

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

ENPE

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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](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

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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)

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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

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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*

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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

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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)

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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 strife 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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