



# Cooperation in strengthening environmental enforcement

## 4 Networks Conference

### The Greek Ombudsman's (GO) role in the implementation of environmental liability legislation

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## The Greek Ombudsman (GO) mandate

The GO is an independent administrative authority with the mission to mediate between citizens and public authorities with the aim of protecting citizens rights, combating maladministration and ensuring respect of legality.

According to *law 3094/2003* the GO shall “... **investigate individual administrative acts or omissions** or material actions of public sector bodies which violate rights or infringe upon legal interests of persons or legal entities...”.

The law provides additional authority to the GO for environmental issues because, he does not “...investigate cases in which the administrative act has generated rights or created a favorable situation for third parties that may only be reversed by a court decision, unless there is manifest illegality or the main object of the case is related to the protection of the environment”.



The Quality of Life Department of GO (one out of six departments) handles cases concerning

- implementation of urban planning,
- breaches of environmental legislation,
- rules on the operation of industry and polluting activities,
- degradation of natural environment,
- water and waste management

Complaints concerning particularly the natural environment correspond up to approximately 30% of cases handled by the Quality of Life Department of GO. They include cases concerning

- the potential and actual impacts of activities on human health and the environment,
- deviations from the environmental licenses
- environmental accidents, incidents and occurrences of non-compliance
- inefficient inspections



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## The crucial role of access to information and public participation in environmental policy decisions

Civil society engagement is the key to achieving sustainable development and environmental goals.

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Stakeholders, active citizens and Non-Governmental Organizations, which are recognized to have a legitimate interest, have an important role to play in the effective implementation of environmental legislation.

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Governments cannot reach environmental protection goals alone – they need support and guidance from the public. Increased public participation helps ensure that policy-makers have valuable local knowledge.

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The GO often proves through the complaints it receives that active citizens contribute to raising awareness and informing society on a local or national level concerning environmental issues.

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## The crucial role of access to information and public participation in environmental policy decisions

Some of the complaints received by the GO on environmental issues – including cases on ELD implementation - come from active citizens.

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The GO experience shows that an effective complaint handling system could strengthen compliance assurance. The complaint process, even though some time is biased and directs a big share of inspection resources to areas where people tend to complain, undoubtedly provides useful information and enlightens crucial environmental issues.

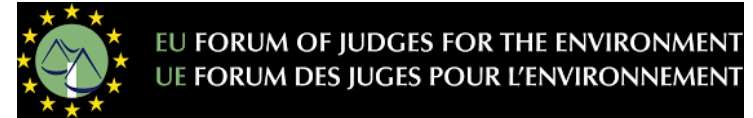
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Environmental complaints assist national administrations to identify potential issues and provide suggestions on how to better protect the environment and subsequently implement environmental law and policy effectively. They also indicate the level of public satisfaction towards national administrations.

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Up-to-date, accurate and easy-to-find environmental information within the Aarhus Convention principles empowers public and key stakeholders to be positively involved in the protection of the environment.

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## Implementation of Environmental Liability in Greece

The Environmental Liability Directive 2004/35/EC has been incorporated into the Greek legal order with the Presidential Decree (PD) 148/2009. It remains the main legislative instrument, which establishes an environmental liability regime based on “the polluter pays principle”.

The PD provisions have not yet received special elaboration because:

- its operation within the modern administrative mechanism is misunderstood,
- many stakeholders remain unaware of its existence.



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The GO  
experience  
concerning ELD  
implementation  
– Issues raised

The lack of an official **definition of significant threshold**. That results by a case-by-case analysis assessed in relation to the initial situation. This initial data base does not exist in Greece and consequently, most times, it is difficult to precisely assess the damage.

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In many cases **it is difficult to identify the operator** – mostly in cases of uncontrolled waste disposal - or the operator is bankrupted.

In these cases, even though the operator is not identified with the landowner, **the landowner** must pay and restore the damage.

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In case that **several operators are responsible (causal link between the activity, the operators and the damage)** for the environmental damage or the immediate threat of such damage, the authority shall apply the joint and several liability rule for the allocation and recovery of prevention or rehabilitation costs (Decision no.975/15, The Greek Supreme Administrative Court).

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The GO  
experience  
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implementation –  
Issues raised

Although there are **no deadlines** set for the remediation of environmental damage in PD 148/09, this does not mean that the administrative action does not have a time limitation.

It is necessary **to set binding deadlines** for the restoration of environment damage given that the time of execution of the actions should be related to the fulfilment of the intended purpose (risk management).

Although Greece has adopted legislation for **mandatory financial security** for ELD, the secondary legislation has not yet been issued.

Greek legislation requires operators with a permit to transport, handle, store, dispose of, or **recover hazardous waste** to have mandatory financial security for their operations.

Funding is provided either through **the Green Fund** (green resources from environmental fines and taxes) or the inclusion of the project in **the state/municipal budget**.

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## The GO experience concerning ELD Implementation – Issues raised

There is **an inability or excessive delay** of the competent authorities for environmental inspections to monitor the terms of company installation and operation and the environmental terms **in the context of both preventive and regular control** due to:

- lack of staff and logistical infrastructure
- complex and frequently amended legislation and
- overlapping administrative responsibilities and not well coordinated



## 1. Uncontrolled disposal of hazardous waste (barrels with caustic waste)

The owner/operator has not been identified – the so called abandoned “orphan site”.

The competent authorities noted the severity of the problem, and at the same time the lack of resources.

The authorities did not implement the ELD provisions requiring the removal of hazardous waste and the sanitation of the area.

In an “orphan site” case, the public administration should perform preventive controls, take measures and allocate the necessary resources for rehabilitation.

Following the Ombudsman’s mediation, a credit of 450,000 euros was approved to enable the waste removal in this and similar cases.

**Since then**, funds are credited annually from the State budget, to cover possible requests for the restoration of places, where the offender is not identified.





## 2. Environmental damage caused by a fire broken out on the premises of a private recycling center in Attica

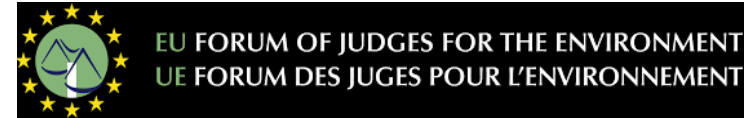
The competent authorities acted immediately after the fire to mitigate the risk and investigate the effects on public health and the environment.

The process of implementing the environmental liability was initiated by the Coordination Office for ELD due to the importance of the incident, which resulted into a decision for rehabilitation measures.

The measures approved included only rehabilitation measures (collection and removal of the waste) and not preventive, fencing and security measures for the installation.

The polluter refused to proceed to the restoration, due to financial inability and his declaration of bankruptcy (Article 99 of the Greek Bankruptcy Code)





## 2. Environmental damage caused by a fire broken out on the premises of a private recycling center in Attica

Following the bankruptcy of the owner, an amount of 5 million euros for the restoration project was paid by the Green Fund, while the competent Region was designated as the authority responsible for the study and the restoration work.

The re-initiation of the procedure and a call for tenders for the award of the technical study led to a delay of the environmental rehabilitation beyond four years after the event occurred.

The delay in environmental rehabilitation combined with a scarcity of preventive measures resulted in a continuing environmental degradation of the area for four years, a serious risk of damage to the soil, surface and groundwater, the atmosphere and public health.





## 2. Environmental damage caused by a fire broken out on the premises of a private recycling center in Attica

The lack of policing and guarding of the premises allowed the continued disposal, mainly of inert demolition materials but also mixed municipal and even hospital waste in the area, requiring appropriate and immediate management.

The amount of combustible materials classified as hazardous and therefore not allowed to be disposed of in a licensed landfill was estimated at 2,000 tons.

Their management significantly increased the rehabilitation cost in the case, considering the lack of a final disposal area in the country and hence the need to export to a suitable recipient abroad.

The rehabilitation of the area was partially carried out by the contractor **five years** after the occurrence of the incident.

Recent measurements of the air quality in the vicinity prove that high concentration of dioxins and furan still remain.





### 3. Uncontrolled waste disposal in a cave chasm

The Hellenic Speleological Society filed a complaint to the GO regarding an uncontrolled waste disposal in a cave chasm “Pothole” (25 meters deep) in Central Greece.

After the GO’s intervention, an in-situ inspection by the competent authorities revealed severe environmental damage.

The site had been used for many years as a dumping ground for waste.

The nearby municipality was identified as the main polluter since the municipal waste was transported to the cave through a gravel road facilitating the movement of the municipal garbage trucks.





### 3. Uncontrolled waste disposal in a cave chasm

The site contained municipal solid waste, construction excavation and demolition waste and agricultural waste leftovers. The waste occupied 400 m<sup>2</sup> and the total volume was calculated at 8,463.14 m<sup>3</sup>.

The specific place was not registered in the official Register of the Uncontrolled Waste Disposal Sites to be rehabilitated.





## Remediation – Follow up procedure.

The competent Decentralized Administration issued a prevention/remediation permit. The collection and removal of the waste and its final disposal at the municipal sanitary landfill were decided.

The competent Municipality took the necessary measures for the cleaning and restoration of the area. The restoration was covered by the annual municipal budget and costed up to 95.000 euros

The removal of the waste was carried out manually and mechanically with the use of a crane. The remediation process was a difficult task due to the particularity of the disposal site (a pothole of 25 meters deep).

A water tank for fire-fighting and cut-through fencing were installed, in order to avoid similar phenomena in the future.

**Follow up procedure** - The competent Regional authority checked the groundwater quality in the boreholes adjacent to the pothole. The sample analysis confirmed the absence of microbiological or heavy metals load.





*Thank you!*

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