Biodiversity is our life

Liability and Redress

Generally speaking, laws on liability and redress provide that if a person, an organisation or other entity is responsible for causing damage to the environment, they are liable (legally responsible under the applicable law) to pay for the damage or to compensate for it in some way. That person or entity may also be required to repair the damage they have caused, if possible.

Countries may cooperate to develop common rules on liability and redress. This cooperation can help define what ‘damage to biological diversity’ is, who can be held responsible for the damage and what the responsible person will have to do to fix the problem.

Rules on liability and redress help encourage countries, as well as individuals, companies and other organizations to comply with international environmental norms. If a person or entity knows that they will have to pay for the damage they cause, they will be more careful in the activities they undertake.

The ‘polluter pays principle’ means that the costs of environmental degradation must be covered by those responsible for the damage, and not by society at large. Fines for harming the environment help act as a deterrent against further damage, and can even lead to prevention.

The scope of international environmental treaty law—including rules on liability and redress—has greatly expanded over the past 40 years. The 1992 Rio Declaration calls on countries to cooperate to develop further international law on liability and redress.
Fast Facts

- Ongoing discussions under the Cartagena Protocol on Biosafety are considering liability and redress for damage resulting from the transboundary movements of living modified organisms
- Some environmental acts impose, in addition to a fine, an amount equal to the amount of the monetary benefit acquired by the person as a result of the committed offence
- In India, for example, a polluter is liable for the expenses, if any, incurred by any authority or agency with respect to any remedial measures they have taken in solving the problem
- In Algeria, anyone polluting inland waters, ground waters or the sea, directly or indirectly with any substance, which is harmful to human health or causes damage to flora or fauna, risks two years of jail and a fine. The court may also order the offender to restore the natural environment
- The United Nations Environment Programme has developed guidelines that countries can use in the development of their domestic laws on liability, response action and compensation for damage caused by activities dangerous to the environment.

Learn More

The Convention’s work on liability and redress ▶ www.cbd.int/liability

Article 14 of the CBD ▶ www.cbd.int/convention/articles.shtml?a=cbd-14

The Cartagena Protocol on Biosafety’s work on liability and redress
  ▶ www.cbd.int/biosafety/issues/liability.shtml

Article 27, Cartagena Protocol on Biosafety
  ▶ www.cbd.int/biosafety/articles.shtml?a=cpb-27

The 1972 Stockholm Conference on the Human Environment

The 1992 Rio Declaration on Environment and development

The UN International Law Commission (ILC) ▶ www.un.org/law/ilc, especially its work on State responsibility and international liability for injurious consequences arising out of acts not prohibited by international law.