

The ENPE/EUFJE LIFE+ project: progress report of the working group on Sanctioning, prosecution and judicial practice

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prosecution and judicial practice*
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Conference, “*Training and Specialization in
Environmental Law*”

LIFE14 GIE/UK/000043



1. The 4th Working Group (WG) of a LIFE+ project (August 2015-August 2020) on capacity building in environmental prosecution and sanctioning

[<https://www.environmentalprosecutors.eu/eu-life-project>]



1.1. WG 4: a slightly different WG

$\frac{3}{4}$ are subject-focused

$\frac{1}{4}$ looks at overarching practice

WG 1 Wildlife

WG 2 Waste

WG 3 Chemicals (Air)

WG 4 Sanctioning:
prosecution and judicial
practice

- Issues hindering efficient and effective prosecution and adjudication
 - ENPE

- Sanctioning
 - ENPE & EUFJE

1.2. Team and issues to discuss

Team

Belgium – P/J

Croatia – J

Czech Republic – P

France – J & J

Germany – P & P

Latvia – P

The Netherlands – J(P)

Spain – P

Issues to discuss

“Proportionate, effective & dissuasive” sanctioning

1/ Administrative >< criminal sanctioning - *What best when?*

2/ How prosecutors seek to apply sanctions, how judges apply sanctions in criminal *and administrative* contexts

3/ Ongoing *practical implications* Eco-crime Directive. Extent to which *differences in sanctioning practices* undermine enforcement and other EU policies (cohesion common market)

1.3. Outputs to deliver and in progress

Contents

[Training materials]

December 2017: interim findings and report

December 2018: idem

December 2019: final findings and report

Challenges regarding the development and 'canning' of training materials

Strategy development: all 4 WG together

1.3. (...)

- First interim report: available on the EUFJE website, *sub* Documents

https://www.eufje.org/index.php?option=com_content&view=article&id=10&Itemid=121&lang=en

- Topics:
 - Problems, trends and good practices in prosecution and sanctioning
 - Proportionality in prosecution and sanctioning



2. Ongoing work

2.1. Good practices in the prosecution and the adjudication work – Focus on *international cooperation*

2.2. Good practices in the prosecution and adjudication work – Focus on *environmental specialization with prosecutors and courts/judges*

2.1. Working method

- Questionnaire > input > first analysis > discussion and additional input > second analysis > discussion and additional input > third analysis > key observations and recommendations
- A quintessentially collaborative process

2.2. First findings, preliminary views

- International cooperation
 - Most needed is an accurate/correct answer/response in a short delay
 - Today, there is a clear-cut difference in facility and efficiency between transnational cooperation within the EU and transnational cooperation with non EU states
 - At EU-level, the toolkit made available by the EU-legislator suffices; no additional tools are needed
 - Central role of the European investigation order (to implement in EU-Member States by 22 May 2017)

2.2 (...)

- Environmental specialization with prosecutors and judges
 - Specialisation is needed throughout the enforcement chain, from monitoring to judging
 - When discussing the topic, a clear distinction ought to be made between what should ideally exist and what is, in reality, the best solution to strive for
 - And why
 - Specialisation rises an issue of numbers of files and thus of geographical scale
 - Specialisation should be available for each and all environmental offences (no distinction, in the legal system, between 'less' and 'more' serious offences)

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Thank you

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