

**Question for oral answer O-000127/2013  
to the Commission**

Rule 115

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on behalf of the Committee on the Environment, Public Health and Food Safety

**Gesine Meissner**

on behalf of the Committee on Transport and Tourism

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on behalf of the Committee on Fisheries

Subject: Recognising ecological damage in EU and international law

The Erika III package adopted in 2009 does not deal with the issue of compensation for ecological damage resulting from marine oil pollution. The proposal for a regulation on the establishment of a fund for the compensation of oil pollution damage (COM(2000)0802), presented in 2000, could have partially made up for this shortcoming if it had also covered damage caused to nature and how to remedy it. However, the proposal was dropped by the Council, which never adopted its common position, on the basis that the creation in 2003 of the International Oil Pollution Compensation (IOPC) Supplementary Fund was sufficient.

Principle 13 of the Rio Declaration on Environment and Development provides that 'states shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage'. The European Court of Human Rights ruling of 27 January 2009 in the case of *Tatar v Romania* enshrines the 'right to enjoy a healthy and protected environment'. Lastly, Article 191 of the Treaty on the Functioning of the European Union (TFEU) lays down the polluter-pays principle. In secondary European legislation, Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage sets out the preliminary procedures for implementing these principles. However, as it does not provide for compensation for purely ecological damage caused by maritime catastrophes, it does not guarantee their full and effective implementation.

In France, the court proceedings in respect of the Erika shipwreck – which were brought to a close by the Court of Cassation ruling of 25 September 2012 – established the existence of purely ecological damage as being separate from economic damage, material damage and moral damage. This case law needs to be consolidated in national and European legislation, as well as in international law.

With regard to existing international agreements:

- is the Commission considering promoting a revision of the Civil Liability Convention (CLC) and IOPC Funds agreements so that they recognise purely ecological damage?
- is the Commission considering promoting the simplification of the IOPC Funds' compensation procedures?

With regard to its legislative powers:

- is the Commission considering a review of its position on the opportunity to create a specific European fund to supplement the IOPC Funds when it comes to compensation for ecological damage?
- is the Commission ready to accept an extension of the scope of Directive 2004/35/EC on environmental liability to marine waters and all of their uses?

Tabled: 5.11.2013

Forwarded: 7.11.2013

Deadline for reply: 14.11.2013

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PE 485.034