



GOVERNO  
DOS AÇORES

Secretaria Regional do Ambiente  
e Ação Climática

# Responsabilidade Ambiental - Avaliação de Danos Ambientais (Criteria for the Assessment of the Environmental Damage (CAED))

Anselmo F. Falcão | Inspetor Regional do Ambiente



# Participação da IRA na Rede IMPEL

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## ➤ **Membro da IMPEL desde 2018**

## ➤ Participação em Projetos

- - Supporting IED Implementation, 2015, 2017, 2019, 2020, 2021)
- - EU Environmental Enforcement Networks Conference, 2016
- - Landfill Project, 2016
- - Mapping the regulatory toolkit, 2016
- - Big Data mini-conference, 2017
- - Regulatory Strategy mini-conference, 2017
- - IMPEL Review Initiative – IRI Chipre, 2017
- - EU Environmental Enforcement Networks Conference, 2017

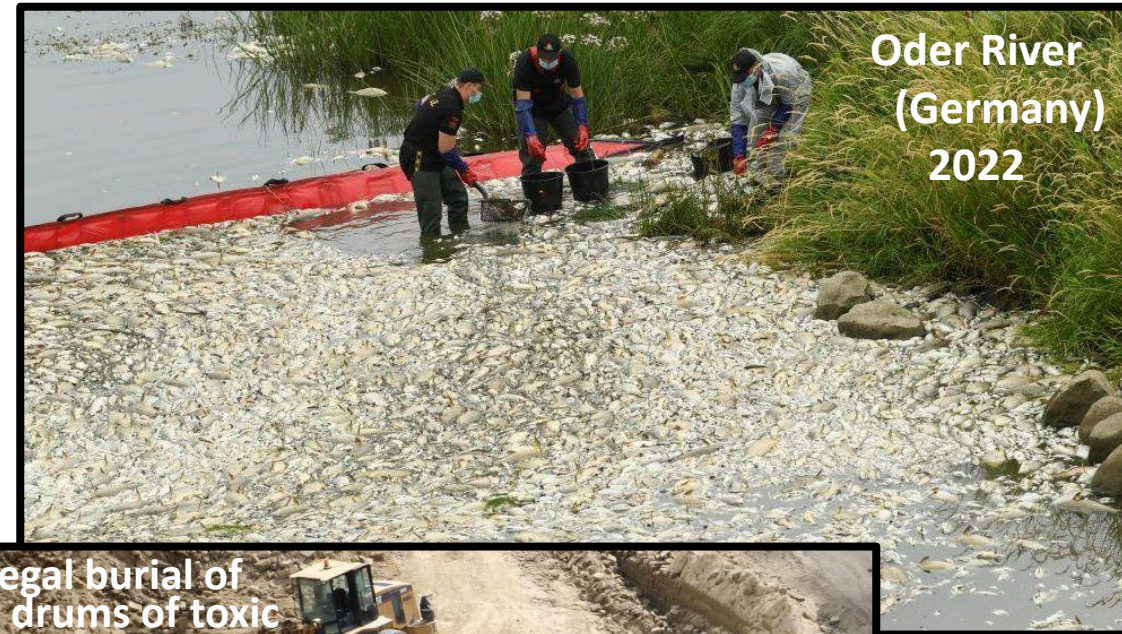
# Participação da IRA na Rede IMPEL

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- Landfill and Circular Economy, 2017, 2018
- Drones and mobile technology/satellites images, 2018
- Nature protection planning tool, 2018
- IMPEL Review Initiative - IRI Slovenia, 2018
- IMPEL Review Initiative - IRI Azores 2018
- Next Generation Conference & Internacional Seminar Decentralised Implementation, 2018
- Conference "Advances in the uses of technology in environmental & regulatory monitoring, 2019
- Waste Management and Circular Economy, 2019
- EU Action Plan against Wildlife Trafficking, 2020
- Criteria for the Assessment of the Environmental Damage, 2021
- GIEDA - Geospatial Intelligence for Environmental Damage Assessment, 2023

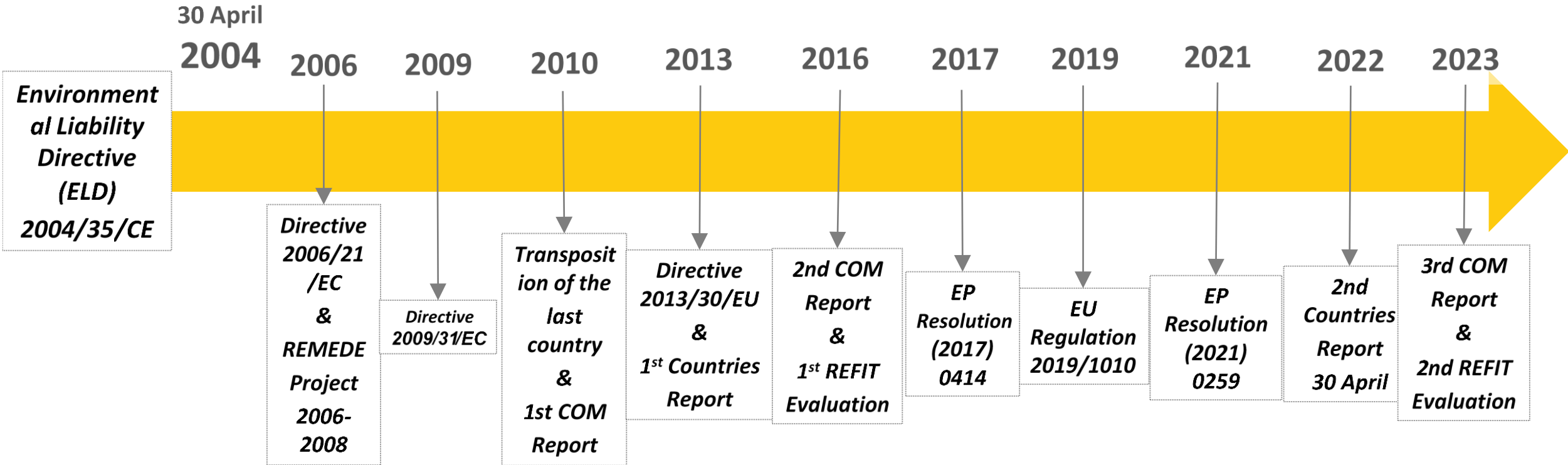


# ENVIRONMENTAL DAMAGE and MAJOR IMPLICATIONS

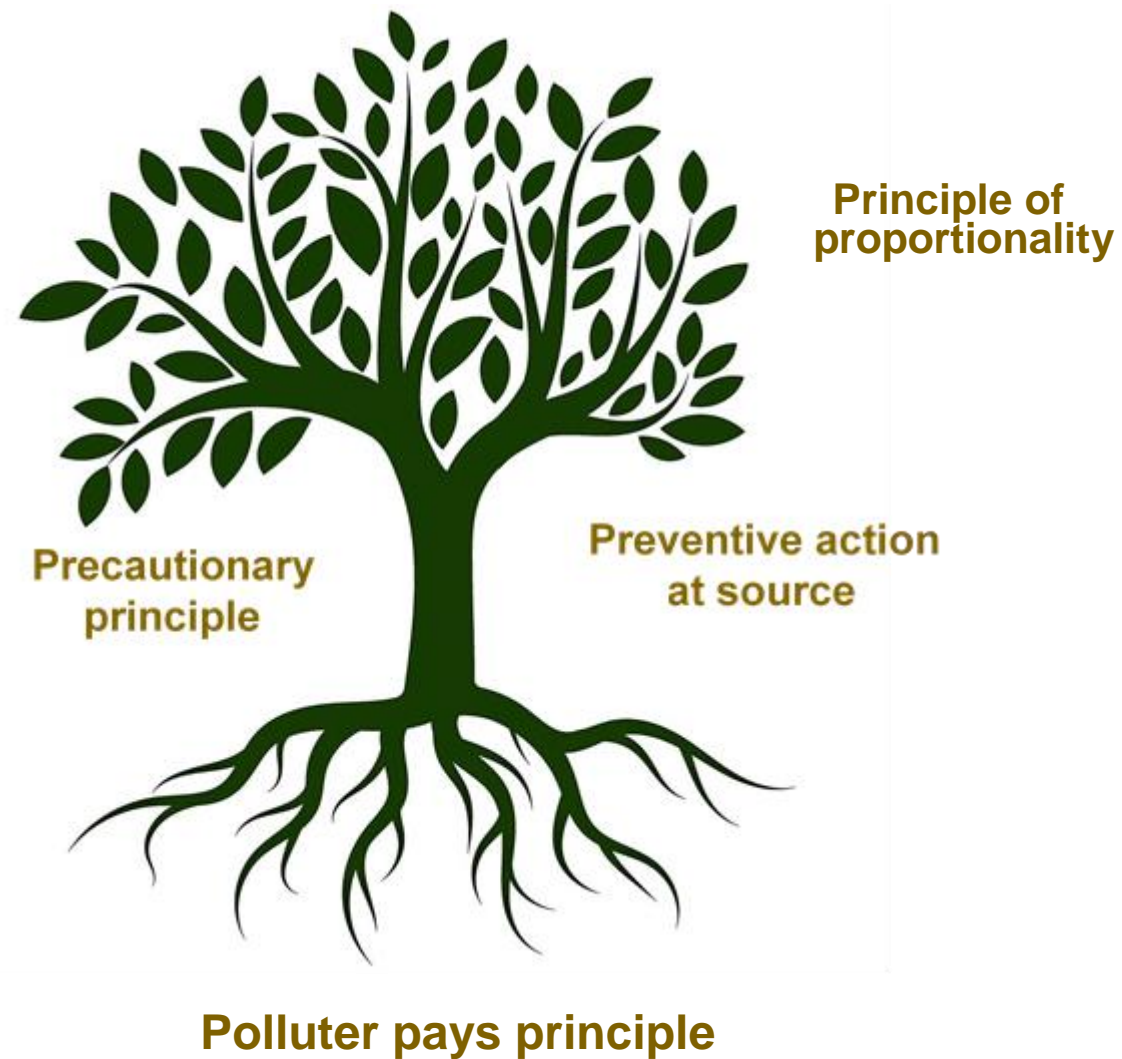




# A BRIEF HISTORY OF ELD



# ***UNDERLYING AND RELEVANT PRINCIPLES TO ELD***



# CAED PROJECT SCOPE

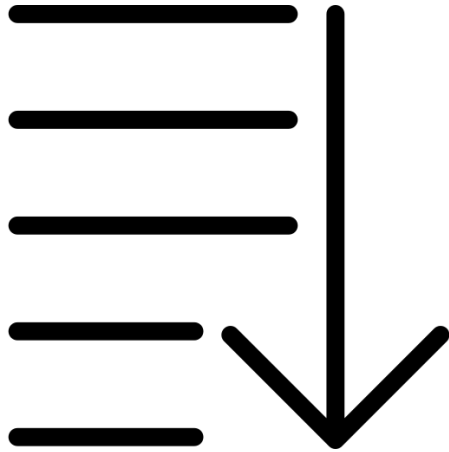
- ✓ *Environmental Liability Directive 2004/35/CE (ELD)*
- ✓ *Environmental damage and the imminent threat of damage to the natural resources protected by the ELD*
- ✓ *Administrative procedure*
- ✓ *Early stages of environmental damage assessment*

# CAED PROJECT OBJECTIVES

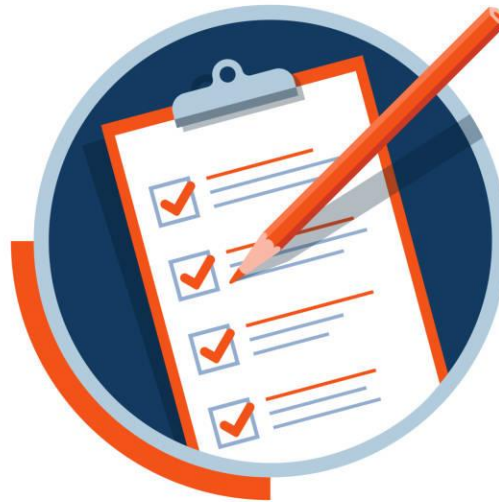
- ✓ *Identifying best practices for conducting proper investigations*
- ✓ *Providing a practical guide and useful tools to enhance competent authorities and practitioner's capability*
- ✓ *Identifying criteria for the assessment under ELD*



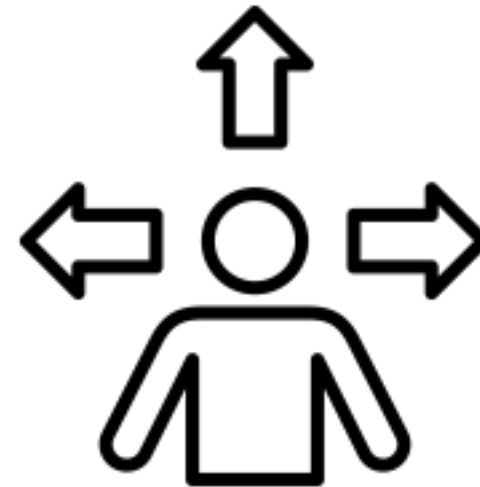
Manage and  
order information



Check



Decide

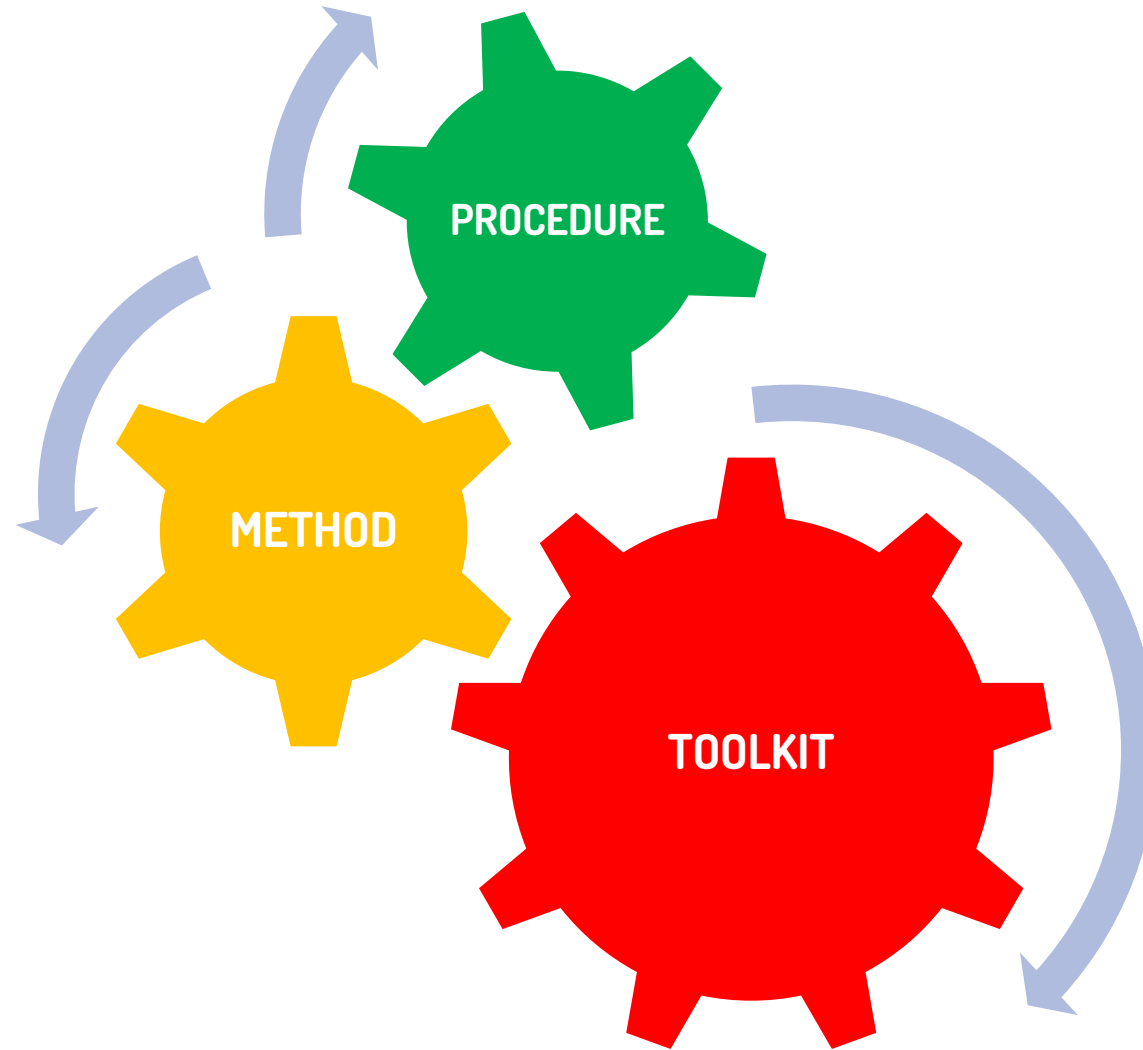


# BASIC CONCEPTS

**CLUES OF DAMAGE**  
**REFERENCE CONCEPTS**  
**IMPACT NATURAL RESOURCES AND SERVICES**  
**DRIVER DAMAGING OCCURRENCE**  
SCREENING OF NON-ELD CASES  
**ENVIRONMENTAL DAMAGE**  
**PRESSURE**  
**DPSIR**  
**DAMAGE FACTORS**  
ELD CASE AND NON-ELD CASES  
IMMINENT THREAT OF DAMAGE  
**STATE**  
**BASELINE CONDITION**  
**EVIDENCE OF DAMAGE**



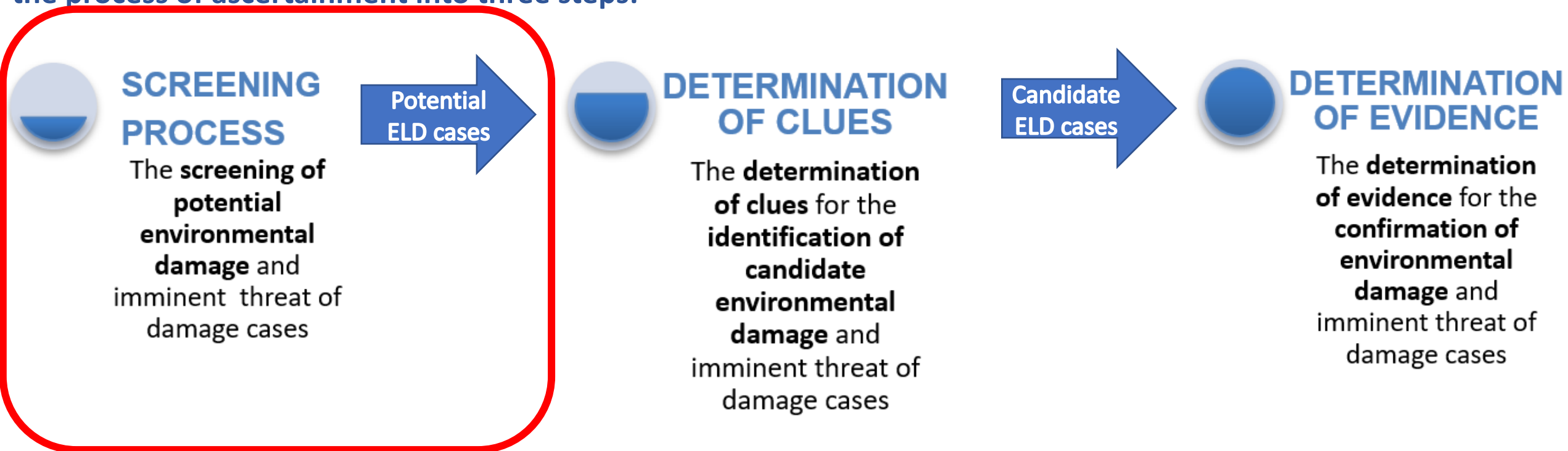
# HOW IT WORKS...



# PROCEDURE



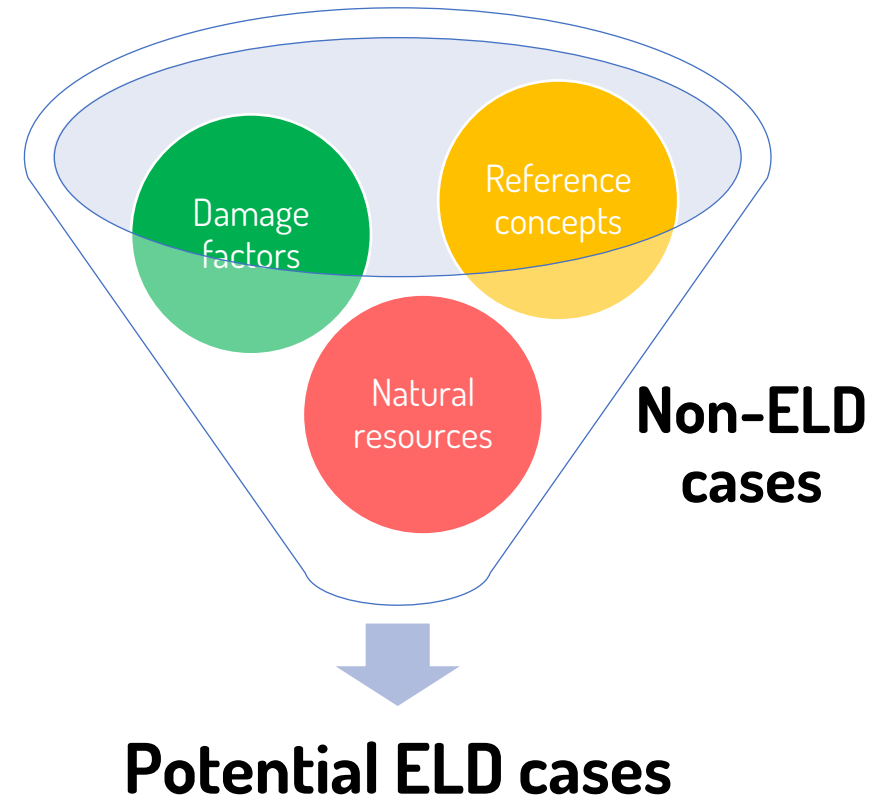
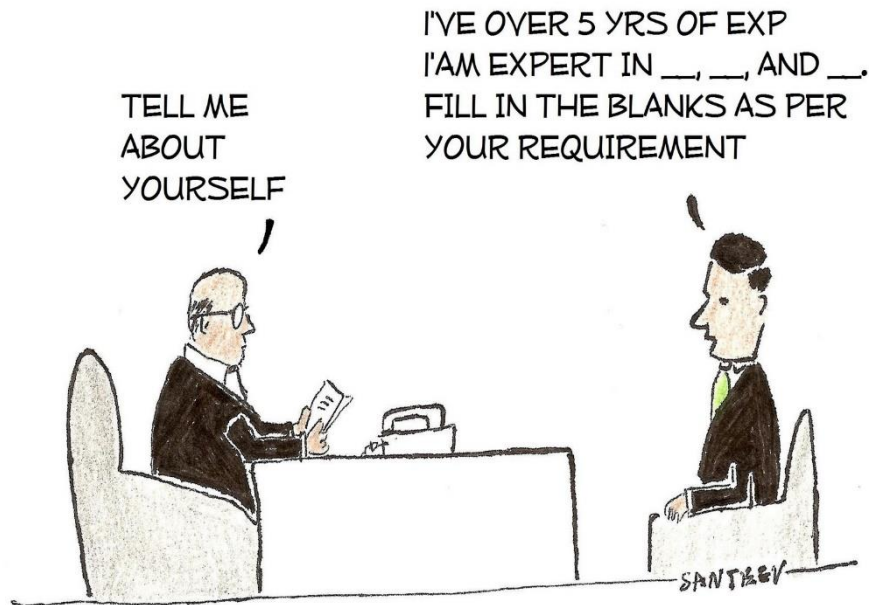
The project proposed a **NEW PROCEDURE** for the determination of the environmental damage by diving the process of ascertainment into three steps:



The three steps may or may not be conducted in a sequential manner



# SCREENING PROCESS



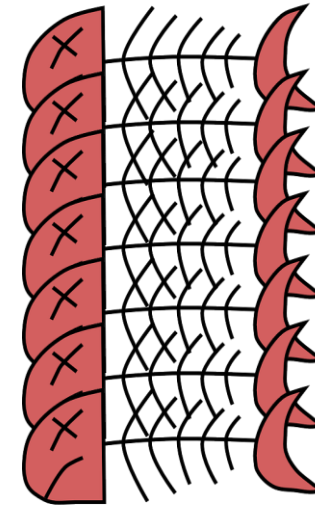
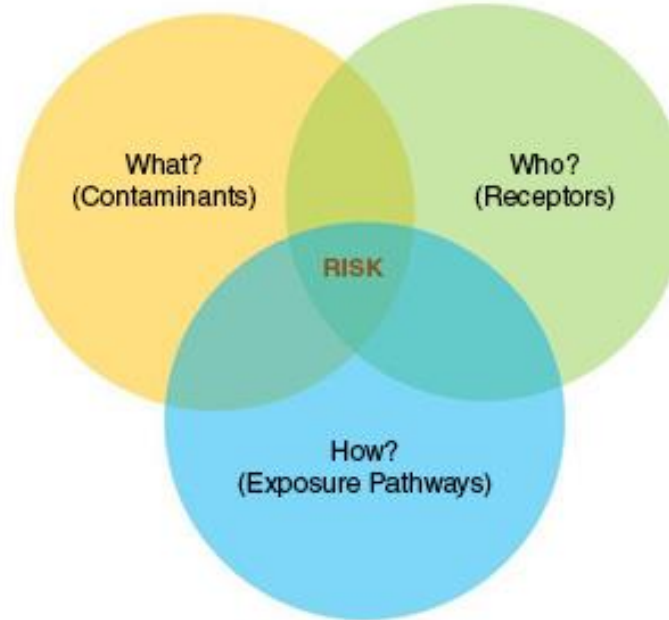
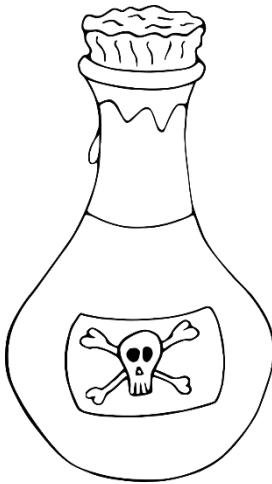
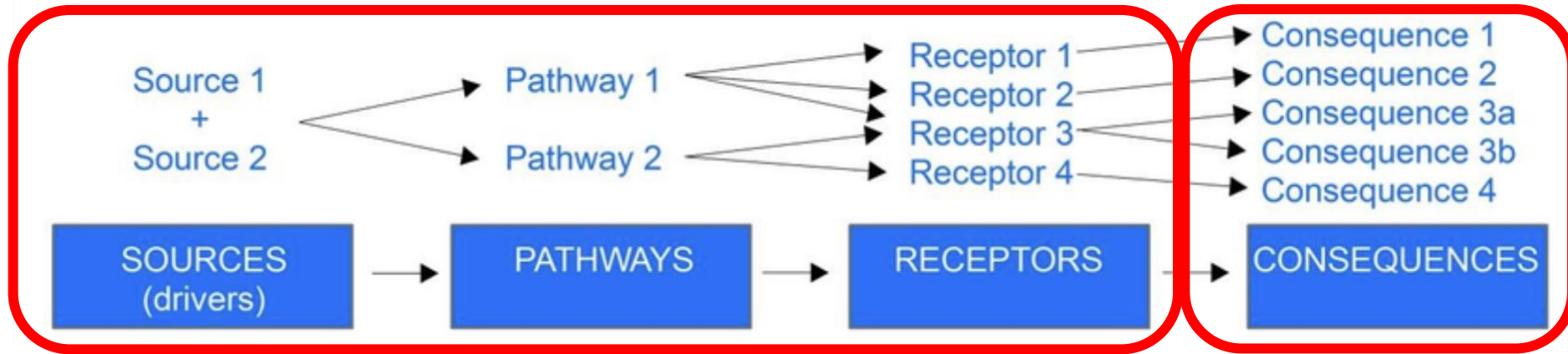
# ELD cases Screening (2)

STEP 1				Directions
Screening biodiversity damage	You are visiting/inspecting: 1) a terrestrial natural area; or 2) an aquatic environment; or 3) an artificial area with a terrestrial natural area or aquatic environment around it; or 4) an intensive agricultural area with a terrestrial natural area or aquatic environment around it [2]	Have you seen/detected EITHER of the following occurrences: AT LEAST ONE in the 1° list of damaging occurrences in D4 or AT LEAST ONE the 2° list of adverse effects in D5?		If YES, go to STEP 2 if NO, further information/data are needed to screen the case
	You are visiting/inspecting an artificial area or an intensive agricultural area	Have you seen/detected BOTH of the following occurrences: AT LEAST ONE in the 1° list of damaging occurrences in D6 and AT LEAST ONE in the 2° list of adverse effects in D7?		
Screening water damage	You are visiting/inspecting inland surface waters (river (artificial or natural), lake, reservoir)	Have you seen/detected ANY of the following occurrences?		If YES, go to STEP 2 if NO, further information/data are needed to screen the case
	You are visiting/inspecting transitional, marine-coastal and territorial waters			
	You are visiting/inspecting protected areas under WFD and MSFD (e.g. fens, marshes, peat bogs, springs, salines, lagoons, ponds, marine reserves)			
	You are inspecting groundwaters			
Screening land damage	You are visiting/inspecting land	Have you seen/detected ANY of the following occurrences?		If YES, go to STEP 2 if NO, further information/data are needed to screen the case

# ELD cases Screening (3)

STEP 2				Directions
ELD applicability Check	Exemptions (art. 4 of ELD)	Has the emission, event or incident been caused by any of the following exemptions?		If ANY exemption is selected, then ELD does not apply; otherwise go to D15
				If this exemption is selected, ELD applies but the operator has the right to limit his liability; go to B16
	Temporal scope (art. 17 of ELD) [1]	Has any of the following options occurred?		If ANY option is selected, ELD does not apply; otherwise go to B17
	Liability Regime [1]	The adverse effects have been caused by an occupational activity:		If the occupational activity is listed in Annex III of the ELD, ELD applies (with strict liability regime); go to B18 and/or B20 and/or B22.  If the occupational activity is not listed in Annex III, ELD applies only for damage to biodiversity (with fault based liability regime, which means fault or negligence of the operator has to be demonstrated); go to B18.
Screening	Biodiversity damage	There have been actual or likely adverse effects on:		If ANY option is selected, go to C19
		Damage factors can generate adverse effects:		If even this option is selected, ELD applies; otherwise ELD does not apply
	Water damage	There have been actual or likely adverse effects on:		If this option is selected, go to C21
		Damage factors can generate adverse effects:		If even this option is selected, ELD applies; otherwise ELD does not apply
	Land damage	Has any of the following options occurred?		If ANY option is selected, ELD applies; otherwise ELD does not apply
[1]: Domestic legislation in individual Member States may contain additional and different criteria on applicability over time. Hence, please refer to domestic legislation, in addition to the ELD itself.				
[2]:				
Artificial_area	Intensive_agricultural_area	Terrestrial_natural_area	Aquatic_environment	
urban_centres_or_isolated_residential	arable_lands	forests	fens	
industrial_or_commercial_units	orchards	shrublands	marshes	
mine_or_dump_or_construction_sites	groves	heathland	peat bogs	
	pastures_i.e._grasslands_used_for_grazing_or_intensive_fodder_production_hay_meadows	grasslands		
woody_plantations			springs	
harbour		dunes	salines	
		natural_rocky_areas	lagoons	
		glaciers_or_snowfields	lakes	
			ponds	
			rivers	
			reservoirs	
			estuaries	
			caves	

# IMMINENT THREAT OF DAMAGE





# PROCEDURE

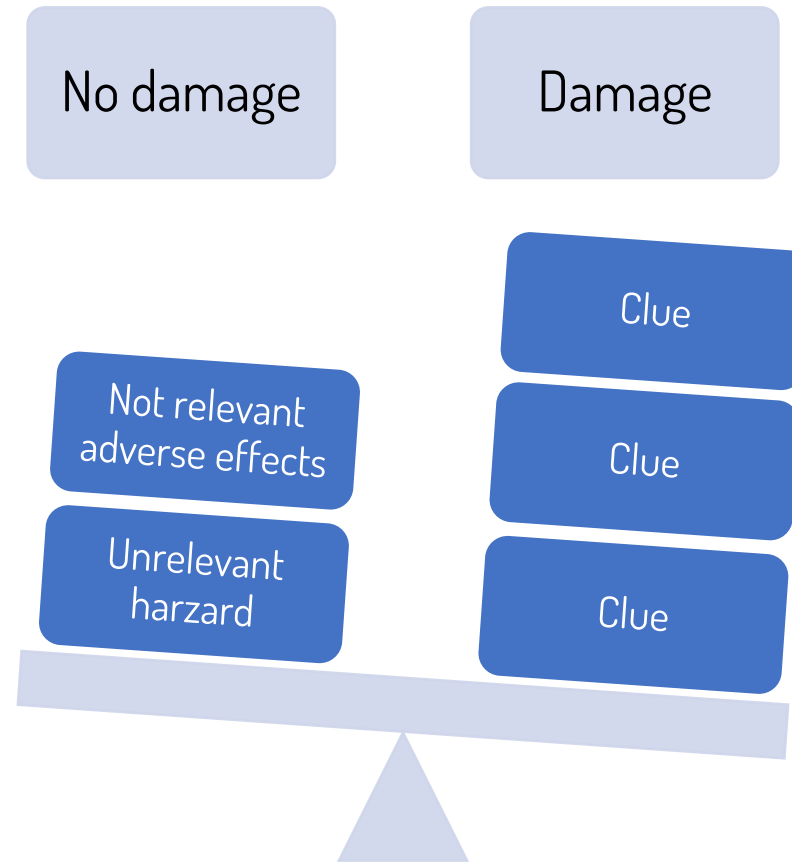


The project proposed a **NEW PROCEDURE** for the determination of the environmental damage by diving the process of ascertainment into three steps:

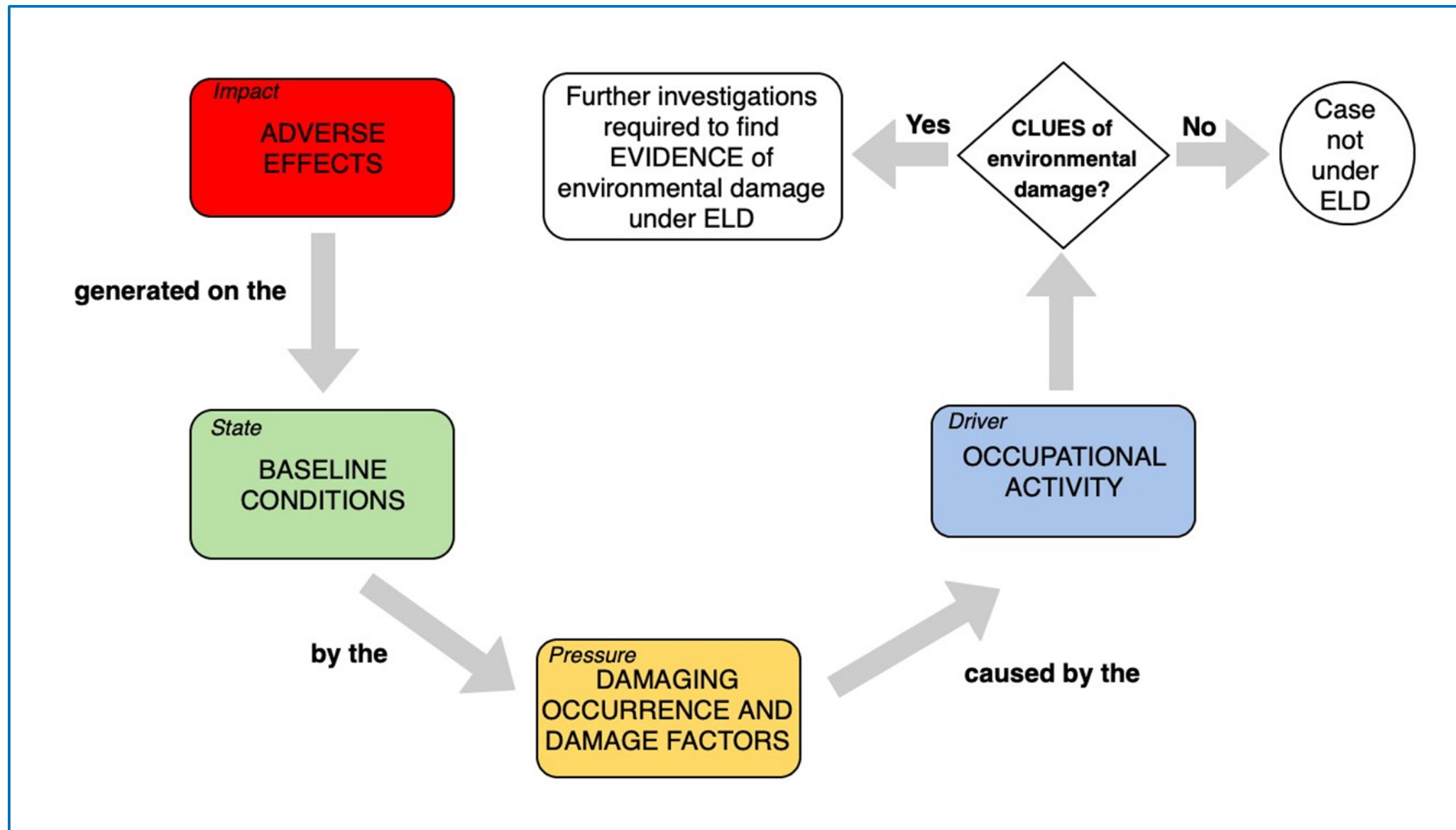


The three steps may or may not be conducted in a sequential manner

# WHY CLUES



# DPSIR Model adapted



# PROCEDURE



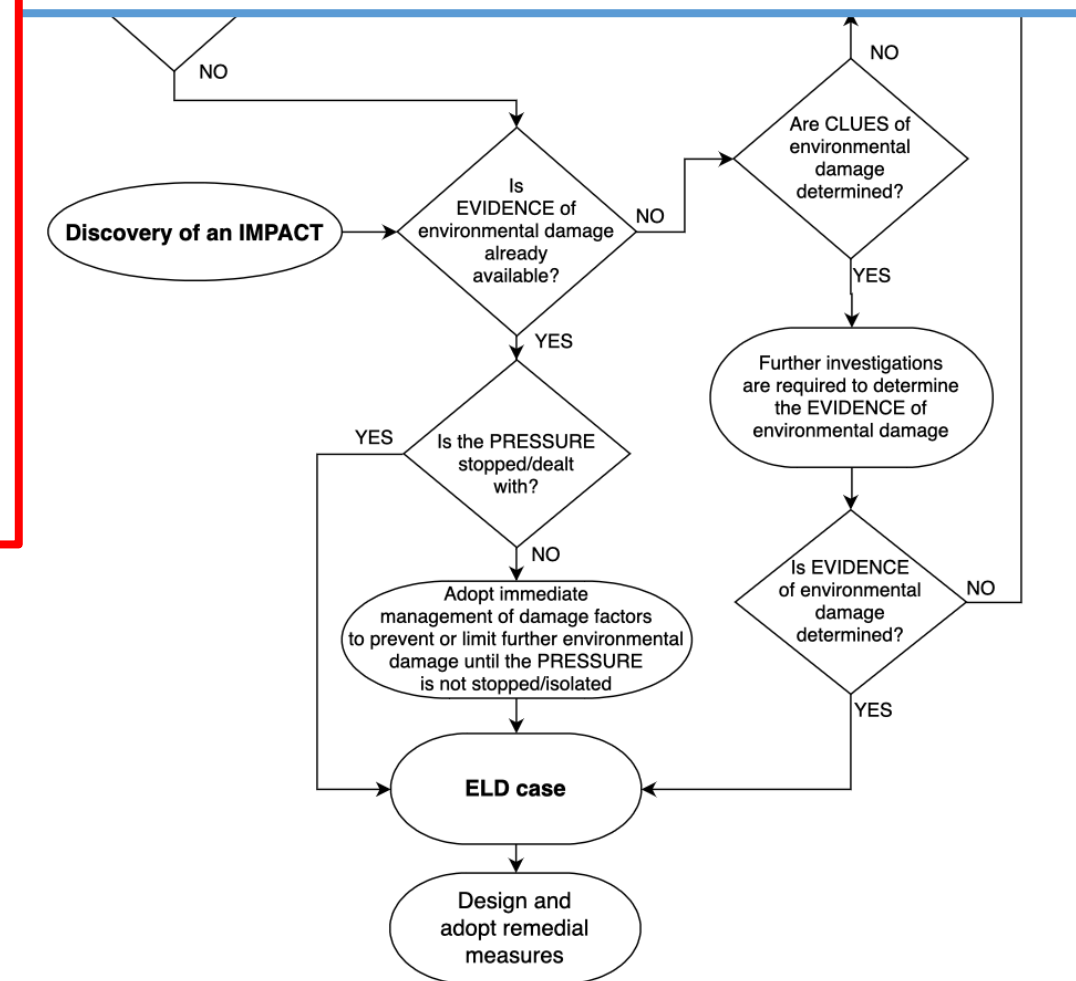
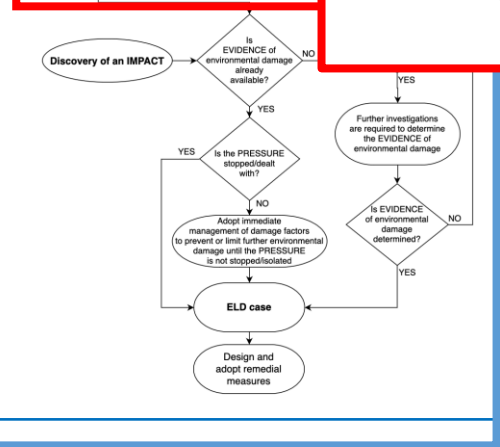
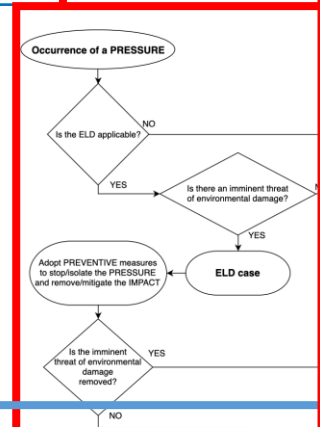
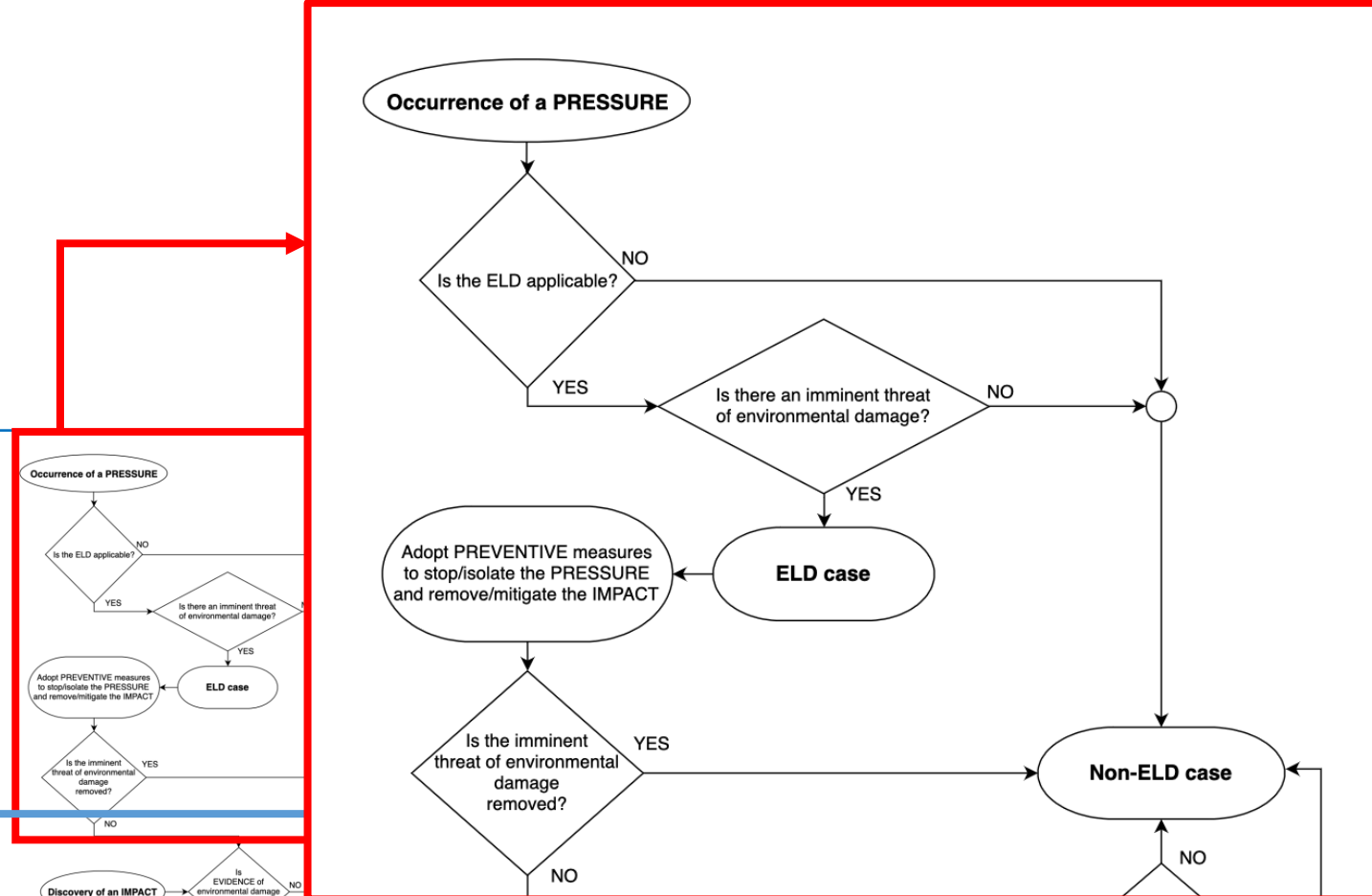
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The three steps may or may not be conducted in a sequential manner



# Decision-making flowcharts General




# CAED Practical Guide & Tables

## Products

- ✓ **Practical Guide** (*DPSIR model adapted, Decision-making flowcharts*)
- ✓ **Practical tables** (*including selected and pre-defined indicators*)
- ✓ **Examples of the use of the Practical tables** (*case studies*)

# Referências

- [Criteria for the Assessment of the Environmental Damage \(CAED\) | Impel](#)



European Union Network  
for the Implementation  
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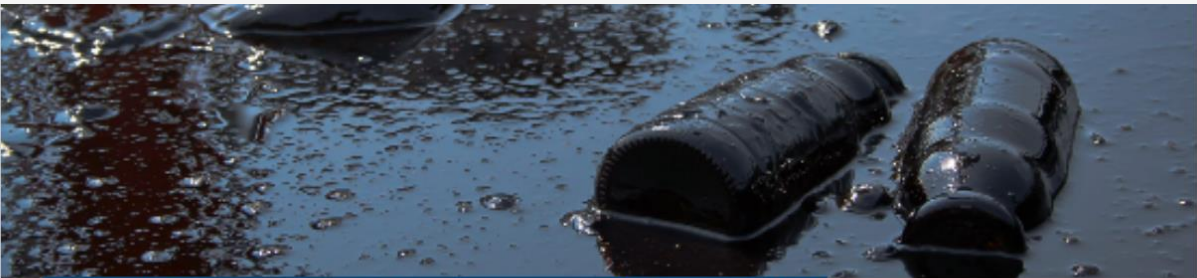
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## Criteria for the Assessment of the Environmental Damage (CAED)

2019 Ongoing

### Project description and aims

As part of its 2016-2020 Strategic Work Programme, in 2019 the IMPEL Network set up a project in the environmental damage thematic area, called Criteria for the Assessment of the Environmental Damage (CAED).

CAED project has taken guidance on key terms and definitions of Environmental Damage pursuant to the Environmental Liability Directive (ELD, 2004/35/CE) as a springboard and focuses on the administrative procedures for the determination of environmental damage and imminent threat of damage under ELD.

CAED project has been included in the ELD Multi-Annual Rolling Work Programme (MARWP) 2021-2024 of the EU Commission (as activity 1.3) as one of the activities for capacity building, and it has strong links with the European Commission's publication on March 25, 2021, of Commission Notice C(2021) 1860 final titled 'Guidelines providing a common understanding of the term 'environmental damage' as defined in Article 2 of Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage'.

CAED project aims to define criteria for the assessment of the environmental damage and imminent threat of damage and build technical and procedural capacity in screening cases and determining clues and evidence of environmental damage and threat of damage under the Environmental Liability Directive (ELD), caused by environmental incidents, violations, eco-criminal acts.

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Topic  
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Lead country and contact  
[Italy](#)  
[Francesco Andreotti](#)

References  
[ToRs 2022-24](#)

Project report(s)  
[Guidance/ UPDATED CAED Practical Guide/ 2023](#)  
[Guidance-Annex/ UPDATED CAED Practical Tables/ 2023](#)  
[Guidance/ CAED Practical Guide/ 2020](#)  
[Guidance/ CAED Practical Tables/ 2020](#)  
[Report/ CAED Training Material referred to 2020 PT and PG/ February 2022/\(Tr22\)](#)  
[Tr22-Invitation](#)  
[Tr22-Agenda](#)  
[Tr22-CAED Methodology](#)  
[Tr22-Introduction to Environmental Liability Directive](#)  
[Tr22-Description/ Practical Tables](#)  
[Tr22-Description/ Decision-making flowcharts and practical tables](#)

EXPECTATION



REALITY





# Conferência da Rede Nacional IMPEL 2024

Obrigado!

**Anselmo F. Falcão | Inspetor Regional do Ambiente**

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