


# Environmental Liability Directive

## and the links with Environmental Crime Directive

prof. Ugo Salanitro

08

# Topics

 What is environmental damage?

 Who is liable?

 What are the remedies?

# Environmental damage

## 🌐 Significant damage

🌐 same meaning in ELD and ECD?

– Damage to species and habitats

🌐 Habitat and Bird Directives

– Damage to water

🌐 Water Framework Directive

# Damage in ELD and in ECD

- 🌐 Damage to land
  - Significant risk for human health
- 🌐 Damage to air?
  - No repair
  - Only punishment (ECD): danger to health?
- 🌐 Damage to health, life, goods
  - No repair in ELD: tort law
  - Only ECD

# Liabile person

- ⊕ ECD: offender (operator, employee, common citizen)
  - Unlawful behavior
  - Intent or severe negligence
- ⊕ ELD: operator
  - Dangerous activities: strict liability with defences
  - Not dangerous activities: negligence

# Defences

- ⊕ Defences to costs or defences to liability?
  - Mandatory defences:
    - ⊕ Authority order defence
    - ⊕ Third party defence
  - Optional defences:
    - ⊕ Permit defence
    - ⊕ State of art defence

# Remedial measures

## 🌱 Specific performance

### – Primary remediation

🌱 Return to baseline

### – Complementary remediation

🌱 By way of equivalent measures

### – Compensatory remediation

🌱 for interim losses

– of services for public (pure economic losses?)

## 🌱 No repair of damage: crime?