

EU FORUM OF JUDGES FOR THE ENVIRONMENT, EUFJE 2008

SOIL POLLUTION *QUESTIONNAIRE - NORWAY*

I- Information on polluted soils:

Do you have a national inventory of pollutes or contaminated soils.

Questions 1. and 2

Norway has a national inventory of polluted soils in the form of 66 a database administered by a central authority, the Norwegian Pollution Control Authority (SFT), a directorate under the Ministry of the Environment. In the database more than 3 000 properties in Norway are listed, either on the basis of actual knowledge of the existence of the existence of polluted or contaminated soils, or because there is a justified suspicion that the soils may be polluted or contaminated. The database may be accessed by the local authorities and the general public on the web at SFT's home page, www.sft.no. It contains information concerning location, type and degree of pollution, decisions by the pollution-control authorities, and restrictions on the use of the property. The database is an important tool for the pollution-control by the authorities and the local governments, as well as for property companies and the public.

The pollution-control authorities have mainly collected the information in the database, but in certain cases interested parties are obliged by law to provide information. Natural or legal persons that plan to build and/or do excavation work have to conduct an evaluation of any possibility of the presence of polluted or contaminated soils at the site before they are given leave by the local government to start work. Sufficient information must be presented to the local government. If there is polluted or contaminated soils, the person liable must also present a plan for the cleaning of the polluted or contaminated soils. Building and excavation work may only start after the local government has granted the necessary permission. The local government is required to register any information it receives indicating the presence of polluted soils in the database.

II- National legislation on soil pollution and enforcement

In Norway there is no specific legislation dealing with the topic of soil pollution. The Pollution Control Act from 1981 regulates all types of pollution. This statute deals with s public and criminal law aspect in connection with pollution as well as civil liability for damages caused by pollution. When transposing the provisions of directive 2004/35/CE on compensation for contamination to Norwegian law, the Norwegian lawmaker found that Norwegian legislation already contained the necessary legal provisions.

In the Norwegian Pollution Control Authority (SFT) employs specialized personnel working with the regulations concerning polluted soils. The employees are legally as well as technically skilled.

In addition to the Pollution Control Act, the issue of soil pollution is also dealt with in the Planning and Building Act from 1985, in relation to the provisions concerning town planning.

I regret that I'm not in a position that allows me to answer your questions D-F. But as far as I know there has been no request for change in the present legal system to strengthen the tools of the administrative authorities.

III- Soil pollution and liability

I regret to have to say that there are so few examples in Norway of cases that it is not possible to answer the questions under this heading. As mentioned above the database contains information on about 3 000 properties.

Under the Pollution Control Act the primarily liable person is the polluter in accordance with the polluter pays principle, but very often the person responsible will have a duty to take necessary measures to prevent pollution.

IV- Care and rehabilitation of polluted soils

Under Norwegian law there is a mandatory duty to avoid pollution. According to the main principle in the Pollution Control Act section 7, no person may possess, do or initiate anything that may entail a risk of pollution unless this is lawful. If pollution has already occurred, the responsible person shall ensure that measures are taken to stop or remove the pollution or limit its effects. The Norwegian Pollution Control Authority (SFT) may order the person responsible to implement measures, such as rehabilitating polluted soils. The extent of such orders is based on risk evaluations of harm to health and environment, depending on current or future type of activity on the property.