Environmental liabilities accounting. Some state-of-the-art updates

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Abstract: The article aims to show the main current directions in terms of environmental liabilities assessment and accounting. Much has been done in the last couple of decades to address the environmental issues. Still, there is much arguing if the standards are developing as fast as the humans' aggression upon the nature. Moreover the remediation measures should be empowered and doubled by preventive actions.

Keywords: environmental liabilities, accounting, environment, remediation, pollution

1 Introduction

Though environmental liabilities is not a new issue for risk managers, accounting professionals and decision makers, there are still much to be done for a proper approach within the environmental standards and even more beside these standards in terms of environmental responsible behavior. If the conformity is addressed by strategies and risk management plans there is still much to be done beside this.

The main approach is still based on the Pigou principle which involves the act of pollution and the identification of the polluter. There is also proven that the remediation measures does not totally solve the problems and does not reenact the conditions before the pollution. So, we are still open for the pollution as a given fact and we are still struggling with inefficient contingency measures. The ELD tried to partially solve this including the prevention among its purposes (ELD, 2004).

The main interest upon the environmental liabilities assessment and management is related to the financial impact. In Europe were developed different insurance instruments available for the environmental risk described and recognized by the ELD. Romania was among the first to implement such instruments.

2 Environmental liabilities assessment approaches

There are two main approaches of environmental liabilities and remediation cost assessment. The main difference between the EU and the U.S. approach is that the EU liability framework has to be empowered for all the member states, most of them already having their own environmental regulation.

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Table 1. U.S. and EU environmental liabilities approaches

	No retrospective effect (applies after 30 April 2007)
Addressed to land and water polluters (except for pesticide, petroleum, fuels, and most nuclear materials) (Ashford, 2009)	
	Limited information regarding the administrative costs for authorities and private costs for businesses
Retroactive liability imposed to any other third part identified as part of the pollution if the actual polluter is in an impossibility	
	Difficulties due to the fact that many EU countries still have their own environmental standards
Identify the "brownfields" and separate them to determine levels of remediation and cleanup	
	Coherence between ELD and other EU environmental legislation still to be adjusted
Identify certain cleanup standards to be followed by the polluters (federal and state standards)	
	The interpretation of some concepts (such as: significance, favorable conservation status, preventive action, etc.) (ELD report, 2016) still to be reviewed
Describes the "strict liability", "joint liability" and "several liability"; *Also identifies and describes four types of remediation responsible: current owners, previous owners, parties that arranged the disposal and parties that transported the polluter substances*	

3 Conclusion

Regarding the implementation of ELD regulation and based on the case studies there are still much to do in terms of cost assessment. Not necessary direct remediation costs but mainly administrative costs for public authorities and private costs of the enterprises (ELD Evaluation Report, 2016). Off course these issues may be overcome by a better coherence between ELD and other European regulation but also between ELD and national regulation framework and local awareness.

Another issue that still waits to be solved is the widespread pollution without a clear and identifiable individual responsible ("diffuse pollution"). In this case the liability is not a suitable tool and a larger scale policy should be developed.

The following century debate could be if the "polluter pays" principle is still enough or should be replaced by "no pollution is too much pollution".

4 References

Florian Marcel Nuţă, Neculai Tabără, Alina Cristina Nuţă, Carmen Creţu (2015), An assessment upon the environmental policy in Romania, Economic Research-Ekonomska Istraživanja Vol. 28 , Issue 1

Alina Nuţă (2012), The efficiency of the fiscal policy in some concrete doctrinal framework, The Journal of Accounting and Management, Vol. 2, Issue 1

Nicholas Askounes Ashford, (2009), Reflections on environmental liability schemes in the United States and European Union: limitations and prospects for improvement, Conference on Environmental Liability, Piraeus Bar Association, Piraeus, Greece, 26-27 June 2009

Gupta, M.K., Agnew, R.W., Gruber, D., and Kreutzberger, W.A., (1981), Constituents of highway runoff, in v. IV, Characteristics of runoff from operating highways—Research report: "Federal Highway Administration Report FHWA/RD–81/045"

Krämer, Ludwig, (2005), Directive 2004/35 on Environmental Liability and Environmental Principles, Tijdschrift voor Milieuaansprakelijkheid (Environmental Liability Review)

*** Directive 2004/35/EC (Environmental Liability Directive - ELD)

*** Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC

*** ELD Evaluation Report, European Commission, (2016), 4th ELD Stakeholder Conference,

http://ec.europa.eu/environment/legal/liability/pdf/workshop/4th/ELD%20Evaluation,%20Report,%20Action%20Plan.pdf

*** COM(2010) 581 final Under Article 14(2) of Directive 2004/35/CE on the environmental liability with regard to the prevention and remedying of environmental damage

*** Financial reporting developments. Environmental obligations. Accounting standards codification 410-30, Ernst&Young, 2010