GENERAL PRINCIPLES OF EU ENVIRONMENTAL LAW

Course in Ecological Transition and Law - A.A. 2025-2026

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RISK

PREVENTION

PRECAUTION

How law anticipates, manages, and responds to environmental risk.

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FOUR FUNDAMENTAL PRINCIPLES

These principles are established in Article 191 of the Treaty on the Functioning of the European Union

- Prevention principle
- Precautionary principle

Preventive tools

- “Polluter pays” principle
- Correction at source principle

Remedial tools

Prevention and precautionary principles: the role of risk

- **Risk: possibility of an harmful event**

Not certainty, but a potential danger

- **Same anticipatory logic**

- **Key difference: level of scientific certainty**

Prevention principle

- Damage is certain or highly likely
- Intervention is required to avoid harm
- Scientific basis: highly scientific certainty
- Low political cost of action

Example: Industrial emission limits

Precautionary principle

- Uncertain science → need for precaution
- Political responsibility (cannot rely on experts)
- Costly regulatory choices
- Broader administrative discretion

Example: EU restrictions on GMOs

WHAT'S ENVIRONMENTAL RISK?

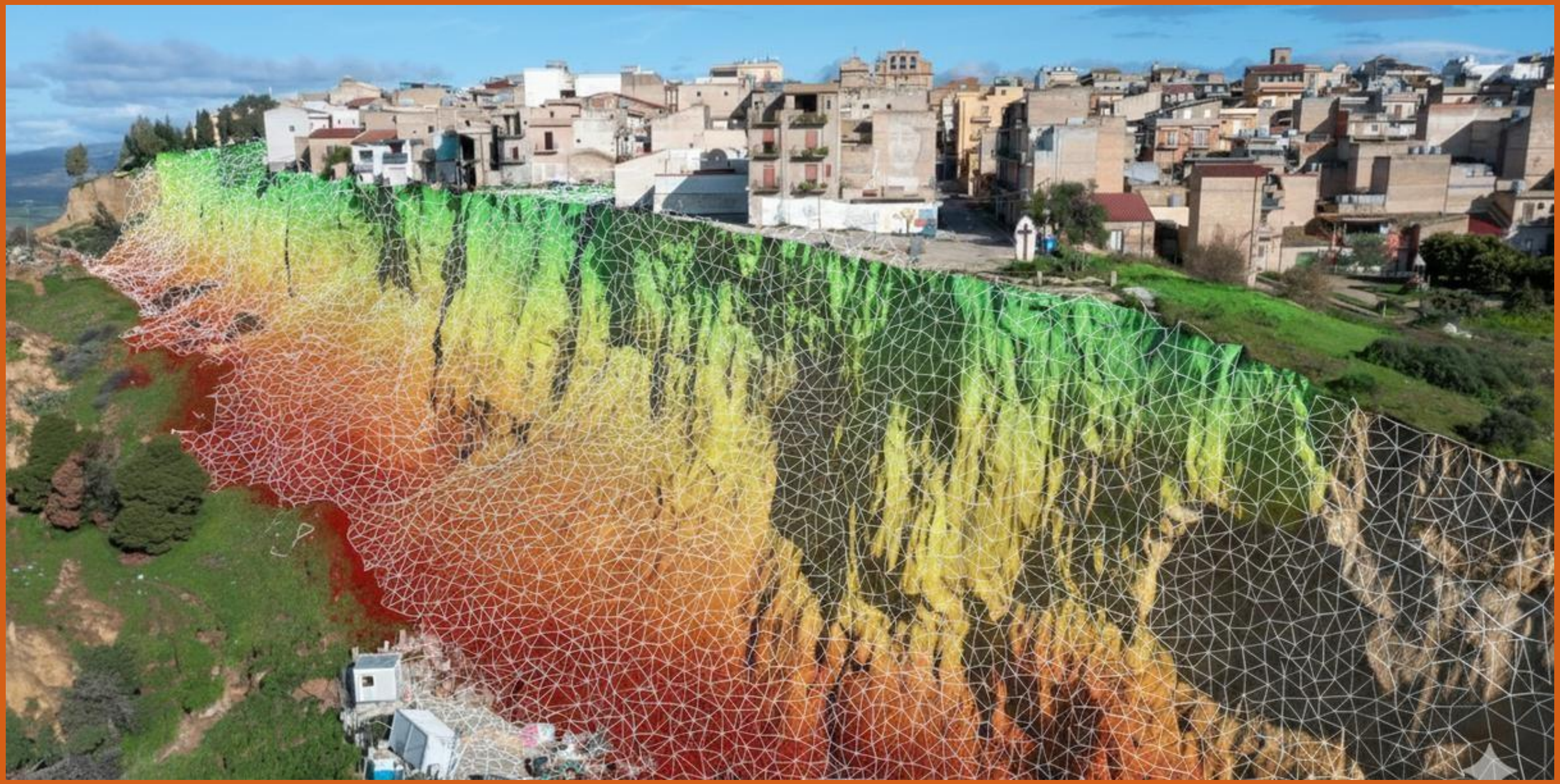
It depends on both human activity and natural factors

- Risk = possibility of an adverse event
- Multiple possible outcomes
- Becomes legally relevant when linked to public perception (fear)

Enviromental law is full of such risks, yet they are often difficult to translate into public awaereness. As a result, raising awareness becomes a priority for the legislator, who will act through one of the two anticipatory principles.

RISKS CAN TAKE DIFFERENT FORMS

1. Affects only individuals
2. Involves third parties or entire communities
3. Natural risks (cannot be fully controlled)



Niscemi, Jan. 31st 2026

LEGAL APPROACHES TO MANAGING RISK

1

PRINCIPLE OF MINIMUM POSSIBLE RISK

- Eliminate any potential risk
- Absolute priority to health and environment
- Not realistic in practice

2

DOCTRINE OF SIGNIFICANT RISK

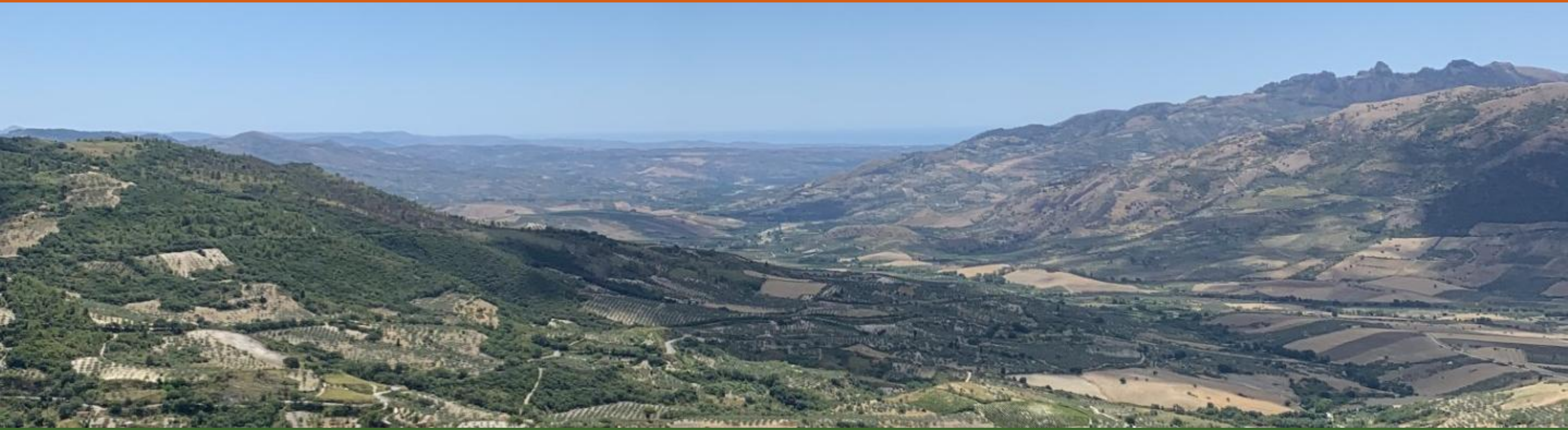
- Act only if risk is relevant
- No fixed threshold
- Requires evaluation

3

THE COST-BENEFIT CRITERION

- Balance competing interests
- Efficient allocation of resources
- Most widely used approach

CONCLUSIONS



Environmental risk cannot be completely eliminated, but it can be managed.Its governance requires a balance between scientific knowledge and political decision-making.Environmental law aims to anticipate and control risks, balancing development with environmental and health protection.