



This learning unit is not open to incoming exchange students!

Teacher(s)	Van Damme Nicolas ;
Language :	French
Place of the course	Bruxelles Saint-Louis
Learning outcomes	<p>At the end of this learning unit, the student is able to :</p> <p>As part of the Advanced Master in Environmental Law and Public Real Estate Law programme, the course in Civil Liability, Insurance Law, and Environmental Damage examines the interactions between environmental law on the one hand, and civil liability and insurance law on the other.</p> <p>Civil liability is increasingly called upon and used to protect the environment, which is threatened by increasing degradation. However, civil liability does not always meet the specific needs of such a recent and technical field as environmental law. The common law provisions of article 1382 of the Civil Code seem poorly equipped to ensure compensation for or the repairing of damage caused to the environment. Tort law offers alternatives to fault-based liability which may, in some circumstances, provide a solution, whether through certain no-fault liability regimes (liability due to faulty goods, theory of neighbourhood disturbances), or through certain laws (toxic waste, damage caused by the extraction and pumping of groundwater, mining damage).</p> <p>Internationally, an attempt to shift from compensation for or repairing damage caused by a particular thing or a particular activity to a wider approach taking into account all damages resulting from an activity prejudicial to man and to the environment was made during the Lugano Convention of the Council of Europe on the civil liability of the damage caused by activities dangerous for the environment... but this attempt failed. Today, with the European Directive of 21 April 2004, a new kind of liability has been conceived to provide responses to the specific characteristics of the area of law concerned: environmental liability. It is no longer accurate to speak in terms of civil liability, and it is unsure that this will be the final chapter of the process. Problems remain. It also remains important to question the principles developed to govern civil and environmental liability in the future.</p> <p>The first part of the course is therefore devoted to an examination of these developments and seeks to give students an understanding of (1) who pays and (2) how much they pay (limits) and (3) the legal procedures involved in relation to the cost of compensation for or the repairing of different categories of environmental damage.</p> <p>The second part of the course is devoted to the examination of the role of insurance in covering (spreading) environmental risk. With a view to identifying the explicit / implicit pitfalls and limits we first analyse traditional insurance policies (and their use) for civil liability offered on the Belgian market with regard to the exploitation of industrial or other sites. Secondly, we examine more modern policies that incorporate coverage for decontamination and/or clean-up costs.</p>
Evaluation methods	<p>The examination covers the subject matter taught during the lectures, possibly supplemented by the documents and rulings examined during the course.</p> <p>The examination is conducted orally. Each student has a preparation time to answer the first question. It can take the form of questions of knowledge (e.g. definition/comparison of the concepts presented during the course), of reflection (e.g. an "open" theoretical question) or of analysis (such as the commenting of a precedent or of a contractual clause contained in an insurance policy). More specific questions are then asked, without proper preparation.</p>
Teaching methods	<p>Teaching is through lectures. PowerPoint presentations are shown during the course. The lecturer uses case law to illustrate the course's ideas and invites students to read some decisions in advance of the class.</p> <p>Learning outcomes :</p> <p>At the end of this course, participants should be able to identify the difficulties in applying the general and specific rules of civil liability in case of pollution; to outline the essential characteristics of the specific systems of environmental liability which have emerged at European level, especially the directive 2004/35/CE of 21 April 2004 on environmental liability; to bring to light the inappropriateness of the insurance cover against liability to compensate damages to the environment.</p>
Content	<p>The course has two parts.</p> <p>First part: from civil liability to environmental liability</p> <p>In this part, the course examines successively the application of the general and special mechanisms of civil liability to the environment; the liability regimes specific to environmental protection, more specifically the directive 2004/35/CE of 21 April 2004 on environmental liability; the emergence of a specific environmental liability and the influence on this from two of the key principles of environmental law: the polluter pays and the precautionary principle.</p>

	<p>Second part: insurance for environmental damage</p> <p>After defining the core elements of the insurance contract (hazard, risk, insurable interest) and the specific characteristics of environmental risk, the civil liability insurances, their use and limits are examined. Some developments are lastly dedicated to the insurance for damage-related expenses and coverage of clean-up costs.</p>
Bibliography	Fournie avec les notes.
Other infos	A compilation of sources (legislation and jurisprudence) is made available to students in order to facilitate the assimilation of the subject matter taught during the lectures. Slideshows presented during the lectures are also transmitted to students.
Faculty or entity in charge	DRTB

Programmes containing this learning unit (UE)				
Program title	Acronym	Credits	Prerequisite	Learning outcomes
Advanced Master in Environmental Law and Public Real Estate Law (shift schedule)	DPIB2MC	2		