No. 102/8.12.2023, effective 12.12.2023

Text in Bulgarian: Закон за отговорността за предотвратяване и отстраняване на екологични щети

(*) *Editor's note.* On entry into force of the Liability for Prevention and Remedying of Environmental Damage Act with SG No. 12/13.02.2009, see paragraph only of the addition of the Act to supplement the Tax And Social Insurance Procedure Code (SG No. 32/2009).

Chapter One

GENERAL DISPOSITIONS

Section I

Subject Matter, Purpose and Scope

Article 1. This Act shall regulate the liability for the prevention and remedying of environmental of environmental damage through the furtherance of the "polluter pays" principle and in line with the principle of sustainable development.

Article 2. This Act shall determine:

1. environmental damage and the imminent threat of the occurrence of such damage;
2. the powers of the executive authorities and the rights and obligations of operators;
3. the procedures for choosing and taking preventive and remedial measures, including the procedures for consultations with the public;
4. the financial liability of operators and the financial and economic arrangements to secure the activities for the prevention and remedying of environmental damage;
5. the requirements for cooperation and exchange of information with other States and with the European Commission.

Article 3. This Act shall apply to environmental damage being caused or to any imminent threat of such damage occurring by reason of an act or failure to act:

1. as a result of carrying out any of the occupational activities listed in Annex 1 hereto;
2. as a result of carrying out any occupational activities other than those listed in Annex 1 hereto, whenever the operator or a third party has been at fault and has thus caused damage to protected species and natural habitats;
3. as a result of pollution of a diffuse character, where it is impossible to establish a causal link between the activity of a certain individual operator and an imminent threat of environmental damage or environmental damage caused by the said activity.

Article 4. (1) Within the meaning given by this Act, "environmental damage" shall be:

1. damage to protected species and natural habitats, which is any damage that has significant adverse effects on reaching or maintaining the favourable conservation status of such habitats or species;

2. (amended, SG No. 101/2015, effective 22.12.2015) damage to water which is any damage that significantly adversely affects:

(a) environmental, chemical and quantitative status and ecological potential of all surface and groundwater within the meaning of the Water Act excluding the negative effects under which Article 156f of the Water Act is applied, or

(b) the condition of the environment in the marine waters according to the ordinance under Article 135(1), Item 19 of the Water Act so far as particular aspects of the environmental status of the marine environment are not governed by the same Act;

3. (amended, SG No. 96/2020) soil damage, which is any land contamination that creates a significant risk of human health being adversely affected as a result of the direct or indirect introduction, in, on or under land, of substances, organisms or micro-organisms.

(2) The significance of the effects covered under Paragraph (1) shall be assessed with reference to the baseline condition, taking account of the criteria set out in Annex 2 hereto.

(3) The type of preventive and remedial measures in the cases provided for by this Act, as well as the minimum amount of costs for the execution thereof, shall be established by an ordinance of the Minister of Environment and Water.

Article 5. The provisions of this Act shall not apply to:

1. environmental damage or an imminent threat of environmental damage caused by:

(a) an act of armed conflict, hostilities, civil war or insurrection;

(b) a natural phenomenon of exceptional, inevitable and irresistible character;

(c) activities the main purpose of which is to serve national defence or international security;

(d) activities the sole purpose of which is to protect from natural disasters;

(e) an incident in respect of which liability or compensation for damage falls within the scope of any of the international conventions listed in Section I of Annex 3 hereto, whereto the Republic of Bulgaria is a party;

(f) nuclear risks and activities covered by the Treaty establishing the European Atomic Energy Community or caused by an incident or activity in respect of which liability or compensation for damage falls within the scope of any of the international conventions and protocols thereto listed in Section II of Annex 3 hereto;

(g) carrying out any activities which are permitted according to Item 1 of Article 31 (12) and Article 49 of the Biological Diversity Act;

2. environmental damage, if more than 30 years have passed since the emission, event or incident, resulting in the damage, occurred;

3. existence of a right of compensation for damage to the health of natural persons which has occurred as a result of environmental damage caused or of an imminent threat of environmental damage;

4. existence of a right of compensation for damage to property and economic loss of natural and legal persons;

5. damage provided for in international agreements whereto the Republic of Bulgaria is a party, for which the right of compensation is regulated according to the principle of civil liability;
6. past environmental damage, for which the procedure is established by § 9 of the Transitional and Final Provisions of the Environmental Protection Act;
7. (amended, SG No. 35/2009, effective 12.05.2009, supplemented, SG No. 62/2015, effective 14.08.2015) activities upon declaration of a disaster situation according to the Disaster Protection Act, except where the disaster situation is a result of cases within the meaning of Article 3.

Section II

Executive Authorities Powers

Article 6. The following authorities shall be competent under this Act:

1. the Minister of Environment and Water;
2. the directors of Regional Inspectorates of Environment and Water (RIEW);
3. the directors of basin directorates for water management;
4. the directors of national parks.

Article 7. (1) (Supplemented, SG No. 96/2020) The Minister of Environment and Water or an official authorised thereby:

1. shall issue an order on the application of preventive and remedial measures in the cases provided for by this Act;
2. shall hold consultations with the public and the operators upon determination of remedial measures;
3. shall apply the coercive administrative measures and shall impose the administrative sanctions provided for in the law;
4. shall represent the Republic of Bulgaria in dealings with other States and with the European Commission in connection with procedures related to environmental damage;
5. shall provide methodological guidance to and control over the authorities referred to in Item 2 to 4 of Article 6 herein for the application of this Act;
6. shall notify the Minister of Health and the Minister of Foreign Affairs in suspected cases of a risk for human health posed by transboundary environmental damage caused;
7. (amended, SG No. 96/2020) establish and maintain an information system on cases of imminent threat of environmental damage or environmental damage, including information on the European Commission under Regulation (EU) 1010/2019 of the European Parliament and of the Council of 5 June 2019 on the alignment of reporting obligations in the field of legislation related to the environment, and amending Regulations (EC) No. 166/2006 and (EU) No. 995/2010 of the European Parliament and of the Council, Directives 2002/49/EC, 2004/35/EC, 2007/2/EC, 2009/147/EC and 2010/63/EU of the European Parliament and of the Council, Council Regulations (EC) No. 338/97 and (EC) No. 2173/2005, and Council Directive 86/278/EEC (OJ, L 170/115 of 25 June 2019).

(2) The Minister of Environment and Water shall conduct the procedures for determination of preventive and remedial measures, where the imminent threat of environmental damage referred to in Items 1 and 3 of Article 4 (1) herein occurring affects the territory covered by two or more RIEWs or where an imminent threat or environmental damage, referred to in Item 2 of Article 4 (1) herein, affects the territory of more than one water basin management district.

(3) The Minister of Environment and Water shall conduct the procedures for determination of preventive and remedial measures where the imminent threat of environmental damage occurring or the environmental damage being caused affects more than one natural resource.

Article 8. (1) The Directors of RIEW, upon creation of an imminent threat or upon environmental damage caused, referred to in Items 1 and 3 of Article 4 (1) herein:

1. shall conduct inspections to identify the operator and to establish the imminent threat or the environmental damage caused
2. shall designate representatives for participation in the commissions under the Public Procurement Act in the cases referred to in Item 4 of Article 12 herein;
3. shall consider requests by members of the public for preventive and remedial action;
4. shall hold consultations with the public and with the operators upon determination of remedial measures;
5. shall prepare proposals to the Minister of Environment and Water on the taking of preventive and remedial measures in the cases provided for by this Act;
6. shall issue orders on the application of preventive and remedial measures in the cases provided for by this Act;
7. (amended, SG No. 98/2010, effective 1.01.2011, repealed, SG No. 96/2020).

(2) The directors of RIEW, upon an imminent threat of environmental damage occurring, referred to in Item 2 of Article 4 (1) herein, from activities generating waste waters:

1. shall conduct inspections to identify the operator and to establish the imminent threat;
2. shall notify without delay the directors of basin directorates within the scope of the relevant basin management district;
3. shall issue an order on the application of preventive measures.

Article 9. (1) (Amended, SG No. 96/2020) Outside the cases referred to in Article 8, Paragraph 2 herein, the director of a basin directorate shall take the actions referred to in Article 8, Paragraph 1, Items 1 to 6 herein where an imminent threat occurs or where environmental damage is caused, referred to in Article 4, Paragraph 1, Item 2 herein, within the scope of the water basin management district.

(2) The director of a basin directorate shall issue an order on determination of the remedial measures where environmental damage referred to in Item 2 of Article 4 (1) herein occurs as a result of any activities referred to in Article 8 (2) herein.

Article 10. (Amended, SG No. 96/2020) The director of a national park shall take actions under Article 8, Paragraph 1, Items 1 to 6 where an imminent threat of environmental damage occurs or where environmental damage is caused, referred to in Article 4, Paragraph 1, Item 1 herein, within the territory of the national park.

Article 11. (1) The Executive Director of the Executive Environment Agency (EEA):

1. shall create and maintain a database at a national level of:
 - (a) the status of protected species and natural habitats;
 - (b) the ecological, chemical and/or quantitative status, and/or ecological potential of the water bodies;
 - (c) the status of soils;

2. shall provide information under Item 1 to the Ministry of Environment and Water, the RIEWs, the basin directorates, with the exception of the information referred to in Item 1 (b), and the directorates of national parks for implementation of the functions thereof under this Act.

(2) (Amended, SG No. 92/2011, SG No. 58/2017, effective 18.07.2017, SG No. 102/2022, effective 1.01.2023) The necessary information referred to in Item 1 (c) of Paragraph (1) on the status of soil resources shall be provided ex officio to the Executive Director of the EEA by the Ministry of Agriculture.

(3) The necessary information referred to in Item 1 (b) of Paragraph (1) shall be provided to the Executive Director of the EEA by the directors of basin directorates.

Article 12. The regional governors:

1. shall assist the competent authorities referred to in Items 2 to 4 of Article 6 herein within the powers thereof to identify the operator that created an imminent threat of environmental damage occurring or that caused environmental damage;

2. shall designate the officials for participation in on-site inspections in cases of an imminent threat occurring or environmental damage being caused within the territory of the region;

3. shall notify the mayor of the municipality within whose territory environmental damage has been caused;

4. shall assign the application of preventive and remedial measures according to the procedure established by the Public Procurement Act in execution of the orders of the Minister of Environment and Water in the cases provided for by this Act.

Article 13. The executive authorities shall exchange information on cases of imminent threat of environmental damage and of environmental damage caused as established.

Article 14. Any competence disputes shall be resolved by the Minister of Environment and Water.

Section III

Public Register and Provision of Information

Article 15. (1) The Minister of Environment and Water shall create and maintain a public register of the operators that carry out occupational activities listed in Annex 1 hereto.

(2) The register referred to in Paragraph (1) shall contain information on:

1. business name of the operator;

2. occupational activity/activities listed in Annex 1 hereto, as carried out by the operator; brief description of each activity;

3. location of the site/sites whereon the activity is carried out (if appropriate);

4. mailing address, including telephone, telefax, electronic mail;

5. contact person;

6. Regional Inspectorate of Environment and Water covering the territory wherewithin the activity is carried out;

7. basin directorate for water management within whose district the activity is carried out.

Article 16. (1) The executive authorities who issue licences, permits, authorizations and certificates of registration for carrying out occupational activities listed in Annex 1 hereto shall provide information to the Minister of Environment and Water for maintenance of the public register referred to in Article 15 herein.

(2) The authorities referred to in Paragraph (1) shall provide the information within 60 days after the entry into effect of the relevant administrative act.

Article 17. (1) The operators that carry out the occupational activities listed in Annex 1 hereto, with the exception of the operators that have been issued licences, permits, authorizations and certificates of registration referred to in Article 16 (1) herein, shall provide information to the Minister of Environment and Water for maintenance of the public register referred to in Article 15 herein.

(2) The operators referred to in Paragraph (1) shall provide the information within 30 days after commencement of the activity.

Article 18. The operator shall be obligated to provide information, including own assessment, in connection with each imminent threat of environmental damage and with environmental damage caused at the request of the competent authority.

Article 19. The content of the public register referred to in Article 15 herein and the procedure for provision of information under Articles 16 and 17 herein shall be established by an ordinance of the Council of Ministers.

Article 19a. (New, SG No. 96/2020) (1) In the information system referred to in Article 7, Paragraph 1, Item 7 shall be collected and processed information for:

1. type of the imminent threat of environmental damage or of the environmental damage caused;
2. date of occurrence of the imminent threat of environmental damage or of the environmental damage caused and/or date on which the said threat or damage is established;
3. occupational activity listed in Annex 1 hereto as a result of which an imminent threat of environmental damage has occurred or environmental damage has been caused;
4. the date on which the procedure for prevention or elimination of an imminent threat of environmental damage or of the caused environmental damage has started;
5. applicant for the procedure for prevention or remedying of an imminent threat of environmental damage or of caused environmental damage - responsible operator, competent authority or representative of the public;
6. classification code under the Classification of Economic Activities of the National Statistical Institute for the activity which has resulted in the occurrence of the environmental damage;
7. initiated pre-trial proceedings or court cases in connection with an imminent threat of environmental damage or caused environmental damage;
8. result of the pre-trial proceedings or court cases under item 7;
9. result of the prevention procedure of the imminent threat of environmental damage or environmental damage to:
 - (a) protected species and habitats;
 - (b) waters;
 - (c) soil;
10. result of the remedying procedure of the imminent threat of environmental damage or environmental damage to:
 - (a) protected species and habitats;
 - (b) waters;

(c) soil;

11. the date on which the procedure for prevention or remedying of an imminent threat of environmental damage or of the caused environmental damage has completed;

12. costs incurred for the relevant preventive or remedial measures:

(a) paid directly by the responsible parties;

(b) recovered ex post facto from the liable parties;

(c) unrecovered from the liable parties, specifying the reasons for non-recovery;

13. source of payment of the costs;

14. application of financial assistance under Article 43, 43a and 43b;

15. administrative costs incurred annually by the competent authorities on application of this Act;

16. any other information.

(2) The information under Paragraph 1 shall be collected and processed for each separate case by the respective competent body under Article 6 or by an official authorized thereby.

(3) The access to the information system under Article 7, Paragraph 1, item 7 shall be provided through the website of the Ministry of Environment and Water.

Chapter Two

PREVENTIVE AND REMEDIAL MEASURES

Section I

Preventive Action

Article 20. (1) The operators as a result of whose activity an imminent threat of environmental damage has occurred shall be obligated to take preventive measures without delay.

(2) (Amended, SG No. 96/2020) Where the imminent threat of environmental damage is not dispelled despite the measures taken under Paragraph 1, the operator shall be obligated to inform, without delay, the relevant competent authority referred to in Article 6 herein in writing of the threat.

(3) The information referred to in Paragraph (2) shall state:

1. particulars of the operator;

2. the place, the territorial scope and the type of environmental damage in respect of which an imminent threat of occurring exists;

3. data of reports of analyses and measurements conducted, proving breach of the applicable emission standards and emission limit values;

4. the causes of the imminent threat of environmental damage;

5. the preventive measures under Paragraph (1) taken by the operator up to that point;

6. proposals for other preventive measures;

7. a financial estimate of the costs for execution of the said measures.

(4) (Amended, SG No. 96/2020) Within three days after receipt of the information referred to in Paragraph 3, the relevant competent authority referred to in Article 6 herein or an official empowered

thereby shall conduct an on-site inspection of the facts and circumstances relevant to the imminent threat of environmental damage. Where necessary, the said authority or official shall require the operator to provide supplementary information and shall draw up a memorandum of ascertainment.

(5) (Amended, SG No. 96/2020) The competent authority referred to in Article 6 herein or an official empowered thereby may issue a prescription and/or an order on application of preventive measures other than those referred to in Items 5 and 6 of Paragraph (3).

(6) The order referred to in Paragraph (5) shall state:

1. the designation of the issuing authority;
2. particulars of the operator;
3. the grounds of fact and law on which the order is issued;
4. the preventive measures which must be taken;
5. the reasons for application of the preventive measures;
6. the time limit for execution of the measures referred to in Item 4;
7. a financial estimate of the costs for execution of the said measures;
8. the appellate authority and time limit for appeal;
9. the date of issue and the signature of the official who issued the order.

(7) (Amended, SG No. 96/2020) The competent authority under Article 6 or an official authorized thereby shall notify the operator according to the procedure of the Administrative Procedure Code of the order under Paragraph 5 and shall publish it on its website within three days of its issuance.

(8) The order referred to in Paragraph (5) shall be appealable according to the procedure established by the Administrative Procedure Code.

(9) An appeal of the order shall not stay the enforcement thereof.

(10) (New, SG No. 96/2020) The competent authority under Article 6 or an official authorized thereby shall certify with a memorandum of ascertainment from inspection the full, qualitative and in time execution of the order under Paragraph 5.

Article 21. (1) (Amended, SG No. 96/2020) In case of an imminent threat of environmental damage, where the operator cannot be identified, the competent authority referred to in Article 6 herein or an official empowered thereby shall conduct an on-site inspection of the facts and circumstances relevant to the imminent threat of environmental damage and shall draw up a memorandum of ascertainment within three days after receipt of the information.

(2) The relevant local executive authorities, under whose jurisdiction the damage has occurred, may take part in the inspection referred to in Paragraph (1) within the powers thereof.

(3) (Amended, SG No. 96/2020) In the cases referred to in Paragraph 1, the competent authority referred to in Article 6 herein or an official empowered thereby may, jointly with the authorities referred to in Paragraph (2), take preventive measures for the prevention of the imminent threat of environmental damage.

Article 22. (1) In the cases referred to in Article 21 (3) herein, where the preventive measures applied are not sufficient to prevent the imminent threat of environmental damage, the competent authority referred to in Items 2 to 4 of Article 6 herein or a person empowered thereby may submit to the Minister of Environment and Water a proposal for application of preventive measures within three days after the drawing up of the memorandum of ascertainment.

(2) The proposal referred to in Paragraph (1) shall state:

1. the place, territorial scope and type of the environmental damage in respect of which an imminent threat of occurring exists;
2. the region affected;
3. the probable causes of the imminent threat of environmental damage;
4. the presumable consequences, should an environmental damage be caused;
5. the preventive measures taken up to that point;
6. a proposal for other preventive measures and time limits for the execution thereof;
7. a financial estimate of the costs for execution of the said measures;
8. other circumstances and facts relevant to the imminent threat of environmental damage: at the discretion of the competent authority.

Article 23. (1) Within ten days after receipt of a proposal referred to in Article 22 (2) herein, the Minister of Environment and Water shall issue an order on application of preventive measures, which shall be posted on the Internet site of the Ministry of Environment and Water.

(2) The order referred to in Paragraph (1) shall state:

1. the designation of the issuing authority;
2. the grounds of fact and law on which the order is issued;
3. the reasons for application of the preventive measures;
4. the preventive measures and the time limit for the execution thereof;
5. a financial estimate of the costs for execution of the said measures;
6. the regional governor responsible for the execution thereof;
7. the appellate authority and time limit for appeal;
8. the date of issue and the signature of the official who issued the order.

(3) (New, SG No. 96/2020) The Minister of Environment and Water or an official authorized thereby shall send the order under Paragraph 1 to the Regional Governor, responsible for the implementation of the preventive measures.

(4) (Renumbered from Paragraph (3), SG No. 96/2020) The orders referred to in Paragraph (1) shall be appealable according to the procedure established by the Administrative Procedure Code.

(5) (Renumbered from Paragraph (4), SG No. 96/2020) Appeal against the order does not stop its execution.

(6) (New, SG No. 96/2020) The competent authority under Article 6, Paragraph 2 - 4 who submitted the proposal under Article 22, Paragraph 1, or an official authorized thereby shall certify with a memorandum of ascertainment from inspection the full, qualitative and in time execution of the order under Paragraph 1.

Article 24. (1) (Amended, SG No. 96/2020) Where the operator fails to take preventive measures under Article 20, Paragraph 1 herein or where the operator cannot be required to bear the costs, including the costs under Article 37, Paragraph 2 herein, the Minister of Environment and Water, acting on a proposal by a competent authority referred to in Article 6, Items 2 - 4 herein, may issue an order on application of preventive measures determined according to the procedure established by Articles 22 and 23 herein.

(2) (Amended, SG No. 96/2020) Where the operator fails to take preventive measures under Article 20, Paragraph 6, Item 4 herein or where the operator cannot be required to bear the costs, including the costs under Article 37, Paragraph 2 herein, the

Minister of Environment and Water shall designate, by an order, the Regional Governor responsible for the application of the preventive measures.

Article 25. (Amended, SG No. 98/2010, effective 1.01.2011, SG No. 96/2020) The competent authority referred to in Article 6 herein or an official authorised thereby shall notify in writing the Director of the competent Regional Health Inspectorate in suspected cases of a risk for human health expected to be posed by the imminent threat of environmental damage under Article 4, Paragraph 1, Item 2 and 3, within five days, and shall be stating:

1. the place, territorial scope and type of environmental damage in respect of which an imminent threat of occurring exists;
2. the probable causes of the imminent threat of environmental damage;
3. the preventive measures which are necessary and/or which have been taken up to that point;
4. other circumstances and facts relevant to the imminent threat of environmental damage: discretionary.

Section II

Remedial Action

Article 26. (1) When environmental damage has occurred, the operator shall be obligated:

1. (amended, SG No. 96/2020) to inform the relevant competent authority referred to in Article 6 herein without delay of the environmental damage caused and to take all practicable steps to control, contain, remove the contaminants and/or other environmental damage factors in order to limit or to prevent further environmental damage, adverse effects on human health and further impairment of natural resources services;
2. to take the necessary remedial measures, determined in accordance with the objectives and criteria set out in Annex 4 hereto, approved according to the procedure established by Articles 29 or 32 herein.

(2) The information referred to in Paragraph (1) shall state:

1. particulars of the operator;
2. the place, territorial scope and type of environmental damage caused;
3. the causes of occurrence of the environmental damage;
4. the presumable consequences of the environmental damage;
5. the measures under Item 1 of Paragraph (1) applied up to that point;
6. other circumstances and facts relevant to the environmental damage caused: at the discretion of the operator.

(3) (Amended, SG No. 96/2020) Within ten days after the causation of the damage, the operator shall propose to the competent authority referred to in Article 6 herein the necessary remedial measures determined in accordance with the objectives and criteria set out in Annex 4 hereto, as well as a financial estimate of the costs for execution of the said measures.

Article 27. (1) (Amended, SG No. 96/2020) Within three days after receipt of the information referred to in Article 26, Paragraph 2 herein, the competent authority referred to in Article 6 herein or an official empowered thereby shall conduct an on-site inspection of the facts and circumstances relevant to the environmental damage caused and shall draw up a memorandum of ascertainment.

(2) (Amended, SG No. 96/2020) Where necessary, the competent authority referred to in Article 6 herein or an official

empowered thereby shall issue the operator a mandatory prescription to take steps to control, contain, remove the contaminants and/or other environmental damage factors in order to limit or to prevent further environmental damage, adverse effects on human health and further impairment of natural resources services.

Article 28. (1) Prior to determining remedial measures, the competent authority may conduct an on-site inspection and may issue mandatory prescriptions, as well as require the operator to provide supplementary information, which the operator shall provide within ten days.

(2) (Amended, SG No. 96/2020) The competent authority referred to in Article 6 herein may require cooperation from other central and local executive authorities upon determination of the remedial measures.

Article 29. (1) (Amended, SG No. 96/2020) Within thirty days after receipt of the proposal referred to in Article 26, Paragraph 3 herein, the competent authority referred to in Article 6, shall determine by a draft order, the remedial measures which the operator is obligated to take.

(2) (Amended, SG No. 96/2020) The competent authority referred to in Article 6 herein or an official authorised thereby shall notify in writing the Regional Governor of the region within whose territory the environmental damage has been caused of the draft order referred to in Paragraph (1) and shall make public the said draft on the Internet site thereof within three days after the preparation of the said draft. The publication shall contain, inter alia, an invitation to the public to submit its recommendations and opinions. The competent authority referred to in Article 6 herein or an official authorised thereby shall post the draft order referred to in Paragraph (1) in a conspicuous place in the administrative building thereof.

(3) The regional governor shall notify in writing the mayor of the municipality within whose territory environmental damage has been caused of the draft order referred to in Paragraph (1), and the said mayor shall post the said draft on the Internet site of the municipality.

(4) Recommendations and opinions may be submitted in writing within fourteen days after the publication of the draft order.

(5) (Amended, SG No. 96/2020) Upon preparation of the order on application of remedial measures, the competent authority referred to in Article 6 herein shall schedule and hold consultations with the operator for consideration and choice of the remedial measures and the costs for the application thereof, taking into consideration, inter alia, the legally conforming proposals referred to in Paragraph 4 herein.

(6) (Amended, SG No. 96/2020) Within seven days after the expiry of the time limit referred to in Paragraph 4, the competent authority referred to in Article 6 herein or an official empowered thereby shall issue an order on application of preventive measures.

(7) The order shall state:

1. the designation of the issuing authority;
2. particulars of the operator;
3. the grounds of fact and law on which the order is issued;
4. the particular remedial measures and time limits for the application thereof;
5. the reasons for determination of the remedial measures;
6. the sequence upon undertaking of the remedial measures: in the cases referred to in Article 36 herein;
7. a financial estimate of the costs for execution of the said measures;
8. the appellate authority and time limit for appeal;
9. date of issue and signature of the official.

(8) (Amended, SG No. 96/2020) Within three days after the issuing, the competent authority referred to in Article 6 herein or an official authorised thereby shall serve the order upon the operator and shall simultaneously post the said order on the Internet site thereof.

(9) (Amended, SG No. 96/2020) The order under Paragraph 6 may be appealed under the Administrative Procedure Code.

(10) (New, SG No. 96/2020) An appellate review of any order referred to in Paragraph (6) shall not stay the execution thereof.

(11) (New, SG No. 96/2020) The competent authority under Article 6 or an official authorized thereby shall certify with a memorandum of ascertainment from inspection the full, qualitative and in time execution of the order under Paragraph 6.

Article 30. (1) (Amended, SG No. 96/2020) When the determination of remedial measures presents a factual complexity and/or where additional analyses are necessary, within fourteen days after receipt of the proposal referred to in Article 26, Paragraph 3 herein the competent authority referred to in Article 6 herein or an official empowered thereby shall set a time limit of six months where within the operator shall prepare a report on remedial measures and shall submit the said report to the authority.

(2) The report referred to in Paragraph (1) shall state:

1. type, territorial scope and causes of occurrence of the environmental damage;
2. description of the baseline condition and of the condition after occurrence of the environmental damage of the natural resources and of the natural resources benefits and services;
3. assessment of the adverse effects of the environmental damage caused and/or expected to be caused to natural resources and human health and the methods used for the said assessment;
4. description of the remedial measures proposed and the possible alternatives;
5. reasons for the choice of the measures proposed and time limits for the execution thereof;
6. a financial estimate of the costs of execution of the said measures;
7. description of the difficulties expected upon execution of the measures.

(3) The operator shall provide the necessary information for preparation of the report.

(4) The executive authorities, as well as the persons referred to in Article 21 of the Environmental Protection Act, which hold necessary information for preparation of the report, shall be obligated to provide the said information to the operator according to the procedure established by Chapter Two of the Environmental Protection Act.

Article 31. (1) (Amended, SG No. 96/2020) Within fourteen days after receipt of the report referred to in Article 30 herein, the relevant competent authority referred to in Article 6 herein or an official authorised thereby shall assess the completeness of the information provided in the said report and shall determine, by a draft order, the remedial measures which can be executed by the operator.

(2) Should any omissions be detected, the authority referred to in Paragraph (1) shall return the report to the operator to eliminate the omissions within thirty days.

(3) (Amended, SG No. 96/2020) Within three days after the expiry of the time limit referred to in Paragraph 1 or 2, the competent authority referred to in Article 6 herein or an official authorised thereby shall notify in writing the Regional Governor of the region within whose territory the environmental damage has been caused of the draft order referred to in Paragraph 1 and shall make public the said draft on the Internet site thereof. The publication shall contain an invitation to the public to submit its recommendations and opinions within fourteen

days. The competent authority under Article 6 or an official authorized thereby shall place in a visible place in his administrative building the draft order under Paragraph 1.

(4) The regional governor shall notify in writing the mayor of the municipality within whose territory environmental damage has been caused of the draft order referred to in Paragraph (1).

(5) Recommendations and opinions may be submitted in writing within fourteen days after the publication of the draft order.

Article 32. (1) (Amended, SG No. 96/2020) Upon preparation of the order on application of remedial measures, the competent authority referred to in Article 6 herein or an official authorised thereby shall schedule and hold consultations with the operator for consideration and choice of the remedial measures and the costs for the application thereof, taking into consideration, inter alia, the legally conforming proposals referred to in Article 31 Paragraph 5 herein.

(2) The authority referred to in Paragraph (1) shall issue an order on application of remedial measures within thirty days after the expiry of the fourteen-day time limit referred to in Article 31 (3) herein.

(3) The order shall contain the essential elements covered under Article 29 (7) herein. Within three days after the issuing of the said order, the relevant authority referred to in Paragraph (1) shall serve the order upon the operator and shall simultaneously post the said order on the Internet site thereof.

(4) The order referred to in Paragraph (2) shall be appealable according to the procedure established by the Administrative Procedure Code.

(5) (New, SG No. 96/2020) An appellate review of any order referred to in Paragraph 2 shall not stay the execution thereof.

(6) (New, SG No. 96/2020) The competent authority under Article 6 or an official authorized thereby shall certify with a memorandum of ascertainment from inspection the full, qualitative and in time execution of the order under Paragraph 2.

Article 33. (1) (Amended, SG No. 96/2020) Where environmental damage has occurred and the operator cannot be identified, the competent authority referred to in Article 6 and Article 12 herein or an official authorised thereby:

1. may take measures without delay under Item 1 of Article 26 (1) herein within the powers thereof;
2. within three days after receipt of the information on environmental damage that has occurred, shall conduct an on-site inspection.

(2) Local executive authorities shall also participate in the inspection referred to in Item 2 of Paragraph (1) within the powers thereof.

(3) A memorandum of ascertainment shall be drawn up on the inspection referred to in Item 2 of Paragraph (1).

(4) (Supplemented, SG No. 96/2020) Within three days after the drawing up of the memorandum referred to in Paragraph 3, the competent authority referred to in Article 6, Items 2 - 4 herein or an official authorised thereby shall propose to the Minister of Environment and Water to approve the necessary remedial measures in accordance with the objectives and criteria set out in Annex 4 hereto.

(5) The proposal referred to in Paragraph (4) shall state:

1. the place, territorial scope and type of the environmental damage;
2. the probable causes of the environmental damage;
3. the consequences of the environmental damage caused;

4. the measures under Item 1 of Article 26 (1) herein taken up to that point;
5. a conclusion regarding the need of additional special analyses and expert examination;
6. particular remedial measures;
7. a financial estimate of the costs for execution of the said measures;
8. other circumstances and facts relevant to the imminent threat of environmental damage: at the discretion of the competent authority.

(6) Within thirty days after receipt of the proposal referred to in Paragraph (5), the Minister of Environment and Water or an official empowered thereby shall determine the remedial measures by a draft order.

(7) (Supplemented, SG No. 96/2020) The Minister of Environment and Water or an official authorised thereby shall notify in writing the Regional Governor of the region within whose territory the environmental damage has been caused of the draft order referred to in Paragraph 6 and shall make public the said draft on the Internet site thereof within three days after the preparation of the said draft. The publication shall contain, inter alia, an invitation to the public to submit its recommendations and opinions. The Minister of Environment and Water or an official authorised thereby shall post the draft order referred to in Paragraph 6 in a conspicuous place in the administrative building thereof.

(8) The regional governor shall notify in writing the mayor of the municipality within whose territory environmental damage has been caused of the draft order referred to in Paragraph (6).

(9) Recommendations and opinions may be submitted in writing within fourteen days after the publication of the draft order.

(10) (Amended, SG No. 96/2020) Upon preparation of the order on application of remedial measures, the Minister of Environment and Water or an official authorised thereby shall take into consideration, inter alia, the legally conforming proposals referred to in Paragraph (9).

(11) Within seven days after the expiry of the time limit referred to in Paragraph (9), the Minister of Environment and Water or an official empowered thereby shall issue an order on application of remedial measures. The said order shall state:

1. the designation of the issuing authority;
2. the grounds of fact and law on which the order is issued;
3. the particular remedial measures and time limits for the execution thereof;
4. the reasons for determination of the remedial measures;
5. the sequence upon undertaking of the remedial measures: in the cases referred to in Article 36 herein;
6. a financial estimate of the costs for application of the said measures;
7. the regional governor responsible for the execution thereof;
8. the appellate authority and time limit for appeal;
9. the date of issue and the signature of the official.

(12) (New, SG No. 96/2020) The Minister of Environment and Water or an official authorized thereby shall send the order under Paragraph 11 to the Regional Governor, responsible for the implementation of the remedial measures.

(13) (Renumbered from Paragraph (12), SG No. 96/2020) The order under Paragraph 11 may be appealed under the

(14) (New, SG No. 96/2020) An appellate review of any order referred to in Paragraph 11 shall not stay the execution thereof.

(15) (New, SG No. 96/2020) The competent authority under Article 6, Items 2 - 4 who made the proposal under Article 4 or an official authorized thereby shall certify with a memorandum of ascertainment from inspection the full, qualitative and in time execution of the order under Paragraph 11.

Article 34. (1) (Supplemented, SG No. 96/2020) Where the operator cannot be identified and determination of remedial measures presents a factual complexity and/or where additional analyses are necessary, within fourteen days after receipt of the proposal referred to in Article 33, Paragraph 5 herein the Minister of Environment and Water or an official authorised thereby shall initiate a procedure for the award of the preparation of a report on remedial measures according to the procedure established by the Public Procurement Act.

(2) The preparation of the report referred to in Paragraph (1) shall be commissioned to experts competent in the sphere of conservation of habitats and protected species or, respectively, of water and water bodies, of soils and other, who satisfy the following requirements:

1. they are engaged or experienced in scientific and/or expert activity, including the elaboration of expert findings, written consultation or ecological analyses and others in the sphere of conservation of habitats and protected species, water and water bodies, soils and others;

2. they are not related parties within the meaning given by the Commerce Act;

3. they have not been excluded from the register under Article 83 (5) of the Environmental Protection Act.

(3) The report shall contain the information covered under Article 30 (2) herein and shall be submitted to the Minister of Environment and Water within six months after the commissioning.

(4) The executive authorities, as well as the persons referred to in Article 21 of the Environmental Protection Act, which hold necessary information for preparation of the report, shall be obligated to provide the said information to the Minister of Environment and Water through official channels.

(5) (Supplemented, SG No. 96/2020) Within fourteen days after receipt of the report, the Minister of Environment and Water or an official authorised thereby shall assess the completeness of the information provided in the said report and shall determine, by a draft order, the remedial measures which can be applied.

(6) Should any omissions be detected, the authority referred to in Paragraph (5) shall return the report to the experts to eliminate the omissions within thirty days.

(7) (Supplemented, SG No. 96/2020) Within three days after the expiry of the time limit referred to in Paragraph 5 or 6, the Minister of Environment and Water or an official authorised thereby shall notify in writing the Regional Governor of the region within whose territory environmental damage has been caused of the draft order referred to in Paragraph 5 and shall make public the said draft on the Internet site thereof. The publication shall contain, inter alia, an invitation to the public to submit its recommendations and opinions within fourteen days. The Minister of Environment and Water shall post the draft order referred to in Paragraph (5) in a conspicuous place in the administrative building thereof.

(8) The regional governor shall notify in writing the mayor of the municipality within whose territory environmental damage has been caused of the draft order referred to in Paragraph (5).

(9) Upon preparation of the order on application of remedial measures, the Minister of Environment and Water shall take into consideration the legally conforming proposals referred to in Paragraph (7).

(10) Within thirty days after the expiry of the fourteen-day time limit referred to in Paragraph (7), the Minister of Environment and Water shall issue an order on application of remedial

measures, which shall contain the essential elements covered under Article 33 (11) herein, and shall simultaneously post the said order on the Internet site of the Ministry of Environment and Water.

(11) The order referred to in Paragraph (10) shall be appealable according to the procedure established by the Administrative Procedure Code.

(12) (New, SG No. 96/2020) An appellate review of any order referred to in Paragraph 10 shall not stay the execution thereof.

(13) (New, SG No. 96/2020) The competent authority under Article 6, Items 2 - 4 who made the proposal under Article 33, Paragraph 4 or an official authorized thereby shall certify with a memorandum of ascertainment from inspection the full, qualitative and in time execution of the order under Paragraph 10.

Article 35. (1) (Supplemented, SG No. 96/2020) In cases where environmental damage has been caused, where the operator fails to take the action referred to in Article 26, Paragraph 1, Item 1 herein, the Minister of Environment and Water or an official authorised thereby shall take action according to the procedure established by Articles 33 and 34 herein.

(2) (Amended and supplemented, SG No. 96/2020) In cases where environmental damage has been caused, where the operator does not succeed in fulfilling the obligations covered under Article 26, Paragraph 1, Article 27, Paragraph 2 and Article 30 herein or if the operator cannot be required to bear the costs, including the costs under Article 37, Paragraph 2 herein, the Minister of Environment and Water or an official authorised thereby may take action according to the procedure established by Articles 33 and 34 herein.

(3) (Amended and supplemented, SG No. 96/2020) In cases of environmental damage caused, where the operator does not succeed in fulfilling the obligations envisaged in orders under Article 29, Paragraph 6 and Article 32, Paragraph 2 herein or where the operator cannot be required to bear the costs, including the costs under Article 37, Paragraph 2 herein, the Minister of Environment and Water or an official authorised thereby shall designate, by an order of a Regional Governor responsible for the application of the preventive measures.

Article 35a. (New, SG No. 96/2020) The competent authority referred to in Article 6 herein or an official authorised thereby shall notify in writing the Director of the competent Regional Health Inspectorate in suspected cases of a risk for human health expected to be posed by the imminent threat of environmental damage under Article 4, Paragraph 1, Item 2 and 3, within five days, and shall be stating:

1. the place, territorial scope and type of environmental damage caused;
2. the probable causes of the environmental damage caused;
3. the remedial measures which are necessary and/or which have been taken up to that point;
4. other circumstances and facts relevant to the environmental damage - at discretion.

Article 36. (1) It shall be presumed that the operator cannot be identified until the operator is identified by a memorandum of ascertainment by the competent authority referred to in Items 2 to 4 of Article 6 herein.

(2) (Supplemented, SG No. 96/2020) Within fourteen days after the identification of the operator under Paragraph 1, the Minister of Environment and Water or an official authorised thereby shall issue an order which shall state:

1. designation of the issuing authority;
2. particulars of the operator;
3. the grounds of fact and law on which the order is issued;
4. the remedial measures which have not been executed up to the point of identification of the operation, as well as the time limits for the execution thereof;

5. reasons for the remedial measures referred to in Item 4;
6. sequence upon undertaking of the remedial measures: in the cases referred to in Paragraph (6);
7. a financial estimate of the costs for execution of the measures referred to in Item 4 and of the measures undertaken up to the point of identification of the operator;
8. the body responsible for appeal and the deadline for lodging an appeal;
9. the date of issue and the signature of the official.

(3) Where the operator that cannot be identified is identified after execution of the remedial measures referred to in Article 33 (11) herein, the order referred to in Paragraph (2) shall not contain the essential elements referred to in Items 4 to 6.

(4) (Supplemented, SG No. 96/2020) Within seven days after the issuing of the order, the Minister of Environment and Water or an official authorised thereby shall serve the said order upon the operator and shall simultaneously post the said order on the Internet site of the Ministry of Environment and Water.

(5) The orders referred to in Paragraphs (2) and (3) shall be appealable according to the procedure established by the Administrative Procedure Code.

(6) In cases where several instances of environmental damage have been caused, where it cannot be ensured that the necessary remedial measures are taken at the same time, the competent authority shall decide, by the order on application of the said measures, the sequence thereof, having regard to the nature, extent and gravity of the various instances of environmental damage which has occurred and the possibility of natural recovery, the risk to human health also being taken into account.

Chapter Three

FINANCIAL LIABILITY.

FINANCIAL AND ECONOMIC ARRANGEMENTS

Article 37. (1) The costs for application of preventive and remedial measures, as well as of measures referred to in Item 1 of Article 26 (1) herein, including the costs for commissioning of additional analyses, shall be borne by the operators as a result of whose activity an imminent threat of environmental damage occurred or environmental damage has occurred, with the exception of the cases covered under Paragraph (2).

(2) The costs referred to in Paragraph (1) shall not be borne by the operator where the said operator can prove that the imminent threat of environmental damage or the environmental damage caused:

1. was caused by a third party and occurred despite the fact that the operator took all appropriate safety measures;

2. resulted from compliance with a mandatory prescription issued by an executive authority, other than a prescription issued consequent upon an emission or incident caused by the operator's own activities.

(3) Where the operators have spent resources under Paragraph (1), in the cases referred to in Items 1 and 2 of Paragraph (2) the said operators may seek recovery of the costs incurred.

Article 38. (1) In cases of multiple party causation of the imminent threat or environmental damage, the costs referred to in Article 37 (1) shall be allocated solidarily among the liable operators.

(2) The provisions of this Act shall not prejudice the recourse claims between the operators referred to Paragraph (1), as well as other claims at civil law of the operator to other parties.

(3) Where an imminent threat of environmental damage is created or environmental damage is caused by successive operators, liability shall be incurred by the last operator which has the right of recourse against the rest.

Article 39. (1) The relevant executive authority shall recover the costs it has incurred for application of the measures from any operator that has failed to fulfil the obligations envisaged in the orders referred to in Article 20 (5), Article 29 (6) and Article 32 (2) herein and from any operator that could not be identified at the time of determination of the preventive and remedial measures and of the measures referred to in Item 1 of Article 26 (1) herein, or from any third party referred to in Item 1 of Article 37 (2) herein.

(2) The receivable of the executive authority for costs for application of preventive and remedial measures shall enjoy a right to preferred satisfaction, prior to the receivables referred to in Item 6 of Article 136 (1) of the Obligations and Contracts Act and, respectively, the claims referred to in Item 6 of Article 722 (1) of the Commerce Act.

(3) The limitation period shall begin to run as from the date on which the preventive and remedial measures and the measures referred to in Item 1 of Article 26 (1) herein have been completed or as from the date on which the liable operator or third party referred to in Item 1 of Article 37 (2) herein has been identified, whichever is the later.

Article 40. (1) The amounts due under Article 39 (1) herein shall be credited in revenue to the budget of the executive authority which incurred the costs referred to in Article 37 (1) herein.

(2) (Amended, SG No. 77/2010) The carrying out of the activities of the executive authorities under this Act shall be financed by the state budget, with the State Budget Act for the relevant year allocating resources under the budget of the Ministry of Environment and Water and the Council of Ministers.

Article 41. (1) (Amended, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009, amended and supplemented, SG No. 96/2020) The receivables of the executive authority for costs for application of preventive and remedial measures under this Act shall be public receivables and shall be collected compulsorily together with interest and costs of collection by a public enforcement agent according to the procedure established by the Tax and Social Insurance Procedure Code or according to the procedure established by the Code of Civil Procedure when assigned to enforcement agent.

(2) (New, SG No. 96/2020) Within 14 days from the issuance of the memorandum of ascertainment by the competent authority under Article 6, Items 2 - 4 or by an official authorized thereby for the execution of an order under Article 20, Paragraph 5 in the cases under Article 23, Paragraph 1, Article 24, Paragraph 2, Article 29, Paragraph 6, Article 33, Paragraph 11, Article 34, Paragraph 10 and Article 35, Paragraph 3, the Regional Governor shall submit to the Ministry of Environment and Water documents certifying the execution of the order.

(3) (Renumbered from Paragraph (2), supplemented, SG No. 96/2020) The Minister of Environment and Water or an official empowered thereby shall issue an instrument on ascertainment of a public State receivable under Paragraph 1, based on the documents under Paragraph 2. The act also contains a notice of voluntary compliance under the Tax and Social Insurance Procedure Code.

Article 42. The executive authority may decide not to recover the resources spent where the costs of recovery will exceed the amount which is to be recovered.

Article 43. (1) The operators carrying out any occupational activities listed in Annex 1 hereto shall secure the execution of the preventive and remedial measures in the cases provided for by this Act through at least one of the following financial security instruments:

1. (effective 1.01.2011 - SG No. 43/2008) insurance policy;

2. bank guarantee;

3. mortgage of corporeal immovables and/or rights in rem thereto;

4. pledge of receivables, movable things or securities.

(2) (Effective 1.01.2011 - SG No. 43/2008) The operators carrying out any occupational activities listed in Annex 1 hereto may furnish to the Ministry of Environment and Water an insurance policy to the benefit of the Ministry of Environment and Water covering the risk of creation of an imminent threat or occurrence of an environmental damage within seven days after conclusion of the insurance contract.

(3) (Effective 1.01.2011 - SG No. 43/2008) The amount of the sum insured under the insurance contract may not be less than BGN 50,000.

(4) Where an imminent threat has occurred or environmental damage has been caused, an operator that has not concluded an insurance contract shall furnish to the Ministry of Environment and Water collateral security under Items 2 to 4 of Paragraph (1) for the amount of the costs for preventive and remedial measures as determined in the orders referred to in Article 20 (5), Article 29 (6) and Article 32 (2) herein.

(5) (New, SG No. 96/2020) Where an imminent threat has occurred or environmental damage has been caused, when the operator has concluded an insurance contract which does not cover the amount of the costs for preventive and remedial measures as determined in the orders referred to in Article 20, Paragraph 5, Article 29, Paragraph 6 and Article 32, Paragraph 2, the operator shall submit to the Ministry of Environment and Water at least one of the collaterals under Paragraph 1, Items 2 - 4 up to the unsecured amount of the expenses.

Article 43a. (New, SG No. 96/2020) (1) In the cases under Article 3, Item 2 the operator or the third party shall ensure financially the implementation of the remedial measures by at least one of the following ways:

1. a bank guarantee;

2. mortgage of corporeal immovables and/or rights in rem thereto;

3. pledge of receivables, movable things or securities.

(2) The collateral security under Paragraph 1 shall be submitted to the Ministry of Environment and Waters within 7 days from the announcement of the orders under Article 29, Paragraph 6 and Article 32, Paragraph 2.

(3) The bank guarantee under Paragraph 1, Item 1 shall be created for the period determined in the orders referred to in Article 29, Paragraph 6 and Article 32, Paragraph 2.

Article 43b. (New, SG No. 96/2020) (1) In the cases under Article 3, Item 3 the operator shall ensure financially the implementation of the preventive and remedial measures by at least one of the following ways:

1. a bank guarantee;

2. mortgage of corporeal immovables and/or rights in rem thereto;

3. pledge of receivables, movable things or securities.

(2) The collateral security under Paragraph 1 shall be submitted to the Ministry of Environment and Waters within 7 days from the announcement of the orders under Article 20, Paragraph 5, Article 29, Paragraph 6 and Article 32, Paragraph 2.

(3) The bank guarantee under Paragraph 1, Item 1 shall be created for the period determined in the orders referred to in Article 20, Paragraph 5, Article 29, Paragraph 6 and Article 32, Paragraph 2.

Article 44. (1) The collateral security referred to in Items 2 to 4 of Article 43 (1) herein within seven days after communication of the orders referred to in Article 20 (5), Article 29 (6) and Article 32 (2) herein.

(2) The bank guarantee shall be created for the period determined in the orders referred to in Paragraph (2).

Article 45. (1) The Ministry of Environment and Water shall foreclose on the security referred to in Items 2 to 4 of Article 43 (1) herein upon:

1. non-execution, delayed or inadequate execution of the preventive and remedial measures provided for in the orders referred to in Article 20 (5), Article 29 (6) and Article 32 (2) herein;
2. insolvency of the operator.

(2) Upon occurrence of the circumstances covered under Paragraph (1), the Ministry of Environment and Water shall be entitled to claim payment of the insurance benefit.

Article 46. (1) The bank guarantee shall be released, and the recording of the mortgage or pledge shall be expunged, within ten days after the conclusive acceptance of the measures taken according to the relevant procedure.

(2) In case the security is not released or expunged within the time limit referred to in Paragraph (1), the operator may take action for the release of the said security.

Chapter Four

REQUEST FOR ACTION

Article 47. (1) (Amended, SG No. 96/2020) Any natural or legal person, who or which is affected or is likely to be affected by environmental damage, or who or which has a sufficient interest in environmental decision making relating to the damage, or who or which alleges the impairment of a right, shall be entitled to request a competent authority referred to in Article 6 herein to initiate a procedure for the determination and application of remedial measures.

(2) Any non-governmental organization promoting environmental protection shall not be required to prove the circumstances referred to in Paragraph (1).

(3) The person referred to in Paragraph (1) shall submit an application which shall state the following particulars:

1. mailing address;
2. place, territorial scope and type of the environmental damage caused;
3. particulars of the operator that caused the environmental damage, if identified;
4. actual or presumable reasons for the occurrence of the environmental damage;
5. impaired right of the applicant or sufficient interest in environmental decision making relating to the damage;
6. visible and/or presumable consequences of the environmental damage;
7. recommendations for the adoption of relevant remedial measures, if the person has any;
8. other circumstances and facts supporting the information and the observations in relation to the environmental damage caused.

(4) (Supplemented, SG No. 96/2020) The competent authority referred to in Article 6 herein or an official authorised thereby shall consider the request within seven days after receipt of the application. Where the information provided under Paragraph (3) is not complete, the authority shall return the application specifying what supplementary information the applicant must provide.

(5) The applicant shall provide the supplementary information referred to in Paragraph (4) within seven days after receipt of the direction.

(6) (Amended, SG No. 96/2020) Where the applicant fails to provide the supplementary information within the time limit referred to in Paragraph 5, the competent authority referred to in Article 6 herein shall leave the request without consideration.

Article 48. (1) (Amended, SG No. 96/2020) Where the information in the application is sufficient or supplemented according to the procedure established by Article 47, Paragraph 4 herein, the competent authority referred to in Article 6 herein or an official authorised thereby shall conduct an on-site inspection within fourteen days after receipt of the said information.

(2) (Amended, SG No. 96/2020) Where, as a result of the inspection conducted, it is proved that environmental damage has occurred, and where the operator has been identified, the competent authority referred to in Article 6 herein or an official authorised thereby shall forward the request to the operator and shall give the said operator an opportunity to make its views known with respect to the request within fourteen days after receipt thereof.

(3) (Amended, SG No. 96/2020) After conduct of the inspection referred to in Paragraph 1, where the operator has not been identified, or after the expiry of the time limit referred to in Paragraph 2, the competent authority referred to in Article 6 herein or an official authorised thereby:

1. shall initiate a procedure for determination of remedial measures according to the procedure established by Section II of Chapter Two herein, or

2. shall issue an order refusing the application of remedial measures, providing therein the reasons for it, and shall post the said order on the Internet site thereof.

(4) (Amended, SG No. 96/2020) The competent authority referred to in Article 6 herein or an official authorised thereby shall notify the person referred to in Article 47, Paragraph 1 herein and the operator of the actions taken under Paragraph 3, Item 2 within seven days.

(5) The order of refusal referred to in Item 2 of Paragraph (3) shall be appealable according to the procedure established by the Administrative Procedure Code.

Chapter Five

COOPERATION WITH OTHER STATES AND REPORTING TO THE EUROPEAN COMMISSION

Section I

Cooperation with Other States

Article 49. (1) (Supplemented, SG No. 96/2020) Where an imminent threat of environmental damage or environmental damage has been caused by activities carried out within the territory of the Republic of Bulgaria, which affect or are likely to affect one or several other States, the competent authority referred to in Article 6, Items 2 - 4 herein or an official authorised thereby shall notify without delay the Minister of Environment and Water, providing thereto the information covered under Article 20, Paragraph 3 or Article 26, Paragraph 2 herein.

(2) (Supplemented, SG No. 96/2020) In the cases referred to in Paragraph 1, where the affected State or States are Member States of the European Union, the Minister of Environment and Water or an official authorised thereby shall notify without delay the affected Member State or States of the European Union, providing the information referred to in Paragraph 1 and information on the procedures according to this Act and:

1. upon request by the competent authorities of the other Member State or States of the European Union, shall provide supplementary information;

2. shall represent the Republic of Bulgaria should a Member State of the European Union claim recovery of the costs incurred by the competent authorities of the said State for the implementation of preventive or remedial measures within the territory thereof.

Article 50. (Supplemented, SG No. 96/2020) Where any activities carried out within the territory of a Member State of the European Union result in an imminent threat or environmental damage caused to the territory of the Republic of Bulgaria, the Minister of Environment and Water or an official authorised thereby:

1. shall require from the competent authority of that State information related to the environmental damage and information on the relevant national procedures of that State;
2. shall send the competent authority of that State an opinion regarding the information referred to in Item 1, including recommendations for the adoption of preventive and remedial measures;
3. shall order the application of preventive and remedial measures within the territory of the Republic of Bulgaria in accordance with the procedures provided for in this Act;
4. may take the necessary action in respect of the said State for recovery of the costs incurred upon the application of preventive or remedial measures within the territory of the Republic of Bulgaria.

Article 51. (Supplemented, SG No. 96/2020) Where an imminent threat of environmental damage has been established or where environmental damage has been caused within the territory of the Republic of Bulgaria by activities carried out within the territory of a Member State of the European Union, the Minister of Environment and Water or an official authorised thereby shall provide to the European Commission information on:

1. the place, territorial scope and type of the environmental damage caused or of the environmental damage in respect of which an imminent threat of occurring exists;
2. the causes of the imminent threat or of the environmental damage;
3. the presumable consequences of the environmental damage;
4. the recommendations for preventive or remedial measures;
5. the preventive or remedial measures taken up to that point;
6. other circumstances and facts relevant to the environmental damage caused or to the action to prevent the causation of environmental damage.

Article 52. (1) In case of an imminent threat of environmental damage or of environmental damage caused by activities carried out within the territory of the Republic of Bulgaria, which affect or are likely to affect another State which is not a Member State of the European Union, the procedures provided for in a treaty between the Republic of Bulgaria and the relevant State shall apply.

(2) In the cases referred to in Paragraph (1), where no treaty has been concluded with the relevant State, the Minister of Environment and Water, in consultation with the Minister of Foreign Affairs, may take action under Article 49 (2) herein.

Article 53. In case of an imminent threat of environmental damage or of environmental damage caused within the territory of the Republic of Bulgaria by activities carried out within the territory of another State which is not a Member State of the European Union, the procedures of this Act shall apply insofar as a treaty between the Republic of Bulgaria and the relevant State does not provide otherwise.

Article 54. A competent authority in the cases referred to in Articles 52 and 53 herein shall be the Minister of Environment and Water, unless the relevant international treaty provides otherwise.

Section II

Information to European Commission (Title amended, SG No. 96/2020)

Article 55. (Amended, SG No. 96/2020) (1) The Minister of the Environment and Water or an official authorized thereby shall provide the European Commission with the following information on a case-by-case basis for environmental damage:

1. type of environmental damage within the meaning of Article 4, Paragraph 1, date of occurrence and/or ascertainment of the damage;
2. a description of the activity in accordance with Annex 1;
3. any other information relevant to the experience gained in the application of the Act.

(2) The information referred to in Paragraph 1 shall be collected and processed in the information system under Article 7, Paragraph 1, Item 7.

Chapter Six

CONTROL

Article 56. (1) (Supplemented, SG No. 96/2020) The Minister of Environment and Water or officials empowered thereby shall implement control over the application of the preventive measures as decreed, all applicable steps to control, contain, remove the contaminants and/or other environmental damage factors, and over the application of the remedial measures as decreed, as well as certification of the full, qualitative and in time implementation of the orders under Chapters Two and/or Four.

(2) The directors of RIEWs, the directors of basin directorates, the directors of national parks or officials empowered thereby, each within the competences thereof under Articles 8, 9, 10 and 12 herein, shall implement control over the activity of operators for:

1. fulfilment of the obligations thereof under this Act;
2. acting on the prescriptions issued by the competent authorities;
3. application of the preventive measures;
4. application of the remedial measures as decreed;
5. the provision of information;
6. the preparation and submission of reports by the operators;
7. (new, SG No. 96/2020) certification of the full, qualitative and in time implementation of the orders under Chapters Two and/or Four.

(3) Upon imminent threat of environmental damage or in case of environmental damage caused, each natural and legal person shall be obligated to afford immediate access to all sites for the conduct of an inspection and to cooperate with the authorities referred to in Paragraph (1) for measurements, for taking of samples and collection of the information necessary for fulfilment of the obligations thereof under this Act.

Article 57. (1) The control referred to in Article 56 (1) herein shall be implemented by means of conduct of on-site inspections and inspections of documents, observations and measurements.

(2) The control shall include access to:

1. the data of self-monitoring of the site conducted by the operator;
2. the information related to the production activity on the site;
3. the immovables and the facilities which constitute state, municipal and private property.

(3) During the conduct of the control, officials designated by the authorities referred to in Article 56 (1) and (2) herein shall draw up memorandums of ascertainment.

(4) The memorandums referred to in Paragraph (3) shall record the facts and circumstances ascertained and shall give mandatory prescriptions, specifying time limits and persons responsible for compliance therewith.

Chapter Seven

COERCIVE ADMINISTRATIVE MEASURES AND ADMINISTRATIVE PENALTY LIABILITY

Article 58. (1) The Minister of Environment and Water, the directors of RIEWs, the directors of basin directorates and the directors of national parks or officials empowered thereby, each within the competences thereof under this Act, shall impose coercive administrative measures where imminent threat of environmental damage has occurred or where environmental damage has been caused.

(2) (Amended, SG No. 96/2020) For non-fulfilment of the obligations under this Act, the competent authorities referred to in Article 6 herein may issue orders on application of coercive administrative measures and may impose administrative sanctions.

Article 59. (1) The coercive administrative measures shall be:

1. suspension of the activity of the operators directly related to the occurrence of the environmental damage;
2. denial of access to areas of owners and users;
3. imposition of prohibitions or restrictions on water use.

(2) Upon application of coercive administrative measures, the Minister of Environment and Water, the directors of RIEWs, the directors of basin directorates and the directors of national parks or officials empowered thereby, with the assistance of the regional governor, shall suspend, by a reasoned order, the activity of the operators which has caused environmental damage, as well as deny owners and users access to areas, inter alia through sealing by means of lead seals or paper tapes.

(3) The marking of the lead seal and the manner of sealing by means of lead seals and paper tapes under Paragraph (2) shall be endorsed by an order of the Minister of Environment and Water under Article 159 (3) of the Environmental Protection Act.

(4) In cases of environmental damage caused to waters and water bodies, the competent authority may terminate the abstraction of water and/or the use of the water bodies.

Article 60. (1) A coercive administrative measure shall be applied by a reasoned order of the relevant competent authority.

(2) The order referred to in Paragraph (1) shall specify the type of the coercive administrative measure and the manner of application thereof.

(3) The order referred to in Paragraph (1) shall be served upon the person concerned according to the procedure established by the Administrative Procedure Code.

(4) The order referred to in Paragraph (1) shall be appealable according to the procedure established by the Administrative Procedure Code.

(5) An appeal of the order referred to in Paragraph (1) shall not stay the enforcement thereof.

Article 61. (1) Any operator, who or which fails to provide when due any information, including any supplementary information, requested by a competent authority under Article 6 herein, shall be liable to a fine or to a pecuniary penalty of

BGN 1,000 or exceeding this amount but not exceeding BGN 3,000.

(2) Any operator, who or which fails to provide any information under Article 20 (3) and Article 26 (2) herein to the relevant competent authority, shall be liable to a fine or to a pecuniary penalty of BGN 2,000 or exceeding this amount but not exceeding BGN 6,000.

(3) Any operator, who or which provides any untrue or misleading information to a competent authority, shall be liable to a fine or to a pecuniary penalty of BGN 2,000 or exceeding this amount but not exceeding BGN 6,000.

(4) The fine or pecuniary penalty referred to in Paragraph (1), (2) or (3) shall be imposed in a double amount for a repeated violation.

Article 62. Any operator, who or which fails to take the measures referred to in Article 20 and Article 26 (1) herein without delay, shall be liable to a fine or to a pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 30,000.

Article 63. (1) Any operator, who or which fails to submit a report under Article 30 herein within the time limit set by the competent authority, shall be liable to a fine or to a pecuniary penalty of BGN 1,000 or exceeding this amount but not exceeding BGN 3,000.

(2) (Supplemented, SG No. 96/2020) Any expert under Article 34, Paragraph 2, who fails to submit a report within the time limit set by the Minister of Environment and Water under Article 34, Paragraph 1, shall be liable to a fine of BGN 500 or exceeding this amount but not exceeding BGN 1,500.

Article 64. Any operator, who or which fails to act on a prescription issued by the relevant competent authority, shall be liable to a fine or to a pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 15,000.

Article 65. (Amended, SG No. 96/2020) Any operator, who or which fails to comply with the orders referred to in Article 20, Paragraph 6, Article 29, Paragraph 6 and Article 32, Paragraph 2 herein, shall be liable to a fine or to a pecuniary penalty equivalent to the double amount of the costs for undertaking preventive or remedial measures.

Article 66. Any operator, who or which fails to fulfil the obligation referred to in Article 43 (1), shall be liable to a fine or to a pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 30,000.

Article 67. (1) Any official, who fails to admit to the area of an inspected site a controlling authority conducting an inspection, measurement or taking of a sample, shall be liable to a fine of BGN 2,000 or exceeding this amount but not exceeding BGN 6,000.

(2) In the cases referred to in Paragraph (1), the relevant operator which is a legal person or a sole trader shall be liable to a pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 15,000.

Article 68. (1) For any violation under this Act, which does not constitute a criminal offence, any blameworthy official shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 3,000.

(2) A fine or a pecuniary penalty in a double amount compared to the one initially imposed shall be imposed for a repeated violation.

Article 69. The written statements whereby the administrative violations are ascertained shall be drawn up by officials empowered by the Minister of Environment and Water, the directors of RIEWs, the directors of basin directorates or the directors of national parks.

Article 70. (Supplemented, SG No. 96/2020) The penalty decrees shall be issued by the Minister of Environment and Water or an official authorised thereby, the directors of RIEWs, the directors of basin directorates or the directors of national parks according to the procedure established by the Administrative Violations and Sanctions Act.

Article 71. The fines and/or the pecuniary penalties under this Act shall be credited in revenue to the budget of the Ministry of Environment and Water.

SUPPLEMENTARY PROVISIONS

§ 1. Within the meaning given by this Act:

1. (Amended, SG No. 62/2015, effective 14.08.2015) "Baseline condition" shall be the condition of the natural resources and of the natural resources and services at the time of occurrence of the environmental damage, which would have been available but for that damage, estimated on the basis of the best information available.

2. "Favourable conservation status of a natural habitat" shall be the favourable status of a natural habitat within the meaning given by the Biological Diversity Act.

3. "Favourable conservation status of a species" shall be the favourable status of a species within the meaning given by the Biological Diversity Act.

4. "Waters" shall be all waters within the meaning of the Water Act.

5. "Recovery", including "natural recovery", shall be:

(a) in the case of water, water bodies, protected species and habitats, the return of damaged natural resources and/or impaired natural resources services to baseline condition, or

(b) in the case of soil damage, the elimination of any significant risk of adversely affecting human health.

6. "Occupational activity" shall be any activity carried out as part of an economic activity, a business or an undertaking, irrespective of its private or public, profit or non-profit character.

7. "Complementary remediation" shall be all remedial measures taken in relation to natural resources and/or services to compensate for the fact that the primary remediation does not result in fully restoring the damaged natural resources and/or services.

8. "Ecological status of waters" and "ecological potential" shall be the status of waters defined in the Water Act.

9. (Amended, SG No. 96/2020) "Emission" shall be the release in the environment, as a result of human activities, of substances, mixtures, organisms or micro-organisms.

10. "Pollution of a diffuse character" shall be the release of a substance from a diffuse source into the atmosphere within the meaning given by the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-level Ozone (ratified by an Act promulgated in the State Gazette No. 38/2005) (Protocol promulgated in the State Gazette No. 93/2005).

11. "Protected species" shall be the species specified in Annex 3 to the Biological Diversity Act.

12. "Compensatory remediation" shall be any action taken to compensate for interim losses of natural resources and/or services that occur from the date of damage being caused until primary remediation has achieved its full effect.

13. "Conservation status" in respect of a natural habitat shall be the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions, as well as the long-term survival of its typical species within, as the case may be, the European territory of the member States to which the Treaty establishing the European Community applies, or the territory of a Member State, or the natural range of that habitat.

14. "Conservation status" in respect of a species shall be the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations within, as the case may be, the European territory of the member States to which the Treaty establishing the European Community applies, or the territory of a Member

State, or the natural range of that species.

15. "Interim losses" shall be losses which result from the fact that the damaged natural resources and/or services are not able to perform their ecological functions or provide services to other natural resources or to the public until the primary or complementary measures have taken effect. It does not consist of financial compensation to members of the public.

16. "Extractive waste" shall be the process waste produced by mining undertakings in the process of exploration, extraction and primary processing (concentration) of subsurface resources.

17. "Imminent threat of environmental damage" shall be a sufficient likelihood that environmental damage will occur in the near future.

18. "Remedial measures" shall be any action, or combination of actions, intended to restore, rehabilitate or replace damaged natural resources and/or impaired services, or to provide an equivalent alternative to those resources or to the benefits and services thereof.

19. "Operator" shall be:

(a) any natural person, merchant within the meaning given by the Commerce Act, cooperative under the Cooperatives Act, person under the Non-profit Legal Persons Act, company under the Obligations and Contracts Act, public-financed enterprise within the meaning given by the Accountancy Act, state-owned enterprises which is not formed under the Commerce Act;

(b) any natural person, merchant or not-for-profit legal entity, or public-financed enterprise within the meaning given by the national legislation of another State, which carries out activity within the territory of the Republic of Bulgaria, inter alia in the cases where rights have been delegated thereto to carry out such activity or where holding a permit, authorization or licence for operation.

20. "Soils" shall be a notion within the meaning given by Item 14 of § 1 of the Supplementary Provisions of the Environmental Protection Act.

21. "Preventive measures" shall be any measures taken in response to an event, act or omission that has created an imminent threat of environmental damage, with a view to preventing or minimizing that damage.

22. "Natural resource" shall be protected species and natural habitats, waters, water bodies and soils.

23. (Amended, SG No. 62/2015, effective 14.08.2015) "Natural habitats" shall be habitats according to Annex 1 and habitats of species according to Annex 2 to the Biological Diversity Act.

24. "Primary remediation" shall be any remedial measure which returns the damaged natural resources and/or impaired services to, or towards, baseline condition.

25. "Costs" shall be the costs for application of this Act, including costs for implementation of preventive and remedial measures, administrative costs incurred by the competent authorities for application of this Act, inter alia on commissioning of analyses and expert examinations, on preparation of reports on remedial measures, costs for information systems and databases, and monitoring and supervision costs.

26. "Services" and "natural resources services" shall be the functions performed by a natural resource for the benefit of another natural resource or the public.

27. "Damage" shall be a measurable adverse change in a natural resource or measurable impairment of a natural resource service which may occur directly or indirectly as a result of an act or a failure to act.

28. "Best information available" shall be the best primary information available and the expressly processed information available within the meaning given by Items 7 and 9 of § 1 of the Supplementary Provisions of the Environmental Protection Act.

§ 2. This Act transposes the requirements of Directive 2004/35/EC of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage.

§ 2a. (New, SG No. 96/2020) The Act provides for measures to implement Regulation (EU) 1010/2019 of the European Parliament and of the Council of 5 June 2019 on the alignment of reporting obligations in the field of legislation related to the environment, and amending Regulations (EC) No. 166/2006 and (EU) No. 995/2010 of the European Parliament and of the Council, Directives 2002/49/EC, 2004/35/EC, 2007/2/EC, 2009/147/EC and 2010/63/EU of the European Parliament and of the Council, Council Regulations (EC) No. 338/97 and (EC) No. 2173/2005, and Council Directive 86/278/EEC.

TRANSITIONAL AND FINAL PROVISIONS

§ 3. (1) The Minister of Environment and Water shall issue the ordinance referred to in Article 4 (3) herein within three months after the entry into force of this Act.

(2) The Council of Ministers shall adopt the ordinance referred to in Article 19 herein within six months after the entry into force of this Act.

§ 4. The operators referred to in Article 17 (1) herein, carrying out occupational activities listed in Annex 1 hereto, and the authorities referred to in Article 16 (1) herein shall provide the information established by the ordinance referred to in Article 19 herein within two months after the entry into force of the said ordinance.

§ 5. The provisions of Item 1 of Article 43 (1) and Article 43 (2) and (3) herein shall enter into force as from the 1st day of January 2011.

§ 6. The provisions of this Act shall not apply to environmental damage:

1. caused prior to the entry into force of this Act;

2. caused after the entry into force of this Act, when the said damage derives from a specific activity that took place and finished before that date.

§ 7. (Amended, SG No. 96/2020) The information under Article 55, Paragraph 1 shall be submitted to the European Commission by 30 April 2022 and every 5 years from that date.

This Act was passed by the 40th National Assembly on the 16th day of April 2008 and the Official Seal of the National Assembly has been affixed thereto.

Annex 1

to Item 1 of Article 3

(Supplemented, SG No. 14/2012, effective 17.02.2012,

amended, SG No. 53/2012, effective 13.07.2012,

amended and supplemented, SG No. 62/2015, effective 14.08.2015,

amended, SG No. 96/2020)

1. Operation of any facilities and installations subject to a requirement

for the issuance of an integrated permit under Article 117 of the Environmental Protection Act, with the exception of facilities and installations or parts of

facilities and installations used for research, development and testing of new

products and processes.

2. For any activities which comprehend collection, transport, recovery or disposal of waste, including hazardous waste, subject to permit or registration document according to the Waste Management Act.

3. (Amended, SG No. 62/2015, effective 14.08.2015) Carrying out any activities involving use of waters and water bodies, including:

a) any discharges into surface water bodies of waste waters, whereby hazardous

substances are being released, as indicated in the Ordinances under Article 135(1), items 9 and 17 of the Waters Act, for which prior regulation is required

as part of the discharge permits issued in accordance with the Waters Act and in the integrated permits under the Environmental Protection Act;

b) diversion of substances into ground waters, injection of pollutants into ground waters, water intake and impoundment of water bodies, for which issuance of authorisation is required within the meaning of the Waters Act.

4. (Amended and supplemented, SG No. 62/2015, effective 14.08.2015, amended, SG No. 96/2020) Carrying out any activities on the production, use, storage, processing, filling and release into the environment of chemical substances and mixtures classified under Regulation (EC) No. 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No. 1907/2006 (OJ, L 353/1 of 31 December 2008).

5. Carrying out any activities which comprehend manufacture, use, storage, processing, filling and release into the environment of plant protection products within the meaning given by the Plant Protection Act.

6. (Amended, SG No. 62/2015, effective 14.08.2015) Carrying out any activities which comprehend manufacture, use, storage, processing, filling and release into the environment of biocides within the meaning given by the Protection Against the Harmful Impact of Chemical Substances and Compounds Act.

7. Carrying out any activities which comprehend transport of dangerous goods within the meaning given by the Carriage by Road Act, the Rail Transport Act, the Maritime Space, Inland Waterways and Ports of the Republic of Bulgaria Act, and the Civil Aviation Act.

8. Carrying out any activities which comprehend contained use of genetically modified organisms (GMOs), release of GMOs into the environment, placing on the market of a GMO or of a combination of GMOs as or in products, transfer of GMOs, import, export and transit of GMOs within the meaning given

by the Genetically Modified Organisms Act, which activities are subject to authorization in accordance with the Genetically Modified Organisms Act.

9. (Amended, SG No. 53/2012, effective 13.07.2012, SG No. 62/2015, effective 14.08.2015) Carrying out any activities which include transportation of waste, including export, import and transit of waste within the meaning of Section IV of Chapter Five of the Waste Management Act.

10. (Supplemented, SG No. 62/2015, effective 14.08.2015) Carrying out any activities which comprehend management of extractive waste in accordance with the Subsurface Resources Act.

11. (New, SG No. 14/2012, effective 17.02.2012) Operation of storage sites in accordance with the Geological Storage of Carbon Dioxide Act.

Annex 2

to Article 4 (2)

1. The significance of any damage that has adverse effects on reaching or maintaining a favourable conservation status of habitats or species has to be assessed by reference to the conservation status at the time of the damage, the services provided by the amenities they produce and their capacity for natural regeneration.

2. Significant adverse changes to the baseline condition should be determined by means of measurable data such as:

2.1. the number of individuals, their density or the area covered;

2.2. the role of the particular individuals or of the damaged area in relation to the species or to the habitat conservation, the rarity of the species or habitat (assessed at local, regional and higher level, including at Community level);

2.3. the species' capacity for propagation (according to the dynamics specific to that species or to that population), its viability or the habitat's capacity for natural regeneration (according to the dynamics specific to its characteristic species or to their populations);

2.4. the species' or habitat's capacity, after damage has occurred, to recover within a short time, without any intervention other than increased protection measures, to a condition which leads, solely by virtue of the dynamics of the species or habitat, to a condition deemed equivalent or superior to the baseline condition.

3. Damage with a proven effect on human health must be classified as significant damage.

4. The following does not have to be classified as significant damage:

4.1. negative variations that are smaller than natural fluctuations

regarded as normal for the species or habitat in question;

4.2. negative variations due to natural causes or resulting from

intervention relating to the normal management of sites, as defined in

habitat records or target documents or as carried on previously by owners or

operators;

4.3. damage to species or habitats for which it is established that they

will recover, within a short time and without intervention, either to the

baseline condition or to a condition which leads, solely by virtue of the

dynamics of the species or habitat, to a condition deemed equivalent or

superior to the baseline condition.

Annex 3

to Item 1 (e) and (f) of Article 5

Section I

1. International Convention of 27 November 1992 on Civil Liability for

Oil Pollution Damage.

2. International Convention of 27 November 1992 on the Establishment of

an International Fund for Compensation for Oil Pollution Damage.

3. International Convention of 23 March 2001 on Civil Liability for

Bunker Oil Pollution Damage.

4. International Convention of 3 May 1996 on Liability and Compensation

for Damage in Connection with the Carriage of Hazardous and Noxious

Substances by Sea.

5. Convention of 10 October 1989 on Civil Liability for Damage Caused

during Carriage of Dangerous Goods by Road, Rail and Inland Navigation

Vessels.

Section II

1. Paris Convention of 29 July 1960 on Third Party Liability in the

Field of Nuclear Energy and Brussels Supplementary Convention of 31 January

1963.

2. Vienna Convention of 21 May 1963 on Civil Liability for Nuclear

Damage.

3. Convention of 12 September 1997 on Supplementary Compensation for

Nuclear Damage.

4. Joint Protocol of 21 September 1988 relating to the Application of

the Vienna Convention and the Paris Convention.

5. Brussels Convention of 17 December 1971 relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material.

Annex 4

to Item 2 of Article 26 (1)

1. Objectives and criteria for remediation of damage to water, protected species or natural habitats.

Remedying of environmental damage caused to water or protected species or natural habitats, is achieved through the restoration of the environment to its baseline condition by way of primary, complementary and compensatory remediation.

Where primary remediation does not result in the restoration of the environment to its baseline condition, then complementary remediation will be undertaken. In addition, compensatory remediation will be undertaken to compensate for the interim losses. Remedying of environmental damage, in terms of damage to water or protected species or natural habitats, also implies that any significant risk of human health being adversely affected be removed.

1.1. Remediation objectives:

Purpose of primary remediation

1.1.1. The purpose of primary remediation is to restore the damaged natural resources and/or services to, or towards, baseline condition.

Purpose of complementary remediation

1.1.2. Where the damaged natural resources and/or services do not return to their baseline condition, then complementary remediation will be undertaken. The purpose of complementary remediation is to provide a similar level of natural resources and/or services, including, as appropriate, at an alternative site, as would have been provided if the damaged site had been returned to its baseline condition. Where possible and appropriate, the alternative site should be geographically linked to the damaged site, taking into account the interests of the affected population.

Purpose of compensatory remediation

1.1.3. Compensatory remediation shall be undertaken to compensate for the interim losses of natural resources and services pending recovery. This compensation consists of additional improvements to protected natural habitats and species or water at either the damaged site or at an alternative

site. It does not consist of financial compensation to members of the public.

1.2. Identification of remedial measures:

Identification of primary remedial measures

1.2.1. Options comprised of actions to directly restore the natural resources and services towards baseline condition on an accelerated time frame, or through natural recovery, shall be considered.

Identification of complementary and compensatory remedial measures

1.2.2. When determining the scale of complementary and compensatory remedial measures, the use of resource-to-resource or service-to-service equivalence approaches shall be considered first. Under these approaches, actions that provide natural resources and/or services of the same type, quality and quantity as those damaged shall be considered first. Where this is not possible, then alternative natural resources and/or services shall be provided. For example, a reduction in quality could be offset by an increase in the quantity of remedial measures.

1.2.3. If it is not possible to use the first choice resource-to-resource or service to-service equivalence approaches, then alternative valuation techniques shall be used. The competent authority may prescribe the method, for example monetary valuation, to determine the extent of the necessary complementary and compensatory remedial measures. If valuation of the lost resources and/or services is practicable, but valuation of the replacement natural resources and/or services cannot be performed within a reasonable time-frame or at a reasonable cost, then the competent authority may choose remedial measures whose cost is equivalent to the estimated monetary value of the lost natural resources and/or services.

The complementary and compensatory remedial measures should be so designed that they provide for additional natural resources and/or services to reflect time preferences and the time profile of the remedial measures. For example, the longer the period of time before the baseline condition is reached, the greater the amount of compensatory remedial measures that will be undertaken (other things being equal).

1.3. Choice of the remedial options:

1.3.1. The reasonable remedial options should be evaluated, using best available technologies, based on the following criteria:

- (a) the effect of each option on public health and safety;
- (b) the cost of implementing the option;

(c) the likelihood of success of each option;

(d) the extent to which each option will prevent future damage, and avoid collateral damage as a result of implementing the option;

(e) the extent to which each option benefits to each component of the natural resource and/or service;

(f) the extent to which each option takes account of relevant social, economic and cultural concerns and other relevant factors specific to the locality;

(g) the length of time it will take for the restoration of the environmental damage to be effective;

(h) the extent to which each option achieves the restoration of site of the environmental damage;

(i) the geographical linkage to the damaged site.

1.3.2. When evaluating the different identified remedial options, primary remedial measures that do not fully restore the damaged water or protected species or natural habitat to baseline or that restore it more slowly can be chosen. This decision can be taken only if the natural resources and/or services foregone at the primary site as a result of the decision are compensated for by increasing complementary or compensatory actions to provide a similar level of natural resources and/or services as were foregone. This will be the case, for example, when the equivalent natural resources and/or services could be provided elsewhere at a lower cost. These additional remedial measures shall be determined in accordance with the rules set out in Item 1.2.2.

1.3.3. Notwithstanding the rules set out in Item 1.3.2. and in accordance with Article 36 herein, the competent authority is entitled to decide that no further remedial measures should be taken if:

(a) the remedial measures already taken secure that there is no longer any significant risk of adversely affecting human health, water or protected species and natural habitats, and

(b) the cost of the remedial measures that should be taken to reach baseline condition or similar level would be disproportionate to the environmental benefits to be obtained.

2. Criteria and objectives for remediation of soil damage

The contamination of soils and the presence of risk shall be assessed according to the procedure established by the Ordinance on Inventorying and

Surveying Areas with Contaminated Soil, the Necessary Restoration Measures, as well as the Maintenance of Restoration Activities as Implemented (State Gazette No. 15/2007).

In the cases where there are organic contaminants in the soils, a natural recovery option may be considered for the soils in accordance with the criteria provided for in Ordinance No. 3 on Standard for Permissible Content of Harmful Substances in Soils (promulgated in the State Gazette No. 36 of 1979; amended in No. 5 of 1996, No. 54 of 1997, No. 21 of 2000, No. 39 of 2002).

The assigned use of the spatial-development areas and the lots shall be determined according to the procedure established by Articles 7 and 8 of the Spatial Development Act.