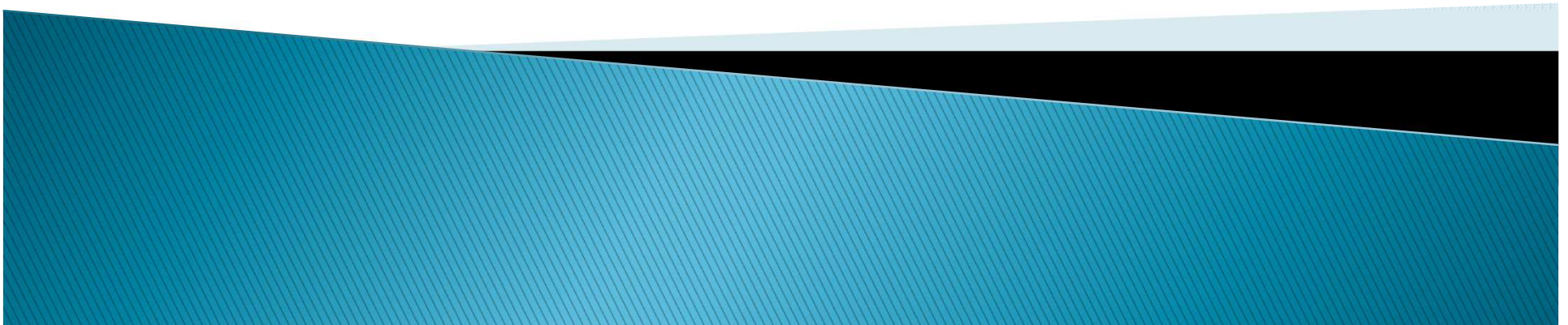


# CITES-REGULATION

336/97/EC

Enforcement by the Member States -  
Comparative Perspective



# SUPERVISION OF COMPLIANCE

## ▶ Supervising bodies

- In general, several administrations or agencies are involved in CITES supervision activities, besides the national Management Authority (who delivers (re-) export permits) and Customs (checks at borders)
  - BE: CITES Division of Federal Department of Public Health, Food Safety and the Environment; Customs; federal and local police; regional authorities (indigenous species)
  - FI: Ministry of the Environment; Customs, Finnish Environment Institute, Finnish Museum of Natural History (scientific advice)



# SUPERVISION OF COMPLIANCE

- **FR:** DG Environnement, Customs, ONCFS, DDSV, Museum national d'histoire naturelle (scientific advice)
- **DE:** Customs, Nature Conservation Authorities of the Länder, Federal Agency for Nature Conservation (import and export permits)
- **HU:** Ministry of Rural Development (10 regional inspectorates), Customs, Police, Park Rangers, Government Veterinary Service
- **NL:** General Inspection Service of the Ministry of Agriculture, Nature and Food Quality; Customs; Police (Regional Environment Teams, Interregional Environment Teams)
- **NO:** Directorate for the Management of Nature; Customs
- **PL:** Environmental Ministry; National Council of Nature Conservation (scientific body)



# SUPERVISION OF COMPLIANCE

- SK: Ministry of Environment, Customs
- SI: Ministry of the Environment and Spatial Planning, Institute of the Republic of Slovenia for Nature Conservation (scientific authority); Customs; Nature Conservation Inspectors
- SE: Regional authority, Swedish Board of Agriculture; Environmental Protection Agency (scientific body), Swedish Museum of Natural History, Police, Customs
- UK: DEFRA (executive agency Animal Health), UK Border Agency, Police – Partnership for Action against Wildlife Crime (PAW)



# ENFORCEMENT

- ▶ Unclear to which extent MS are giving effect to Commission Recommendation of 13 June 2007 identifying a set of actions for the enforcement of Council Regulation (EC) N° 338/97 on the protection of species of wild fauna and flora by regulating the trade therein
  - Good examples seem to be NL and UK



# SANCTIONS

- ▶ Type and level of sanctions are widely varying between MS
  - BE: criminal sanctions (in the future also administrative transactions) – max. sanction: prison sentence of 5 years and/or fine 275.000 € (Fl. Reg: 1.375.000 €)
  - FI: mainly administrative (coercive measures), but criminal sanctions are possible
  - FR: criminal sanctions – max. 6 months of prison (3 years in case of custom crime)/ 9.000 €



# SANCTIONS

- **DE:** administrative sanctions (varying among the Länder – max. 50.000 €) and under certain aggravating circumstances criminal sanctions
- **HU:** criminal sanctions – max . 3 years of imprisonment – administrative nature protection fine 36,5 à 355 € (per specimen/ protection value of the specimen)
- **NL:** administrative measures – criminal sanctions (max. imprisonment of 6 years and/or 45.000 € or €450.000 depending on the value of the goods – prosecution guidelines
- **NO:** criminal sanctions – fine/ imprisonment max 6 months



# SANCTIONS

- **PL:** criminal sanctions – penalties – max. imprisonment of 5 years
- **SK:** administrative sanctions – max. 33.200 €
- **SI:** administrative sanctions – max. 33.300 €
- **SE:** administrative sanctions: max. 500 € – criminal sanctions: fine/ max. 4 years imprisonment
- **UK** criminal sanctions: max: 5 years of imprisonment or/and an unlimited fine





# SANCTIONS

- ▶ Seizure and confiscation of specimens
  - Seems to be present in all MS
- ▶ Compensation
  - In some MS a monetary value is given to (some) protected species: FI, HU
- ▶ Application on legal persons
  - Is possible in all MS, although sometimes only the administrative sanctions (DE, SK)



# ECO-CRIME DIRECTIVE

- ▶ Art. 3 (g): unlawful and intentionally or with at least serious negligence committed trading in specimens of protected wild fauna or flora species (Annex A or B CITES Regulation), or parts or derivatives thereof
  - Criminal offence
  - Effective, proportionate and dissuasive criminal penalties
  - 26 December 2010



# ECO-CRIME DIRECTIVE

- ▶ In most MS pre-existing legislation is supposed to be in line with this provision
- ▶ Specific national description is used
- ▶ Wide variety in minimum and maximum penalties
- ▶ Legal persons: in most MS they are criminal liable
  - Sometimes exactly the same sanctions
  - Sometimes sanctions that differ from those of natural persons
  - Exception: SK, DE



# ECO-CRIME DIRECTIVE

- ▶ BE: regional legislation not in line
- ▶ FR: transposition is needed
- ▶ HU: Criminal Code will be amended
- ▶ PL: implementation under way

