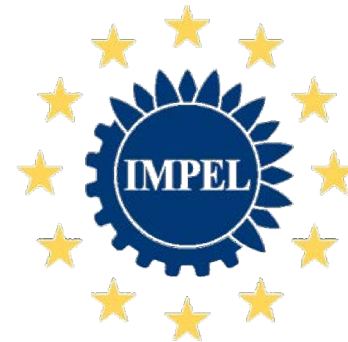


# LIFE-ENPE Working Group 3 Air Pollution Workshop 29 March 2019 - Cyprus

*Horst Buether  
Industry and Air  
Head of Expert Team*



European Union Network for  
the Implementation and Enforcement  
of Environmental Law

ENPE & EUROJUST Conference,  
The Hague, 28 – 30 October 2019

# Workshop program

Relevant directives dealing with air quality (Horst Büther)

- Industrial Emissions Directive
- Air Quality Directive
- Eco Crime Directive

Example case study from Crete – (Jorgos Sbokos)

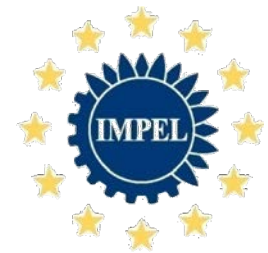
Impact of breaches of the IED on air quality (Horst Büther)

Example case study from Romanian (Teodor Nita)

Prosecution cases – 3 working groups

Group feedback

[Scientific evidence used in prosecutions under legislation transposing the IED (Aisling Kelly)]

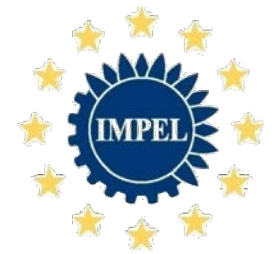


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# Industrial Emissions Directive

DIRECTIVE 2010/75/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 on industrial emissions (integrated pollution prevention and control)

This Directive lays down rules designed to prevent or, where that is not practicable, to reduce emissions into air, water and land and to prevent the generation of waste, in order to achieve a high level of protection of the environment taken as a whole.

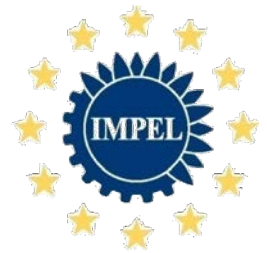


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# Article 79: Penalties

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Member States shall determine penalties applicable to infringements of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive.



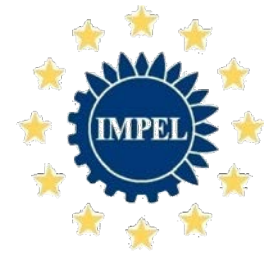
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# Air Quality Directive

**DIRECTIVE 2008/50/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 May 2008 on ambient air quality and cleaner air for Europe**

This Directive lays down measures aimed at the following:

Defining and establishing objectives for ambient air quality designed to avoid, prevent or reduce harmful effects on human health and the environment as a whole

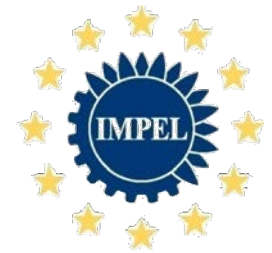


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# Article 30: Penalties

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Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.



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# Environmental Crime Directive

**DIRECTIVE 2008/99/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008 on the protection of the environment through criminal law**

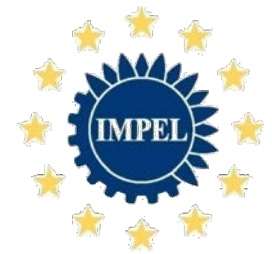
This Directive obliges Member States to provide for criminal penalties in their national legislation in respect of serious infringements of provisions of Community law on the protection of the environment. This Directive creates no obligations regarding the application of such penalties, or any other available system of law enforcement, in individual cases.



# Offences

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Member States shall ensure that the following conduct constitutes a criminal offence, when unlawful and committed intentionally or with at least serious negligence: ... which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants



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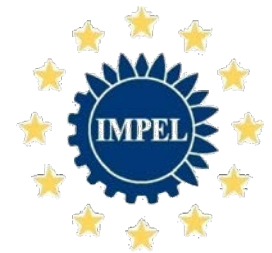


# Cases from Crete and Romania

- Air pollution Crete. Case EUCJ C-364/03  
*Dr iur. Georgios Sbokos*
- Atmospheric Pollution on the Black Sea Shore  
*Teodor Nita*

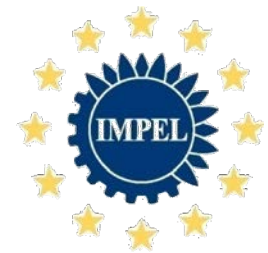
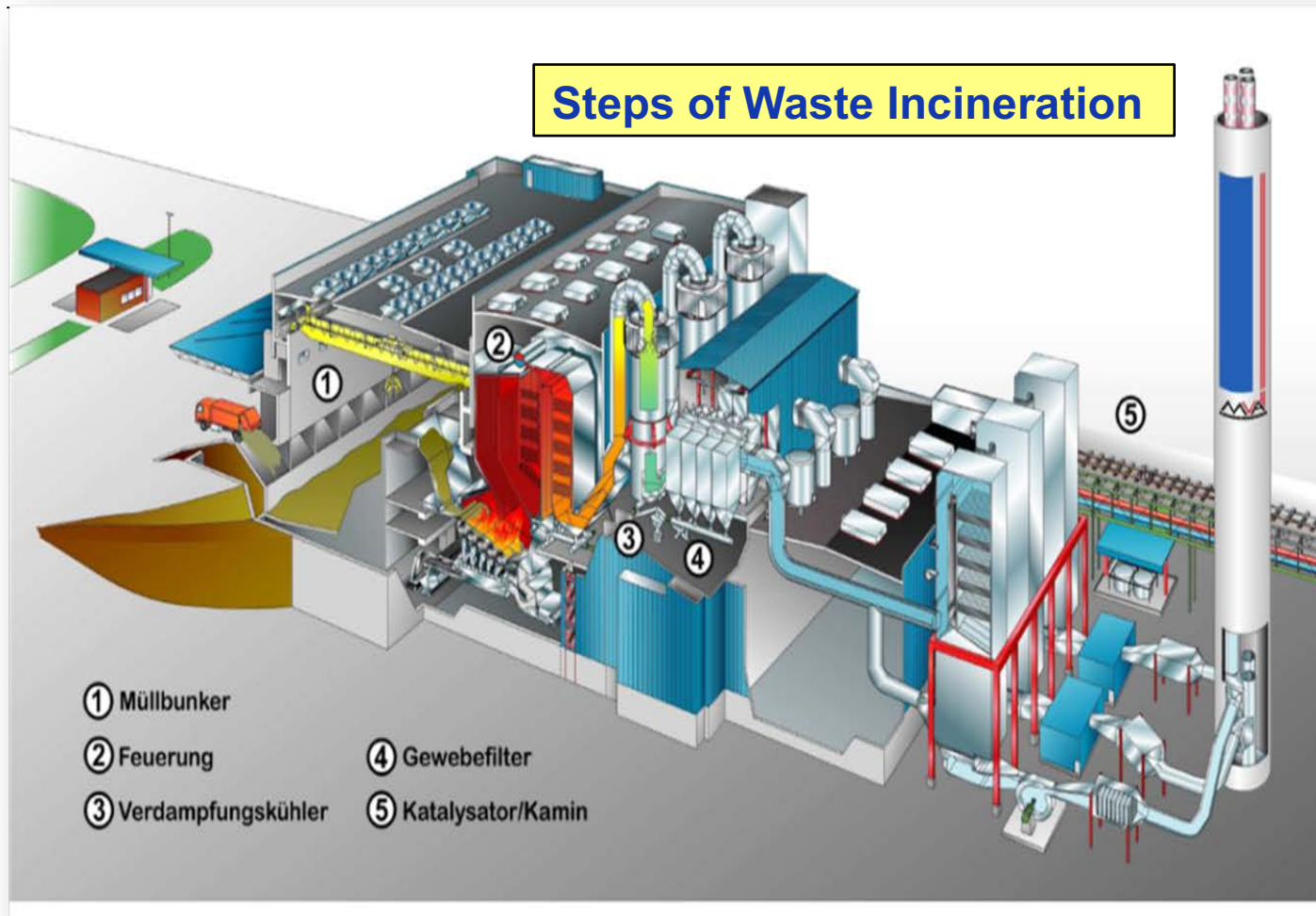
Presentations on the ENPE website:

<https://environmentalprosecutors.eu/node/304>



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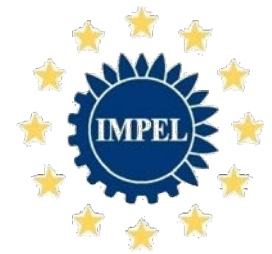
# Mercury from Waste Incineration



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# What happened?

- Mercury illegally dumped into waste
- Operator stopped after fast increase of mercury exhaust concentrations
- After clean-up still concentrations up to  $350 \mu\text{g}/\text{m}^3$
- Starting only one line after the other until each below  $50 \mu\text{g}/\text{m}^3$
- In total 20 hours above emission limit value (burning the incinerator mercury free)



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# Waste Incinerator (left)



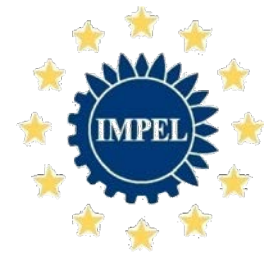
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# Accident in a Petrochemical Installation



2019-10-29

The Hague



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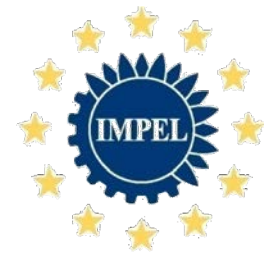
# 3 Working groups

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## Sample prosecution files

Abstract of case 1:

- During June to July 2014 the defendant was commercially exploiting and operating a combustion installation for electricity production without respecting the operation terms B.4.3 of the Industrial Emission Licence with number 186/2012. Specifically, the defendant was operating the three engines of the first array of Internal Combustion Engines (ICE1) without respecting the limit value of nitrogen oxide emissions.



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# Abstract of Case 2

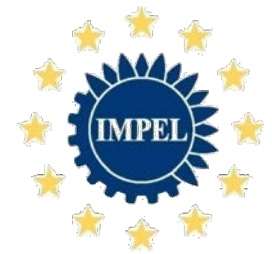
The operator continued to incinerate waste for a period of more than 4 hours uninterrupted where emission limit values of mercury were exceeded. Emission limit values of  $50 \mu\text{g}/\text{m}^3$  (half-hour mean) and  $30 \mu\text{g}/\text{m}^3$  (daily mean) were exceeded by up to  $350 \mu\text{g}/\text{m}^3$ . The incident was caused by illegally dumped mercury in waste that was transported by third parties to the installation. The operator of the waste incineration installation did not inform the competent authorities.



# Abstract of Case 3

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An accident in a petrochemical installation caused a big fire inside the installation. In the plume of the fire were besides carbon monoxide and hydrochloride some dangerous substances in concentration that were harmful to the human health. Because of this the fire brigade to evacuate the neighbourhood in the surroundings of the installation. 3 persons had to stay in hospital for more than 24 hours. The cause of the fire was a leakage inside the installation induced by a low pH-value. The operator could not control the pH-values in all relevant parts of the installation because of some problems he had in the last months before the accident.



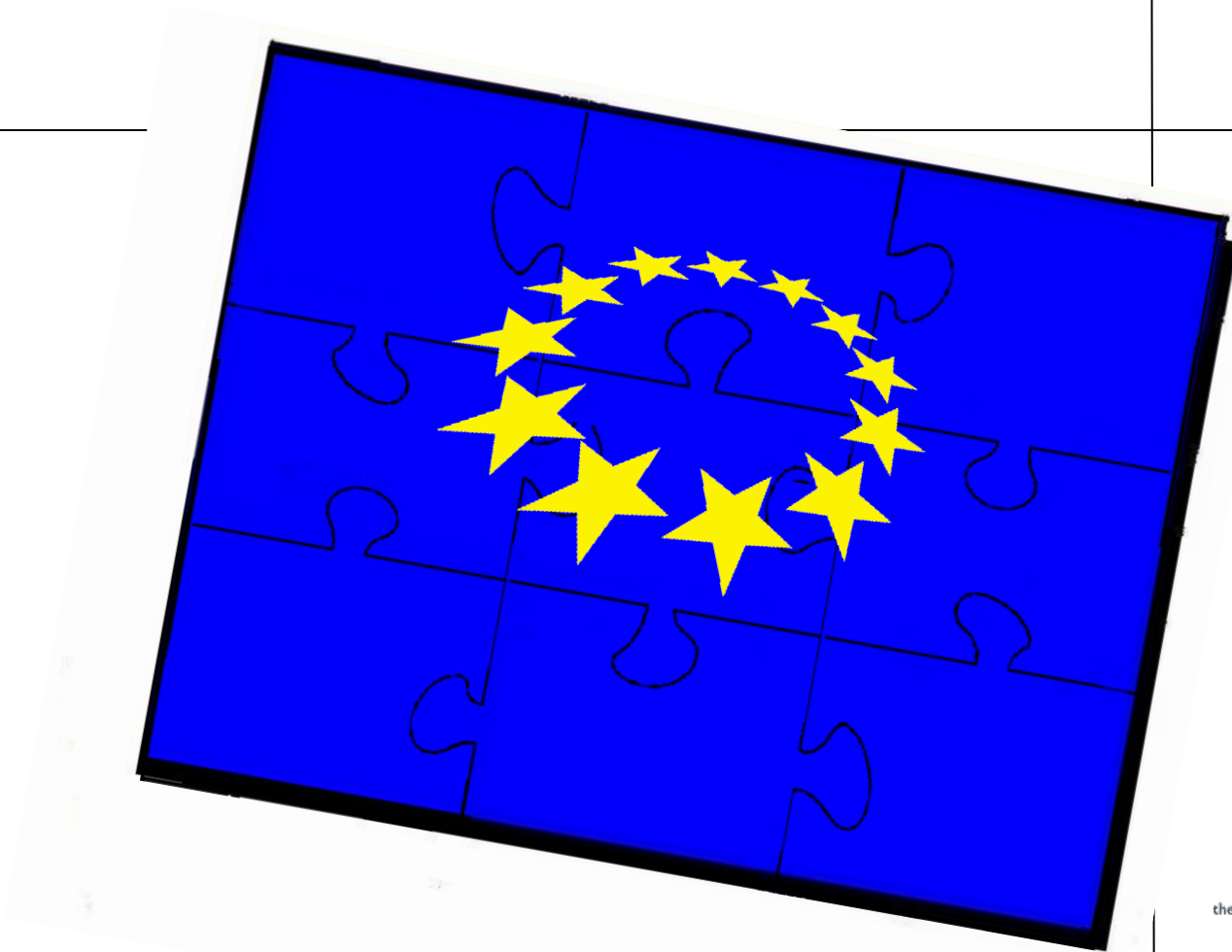
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# General Question to the Groups

The operator does not apply BAT with the consequence that the installation is emitting pollutants into the air above the current emission limit value. Under what circumstances is this no offence against the regulations, a case for an administrative fine, or a case for a criminal penalty?





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