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### Austria

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<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Unlawful discharge of hazardous substances into water</td>
<td>Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community Article 4 With regard to List I substances: (a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned; (b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers;</td>
<td>• (Strafrechtsänderungsgesetz 2006) (Criminal Code) Art 180 Vorsätzliche Beeinträchtigung der Umwelt: (1) Wer entgegen einer Rechtsvorschrift oder einem behördlichen Auftrag ein Gewässer, den Boden oder die Luft so verunreinigt oder sonst beeinträchtigt, dass dadurch 1. eine Gefahr für das Leben oder einer schweren Körperverletzung (§ 84 Abs. 1) eines anderen der sonst für die Gesundheit oder körperliche Sicherheit einer größeren Zahl von Menschen, 2. eine Gefahr für den Tier- oder Pflanzenbestand in erheblichem Ausmaß, 3. eine lange Zeit andauernde Verschlechterung des Zustands eines Gewässers, des Bodens oder der Luft oder 4. ein Beseitigungsaufwand oder sonst ein Schaden an einer fremden Sache, an einem unter Denkmalschutz stehenden Gegenstand oder an einem Naturdenkmal, der 50 000 Euro übersteigt, entstehen kann, ist mit Freiheitsstrafe</td>
<td>• Criminal Code ➢ Intentional impairment of the environment: (§ 180): imprisonment up to 3 years (5 years under aggravated circumstances) ➢ Negligent impairment of the environment(§181) : prison penalty up to 1 year (2 years under aggravated circumstances) or a fine up to 360 daily rates. ➢ A prison penalty can be pronounce as alternative to fine for not paying the criminal fine 1 day for 2 daily rates.</td>
<td>No criminal liability of legal persons. In federal and state administrative penal law, legal persons must engage another natural person to observe the administrative law if required by an authority. In this case, the legal entity is liable for the pecuniary fine imposed on the (responsible) representative The holder of the permission and the managing director are punishable besides the actor, if they tolerate the offence deliberately or if they neglected duties by choosing or supervising supervisory staff (§ 137 Abs 5 WRG)</td>
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</tbody>
</table>

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Criminal Code

- Intentional impairment of the environment: (§ 180): imprisonment up to 3 years (5 years under aggravated circumstances)
- Negligent impairment of the environment(§181) : prison penalty up to 1 year (2 years under aggravated circumstances) or a fine up to 360 daily rates.
- A prison penalty can be pronounce as alternative to fine for not paying the criminal fine 1 day for 2 daily rates.

Federal law:

- § 137 WRG: fines up to 36340 €, no imprisonment.
- Imprisonment for failure to pay a fine is extended up to 6 weeks.
(c) authorisations may be granted for a limited period only. They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.


Article 11

Programme of measures

3. "Basic measures" are the minimum requirements to be complied with and shall consist of:

(i) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

bis zu drei Jahren zu bestrafen.

(2) Wird durch die Tat der Tier- oder Pflanzenbestand erheblich geschädigt, eine lange Zeit andauernde Verschlechterung des Zustands eines Gewässers, des Bodens oder der Luft bewirkt oder ein Beseitigungsaufwand oder sonst ein Schaden an einer fremden Sache, an einem unter Denkmalschutz stehenden Gegenstand oder an einem Naturdenkmal, der 50 000 Euro übersteigt, herbeigeführt, so ist der Täter mit Freiheitsstrafe von sechs Monaten bis zu fünf Jahren zu bestrafen. Hat die Tat eine der im § 169 Abs. 3 genannten Folgen, so sind die dort angedrohten Strafen zu verhängen.”

§ 181. Fahrlässige Beeinträchtigung der Umwelt

(1) Wer fahrlässig entgegen einer Rechtsvorschrift oder einem behördlichen Auftrag eine der im § 180 mit Strafe bedrohten Handlungen begeht, ist mit Freiheitsstrafe bis zu einem Jahr oder mit Geldstrafe bis zu 360 Tagessätzen zu bestrafen.

(2) Wird durch die Tat der Tier- oder Pflanzenbestand erheblich geschädigt, eine lange Zeit andauernde Verschlechterung des Zustands eines Gewässers, des Bodens oder der Luft bewirkt oder ein Beseitigungsaufwand oder sonst ein Schaden an einer fremden Sache, an einem unter Denkmalschutz stehenden Gegenstand oder an einem Naturdenkmal, der 50 000 Euro übersteigt, herbeigeführt, so ist der Täter mit Freiheitsstrafe bis zu zwei Jahren oder mit Geldstrafe bis zu 360 Tagessätzen zu bestrafen. Hat die Tat
### Directive 2006/12/EC of 5 April 2006 on waste

**Article 4.** 2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.


<table>
<thead>
<tr>
<th>Federal administrative penal provision can be found in § 39 AWG:</th>
</tr>
</thead>
<tbody>
<tr>
<td>§ 79 Abs fine from 360 to 7270 € (except for dangerous waste up to 36 340 €)</td>
</tr>
<tr>
<td>or alternative imprisonment up to 2 weeks</td>
</tr>
</tbody>
</table>

#### Criminal law (federal): Art 180-181 d) StGB, Criminal Code

- Intentionally endangering the environment by treatment of and clearing away waste (§ 181b) imprisonment up to 2 years or a fine up to 360 daily rates.
- The imprisonment penalty can be up to 3 years if the offence provokes a significant damage to fauna or flora or deteriorates the quality of water.
- Negligent impairment of the environment by treatment of waste: prison penalty up to 6 month or a fine up to 360 daily rates. (1 year of imprisonment under aggravating circumstances)

<table>
<thead>
<tr>
<th>No criminal liability for legal persons (see above)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The holder of the permission for collecting dangerous waste (§ 25 AWG 2002) is punishable besides the managing director, if he tolerated the offence deliberately or if he neglected duties by choosing the managing director (§ 80 Abs 3 AWG 2002)</td>
</tr>
<tr>
<td>Fines up to 36 340 €</td>
</tr>
</tbody>
</table>

#### Criminal law ((state): Art 180-181 d) StGB, Criminal Code

- Intentionally endangering the environment by treatment of and clearing away waste (§ 181b) imprisonment up to 2 years or a fine up to 360 daily rates.
- The imprisonment penalty can be up to 3 years if the offence provokes a significant damage to fauna or flora or deteriorates the quality of water.
- Negligent impairment of the environment by treatment of waste: prison penalty up to 6 month or a fine up to 360 daily rates. (1 year of imprisonment under aggravating circumstances)

#### State Law: Abfallwirtschaftsgesetze/-ordnungen:

- Fines reach up from € 7 to € 36340 (for administrative offence)
eine lange Zeit andauernde Verschlechterung des Zustands eines Gewässers, des Bodens oder der Luft oder einen Beseitigungsaufwand, der 50 000 Euro übersteigt, bewirkt, so ist der Täter mit Freiheitsstrafe bis zu drei Jahren zu bestrafen. Hat die Tat eine der im § 169 Abs. 3 genannten Folgen, so sind die dort angedrohten Strafen zu verhängen.”

§181 c) „Fahrlässiges umweltgefährdendes Behandeln und Verbringen von Abfällen
(1) Wer fahrlässig entgegen einer Rechtsvorschrift oder einem behördlichen Auftrag eine der im § 181b mit Strafe bedrohten Handlungen begeht, ist mit Freiheitsstrafe bis zu sechs Monaten oder mit Geldstrafe bis zu 360 Tagessätzen zu bestrafen.
(2) Wird durch die Tat der Tier- oder Pflanzenbestand erheblich geschädigt, eine lange Zeit andauernde Verschlechterung des Zustands eines Gewässers, des Bodens oder der Luft oder ein Beseitigungsaufwand, der 50 000 Euro übersteigt, bewirkt, so ist der Täter mit Freiheitsstrafe bis zu einem Jahr oder mit Geldstrafe bis zu 360 Tagessätzen zu bestrafen. Hat die Tat eine der im § 170 Abs. 2 genannten Folgen, so sind die dort angedrohten Strafen zu verhängen.”

- Strafgesetzbuch: Federal law:
  Abfallwirtschaftsgesetz (AWG),
  Abfallnachweisverordnung and
  Altölverordnung
  § 79 Abs 2 Z 3 AWG 2002 Disposal of
3. Illegal shipment of waste

Preamble of Regulation 1013/2006 of 14 June 2006, on shipment of waste

Article 35
‘illegal shipment’ means any shipment of waste effected:
(a) without notification to all competent authorities concerned pursuant to this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) in a way which is not specified materially in the notification or movement documents; or
(e) in a way which results in recovery or disposal in contravention of Community or international rules; or
(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has not dangerous waste
§ 79 Abs 1 Z 1 AWG 2002 Disposal of dangerous waste

State Law:
Abfallwirtschaftsgesetze/-ordnungen

Criminal Code: Art 181 b) StGB,
➢ Intentionally endangering the environment by treatment of and clearing away waste (§ 181b) imprisonment up to 2 years or a fine up to 360 daily rates.
➢ The imprisonment penalty can be up to 3 years if the offence provokes a significant damage to fauna or flora or deteriorates the quality of water.
➢ Negligent impairment of the environment by treatment of waste: prison penalty up to 6 month or a fine up to 360 daily rates. (1 year of imprisonment under aggravating circumstances)

Federal administrative penal provision:
➢ Fines from 360 € to 7270 € for administrative offences
➢ Prison as alternative to fine for not paying administrative fines up to 2 weeks

No criminal liability for legal persons (see above) Administrative Fines up to 7270 €
resulted from:
(i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
(ii) non-compliance with Article 3(4),
(iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

**Article 50**

**Enforcement in Member States**

1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.

<table>
<thead>
<tr>
<th>4. Unlawful Council Directive</th>
<th>• Strafrechtsänderungsgesetz</th>
<th>• Criminal code:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Bundesgesetz über eine nachhaltige Abfallwirtschaft (Abfallwirtschaftsgesetz 2002 - AWG 2002) BGBl. I Nr. 102/2002 (federal law on sustainable waste management) § 79 Abs 2 Z 18 AWG 2002 Transfer of waste without authorisation or notification though required Attempts are punishable</td>
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<thead>
<tr>
<th>4. Unlawful Council Directive</th>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

No criminal liability of legal persons (see...
significant deterioration of a protected habitat

92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

**Article 6**

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

**Article 12**

1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:

   (a) all forms of deliberate capture or killing of specimens of these species in the wild;

   (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

   (c) deliberate destruction or

---

2006) (Criminal Code)

- **Art 182**: Ebenso ist zu bestrafen, wer entgegen einer Rechtsvorschrift oder einem behördlichen Auftrag auf andere als die im §180 bezeichnete Weise eine erhebliche Gefahr für den Tier oder Pflanzenbestand herbeiführt.

- **State Law**: all the 9 autonomous States transformed directive into national law mainly by Naturschutzgesetze (Nature protection codes) and hunting and fishing codes

There is no federal law because the Bundesländer are responsible for nature protection, hunting and fishing. All provide administrative penal law.

- **Art 182** Other intentional endangering of fauna or flora: imprisonment up to 2 years or a fine up to 360 daily rates

- **State Law**: Sanctions are not uniform, mainly fines, one state provides for imprisonment

above) Administrative fines depending on the Landers, different amounts (not provided)
taking of eggs from the wild;
(d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Article 13
1. Member States shall take the requisite measures to establish a system of strict
protection for the plant species listed in Annex IV (b), prohibiting:

(a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;

(b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.


Article 4
Control of the placing on the market and use of controlled substances
1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:
   (a) chlorofluorocarbons;


- No criminal sanction
- Sanctions under administrative criminal law:
  - Fines from 360 up to 14.530 €, in case of re-offending up to 29.070 €
  - Seizure of ozone depleting chemicals and products containing such substances.

No criminal liability of legal persons but legal entities can engage a natural person responsible for observing the administrative law in order to secure penal liability (§ 71 Abs 1 and 2 Chemikaliengesetz 1996)

The entity is liable for the pecuniary fine imposed on the (responsible) representative.

- Fines from 360 up to 14.530 €, in case of re-offending up to 29.070 €


Article 4
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1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:
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- Fines from 360 up to 14.530 €, in case of re-offending up to 29.070 €
(b) other fully halogenated chlorofluorocarbons;
(c) halons;
(d) carbon tetrachloride;
(e) 1,1,1-trichloroethane;
(f) hydrobromofluorocarbons. 

**Article 5**
Control of the use of hydrochlorofluorocarbons
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
   (a) in aerosols;
   (b) as solvents: 
       (…)
   (c) as refrigerants:
       (…)
   (d) for the production of foams:
       (…)
   (e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
   (f) in all other applications. 

Article 21
Penalties
Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding
penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.
Belgium

Typology of criminal penalties in Belgium:

- Additional criminal penalties:

  Since the tables for Belgium were complex due to the fact that the penalties applicable depend from one Region to another, we decide to mention only the main penalties: imprisonment and fines. Yet, there are other penalties that might apply to environmental crimes. Here are examples of these additional penalties:

  - Closure of the establishment
  - Ban on activity
  - Seizure of the goods

- Criminal liability of legal entities: the criminal liability of legal entities was introduced in Belgian criminal law by the law of 4th May 1999. This law adds a series of new provisions to book I of the Belgian penal Code. In principle, legal entities can commit any crimes.

  Art 5 of the penal Code states that “Toute personne morale est pénalement responsable des infractions qui sont intrinsèquement liées à la réalisation de son objet ou à la défense de ses intérêt ou commises pour son compte.” Thus there shall be a clear link between the offence and the actions, interests, activities of the legal person.

  The penal code provides for the different sanctions that may apply to legal Persons:

  Fines:

  Art 41 bis of the Penal code provides for a mechanism of conversion of imprisonment penalties into fines. So where the penal code or a lex specialis provides for an imprisonment penalty for natural person and a fine, the fine applicable to legal person shall be determined as follows:

  - 500 BEF (12.5 €) multiplied by the number of month of the minimum sentence; But this fine shall not be lower than the minimum fine provided for natural persons;
  - 2000 BEF (50 €) multiplied by the number of months of the maximum sentence, but this fine shall not be lower than twice the maximum fine provided for natural persons.

  Where the law only provides for a fine: the same fine shall apply to legal persons.

  The rules provided in the Livre I of the penal Code shall apply to legal persons ((aggravating/mitigating circumstances, subsequent offence).

  Supplementary penalties are provided for under the penal Code or can be provided for in lex specialis:

  Closure of establishment, discontinuation of the activity, dissolution of the company.
<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
</table>
| 1. Unlawful discharge of hazardous substances into water | Directive 2000/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community | Article 41 § 1 De la loi du 26 mars 1971 sur la protection des eaux de surface contre la pollution (mise à jour le 02/02/2002) : § 1er. Sans préjudice de l'application des peines édictées par le Code pénal, est puni d'un emprisonnement de huit jours à six mois et d'une amende de vingt-six à cinq mille francs ou d'une de ces peines seulement, celui qui contrevient aux dispositions de la présente loi ou des arrêtés et règlements pris pour son exécution, et notamment : (NOTE : pour la conversion des francs en euros, voir ORD 1999-03-11/43, art. 5ter) 1. celui qui, en infraction à l'article 2, jette, dépose des objets ou matières dans les eaux visées à l'article 1er, y laisse couler des liquides contenant des matières ou substances nuisibles ou y introduit des gaz ainsi que celui qui, par ses ordres ou par sa négligence provoque une telle action, éventuellement du fait qu'il a déposé ou fait déposer des matières solides ou liquides à un endroit où elles pouvaient être entraînées par un phénomène naturel dans les eaux visées à l'article 1er; (...) | Brussels and Flanders: Law of 26 March 1971 (art 41 § 1) | Brussels and Flanders:  
Prison: from 8 days up to 6 months AND/OR  
Fine from € 2.5 up to € 2500  
Walloon District:  
Article D 392 of the water Code:  
Prison: 8 days to 6 months AND/OR Fine from € 26 to € 500 000 | According to the penal Code: Conversion of imprisonment into a fine:  
- from € 2.5 to € 5000 in Brussels and Flanders  
- from € 26 to 1M in the Walloon district |
l'installation ou les appareils qui ont été à l'origine de l'infraction.

§ 3. Les peines sont portées au double si une nouvelle infraction est commise dans les deux années à dater d'un jugement antérieur portant condamnation pour l'une des infractions visées à cet article et passe en force de chose jugée.

§ 4. Toutes les dispositions du Livre I du Code pénal, sans exception du chapitre VII ni de l'article 85, sont applicables aux infractions prévues par le présent article.

§ 5. Les personnes morales sont civilement responsables des condamnations aux dommages-intérêts, amendes et frais, prononcées à charge de leurs organes ou préposés du chef des infractions commises dans l'exercice de leurs fonctions.

- **Bruxelles capitale** :
  La loi du 26 mars 1971 est toujours applicable à Bruxelles

- **Flandres** :
  l'article 41 § 1 de la loi du 26 mars 1971 s'applique.

- **Région Wallonne** :
  La plupart des dispositions de la loi du 26 mars 1971 ont été abrogées pour la région wallonne.

Le décret du 27 mai 1994 relatif au livre II du code de l'environnement concerne le code de l'eau. Selon
l'article D161 du Code de l'Eau, :

« il est interdit d'introduire des gaz polluants, des liquides interdits par le décret du 23 juin 1994, des objets ou matières autres que les eaux usées (tels des déchets) dans les égouts publics, les collecteurs ou les eaux de surface. »

Cette infraction est sanctionnée, en vertu de l’article D392, 2°, de ce même décret.

<table>
<thead>
<tr>
<th>2. Unlawful dumping of waste</th>
<th>Directive 2006/12/EC of 5 April 2006 on waste</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Article 4.2.</strong> Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.</td>
<td></td>
</tr>
</tbody>
</table>

- **Région Wallonne:**
  - **Décret du 27 juin 1996 relatif aux déchets**
    - Art 7§1 : il est interdit d’abandonner les déchets ou de les manipuler au mépris des dispositions légales ou réglementaires.

- **Bruxelles capitale :**
  - **Ordonnance du 7 mars 1991 :**
    - Art 8 : Il est interdit d’abandonner un déchet dans un lieu public ou privé en dehors des emplacements autorisés à cet effet par l'authorization administrative compétente ou sans respecter les dispositions réglementaires relatives à l'élimination des déchets.

- **Flanders :**
  - Décret du 2 juillet 1981 modifié par

<table>
<thead>
<tr>
<th></th>
<th><strong>Walloon District</strong></th>
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<tbody>
<tr>
<td></td>
<td>Decree of 27 June 2006:</td>
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<tr>
<td></td>
<td>Illegal dumping :</td>
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<tr>
<td></td>
<td>Prison/ 8 days to 3 years AND/OR</td>
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<td></td>
<td>Fine from € 2,5 to € 25 000</td>
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<tr>
<td></td>
<td>Intentional offence:</td>
</tr>
<tr>
<td></td>
<td>Prison 1 month to 5 years AND/OR</td>
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<tr>
<td></td>
<td>Fine : € 2,5 to € 70000</td>
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<tr>
<td></td>
<td>Illegal dumping causing harm to Human Health:</td>
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<tr>
<td></td>
<td>Prison : 6 months to 5 years AND/OR</td>
</tr>
<tr>
<td></td>
<td>Fine : € 2,5 to € 25 000</td>
</tr>
<tr>
<td></td>
<td>Intentional illegal dumping causing harm to Human Health:</td>
</tr>
<tr>
<td></td>
<td>Prison: 6 months to 5 years AND/OR</td>
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<tr>
<td></td>
<td>Fine: € 2,5 to € 140 000</td>
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</tbody>
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<table>
<thead>
<tr>
<th></th>
<th><strong>Walloon district:</strong></th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Conversion of imprisonment into a Fine:</td>
</tr>
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<td></td>
<td>Illegal dumping :</td>
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<tr>
<td></td>
<td>€ 2.5 to € 50 000</td>
</tr>
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<td></td>
<td>Intentional offence:</td>
</tr>
<tr>
<td></td>
<td>Fine: € 12,5 to €140 000</td>
</tr>
<tr>
<td></td>
<td>Illegal dumping causing harm to Human Health:</td>
</tr>
<tr>
<td></td>
<td>Fine: € 75 to € 50 000</td>
</tr>
<tr>
<td></td>
<td>Intentional illegal dumping causing harm to Human Health:</td>
</tr>
<tr>
<td></td>
<td>Fine: € 75 to € 280 000</td>
</tr>
<tr>
<td></td>
<td>Brussels</td>
</tr>
<tr>
<td></td>
<td>Same fines as for natural persons</td>
</tr>
<tr>
<td></td>
<td>Flanders:</td>
</tr>
<tr>
<td>3. Illegal shipment of waste</td>
<td></td>
</tr>
<tr>
<td>-------------------------------</td>
<td></td>
</tr>
</tbody>
</table>
| Preamble of Regulation 1013/2006 of 14 June 2006, **article 35**  
| **illegal shipment** means any shipment of waste effected:  
| (a) without notification to all competent authorities concerned pursuant to this Regulation; or  
| (b) without the consent of the competent authorities concerned pursuant to this Regulation; or  
| (c) with consent obtained from the competent authorities concerned through falsification. |   
| |  
| • **Flandres:**  
| Art 56. Est puni d'un emprisonnement d'un mois à cinq ans et d'une amende de 100 francs à 10 millions francs ou de l'une de ces peines seulement (…)  
| 3. celui qui pratique le trafic illégal  
| **Flanders:**  
| Art 56 of Decree of 2 July 1981 as amended :  
| Imprisonment : from 1 month to 5 years  
| And/or  
| Fine : from € 2,5 to 247 000  
| • **Walloon District:**  
| Penalties are provided for under art 51 and 52 of the decree of 27 June 1996  
| ➢ Shipments without prior notification and/or consent  
| ➢ Shipments without prior notification |   
| Conversion of imprisonment into a Fine in accordance with the Penal Code:  
| Fine from €12.5 to € 56 000  
| • **Flanders:**  
| Fine from 2,50 € to 50 000€ and from 2,50 € to 125 000€ in the case of intentional offence  
| • **Walloon district:**  
| ➢ Shipments without prior notification and/or consent |   
| ➢ Shipments without prior notification and/or consent |
misrepresentation or fraud; or
d) in a way which is not specified materially in the
notification or movement documents; or
e) in a way which results in recovery or disposal in
contravention of Community or international rules; or
f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
g) which, in relation to shipments of waste as referred to
in Article 3(2) and (4), has resulted from:
i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
ii) non-compliance with Article 3(4),
(iii) the shipment being effected in
a way which is not specified materially in the document set out in Annex VII.

<table>
<thead>
<tr>
<th>Article 50 Enforcement in Member States</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the 12.7.2006 EN Official Journal of the European Union L 190/29 Commission of their national legislation relating to prevention</td>
</tr>
<tr>
<td>tel que visé à l'article 26 du Règlement (CEE) no 259/93 du Conseil des Communautés européennes du 1er février 1993 concernant la surveillance et le contrôle des transferts de déchets à l'entrée et à la sortie de la Communauté europèenne;</td>
</tr>
<tr>
<td>4. celui qui transporte ou transfère des déchets tels que visés à l'article 11, premier alinéa du règlement précité sans qu'ils soient accompagnés des informations visées à la même disposition;</td>
</tr>
<tr>
<td>5. celui qui exporte des déchets vers un état ACP en violation de l'article 18 du Règlement précité;</td>
</tr>
<tr>
<td>6. celui qui transfère des déchets sans s'être acquitté de l'obligation de payer une garantie financière ou de constituer une assurance équivalente lorsque cela est prescrit par les dispositions prises en vertu de l'article 33, § 2, du présent décret, en exécution de l'article 27, premier alinéa, du Règlement précité;</td>
</tr>
<tr>
<td>7. celui qui mélange, lors du transfert, des déchets faisant l'objet de différentes notifications, en violation de l'article 29 du Règlement.</td>
</tr>
</tbody>
</table>

**Région wallonne**

Art 5 de l’arrêté du gouvernement wallon du 9 juin 1994 concernant la surveillance et le transfert de déchets à l’intérieur, l’entrée et la sortie de la Communauté |

<table>
<thead>
<tr>
<th>consent or without financial guarantee :</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prison : 8 days to 3 years and/or</td>
</tr>
<tr>
<td>Fine : 2,50 € to 25.000 €</td>
</tr>
<tr>
<td>If Intentional Offence:</td>
</tr>
<tr>
<td>Prison : 1 month to 5 years AND/OR</td>
</tr>
<tr>
<td>from 2,50 € to 125.500 €</td>
</tr>
<tr>
<td>➢ Shipment without prior and/or consent and/or financial guarantee causing harm to human health</td>
</tr>
<tr>
<td>Prison : 6 months to 5 years AND/OR</td>
</tr>
<tr>
<td>Fine : 2,50 € to 25.000 €</td>
</tr>
<tr>
<td>If intentional offence:</td>
</tr>
<tr>
<td>Prison : 5 years to (unlimited)</td>
</tr>
<tr>
<td>Fine : 2,50 € to 125.000 €</td>
</tr>
<tr>
<td>Brussels:</td>
</tr>
<tr>
<td>Article 22, 23 and 24 of the Ordinance of 7 March 1991 on the prevention and management of waste :</td>
</tr>
<tr>
<td>➢ Shipment without a prior notification or consent :</td>
</tr>
<tr>
<td>Prison: 3 to 12 months AND</td>
</tr>
<tr>
<td>Fine : 2,50 € to 12.500 €</td>
</tr>
<tr>
<td>; 12.500 € to 62.500.€ if the offence concerns dangerous waste</td>
</tr>
<tr>
<td>Intentional false notification:</td>
</tr>
<tr>
<td>Prison : 1 to 6 Months AND/OR</td>
</tr>
<tr>
<td>Fine : 12,50 € to500 € (increased if the offence concerns dangerous waste)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>and/or consent causing harm to human health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fine from: 75 € à 50.000 € AND</td>
</tr>
<tr>
<td>From 75 to 300.000 € if intentional offence</td>
</tr>
</tbody>
</table>

- Brussels : |
  - Shipment without prior notification and/or prior consent : |
    - Fine from 375 € to 25 000 € |
    - And from 25 000€ to 130 000.€ if it concerns dangerous waste |
  - False notifications : |
    - From 12,50 € to 100 € increased if it concerns dangerous waste.
and detection of illegal shipments and penalties for such shipments.

« Art 5 En cas d'exportation de déchets, le notifiant communique la notification visée aux articles 3.1, 6.1, 15.1, 17.1 et 28 du règlement, à l'autorité compétente visée à l'article 3 du présent arrêté. Dans un délai de trois jours ouvrables à dater de sa réception, celle-ci transmet la notification à l'autorité compétente de destination et en adresse copie au destinataire et à l'autorité compétente de transit, à moins qu'elle ne fasse application de l'article 3.8, alinéa 2, ou de l'article 15.11, alinéa 2, du Règlement. »

Note that the Legal basis for this Order is article 23 of the Decree of 27 June 1996 on Waste. Articles 51 and 52 of the Decree lay down the penalties applicable to violations of the orders adopted on the basis of article 23 of the Decree.

- Brussels:

The Regulation being directly applicable, its provisions do not have to be transposed. The government of Brussels has adopted the following implementing order : Arrêté du 7 Juillet 1994 which lays down administrative rules necessary to ensure the implementation of the Regulation. The legal Basis for this Order is the Ordinance of 7 March 1991 on waste.

Fine : from 2,50 € up to 12.500 €; 12.500 € to 62.500 € if the offence concerns dangerous waste.
4. Unlawful significant deterioration of a protected habitat


Article 6§2: Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive

- **Wallonie**: Loi du 12 juillet 1973 sur la conservation de la nature telle que modifiée par le Décret Wallon du 6 décembre 2001:
  « Dans les sites Natura 2000 , il est interdit de détériorer les habitats naturels et de perturber les espèces pour lesquelles les sites ont été désignés, pour autant que ces perturbations soient susceptibles d’avoir un effet significatif eu égard aux objectifs de la présente section. »

- **Bruxelles**:
  Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 26 octobre 2000 relatif à la conservation de la faune et de la flore sauvages.
  « Art. 4. Dans toutes les ZSC, sont interdits les actes ou activités pouvant emporter la détérioration des habitats naturels et les habitats d’espèces. Il est également interdit de perturber les espèces pour lesquelles les zones ont été désignées, dans la mesure ou ces perturbations sont susceptibles d’avoir un effet significatif eu égard aux objectifs du présent arrêté. »

Note that the Order of 26 October 2000 was adopted on the basis of articles 3 and 4 of the Ordinance of 27 April 1995 concerning the protection of Nature. Article 42 of the Ordinance lays down penalties applicable to violations of provisions of orders adopted on the basis of articles 3 and 4 of this Ordinance.

- **The Walloon district**: Law of 12/07/1973 art 63 § 1:
  Prison: 1 month up to 6 months And/Or
  Fine: € 2,5 up to € 125

- **Brussels**:
  Ordinance of 27 april 1995:
  Fine from 0.25€ up to 125€

- **Flanders**:
  Penalties applicable to violation of Chapter V of the decree of 21 October 1997 or acts adopted to implement this chapter:
  Prison: 8 days up to 3 years
  And/Or
  Fine 0.65€ to 25 000 €

- **Walloon district**:
  Conversion of imprisonment penalty into a fine from € 12,5 to € 300 for serious felony

- **Brussels**:
  Same fine as for natural persons + according to the Ordinance of the 25 March 1999: the judge may order partial or full discontinuance of the activity or the closing down of the establishment

- **Flanders**:
  Conversion of imprisonment sentence into a Fine from € 12.5 to € 50 000
Flandres :

Décret Flamand du 21 octobre 1997 :

Chapter V, Art 36 Ter (inséré par DCFL 2002-07-19/54, art. 26; En vigueur : 10-09-2002)

« § 1er Dans les zones spéciales de conservation,
(…)

§ 2. Quelle que soit l'affectation du site concerné, l'autorité administrative prend également, dans le cadre de ses compétences, les mesures de conservation nécessaires pour :

a) éviter toute détérioration de la qualité naturelle et de l'environnement naturel des habitats de l'annexe I du présent décret et des habitats des espèces citées aux annexes II, III et IV du présent décret (ainsi que les oiseaux migrateurs qui ne sont pas mentionnés à l'annexe IV du présent décret mais qui se trouvent régulièrement sur le territoire de la Région flamande) dans une zone spéciale de conservation; (DCFL 2006-05-19/36, art. 21, 3°, 008; En vigueur : 30-06-2006)

b) éviter toute perturbation significative d'une espèce citée aux annexes II, III et IV du présent décret (ainsi que les oiseaux migrateurs qui ne sont pas mentionnés à l'annexe IV du présent décret mais qui se trouvent régulièrement sur le territoire de la
5. Unlawful trade in or use of Ozone Depleting Substances (ODS)


**Article 21 Penalties**

Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.”

Article 4 concerns the placing on the market and use of ODS substances, and article 5 the use of HFC.

Article 6 to 15 concern trade in ODS substances.

**Applicable in Belgium:**


**Applicable in Belgium:**

- illegal uses, imports and illegal exports of goods containing ODS:
  - Prison: 8 days to 3 years AND/OR
  - Fine: from 160€ to 4 000 000 €

- illegal exports of ODS:
  - Prison: 8 days to 1 year AND/OR
  - Fine from 40 € to 120 000 €

**Flanders:**

- illegal uses of ODS:
  - Prison: 8 days to 6 months AND/OR
  - Fine: 0.65€ to 125 €

- illegal trade in waste from ODS:
  - Prison: 1 month to 5 years And/Or
  - Fine: from € 2,5 to € 28 000

**Applicable in Belgium:**

- illegal uses, imports and illegal exports of goods containing ODS:
  - Fine from € 160 to € 8.000 000

- Illegal exports of ODS:
  - Fine from € 40 to € 240 000

**Flanders:**

- illegal uses of ODS:
  - Fine from € 3 to € 300

- illegal trade in waste from ODS:
  - Fine from € 12,5 to € 56 000

Conversion of the imprisonment penalties in accordance with the Penal Code.

- Belgium:
  - illegal uses, imports and illegal exports of goods containing ODS:
    - Fine from € 160 to € 8.000 000
  - Illegal exports of ODS:
    - Fine from € 40 to € 240 000
  - Flanders:
    - illegal uses of ODS:
      - Fine from € 3 to € 300
    - illegal trade in waste from ODS:
      - Fine from € 12,5 to € 56 000
1er, 2, 3 et 6, l’article 8, l’article 9, § 1er, l’article 11, et l’article 22 du règlement (CE) n° 2037/2000 du Parlement européen et du Conseil du 29 juin 2000 relatif à des substances qui appauvrissent la couche d’ozone. »

" art 17 § 2. Est puni d’un emprisonnement de huit jours à un an et d’une amende de (40 euros) à (120.000€), ou d’une de ces peines seulement (…)"

5° Celui qui enfreint l’article 12, §§ 1eret 3 et 6, l’article 16 § 4, et l’article 19, §§ 1er, et 4 du règlement (CE) n° 2037/2000 du Parlement européen et du Conseil du 29 juin 2000 relatif à des substances qui appauvrissent la couche d’ozone. »

- **Flandres:**


Decree of the Flemish Government of 30 April 2004, modifying the Law of 28 December 1964 on air pollution, amends the law as far as it applies to the Flemish Region. It describes the sanctions applicable to certain violations of Regulation 2037/2000, *inter alia* violations of provisions concerning certain uses of ODS; art 4 (1), (2), (3), (4), and art 5 (1), (2) (3), of Regulation 2037/2000.
These offences concern violation of the prohibition or regulation of certain uses of ODS. There is an overlap with the above mentioned law concerning article 4 (1)

- Article 56 § 8 of the Decree of 2 July 1981 on prevention and management of Waste provides for penalties against person that illegally exports waste from ODS.

“celui qui pratique l’exportation illégaie à partir de la Communauté européenne de déchets telle que visée à l'article 11 du règlement 2037/2000/CE du Parlement européen et du Conseil du 29 juin 2000 relatif à des substances qui appauvrissent la couche d'ozone »

- **Brussels and Walloon Districts:**

No penalties have been adopted yet in Brussels or in the Walloon district for breaches of the Regulation that fall under the regional competence.
<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
</table>
  ➢ Imprisonment of up to five years and  
  ➢ Fine of 100 levs to 5 000 levs | No criminal sanction.  
Administrative fine: from 150 levs (75 €) up to 5 000 levs (2500 €) |
|                  | Article 3 Member States shall take the appropriate steps to eliminate pollution of the waters referred to in Article 1 by the dangerous substances in the families and groups of substances in List I of Annex I, hereinafter referred to as ‘List I substances’, and to reduce pollution of the said waters by the dangerous substances in the families and groups of substances in List II of Annex I, hereinafter referred to as ‘List II substances’, in accordance with this Directive. | Article 52 (1) A permit shall be issued by:  
1. the Council of Ministers, for the needs of national defence and national security;  
2. the Minister of Environment and Water, for:  
d) discharge of waste waters containing dangerous substances into the bowels of the earth; | • If negligence  
➢ Corrective labour or a fine of up to 10 levs | |
|                  | Article 133 (1) Removal of waste waters containing dangerous substances by means of discharge into ground waters shall be prohibited or restricted, depending on the degree of danger posed thereby. The degree of danger, as well as the procedure and manner for removal, shall be established by the regulation referred to in Item 2 of Article 135 herein. | Article 118 (1) Waters and water bodies shall be protected against pollution and damage by means of:  
1. prohibition of the release of dangerous substances in quantities which threaten human life and health and the biological diversity in water bodies;  
2. limitation of the release of noxious substances; | • If minor case  
➢ fine of 3 to 20 levs ( imposed through administrative channels) | |
|                  | Explanatory note | | • Penal Code applies to any representative of a legal | |
With regard to List I substances:
(a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned;
(b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers;
(c) authorisations may be granted for a limited period only. They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.

3. delimitation of sanitary protected areas around water sources and facilities for drinking and household water supply and around water sources of mineral waters;
4. construction of waste water treatment plants;
5. establishment of a regime of use and protection of flood plains;
6. regulation of prohibitions on depositing wastes and dangerous substances in places wherefrom contamination of waters may ensue;
7. determination of measures to prevent the artificial mixing of ground waters having different properties.

(2) For the purpose set under Paragraph (1), the following shall be elaborated and endorsed:
1. projects for categorization of surface and ground waters in water bodies or in parts thereof;
2. programmes for pollution reduction in waters and water bodies.

(3) The Minister of Environment and Water and the Minister of Health shall establish maximum permissible concentrations and emission standards for radionuclides in waters and water bodies.

ADMINISTRATIVE PENALTY LIABILITY AND CIVIL LIABILITY

Article 200
(1) Unless liable to a severer punishment, any natural or legal person will be punishable by a fine or a pecuniary penalty [of the following amount], respectively, if any such person shall:
3. pollute waters, disturb river channels or river banks in violation of the prohibitions contained in Articles 132, 134, 143 and 144 herein: BGN 5,000 or exceeding this amount but not exceeding BGN 15,000;
6. discharge waste waters into water bodies or into a sewer system in violation of emission and/or immission limit values and emission and/or immission requirements: BGN 1,000 or exceeding this amount but not exceeding BGN 5,000;
14. derelict the obligation to announce any restrictions and prohibitions referred to in Article 42 herein: BGN 200 or exceeding this amount but not exceeding BGN 2,000;
15. fail to comply with the prescriptions under Article 138 (3) herein: BGN 500 or exceeding this amount but not person who has ordered or assigned the performance of the offence (chercher passage à ce sujet dans le code penal).
exceeding BGN 5,000;
17. in any other case of violation of any prohibitions or
deliction of any obligations covered under this Act: BGN
150 or exceeding this amount but not exceeding BGN 1,500.

**PENAL CODE**
Prom. SG 26 1968; Corr. SG 29 1968; Amend. and Suppl. SG
92 1969; Amend. and Suppl.
SG 26 1973; Amend. and Suppl. SG 27 1973; Amend. and
Suppl. SG 89 1974; Amend. and
Suppl. SG 95 1975; Amend. and Suppl. SG 3 1977; Amend.
and Suppl. SG 54 1978; Amend.
and Suppl. SG 89 1979; Amend. and Suppl. SG 28 1982;
Corr. SG 31 1982; Amend. and
Suppl. SG 44 1984; Amend. and Suppl. SG 41 1985; Amend.
and Suppl. SG 79 1985; Corr.
SG 80 1985; Amend. and Suppl. SG 89 1986; Corr. SG 90
1986; Amend. SG 37 1989;
Amend. SG 91 1989; Amend. SG 99 1989; Amend. SG 10
1990; Amend. SG 31 1990;
Amend. SG 81 1990; Amend. SG 1 1991; Amend. SG 86
SG 105 1991; Suppl. SG 54 1992; Amend. SG 10 1993;
Amend. SG 50 1995; Amend. SG 97
and Suppl. SG 62 1997; Amend.
and Suppl. SG 85 1997; Amend. SG 120 1997; Suppl. SG 83
1998; Amend. and Suppl. SG 85
1998; Suppl. SG 132 1998; Amend. SG 133 1998; Amend.
and Suppl. SG 153 1998; Amend.
and Suppl. SG 7 1999; Amend. SG 51 1999; Amend. and
Suppl. SG 81 1999; Amend. and
Suppl. SG 21 2000; Amend. and Suppl. SG 51 2000; Amend.
SG 98 2000; Suppl. SG 41
2001; Amend. SG 101 2001; Amend., SG 45 2002;

**Art. 349.**
(1) Who deliberately places or admits an object dangerous for
the life or the health in a well, spring, water pipe or in other
appliance designated for general use, where or by which
drinking water is drawn shall be punished by imprisonment of
two to eight years.
<table>
<thead>
<tr>
<th>2. Unlawful dumping of waste</th>
<th>Directive 2006/12/EC of 5 April 2006 on waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 4.2.</td>
<td>Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.</td>
</tr>
<tr>
<td>Waste Management Act</td>
<td>Promulgated, State Gazette No. 86/30.09.2003</td>
</tr>
</tbody>
</table>

**Article 6**

(1) Holders of waste shall provide the said waste for collection, transport, recovery or disposal to persons empowered to carry out the relevant operations, or shall recover or dispose of the said waste themselves in accordance with this Act.

(2) The abandonment, unauthorized dumping and incineration or any other form of uncontrolled waste disposal is hereby prohibited.

**Article 106**

(2) A pecuniary penalty of BGN 1,500 or exceeding this amount but not exceeding BGN 5,000 shall be imposed on any sole trader or juristic person who or which:

1. violates the provisions regarding the collection, including separate collection, temporary storage, transport, recovery or disposal of household waste and of construction and demolition waste and of waste from household and commercial activities, household waste and commercial waste and waste from professional activities, and waste from professional activities, and waste from professional activities.

- If danger for the people, the animals and the plants or unfit for using for cultural and household, health, agricultural and other economic needs
  - Imprisonment of up to five years
  - Fine of 100 levs to 5,000 levs

- If negligence
  - Corrective labour or a fine of up to 10 levs

- If minor case

No criminal sanction for legal persons

Administrative fine: from 1,500 up to 5,000 BGN
3. Illegal shipment of waste

| Preamble of Regulation 1013/2006 of 14 June 2006, Article 35 | Waste Management Act Promulgated, State Gazette No. 86/30.09.2003 | Article 72 (1) The import of waste into, export from, and transit through, the territory of the Republic of Bulgaria shall be allowed:

1. provided there is a permit or a registration document issued by the Minister of Environment and Water according to the

| • Imprisonment of 1 up to 5 years and
| • Fine of one thousand to three thousand levs
| • If the waste exported is denied permission to enter the State of import or to proceed through the States of transit, the exporter of the waste shall be obligated

No criminal sanction for legal persons.
Administrative sanctions:
• A pecuniary penalty amounting to 30 per cent of the market price of the aggregate amount of products imported and
concerned pursuant to this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) in a way which is not specified materially in the notification or movement documents; or
(e) in a way which results in recovery or disposal in contravention of Community or international rules; or
(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:
(i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
(ii) non-compliance with Article 3(4),
(iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

Article 50

procedure established by this Section or a licence issued according to the procedure established by Chapter Five, Section III herein;
2. provided the requirements of safety are complied with;
3. provided the movement is consistent with the requirements established by the law.

(2) The procedure and manner of import, export and transit of waste, as well as the cases where a bank guarantee or insurance is required, shall be established by an ordinance of the Council of Ministers.

(3) The Minister of Environment and Water shall keep a register of the import, export and transit permits and of the registration documents issued according to the procedure established by this Section.

Article 73

It shall be prohibited to import waste into Bulgaria which:

1. is of unidentified chemical composition, as well as where no analytical methods for such waste, applicable in the Republic of Bulgaria, are available;
2. for the purpose of storage, deposit into or onto land, or any other form of disposal whatsoever;
3. in case the person who or which operates the planned recovery facility does not hold the relevant permit under Article 37 herein or an integrated permit issued according to the procedure established by Chapter Seven, Section II of the Environmental Protection Act;
4. consists of the materials in respect of which the targets for the preceding year have not been attained as regulated in § 9 of the Transitional and Final Provisions herein and the secondary legislation on the application of this Act, and in respect of used pneumatic tyres, where the operator referred to in Item 3 recovered a smaller amount of waste of Bulgarian origin during the preceding calendar year in comparison to the amount of waste imported for recovery at the same facility;
5. whereof the deposit into or onto land is prohibited, if the operator referred to in Item 3 recovered a smaller amount of waste of Bulgarian origin during the preceding calendar year to ensure the safe disposal or recovery of the said waste at its own expense

- A fine from 3 500 up to 10 000 BGN (1750 € to 5000 €)
**Enforcement in Member States**

1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the 12.7.2006 EN Official Journal of the European Union L 190/29 Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.

<table>
<thead>
<tr>
<th>in comparison to the amount of waste imported for recovery at the same facility.</th>
</tr>
</thead>
</table>

**Article 82**

(1) Export of waste shall not be allowed without the written consent of the competent authorities of the State of import and of the States of transit, if so required under an international treaty whereto the Republic of Bulgaria is a party.

(2) If the waste exported is denied permission to enter the State of import or to proceed through the States of transit, the exporter of the waste shall be obligated to ensure the safe disposal or recovery of the said waste at its own expense.

**Article 86**

(1) A waste transit permit shall be issued for the waste specified in the ordinance referred to in Article 72 (2) herein provided there is:

1. a written notification from the competent authorities of the State of export;
2. a written consent of the competent authorities of the States of transit through which the waste will pass after passing through the territory of the Republic of Bulgaria, including the State of import;
3. a declaration by the competent authority of the State of transit of the waste along the route before the Bulgarian order, confirming the obligation to allow the reverse movement and to accept the shipment back in the event the waste is denied permission to enter the Republic of Bulgaria or any of the States along the route;
4. a bank guarantee or insurance covering any damage arising during transport, including the cases where the transboundary movement is deemed to be illegal traffic.

**Article 89**

Upon crossing of the border, the importers, exporters or transiters of waste shall be obligated to present to the customs authorities a movement document according to Article 4, paragraph 7, subparagraph (c) of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, or the registration document referred to in Article 72 (1) herein.
**Article 106**

(3) A pecuniary penalty of BGN 3,500 or exceeding this amount but not exceeding BGN 10,000 shall be imposed on any sole trader or juristic person who or which:

1. violates Article 4 and/or Items 2, 7 and 8 of Article 5 (3) herein;
2. treats and/or transports waste without holding a permit or registration document where such a permit or document is required;
3. breaches the requirements for the import, export or transit of waste.

**Penal Code**

**Art. 353b.** (New, SG 62/97)

Who, in violation of international agreements party to which is the Republic of Bulgaria, carries through the border of the country dangerous waste, shall be punished by imprisonment of one to five years and a fine of one thousand to three thousand levs.
| Article 6 | 1. For special areas of conservation, Member States shall establish the necessary conservation measures involving, if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.  
2. Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive. |
| --- | --- |
| Article 12 | The following activities shall be prohibited in national parks:  
1. any construction, with the exception of hikers' shelters and chalets, water catchments for drinking purposes, treatment facilities, park management and visitor service buildings and facilities, underground communications, repair of existing buildings and roads, and sports and other facilities;  
2. any manufacturing activities, with the exception of maintaining and restorative activities in the forests, land tracts and aquatic areas;  
3. clear-cutting;  
4. applying artificial fertilizers and other chemicals;  
5. introducing plant and animal species that are alien to the region;  
6. grazing of goats, as well as grazing of livestock in forests outside meadows and pastures;  
7. collecting herbs, wild fruits and other plants and animals in designated places;  
8. collecting fossils and minerals, damaging rock formations;  
9. disturbing the natural state of aquatic areas, watercourses, the banks thereof and the riparian lands and littoral zones;  
10. game breeding and hunting, except for control of the population size of animal species;  
11. sports fishing and fish breeding in designated places;  
12. polluting waters and grounds with household, industrial and other waste;  
13. camping and lighting of fire outside the designated places;  
14. interfering with biological diversity;  
15. collecting rare, endemic, relict and protected species, except for the purposes of scientific research;  
16. other activities specified by the designation order for the protected area and the management plan. |
| Article 21 | The following activities shall be prohibited in national parks:  
1. (Amended, SG No. 48/2000) any construction, with the exception of hikers' shelters and chalets, water catchments for drinking purposes, treatment facilities, park management and visitor service buildings and facilities, underground communications, repair of existing buildings and roads, and sports and other facilities;  
2. any manufacturing activities, with the exception of maintaining and restorative activities in the forests, land tracts and aquatic areas;  
3. clear-cutting;  
4. applying artificial fertilizers and other chemicals;  
5. introducing plant and animal species that are alien to the region;  
6. grazing of goats, as well as grazing of livestock in forests outside meadows and pastures;  
7. collecting herbs, wild fruits and other plants and animals in designated places;  
8. collecting fossils and minerals, damaging rock formations;  
9. disturbing the natural state of aquatic areas, watercourses, the banks thereof and the riparian lands and littoral zones;  
10. game breeding and hunting, except for control of the population size of animal species;  
11. sports fishing and fish breeding in designated places;  
12. polluting waters and grounds with household, industrial and other waste;  
13. camping and lighting of fire outside the designated places;  
14. interfering with biological diversity;  
15. (Supplemented, SG No. 28/2000) collecting rare, endemic, relict and protected species, except for the purposes of scientific research;  
16. other activities specified by the designation order for the protected area and the management plan. |
| Article 22 | The use areas covered under Article 19 herein, the regions, |
| | • Destroying or damaging a protected territory or a sample of a protected plant or animal kind  
  ➢ imprisonment of up to 2 years or by corrective labour, and a fine of 10 to 100 levs for  
  ➢ For minor offences: a fine of up to 20 levs (imposed through administrative channels) |
| | • Destroying or damaging exceptionally valuable single and irrecoverable earth and rock forms, caves, samples of European or world-wide endangered wild plants and animals declared protected  
  ➢ imprisonment of up to 3 years or by a fine of 200 to 2 000 levs, and public reprobation  
  ➢ If negligence: corrective labour or a fine of up to 100 levs |
| | • Any corporeal movables subject to a violation and any corporeal movables which have served for commission of any such violation within any protected area constituting exclusive state property shall be confiscated. |
| | No criminal sanction for legal persons.  
Administrative sanctions:  
• Fine: from 100 up to 50 000 BGN (50€ to 25 000 €)  
• Any corporeal movables subject to a violation and any corporeal movables which have served for commission of any such violation within any protected area constituting exclusive state property shall be confiscated. |
system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:
(a) all forms of deliberate capture or killing of specimens of these species in the wild;
(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
(c) deliberate destruction or taking of eggs from the wild;
(d) deterioration or destruction of breeding sites or resting places.
2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.
3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.
4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the monitoring, Members States shall adopt appropriate measures to prevent or reduce the incidental capture and killing.

Section III- Natural Monuments

Article 23
(1) Typical or remarkable non-living natural features, such as rock forms, rock exposures of scientific value, earth pyramids, caves, potholes, waterfalls, fossil beds, mineral occurrences, sand dunes and others of outstanding value because of the inherent rarity, representative or aesthetic qualities thereof or of scientific or cultural significance, shall be designated natural monuments.
(2) Natural monuments shall be managed for the purpose of preservation of the natural features thereof.
(3) Natural monuments shall be designated with an adjoining area as shall be necessary for the conservation thereof.

Article 24
Any activities that may disturb the natural state of natural monuments or impair the aesthetic value thereof shall be prohibited in natural monuments.

Article 25
Measures for conservation, stabilization and restoration of the natural monuments shall be admitted by permission of the Ministry of Environment and Water in consultation with the owners of the natural monuments and with other institutions concerned.

Section IV- Managed Nature Reserves

Article 26
(1) Ecosystems hosting rare and/or endangered wild
of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

plant and animal species and the habitats thereof shall be designated managed nature reserves.

(2) Managed nature reserves shall be managed for the purpose of:
1. maintenance of the natural character thereof;
2. scientific research and education and/or eco-monitoring;
3. restoration of populations of plant and animal species and/or habitat conditions thereof;
4. conservation of genetic resources.

Article 27

(1) Any activities shall be prohibited in managed nature reserves with the exception of:
1. physical security of the said reserves;
2. visits for the purpose of scientific research;
3. pedestrian traffic movement on marked hiking trails, including such traffic for educational purposes;
4. collection of seeds, wild plants and animals for the purpose of scientific research or for repopulating other sites;
5. conduct of maintaining, steering, controlling or restorative measures.

(2) The activities referred to in Item 5 of Paragraph (1) shall be specified in the management plan of the managed nature reserve.

Article 28

The provisions of Article 17 (2) and (3) herein shall apply to managed nature reserves.

Section V - Natural Parks

Article 29

(1) Areas hosting various ecosystems with diverse plant and animal species and the habitats thereof, with typical and remarkable landscapes and non-living natural features, shall be designated natural parks.

(2) Natural parks shall be managed for the purpose of:
1. maintenance of the diversity of ecosystems and conservation of biological diversity therein;
2. provision of opportunities for pursuit of scientific research, education, and recreation;
3. sustainable use of renewable natural resources while preserving traditional forms of livelihood, and ensuring conditions for the development of tourism.

**Article 30**

(1) Nucleated settlements, dispersed settlements and resorts may be located within the boundaries of natural parks, and any production and activities which do not pollute the environment may be pursued therein as well.

(2) Any protected areas of other categories falling within the boundaries of natural parks shall retain the regimes thereof as established by the designation order thereof.

**Article 31**

The following activities shall be prohibited in natural parks:

1. clear-cutting in high forests, with the exception of poplar forests, and in coppices that exceed 3 hectares in size;
2. introducing plant and animal species that are alien to the region;
3. grazing of goats, except in expressly designated places;
4. collecting fossils and minerals, damaging of rock formations;
5. polluting waters and grounds with household, industrial and other waste;
6. camping and lighting of fire outside the designated places;
7. open-cast mining of mineral resources;
8. (New, SG No. 28/2000) extracting and primary processing (dressing) of metalliferous mineral resources through application of chemical and chemico-bacteriological methods and cyanides;
9. (Renumbered from Item 8, SG No. 28/2000) activities and construction which are not permitted by the designation order for the park, the management plan of the park and the spatial-development plans and schematic designs;
10. (Renumbered from Item 9 and supplemented, SG No. 28/2000)
collecting of rare, endemic, relict and endangered species, except for the purposes of scientific research;
11. (Renumbered from Item 10, SG No. 28/2000) extracting marine resources by dredging or trawling;
12. (Renumbered from Item 11, SG No. 28/2000) other activities specified by the designation order for the protected area and by the management plan.

Article 32

(1) The provisions of Articles 19 and 22 herein shall apply to natural parks.

(2) The provisions of Article 21 (1) herein may apply to natural parks or any parts thereof if adopted by the management plans as endorsed by the Council of Ministers.

Section VI- Protected Sites

Article 33

(1) The following shall be designated protected sites:
1. areas with typical or remarkable landscapes, including such resulting from the harmonious interaction between people and nature;
2. habitats of endangered, rare or vulnerable plant and animal species and communities.

(2) Protected sites shall be managed for the purpose of:
1. preservation of the features of the landscape;
2. conservation, maintenance or restoration of habitat conditions corresponding to the ecological requirements of the species and communities subject to protection;
3. provision of opportunities for scientific research, education and eco-monitoring;
4. provision of opportunities for tourism and public appreciation.

Article 34

Any activities contrary to the requirements for conservation of the specific features subject to protection shall be prohibited in protected sites.
Section II- Administrative Violations and Sanctions

**Article 83**

(1) A fine or a pecuniary penalty, as the case may be, of BGN 1,000 or exceeding this amount but not exceeding BGN 10,000 will be imposed on any sole trader or juristic person who or which:

1. shall perform any activities within a protected area in violation of the regime established by this Act, by the designation order or by endorsed plans and designs under Chapter Four herein;
2. shall perform any activities within a protected area without a permission or clearance provided for in this Act.

(2) Where the activity referred to in Items 1 and 2 of Paragraph (1) shall be construction or development of areas, it will be punishable by a fine of BGN 5,000 or exceeding this amount but not exceeding BGN 50,000.

- Minor cases under Paragraph (1) shall be punishable by a fine of BGN 100 or exceeding this amount but not exceeding BGN 1,000.

**Article 84**

(1) Any corporeal movables subject to a violation and any corporeal movables which have served for commission of any such violation within any protected area constituting exclusive state property shall be confiscated.

(2) The sale of any corporeal movables referred to in Paragraph (3) shall follow a procedure established by a regulation of the Council of Ministers.

**Article 85**

(1) Any violation covered under Articles 81 and 83 herein shall be ascertained by a written statement drawn up by an official designated by the Minister of Environment and Water or by the Minister of Agriculture and Forestry, or by the Municipality Mayor. The penalty decrees shall be issued.
respectively, by the Minister of Environment and Water, by the Minister of Agriculture and Forestry, or by the Municipality Mayor, or by persons authorized thereby.

(2) Any violation covered under Article 82 herein shall be ascertained by a written statement drawn up by an official designated by the Minister of Environment and Water, and the penalty decrees shall be issued by the Minister of Environment and Water or by persons authorized thereby.

(3) The ascertainment of violations, the issuance, appeal against and execution of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.

PENAL CODE:

Art. 278c. (New, SG 28/82; amend. and suppl., SG 86/91; prev. art. 278a - amend., SG 10/93; SG 85/97)
(1) (Amend., SG 133/98) Who destroys or damages a protected territory or a sample of a protected plant or animal kind shall be punished by imprisonment of up to two years or by corrective labour, as well as by a fine of ten to one hundred levs. (2) For minor offences under the preceding para the punishment shall be a fine of up to twenty levs imposed through administrative channels.

(3) (Amend., SG 133/98) Who destroys or damages exceptionally valuable single and irrecoverable earth and rock forms, caves, samples of European or world-wide endangered wild plants and animals declared protected shall be punished by imprisonment of up to three years or by a fine of two hundred to two thousand levs, as well as by public reprobation.

(4) If the act under the preceding para has been committed by negligence the punishment shall be corrective labour or a fine of up to one hundred levs.

5. Unlawful trade in or use of Ozone

<p>| Regulation (EC) of the European Parliament and | No specific provision | No penalty has been identified | No penalty has been identified |</p>
<table>
<thead>
<tr>
<th>Depleting Substances (ODS)</th>
<th>of the Council No 2037/2000 of 29 June 2000 on substances that deplete the ozone layer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 21 Penalties</td>
<td>Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.</td>
</tr>
<tr>
<td><strong>Criminal offence</strong></td>
<td><strong>General and Specific provision of EC law infringed</strong></td>
</tr>
<tr>
<td>----------------------</td>
<td>------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td><strong>Article 4</strong></td>
</tr>
<tr>
<td></td>
<td>With regard to List I substances:</td>
</tr>
<tr>
<td></td>
<td>(a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned;</td>
</tr>
<tr>
<td></td>
<td>(b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers;</td>
</tr>
<tr>
<td></td>
<td>(c) authorisations may be granted for a limited period only.</td>
</tr>
<tr>
<td></td>
<td><strong>Article 10</strong>: legal basis for the adoption of regulatory measures preventing discharge of dangerous substances in groundwater</td>
</tr>
<tr>
<td></td>
<td><strong>Article 26</strong>: discharge of dangerous substances in surface waters shall only be done in conformity with the rules laid down in article 16 of the law nº 106(1) 2002</td>
</tr>
<tr>
<td></td>
<td><strong>Article 32</strong>: the council of ministers may adopt implementing measures providing for specific sanctions but the sanctions shall not exceed 3 years of prison and/or 20 000 Cyprus lira (34 500 €)</td>
</tr>
<tr>
<td></td>
<td><strong>ΠΑΡΑΡΤΗΜΑ ΠΡΩΤΟ ΤΗΣ ΕΠΙΣΗΜΗΣ ΕΦΗΜΕΡΙΔΑΣ ΤΗΣ ΔΗΜΟΚΡΑΤΙΑΣ Αρ. 38 12 της 20ης ΦΕΒΡΟΥΑΡΙΟΥ 2004 ΜΕΡΟΣ Ι</strong></td>
</tr>
<tr>
<td></td>
<td>32.—(1) Υπουργικό Συμβούλιο μπορεί να εκδώσει κανονισμούς για την</td>
</tr>
</tbody>
</table>
They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.


**Article 11**

**Programme of measures**

3. “Basic measures” are the minimum requirements to be complied with and shall consist of:

(j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.
<table>
<thead>
<tr>
<th><strong>2. Unlawful dumping of waste</strong></th>
<th><strong>Directive 2006/12/EC of 5 April 2006 on waste</strong></th>
</tr>
</thead>
</table>
| **Article 4.** 2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste. | **Law 215(I)/2002 on waste Management**  
**Article 6.2** prohibits abandonment, dumping and uncontrolled disposal of waste.  
**Article 41:** any person who infringes this law or its implementing act or who does not comply with an authorisation adopted on the basis of this act. |
| **Law 215(I)/2002 on waste Management**  
**Article 41:** any person who infringes this law or its implementing act or who does not comply with an authorisation adopted on the basis of this act. | **Prison : up to 3 years and/or**  
**Fine up to 20 000 Cyprus lira**  
**Stopping the litigious activity** |
| **Law 215(I)/2002 on waste Management**  
**Article 41:** any person who infringes this law or its implementing act or who does not comply with an authorisation adopted on the basis of this act. | **Fine up to 20 000 Cyprus Lira**  
**Stopping the litigious activity** |

|--------------------------------|------------------------------------------------|
| **Article 26** 1. Any shipment of waste effected: (a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or | **Law 215(I)/2002 on waste Management**  
**Article 28 to 32** implement the provisions of the Regulation (amend a Law of 1992 which implements the Basel convention)  
**Article 41:** any person who infringes this law or its implementing act or who does not comply with an authorisation adopted on the basis of this act commits a criminal offence. |
| **Law 215(I)/2002 on waste Management**  
**Article 41:** any person who infringes this law or its implementing act or who does not comply with an authorisation adopted on the basis of this act. | **Prison : up to 3 years and/or**  
**Fine up to 20 000 Cyprus lira**  
**Stopping the litigious activity** |
| **Law 215(I)/2002 on waste Management**  
**Article 41:** any person who infringes this law or its implementing act or who does not comply with an authorisation adopted on the basis of this act. | **Fine up to 20 000 Cyprus Lira**  
**Seizure of the specimen** |
(b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) which is not specified in a material way in the consignment note; or
(e) which results in disposal or recovery in contravention of Community or international rules; or
(f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.

2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.
In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.

3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be
established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

4. Unlawful significant deterioration of a protected habitat

<table>
<thead>
<tr>
<th><strong>The Law n° 153(1) of 2003 transposed Directive 92/43. This law was amended through the Law n° 130 (1) of 2006 (following an infringement procedure).</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 15 literally transposes article 6.2 of the Directive</td>
</tr>
<tr>
<td>Article 16 literally transposes article 6.3 of the Directive</td>
</tr>
<tr>
<td>Article 21 literally transposes article 12.1 of the Directive</td>
</tr>
<tr>
<td>Article 23 transposes article 12.2 and article 13</td>
</tr>
<tr>
<td>Article 26 lays down derogations to article 23 and 21</td>
</tr>
<tr>
<td>Article 40 provides for penalties applicable to violations of the above mentioned provisions.</td>
</tr>
</tbody>
</table>

| **• Prison : up to 3 years and/or** |
| **• Fine up to 10000 Cyprus lira** |
| **• Seizure of the specimen** |

<table>
<thead>
<tr>
<th><strong>O περί Προστασίας και Διαχείρισης της Φύσης και της Αγριας Ζωής Νόμος του 2003 εκδίδεται με δημοσίευση στην Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας με το Άρθρο 52 του Συντάγματος.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Fine up to 10 000 cyprus Lira (17 250 €)</td>
</tr>
<tr>
<td>• Seizure of the specimen</td>
</tr>
</tbody>
</table>
Αριθμός 153(1) του 2003
ΝΟΜΟΣ ΠΟΥ ΠΡΟΝΟΕΙ ΓΙΑ ΠΡΟΣΤΑΣΙΑΣ ΚΑΙ ΔΙΑΧΕΙΡΙΣΗ ΤΗΣ ΦΥΣΗΣ ΚΑΙ ΤΗΣ ΑΓΡΙΑΣ ΖΩΗΣ
40.-1(1) Πρόσωπο το οποίο αυτοπροσώπως ή διά υπαλλήλου του ή άλλου εκπροσώπου του:
(a) Προβαίνει σε πράξη ή παράλειψη, κατά παράβαση:
(i) των μέτρων προτεραιότητας διατάγματος που εκδίδεται με βάση το εδάφιο (2) του άρθρου 13,
(ii) των απειγορευτικών ή επιτακτικών διατάξεων διατάγματος διαχείρισης και προστασίας της φύσης, που εκδίδεται με βάση το εδάφιο (1) του άρθρου 15,
(iii) αντισταθμιστικών μέτρων διατάγματος που εκδίδεται με βάση το εδάφιο (7) του άρθρου 16,
(iv) των επιπρόσθετων μέτρων διατήρησης, που καθορίζονται με κανονισμούς που εκδίδονται με βάση το εδάφιο (2) του άρθρου 22,
(v) των μέτρων διατάγματος που εκδίδεται με βάση το εδάφιο (1) του άρθρου 24, ή
(vi) των όρων που αναφέρονται στο εδάφιο (3) του άρθρου 26, οι οποίοι καθορίζονται από τον Υπουργό σε διάταγμα που εκδίδεται με βάση το εδάφιο (1) του άρθρου 26,
(β) προβαίνει σε παράβαση των διατάξεων:
(i) του εδαφίου (2) του άρθρου 17, 
(ii) του άρθρου 21, 
(iii) του άρθρου 23, 
(iv) του άρθρου 25, ή 
(v) του άρθρου 33, 
(γ) απελευθερώνει στο φυσικό περιβάλλον μη τοπικό είδος άγριας πανίδας ή χλωρίδας, κατά παράβαση του άρθρου 30, 

(δ) διεξάγει επιστημονική έρευνα χωρίς την άδεια που προβλέπεται στο άρθρο 31, 

(ε) ταριχεύει ή κατέχει ταριχευμένο είδος άγριας πανίδας χωρίς την άδεια που προβλέπεται στο άρθρο 32, 

(η) παραβαίνει ή παραλείπει να συμμορφωθεί με τις απαγορευτικές ή επιτακτικές διατάξεις αποσυνόδηπτε κανονισμού ή διαταγμάτων τα οποία δυνατό να εκδοθούν, με βάση τις διατάξεις του παρόντος Νόμου, 

(ζ) παραβαίνει ή παραλείπει να συμμορφωθεί με τις απαγορευτικές ή επιτακτικές διατάξεις του Κανονισμού (ΕΟΚ) αρ. 3254/91 του Συμβουλίου, της 4ης Νοεμβρίου 1991, για την απαγόρευση της χρήσης παγίδων με σιαγόνες και της εισόδου στην κοινότητα γουνών και μεταποιημένων προϊόντων από ορισμένα είδη άγριων ζώων που κατάγονται από χώρες στις οποίες συλλαμβάνονται με παγίδες με σιαγόνες ή με μεθόδους που δεν είναι σύμφωνες με τα
| διεθνώς συμφωνηθέντα πρότυπα | μη βάναυσης παγίδευσης και του Κανονισμού (EK) αρ. 35/97 της Επιτροπής, της 10ης Ιανουαρίου 1997, για τον καθορισμό διατάξεων που αφορούν την πιστοποίηση γούναν και άλλων εμπορευμάτων τα οποία καλύπτονται από τον Κανονισμό (ΕΟΚ) αρ. 3254/91 του Συμβουλίου, (η) παραβιάζει ή παραλείπει να συμμορφωθεί με τις απαγορευτικές ή επιτακτικές διατάξεις του Κανονισμού (ΕΟΚ) αρ. 348/81 του Συμβουλίου, της 20ης Ιανουαρίου 1981, περί κοινού καθεστώτος, που εφαρμόζεται στις εισαγωγές των προϊόντων που προέρχονται από κτησιδιά, και του Κανονισμού της Επιτροπής ΕΟΚ/3418/83, της 28ης Νοεμβρίου 1983, για τη θέσπιση των διατάξεων σχετικά με την ομοιόμορφη έκδοση και χρήση των εγγράφων που απαιτούνται για την εφαρμογή στην κοινότητα της σύμβασης για το διεθνές εμπόριο των ειδών άγριας πανίδας και χλωρίδας που απειλούνται με εξαφάνιση, (θ) παραβιάζει τις διατάξεις του Κανονισμού ΕΚ/338/97, όπως αυτές απαριθμούνται στο άρθρο 16 του εν λόγω κανονισμού ή παραβιάζει ή παραλείπει να συμμορφωθεί με οποιαδήποτε άλλη απαγορευτική ή επιτακτική διάταξη του εν λόγω κανονισμού, ή |
(1) παραβαίνει ή παραλείπει να συμμορφωθεί με τις απαγορευτικές ή επιτακτικές διατάξεις του Κανονισμού ΕΚ/939/97 είναι ένοχο αδικήματος και, σε περίπτωση καταδίκης του, υπόκειται σε φυλάκιση που δεν υπερβαίνει τα τρία χρόνια ή σε χρηματική ποινή που δεν υπερβαίνει τις Λ.Κ. 10.000,00 ή και στις δύο αυτές ποινές:

Νοείται ότι μετά τη δεύτερη καταδίκη συμμορφωθήκε ατόμου οι πιο πάνω ποινές διπλασιάζονται.

(2) Αναφορικά με αδίκημα κατά παράβαση της παραγράφου (θ) του εδαφίου (1), το δικαστήριο δύναται, επιπρόσθετα προς οποιαδήποτε άλλη ποινή, να δημεύσει δείγμα αναφορικά προς το οποίο διαπράχθηκε το αδίκημα.

Ευθύνη αξιωματούχων, υπαλλήλων, και λοιπών νομικών προσώπων.

41. Όταν αδίκημα, με βάση τον παρόντα Νόμο, διαπράττεται από νομικό πρόσωπο ή από πρόσωπο που ενεργεί εκ μέρους νομικού προσώπου και αποδεικνύεται ότι έχει διαπραχθεί με τη συγκατάθεση, συνενοχή ή έγκριση ή έχει διευκολυνθεί από επιδειχθείσα αμέλεια συμβούλων, διευθυντή, γραμματέα ή οποιουδήποτε άλλου φυσικού προσώπου που φαίνεται ότι ενεργεί
### 5. Unlawful trade in or use of Ozone Depleting Substances (ODS)

|-------------------------------------------------------------------------------------------------------------------------------|
| **Article 4**  
**Control of the placing on the market and use of controlled substances**  
1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited: (a) chlorofluorocarbons; (b) other fully halogenated chlorofluorocarbons; (c) halons; (d) carbon tetrachloride; (e) 1,1,1-trichloroethane; (f) hydrobromofluorocarbons. (…) |

| Loi 158(I)/2004 on ozone depleting substances  
**Articles 8-9:** lay down penalties applicable to violations of article 3, 4, 5, 6, 8, 9, 11, 12, 14, 22 of the Regulation. |
|-------------------------------------------------------------------------------------------------------------------------------|
| • Prison: up to 1 year and/or  
• Fine up to 20 000 Cyprus lira |

| Fine up to 20 000 Cyprus Lira |
(e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
(f) in all other applications.

Article 21 Penalties
Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.
<table>
<thead>
<tr>
<th>Czech Republic</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Criminal offence</strong></td>
</tr>
<tr>
<td>1. Unlawful discharge of hazardous substances into water</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

Article 11
Programme of measures

3. "Basic measures" are the minimum requirements to be complied with and shall consist of:

(j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

Prison penalty up to 2 years
And/or
Fine from 65 € to 161000 €
And/or
Ban on activity

Under very aggravated circumstances:

Prison penalty from 6 months to 5 years
And/or
Fine from 65 € to 161000 €
<table>
<thead>
<tr>
<th>2. Unlawful dumping of waste</th>
<th>Directive 2006/12/EC of 5 April 2006 on waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 42. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Criminal code, Act 140/1961</th>
<th>Article 181 e): Handling hazardous waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>Art 181 e) Nakládání s odpady: (1) Kdo, byť i z nedbalosti, v rozporu s právními předpisy ukládá nebezpečné odpady nebo je odkládá, přepravuje nebo jinak s nimi nakládá, a tím poškodí nebo ohrozí životní prostředí, bude potrestán odnětím svobody až na dvě léta nebo zákazem činnosti nebo peněžitým trestem. (2) Stejně bude potrestán, kdo, byť i z nedbalosti, poruší právní předpisy upravující nakládání s odpady tím, že přepraví odpad přes hranice státu bez oznámení nebo souhlasu příslušného správního úřadu, anebo v takovém oznámení nebo žádosti o souhlas nebo v připojených podkladech uvede nepravdivé nebo hrubě zkršlené údaje nebo podstatné údaje zamlčí. (3) Odnětím svobody až na tři léta nebo zákazem činnosti nebo peněžitým trestem bude pachatel potrestán, a) získá-li činem uvedeným v odstavci 1 nebo 2 značný prospěch, nebo b) spáchá-li takový čin opětovně. (4) Odnětím svobody na šest měsíců až pět let nebo peněžitým trestem bude pachatel potrestán, získá-li činem uvedeným v odstavci 1 nebo 2 prospěch velkého rozsahu.</td>
<td>(1) Prison penalty up to 2 years Or Fine from 65 € to 161 000 € Or Ban on activity Under aggravated circumstances: Prison penalty up to 3 years Or Fine from 65 € to 161 000 € Or Ban on activity Under very aggravated circumstances: Prison penalty from 6 months to 5 years And/or Fine from 65 € to 161000 €</td>
</tr>
</tbody>
</table>
### Preamble of Regulation 1013/2006 of 14 June 2006, Article 35

-illegal shipment’ means any shipment of waste effected:
- (a) without notification to all competent authorities concerned pursuant to this Regulation; or
- (b) without the consent of the competent authorities concerned pursuant to this Regulation; or
- (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
- (d) in a way which is not specified materially in the notification or movement documents; or
- (e) in a way which results in recovery or disposal in contravention of Community or international rules; or
- (f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
- (g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:
  - (i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB; or
  - (ii) non-compliance with Article 3(4),
  - (iii) the shipment being

### Criminal code, Act 140/1961, Article 181 c)

#### Nakládání s odpady

1. Kdo, byť i z nedbalosti, v rozporu s předpisy ukládá nebezpečné odpady nebo je odkládá, přepravuje nebo jinak s těmito odpadky, ať poškodí nebo ohrozí životní prostředí, bude potrestán odnětí svobody až na dvě léta nebo zákonem činnosti nebo peněžitým trestem.
2. Stejně bude potrestán, kdo, byť i z nedbalosti, poruší právní předpisy upravující nakládání s odpady tím, že přepraví odpad přes hranice státu bez oznámení nebo souhlasu příslušného správního úřadu, anebo ve takovém oznámení nebo žádosti o souhlas nebo v připojených podkledech uvede nepravdivé nebo hrubé zkreslené údaje nebo podstatné údaje zamíří.
3. Odnětí svobody až na tři léta nebo zákonem činnosti nebo peněžitým trestem bude pachatel potrestán, a) získá-li činem uvedeným v odstavci 1 nebo 2 značný prospěch, nebo b) vysáhá-li takový čin opětovně.
4. Odnětí svobody na šest měsíců až pět let nebo peněžitým trestem bude pachatel potrestán, získá-li činem uvedeným v odstavci 1 nebo 2 prospěch velkého rozsahu.

### Article 181 e): Handling hazardous waste

1. (1) Prison penalty up to 2 years
Or
Fine from 65 € to 161 000 €
Or
Ban on activity

#### Under aggravated circumstances:

- Prison penalty up to 3 years
- Fine from 65 € to 161 000 €
- Ban on activity

#### Under very aggravated circumstances:

- Prison penalty from 6 months to 5 years
And/or
Fine from 65 € to 161 000 €

### No criminal corporate liability

The maximum amount of administrative fine is 50 000 000 CZK (1 666 666 €)
effected in a way which is not specified materially in the document set out in Annex VII.

Article 50

Enforcement in Member States
1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.


Article 26
1. Any shipment of waste effected: (a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) which is not specified in a material way in the consignment note; or
(e) which results in disposal or recovery in contravention of Community or international rules; or
(f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.
2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.
In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.

3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be
| Article 6 |
| 2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented. |
| 3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies. |
| Article 12 |
| 1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting: |
| (a) all forms of deliberate capture or killing of | Criminal code, Act 140/1961 |
| Neoprávněné nakládání s chráněnými a volně žijícími živočichy a planěrostoucími rostlinami |
| § 181f |
| (1) Kdo v rozporu s právními předpisy usmrtí, zničí, zpracovává, doveze, vyveze, proveze, přechovává, nabízí, zprostředkuje, sobě nebo jinému opatří jedince zvláště chráněného druhu živočicha nebo rostliny nebo exemplář ohroženého druhu a) spáchá takový čin na více než padesáti kusech živočichů, rostlin nebo exemplářů, nebo b) dopustí se takového činu, přestože byl v posledních dvou letech pro přestupek obdobné povahy postižen nebo v posledních třech letech pro takový trestný čin odsouzen nebo potrestán, bude potrestán odnětím svobody až na tři léta nebo zákazem činnosti nebo peněžitým trestem. |
| (2) Stejně bude potrestán, kdo v rozporu s právními předpisy usmrtí, zničí, zpracovává, doveze, vyveze, proveze, přechovává, nabízí, zprostředkuje, sobě nebo jinému opatří exemplář druhu kriticky ohroženého nebo druhu přímo ohroženého vyhubením. |
| (3) Odnětím svobody na šest měsíců až pět let bude pachatel potrestán, |
| Article 181 a) (1) : Intentional endangering or harming the environment |
| Prison penalty up to 3 years |
| Or |
| Fine from 65 € to 161 000 € |
| Or |
| Ban on activity |
| Under aggravated circumstances: |
| Prison penalty from 1 to 5 years |
| Under very aggravated circumstances: |
| Prison penalty from 2 years to 8 years |
| Article 181 b) : Endangering or harming the environment by negligence |
| Prison penalty up to 6 months |
| And/or |
| Fine from 65 € to 161000 € |
| And/or |
| Ban on activity |
| Under aggravated circumstances: |

**No criminal corporate liability**

The maximum amount of administrative fine is 50 000 000 CZK (16 000 000 €)
specimens of these species in the wild;
(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
(c) deliberate destruction or taking of eggs from the wild;
(d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or

| Specimens of these species in the wild; | a) spáchá-li čin uvedený v odstavci 1 nebo 2 v úmyslu získat značný prospěch, nebo b) spáchá-li takový čin jako člen organizované skupiny. |
| Deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration; | (4) Odnětím svobody na dvě léta až osm let bude soud obžalovat potrestán, a) spáchá-li čin uvedený v odstavci 1 nebo 2 v úmyslu získat prospěch velkého rozsahu, nebo b) spáchá-li takový čin ve spojení s organizovanou skupinou působící ve více státech. |
| Deliberate destruction or taking of eggs from the wild; | § 181g Kdo z nedbalosti poruší právní předpisy tím, že usmrtí, zničí, opakovaně doveze, vynesne nebo proveze, nebo sobě nebo jinému opatří jedince zvláště chráněného druhu živočichů nebo rostliny nebo exempláře ohroženého druhu ve větším rozsahu než padesáti kusů, nebo jedince druhu kriticky ohroženého nebo exempláře druhu přímo ohroženého vyhubením, bude potrestán odnětím svobody až na jeden rok nebo zákazem činnosti nebo peněžitým trestem. |
| Deterioration or destruction of breeding sites or resting places. | § 181h Kdo, byť i z nedbalosti, poruší právní předpisy nebo rozhodnutí správního úřadu tím, že odníma z přírody volně žijící živočichy nebo planě rostoucí rostliny v takovém měřítku, že tím ohrožuje místní populaci těchto živočichů nebo rostlin, bude potrestán odnětím svobody až na jeden rok nebo zákazem činnosti nebo peněžitým trestem. |

| Under very aggravated circumstances: | Prison penalty up to 2 years And/or Fine from 65 € to 161000 € And/or Ban on activity |
| a) Intentional endangering or harming the environment: | Prison penalty from 6 months to 5 years And/or Fine from 65 € to 161000 € |
conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

**Article 13**
1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

(a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;

(b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

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| Regulation (EC) of the European Parliament and of the Council No 2037/2000 of 29 June 2000 on substances that deplete the ozone layer | Act n°86/2002 on air protection Chap III of the law concerns the protection of the ozone layer. This law does not provide for criminal sanction but it is one of the pieces legislation which is cited in article 124 of the criminal code. | No criminal sanctions are provided Act n°86/2002 on air protection, art 40 §9 : Administrative fine from 2 500 CZK to 2 000 000 CZK (79 € to 62 900 €) | No criminal sanctions are provided Act n°86/2002 on air protection, art 40 §9 :
Administrative fine from 2 500 CZK to 2 000 000 CZK (79 € to 62 900 €) |
**Article 4**
Control of the placing on the market and use of controlled substances

1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:
   (a) chlorofluorocarbons;
   (b) other fully halogenated chlorofluorocarbons;
   (c) halons;
   (d) carbon tetrachloride;
   (e) 1,1,1-trichloroethane;
   (f) hydrobromofluorocarbons.

**Article 5**
Control of the use of hydrochlorofluorocarbons

1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
   (a) in aerosols;
   (b) as solvents:
   (c) as refrigerants:
   (d) for the production of foams:
   (e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
   (f) in all other applications.

**Article 21** Penalties

At a general level it is also possible on fulfilment of certain conditions to contemplate whether the facts could constitute an unlawful business activity as referred to article 118 of the criminal code.

**Criminal code, article 124**
Violation on statutory provisions on the circulation of goods in trade with foreign countries:

1. a person who seriously endanger the common interest by violating an ban or a restriction on the import, export, transit of goods shall be sentenced to a term of imprisonment of up to two years, a fine or the forfeiture of goods.

2. An offender shall be sentenced to a term of imprisonment of between 1 and 5 years if he commits an act referred to in subsection 1 with at least 2 other persons or if he causes substantial damage through his offence or it results in other serious consequences

**Article 118 : Unlawful business activity**

1. a person who, to a significant extent, provides services, produces goods or pursues any other gainful activity without authorisation, shall be sentenced to a term of imprisonment up to 1 year and a fine.

2. An offender shall be sentenced to a term of imprisonment of between 6 months and 3 years if he employs another person in the...
| Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions. | pursuit of the unauthorised activity referred to in section 1 or if by committing the offence he derives significant advantage. |  |
Denmark

<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Unlawful discharge of hazardous substances into water</td>
<td>Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community</td>
<td>- Surface waters&lt;br&gt;Ministerial Regulation no 921 of 8 October 1996, issued under the Environmental Protection Act section 7, 14, 29, 80 and 110.&lt;br&gt;9.—(1) Establishment of conditions in authorizations for the discharge of wastewater pursuant to Parts 4 and 5 of the Environmental Protection Act may on no account lead, either directly or indirectly, to increased pollution of watercourses, lakes or the sea with the substances listed in Annex 1. (2) The term “pollution” in Subsection (1) is understood to mean: Direct or indirect anthropogenic inputs to the aquatic environment of substances or energy having such harmful effects as to endanger human health, harm living resources and aquatic ecosystems, deteriorate recreational worth or hinder other lawful uses of the water.</td>
<td>Prison: up to 2 years (penal code – section 196 : provided that the offence of environmental law is serious and causes damage to the environment or imminent danger for such damage: up to 4 years)&lt;br&gt;Fine: no limitation</td>
<td>- Fine: no limitation&lt;br&gt;Explanatory note&lt;br&gt;- Danish Criminal Law distinguishes between three types of offences: (1) offences caused deliberately (intentional) for which the Penal Code lays down sanctions&lt;br&gt;(2) offences caused by negligence that may be punished under special legislation&lt;br&gt;(3) offences caused accidentally without negligence the Chemical Act.&lt;br&gt;- Attempt and contribution: in principle, attempt to make an offence and contribution to an offence are subject to the same criminal penalties as a fine.</td>
</tr>
</tbody>
</table>
(c) authorisations may be granted for a limited period only. They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.


Article 11

Programme of measures

3. "Basic measures" are the minimum requirements to be complied with and shall consist of:

(j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

Environmental Protection Act, including injunctions to rectify an unlawful matter.

(2) The penalty can be increased to detention or imprisonment for up to 2 years if the infringement is committed intentionally or through gross negligence, and if the violation:

1) caused damage to the environment or gave rise to the danger thereof, or
2) resulted in or was intended to result in an economic advantage for the person in question or for others, including the saving of costs.

(3) In the case of violations committed by limited liability companies, cooperative societies and the like, the said company or society can be held liable to pay a fine. In the case of violations committed by the State, a county authority, a municipal authority or municipal authorities jointly, cf. Section 60 of the Local Administration Act, the State, a county authority, a municipal authority or municipal authorities jointly can be held liable to pay a fine.

• Ground waters

Statutory order No. 501 of 21 JUNE 1999 on the licensing of waste water discharges pursuant to parts 3 and 4 of the Environmental Protection Act

PART 10- Prohibition of the direct discharge of certain substances to the ground water

24.—(1) Direct discharge to the ground water of the substances listed in Schedule 1 is prohibited (…)

PART 18- Penalties

60.

committed offence (section 21 and section 22). Danish courts have interpreted section 21 and section 22 as they are almost only applicable for the Penal Code - not for criminal offences of other legislation.

• Confiscation: To prevent economic benefits through infringement of environmental legislation, the environmental Parliamentary Acts often includes a provision on confiscation. Environmental protection Act section 110(5): “Where violations gave rise to profits, they are confiscated in accordance with Part 9 of the Penal Code, even if the violation did not result in damage to the environment or risk of damage. Where profits cannot be confiscated, this shall be considered when metering out a fine, including possible additional fines”.

• Fine: the amount of the fine is related to the economic benefit of the offence, the normal fine is between 1.000 and 10.000 D. kr. If the offence is done intentionally or reckless and is either done for economic reasons or endangers the environment, the fine will be 25% of the economic benefit of the offence and the economic benefit will be confiscated.
1 Unless heavier penalty is warranted by other legislation, the following shall be deemed offences punishable by a fine -
   v. Failure to comply with prohibition or enforcement notices.

2. The penalty may be increased to detention or imprisonment for up to 2 years if the violation was committed intentionally or through gross negligence, and if the violation –
   i. Caused detrimental or potentially detrimental environmental effects; or
   ii. Produced or was intended to produce a financial return for the person in question or for others, including by the saving of costs.
   iii. Companies etc. (legal entities) can be held liable under Part 5 of the Danish Penal Code, cf. section 110(4) of the Act.

<table>
<thead>
<tr>
<th>2. Unlawful dumping of waste</th>
<th>Directive 2006/12/EC of 5 April 2006 on waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 4.</td>
<td>Statutory Order no. 790 of 14 August 2005 amending Statutory Order on Waste</td>
</tr>
<tr>
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<td>prohibit the abandonment, dumping or uncontrolled disposal of waste.</td>
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<td>Ministerial Regulation no 619 of 27 June 2000 on waste (Waste Regulation).</td>
</tr>
<tr>
<td></td>
<td>Duty to use waste management operations</td>
</tr>
<tr>
<td></td>
<td>39.-(1) Citizens, freeholders, enterprises, and public and private institutions shall use the waste management operations assigned by the local council.</td>
</tr>
<tr>
<td></td>
<td>64.-{1} Unless heavier penalties are due under other legislation, offenders of the following infringements are liable to a fine:</td>
</tr>
<tr>
<td></td>
<td>• Prison: up to 2 years (penal code – section 196 : provided that the offence of environmental law is serious and causes damage to the environment or imminent danger for such damage: up to 4 years)</td>
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<tr>
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<td>• Fine: no limitation</td>
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<td>Fine: no limitation</td>
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</table>
11) failure to use the management operations assigned under section 35 (cf. section 39) 

30) failure to comply with orders or prohibitions under this Order, or

(3) Companies etc. (legal persons) may incur criminal liability under the rules of Part 5 of the Penal Code.

(4) If any gain arising from the violation has not been confiscated, the amount of the actual or intended economic advantage shall be taken into account in calculation of a fine and supplementary fine.

<table>
<thead>
<tr>
<th>3. Illegal shipment of waste</th>
<th>Ministerial Regulation 911 of 26 November 1996 on import and export of waste</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Prohibiting any illegal shipment of waste as defined in article 26</td>
</tr>
</tbody>
</table>

**Article 35**

`illegal shipment’ means any shipment of waste effected: (a) without notification to all competent authorities concerned pursuant to this Regulation; or (b) without the consent of the competent authorities concerned pursuant to this Regulation; or (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or

<table>
<thead>
<tr>
<th></th>
<th>Section 14</th>
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<tbody>
<tr>
<td>(1) Unless heavier penalty is warranted by other legislation, the following shall be deemed offences punishable by a fine:</td>
<td>(1) Unless heavier penalty is warranted by other legislation, the following shall be deemed offences punishable by a fine:</td>
</tr>
<tr>
<td>1. failure to establish financial security in accordance with section 4</td>
<td>1. failure to establish financial security in accordance with section 4</td>
</tr>
<tr>
<td>2. transport of waste without carrying the documents and information required under section 7</td>
<td>2. transport of waste without carrying the documents and information required under section 7</td>
</tr>
<tr>
<td>3. receive imported waste, which not have been transferred in accordance with regulation 259/93 pursuant to section 8</td>
<td></td>
</tr>
<tr>
<td>4. Not omitting information in accordance with</td>
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</tr>
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</table>

- **Prison:** up to 2 years (penal code – section 196: provided that the offence of environmental law is serious and causes damage to the environment or imminent danger for such damage, up to 4 years)
- **Fine:** no limitation

- **Prison:** up to 2 years (penal code – section 196: provided that the offence of environmental law is serious and causes damage to the environment or imminent danger for such damage, up to 4 years)
- **Fine:** no limitation

- **Prison:** up to 2 years (penal code – section 196: provided that the offence of environmental law is serious and causes damage to the environment or imminent danger for such damage, up to 4 years)
- **Fine:** no limitation
(d) in a way which is not specified materially in the notification or movement documents; or
(e) in a way which results in recovery or disposal in contravention of Community or international rules; or
(f) contrary to Articles 34, 36, 40, 41 and 43; or
(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:
(i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
(ii) non-compliance with Article 3(4),
(iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

Article 50
Enforcement in Member States
1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection

section 9
(2) The penalty may be increased to detention or imprisonment for up to 2 years if the violation was committed intentionally or through gross negligence, and if the violation:
1. Caused damage to the environment or risk for such damage, or
2. Produced or was intended to produce a financial return for the person in question or for others, including by the saving of costs.

Remark
Not all offences under article 26 of Regulation 259/93 are subject to criminal penalties (or any other sanction) under Danish Law. Illegal export of waste will not be subject to criminal sanction (or other sanction) if the exporter establish financial security, carry the documents required and inform the local Council in Denmark on the export.
Article 26
1. Any shipment of waste effected:
(a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) which is not specified in a material way in the consignment note; or
(e) which results in disposal or recovery in contravention of Community or international rules; or
(f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.

2. If such illegal traffic is the responsibility of the notifier of the waste, the competent
authority of dispatch shall ensure that the waste in question is:
(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.
In this case a further notification shall be made.
No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.
3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may
be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

<table>
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<tbody>
<tr>
<td>Article 6</td>
<td>2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive</td>
</tr>
<tr>
<td>Kapitel 13</td>
<td>13. Straf m.v.</td>
</tr>
<tr>
<td>Straf og konfiskation</td>
<td>§ 89. Medmindre højere straf er forskylt efter anden lovgivning, straffes med bøde den, der 1) overtræder § 3, stk. 1, 2 og 3, § 8, stk. 1, § 15,</td>
</tr>
</tbody>
</table>

- Prison: up to 2 years
- Fine: no limitation

**Detail**
- Nature Act: fines, imprisonment up to 1 year (section 89);
- Act of Hunting: fines, imprisonment up to 2 years (section 54);
- Ministerial Regulation no. 637 of 25 June 2001: no criminal penalties;
- Ministerial Regulation no. 67 of 4 February 1991: criminal penalties under

- Fine: no limitation
is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

Article 12
1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:

(a) all forms of deliberate capture or killing of specimens of these species in the wild;

(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

(c) deliberate destruction or taking of eggs from the wild;

(d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken

section 8: fine, but when intentionally: 1 year imprisonment

- Ministerial Regulation no 45 of 21 January 1994 : section 9: normal penalty is a fine, but if the offence has been committed intentionally and either caused serious damage to the interests protected by the Regulation or was committed out of pursuit of profit, the criminal penalty can go up to 1 year imprisonment;
- Ministerial Regulation no 715 of 22 September 1999 section 8: fines and up to 2 years imprisonment;
- Ministerial Regulation no 821 of 18 September 2001 section 13: fines and up to 2 years imprisonment.
legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Article 13
1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:
   (a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;
   (b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species

stk. 3. Det kan endvidere fastsættes, at straffen kan stige til fængsel i indtil 1 år under de omstændigheder, der er nævnt i stk. 2.

Stk. 4. Der kan pålægges selskaber m.v. (juridiske personer) straffansvar efter reglerne i straffelovens 5. kapitel.

Stk. 5. Sker der ikke konfiskation af udbytte, som er opnået ved overtrædelsen, skal der ved udmåling af bøde, herunder tillægsbøde, tages særligt hensyn til størrelsen af en opnået eller tilsiget økonomisk fordel, jf. stk. 2, nr. 2.

Stk. 6. Er overtrædelsen begået med et motordrevet køretøj, og er såvel føreren som køretøjet hjemmehørende i udlænding, kan køretøjet tilbageholdes af politiet, indtil bøder, sagsomkostninger og erstatningsbeløb er betalt eller der er stillet sikkerhed for betalingen. Er beløbet ikke betalt inden 2 måneder efter sagens endelige afgørelse, kan der søges fyldestgørelse i køretøjet.

Stk. 7. Med hensyn til iværksættelse af tilbageholdelse efter stk. 6 finder reglerne i retsplejeloven om beslaglæggelse af ting, der findes at burde konfiskeres, tilsvarende anvendelse. Tilbageholdelse kan kun ske, hvis det findes påkrævet for at sikre betaling af beløbet. Var føreren ubere ttiget i besiddelse af køretøjet, kan tilbageholdelse ikke ske.

Stk. 8. Reglerne i stk. 6 og 7 finder ikke anvendelse med hensyn til førere, der er hjemmehørende i Finland, Island, Norge eller Sverige.

Stk. 9. Forældelsesfristen for straffansvaret er 5 år for overtrædelse m.v. som omhandlet i stk. 1 og for overtrædels af bestemmelser i regler udstedt efter loven.

Stk. 10. Sagerne behandles som politisager. Retsmidlerne i retsplejelovenes kapitel 73 kan anvendes i samme omfang som i statsadvokatsager.

§ 90. Miljøministeren bestemmer, hvorledes der forholdes med dyr og planter, herunder dele og
taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

§ 91. Hvis vilde dyr eller planter eller produkter heraf, der er konfiskeret i forbindelse med overtrædelse af loven eller af regler udstedt efter loven.

§ 92. Der er udpantningsret for gebyrer efter § 72 og for udgifter, som myndighederne har krav på at få dækket efter § 53, stk. 3, § 66, stk. 1, § 74, stk. 2-4, § 75, stk. 2 og 3, samt § 91. Stk. 2. Betales de i stk. 1 nævnte gebyrer og udgifter ikke rettidigt, kan der opkræves morarenter på 1,3 pct. i månedlig rente for hver påbegyndt måned fra forfaldstidspunktet.

5. Unlawful trade in or use of Ozone Depleting Substances (ODS)


Article 4
Control of the placing on the market and use of controlled substances

1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:

<table>
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<th>PART 1</th>
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Statutory Order No. 243 of 19 April 2002 on Certain Ozone-Depleting Substances (Prohibition and Restrictions on Use)

Pursuant to sections 4a, 7a, 8(1), 30, 45(1) and (2), 59(4) and 60 of Act on Chemical Substances and Products, cf. Consolidated Act no. 21 of 16 January 1996, as amended by Act no. 424 of 10 June 1997 and Act no. 256 of 12 April 2000, and following negotiations with the Minister for Taxation, the following provisions are laid down:

- Prison up to two years, if a violation is committed intentionally or through gross negligence, and if a violation results in:
  1) damage to the life or health of humans or risk of danger thereto, or
  2) damage to the environment or risk of danger thereto, or
  3) actual or intentional economic advantage for the person in question or for others, including by the saving of costs.
- Fine.
- Fine: no limitation
Scope

1.- (1) The EU Regulation on substances that deplete the ozone layer in force at any time lays down the minimum level for the regulation of controlled substances.

2.- (1) This Order regulates controlled substances that are mentioned in subsection (2) below, and products, including equipment, containing controlled substances or whose operation depends on such substances.

(2) Controlled substances are the following chemical substances and their isomers, whether alone or in a mixture with other substances, where the mixture contains more than one percent by weight:

1) All CFCs (fully halogenated chlorofluorocarbons)
2) Tetrachloromethane
3) Trichloroethane
4) All halons (fully halogenated bromofluorocarbons, bromochlorofluorocarbons and bromochlorofluorocarbons)
5) All HBCFs (hydrobromofluorocarbons)
6) All HCFCs (hydrochlorofluorocarbons), and:
7) Methyl bromide

3.- (1) This Order does not apply to:
1) controlled substances that are used as feedstock to manufacture chemical substances that are not covered by this Statutory Order, and
2) medical dose inhalators and medication pumps containing controlled substances
PART 2
Restrictions on Use of Controlled Substances

4.- (1) Commercial use of controlled substances which are not recovered is prohibited, cf. however subsection 2, point 2.

(2) Commercial use of all halons, whether new or recovered, is prohibited. However, the use of halons is permitted

   1) in aircraft, and
   2) in equipment in fishing vessels and commercial ships of a length in pursuance of the International Tonnage Convention, 1969, of less than 100 meters, up to 31 December 2003.

5.- (1) Commercial filling of controlled substances, which are not recovered, into products, including equipment, is prohibited.

(2) Charging of all halons, whether new or recovered, is prohibited. However, charging of recovered halons is permitted

   1) into equipment in aircraft, and
   2) into handheld fire extinguishers for aircraft, and
   3) into equipment established in fishing vessels and commercial ships of a length in pursuance of the International Tonnage Convention of less than 100 meters, up to 31 December 2002.

(3) Enterprises charging halon into equipment in aircraft, cf. subsection 2, point 1) above, or handheld fire extinguishers for aircraft, cf. subsection 2, point 2) above shall report to the Danish Environmental Protection Agency

regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.
amounts and types of halons used no later than 20 January of the subsequent year.

PART 3

Restrictions on Sale, Exportation, Use and Possession of Products, Including Equipment, Containing Controlled Substances

6.- (1) Commercial exportation of products, including equipment that are not chemical products and that contain controlled substances is prohibited. The prohibition does not cover exportation of aircraft and ships.

(2) Commercial sale of products, including equipment that are not chemical products and that contain non-recovered controlled substances is prohibited, cf. however subsection (3) below.

(3) Irrespective of the above, the resale of products in Denmark is permitted of

1) products complying with Danish requirements at the time of the first sale, or
2) products complying, at the time of the first sale in the EU, with requirements ensuring the same level of protection with regard to ozone-depleting substances.

7.- (1) Continued use of products, including equipment containing controlled substances and acquired legally is permitted, cf. however subsection (2) below.

(2) The possession of mobile and stationary fire extinguishers containing halons is prohibited, unless the equipment is permanently installed in an aircraft or in a vehicle or ship registered abroad. Until 31 December 2003, however, the
<table>
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<th>possession of equipment containing halons established in fishing vessels and commercial ships of a length in pursuance of the International Tonnage Convention of less than 100 meters is permitted.</th>
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<td>8.- (1) Servicing, maintenance or dismantling of</td>
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<td>1) refrigeration, air-conditioning and heat pump equipment,</td>
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<td>2) equipment containing controlled substances as solvents, and</td>
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<td>3) fire protection systems and fire extinguishers</td>
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<td>must be conducted in a way so as to ensure that controlled substances are recovered for recycling or reclamation, or recovered for destruction.</td>
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<td>(2) Any person servicing, maintaining or dismantling refrigeration, air-conditioning or heat pump equipment cf. subsection (1), point 1 above, must be authorised to carry out control under the rules of the National Labour Inspection Service on refrigeration equipment, have a training as refrigeration technician, have completed relevant training under the adult vocational training scheme, have a corresponding education ensuring as a minimum knowledge of measures preventing or limiting leakage of controlled substances, or work under the instructions of such a person.</td>
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<tr>
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<td>(3) Any person servicing, maintaining or dismantling equipment or installations cf. subsection (1) above must have knowledge of the requirements laid down in this Order and of measures preventing or limiting leakage of controlled substances.</td>
</tr>
<tr>
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<td>(4) Enterprises carrying out work with controlled substances covered by subsection (1) above must ensure that work is done by persons complying</td>
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</tbody>
</table>
with the requirements stipulated in subsections (2) and (3) above.

(5) Anyone contracting work covered by subsection (1) above must ensure that work is done by persons or enterprises complying with the requirements stipulated in subsections (2) and (3) above.

**Penalty and Entry into Force**

10.- (1) Unless more severe penalty is due under other legislation, persons infringing sections 4, 5, 6(1-2), 7(2) or 8 or infringing conditions in authorisations pursuant to section 9(2) above shall be punished by fine.

(2) Penalties may increase to imprisonment of up to two years, if a violation is committed intentionally or through gross negligence, and if a violation results in:

1) damage to the life or health of humans or risk of danger thereto, or
2) damage to the environment or risk of danger thereto, or
3) actual or intentional economic advantage for the person in question or for others, including by the saving of costs.

(3) Companies etc. (legal persons) may incur criminal liability under the rules of Part 5 of the Penal Code.
### Estonia

#### Liability of legal persons

Where so stated by the law, a legal person shall be held responsible for an act which is committed by a body or senior official thereof in the interest of the legal person. Prosecution of a legal person does not preclude prosecution of the natural person who committed the offence. The provisions of this act do not apply to the state, local governments or to legal persons in public law.

#### Pecuniary punishment

For a criminal offence, the court may impose a pecuniary punishment of 30 to 500 daily rates. The daily rates are calculated on the basis of the average daily income of the convicted offender. The minimum daily rate shall be fifty kroons. The average daily income shall be calculated on the basis of the income tax received by the convicted offender during the year immediately preceding the year in which the criminal proceeding were commenced against the convicted offender, or, if the data pertaining to such year is not available, during the year preceding such year, less the income tax.

A pecuniary punishment may be imposed as a supplementary punishment together with imprisonment unless imprisonment has been substituted by community service.

The court may impose on legal persons a pecuniary punishment of fifty thousand to two hundred and fifty million kroons. This pecuniary punishment may be imposed also as a supplementary punishment together with compulsory dissolution.

#### Custodial sentence

For a criminal offence, the court may impose imprisonment for a term of thirty days to twenty years or life imprisonment. But for environmental offences the penalties are less important and are around 3 years.

<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Unlawful discharge of hazardous substances into</td>
<td>Directive 2006/11/EC on pollution caused by certain dangerous substances</td>
<td>Karistusseadustik</td>
<td>100 Estonian kroons = 6.40 euros</td>
<td>100 Estonian kroons = 6.40 euros</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Vastu võetud 6. juunil 2001. a. (RT I 2001, 61, 364; terviktekst RT I 2002, 86, 504), jõustumud</td>
<td>§364 Polluting environment (1) Fine up to 500 daily rates</td>
<td>§364 (3) and 365 (2) provide for corporate criminal liability</td>
</tr>
<tr>
<td></td>
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<td>Fine up to 250 million Kroons (16 000 000)</td>
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</table>
substances discharged into the aquatic environment of the Community

Article 4 With regard to List I substances:
(a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned;
(b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers;
(c) authorisations may be granted for a limited period only. They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.


1. september 2002. a., muudetud järgmiste seadustega:
§364. Keskkonna saastamine
(1) Aine, energia või jäätmete ebaseadusliku keskkonda viimise eest, samuti normatiive ületava müra põhjustamise eest – karistatakse rahalise karistusega.
(2) Sama teo eest, kui sellega on tekitatud oluline kahju keskkonnale, – karistatakse rahalise karistuse või kuni kaheastase vangistusega.
(3) Käesoleva paragrahvi lõikes 1 või 2 sätestatud teo eest, kui selle on toime pannud juridiline isik, – karistatakse rahalise karistusega.

§ 365. Keskkonna saastamine ettevaatamatustest
(1) Aine, energia või jäätmete ebaseadusliku keskkonda viimise või normatiive ületava müra põhjustamise eest ettevaatamatusest, kui sellega on tekitatud keskkonnale suur kahju, – karistatakse rahalise karistuse või kuni üheaastase vangistusega.
(2) Sama teo eest, kui selle on toime pannud juridiline isik, – karistatakse rahalise karistusega.

(2), in case of significant damage: prison penalty up to 2 years or Fine up to 500 daily rates

§365 Polluting environment by negligence:
Prison penalty up to 1 year or Fine up to 500 daily rates

Dissolution
| **field of water policy** |
| Article 11 |
| Programme of measures |
| 3. "Basic measures" are the minimum requirements to be complied with and shall consist of: |
| (j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions: |
| Member States may authorise reinjection into the same aquifer of water used for geothermal purposes. |

| 2. Unlawful dumping of waste |
| **Directive 2006/12/EC of 5 April 2006 on waste** |
| Article 4. |
| 2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste. |

| Criminal code |
| § 367. Ohtlike kemikaalide ja jäätmete käitlemise nõuete rikkumine |
| (1) Inimese tervisele või keskkonnale ohtlike kemikaalide või jäätmete käitlemise nõuete rikkumise eest, kui sellega on põhjustatud oht inimeste elule või tervisele või keskkonnale, – karistatakse rahalise karistuse või kuni kolmeaastase vangistusega. |
| (2) Sama teo eest, kui sellega on ettevaatamatusest põhjustatud oht inimeste elule või tervisele või keskkonnale, – karistatakse rahalise karistuse või kuni üheaastase vangistusega. |
| (3) Käesoleva paragrahvi lõikes 1 või 2 sätestatud teo eest, kui selle on toime pannud juridiline isik, – karistatakse rahalise karistusega. |

| Criminal code |
| § 368. Ohtlike kemikaalide ja jäätmete käitlemise nõuete rikkumine ettevaatamatusest |
| (1) Inimese tervisele või keskkonnale ohtlike kemikaalide või jäätmete käitlemise nõuete rikkumise eest ettevaatamatusest, kui sellega on põhjustatud oht inimeste elule või |

| Criminal code |
| §367 Violation of requirement for handling dangerous waste |
| Prison penalty up to 3 years or |
| Fine up to 500 daily rates |

| Criminal code |
| §368 Violation if requirements for handling dangerous waste by negligence |
| Prison penalty up to 1 year or |
| Fine up to 500 daily rates |

| Article 367 (3) and 368 (2) of the Criminal code provide for corporate criminal liability |
| Fine up to 250 million Kroons |
| Dissolution |
| Article 35 | Preamble of Regulation 1013/2006 of 14 June 2006, Article 35 | ‘illegal shipment’ means any shipment of waste effected: (a) without notification to all competent authorities concerned pursuant to this Regulation; or (b) without the consent of the competent authorities concerned pursuant to this Regulation; or (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or (d) in a way which is not specified materially in the notification or movement documents; or (e) in a way which results in recovery or disposal in contravention of Community or international rules; or (f) contrary to Articles 34, 36, 39, 40, 41 and 43; or (g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from: (i) the waste being tervisele või keskkonna le, – karistatakse rahalise karistuse või kuni üheaastase vangistusega. (2) Sama teo eest, kui selle on toime pannud juridiline isik, – karistatakse rahalise karistusega 3. Illegal shipment of waste | **Criminal code** | § 392. Keelatud ja eriluba nõudva kauba ebaseaduslik sisse- ja väljavedu (28.06.2004 jõust.01.07.2004 - RT I 2004, 54, 387) (1) Keelatud kauba või vastava kohustusliku dokumendita või riikliku registri kandeta radioaktiivse aine, lõhkematerjali, narkootilise või psühhotroopse aine, narkootilise või psühhotroopse aine lähteaine, mittenarkootilise ravimi, ohtliku kemikaali või jääme, strateegilise kauba, tulirelva või laskemoona toimetamise eest üle Euroopa Ühenduse tolliterritoriiumi piiri või riigipiiri – karistatakse rahalise karistuse või kuni viieaastase vangistusega. (28.06.2004 jõust.01.07.2004 - RT I 2004, 54, 387) (2) Sama teo eest: 1) ametisiku poolt oma ametiseisundit ära kasutades või 2) grupi poolt – karistatakse kahe- kuni kümneaastase vangistusega. (3) Käesoleva paragrafi lõikes 1 sätestatud teo eest, kui selle on toime pannud juridiline isik, – karistatakse rahalise karistusega. (4) Kohus konfiskeerib käesolevas paragrahis sätestatud süüte toimepanemise vahetus objektiks olnud aine või eseme. | **Illicit import or export of prohibited goods or goods requiring a special permit** | Prison penalty up to 5 years or Fine up to 500 daily rate | Confiscation of the object which was the direct object of commission of the offence Prison penalty up to 10 years under aggravated circumstances | Article 392 §3 of the Criminal code provides for corporate criminal liability Fine up to 250 million Kroons Dissolution |
discovered not to be listed in Annexes III, IIIA or IIIB, or (ii) non-compliance with Article 3(4), (iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

**Article 50**

**Enforcement in Member States**

1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.


**Article 26**

1. Any shipment of waste effected: (a) without notification to all competent authorities
concerned pursuant to the provisions of this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) which is not specified in a material way in the consignment note; or
(e) which results in disposal or recovery in contravention of Community or international rules; or
(f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.
2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as
may be agreed by the competent authorities concerned. In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.

3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an...
environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

<table>
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<th>4.</th>
<th>Unlawful significant deterioration of a protected habitat</th>
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<tr>
<td>Article 6</td>
<td>For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.</td>
</tr>
<tr>
<td>Article 12</td>
<td>Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:</td>
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<thead>
<tr>
<th>Criminal Code, §353</th>
<th>Activities dangerous to flora</th>
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<tr>
<td>Fine up to 200 daily rates, except up to 500 daily rates in case of significant damage</td>
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<tr>
<th>Criminal code</th>
<th>Damage or destruction of trees or shrubs</th>
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<tr>
<td>(1) prison penalty up to 3 years or fine up to 500 daily rates</td>
<td></td>
</tr>
<tr>
<td>(2) prison penalty up to 1 year (negligence) or fine up to 500 daily rates</td>
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<table>
<thead>
<tr>
<th>§354</th>
<th>Damage to wild fauna</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) prison penalty up to 3 years or fine up to 500 daily rates</td>
<td></td>
</tr>
<tr>
<td>(2) prison penalty up to 1 year (negligence) or fine up to 500 daily rates</td>
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<tr>
<th>§353 (3) and (4), §354 §3 and 361 (3) of the Criminal code</th>
<th>provide for corporate criminal liability</th>
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<tr>
<td>§353</td>
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<td>§354 and 361</td>
<td>Fine up to 250 million Kroons</td>
</tr>
<tr>
<td>Dissolution</td>
<td></td>
</tr>
</tbody>
</table>
(a) all forms of deliberate capture or killing of specimens of these species in the wild;

(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

(c) deliberate destruction or taking of eggs from the wild;

(d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall report annually on the extent of the problem to the Commission. The Commission shall report to the Council and the European Parliament on the results of these monitoring activities.
gathering, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

**Article 13**

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

   (a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;

   (b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

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<tr>
<td></td>
<td>Ristvalmis 5. mail 2004 a</td>
<td>§140 Legal import or export of ozone depleting substances (ODS)</td>
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<td></td>
<td>(RT I 2004, 43, 298)</td>
<td>Fine up to 200 units</td>
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<tr>
<td></td>
<td>jõustunud 30. septembril 2004 a, muudetud järgmise seadusega: 22.02.2005 jõust.03.04.2005 - RT I 2005, 15,</td>
<td>§140 (2) and §141(2) of the Criminal code provide for corporate criminal liability</td>
</tr>
<tr>
<td></td>
<td></td>
<td>§140 Fine up to 30 000 kroons (1900 €)</td>
</tr>
</tbody>
</table>
Article 4
Control of the placing on the market and use of controlled substances
1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:
(a) chlorofluorocarbons;
(b) other fully halogenated chlorofluorocarbons;
(c) halons;
(d) carbon tetrachloride;
(e) 1,1,1-trichloroethane;
(f) hydrobromofluorocarbons.

Article 5
Control of the use of hydrochlorofluorocarbons
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
(a) in aerosols;
(b) as solvents:
(c) as refrigerants:
(d) for the production of foams:
(e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
(f) in all other applications.

§ 140. Osoonikihi kaitsmise eesmärgil keelatud toodete ja ainete sisse- ja väljaveo piirangute rikkumine
(1) Osoonikihi kaitsmise eesmärgil keelatud toodete või ainete sisse- või väljaveo eest, samuti selliste toodete või ainete sisse- või väljaveole kehtestatud piirangute rikkumise eest – karistatakse rahatrahviga kuni 200 trahviühikut.
(2) Sama teo eest, kui selle on toime pannud juriidiline isik, – karistatakse rahatrahviga kuni 30 000 krooni.

§ 141. Osoonikihi kaitsmise eesmärgil keelatud toodete ja ainete tootmine, turustamine ja ebaseaduslik kasutamine
(1) Osoonikihi kaitsmise eesmärgil keelatud toodete või ainete tootmise, turustamine või ebaseadusliku kasutamise eest – karistatakse rahatrahviga kuni 300 trahviühikut.
(2) Sama teo eest, kui selle on toime pannud juriidiline isik, – karistatakse rahatrahviga kuni 50 000 krooni.

Criminal Code:
§ 391. Illicit traffic
(1) A person who, while carrying goods to be declared across the frontier of the Community customs territory, evades customs control, fails to declare the goods, declares the goods under an incorrect tariff classification or using a false description, or uses any other fraud, if the object of the act is a large quantity of goods or a punishment for a misdemeanour has been imposed on the offender for the same act, shall be punished by a pecuniary punishment or up to 3 years’ imprisonment.

§141 Unlawful placing on the market and use of ODS
fine up to 300 units

§391: illicit traffic and § 392 Illicit import
and export of prohibited goods or goods requiring a special permit: up to 10 years' imprisonment

§141 Fine up to 50 000 kroons(3250 €)
Article 21
Penalties

Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.

(2) The same act, if committed:
1) by an official taking advantage of his or her official position, or
2) by a group,
is punishable by 1 to 5 years’ imprisonment.
(3) An act provided for in subsection (1) of this section, if committed by a legal person, is punishable by a pecuniary punishment.
(4) A court may, pursuant to the provisions of § 83 of this Code, apply confiscation of a substance or object which was the direct object of the commission of an offence provided for in this section.

§ 392. Illicit import and export of prohibited goods or goods requiring a special permit
(1) Carriage of prohibited goods, or radioactive substances, explosive substances, narcotic drugs or psychotropic substances, precursors for narcotic drugs or psychotropic substances, non-narcotic medicinal products, dangerous chemicals or waste, strategic goods, firearms or ammunition without a mandatory document or without an entry in the state register across the frontier of the Community customs territory or a state border is punishable by a pecuniary punishment or up to 5 years’ imprisonment.
(2) The same act, if committed:
1) by an official taking advantage of his or her official position, or
2) by a group,
is punishable by 2 to 10 years’ imprisonment.
(3) An act provided for in subsection (1) of this section, if committed by a legal person, is punishable by a pecuniary punishment.
(4) The court shall confiscate the substance or object which was the direct object of commission of an offence provided for in this section.
Finland

Typology of criminal penalties

The different types of offences

Generally, provisions regarding minor environmental criminal offences are located in various environmental Acts, such as the Environmental Protection Act or the Water Act. The applicable sanction for these offences is a fine. Most provisions regarding more serious environmental offences, many of which are punishable by imprisonment as well as by a fine, are located in Chapter 48 (Crimes against the environment) of the Penal Code.

The range of environmental offences includes crime and misdemeanour (transgression). This includes minor crimes such as violation of permit provisions and other minor offences by negligence, the criminal blameworthiness of which is rather low. Nevertheless, any act which is punishable by a fine or by imprisonment is by nature criminal offences and subject to criminal procedure.

Environmental offences are frequently punishable even when the act is committed out of negligence or gross negligence. Furthermore, serious environmental offences are endangerment offences, meaning that the unlawful act need not actually cause harm to the environment or to another protected good in order to be punishable, the danger or risk of such harm occurring being sufficient.

The applicable sanctions

The basic sanctions are fine and imprisonment. For physical persons, the amount of the fine depends on the person’s income. The basic fine unit is the day fine, meaning 1/60 of the person’s mean monthly income, taxes and a fixed minimum proportion deducted. The scale is 1-120 day fines. Unless a minimum and/or maximum fine is indicated, the severity of the fine is at the court’s discretion. For legal persons, the fine scale is 850 –850,000 euro.

The general minimum prison sentence is 14 days and the maximum sentence for an environmental offence is six years (Aggravated impairment of the environment, The Penal Code, Chapter 48, Section 2).

The benefit that the defendant has gained as a result of his criminal act shall be confiscated by the state if the defendant is sentenced and the prosecutor demands confiscation. In environmental cases, the object of confiscation is usually the net economic benefit gained through the offence. Confiscation applies to legal persons as well, even if the actual perpetrator (physical person) is not sentenced or remains unidentified.

Corporate liability

The Penal Code of Finland includes special provisions concerning corporate criminal liability.

These provisions are laid down in chapter 9 of the Penal Code. According to section 1 (chapter 9) of the Penal Code a corporation, a foundation or any other legal entity, in whose operations an offence has been committed, may on the request of the public prosecutor be sentenced to a corporate fine, if such sanction has been provided in this Penal Code. Section 9 (chapter 48, environmental offences) it is stated that the provisions on corporate criminal liability apply to the offences referred to in chapter 48 (environmental offences) of the Penal Code.
<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
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</thead>
<tbody>
<tr>
<td>1. Unlawful discharge of hazardous substances into water</td>
<td>Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community</td>
<td>• Rikoslaki (39/1889), chapter 48 section 1-4) &lt;br&gt; Section 1 §1 A person who, deliberately or through gross negligence, (1) introduces, emits or disposes into the environment an object, a substance, radiation or suchlike in defiance of law, a provision based on law, a general or a specific order, or without a permit required by law or in defiance of permit conditions, (...) so that the act is conducive to causing a danger of the spoiling or littering of the environment or a health hazard, shall be sentenced for impairment of the environment to a fine or to imprisonment for at most two years. &lt;br&gt; Section 2: aggravated impairment of the environment of the damage or danger of damage is especially serious with regard to the long duration, the wide effect and other circumstances or if the offence is committed in defiance of an order or a prohibition of an authority &lt;br&gt; Section 3: environmental infraction: one will be sentenced to a fine or to imprisonment for at most 6 month or a fine up to 120 days fine &lt;br&gt; Section 4 Impairment of the environment by negligence: Prison penalty up to 1 year or a fine up to 120 days fine</td>
<td>• Penal Code, chapter 48: &lt;br&gt; Section 1 §1 Impairment of the environment: Prison penalty up to 2 years or a fine up to 120 days fine &lt;br&gt; Section 2 Aggravated impairment of the environment: Prison penalty up to 6 years or a fine up to 120 days fine &lt;br&gt; Section 3 Environmental infraction: Prison penalty up to 6 month or a fine up to 120 days fine &lt;br&gt; Section 4 Impairment of the environment by negligence: Prison penalty up to 1 year or a fine up to 120 days fine</td>
<td>• Penal Code, Chapter 48, section 9: Fine from 850 € to 850 000 €</td>
</tr>
</tbody>
</table>

Section 1: A person who, deliberately or through gross negligence, (1) introduces, emits or disposes into the environment an object, a substance, radiation or suchlike in defiance of law, a provision based on law, a general or a specific order, or without a permit required by law or in defiance of permit conditions, (...) so that the act is conducive to causing a danger of the spoiling or littering of the environment or a health hazard, shall be sentenced for impairment of the environment to a fine or to imprisonment for at most two years.

Section 2: aggravated impairment of the environment of the damage or danger of damage is especially serious with regard to the long duration, the wide effect and other circumstances or if the offence is committed in defiance of an order or a prohibition of an authority.

Section 3: environmental infraction: one will be sentenced to a fine or to imprisonment for at most 6 month of the impairment of the environment, with regard to the insignificance of the danger or the

Fine from 1 one day fine up to 120 days fine

Article 11
Programme of measures
3. "Basic measures" are the minimum requirements to be complied with and shall consist of:
   (j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

damage caused to the environment or health is minor when assessed as a whole.

Section 4: A person who through negligence affect the environment in a manner referred to in section 1 shall be sentenced to a fine or to imprisonment for at most one year

- Ympäristönsuojelulaki (86/2000)

Section 116: Penal provisions
Provisions concerning punishment for degradation of the environment in violation of this Act or provisions or regulations issued under it are laid down in chapter 48, sections 1-4, of the Penal Code (39/1889).

Whosoever deliberately or through gross negligence in a manner other than referred to in paragraph 1 1) neglects submission of a notification as referred to in this Act, 2) neglects his duty under orders issued by an authority pursuant to this Act or acts contrary to a notification submitted by him to an authority, 3) neglects his duty under Council Regulation (EC) No. 3093/94 on substances that deplete the ozone layer, or 4) violates a prohibition as referred to in sections 7-9, a decree issued under chapter 2, neglects his duty under section 75, 76, 90, 103 or 104 or violates the terms of a Ministry decision issued under section 111, shall be sentenced to a fine for violation of the Environmental Protection Act, unless a more severe punishment is provided for elsewhere in the law.
2. Unlawful dumping of waste

**Directive 2006/12/EC of 5 April 2006 on waste**

**Article 4.**
2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.

- **Rikoslaki 39/1889, chapter 48 section 1-4 (cf above)**
- **Jätelaki 3.12.1993/1072, chap 9 sect 60 Jäterikkomus,** Joka tahallaan tai törkeästi huolimattomuudesta
  1) rikoo 5 §:n 1 momentin 1, 3 tai 4 kohdassa, 6 §:n 1 momentin 6 tai 8 kohdassa, 7 §:n 4 momentissa, 17 §:n 1 momentissa, 18 c §:n 4 momentin 2 kohdassa, 18 g §:n 4 momentissa, 18 n tai 19 §:ssä, 40 §:n 3 momentissa, 50, 57 tai 73 a §:ssä tarkoitettaa kieltoa taikka mainittujen säännösten nojalla annettua kieltoa tai määräystä,
  2) laiminlyö 7–9 §:ssä, 12 tai 14 §:ssä, 15 §:n 1 momentissa, 18 c–18 m §:ssä, 51 §:n 3 tai 4 momentissa tarkoitetun velvollisuuden, tai
  3) toteuttaa jätteen kansainvälisen siirron jätteensiirtoasetuksen 26 artiklan 1 kohdassa tarkoitetulla tavalla,

on tuomittava, jollei teosta muualla laissa säädetä ankarampaa rangaistusta, jäterikkomuksesta sakkoon.

Jäterikkomuksesta tuomitaan niin ikään se, joka tahallaan tai törkeästi huolimattomuudesta rikoo 13 §:n 1 momentin nojalla annettua määräystä taikka laiminlyö 11 §:ssä, 20 §:n 1 tai 2 momentissa, 21, 49 tai 50 b §:ssä tarkoitetun velvollisuuden

- **Penal Code:**
  - **Section 1§1 Impairment of the environment** :Prison penalty up to 2 years or a fine up to 120 days fine
  - **Section 2 Aggravated impairment of the environment** : Prison penalty up to 6 years or a fine up to 120 days fine
  - **Section 3 Environmental infraction** : Prison penalty up to 6 month or a fine up to 120 days fine
  - **Section 4 Impairment of the environment by negligence** : Prison penalty up to 1 year or a fine up to 120 days fine

- **Waste Act:**

Fine from 1 day fine to 120 days fine

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3. Illegal shipment

**Preamble of Regulation**

- **Rikoslaki 39/1889,**

- **Penal code Chapter 48, section 1 §3**

- **Penal Code, Chapter 48, section 9:**
  Fine from 850 € to 850 000 €
Article 35

‘illegal shipment’ means any shipment of waste effected:
(a) without notification to all competent authorities concerned pursuant to this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) in a way which is not specified materially in the notification or movement documents; or
(e) in a way which results in recovery or disposal in contravention of Community or international rules; or
(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:
   (i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
   (ii) non-compliance with Article 3(4),
   (iii) the shipment being

Illegal import or export of waste

- Prison penalty up to 2 years (except for aggravated impairment up to 6 years) or a fine up to 120 days fine

Waste Act: Fine from 1 day fine to 120 days fine

Waste Act:

- Fine from 850 € to 850 000 €
Article 50

Enforcement in Member States

1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.


Article 26

1. Any shipment of waste effected:
(a) without notification to all competent authorities concerned pursuant to the provisions of this §:n 3 momentissa, 50, 57 tai 73 a §:ssä tarkoitettua kieltoa taikka mainittujen säännösten nojalla annettua kieltoa tai määryystä,
2) laiminlyö 7–9 §:ssä, 12 tai 14 §:ssä, 15 §:n 1 momentissa, 18 c–18 m §:ssä, 51 §:n 3 tai 4 momentissa tarkoitettun velvollisuuden, tai
3) toteuttaa jätteen kansainvälisen siirron jätteensiirtoasetuksen 26 artiklan 1 kohdassa tarkoitetulla tavalla,
on tuomittava, jollei teosta muualla laissa säädetä ankarampaa rangaistusta, jäterikkomuksesta sakoon.

Jäterikkomuksesta tuomitaan niin ikään se, joka tahallaan tai törkeästä huolimattomuudesta rikko 13 §:n 1 momentin nojalla annettua määryystä taikka laiminlyö 11 §:ssä, 20 §:n 1 tai 2 momentissa, 21, 49 tai 50 b §:ssä tarkoitettun velvollisuuden
1. The illegal traffic shall consist in:

(b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) which is not specified in a material way in the consignment note; or
(e) which results in disposal or recovery in contravention of Community or international rules; or
(f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.

2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:

(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as
may be agreed by the competent authorities concerned. In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.

3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an
environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

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<tr>
<td>Article 62. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.</td>
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<tr>
<td>3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.</td>
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<tr>
<td>Article 12</td>
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<td>1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:</td>
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</tr>
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</table>

- **Rikoslaki 39/1889, chapter 48 section 5**
  - **Nature conservation offence**: A person who deliberately or through gross negligence, unlawfully destroys or impairs an area, an animal, a plant or another natural object protected by the Nature Conservation Act or protected, restricted or set under an injunction based thereon shall be sentence to a fine or to imprisonment for at most two years;

- **Nature Conservation Act 1096/1996, section 58**
  - **Nature conservation infraction**: Anyone who deliberately or through negligence violates the prohibitions or regulations given according to the Act shall be sentenced to a fine for nature conservation infraction unless the action is a nature conservation offence.

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<tr>
<th>Criminal code, chapter 48, section 5: Nature conservation offense:</th>
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<td>Prison penalty up to 2 years or a fine up to 120 days fine</td>
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<th>Nature Conservation Act , section 58: Nature conservation infraction</th>
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<td>Fine from 1 day fine to 120 days fine</td>
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<th>Penal Code, Chapter 48, section 9:</th>
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<tr>
<td>Fine from 850 € to 850 000 €</td>
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</table>
(a) all forms of deliberate capture or killing of specimens of these species in the wild;

(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

(c) deliberate destruction or taking of eggs from the wild;

(d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information
gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

**Article 13**

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

(a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;

(b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

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<td></td>
<td>Prison penalty up to 2 years (except for aggravated impairment up to 6 years)</td>
<td>Penal Code, Chapter 48, section 9:</td>
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<td></td>
<td></td>
<td>Fine from 850 € to 850 000 €</td>
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the ozone layer

Article 4
Control of the placing on the market and use of controlled substances
1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:
(a) chlorofluorocarbons;
(b) other fully halogenated chlorofluorocarbons;
(c) halons;
(d) carbon tetrachloride;
(e) 1,1,1-trichloroethane;
(f) hydrobromofluorocarbons.

Article 5
Control of the use of hydrochlorofluorocarbons
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
(a) in aerosols;
(b) as solvents:
(...) (c) as refrigerants:
(...) (d) for the production of foams:
(...) (e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
(f) in all other applications.

• Environmental Protection Act:
Fine from 1 one day fine up to 120 days fine
Article 21 Penalties

Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.

Ympäristönsuojelulaki 86/2000

Section 116: Penal provisions

Provisions concerning punishment for degradation of the environment in violation of this Act or provisions or regulations issued under it are laid down in chapter 48, sections 1-4, of the Penal Code (39/1889). Whosoever deliberately or through gross negligence in a manner other than referred to in paragraph 1 1) neglects submission of a notification as referred to in this Act, 2) neglects his duty under orders issued by an authority pursuant to this Act or acts contrary to a notification submitted by him to an authority, 3) neglects his duty under Council Regulation (EC) No. 3093/94 on substances that deplete the ozone layer, or 4) violates a prohibition as referred to in sections 7-9, a decree issued under chapter 2, neglects his duty under section 75, 76, 90, 103 or 104 or violates the terms of a Ministry decision issued under section 111, shall be sentenced to a fine for violation of the Environmental Protection Act, unless a more severe punishment is provided for elsewhere in the law.
| France |
|-------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|
| **Criminal offence** | **General and Specific provision of EC law infringed** | **Provision of National law qualifying this infringement as a criminal offence (in official language)** | **Type and level of criminal sanction for natural persons** |
| | | | Or Obligation to take the positive measures established by the Tribunal. If not respected: periodic penalty payment from 15 to 3 000 euros per day |
| | | | And Publication/ diffusion of the penal decision |
| | Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy | Le fait de jeter, déverser ou laisser s'écouler dans les eaux superficielles, souterraines ou les eaux de la mer dans la limite des eaux territoriales, directement ou indirectement, une ou des substances quelconques dont l'action ou les réactions entraînent, même provisoirement, des effets nuisibles sur la santé ou des dommages à la flore ou à la faune, à l'exception des dommages visés aux articles L. 218-73 et L. 432-2, ou des modifications significatives du régime normal d'alimentation en eau ou des limitations d'usage des zones de baignade, est puni de deux ans d'emprisonnement et de 75 000 euros d'amende. Lorsque l'opération de rejet est autorisée par arrêté, les dispositions de cet alinéa ne s'appliquent que si les prescriptions de cet arrêté ne sont pas respectées. Le tribunal peut également imposer au condamné de procéder à la restauration du milieu aquatique dans le cadre de la procédure prévue par l'article L. 216-9. Ces mêmes peines et mesures sont applicables au fait de jeter ou abandonner des déchets en quantité importante dans les eaux superficielles ou souterraines ou dans les eaux de la mer dans la limite des eaux territoriales, sur les plages ou sur les rivages de la mer. Ces dispositions ne s'appliquent pas aux rejets en mer effectués à partir des navires. Article L.216-9 | Five times the fine established for natural persons: up to 375 000 euros |
| | | | Complementary punishment: Prohibition (temporary or for five years max.) to run directly or indirectly a professional activity. |
| | | | **Explanatory note** |
| | | | 1. A legal person can be responsible on a criminal ground when the following conditions are met : |
| | | | • The offence must have been committed in its interest |
| | | | • By a body or a representative of the legal person |
| | | | • Such a criminal liability must be foreseen in the norm |
| | | | 2. As for the head of the company: |
| | | | The liability can be cumulative |
Article 11
Programme of measures
3. "Basic measures" are the minimum requirements to be complied with and shall consist of:
(j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.


En cas de poursuite pour infraction aux dispositions des articles L. 216-6, L. 216-7 et L. 216-8 ou pour infraction à une obligation de déclaration ou à toute autre obligation résultant des articles mentionnés à l'article L. 216-5, ou des règlements ou décisions individuelles pris pour leur application, le tribunal peut, après avoir déclaré le prévenu coupable, décider l'ajournement du prononcé de la peine en lui enjoignant de respecter les prescriptions auxquelles il a été contrevenu.

Le tribunal impartit un délai pour l'exécution de ces prescriptions. Il peut assortir l'injonction d'une astreinte dont il fixe le taux et la durée maximum. Son montant est de 15 euros à 3 000 euros par jour de retard dans l'exécution des mesures imposées.

L'ajournement ne peut intervenir qu'une fois. Il peut être ordonné même si le prévenu ne comparaît pas en personne. Dans tous les cas, la décision peut être assortie de l'exécution provisoire. (…)

CODE PENAL
(Partie Législative)
Sous-section 1 : Des peines criminelles et correctionnelles

Article 131-37
Les peines criminelles ou correctionnelles encourues par les personnes morales sont :
1° L'amende ;
2° Dans les cas prévus par la loi, les peines énumérées à l'article 131-39.

Article 131-3
Le taux maximum de l'amende applicable aux personnes morales est égal au quintuple de celui prévu pour les personnes physiques par la loi qui
réprime l'infraction.

Lorsqu'il s'agit d'un crime pour lequel aucune peine d'amende n'est prévue à l'encontre des personnes physiques, l'amende encourue par les personnes morales est de 1 000 000 Euros.

**Article 131-39**

Lorsque la loi le prévoit à l'encontre d'une personne morale, un crime ou un délit peut être sanctionné d'une ou de plusieurs des peines suivantes :

1° La dissolution, lorsque la personne morale a été créée ou, lorsqu'il s'agit d'un crime ou d'un délit puni en ce qui concerne les personnes physiques d'une peine d'emprisonnement supérieure ou égale à trois ans, détournée de son objet pour commettre les faits incriminés ;

2° L'interdiction, à titre définitif ou pour une durée de cinq ans au plus, d'exercer directement ou indirectement une ou plusieurs activités professionnelles ou sociales ;

3° Le placement, pour une durée de cinq ans au plus, sous surveillance judiciaire ;

4° La fermeture définitive ou pour une durée de cinq ans au plus des établissements ou de l'un ou de plusieurs des établissements de l'entreprise ayant servi à commettre les faits incriminés ;

5° L'exclusion des marchés publics à titre définitif ou pour une durée de cinq ans au plus ;

6° L'interdiction, à titre définitif ou pour une durée de cinq ans au plus, de faire appel public à l'épargne ;

7° L'interdiction, pour une durée de cinq ans au plus, d'émettre des chèques autres que ceux qui permettent le retrait de fonds par le tireur auprès du tiré ou ceux qui sont certifiés ou d'utiliser des cartes de paiement ;

8° La confiscation de la chose qui a servi ou était destinée à commettre l'infraction ou de la chose qui en est produit ;

9° L'affichage de la décision prononcée ou la diffusion de celle-ci soit par la presse écrite, soit par tout moyen de communication au public par voie électronique.
| Code de l'environnement | Prison : up to 2 years  
Fine : up to 75 000 euros  
Obligation to restore the environment (under periodic penalty payment)  
Publication/ diffusion of the penal decision  
Five times the fine established for natural persons: up to 375 000 euros  
Complementary punishment: Prohibition (temporary or for five years max.) to run directly or indirectly a professional activity.

2. Unlawful dumping of waste

**Directive 2006/12/EC of 5 April 2006 on waste**

**Article 4.**
2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.

| Article L541-46  
(Loi n° 2005-1319 du 26 octobre 2005 art. 5 I Journal Officiel du 27 octobre 2005)  

I. - Est puni de deux ans d'emprisonnement et de 75 000 euros d'amende le fait de :

4º Abandonner, déposer ou faire déposer, dans des conditions contraires aux dispositions du présent chapitre, des déchets appartenant aux catégories visées à l'article L. 541-7 et énumérées dans son texte d'application ;

II. - En cas de condamnation prononcée pour les infractions visées aux 4º, 6º et 8º du I, le tribunal peut ordonner, sous astreinte, la remise en état des lieux endommagés par les déchets qui n'ont pas été traités dans les conditions conformes à la loi.

V. - Le tribunal peut ordonner l'affichage ou la diffusion intégrale ou partielle de la décision prononcée dans les conditions prévues par l'article 131-35 du code pénal.

**Article L541-47**

I. - Les personnes morales peuvent être déclarées responsables pénale dans les conditions prévues par l'article 121-2 du code pénal des infractions.
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<tr>
<td>Article L541-40</td>
<td>'illegal shipment' means any shipment of waste effected:</td>
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<td></td>
<td>(a) without notification to all competent authorities concerned pursuant to this Regulation; or</td>
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<td>(b) without the consent of the competent authorities concerned pursuant to this Regulation; or</td>
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<td>(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or</td>
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<td>(d) in a way which is not specified materially in the notification or movement documents; or</td>
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<td>(e) in a way which results in recovery or disposal in contravention of Community or international rules; or</td>
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<td>(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or</td>
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<td>(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:</td>
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<td>(i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or</td>
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<td>définition à l'article L. 541-46.</td>
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<td></td>
<td>II. - Les peines encourues par les personnes morales sont :</td>
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<td></td>
<td>1° l'amende, suivant les modalités prévues par l'article 131-38 du code pénal ;</td>
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<tr>
<td></td>
<td>2° Les peines mentionnées aux 2°, 3°, 4°, 5°, 6°, 8° et 9° de l'article 131-39 du même code.</td>
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<td>III. - L'interdiction mentionnée au 2° de l'article 131-39 du code pénal porte sur l'activité dans l'exercice ou à l'occasion de l'exercice de laquelle l'infraction a été commise.</td>
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<th>3. Illegal shipment of waste</th>
<th>Prison : up to 2 years</th>
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<td>Fine: up to 75 000 euros</td>
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<td>Publication/ diffusion of the penal decision</td>
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<td>Fine: up to 375 000 euros</td>
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<td>Complementary measures: prohibition (temporary or for five years max.) to run directly or indirectly a professional activity in connection with the offence, end of the activities of the legal person, forfeiture of the means which enabled the offence, “surveillance judiciaire” (up to five years), prohibition to be part of public procurement (up to five years)</td>
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(ii) non-compliance with Article 3(4),
(iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

Article 50
Enforcement in Member States
1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.


Article 26
1. Any shipment of waste effected:
(a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) which is not specified in a material way in the consignment note; or
(e) which results in disposal or recovery in contravention of Community or international rules; or
(f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.

national. En cas d'inexécution, elle peut prendre toutes dispositions utiles pour assurer ce retour. Les dépenses correspondantes sont alors mises à la charge du producteur ou des personnes ayant contribué à l'exportation de ces déchets et sont recouvrées dans les conditions mentionnées au deuxième alinéa de l'article L. 541-3.

Article L.541-46

I. - Est puni de deux ans d'emprisonnement et de 75 000 euros d'amende le fait de :
11º Exporter ou faire exporter, importer ou faire importer, faire transiter de déchets visés au premier alinéa de l'article L. 541-40 sans satisfaire aux prescriptions prises en vertu de cet article ou de ses textes d'application ;

V. - Le tribunal peut ordonner l'affichage ou la diffusion intégrale ou partielle de la décision prononcée dans les conditions prévues par l'article 131-35 du code pénal.

Article L.541-47
I. - Les personnes morales peuvent être déclarées responsables pénalement dans les conditions prévues par l'article 121-2 du code pénal des infractions définies à l'article L. 541-46.
2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.
In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.
3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.
4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

II. - Les peines encourues par les personnes morales sont :
1° L'amende, suivant les modalités prévues par l'article 131-38 du code pénal ;
2° Les peines mentionnées aux 2°, 3°, 4°, 5°, 6°, 8° et 9° de l'article 131-39 du même code.
III. - L'interdiction mentionnée au 2° de l'article 131-39 du code pénal porte sur l'activité dans l'exercice ou à l'occasion de l'exercice de laquelle l'infraction a été commise.

Article 131-37
Les peines criminelles ou correctionnelles encourues par les personnes morales sont :
1° L'amende ;
2° Dans les cas prévus par la loi, les peines énumérées à l'article 131-39.

Article 131-38
Le taux maximum de l'amende applicable aux personnes morales est égal au quintuple de celui prévu pour les personnes physiques par la loi qui réprime l'infraction.
Lorsqu'il s'agit d'un crime pour lequel aucune peine d'amende n'est prévue à l'encontre des personnes physiques, l'amende encourue par les personnes morales est de 1 000 000 Euros.

Article 131-39
Lorsque la loi le prévoit à l'encontre d'une personne morale, un crime ou un délit peut être sanctionné d'une ou de plusieurs des peines suivantes : 1° La dissolution, lorsque la personne morale a été créée ou, lorsqu'il s'agit d'un crime ou d'un délit puni en ce qui concerne les personnes physiques d'une peine d'emprisonnement supérieure ou égale à trois ans,
5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

détournée de son objet pour commettre les faits incriminés ;
2° L'interdiction, à titre définitif ou pour une durée de cinq ans au plus, d'exercer directement ou indirectement une ou plusieurs activités professionnelles ou sociales ;
3° Le placement, pour une durée de cinq ans au plus, sous surveillance judiciaire ;
4° La fermeture définitive ou pour une durée de cinq ans au plus des établissements ou de l'un ou de plusieurs des établissements de l'entreprise ayant servi à commettre les faits incriminés ;
5° L'exclusion des marchés publics à titre définitif ou pour une durée de cinq ans au plus ;
6° L'interdiction, à titre définitif ou pour une durée de cinq ans au plus, de faire appel public à l'épargne ;
7° L'interdiction, pour une durée de cinq ans au plus, d'émettre des chèques autres que ceux qui permettent le retrait de fonds par le tireur auprès du tiré ou ceux qui sont certifiés ou d'utiliser des cartes de paiement ;
8° La confiscation de la chose qui a servi ou était destinée à commettre l'infraction ou de la chose qui en est le produit ;
9° L'affichage de la décision prononcée ou la diffusion de celle-ci soit par la presse écrite, soit par tout moyen de communication au public par voie électronique.

Les peines définies aux 1° et 3° ci-dessus ne sont pas applicables aux personnes morales de droit public dont la responsabilité pénale est susceptible d'être engagée. Elles ne sont pas non plus applicables aux partis ou groupements politiques ni aux syndicats professionnels. La peine définie au 1° n'est pas applicable aux institutions représentatives du personnel.

4. Unlawful significant deterioration of a protected habitat


**Article 62.** For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or cross-border transit of a protected habitat

**Code de l'environnement**

**Article L415-3**


(Loi n° 2003-591 du 2 juillet 2003 art. 31 III 13°

| Prison : up to six months | Fine: up to 18 000 euros | Forfeiture of the means which enabled the offence | No corporate criminal liability |
exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

Article 121. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:

(a) all forms of deliberate capture or killing of specimens of these species in the wild;

(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

(c) deliberate destruction or taking of eggs from the wild;

(d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In

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<tr>
<td>Est puni de six mois d'emprisonnement et de 9 000 euros</td>
<td>d'amende :</td>
</tr>
<tr>
<td>1º Le fait, en violation des interdictions prévues par les dispositions de l'article L. 411-1 et par les règlements pris en application de l'article L. 411-2 :</td>
<td></td>
</tr>
<tr>
<td>a) De porter atteinte à la conservation d'espèces animales non domestiques, à l'exception des perturbations intentionnelles ;</td>
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<tr>
<td>b) De porter atteinte à la conservation d'espèces végétales non cultivées ;</td>
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</tr>
<tr>
<td>c) De détruire des sites contenant des fossiles permettant d'étudier l'histoire du monde vivant ainsi que les premières activités humaines, de détruire ou d'enlever des fossiles présents sur ces sites ;</td>
<td></td>
</tr>
<tr>
<td>2º Le fait d'introduire volontairement dans le milieu naturel, de transporter, colporter, utiliser, mettre en vente, vendre ou acheter un spécimen d'une espèce animale ou végétale en violation des dispositions de l'article L. 412-1 ou des règlements pris pour son application ;</td>
<td></td>
</tr>
<tr>
<td>3º Le fait de produire, détenir, céder, utiliser, transporter, introduire, importer, exporter ou réexporter tout ou partie d'animaux ou de végétaux en violation des dispositions de l'article L. 412-1 ou des règlements pris pour son application ;</td>
<td></td>
</tr>
<tr>
<td>L'amende est doublée lorsque les infractions visées aux 1º et 2º sont commises dans le cœur d'un parc national ou dans une réserve naturelle.</td>
<td></td>
</tr>
</tbody>
</table>

Forfeiture of the animal/plant

| Publication/ diffusion of the penal decision |
the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

**Article 13**

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

   (a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;

   (b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

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**Article 4**

**Control of the placing on the market and use of controlled substances**

1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:

   (a) chlorofluorocarbons;

   (b) other fully halogenated substances

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### Section 5 : Sanctions pénales

**Article L521-21**


(Loi n° 2005-1319 du 26 octobre 2005 art. 3 Journal Officiel du 27 octobre 2005)

1. - Est puni de deux ans d'emprisonnement et de 75 000 euros d'amende le fait de : l' Fournir sciemment des renseignements inexacts susceptibles d'entraîner pour la substance considérée ou les préparations la contenant, ou pour les produits manufacturés ou équipements les contenant, des

Prison : up to 2 years

Fine : 75 000 euros

Forfeiture of the means which enabled the offence

Prohibition to run directly or indirectly a professional activity linked to the activity leading to the offence

Closing (temporary or definitive) of the installations in question

Complementary measures: prohibition (temporary or for five years max.) to run directly or indirectly a professional activity in connection with the offence, end of the activities of the legal person, forfeiture of the means which enabled the offence, surveillance judiciaire (up to five years), prohibition to be part of public procurement (up to five years)
Chlorofluorocarbons; halons; carbon tetrachloride; 1,1,1-trichloroethane; hydrobromofluorocarbons.

**Article 5**

**Control of the use of hydrochlorofluorocarbons**

1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
   (a) in aerosols;
   (b) as solvents;
   (c) as refrigerants;
   (d) for the production of foams;
   (e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
   (f) in all other applications.

**Article 21**

Penalties

Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.
**Germany**

**Typology of criminal penalties in Germany**

The German Criminal Law distinguishes between the *Strafrecht* (criminal law) and the *Ordnungswidrigkeitenrecht* (administrative penal law). The criminal law only deals with criminal acts, which realization harms and in a special way disturb the social living-together. It is sanctioned with fines or imprisonment. The administrative penal law deals with facts, which realization presents a punishable breach of law without however affecting the society to the extent which would legitimate the appliance of the criminal law.

The difference between Strafrecht- and Ordnungswidrigkeitenrecht lies mainly on the degree rather than on the nature of the fact. This gradual difference has an effect especially on the kind of punishments. Ordnungswidrigkeiten are solely sanctioned by non-criminal fines and not by imprisonments. Due to the limited personal principle of guilt according to the general Ordnungswidrigkeitenrecht the imposition of fines up to 500,000 EUR against companies are possible, if company-related duties are violated § 30 OWIG. From the side of criminal law only the representative can be sued of a legal entity.

In the German jurisprudence it is discussed whether the structure of the German criminal law must be changed in such a way that also punishments can be imposed against enterprises.

The environmental criminal law constitute specific rules of the *Strafgesetzbuch* which is the German criminal code.

<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
</table>
| 1. Unlawful discharge of hazardous substances into water | Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community  
Article 4With regard to List 1 substances:  
(a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned;  
§324 Gewässerverunreinigung  
(1) Wer unbefugt ein Gewässer verunreinigt oder sonst dessen Eigenschaften nachteilig verändert, wird mit Freiheitsstrafe bis zu fünf Jahren oder mit Geldstrafe bestraft.  
(2) Der Versuch ist strafbar.  
(3) Handelt der Täter fahrlässig, so ist die Strafe Freiheitsstrafe bis zu drei Jahren oder Geldstrafe.  
§324a Bodenverunreinigung  
(1) Wer unter Verletzung verwaltungsrechtlicher Pflichten Stoffe in den Boden einbringt, eindringt läßt oder freisetzt und diesen dadurch | * Strafgesetzbuch: §324 Gewässerverunreinigung  
With regard to List I substances:  
(a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned;  
(1) Wer unbefugt ein Gewässer verunreinigt oder sonst dessen Eigenschaften nachteilig verändert, wird mit Freiheitsstrafe bis zu fünf Jahren oder mit Geldstrafe bestraft.  
(2) Der Versuch ist strafbar.  
(3) Handelt der Täter fahrlässig, so ist die Strafe Freiheitsstrafe bis zu drei Jahren oder Geldstrafe.  
§324a Bodenverunreinigung  
(1) Wer unter Verletzung verwaltungsrechtlicher Pflichten Stoffe in den Boden einbringt, eindringt läßt oder freisetzt und diesen dadurch | * Strafgesetzbuch: (criminal code)  
Water and soil pollution  
- Imprisonment between six months and five years  
- Except for especially serious case of environmental crime: prison penalty from one year to ten years  
- Fine up to 360 daily rates  
- Complementary sanctions: prohibition on exercising a particular profession  
- Seizure of certain property | No corporate criminal liability  
Ordnungswidrigkeitsgesetz, §30:  
Fine up to 500 000 € if companies - related duties are violated  
From the side of criminal law, only the representative of a legal entity can be sued (art 14 StGB) |
(b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers;

c) authorisations may be granted for a limited period only. They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.


Article 11

Programme of measures

"Basic measures" are the minimum requirements to be complied with and shall consist of:

(i) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions: Member States may authorise reinjection into the groundwaters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers;

(ii) a prohibition of direct discharges of pollutants into surface waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers;
same aquifer of water used for geothermal purposes.

(3) In minder schweren Fällen des Absatzes 2 Nr. 1 ist auf Freiheitsstrafe von sechs Monaten bis zu fünf Jahren, in minder schweren Fällen des Absatzes 2 Nr. 2 auf Freiheitsstrafe von einem Jahr bis zu zehn Jahren zu erkennen.

- Wasserhaushaltsgesetz; WHG: §41

Ordnungswidrigkeiten (1) Ordnungswidrig handelt, wer
vorsätzlich oder fahrlässig
1. entgegen § 2 eine Benutzung ohne behördliche Erlaubnis
oder Bewilligung ausübt oder einer vollziehbaren Auflage
nach § 4 Abs. 1 oder Abs. 2 Nr. 1, 2 oder 2a oder einer
vollziehbaren Anordnung nach § 5 Abs. 1 Nr. 1 oder 1a,
soweit sie Maßnahmen nach § 4 Abs. 2 Nr. 2a betrifft, oder
einer vollziehbaren Anordnung nach § 5 Abs. 1 Nr. 2 oder
3, auch in Verbindung mit § 5 Abs. 2, zuwiderhandelt,
2. einer Rechtsverordnung nach § 19 Abs. 2 Nr. 1
zuwiderhandelt, soweit die Rechtsverordnung für einen
bestimmten Tatbestand auf diese Bußgeldvorschrift
verweist,
3. ohne Genehmigung nach § 19a Abs. 1 Satz 1 eine
Rohrleitungsanlage errichtet oder wesentlich ändert oder
einer vollziehbaren Auflage nach § 19b Abs. 1 Satz 1
zuwiderhandelt,
4. einer Rechtsverordnung nach § 19d Nr. 1, 1a oder 2 oder
§ 36a Abs. 1 zuwiderhandelt, soweit sie für einen
bestimmten Tatbestand auf diese Bußgeldvorschrift
verweist,
5. entgegen § 19e Abs. 2 Satz 1 eine Anlage nicht oder nicht
rechtzeitig anzeigt oder einer vollziehbaren Auflage nach §
19e Abs. 2 Satz 4 in Verbindung mit § 19b Abs. 1 Satz 3
zuwiderhandelt,
6.
a) entgegen § 19g Abs. 3 bei Einbau, Aufstellung,
Unterhaltung oder Betrieb der Anlagen im Sinne des § 19g
Abs. 1 oder 2 die allgemein anerkannten Regeln der
Technik nicht einhält,
b) entgegen § 19h Abs. 1 Satz 1 eine Anlage, Teile einer
Anlage oder technische Schutzvorkehrungen verwendet,
deren Eignung nicht festgestellt ist,
c) als Betreiber einer Anlage nach § 19g Abs. 1 oder 2
entgegen § 19i Abs. 1 mit dem Einbau, der Aufstellung,
| 1. Instandhaltung, Instandsetzung oder Reinigung der Anlage nicht Fachbetriebe nach § 19l beauftragt, entgegen § 19i Abs. 2 Satz 1 die Anlage nicht ständig überwacht, entgegen einer vollziehbaren Anordnung nach § 19i Abs. 2 Satz 2 einen Überwachungsvertrag nicht abschließt oder entgegen einer vollziehbaren Anordnung nach § 19i Abs. 3 Satz 2 einen Gewässerschutzbeauftragten nicht bestellt, |
| d) entgegen § 19k einen Vorgang nicht überwacht, sich vom ordnungsgemäßen Zustand der Sicherheitseinrichtungen nicht überzeugt oder die Belastungsgrenzen der Anlagen und Sicherheitseinrichtungen nicht einhält, |
| e) entgegen § 19l Abs. 1 Anlagen nach § 19g Abs. 1 und 2 einbaut, aufstellt, instandsetzt oder reinigt, ohne daß er berechtigt ist, Gütezeichen einer baurechtlich anerkannten Überwachungs- oder Gütegemeinschaft zu führen, oder einen Überwachungsvertrag mit einer Technischen Überwachungsorganisation abgeschlossen hat, |
| 7. entgegen § 21 |
| a) das Betreten von Grundstücken, Anlagen oder Räumen nicht gestattet, Anlagen oder Einrichtungen nicht zugänglich macht oder technische Ermittlungen oder Prüfungen nicht ermöglicht, |
| b) die erforderlichen Arbeitskräfte, Unterlagen oder Werkzeuge nicht zur Verfügung stellt oder |
| c) eine Auskunft nicht, unrichtig, unvollständig oder nicht rechtzeitig erteilt, |
| d) den Gewässerschutzbeauftragten nicht zu Überwachungsmaßnahmen hinzuzieht, |
| 8. entgegen § 21a Abs. 1 oder entgegen einer vollziehbaren Anordnung nach § 21a Abs. 2 einen Gewässerschutzbeauftragten nicht bestellt, |
| 9. einer Vorschrift des § 26 oder § 32b oder § 34 Abs. 2 über das Einbringen, Lagern, Ablagem oder Befördern von Stoffen zuwiderhandelt oder |
| 10. (weggefallen) |
| 11. ohne festgestellten Plan nach § 31 Abs. 2 Satz 1, auch in Verbindung mit Satz 2, oder ohne Genehmigung nach § 31 Abs. 3 einen Ausbau vornimmt. |
| (2) Die Ordnungswidrigkeit kann in den Fällen des Absatzes 1 Nr. 1 bis 6 und Nr. 8 bis 11 mit einer Geldbuße bis zu fünfzigtausend Euro, in den Fällen des Absatzes 1 Nr. |
### 2. Unlawful dumping of waste

<table>
<thead>
<tr>
<th>Directive 2006/12/EC of 5 April 2006 on waste</th>
<th>Strafgesetzbuch: (criminal code)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 4. 2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.</td>
<td>§ 326 Unerlaubter Umgang mit gefährlichen Abfällen</td>
</tr>
<tr>
<td>1.</td>
<td>(1) Wer unbefugt Abfälle, die</td>
</tr>
<tr>
<td>1.</td>
<td>1. Gifte oder Erreger von auf Menschen oder Tiere übertragbaren gemeingefährlichen Krankheiten enthalten oder hervorbringen können,</td>
</tr>
<tr>
<td>2.</td>
<td>2. für den Menschen krebserzeugend, fruchtschädigend oder erbgutverändernd sind,</td>
</tr>
<tr>
<td>3.</td>
<td>3. explosionsgefährlich, selbstzündend oder nicht nur geringfügig radioaktiv sind oder</td>
</tr>
<tr>
<td>4.</td>
<td>4. nach Art, Beschaffenheit oder Menge geeignet sind,</td>
</tr>
<tr>
<td></td>
<td>a) nachhaltig ein Gewässer, die Luft oder den Boden zu verunreinigen oder sonst nachteilig zu verändern oder</td>
</tr>
<tr>
<td></td>
<td>b) einen Bestand von Tieren oder Pflanzen zu gefährden, außerhalb einer dafür zugelassenen Anlage oder unter wesentlicher Abweichung von einem vorgeschriebenen oder zugelassenen Verfahren behandelt, lagert, ablagert, abläßt oder sonst beseitigt, wird mit Freiheitsstrafe bis zu fünf Jahren oder mit Geldstrafe bestraft.</td>
</tr>
<tr>
<td>4.</td>
<td>(4) In den Fällen der Absätze 1 und 2 ist der Versuch strafbar.</td>
</tr>
<tr>
<td></td>
<td>(5) Handelt der Täter fahrlässig, so ist die Strafe</td>
</tr>
<tr>
<td></td>
<td>1. in den Fällen der bsätze 1 und 2 Freiheitsstrafe bis zu drei Jahren oder Geldstrafe,</td>
</tr>
<tr>
<td></td>
<td>2. in den Fällen des Absatzes 3 Freiheitsstrafe bis zu einem Jahr oder Geldstrafe.</td>
</tr>
<tr>
<td></td>
<td>(6) Die Tat ist dann nicht strafbar, wenn schädliche Einwirkungen auf die Umwelt, insbesondere auf Menschen, Gewässer, die Luft, den Boden, Nutztiere oder Nutzpflanzen, wegen der geringen Menge der Abfälle offensichtlich ausgeschlossen sind</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Strafgesetzbuch: (criminal code)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unauthorized dealing with dangerous wastes, soil pollution</td>
</tr>
<tr>
<td>- Prison penalty from 6 months to 5 years</td>
</tr>
<tr>
<td>- Fine up to 360 daily rates</td>
</tr>
</tbody>
</table>

| Complementary sanctions: prohibition on exercising a particular profession |
| - seizure of certain property |

| Regulations of the KrW/AbfG, §61 |
| - Administrative fine up to 50 000 € |
| - Forfeiture |

| Ordnungswidrigkeitengesetz, §30: |
| Fine up to 500 000 € if companies - related duties are violated |
| 'illegal shipment' means any shipment of waste effected:  
| (a) without notification to all competent authorities concerned pursuant to this Regulation; or  
| (b) without the consent of the competent authorities concerned pursuant to this Regulation; or  
| (c) with consent obtained from the competent authorities  
| **Gesetz zur Förderung der Kreislaufwirtschaft und Sicherung der umweltverträglichen Beseitigung von Abfällen**  
| **Strafgesetzbuch:** (criminal code) § 326 Unerlaubter Umgang mit gefährlichen Abfällen  
| (2) Ebenso wird bestraft, wer Abfälle im Sinne des Absatzes 1 entgegen einem Verbot oder ohne die erforderliche Genehmigung in den, aus dem oder durch den Geltungsbereich dieses Gesetzes verbringt  
| **Hohe See-Einbringungs**  
| §10 II Prohibition of bringing in wastes and other materials and articles into the high sea v. 25.8.1998 (BGBl. I 2455), most recently modified 29.10.2001 (BGBl. P. 2785, 2798)  
| **Strafgesetzbuch:** (criminal code) Unauthorized dealing with dangerous wastes, soil pollution  
| ➢ Prison penalty From 6 months to 5 years  
| ➢ Except for especially serious case of an environmental crime, from 1 year to 10 years  
| ➢ Fine up to 360 daily rates  
| Complementary sanctions: prohibition on exercising a particular profession  
| seizure of certain property  
| Ordnungswidrigkeitengesetz, §30:  
| Fine up to 500 000 € if companies - related duties are violated |
concerned through falsification, misrepresentation or fraud; or (d) in a way which is not specified materially in the notification or movement documents; or (e) in a way which results in recovery or disposal in contravention of Community or international rules; or (f) contrary to Articles 34, 36, 39, 40, 41 and 43; or (g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from: (i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or (ii) non-compliance with Article 3(4), (iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

**Article 50**
**Enforcement in Member States**
1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective,

| • **High sea-Inbringing law** |
| ➢ Administrative fines up to 50 000 € |
| ➢ Forfeiture |
proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.


Article 26
1. Any shipment of waste effected:
(a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) which is not specified in a material way in the consignment note; or
(e) which results in disposal or recovery in contravention of Community or international rules; or
(f) contrary to Articles 14,
16, 19 and 21 shall be deemed to be illegal traffic.

2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:

(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.

In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.

3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound
manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.  

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.  

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

Article 62. For these species, Member States shall prohibit the keeping... | Strafgesetzbuch: (criminal code)  
• § 329 Gefährdung schutzbedürftiger Gebiete  
Endangering areas requiring protection  
(3) Wer entgegen einer zum Schutz eines Naturschutzgebietes, einer als Naturschutzgebiet einstweilig sichergestellten Fläche oder eines Nationalparks erlassenen Rechtsvorschrift oder vollziehbaren Untersagung  
• Strafgesetzbuch: (criminal code)  
Ordnungswidrigkeitengesetz, §30:  
Fine up to 500 000 € if companies - related duties are violated |
Article 12
1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:
   (a) all forms of deliberate capture or killing of specimens of these species in the wild;
   (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
   (c) deliberate destruction or taking of eggs from the wild;
   (d) Deterioration or destruction of breeding sites or resting places.
2. For these species, Member

<table>
<thead>
<tr>
<th>Complementary sanctions:</th>
</tr>
</thead>
<tbody>
<tr>
<td>prohibition on exercising a particular profession</td>
</tr>
<tr>
<td>seizure of certain property</td>
</tr>
</tbody>
</table>

| Framework regulation completed by the Protection regulation: |
|§30 Catching, killing, marketing out wild animals; harming of natural plants in different alternatives |
| ➢ Prison penalty up to 5 years |
| ➢ Fine up to 360 daily rates |

| Violation of official publications and measures and documentation obligations, refusal to allow official examination |
| ➢ Administrative fine up to 50 000 € |

| TierschutzG / Animal protection Law |
|§17 Infliction of pain |
| ➢ Prison up to 5 years |
| ➢ Fine |

| §18 Incorrect preservation of animals |
| ➢ Administrative fine up to 25000 € |

| Plant Protection law: |
States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Article 13
1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

(a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the

2. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Article 13
1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

(a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the
dazugehörigen uferbegleitenden natürlichen oder naturnahen Vegetation sowie ihrer natürlichen oder naturnahen Verlandungsbereiche, Altarme und regelmäßig überschwemmten Bereiche,

2. Moore, Sumpfe, Röhrichte, seggen- und binsenreiche Nasswiesen, Quellbereiche, Binnenlandsalzstellen,

3. offene Binnendünen, offene natürliche Block-, Schutt- und Geröllhalden, Leh- und Lösswände, Zwergstrauch-, Ginster- und Wacholderheiden, Borstgrasrasen, Trockenrasen, Schwemmetalrasen, Wälder und Gebüsche trockenwarmer Standorte,

4. Bruch-, Sumpf- und Auwälder, Schluchten- und Hängeschuttwälder,

5. offene Felsbildungen, alpine Rasen sowie Schneetälerchen und Krummholzgebüsche,


2Die Länder können weitere Biotope den in Satz 1 genannten gleichstellen. 3Sie sollen geeignete Maßnahmen treffen, um die räumliche Ausdehnung und die ökologische Beschaffenheit der Biotope zu erhalten.

(2) 1Die Länder können Ausnahmen zulassen, wenn die Beeinträchtigungen der Biotope ausgeglichen werden können oder die Maßnahmen aus überwiegenden Gründen des Gemeinwohls notwendig sind. 2Die Länder können auch für den Fall Ausnahmen zulassen, dass während der Laufzeit vertraglicher Vereinbarungen oder der Teilnahme an öffentlichen Programmen zur

§39 emission of pollutants on particularly protected plant or existence of very valuable plant substance in different technical alternative

- Prison up to 5 years

§40 other destruction of existing plant substance by pollutants/ prohibited plant protection substances;

- Administrative fine p to 50 000 €
(b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

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|---|---|---
| | • Strafgesetzbuch: (criminal code): § 325 Luftverunreinigung | No specific criminal provision has been found
| | Ordnungswidrigkeitengesetz, §30: | A provision of the Criminal Code
| | | Fine up to 500 000 € if companies - related duties are violated

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- **Planzenschutzgesetz:** §39 PflSchG: Strafvorschriften
  
  (1) Mit Freiheitsstrafe bis zu fünf Jahren oder mit Geldstrafe wird bestraft, wer Schadorganismen verbreitet und dadurch
  
  1. Bestände von Pflanzen besonders geschützter Arten im Sinne des § 10 Abs. 2 Nr. 10 des Bundesnaturschutzgesetzes,
  2. fremde Pflanzenbestände von bedeutendem Wert oder
  
  (2) Der Versuch ist strafbar.

- §40 other destruction of existing plant substance by pollutants/ prohibited plant protection substances; Violation of official publications; refusal to participate in national controls in different technical alternatives

- **Animal protection law (TierschutzG) v. 25.5.1998 (BGBl. I S. 530)**
  
  §17 infliction of pain and suffering to a vertebrate animal without reasonable grounds

  §18 incorrect preservation of animals, export/import without permit, animal trade/animal experimentation without permit or without giving notice to the authority, infliction of pain
Substances (ODS)

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on substances that deplete the ozone layer

Article 4
Control of the placing on the market and use of controlled substances
1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:
   (a) chlorofluorocarbons;
   (b) other fully halogenated chlorofluorocarbons;
   (c) halons;
   (d) carbon tetrachloride;
   (e) 1,1,1-trichloroethane;
   (f) hydrobromofluorocarbons.

Article 5
Control of the use of hydrochlorofluorocarbons
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
   (a) in aerosols;
   (b) as solvents:
   (c) as refrigerants:
   (d) for the production of foams:
   (e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;

(1) Wer beim Betrieb einer Anlage, insbesondere einer Betriebsstätte oder Maschine, unter Verletzung verwaltungsrechtlicher Pflichten Veränderungen der Luft verursacht, die geeignet sind, außerhalb des zur Anlage gehörenden Bereichs die Gesundheit eines anderen, Tiere, Pflanzen oder andere Sachen von bedeutendem Wert zu schädigen, wird mit Freiheitsstrafe bis zu fünf Jahren oder mit Geldstrafe bestraft. Der Versuch ist strafbar.
(2) Wer beim Betrieb einer Anlage, insbesondere einer Betriebsstätte oder Maschine, unter grober Verletzung verwaltungsrechtlicher Pflichten Schadstoffe in bedeutendem Umfang in die Luft außerhalb des Betriebsgeländes freisetzt, wird mit Freiheitsstrafe bis zu fünf Jahren oder mit Geldstrafe bestraft.
(3) Handelt der Täter fahrlässig, so ist die Strafe Freiheitsstrafe bis zu drei Jahren oder Geldstrafe.
(4) Schadstoffe im Sinne des Absatzes 2 sind Stoffe, die geeignet sind, 1. die Gesundheit eines anderen, Tiere, Pflanzen oder andere Sachen von bedeutendem Wert zu schädigen oder 2. nachhaltig ein Gewässer, die Luft oder den Boden zu verunreinigen oder sonst nachteilig zu verändern.
(5) Die Absätze 1 bis 3 gelten nicht für Kraftfahrzeuge, Schienen-, Luft- oder Wasserfahrzeuge.

§ 329 Gefährdung schutzbekürtiger Gebiete

could apply to infringement of the Regulation that lead to pollution or environmental damage

Strafgesetzbuch: (criminal code)

Air pollution:
- Prison penalty from 6 months to 5 years
- Fine up to 360 daily rates
(f) in all other applications.

(…)

**Article 21**

Penalties: Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.
### Greece

<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
</table>
Ministerial Decision 26857/553 4.4.1988  
Art 4  
the Decision prohibits all direct discharges of substances in list I  
and  
Art. 10, 1650/1986  
Penal sanctions  
Art. 28, 29 Law 1650/1986 | Prison:  
• from 3 months up to 2 years  
• if danger of death or grievous bodily injury was created, imprisonment of not less than one year and a pecuniary fine are imposed;  
• if grievous bodily injury or death has been caused, imprisonment of not more than ten years is imposed  
• if negligence: up to 1 year  
Fine: from 146,73 € up to 14.673,51 € | • Same fine as for natural persons  
• For any act or omission of an act by a legal person, intentionally committed, managers are punished as authors of the crime, , if by intention or negligence they have not fulfilled their particular legal obligation of compliance with the provisions pertaining to the protection of the environment. |
| 2. Superficial waters                          | Act of Ministerial Council no 144 of 2 November 1987 lays down a general prohibition of discharge of pollutants into surface waters. | Specific prohibitions of discharge related to List I substances are laid down under the following provisions:  
Art 6 and 8 of the interministerial | Explanatory note  
According to Law 1650/1986, Article 28, penal sanctions are provided for the persons who intentionally commit an offence against the environment.  
Punishment by imprisonment of not less than three months nor more than two years and by a pecuniary fine is applicable to:  
• persons who cause pollution or degradation to the environment by an act or the omission of an act contrary to the provisions of this law or the decrees and ministerial decisions issued upon its authority;  
• persons who perform an activity or business without the permission or approval required by this law or the decrees and ministerial decisions issued | • If environmental pollution or degradation is caused by the activity of a legal person: same fine as for natural persons  
• A particular legal obligation is imposed on the following persons:  
  ➢ the chairman of the board of directors of corporations;  
  ➢ the executive or managing directors of corporations;  
  ➢ the managers of limited liability companies;  
  ➢ the chairman of the board of directors and the supervising council of co-operatives; |

---

**Explanatory note**

According to Law 1650/1986, Article 28, penal sanctions are provided for the persons who intentionally commit an offence against the environment.

- If environmental pollution or degradation is caused by the activity of a legal person: same fine as for natural persons.
- A particular legal obligation is imposed on the following persons:
  - the chairman of the board of directors of corporations;
  - the executive or managing directors of corporations;
  - the managers of limited liability companies;
  - the chairman of the board of directors and the supervising council of co-operatives;
They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.


Article 11
Programme of measures
3. “Basic measures” are the minimum requirements to be complied with and shall consist of:
(j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

Article 5 and 11 of interministerial decision 55648/2210/1991
Article 5 and 11 of interministerial decision 4859/726/2001

Penal sanctions:
Art. 28,29 law 1650/86 upon its authority, or who exceed the limits of the permission or approval which has been granted and this results in environmental damage.

If such offences are committed by negligence, imprisonment of not more than one year is imposed.

If the type and the quantity of the pollutants and the extent and the importance of the environmental damage have caused one of the following offences, then the penal sanctions become heavier:
• if danger of death or grievous bodily injury was created, imprisonment of not less than one year and a pecuniary fine are imposed;
• if grievous bodily injury or death has been caused, imprisonment of not more than ten years is imposed;
• if it is a foetus which suffers grievous bodily injury or death, imprisonment of not less than two years and a pecuniary fine are imposed;

Note that the sanctions provided for under law 1650/1986 may cumulate with sanctions laid down in implementing regulatory measures.

2. Unlawful dumping of waste

Directive 2006/12/EC of 5 April 2006 on waste

Article 4.
2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.

• The basic principles set out in the Waste Management Directive (75/442/EC) have been incorporated into Joint Ministerial Decision H.P.50910/2727 of 16.12.2003 (Government Gazette II 1909 of 22.12.2003).

Prison:
• from 3 months up to 2 years
• if danger of death or grievous bodily injury was created, imprisonment of not less than one year and a pecuniary fine are imposed;
• if grievous bodily injury or death has been caused, imprisonment of not more than ten years is imposed

• Same fine as for natural persons
• For any act or omission of an act by a legal person, which is intentionally committed, managers are punished as authors of the crime, if by intention or negligence they have not fulfilled their particular legal obligation of compliance with the provisions pertaining to the protection of the environment.
**Article 26**  
1. Any shipment of waste effected:  
   (a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or  
   (b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or  
   (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or  
   (d) which is not specified in a material way in the consignment note; or  
   (e) which results in disposal or recovery in contravention of Community or international rules; or  
   (f) contrary to Articles 14,  |  |  |
| | • But the prohibition of illegal dumping of waste is also provided for under article 12.5 of the law 1650/1986  | • if negligence: up to 1 year  |  
| | **Criminal sanctions applicable:**  
articles 28, 29 of law 1650/86  | Fine: from 146,73 € up to 14,673,51 €  |  
| |  | Note that the sanctions provided for under law 1650/1986 may cumulate with sanctions laid down in implementing regulatory measures.  |  
| | • No specific implementing act  |  |  
| | • The Greek authorities consider that criminal sanctions applicable to violations of article 12 of the law 1650/1986 (gene : art. 28, 29 law 1650/1986) shall also apply to violations of the provisions of Regulation n° 259/93  |  |  
| | Prison:  
• from 3 months up to 2 years  
• if danger of death or grievous bodily injury was created, imprisonment of not less than one year and a pecuniary fine are imposed;  
• if grievous bodily injury or death has been caused, imprisonment of not more than ten years is imposed  
• if negligence: up to 1 year  | Fine: from 146,73 € up to 14,673,51 €  |  
| |  | Note that the sanctions provided for under law 1650/1986 may cumulate with sanctions laid down in implementing regulatory measures.  |  
| | • Same fine as for natural persons  
• For any act or omission of an act by a legal person, intentionally committed, managers are punished as authors of the crime, , if by intention or negligence they have not fulfilled their particular legal obligation of compliance with the provisions pertaining to the protection of the environment. |  |  |
16, 19 and 21 shall be deemed to be illegal traffic.

2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
   (a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
   (b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.
   In this case a further notification shall be made.

No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.

3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner.
manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Article 6 2. For these species, Member</td>
<td>Article 6 of the decisions literally transposes article 6.2 of the Directive.</td>
</tr>
<tr>
<td>JMD (joint Ministerial Decision) 33318/3028/1998</td>
<td>Article 11 of the Decision literally</td>
</tr>
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| Prison: | • from 3 months up to 2 years |
|         | • if danger of death or grievous bodily injury was created, imprisonment of not less than one year and a pecuniary fine are imposed; |
|         | • if grievous bodily injury or death has been caused, imprisonment of not more than |
|         | Same fine as for natural persons |
|         | For any act or omission of an act by a legal person, intentionally committed, managers are punished as authors of the crime, if by intention or negligence they have not fulfilled their particular legal obligation of compliance with the provisions pertaining to the protection |

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**Article 12**

1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:

   (a) all forms of deliberate capture or killing of specimens of these species in the wild;

   (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

   (c) deliberate destruction or taking of eggs from the wild;

   (d) deterioration or destruction of breeding sites or resting places.

2. Article 12 of the decision literally transposes article 13 of the directive.

3. Article 19 of the decision states that article 28 and 29 of law n° 1650/1986 shall apply to any violation of a provision of this decision. Besides, sanctions laid down in other specific acts may apply cumulatively.

   - ten years is imposed
   - if negligence: up to 1 year

Fine: from 146,73 € up to 14,673,51 €

Note that the sanctions provided for under law 1650/1986 may cumulate with sanctions laid down in implementing regulatory measures.
2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

**Article 13**

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

(a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants.
in their natural range in the wild;

(b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.


| Article 4 Control of the placing on the market and use of controlled substances | 1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:
(a) chlorofluorocarbons;
(b) other fully halogenated chlorofluorocarbons;
(c) halons;
(d) carbon tetrachloride;
(e) 1,1,1-trichloroethane;
(f) hydrobromofluorocarbons. |
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<tr>
<td>According to the Greek authorities, art 28 and 29 of the framework environment protection law n° 1650/1986 shall apply to violations of regulation (EC) n° 2037/2000. The Commission services disagree and an infringement procedure has been opened.</td>
<td>No penalties</td>
</tr>
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Article 5
Control of the use of hydrochlorofluorocarbons
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
(a) in aerosols;
(b) as solvents:
(…)
(c) as refrigerants:
(…)
(d) for the production of foams:
(…)
(e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
(f) in all other applications.
(…)

Article 21 Penalties
Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.
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<tr>
<td>1. Unlawful discharge of hazardous substances into water</td>
<td>Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community</td>
<td>Surface Waters</td>
<td>Prison up to 3 years and up to 8 years (if damage to the environment is such that the environment can not be restored)</td>
<td>Dissolution of the legal person, Constraining the activity of the legal person from 1 up to 3 years</td>
</tr>
<tr>
<td></td>
<td>Decree No. 203 of 2001 of the Government on certain rules of protection of surface waters’ quality</td>
<td>203/2001. (X. 26.) Korm. rendelet ¹</td>
<td>Fine: Fine can range from 500 000 HUF (2 000 Euro) to a sum three times the financial advantage the crime originally aimed at.</td>
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</tr>
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</table>

1. Unlawful discharge of hazardous substances into water

Provision of National law qualifying this infringement as a criminal offence (in official language)

- **Surface Waters**

203/2001. (X. 26.) Korm. rendelet ¹

**Explanatory note:**

Criminal law does allow for sanctions against legal persons (according to a separate legislation: Act 2001 of CIV).

However, the legislation requires that:

- A natural person’s criminal responsibility is engaged and this person is affiliated to the legal person.
- The affiliated person committed the crime in order to acquire material advantage for the legal person.

There are three different sanctions for crimes committed legal persons:

- Dissolution of the legal person,
- Constraining the activity of the legal person from 1 up to 3 years
- Fine: Fine can range from 500 000 HUF (2 000 Euro) to a sum three times the financial advantage the crime originally aimed at.
taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.


Article 11 Programme of measures

3. "Basic measures" are the minimum requirements to be complied with and shall consist of:
   (j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:
      Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

Penal Code

Art. 280

- §1 Who damages the environment or any element of it, or who does not respect an obligation provided with by a law or official decision, behaves in such way that he/she can damage the environment or one of its elements commits an offence punished by prison up to 3 years.
- §2 Who substantially pollutes the environment or one of its elements, or who does not respect an obligation provided with by a law or official decision, behaves in such way that he/she can damage the environment or one of its elements commits an offence punished by prison up to 3 years.
- §3 The sanction is prison up to 5 years if the offence described in §1 causes or can cause substantial damages to the environment or one of its elements.
- §4 The sanction is prison from 2 to 8 years if damage is such that the environment cannot be restored.
- §5 Who damages the environment by negligence is punished by prison up to 2 years as for the offence described in §1, 2, 3, and prison up to 3 years as for the offence described in §4.
- If the damage caused death or grievous body damages, the penal code provisions on homicide (art. 166) or "voies de fait" (art. 170) apply. According to the penal code, provoking death or grievous body damages is punishable independently from the act.

N.B. Art. 280 covers any actual or potential damage to the environment, that is to say pollution of the soil, the atmosphere, the waters, the biosphere, or any of their elements, traffic, extermination, capture and illicit detention of protected living organism.

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- §3 The sanction is prison up to 5 years if the offence described in §1 causes or can cause substantial damages to the environment or one of its elements.
- §4 The sanction is prison from 2 to 8 years if damage is such that the environment cannot be restored.
- §5 Who damages the environment by negligence is punished by prison up to 2 years as for the offence described in §1, 2, 3, and prison up to 3 years as for the offence described in §4.
- If the damage caused death or grievous body damages, the penal code provisions on homicide (art. 166) or "voies de fait" (art. 170) apply. According to the penal code, provoking death or grievous body damages is punishable independently from the act.

N.B. Art. 280 covers any actual or potential damage to the environment, that is to say pollution of the soil, the atmosphere, the waters, the biosphere, or any of their elements, traffic, extermination, capture and illicit detention of protected living organism.

Dissolution will only take place if the existence of the legal person is closely related to the crime (crimes) in question – e.g. if the legal person was established to commit crimes or to hide them. In such cases it will not matter that the legal person otherwise obeys all the rules of bookkeeping, reporting etc. However, a legal person whose activity is important for public services or that performs important strategic tasks for the economy or national defence may not be dissolved.

- Constraining the activity of the legal person
  A legal person’s activities may be constrained for a maximum of 3 years. Constraints could be: banning endowment building (i.e. banning to collect deposit or stake from outside sources), banning participation in public procurement processes or/and in concession processes, refusing registration as a public interest organisation, refusing to grant state and municipality subsidies and refraining from any activity the court prohibited to it.

- Fine
  Fines can range from 500 000 HUF (2 000 Euro) to a sum three times the financial advantage the crime originally aimed at.
<table>
<thead>
<tr>
<th>Article</th>
<th>Directive 2006/12/EC of 5 April 2006 on waste</th>
<th>Act XLIII of 2000 On Waste Management</th>
<th>If the offence has endangered the environment:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 4. 2.</td>
<td>Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.</td>
<td>KÖVETELMÉNYEK ÉS KÖTELEZETTSÉGEK</td>
<td>Prison up to 8 years and fine up to +/- 6 000 euros;</td>
</tr>
<tr>
<td>5.</td>
<td>(1) Minden tevékenységet úgy kell megtervezni és végezni, hogy az a környezetet a lehető legkisebb mértékben érintse, illetve a környezet terhelése és igénybevétele csökkentjen, ne okozzon környezetveszélyeztetést, illetve környezetszennyezést, biztosítsa a hulladékképződés megelőzését, a keletkező hulladék mennyiségének és veszélyességének csökkentését, a hulladék hasznosítását, környezetkímélő ártalmatlanítását.</td>
<td>(2) A hulladékképződés megelőzése, valamint a keletkező hulladék mennyiségének és veszélyességének csökkentése érdekében kell részesíteni:</td>
<td></td>
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<td>(2) A hulladékképződés megelőzése, valamint a keletkező hulladék mennyiségének és veszélyességének csökkentése érdekében kell részesíteni:</td>
<td>a) az anyag- és energiatakarékos, hulladékszegény technológiák alkalmazását;</td>
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<td>b) az anyagnak, illetőleg a hulladéknak a termelési-fogyasztási körfolyamatban tartását;</td>
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<td>c) a legkisebb tömegű és térfogatú hulladékot és szennyező anyagot eredményező termékek előállítását;</td>
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<td>d) a hulladékként kockázatot jelentő anyagok kiváltását.</td>
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<td>(3) A hulladékban rejlő anyag és energia hasznosítása érdekében törekedni kell a hulladék legnagyobb arányú ismételt felhasználására, a nyersanyagoknak hulladékkal történő helyettesítésére, valamint - ha ezek nem megoldhatóak - a hulladék energiahordozóként való felhasználására.</td>
<td>(3) A keletkezett hulladékot, ha az ökológiaiag előnyös, műszakilag lehetséges és gazdaságtalag megalapozott, hasznosítani kell.</td>
<td></td>
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<td></td>
<td>(4) A keletkezett hulladékot, ha az ökológiaiag előnyös, műszakilag lehetséges és gazdaságtalag megalapozott, hasznosítani kell.</td>
<td>(5) Amennyiben a hasznosítás gazdasági és technológiai feltételei adottak, a hulladéket a hasznosítás elősegítése érdekében a hasznosítási lehetőségeknek megfelelően elkülöníteni kell gyűjteni (szelektív hulladékgyűjtés).</td>
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<td>(6) Ártalmatlanításra csak az a hulladék kerülhet, amelynek anyagában történő hasznosítására vagy energiahordozóként való felhasználására a műszaki, illetőleg gazdasági lehetőségek még nem adottak, vagy a hasznosítás költségei az ártalmatlanítás költségeihez viszonyítva aránytalanul magasak.</td>
<td>(6) The main sanction is a fine but alternative administrative sanctions are also possible as limiting, suspending or prohibiting an activity requiring a permit if no permit is held or the conditions of the permit are not met, or a waste management activity dissolution of the legal person, constraining the activity of the legal person from 1 up to 3 years fine. Fine can range from 500 000 HUF (2 000 Euro) to a sum three times the financial advantage the crime originally aimed at.</td>
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</tbody>
</table>
továbbá hasznosításáról vagy ártalmatlanításáról gondoskodni.
(2) A hasznosításra vagy ártalmatlanításra vonatkozó kötelezettség a kötelezett
   a) jogszabályokban meghatározott feltételekkel, megfelelő hasznosító vagy
      ártalmatlanító eljárás, berendezés, létesítmény alkalmazásával saját maga
      teljesíti, vagy
   b) az erre feljogosított és engedéllyel rendelkező kezelőnek történő átadással,
      a kezelés költségeinek megfizetésével teljesíti.
(3) Törvény, kormányrendelet vagy - települési hulladék esetében -
    önkormányzati rendelet esetében -
    lehetőséget kínál a hulladék termelőjét, birtokosát a
    hulladék meghatározott anyagminőség szerinti elkülönített gyűjtésére,
    valamint a hulladék jellegének megfelelő csomagolására és megjelölésére,
    továbbá az így előkészített hulladék átadására a begyűjtést végző
    szervezetnek, illetőleg hulladékkezelőnek.
(4) Ha a gyártó, forgalmazó vagy fogyasztó tevékenysége gyakorlása során
    hulladék keletkezik, a tevékenységet ellátó köteles a hulladék termelőjére
    vonatkozó szabályok szerint a hulladék kezelését végzi.
(5) A hulladék szállítója a szállítás helyére történő biztonságos eljuttatásáért felelős.

- Penal Code:

Art. 281/A
Is an offence any activity re. waste not having received an authorisation, or
outside from the limits of an authorisation, or any illicit activity re. wastes
endangering the soil, the atmosphere, waters, the biosphere or any of their
elements.
(N.B. if the above underlined condition is not met, the offence is a petty
offence)
As for art. 280, art. 166 and 170 of the penal code can apply.


‘illegal shipment’ means any shipment of waste effected:
(a) without notification to all competent authorities concerned pursuant to this Regulation; or

- Act XLIII of 2000

17. § (1) Az ország területére - beleértve a vámszabad területeket is -
    hulladéko
t a) csak hasznosítás céljára,
    b) a környezet állapotát nem veszélyeztető, nem szennyező módon,
    c) a környezet károsodásának kizárásával,
    d) a környezetvédelmi hatóság - külön jogszabályban meghatározott -
    engedélyével
    lehet behozni.

| If the offence has endangered the environment: |
| Prison up to 8 years and |
| Fine up to +/- 6 000 euros; |

Dissolution of the legal person,
Constraining the activity of the legal person from 1 up to 3 years
Fine : fine can range from 500 000 HUF (2 000 Euro) to a sum three times the financial advantage the crime originally aimed at.
(b) without the consent of the competent authorities concerned pursuant to this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) in a way which is not specified materially in the notification or movement documents; or
(e) in a way which results in recovery or disposal in contravention of Community or international rules; or
(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:
   (i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
   (ii) non-compliance with Article 3(4),
   (iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

**Article 50**

**Enforcement in Member States**

1. Member States shall lay down the rules on penalties applicable for infringement

<table>
<thead>
<tr>
<th><strong>If the offence does not endanger the environment, the offence is a petty offence:</strong></th>
</tr>
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<tr>
<td><strong>Main sanction/measure:</strong> fine</td>
</tr>
<tr>
<td><strong>Other measures:</strong></td>
</tr>
<tr>
<td>- when the shipment of hazardous waste crossing the border is proven to be illegal by the customs guard or by the environmental authority, the shipment must be returned to the exporter</td>
</tr>
<tr>
<td>- in case of illegal import of hazardous waste, the importer shall be obliged to restore the possible environmental harm and – if the return of the hazardous waste is not possible – to dispose of the hazardous waste according to the requirements</td>
</tr>
</tbody>
</table>

- **Penal Code: article 281**

**Art. 281/A**

Is an offence any activity re. waste not having received an authorisation, or outside from the limits of an authorisation, or any illicit activity re. wastes endangering the soil, the atmosphere, waters, the biosphere or any of their elements. (N.B. if the above underlined condition is not met, the offence is a petty offence)
of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.


Article 26
1. Any shipment of waste effected: (a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or (b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or (d) which is not specified in a material way in the - in case of illegal export of hazardous waste, the environmental authority may oblige the exporter to take the waste back and dispose of it according to the requirements - the importer (in case of illegal import) and the exporter (in case of illegal export) can be obliged to pay all the costs of procedure besides the fines - the costs incurred with regard to an expert opinion necessitated by the illegal import shall be borne by the importer or user
consignment note; or
(e) which results in disposal
or recovery in contravention
of Community or
international rules; or
(f) contrary to Articles 14,
16, 19 and 21 shall be
debemed to be illegal traffic.
2. If such illegal traffic is the
responsibility of the notifier
of the waste, the competent
authority of dispatch shall
ensure that the waste in
question is:
(a) taken back by the notifier
or, if necessary, by the
competent authority itself,
into the State of dispatch, or
if impracticable;
(b) otherwise disposed of or
recovered in an
environmentally sound
manner, within 30 days from
the time when the competent
authority was informed of
the illegal traffic or within
such other period of time as
may be agreed by the
competent authorities
concerned.
In this case a further
notification shall be made.
No Member State of dispatch
or Member State of transit
shall oppose the return of
this waste at the duly
motivated request of the
competent authority of
destination and with an
explanation of the reason.
3. If such illegal traffic is the
responsibility of the
consignee, the competent
authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.
<table>
<thead>
<tr>
<th>Article 6</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.</td>
</tr>
<tr>
<td>3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.</td>
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<th>Article 12</th>
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<td>1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:</td>
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<td>(a) all forms of deliberate capture or killing of specimens of these species in the wild;</td>
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<tr>
<td>(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;</td>
</tr>
<tr>
<td>(c) deliberate destruction or taking of eggs from the wild;</td>
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<td>(d) deterioration or destruction of breeding sites or resting places.</td>
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</table>

7. § (1) A történileg kialakult természetkímélő hasznosítási módok figyelembevételével biztosítani kell a természeti terület használata és fejlesztése során a táj jellegének, esztétikai, természeti értékeinek, a tájakra jellemző természeti rendszereknek és egyedi tájékozatnak a megőrzését. |
| (2) A táj jellege, a természeti értékek, az egyedi tájékozat és esztétikai adottságok megőrzése érdekében: |
| a) gondoskodni kell az épületek, építési alkalmazások, berendezések külterületi elhelyezése során azoknak a természeti értékek, a mesterséges környezet funkcionális és esztétikai összehangolásával történő tájba illesztéséről; |
| b) gondoskodni kell a használaton kívül helyezett épületek, építési alkalmazások, nyomvonalas létesítmények, berendezések új funkciójának megállapításáról, illetve ennek hiányában megszüntetésükül, elbontasukról, az érintett területnek a táj jellegéhez igazodó rendezéséről; |
| c) a település-, a területrendezés és fejlesztés, különösen a területfelhasználás, a telekalkalitás, az építés, a használat során kiemelt figyelmet kell fordítani a természeti értékek és rendszerek, a tájképi adottságok és az egyedi tájékozat meghozására; |
| d) művelési ág változtatás, más célú hasznosítás csak a táj jellegének, szerkezetének, a történileg kialakult természetkímélő használat által meghatározott adottságoknak és a természeti értékeknek a figyelembevételével lehetséges; |
| e) biztosítani kell, hogy a gazdálkodással összefüggő épületek, építési alkalmazások, létesítmények és berendezések elhelyezése, mérete, formája, funkciója és száma alkalmazkodjon a táj jellegéhez; |
| f) a táj jellegének megfelelően rendezeni kell a felszíni tájsebeket; |
| g) autópályát, valamint a vadon élő állatfajok ismert vonuló útvonalait keresztező vonalas létesítményt úgy kell építeni, hogy a vadon élő állatfajok egyedinek átjutása – megfelelő terközönként – biztosítsa legyen; |
| h) biztosítani kell a jellegzetes tájékozati elemek fenmaramadását. |
| 3. Külterületi ingatlan, különösen természeti terület belterületére, illetve beépítésre szánt területére minősítésére akkor kerülhet sor, ha annak következtében a táj jellege, esztétikai és természeti értéke nem károsodik helyreállíthatatlanul. |
| 4. A tájvédelemre vonatkozó előírások érvényesítése érdekében a Kormány által rendeletben meghatározott és a (2) bekezdésben foglalt tevékenységekkel, valamint az egyedi tájékozatokkal kapcsolatos eljárásokban az igazgatóság szakképeségének működik közre. |
| 16. § (1) A mezőgazdálkodás (a továbbiakban: gazdálkodás) során biztosítani kell a fenntartható használatot, ami magában foglalja a tartamoságát, a természetkímélő módszerek alkalmazását és a biológiai sokféleség védelmét. |

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<th>and up to 8 years (if damage to the environment is such that the environment can not be restored)</th>
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<td>Fine: up to 400 euros, ban, confiscation</td>
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<th>constraining the activity of the legal person from 1 up to 3 years</th>
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<td>Fine: can range from 500 000 HUF (2 000 Euro) to a sum three times the financial advantage the crime originally aimed at.</td>
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3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Article 13

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:
(a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;
(b) the keeping, transport

(2) A gazdálkodást a talajfelszín, a felszín és felszín alatti formákincs, a természetes élővilág maradandó károsodása, a védett élő szervezetek, életközösségek tömeges pusztulása, biológiai sokféleségük számottevő csökkenése nélkül kell végezni.

(3) Erdő telepítése – ha a termőhelyi adottságok lehetővé teszik – elsősorban óshonos falajokkal, természetes legyarányban, természetkimélő módon történő.

(4) Gyepgazdálkodás elsősorban a gyeptípushoz igazodó legeltetéssel, kaszálással, valamint a vegyi anyagok mérsékelt, természetkimélő használatával történhet.


17. § (1) A 8. § (1) bekezdés rendelkezései megfelelően a vadon élő szervezetek élőhelyeinek, azok biológiai sokféleségének megóvása érdekében minden tevékenységet a természeti értékek és területek kiméletével kell végezni.

(2) A természeti területek hasznosítása során figyelemmel kell lenni az élőhely típusára, jellemző vadon élő szervezetek fajgazdaságára, a biológiai sokféleség fenntartására.

(3) A termőföld hasznosítása, illetve a hasznosításra alkalmatlan területek használata, igénybevétele, meliorációs tervek készítése és végrehajtása, egyéb mezőgazdasági tevékenységek folytatása, valamint a vízgazdálkodás és a vízrendezés során a természetes és természetközi állapotú vízfelületeket, nádasokat és más vizes élőhelyeket, valamint a mezőgazdasági termelés számára kedvezőtlen termőhelyi adottságú területek természetes növényállományát meg kell őrizni.

(4) A növényvédő szerek, bioregulátorok és egyéb írtóserek, valamint a talaj termékenységét befolyásoló vegyi anyagok forgalomba hozatalának, felhasználásának, alkalmazásának kisérleti célú, ideiglenes vagy végleges engedélyezése a külön jogszabályban meghatározott feltételekkel lehetséges, az engedélyezéshez a Minisztérium hozzáállásra szükséges.

(5) A talaj termékenységét befolyásoló vegyi anyagok természeti területen történő felhasználása – külön jogszabályban foglaltak szerint – csak indokolt esetben, talajvizsgálatok eredményeire alapozva, természetkimélő módon történhet.

(6) Természeti területen a természeti értékek és a biológiai sokféleség fenntartása érdekében egyes növényvédő szerek vagy a talaj termőképességét befolyásoló vegyi anyagok alkalmazásának – külön jogszabály szerinti – korlátozását vagy megtillítését az igazgatóság kezdeményezheti.
and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

éláti. A védőövezet kiterjedéséről – a 24. § (3) bekezdésének b) pontja figyelembevételével – a védettséget kimondó jogszabályban kell rendelkezni.

2. A védőövezetben a természetvédelmi hatóság engedélyéhez vagy hozzájárulásához kötött tevékenységek körét
a) országos jelentőségű védett természeti terület esetében a miniszter,
b) helyi jelentőségű védett természeti terület esetében a települési önkormányzat – fővárosban a fővárosi önkormányzat – rendeletben határozza meg.

3. A védőövezet rendeltetése, hogy megakadályozza vagy mérsékélje azoknak a tevékenységeknek a hatását, amelyek a védett természeti terület állapotát vagy rendeltetését kedvezőtlenül befolyásolnák.

4. Az e törvény hatálybalépése előtt védett nyilvánított természeti területek védőövezetét a törvény hatálybalépésétől számított 2 éven belül, a (2) bekezdésben meghatározott jogszabályban kell kijelölni.

5. A védőövezet kiterjedését meghatározó jogszabály hatálybalépése előtt jogszorúan megkezdetett tevékenységek folytatását a felmentésre [24. § (3) bekezdés b) pontja] vonatkozó szabály alkalmazásával biztosítható kell.

Védett természeti területekre vonatkozó szabályok

31. § Tilos a védett természeti terület állapotát (állagát) és jellegét a természetvédelmi célokkal ellentétesen megváltoztatni.

35. § (1) Védett természeti területen a 7. § (2) bekezdésében foglaltakon túl
a) tilos olyan épületet, építményt, nyomvonalsat létesíteni, berendezést létesíteni vagy üzembe helyezni, amely annak jellegét és állapotát veszélyezteti, károsítja, vagy ott a tájépítő egységet meghonosítja;
b) gondoskodni kell a vadon élő szervezetek, életközösségeik, az állati sokféleség fenmádasához szükséges természeti feltételek, így többek között a talajviszonyok, vízháztartás megőrzéséről;
c) a terület vagy annak meghatározott része felett a természetvédelmi hatóság kezdeményezésére vagy szakhatósági hozzájárulásával repülés számára tiltott vagy korlátozott légteret kell kijelölni.

(2) Az (1) bekezdésben meghatározott kötelezettségek teljesítésére a természetvédelmi kezelési módok, korlátozások és tilalmak, továbbá az egyéb kötelezettségeket a védett nyilvánított jogszabályban kell megállapítani.

(3) Védett természeti területen lévő termőföld hasznosítási kötelezettségét a természetvédelmi hatóság függeszti fel.

36. § (1) A védett természeti területen a természetvédelmi kezelési módokat, korlátozásokat és tilalmakat, továbbá az egyéb kötelezettségeket a védett nyilvánított jogszabályban kell megállapítani.

(2) Természetvédelmi kezelésnek minősül a védett természeti érték, terület
felmérését és nyilvántartását, megőrítését, űrözését, fenntartását, bemutatását, valamint helyreállítását célzó valamennyi tevékenység.  
(3) Valamennyi védett természeti területre – az ott tevékenységet folytatóakra kötelező erejű – kezelési tervet kell készíteni. A kezelési tervet 10 évenként felül kell vizsgálni.  
(4) A kezelési tervek készítésére, tartalmára, jóváhagyására, a terv készítésére kötelezettre vonatkozó szabályokat a miniszter rendeletben állapítja meg. 1

37. § (1) Védett természeti területen lévő közúton a közlekedést (tartózkodást) – ha az a védett természeti területet vagy értékét zavarja, veszélyezteti, károsítja – a természettévedelmi hatóság kezdeményezésére az útügyi hatóság korlátozza vagy megtiltja. Helyi közút esetében a korlátozást vagy tilalmat a jegyző rendeli el. A védett természeti területen lévő vagy azt érintő víziúton a hajózási tevékenység folytatását – ha az a védett természeti területet vagy a természeti értéket zavarja, veszélyezteti, illetve károsítja – az illetékes természettévedelmi hatóság kezdeményezésére a hajózási hatóság korlátozza vagy megtiltja.  
(2) Védett természeti területen vagy annak meghatározott részén a közlekedést és a tartózkodást, az (1) bekezdésben foglalt kivétellel – ha a védelem érdekei szükséges szükségessé teszik – a természettévedelmi hatóság korlátozhatja, illetve megtiltathatja.  
(3) Védett természeti terület károsítása, veszélyeztetése vagy jogellenes zavarása esetén a természettévedelmi hatóság köteles az ilyen magatartás tanúsítóját a tevékenység folytatásától eltávolítani.  
(4) Védett természeti területen a hatáskörrel rendelkező hatóság – szükség esetén a természettévedelmi hatóság kezdeményezésére – építési, telekalakítási tilalmat, illetőleg egyéb, jogszabályban meghatározott használati korlátozást köteles elrendelni.  
(5) Kültériületi védett természeti terület belterületbe csak akkor vonható, ha a település belterülete is védett természeti terület.  

38. § (1) Védett természeti területen a természettévedelmi hatóság engedélye szükséges különösen:  
a) kutatás, gyűjtés, kísérlet végzéséhez;  
b) a gyepeket felőrészéhez, felülvétéséhez, öntözéséhez, legeltetéshez, kaszálláshoz;  
c) a terület helyreállításához, jellegének, használatának megváltoztatásához;  
d) termóföldnek nem minősülő földterület rendeltetésének, termóföld művelési ágának a megváltoztatásához;  
e) az erdőkről és az erdő védelméről szóló törvény hatálya alá nem tartozó fa, fásosport, fasz, fás legelőné lévő fa kivágásához, telepítéséhez;  
f) nád és más vízinövényzet égetéséhez, írtásához, gyepe- és parlagterület, törő és szalma égetéséhez, valamint – a kijelölt és kiépített tűzrakohely kivételével
– erdőterületen tűz gyújtásához;
  g) növényvédő szerek, bioregulátorok és egyéb irtószerek, valamint a talaj termékenységét befolyásoló vegyi anyagok felhasználásához;
  h) horgászathoz;
  i) közösségi és tömegsportesemények rendezéséhez, sportversenyhez, technikai jellegű sporttevékenység folytatásához.
(2) A (1) bekezdés e) pontjában meghatározott eljárásban az erdészeti hatóság szakhatósági hozzájárulását be kell szerezni.
(3) Növény- és állategészségügyi karantén fertőzés és járványhelyzet elhárításá során, az (1) bekezdés g) pontja szerinti eljárás lefolytatása helyett, a természetvédelmi hatóságnak egyidejűleg be kell jelenteni a felhasználó készsítmény fajtáját.
(4) A kezelési terv meghatározhatja a védett természeti területen folyttaton tevékenységnk azokat a feltételeit, amelyek teljesítése a 38. § (1) bekezdésében meghatározott engedély beszerzése alól mentesít.

39. § (1) Védett természeti területre közvetlen kihatással lévő vagy azt közvetlenül érintő más hatósági eljárás során a természetvédelmi hatóság szakhatósásként működik közre, így különösen:
  a) földrészlet megosztása, alakjának, terjedelmének megváltoztatása;
  b) telekalakítás, területfelhasználás, építés, létesítés és használatbavétel;
  c) nyomvonals létesítmény és földmű építése;
  d) vízimunka, vízilétesítés és vízhasználat;
  e) ipari, mezőgazdasági, szolgáltatási tevékenység végzéséhez szükséges telep létesítésének engedélyezése során;
  f) az erdészeti, vadászati, halászati hatósági eljárásokban;
  g) bányatelek megállapításának, módosításának, az ásványi nyersanyag feltárására, kitermelésére, valamint a meddőhányó hasznosítására, a kitermelés szünetelésére, a bánya bezárására vonatkozó műszak üzemű tervek és a tájrendezési terv jóváhagyásának, továbbá a bányászati létesítmények építésének és üzembe helyezésének, valamint egyes gépek és berendezések bányabeli használatának engedélyezésekor, továbbá a bánya zárt cég végződött vízjogi hatósági eljárásokban;
  h) termőföld más célú hasznosításának;
  i) külön jogszabályban meghatározott veszélyes anyag átszállításának, tárolásának engedélyezésekor.
(2) A külön jogszabályban meghatározott, környezetvédelmi szempontból történő határérték megállapítására vonatkozó hatósági eljárásokban – ha az védett természeti területet érint – az igazgatóság szakhatósásként működik közre.

42. § (1) Tilos a védett növényfajok egyedinek veszélyeztetése, engedély
nélküli elpusztítása, károsítása, élőhelyeinek veszélyeztetése, károsítása.

(2) Gondoskodni kell a védett növény- és állatfajok, társulások fennmaradásához szükséges természeti feltételek, így többek között a talajviszonyok, vízhatártartás megőrzéséről.

(3) Az igazgatóság engedélye szükséges védett növényfaj:
   a) egyedének, virágának, termésének vagy szaporításra alkalmas szervének gyűjtéséhez;
   b) egyedének birtokban tartásához, adásvételéhez, cseréjéhez, kertekbe, botanikus kertekbe történő telepítéséhez;
   c) egyedének külföldre viteléhez, az országba behozatalához, az országon való átszállításához;
   d) egyedének preparálásához;
   e) egyedének betelepítéséhez, visszatelepítéséhez, termesztésbe vonásához;
   f) egyedével vagy egyedén végzett nemesítési kísérletekhez;
   g) egyedének biotechnológiai célra történő felhasználásához;
   h) természetes állományai közötti mesterséges géncseréjehez.

(4) Védett növényfajokból álló gén- és szaporítóanyag bank létrehozásához, védett növényfaj gén- és szaporítóanyag bankban történő elhelyezéséhez az Országos Környezet- és Vízügyi Főügyvitel engedélye szükséges.

(5) Fokozottan védett növényfajokból álló vagy egyedén készített gén- és szaporítóanyag bank létrehozásához, védett növényfaj gén- és szaporítóanyag bankban történő elhelyezéséhez az Országos Környezet- és Vízügyi Főügyvitel engedélye szükséges.

(6) Fokozottan védett növényfaj egyedének, virágának, termésének vagy szaporításra alkalmas szervének eltávolításához, elpusztításához, megszerzéséhez az igazgatóság engedélye szükséges.

(7) Fokozottan védett növényfajok esetén a (3), illetőleg (6) bekezdés szerinti engedély csak természetvédelmi vagy más közérdekből adható meg.

43. § (1) Tilos a védett állatfajok egyedének zavarása, károsítása, kínzása, elpusztítása, szaporodásának és más élettevékenységeinek veszélyeztetése, lakó-, éle-, táplálkozó-, költő-, pihenő- vagy bűvőhelyeinek lerombolása, károsítása.

(2) Az igazgatóság engedélye szükséges védett állatfaj
   a) állományának szabályozásához;
   b) egyedének gyűjtéséhez, befogásához, elejtéséhez, birtokban tartásához, idomításához;
   c) egyedének szaporításához;
   d) egyedének kikészítéséhez, preparálásához, a preparátumok birtokban tartásához;
e) egyének élőállat gyűjteményben történő tartásához;

f) hazai állatfaj-állományának külföldi állományból származó egyeddel történő kiegészítéséhez;

g) állományai közötti mesterséges gécseréhez;

h) egyének cseréjéhez, adásvételéhez;

i) egyének külföldre viteléhez, onnan történő behozatalához, az országon való átszállításához;

j) egyede visszatelepítéséhez, betelepítéséhez;

k) kártételeknek megelőzése érdekében riasztási módszer alkalmazásához;

l) egyede fészkének áttelepítéséhez;

m) egyének háziasításához.

(3) A (2) bekezdésben meghatározott engedély a külön jogszabályok szerinti állategészségügyi engedélyek beszerzése alól nem mentesít.

(4) Fokozottan védett állatfajok esetén a (2) bekezdés szerinti engedély csak természetvédelmi vagy más közérdekből adható meg.

(5) Fokozottan védett állatfajok esetében a (2) bekezdésben meghatározott tevékenységek engedélyezése során – a (2) bekezdés l) pontjának kivételével – első fokon az Országos Környezet- és Vízügyi Főügyelnökség jár el.

(6) A (2) bekezdés h) pontjában meghatározott védett állat befogására, elejtésére irányuló hatósági eljárásban a vadászati, illetve a halászati hatóság szakhatóságszabályok szerinti felügyelettel jár el.

54. §

(1) Területrendezési, területfejlesztési, vízrendezési, meliorációs és a táj jellegét megváltoztató egyéb terv jóváhagyására, módosítására a külön jogszabályok rendelkezései szerint, a Minisztérium, illetve az igazgatóság bevonásával kerülhet sor.

(2) Ha az (1) bekezdésben meghatározott tervek hatósági eljárás keretében kerülnek elfogadásra, jóváhagyásukhoz, módosításukhoz az ott megjelölt szervek szakhatósági hozzájárulása szükséges.

(3) Település külterületét a 7. § (3) bekezdése, valamint a 37. § (5) bekezdése figyelembevételével, továbbá az Alaptervvel és a település környezetvédelmi programjával összhangban lehet belterületbe sorolni.

(4) Település külterületének belterületbe vonásához az igazgatóság előzetes véleménye szükséges. A külterület bevonásáról szóló önkormányzati rendelet egy elfogadott példányát meg kell küldeni az igazgatóságnak.

- Penal Code:

Art. 280 covers any damage to the environment, that is to say pollution of the soil, the atmosphere, the waters, the biosphere, or any of their elements, traffic, extermination, capture and illicit detention of protected living organism.
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Article 4 Control of the placing on the market and use of controlled substances</td>
<td>- Decree No. 22/1993. (VII. 20) of the Minister of Environment and Regional Development on the implementation of the International Convention on the Protection of the Stratospheric Ozone Layer</td>
</tr>
<tr>
<td></td>
<td>- From August 2005, anyone importing, transiting or exporting on the national territory ODS commits an offence: see above art. 280 of the penal code</td>
</tr>
<tr>
<td>Art. 280</td>
<td>§1 Who damages the environment or any element of it, or who does not respect an obligation provided with by a law or official decision, behaves in such way that he/she can damage the environment or one of its elements commits an offence punished by prison up to 3 years</td>
</tr>
<tr>
<td></td>
<td>§2 Who substantially pollutes the environment or one of its elements, or who does not respect an obligation provided with by a law or official decision, behaves in such way that he/she can damage the environment or one of its elements commits an offence punished by prison up to 3 years</td>
</tr>
<tr>
<td></td>
<td>§3 The sanction is prison up to 5 years if the offence described in §1 causes or can cause substantial damages to the environment or one of its elements</td>
</tr>
<tr>
<td></td>
<td>§4 The sanction is prison from 2 to 8 years if damage is such that the environment can not be restored</td>
</tr>
<tr>
<td></td>
<td>§5 Who damages the environment by negligence is punished by prison up to 2 years as for the offence described in §1, 2, 3, and prison up to 3 years as for the offence described in §4</td>
</tr>
<tr>
<td></td>
<td>If the damage caused death or grievous body damages, the penal code provisions on homicide (art. 166) or “voies de fait” (art. 170) apply. According to the penal code, provoking death or grievous body damages is punishable independently from the act.</td>
</tr>
<tr>
<td>Illicit trade in ODS:</td>
<td>Prison up to 3 years and up to 8 years (if damage to the environment is such that the environment can not be restored)</td>
</tr>
<tr>
<td>Criminal fines between HUF 20 000 and 100 000 (81 € to 406 €)</td>
<td>The Criminal fine can range from 500 000 HUF (2 000 Euro) to a sum three times the financial advantage the crime originally aimed at.</td>
</tr>
<tr>
<td>Dissolution of the legal person, constraining the activity of the legal person from 1 up to 3 years</td>
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</tbody>
</table>
prohibited:
(a) chlorofluorocarbons;
(b) other fully halogenated chlorofluorocarbons;
(c) halons;
(d) carbon tetrachloride;
(e) 1,1,1-trichloroethane;
(f) hydrobromofluorocarbons.

Article 5
Control of the use of hydrochlorofluorocarbons
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
   (a) in aerosols;
   (b) as solvents:
   (…)
   (c) as refrigerants:
   (…)
   (d) for the production of foams:
   (…)
   (e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
   (f) in all other applications.

Article 21
Penalties
Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States

| §2 Who substantially pollutes the environment or one of its elements, or who does not respect an obligation provided with by a law or official decision, behaves in such way that he/she can damage the environment or one of its elements commits an offence punished by prison up to 3 years
| §3 The sanction is prison up to 5 years if the offence described in §1 causes or can cause substantial damages to the environment or one of its elements
| §4 The sanction is prison from 2 to 8 years if damage is such that the environment can not be restored
| §5 Who damages the environment by negligence is punished by prison up to 2 years as for the offence described in §1, 2, 3, and prison up to 3 years as for the offence described in §4
| If the damage caused death or grievous body damages, the penal code provisions on homicide (art. 166) or “voies de fait” (art. 170) apply. According to the penal code, provoking death or grievous body damages is punishable independently from the act. |
shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.
Ireland

Typology of criminal sanctions in Ireland

There is no specific environmental criminal law in Ireland. The ordinary criminal law applies. The main penalties are fines and/or prison penalty. Sometimes, provision is made for confiscation of illegally used vehicles and equipment used for illegal purpose.

Corporate liability

Most criminal offences apply to companies and to directors and senior management of companies.

Most recent statutory measures enacted for the protection of the environment contain very similar, if not standard, provision which states that “Where an offence under this Act is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been facilitated by any neglect on the part of any director, manager, secretary or any other officer of such body, such person shall also be guilty of an offence” (Section 8 of EPA Act 1992, Section 9 of Waste Management Act 1996, Section 8 of the Dumping at Sea Act 1981). Section 23 of the Local Government Water Pollution Act Amending the Act of 1997 contains a similar provision: "(subsection 1) Where an offence under the Principal Act or this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other officer of that body corporate, or a person who was purporting to act in any such capacity, that person shall also be guilty of an offence and be liable to be proceeded against and punished as if he were guilty of the first mentioned offence. (Subsection 2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director or manager of the body corporate.

The same penalties apply to both natural and legal persons except that the corporate entity cannot be imprisoned.

<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Unlawful discharge of hazardous substances into water</td>
<td>Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community Article 3</td>
<td>Fisheries (consolidation) Act, 1959-1990: section 171 : Any person who (b) throws, empties, permit or causes to fall into waters any deleterious matter shall, unless such act is done under accordance of a licence granted by the Minister under this section, be guilty of an offence.</td>
<td>Summary conviction: Prison penalty up to 6 months And/or Fine up to £1000 (1500 €) Conviction on indictment : Prison penalty up to 5 years And/or Fine up to £25 000 (37 000 €)</td>
<td>WPA section 10 provides for corporate liability : Summary conviction: Prison penalty up to 6 months And/or Fine up to 1500 € Conviction on indictment : Prison penalty up to 5 years And/or Fine up to 37 000 €</td>
</tr>
</tbody>
</table>
eliminate pollution of the waters referred to in Article 1 by the dangerous substances in the families and groups of substances in List I of Annex I, hereinafter referred to as 'List I substances', and to reduce pollution of the said waters by the dangerous substances in the families and groups of substances in List II of Annex I, hereinafter referred to as 'List II substances', in accordance with this Directive.

**Article 4**
With regard to List I substances:
(a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned;
(b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers;
(c) authorisations may be granted for a limited period only. They may be renewed.

**section 24 of the Local government water Pollution Act 1990**

**Section 3**
(1) Subject to subsection (5), a person shall not cause or permit any polluting matter to enter waters.
(2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable—

**Section 4**
(1) (a) Subject to subsection (2), a person shall not, after such date as may be fixed for the purpose of this subsection by order made by the Minister, discharge or cause or permit the discharge of any trade effluent or sewage effluent to any waters except under and in accordance with a licence under this section.

Section 3
Section 4
taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.

2. Unlawful dumping of waste

**Directive 2006/12/EC of 5 April 2006 on waste**

**Article 4.**

2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.

**Waste management Act (WMA) 1996-2001:**

**Section 32** (1) A person shall not hold, transport, recover or dispose of waste in a manner that causes or is likely to cause environmental pollution.

**WMA, section 10** Summary conviction:

- Prison penalty up to 12 months
- And/or fine up to £1500 (2260 €)
- And Daily penalty up to £200 (300 €) per day for each day an offence is continued.

Conviction on indictment:

- Prison penalty up to 10 years
- And/or
- Fine up to £10,000,000 (15 000 000 €)
- And Daily penalty up to £100 000 (127 000 €) per day for each day an offence is continued.

**Complementary sanction:**

**WMA, Section 14**: confiscation of vehicles and equipment used for illegal purposes

**WMA section 9** provides for corporate liability

**Summary conviction:**

- fine up to 2260 €
- Daily penalty up to £200 (300 €) per day for each day an offence is continued.

Conviction on indictment:

- Fines up to 15,000,000 €
- Daily penalty up to 150 000 € per day for each day an offence is continued.

3. Illegal shipment of waste

**Preamble of Regulation 1013/2006 of 14 June 2006,**

**Article 35**

'illegal shipment' means any shipment of waste effected:

(a) without notification to all competent authorities concerned pursuant to this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to this Regulation; or
(c) with consent obtained from the competent authorities concerned pursuant to this Regulation; or

**Waste management Act 1996-2001:**

**Section 32** (2) A person shall not, save in such circumstances as may be specified under subsection (4), transfer the control of waste to any person other than an appropriate person

**Section 36.**—(1) For the purpose of preventing environmental pollution therefrom, the Minister may by regulations provide for the supervision and control of the movement of waste within, into or out of the State. (a) the prohibition, prevention, limitation or control of the movement of waste and, in particular—

(i) requiring that any movement of waste

**WMA, section 10** Summary conviction:

- Prison penalty up to 12 months
- And/or fine up to £1500 (2260 €)
- And Daily penalty up to £200 (254 €) per day for each day an offence is continued.

Conviction on indictment:

- Prison penalty up to 10 years
- And/or
- Fine up to £10,000,000 (15 000 000 €)
- And Daily penalty up to £100 000 (127 000 €) per day for each day an offence is continued.

**Complementary sanction:**

**WMA, Section 14**: confiscation of vehicles and equipment used for illegal purposes

**WMA section 9** provides for corporate liability

**section 10** Summary conviction:

- Fine up to 2260 €
- And Daily penalty up to £200 (254 €) per day for each day an offence is continued.

Conviction on indictment:

- Fine up to 15,000,000 €
- And Daily penalty up to 150 000 € per day for each day an offence is continued.
or waste of a specified class or classes be authorised by the Agency or a local authority,
(ii) enabling conditions of a kind specified in the regulations to be attached by the Agency or a local authority, as the case may be, to any such authorisation;
(b) notifications, including documentation, to be given before and after the movement of waste, the form and content of such notifications, the persons required to give such notifications and the persons to whom such notifications are to be given;
(c) information, including documentation, to accompany any movement of waste, the form and content of such information and the persons required to prepare, hold or submit such information;
(d) enabling the inspection of consignments of waste and documentation relating thereto by persons authorised in that behalf by the Agency or a local authority;
(e) requirements as to the segregation, handling, packaging and labelling of waste and the containers in which waste may be moved;
(f) a requirement that shipments of waste may enter or leave the State at a specified place or places only within the State;
(g) requiring a person who undertakes the movement of waste to effect and maintain a policy of insurance insuring him or her as respects any liability on his or her part to pay damages or costs on account of injury to person or property arising from the movement of the waste;
(h) requiring an agreement or agreements to be entered into with one or more appropriate persons by a person
Complementary sanction:
WMA, Section 14 : confiscation of vehicles and equipment used for illegal purposes
provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.


Article 26

1. Any shipment of waste effected:
   (a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or
   (b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
   (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
   (d) which is not specified in a material way in the consignment note; or
   (e) which results in disposal or recovery in contravention of Community or exporting or importing waste whereby the first-mentioned person or persons agrees or agree to recover or dispose of the waste;
   (i) the seizure, taking in charge, recovery or disposal of a consignment of waste or a part thereof by the Agency or a local authority or a person authorised by the Agency or a local authority in that behalf where any provision of regulations under this section or of any specified enactment has not been complied with as respects the consignment or a part thereof, as the case may be;
   (j) the keeping of records by specified persons of the source of, and particulars concerning the movement, delivery and receipt of, waste and, as the case may be, the recovery or disposal thereof, and the persons to whom such records shall be made available;
   (o) requiring a person who undertakes the movement of waste or who is the consignee of waste imported into the State or moved within the State to return, where the Agency or a local authority directs him or her to do so, the waste to its place of origin or to such other place as may be specified in the direction and to take such measures as may be so specified in relation to the waste, including the recovery or disposal of the waste in such manner or at such facility as may be so specified;
   (p) specifying the circumstances in which the Agency or a local authority may give a direction to a person pursuant to regulations under paragraph (o);
   (q) any matters consequential on, or incidental to, the foregoing.

(3) A person who contravenes a provision of regulations under this section shall be guilty of an offence
international rules; or
(f) contrary to Articles 14, 16, 19 and 21
shall be deemed to be illegal traffic.
2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.
In this case a further notification shall be made.
No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.
3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in

6. (1) A person shall not engage in, or facilitate by consent, connivance or neglect, illegal traffic in waste, within the meaning of article 26(1) of the Council Regulation.
2) A person shall not import, or attempt to import, or facilitate by consent, connivance or neglect the importation of, or an attempt to import, waste in contravention of a prohibition under article 9.
4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

4. Unlawful significant deterioration of a protected habitat


Article 6

Wildlife Act 1976-2000 Section 21 protection of flora (3) Subject to subsection (5) of this section, a person shall not, save under and in accordance with a licence granted by the Minister under this section—
"(a) cut, pick, collect, uproot or
Wildlife Act 1976-2000 Section 74 (amended)

Summary conviction
Prison penalty up to 1 year
And/or
Fine up to 1500 pounds (2260 €)

Wildlife Act 1976-2000 Section 74 (amended)

Summary conviction
Fine up to 2260 €
2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.
3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

Article 12
1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:
   (a) all forms of deliberate capture or killing of specimens of these species in the wild;
   (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
   (c) deliberate destruction or taking of eggs from the wild;
   (d) deterioration or destruction of breeding sites otherwise take, injure, damage, or destroy any specimen to which this section applies or the flowers, roots, seeds, spores or other part of such specimen,
   (b) purchase, sell, keep for sale, transport for sale or exchange, offer for sale or exchange or be in possession of any such specimen whether alive or dead or the flowers, roots, seeds, spores or any part, product or derivative thereof;",
   (c) wilfully alter, damage, destroy or interfere with the habitat or environment of any species of flora to which an order under this section for the time being applies.
4. A person who contravenes subsection (3) of this section shall be guilty of an offence.

Section 23 enforcement of protection of wild animals:
(5) Any person who—
   (a) hunts a protected wild animal which is not an exempted wild mammal otherwise than under and in accordance with a permission or licence granted by the Minister under this Act,
   (b) hunts an exempted wild mammal otherwise than,
      (i) under and in accordance with such a permission or a licence granted by the Minister under this Act other than section 29, or
      (ii) under and in accordance with a licence granted by the Minister under section 29 of this Act and (also) on a day, or during a period of days, specified in a relevant order under section 25 of this Act,
   (c) injures a protected wild animal otherwise than while hunting it,
   (i) in case the protected wild animal is
Conviction on indictment:
Prison penalty up to 2 years
And/or
Fine up to 50 000 pounds (75 000 €)
European Communities (natural habitats) Regulations 1997/1998
Section 39
Summary conviction:
Prison penalty up to 1 year
And/or
Fine up to 1500 pounds
Conviction on indictment:
Prison penalty up to 2 years
And/or
Fine up to 50 000 pounds
Conviction on indictment:
Fine up to 75 000 €
Section 39
Summary conviction
Fine up to 1500 pounds
Conviction on indictment:
Fine up to 50 000 pounds
or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Article 13

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

(a) the deliberate picking, not an exempted wild mammal, under and in accordance with such a permission or a licence granted by the Minister under this Act,

(ii) in case the protected wild animal is an exempted wild mammal, either,

(A) under and in accordance with such a permission or a licence granted by the Minister under this Act other than section 29, or

(B) in the manner and on a day, or during a period of days, mentioned in subparagraph (ii) of paragraph (b) of this subsection,

( d ) wilfully interferes with or destroys the breeding place of any protected wild animal, shall be guilty of an offence.

European Communities (natural habitats) Regulations 1997/1998

Section 21 Protection of flora. In the application of section 21 of the Principal Act to species of flora set out in Part II of the First Schedule, paragraph (a) and (b) of subsection (3) shall apply as if there were substituted for those paragraphs the following—

"( a ) cut, pick, collect, uproot or otherwise take, injure, damage, or destroy any specimen to which this section applies or the flowers, roots, seeds, spores or other part of such specimen,

( b ) purchase, sell, keep for sale, transport for sale or exchange, offer for sale or exchange or be in possession of any such specimen whether alive or dead or the flowers, roots, seeds, spores or other part thereof,".
collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;

(b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

23 Protection of fauna. (1) The Minister shall take the requisite measures to establish a system of strict protection for the fauna consisting of the animal species set out in Part I of the First Schedule prohibiting—

(a) all forms of deliberate capture or killing of specimens of those species in the wild,

(b) the deliberate disturbance of those species particularly during the period of breeding, rearing, hibernation and migration,

(c) where relevant, the deliberate destruction or taking of eggs of those species from the wild,

(d) the deterioration or destruction of breeding sites or resting places of those species.

(2) A person who in respect of the species set out in Part I of the First Schedule—

(a) deliberately captures or kills any specimen of these species in the wild,

(b) deliberately disturbs these species particularly during the period of breeding, rearing, hibernation and migration,

(c) deliberately takes or destroys the eggs from the wild, or

(d) damages or destroys a breeding site or resting place of such an animal, shall be guilty of an offence.


Article 11. A person shall not be entitled solely by reason of compliance with these Regulations to— (a) produce, import, export, place on the market, recover, recycle, reclaim or use a controlled substance, or (b) install, control of substances that deplete the ozone layer. Statutory instruments SI n°281, 2066

Article 12. (1) A person who contravenes or fails to comply with a provision of these Regulations or Regulation 2037/2000 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not
controlled substances
1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:
(a) chlorofluorocarbons;
(b) other fully halogenated chlorofluorocarbons;
(c) halons;
(d) carbon tetrachloride;
(e) 1,1,1-trichloroethane;
(f) hydrobromofluorocarbons.

Article 5
Control of the use of hydrochlorofluorocarbons
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
(a) in aerosols;
(b) as solvents:
(c) as refrigerants:
(d) for the production of foams:
(e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
(f) in all other applications.

Article 21
Penalties
service, maintain, dismantle or dispose of products or equipment containing a controlled substance.

exceeding twelve months, or to both such fine and such imprisonment.
| Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions. |
|---|---|---|
## Italy

<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Unlawful discharge of hazardous substances into water</td>
<td>Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community</td>
<td>Decreto Legislativo 3 aprile 2006, n. 152 Norme in materia ambientale, (G.U. n. 88 del 14/04/2006 - S.O. n. 96)</td>
<td>• Imprisonment from 3 months up to 3 years or • Fines: from 1 500 up to 10 000 euros • Forfeiture • Restore prior situation</td>
<td>No corporate criminal liability No administrative sanctions</td>
</tr>
</tbody>
</table>

### Article 4

With regard to List I substances:
- (a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned;
- (b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers;
- (c) authorisations may be granted for a limited period only. They may be renewed, taking into account any changes in the emission limit.

### Article 108

Scarichi di sostanze pericolose
1. Le disposizioni relative agli scarichi di sostanze pericolose si applicano agli stabilimenti nei quali si svolgono attività che comportano la produzione, la trasformazione o l'utilizzazione delle sostanze di cui alle Tabelle 3/A e 5 dell'Allegato 5 alla parte terza del presente decreto, e nei cui scarichi sia accertata la presenza di tali sostanze in quantità o concentrazioni superiori ai limiti di rilevabilità consentiti dalle metodiche di rilevamento in essere alla data di entrata in vigore della parte terza del presente decreto, o, successivamente, superiori ai limiti di rilevabilità consentiti dagli aggiornamenti a tali metodiche messi a punto ai sensi del punto 4 dell'Allegato 5 alla parte terza del presente decreto.

### Article 137

Sanzioni penali
1. Chiunque apra o comunque effettui nuovi scarichi di acque reflue industriali, senza autorizzazione, oppure continui ad effettuare o mantenere detti scarichi dopo che l'autorizzazione sia stata sospesa o revocata, è punito con l'arresto da due mesi a due anni o con l'ammonenda di millecinquecento euro a diecimila euro.

### CAPO II - SANZIONI PENALI

Explanatory note

Article 240 of the criminal code provides the instrument of forfeiture of the things used to commit the crime, or the things that are the result, the price or the profit of the crime, or the things whose manufacture, use, possess and sale is a crime. Therefore it is possible, for the judge, to order the forfeiture of the plant in case of discharge of waste (for instance) without authorization.

Explanatory note

1. Usually, in the case that a company is liable for a crime, the sanction is served by the person, who, in the company, holds a directional, control or administrative office, that is usually the “Board of Directors”.

2. However, D.Lgs. 231/01 of 8 June 2001 has introduced the possibility to ascribe administrative liability deriving from the commission of crimes to companies.

For the existence of criminal liability of the company, the commission of the crime must have been carried out by the top management personnel (or their subordinates) in the interest of the company.

The crimes which can originate the criminal liability of companies are:
values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.


**Article 11**

Programme of measures

3. "Basic measures" are the minimum requirements to be complied with and shall consist of:

(j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

dell'arresto da tre mesi a tre anni.

3. Chiunque, al di fuori delle ipotesi di cui al comma 5, effettui uno scarico di acque reflue industriali contenenti le sostanze pericolose comprese nelle famiglie e nei gruppi di sostanze indicate nelle tabelle 5 e 3/A dell'Allegato 5 alla parte terza del presente decreto senza osservare le prescrizioni dell'autorizzazione, o le altre prescrizioni dell'autorità competente a norma degli articoli 107, comma 1, e 108, comma 4, è punito con l'arresto fino a due anni.


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<tbody>
<tr>
<td><strong>Article 192</strong></td>
<td>Divieto di abbandono</td>
</tr>
<tr>
<td>1. L'abbandono e il deposito incontrollati di rifiuti sul suolo e nel suolo sono vietati.</td>
<td>1. The offender does not repair the damages to the environment and does not remove the waste faces imprisonment up to 1 year or</td>
</tr>
<tr>
<td>2. È altresì vietata l'immissione di rifiuti di qualsiasi genere, allo stato solido o liquido, nelle acque superficiali e sotterranee.</td>
<td>Administrative fine: from 25 to 620 euros</td>
</tr>
<tr>
<td>3. Fatta salva l'applicazione delle sanzioni di cui agli articoli 255 e 256, chiunque viola i divieti di cui ai commi 1 e 2 è tenuto a procedere alla rimozione, all'avvio a recupero o allo smaltimento dei rifiuti ed al ripristino dello stato dei luoghi in solido con il proprietario e con i titolari di diritti reali o personali di godimento sull'area, ai quali tale violazione sia imputabile a titolo di dolo o</td>
<td></td>
</tr>
<tr>
<td><strong>Article 255</strong></td>
<td>provides that</td>
</tr>
<tr>
<td>- If the offender does not repair the damages to the environment and does not remove the waste faces imprisonment up to 1 year or</td>
<td></td>
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<tr>
<td>- Administrative fine: from 25 to 620 euros</td>
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<tr>
<td>- Forfeiture</td>
<td></td>
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<tr>
<td>- If not dangerous waste: administrative fine from 25 up to 155</td>
<td></td>
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</tbody>
</table>

- unlawful appropriation
- fraud to the detriment of the State or of a public body to obtain public subsidies
- concussion (acceptance of a bribe)
- corruption (imposition of a bribe)

Hence this text does not concern purely environmental topics

No corporate criminal liability
No administrative sanctions
colpa, in base agli accertamenti effettuati, in contraddittorio con i soggetti interessati, dai soggetti preposti al controllo.

**Art. 255**

**Abbandono di rifiuti**

1. Fatto salvo quanto disposto dall'articolo 256, comma 2, chiunque, in violazione delle disposizioni di cui agli articoli 192, commi 1 e 2, 226, comma 2, e 231, commi 1 e 2, abbandona o deposita rifiuti ovvero li immette nelle acque superficiali o sotterranee è punito con la sanzione amministrativa pecuniaria da centocinque euro a seicentoventi euro. Se l'abbandono di rifiuti sul suolo riguarda rifiuti non pericolosi e non ingombranti si applica la sanzione amministrativa pecuniaria da venticinque euro a centocinquantaquindici euro.

3. Chiunque non ottempra all'ordinanza del Sindaco, di cui all'articolo 192, comma 3, o non adempie all'obbligo di cui all'articolo 187, comma 3, è punito con la pena dell'arresto fino a un anno. Nella sentenza di condanna o nella sentenza emessa ai sensi dell'articolo 444 del codice di procedura penale, il beneficio della sospensione condizionale della pena può essere subordinato alla esecuzione di quanto disposto nella ordinanza di cui all'articolo 192, comma 3, ovvero all'adempimento dell'obbligo di cui all'articolo 187, comma 3.

### 3. Illegal shipment of waste

**Preamble of Regulation 1013/2006 of 14 June 2006,**

**Article 35**

‘illegal shipment’ means any shipment of waste effected:

(a) without notification to all competent authorities concerned pursuant to this Regulation; or

(b) without the consent of the competent authorities concerned pursuant to this Regulation; or

(c) with consent obtained from the competent authorities concerned through


**Art. 194**

**Spedizioni transfrontaliere**

1. Le spedizioni transfrontaliere dei rifiuti sono disciplinate dai regolamenti comunitari che regolano la materia, dagli accordi bilaterali di cui all'art. 19 del regolamento (CEE) 1° febbraio 1993, n. 259, e dal decreto di cui al comma 3.

**Art. 259**

** Traffico illecito di rifiuti**

1. Chiunque effettua una spedizione di rifiuti costituente traffico illecito ai sensi dell'art. 26 del regolamento (CEE) 1° febbraio 1993, n. 259, o effettua una spedizione di rifiuti elencati nell'Allegato II del citato regolamento in violazione dell'articolo 1, comma 3, lettere a), b), c) e d), del regolamento stesso è punito con la pena dell'ammenda da millecinquecentocinquanta euro a ventiseimila euro e con l'arresto fino a due anni. La pena è aumentata in caso di spedizione di rifiuti pericolosi.

---

| euros |  
|---|---|
| Restore prior situation |  

**Article 259 establishes the punishment as follows:**

- Imprisonment up to 2 years
- Fine: from 1550 euros to 26000 euros
- Punishment raises in case of dangerous wastes
- Forfeiture

**Artículo 260 establishes the legal framework for organized illegal shipment of waste as follows:**

- Imprisonment from 1 up to 6 years

---

**No corporate criminal liability**

**No administrative sanctions**
falsification, misrepresentation or fraud; or (d) in a way which is not specified materially in the notification or movement documents; or (e) in a way which results in recovery or disposal in contravention of Community or international rules; or (f) contrary to Articles 34, 36, 39, 40, 41 and 43; or (g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from: (i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or (ii) non-compliance with Article 3(4), (iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

Article 50
Enforcement in Member States
1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective,

2. All sentenza di condanna, o a quella emessa ai sensi dell'articolo 444 del codice di procedura penale, per i reati relativi al traffico illecito di cui al comma 1 o al trasporto illecito di cui agli articoli 256 e 258, comma 4, consegue obbligatoriamente la confisca del mezzo di trasporto.

Art. 260
Attività organizzate per il traffico illecito di rifiuti
1. Chiunque, al fine di conseguire un ingiusto profitto, con più operazioni e attraverso l'allestimento di mezzi e attività continuate organizzate, cede, riceve, trasporta, esporta, importa, o comunque gestisce abusivamente ingenti quantitativi di rifiuti è punito con la reclusione da uno a sei anni.
2. Se si tratta di rifiuti ad alta radioattività si applica la pena della reclusione da tre a otto anni.
3. Alla condanna conseguono le pene accessorie di cui agli articoli 28, 30, 32-bis e 32-ter del codice penale, con la limitazione di cui all'art. 33 del medesimo codice.
4. Il giudice, con la sentenza di condanna o con quella emessa ai sensi dell'articolo 444 del codice di procedura penale, ordina il ripristino dello stato dell'ambiente e può subordinare la concessione della sospensione condizionale della pena all'eliminazione del danno o del pericolo per l'ambiente.

• In case of radioactive wastes imprisonment from 3 up to 6 years
• These imprisonment and fines are completed with accessory punishment based upon the Penal Code, articles 28, 30, 32 and 33: Temporary or definitive disqualification from exercising any activity requiring a licence, a public activity, or representing a legal person.
proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.


Article 26
1. Any shipment of waste effected: (a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or (b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or (d) which is not specified in a material way in the consignment note; or (e) which results in disposal or recovery in contravention of Community or international rules; or (f) contrary to Articles 14,
| 16, 19 and 21 shall be deemed to be illegal traffic.  
2. If such illegal traffic is the responsability of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:  
(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;  
(b) otherwise disposed of or recovered in an environmentally sound manner;  
within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.  
In this case a further notification shall be made.  
No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.  
3. If such illegal traffic is the responsability of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound |
manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

| 4. Unlawful significant deterioration of a protected habitat | Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora Article 6 (2) and (3) 2. For these species, Member States shall prohibit the | Regolamento recante attuazione della direttiva 92/43/CEE relativa alla conservazione degli habitat naturali e seminaturali, nonché della flora e della fauna selvatiche. (Testo aggiornato e coordinato al D.P.R. 12 marzo 2003 n. 120. (G.U. n. 124 del 30.05.2003) Art. 8 1. Tutela delle specie faunistiche. 1. Per le specie animali di cui all'allegato D, lettera | The Decree does not provide for criminal penalties. Some precisions are brought by the law 1986 n° 349: the environment must be restored. If it is impossible, the Ministry of the environment can bring an | No corporate criminal liability No administrative sanctions |
keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

Article 12
1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:
(a) all forms of deliberate capture or killing of specimens of these species in the wild;
(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
(c) deliberate destruction or taking of eggs from the wild;
(d) deterioration or destruction of breeding sites or resting places.
2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken a), al presente regolamento, è fatto divieto di:
(a) catturare o uccidere esemplari di tali specie nell'ambiente naturale;
b. perturbare tali specie, in particolare durante tutte le fasi del ciclo riproduttivo o durante l'ibernazione, lo svernamento e la migrazione;
c. distruggere o raccogliere le uova e i nidi nell'ambiente naturale;
d. danneggiare o distruggere i siti di riproduzione o le aree di sosta.
2. Per le specie di cui al predetto allegato D, lettera a), è vietato il possesso, il trasporto, lo scambio e la commercializzazione di esemplari prelevati dall'ambiente naturale, salvo quelli lecitamente prelevati prima dell'entrata in vigore del presente regolamento.
3. I divieti di cui al comma 1, lettere a) e b), e al comma 2 si riferiscono a tutte le fasi della vita degli animali ai quali si applica il presente articolo.
4. Le regioni e le province autonome di Trento e di Bolzano instaurano un sistema di monitoraggio continuo delle catture o uccisioni accidentali delle specie faunistiche elencate nell'allegato D, lettera a), e trasmettono un rapporto annuale al Ministero dell'ambiente.
5. In base alle informazioni raccolte il Ministero dell'ambiente promuove ricerche ed indica le misure di conservazione necessarie per assicurare che le catture o uccisioni accidentali non abbiano un significativo impatto negativo sulle specie in questione.

Tutela delle specie vegetali.
1. Per le specie vegetali di cui all'allegato D, lettera b), al presente regolamento è fatto divieto di:
(a) raccogliere collezionare, tagliare, estirpare o distruggere intenzionalmente esemplari delle suddette specie, nella loro area di distribuzione naturale;
b. possedere, trasportare, scambiare o commercializzare esemplari delle suddette specie, raccolti nell'ambiente naturale, salvo quelli lecitamente raccolti prima dell'entrata in vigore del presente regolamento.
2. I divieti di cui al comma 1, lettere a) e b), si riferiscono a tutte le fasi del ciclo biologico delle specie action to receive compensation.

Main administrative sanctions:

a) For very serious offences
(Owners, possessors or holders of wetlands, in case they destroy or cause modifications without authorisation):
• the transgressor is obliged, according to the decision of the administrative authority, to restore the areas at his own expenses or pay a fine equivalent to the higher amount relating to damages induced and profits obtained by the transgression.

b) For serious offences:
• suspension of the hunting licence for a period between one and three years;
• revocation of the hunting licence and prohibition of a new issue for ten years, in the hypotheses of recidivism (art. 99.2, n. 1, penal code).

c) For petty offences (Owners, possessors or holders of wetlands, in case they destroy or cause modifications without authorisation):
• Fine from 25.82 Euro up to 1,032.91 Euro
legally before this Directive is implemented.  
3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.  
4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

**Article 13**

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:  
(a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;  
(b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

3. vegetables alle quali si applica il presente articolo.  

1. Il Ministero dell'ambiente, sentiti per quanto di competenza il Ministero per le politiche agricole e l'Istituto nazionale per la fauna selvatica, qualora risulti necessario, sulla base dei dati di monitoraggio di cui all'articolo 7, con proprio decreto stabilisce adeguate misure affinché il prelievo, nell'ambiente naturale, degli esemplari delle specie di fauna e flora selvatiche di cui all'allegato E, nonché il loro sfruttamento, siano compatibili con il mantenimento delle suddette specie in uno stato di conservazione soddisfacente.

2. Le misure di cui al comma 1 possono comportare, in particolare, oltre alla prosecuzione del monitoraggio di cui all'articolo 7:  
   a. le prescrizioni relative all'accesso a determinati settori;  
   b. il divieto temporaneo o locale di prelevare esemplari nell'ambiente naturale e di sfruttare determinate popolazioni;  
   c. la regolamentazione dei periodi e dei metodi di prelievo;  
   d. l'applicazione, all'atto del prelievo, di norme cinegetiche o alieutiche che tengano conto della conservazione delle popolazioni in questione;  
   e. l'istituzione di un sistema di autorizzazioni di prelievi o di quote;  
   f. la regolamentazione dell'acquisto, della vendita, del possesso o del trasporto finalizzato alla vendita di esemplari;  
   g. l'allevamento in cattività di specie animali, nonché la riproduzione artificiale di specie vegetali, a condizioni rigorosamente controllate, onde ridurre il prelievo nell'ambiente naturale;  
   h. la valutazione dell'effetto delle misure adottate.  

3. Sono in ogni caso vietati tutti i mezzi di cattura non selettivi suscettibili di provocare localmente la scomparsa o di perturbare gravemente la tranquillità delle specie, di cui all'allegato E, e in particolare:  
   a. l'uso dei mezzi di cattura e di uccisione specificati nell'allegato F, lettera a);  
   b. qualsiasi forma di cattura e di
2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

5. Introduzioni e reintroduzioni.
   a. Le regioni e le province autonome di Trento e di Bolzano, nonché gli enti di gestione delle aree protette, sentiti gli enti locali interessati e dopo un'adeguata consultazione del pubblico interessato, richiedono al Ministero dell'ambiente le autorizzazioni per la reintroduzione delle specie di cui all'allegato D e per l'introduzione di specie non locali, presentando un apposito studio.
   b. Fermo restando quanto previsto dall'articolo 20 della legge 11 febbraio 1992, n. 157, la reintroduzione di specie di cui all'allegato D, può essere autorizzata dal Ministero dell'ambiente, sentito per quanto di competenza l'istituto nazionale per la fauna selvatica o altri organismi tecnico-scientifici competenti, qualora lo studio di cui al comma 1, condotto anche sulla scorta delle esperienze acquisite in altri Stati membri dell'Unione europea o altrove, assicuri che tale reintroduzione contribuisca in modo efficace a ristabilire uno stato di conservazione soddisfacente per la specie medesima e per l'habitat interessato.
   c. L'introduzione di specie non locali può essere autorizzata secondo la procedura di cui al comma 2 qualora lo studio di cui al comma 1 assicuri che non venga arrecato alcun pregiudizio agli habitat naturali né alla fauna, né alla flora selvatica locali. Le valutazioni effettuate sono comunicate ai competenti organismi dell'Unione europea.

Decreto Legislativo 3 aprile 2006, n. 152 Norme in materia ambientale, (G.U. n. 88 del 14/04/2006 - S.O. n. 96)

TITOLO III - RISARCIMENTO DEL DANNO AMBIENTALE

Art. 311
Azione risarcitoria in forma specifica e per equivalente patrimoniale

1. Il Ministro dell'ambiente e della tutela del territorio agisce, anche esercitando l'azione civile in sede penale, per il risarcimento del danno ambientale in forma specifica e, se necessario, per equivalente patrimoniale, oppure procede ai sensi delle disposizioni di cui alla...
parte sesta del presente decreto.

2. Chiunque realizzando un fatto illecito, o omettendo attività o comportamenti doverosi, con violazione di legge, di regolamento, o di provvedimento amministrativo, con negligenza, imperizia, imprudenza o violazione di norme tecniche, arrecati danno all'ambiente, alterandolo, deteriorandolo o distruggendolo in tutto o in parte, è obbligato al ripristino della precedente situazione e, in mancanza, al risarcimento per equivalente patrimoniale nei confronti dello Stato.

3. Alla quantificazione del danno il Ministro dell'ambiente e della tutela del territorio provvede in applicazione dei criteri enunciati negli Allegati 3 e 4 della parte sesta del presente decreto. All'accertamento delle responsabilità risarcitorie ed alla riscossione delle somme dovute per equivalente patrimoniale il Ministro dell'ambiente e della tutela del territorio provvede con le procedure di cui al titolo III della parte sesta del presente decreto.

Art. 312

Istruttoria per l'emanazione dell'ordinanza ministeriale

1. L'istruttoria per l'emanazione dell'ordinanza ministeriale di cui all'articolo 313 si svolge ai sensi della legge 7 agosto 1990, n. 241.

2. Il Ministro dell'ambiente e della tutela del territorio, per l'accertamento dei fatti, per l'individuazione dei trasgressori, per l'attuazione delle misure a tutela dell'ambiente e per il risarcimento dei danni, può delegare il Prefetto competente per territorio ed avvalersi, anche mediante apposite convenzioni, della collaborazione delle Avvocature distrettuali dello Stato, del Corpo forestale dello Stato, dell'Arma dei carabinieri, della Polizia di Stato, della Guardia di finanza e di qualsiasi altro soggetto pubblico dotato di competenza adeguata.

3. Il Ministro dell'ambiente e della tutela del territorio, per l'accertamento delle cause del danno e per la sua quantificazione, da effettuare in applicazione delle disposizioni contenute negli Allegati 3 e 4 alla parte sesta del presente decreto, può disporre, nel rispetto del principio del contraddittorio con l'operatore interessato, apposita consulenza tecnica svolta dagli uffici ministeriali, da quelli di cui al comma 2 oppure, tenuto conto delle risorse finanziarie previste a legislazione vigente, da liberi professionisti.

4. Il Ministro dell'ambiente e della tutela del territorio, al fine di procedere ad ispezioni documentali, verificazioni e ricerche anche in apparecchiature informatiche e ad ogni altra rilevazione ritenuta utile per l'accertamento del fatto danno e per l'individuazione dei trasgressori, può disporre l'accesso di propri incaricati nel sito
interessato dal fatto dannoso. Gli incaricati che eseguono l'accesso devono essere muniti di apposita autorizzazione che ne indica lo scopo, rilasciata dal capo dell'ufficio da cui dipendono. Per l'accesso a locali che siano adibiti ad abitazione o all'esercizio di attività professionali è necessario che l'Amministrazione si munisca dell'autorizzazione dell'autorità giudiziaria competente. In ogni caso, dell'accesso nei luoghi di cui al presente comma dovrà essere informato il titolare dell'attività o un suo delegato, che ha il diritto di essere presente, anche con l'assistenza di un difensore di fiducia, e di chiedere che le sue dichiarazioni siano verbalizzate.

5. In caso di gravi indizi che facciano ritenere che libri, registri, documenti, scritture ed altre prove del fatto dannoso si trovino in locali diversi da quelli indicati nel comma 4, il Ministro dell'ambiente e della tutela del territorio può chiedere l'autorizzazione per la perquisizione di tali locali all'autorità giudiziaria competente.

6. È in ogni caso necessaria l'autorizzazione dell'autorità giudiziaria competente per procedere, durante l'accesso, a perquisizioni personali e all'apertura coattiva di pieghe sigillate, borse, casseforti, mobili, ripostigli e simili e per l'esame dei documenti e la richiesta di notizie relativamente ai quali sia stato eccepito il segreto professionale.

7. Di ogni accesso deve essere redatto processo verbale da cui risultino le ispezioni e le rilevazioni eseguite, le richieste fatte all'interessato o a chi lo rappresenta e le risposte ricevute, nonché le sue dichiarazioni. Il verbale deve essere sottoscritto dall'interessato o da chi lo rappresenta oppure deve indicare il motivo della mancata sottoscrizione. L'interessato ha diritto di averne copia.

8. I documenti e le scritture possono essere sequestrati soltanto se non sia possibile riprodurne o farne constare agevolmente il contenuto rilevante nel verbale, nonché in caso di mancata sottoscrizione o di contestazione del contenuto del verbale; tuttavia gli agenti possono sempre acquisire dati con strumenti propri da sistemi meccanografici, telematici, elettronici e simili.

Art. 313

Ordinanza

1. Qualora all'esito dell'istruttoria di cui all'articolo 312 sia stato accertato un fatto che abbia causato danno ambientale ed il responsabile non abbia attivato le procedure di ripristino ai sensi del titolo V della parte quarta del presente decreto oppure ai sensi degli articoli 304 e seguenti, il Ministro dell'ambiente e della tutela del territorio, con ordinanza immediatamente esecutiva, ingiunge a
coloro che, in base al suddetto accertamento, siano risultati responsabili del fatto il ripristino ambientale a titolo di risarcimento in forma specifica entro un termine fissato.

2. Qualora il responsabile del fatto che ha provocato danno ambientale non provveda in tutto o in parte al ripristino nel termine ingiunto, o il ripristino risulti in tutto o in parte impossibile, oppure eccessivamente oneroso ai sensi dell'articolo 2058 del codice civile, il Ministro dell'ambiente e della tutela del territorio, con successiva ordinanza, ingiunge il pagamento, entro il termine di sessanta giorni dalla notifica, di una somma pari al valore economico del danno accertato o residuato, a titolo di risarcimento per equivalente pecunario.

3. Con riguardo al risarcimento del danno in forma specifica, l'ordinanza è emessa nei confronti del responsabile del fatto dannoso nonché, in solido, del soggetto nel cui effettivo interesse il comportamento fonte del danno è stato tenuto o che ne abbia obiettivamente tratto vantaggio sottraendosi, secondo l'accertamento istruttorio intervenuto, all'onere economico necessario per apprestare, in via preventiva, le opere, le attrezzature, le cautele e tenere i comportamenti previsti come obbligatori dalle norme applicabili.

4. L'ordinanza è adottata nel termine perentorio di centottanta giorni decorrenti dalla comunicazione ai soggetti di cui al comma 3 dell'avvio dell'istruttoria, e comunque entro il termine di decadenza di due anni dalla notizia del fatto, salvo quando sia in corso il ripristino ambientale a cura e spese del trasgressore. In tal caso i medesimi termini decorrono dalla sospensione ingiustificata dei lavori di ripristino oppure dalla loro conclusione in caso di incompleta riparazione del danno. Alle attestazioni concernenti la sospensione dei lavori e la loro incompleteness provvede il Ministro dell'ambiente e della tutela del territorio con apposito atto di accertamento.

5. Nei termini previsti dai commi 1 e 3 dell'art. 2947 del codice civile, il Ministro dell'ambiente e della tutela del territorio può adottare ulteriori provvedimenti nei confronti di trasgressori successivamente individuati.

6. Nel caso di danno provocato da soggetti sottoposti alla giurisdizione della Corte dei conti, il Ministro dell'ambiente e della tutela del territorio, anziché ingiungere il pagamento del risarcimento per equivalente patrimoniale, invia rapporto all'Ufficio di Procura regionale presso la Sezione giurisdizionale della Corte dei conti competente per territorio.

7. Nel caso di intervenuto risarcimento del danno, sono esclusi, a
seguito di azione concorrente da parte di autorità diversa dal Ministro dell'ambiente e della tutela territorio, nuovi interventi comportanti aggravio di costi per l'operatore interessato. Resta in ogni caso fermo il diritto dei soggetti danneggiati dal fatto produttivo di danno ambientale, nella loro salute o nei beni di loro proprietà, di agire in giudizio nei confronti del responsabile a tutela dei diritti e degli interessi lesi.

Art. 314
Contenuto dell'ordinanza

1. L'ordinanza contiene l'indicazione specifica del fatto, commissivo o omissivo, contestato, nonché degli elementi di fatto ritenuti rilevanti per l'individuazione e la quantificazione del danno e delle fonti di prova per l'identificazione dei trasgressori.

2. L'ordinanza fissa un termine, anche concordato con il trasgressore in applicazione dell'art. 11 della legge 7 agosto 1990, n. 241, per il ripristino dello stato dei luoghi a sue spese, comunque non inferiore a due mesi e non superiore a due anni, salvo ulteriore proroga da definire in considerazione dell'entità dei lavori necessari.

3. La quantificazione del danno deve comprendere il pregiudizio arrecato alla situazione ambientale con particolare riferimento al costo necessario per il ripristino. Ove non sia motivatamente possibile l'esatta quantificazione del danno non risarcibile in forma specifica, o di parte di esso, il danno per equivalente patrimoniale si presume, fino a prova contraria, di ammontare non inferiore al triplo della somma corrispondente alla sanzione pecuniaria amministrativa, oppure alla sanzione penale, in concreto applicata. Se sia stata erogata una pena detentiva, al fine della quantificazione del danno di cui al presente articolo, il ragguaglio fra la stessa e la somma da addebitare a titolo di risarcimento del danno ha luogo calcolando quattrocento euro per ciascun giorno di pena detentiva.

4. In caso di sentenza di condanna in sede penale o di emanazione del provvedimento di cui all'articolo 444 del codice di procedura penale, la cancelleria del giudice che ha emanato la sentenza o il provvedimento trasmette copia degli stessi al Ministero dell'ambiente e della tutela del territorio entro cinque giorni dalla loro pubblicazione.

5. Le regioni, le province autonome e gli altri enti territoriali, al fine del risarcimento del danno ambientale, comunicano al Ministero dell'ambiente e della tutela del territorio le sanzioni amministrative, entro dieci giorni dall'avvenuta irrogazione.

Art. 315
Effetti dell'ordinanza sull'azione giudiziaria
1. Il Ministro dell'ambiente e della tutela del territorio che abbia adottato l'ordinanza di cui all'articolo 313 non può né proporre né procedere ulteriormente nel giudizio per il risarcimento del danno ambientale, salva la possibilità dell'intervento in qualità di persona offesa dal reato nel giudizio penale.

Art. 316
Ricorso avverso l'ordinanza
1. Il trasgressore, entro il termine perentorio di sessanta giorni dalla comunicazione dell'ordinanza di cui all'articolo 313, può ricorrere al Tribunale amministrativo regionale, in sede di giurisdizione esclusiva, competente in relazione al luogo nel quale si è prodotto il danno ambientale.
2. Il trasgressore può far precedere l'azione giurisdizionale dal ricorso in opposizione di cui all'articolo 310, commi 2 e 3.
3. Il trasgressore può proporre altresì ricorso al Presidente della Repubblica nel termine di centoventi giorni dalla ricevuta notificazione o comunicazione dell'ordinanza o dalla sua piena conoscenza.

Art. 317
Riscossione dei crediti e fondo di rotazione
1. Per la riscossione delle somme costituenti credito dello Stato ai sensi delle disposizioni di cui alla parte sesta del presente decreto, nell'ammontare determinato dal Ministro dell'ambiente e della tutela del territorio o dal giudice, si applicano le norme di cui al decreto legislativo 13 aprile 1999, n. 112.
2. Nell'ordinanza o nella sentenza può essere disposto, su richiesta dell'interessato che si trovi in condizioni economiche disagiate, che gli importi dovuti vengano pagati in rate mensili non superiori al numero di venti; ciascuna rata non può essere inferiore comunque ad euro cinquemila.
3. In ogni momento il debito può essere estinto mediante un unico pagamento.
4. Il mancato adempimento anche di una sola rata alla sua scadenza comporta l'obbligo di pagamento del residuo ammontare in unica soluzione.
5. Le somme derivanti dalla riscossione dei crediti in favore dello Stato per il risarcimento del danno ambientale disciplinato dalla parte sesta del presente decreto, ivi comprese quelle derivanti...
dall'escussione di fidejussioni a favore dello Stato, assunte a garanzia del risarcimento medesimo, sono versate all'entrata del bilancio dello Stato, per essere riassegnate entro sessanta giorni, con decreto del Ministro dell'economia e delle finanze, ad un fondo di rotazione istituito nell'ambito di apposita unità previsionale di base dello stato di previsione del Ministero dell'ambiente e della tutela del territorio, al fine di finanziare, anche in via di anticipazione e, in quest'ultimo caso, nella misura massima del dieci per cento della spesa:

a) interventi urgenti di perimetrazione, caratterizzazione e messa in sicurezza dei siti inquinati, con priorità per le aree per le quali ha avuto luogo il risarcimento del danno ambientale;

b) interventi di disinquinamento, bonifica e ripristino ambientale delle aree per le quali abbia avuto luogo il risarcimento del danno ambientale;

c) interventi di bonifica e ripristino ambientale previsti nel programma nazionale di bonifica e ripristino ambientale dei siti inquinati;

d) attività dei centri di ricerca nel campo delle riduzioni delle emissioni di gas ad effetto serra e dei cambiamenti climatici globali.

6. Con decreto del Ministro dell'ambiente e della tutela del territorio, adottato di concerto con il Ministro dell'economia e delle finanze, sono disciplinate le modalità di funzionamento e di accesso al predetto fondo di rotazione, ivi comprese le procedure per il recupero delle somme concesse a titolo di anticipazione.

Legge 8 luglio 1986, n. 349
SUPPLEMENTO ORDINARIO n. 59 G.U.R.I. 15 luglio 1986, n. 162
Istituzione del Ministero dell'ambiente e norme in materia di danno ambientale.

Art. 18
(integrale dell'art. 144 della legge 2000, n. 388 Disinquinamento, bonifica e ripristino ambientale)

1. Qualunque fatto doloso o colposo in violazione di disposizioni di legge o di provvedimenti adottati in base a legge che comprometta l'ambiente, ad esso arrestando danno, alterandolo, deteriorandolo o distruggendolo in tutto o in parte, obbliga l'autore del fatto al risarcimento nei confronti dello Stato.
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<td>Art. 2.</td>
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<td></td>
<td></td>
<td>1. L’articolo 3 della legge 28 dicembre 1993, n. 549, e’ sostituito dal seguente:</td>
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<td>&quot;Art. 3 (Cessazione e riduzione dell’impiego delle sostanze lesive ). - 1. La produzione, il consumo, l’importazione, l’esportazione, la detenzione e la commercializzazione delle sostanze lesive di cui alla tabella A allegata alla presente legge sono regolati dalle disposizioni di cui al regolamento (CE) n. 3093/94.</td>
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<td>2. A decorrere dalla data di entrata in vigore della presente legge e’ vietata l’autorizzazione di impianti che prevedano l’utilizzazione delle sostanze di cui alla tabella A allegata alla presente legge, fatto salvo quanto disposto dal regolamento (CE) n. 3093/94.</td>
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<td>3. Con decreto del Ministro dell’ambiente, di concerto con il Ministro dell’industria, del commercio e dell’artigianato, sono stabiliti, in conformità alle disposizioni ed ai tempi del programma di eliminazione progressiva di cui al regolamento (CE) n. 3093/94, la data fino alla quale e’ consentito l’utilizzo di sostanze di cui alla tabella A, allegata alla presente legge, per la manutenzione e la ricarica di apparecchi e di impianti gia’ venduti ed installati alla data di entrata in vigore della presente legge, ed i tempi e le modalità per la cessazione dell’utilizzazione delle sostanze di cui alla tabella B, allegata alla presente legge, e sono altresì’ individuati gli usi essenziali delle sostanze di cui alla tabella B, relativamente ai quali possono essere concesse deroghe a quanto previsto dal presente comma. La produzione, l’utilizzazione, la commercializzazione, l’importazione e l’esportazione delle sostanze di cui alle tabelle A e B allegate alla presente legge cessano il 31 dicembre 2008, fatte salve le sostanze, le lavorazioni e le produzioni non comprese nel campo di applicazione del regolamento (CE) n. 3093/94, secondo le definizioni ivi previste. A partire dal 31 dicembre 2008, al fine di ridurre le emissioni di gas con alto potenziale di effetto serra, le limitazioni per l’impiego degli idroclorofluorocarburi (HCFC) nel settore antincendio, si applicano anche all’impiego dei perfluorocarburi (PFC) e degli idrofluorocarburi (HFC).</td>
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<td>Criminal penalty laid down in art 3 (6) of the law nº 539/1993 as modified by the Law nº 179/1997:</td>
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<td>Prison up to 2 years and fine</td>
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<td>No corporate criminal liability</td>
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<td>No administrative sanctions</td>
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4. L’adozione di termini diversi da quelli di cui al comma 3, derivati dalla revisione in atto del regolamento (CE) n. 3093/94, comporta la sostituzione dei termini indicati nella presente legge ed il contestuale adeguamento ai nuovi termini.

5. Le imprese che intendono cessare la produzione e l’utilizzazione delle sostanze di cui alla tabella B, allegata alla presente legge, prima dei termini prescritti possono concludere appositi accordi di programma con i Ministeri dell’industria, del commercio e dell’artigianato e dell’ambiente, al fine di usufruire degli incentivi di cui all’articolo 10, con priorità correlata all’anticipo dei tempi di dismissione, secondo le modalità che saranno fissate con decreto del Ministro dell’industria, del commercio e dell’artigianato, d’intesa con il Ministro dell’ambiente.

6. Chiunque viola le disposizioni di cui al presente articolo e’ punito con l’arresto fino a due anni e con l’ammenda fino al triplo del valore delle sostanze utilizzate per fini produttivi, importate o commercializzate. Nei casi più gravi, alla condanna consegue la revoca dell’autorizzazione o della licenza in base alla quale viene svolta l’attività costitutente illecito.”
<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
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<tr>
<td>1. Unlawful discharge of hazardous substances into water</td>
<td>Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community</td>
<td>Article 4 With regard to List I substances: (a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned; (b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers; (c) authorisations may be granted for a limited period only.</td>
<td>Criminal Code Section 100: Unauthorized burial of hazardous substances in waters 100. pants. Bīstamu vielu neatļauta apglabāšana ūdeņos un zemes džīlēs (1) Par radioaktīvo vielu, to skaitā kodolmateriālu, bīstamu kūmisko vielu vai produktu, materiālu vai atkritumu neatļautu apglabāšanu ūdeņos vai zemes džīlēs - soda ar brīvības atņemšanu uz laiku līdz ērtiem gadiem vai ar arestu, vai ar piespiedu darbu, vai ar naudas sodu līdz simt minimālajām mēnešālām.</td>
<td>Criminal Code Section 12. of the criminal code provides for coercive measures to be applied to legal persons. Chapter VIII, section 70 of the Criminal Code provides for the penalties applicable to legal persons. Section 70.2 Types of Coercive Measures Applicable to Legal Persons (1) For a legal person one of the following coercive measures may be specified: 1) liquidation; 2) limitation of rights; 3) confiscation of property; or 4) monetary levy (2) The following additional coercive measures may be specified: 1) confiscation of property; and 2) compensation for harm caused. (3) For less serious crimes by a legal person, as a basic coercive measure only a monetary levy may be applied, except in cases where the legal person, a branch, representation or structural unit thereof has been especially established for the committing of a criminal offence. (4) For the serious and especially serious crimes by a legal person, as basic coercive measures liquidation, limitation of rights, confiscation of property or monetary levy may be applied. (5) Confiscation of property may also be applied</td>
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They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.


**Article 11**

**Programme of measures**

3. “Basic measures” are the minimum requirements to be complied with and shall consist of:

(j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

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<table>
<thead>
<tr>
<th>2. Unlawful dumping of waste</th>
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<tr>
<td><strong>Directive 2006/12/EC of 5 April 2006 on waste</strong></td>
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<tr>
<td><strong>Article 4.</strong></td>
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<tr>
<td>2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.</td>
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<tr>
<th>Criminal Code:</th>
<th><strong>Bīstamo atkritumu likvidācijas noteikumu pārkāpšana</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Par bīstamo atkritumu savākšanu, šķirošanu, uzglabāšanu, transportēšanu, utilizāciju, apglabāšanu vai iznīcināšanu noteikumu pārkāpšanu, ja tā izdarīta atkārtoti gada laikā, - soda ar brīvības atņemšanu uz</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Criminal code:</th>
<th><strong>Section 99 (1) Violation of provisions regarding elimination of hazardous waste</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Prison penalty up to 2 years</td>
<td></td>
</tr>
<tr>
<td>Or Custodial arrest</td>
<td></td>
</tr>
<tr>
<td>Or Fine up to 40 times the minimum monthly wage</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Criminal code:</th>
<th><strong>Section 99 (2) Violation of provisions regarding elimination of hazardous waste causing</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 12. of the criminal code provides for coercive measures to be applied to legal persons.</td>
<td></td>
</tr>
</tbody>
</table>

**Chapter VIII, section 70 of the Criminal code** provides for the penalties applicable to legal persons

**Section 70.** Types of Coercive Measures Applicable to Legal Persons

(1) For a legal person one of the following coercive measures may be specified:

1) liquidation;
| laiku līdz diviem gadiem vai ar arestu, vai ar piespiedu darbu, vai ar naudas sodu līdz četrdesmit minimālajām mēneša mēnešām.  
(2) Par šā panta pirmajā daļā norādīto noteikumu pārkāšanu, ja ar to radīts būtisks kaitējums dabas videi, cilvēku veselībai, mantiskajām vai saimnieciskajām interesēm, - soda ar brīvibas atņemšanu uz laiku līdz četrriem gadiem vai ar piespiedu darbu, vai ar naudas sodu līdz astoņdesmit minimālajām mēneša mēnešām.  
100.pants. Bīstamu vielu neatļauta apglabāšana uz zemes dzīliem  
(1) Par radioaktīvo vielu, to skaitā kodolmateriālu, bīstamu kimisko vielu vai produktu, materiālu vai atkritumu neatļauta apglabāšanu uz zemes dzīliem - soda ar brīvibas atņemšanu uz laiku līdz četrmiem gadiem vai ar arestu, vai ar piespiedu darbu, vai ar naudas sodu līdz simt divdesmit minimālajām mēneša mēnešām. |

| substantial harm  
Prison penalty up to 4 years  
Or  
Fine up to 80 times the minimum monthly wage  
Section 100: Unauthorized burial of hazardous substances in waters  
Prison penalty up to 4 years  
Or  
Custodial arrest  
Or  
Fine up to 100 times the minimum monthly wage | 2) limitation of rights;  
3) confiscation of property; or  
4) monetary levy |

| Illegal shipment of waste  
Preamble of Regulation 1013/2006 of 14 June 2006,  
Article 35 'illegal shipment' means any shipment of waste effected:  
(a) without notification to all competent authorities concerned pursuant to this Regulation; or  
(b) without the consent of the competent authorities concerned pursuant to this Regulation; or  
Criminal code:  
99.pants (3) Par bīstamo atkritumu ievēšanu Latvijas teritorijā vai tranziptionālās noteikumus, ja ar to radīts būtisks kaitējums dabas videi, cilvēku veselībai, mantiskajām vai saimnieciskajām interesēm, - soda ar brīvibas atņemšanu uz laiku līdz sesiem gadiem vai ar naudas sodu līdz simt divdesmit minimālajām mēneša mēnešām. |

| Criminal code  
Section 99 (3) unlawful import or transport of waste causing substantial harm to the environment  
Prison penalty up to 6 years  
Or  
Fine up to 120 times the minimum monthly wage |  
Section 12. of the criminal code provides for coercive measures to be applied to legal persons.  
Chapter VIII, section 70 of the Criminal Code provides for the penalties applicable to legal persons  
Section 70. 2 Types of Coercive Measures Applicable to Legal Persons  
(1) For a legal person one of the following coercive measures may be specified:  
1) liquidation;  
2) limitation of rights;  
3) confiscation of property; or  
4) monetary levy |
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) in a way which is not specified materially in the notification or movement documents; or
(e) in a way which results in recovery or disposal in contravention of Community or international rules; or
(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:
(i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
(ii) non-compliance with Article 3(4),
(iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

Article 50
Enforcement in Member States
1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for
must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.


Article 26
1. Any shipment of waste effected:
(a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) which is not specified in a material way in the consignment note; or
(e) which results in disposal or recovery in contravention of Community or international rules; or
(f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.

2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
   (a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
   (b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.
   In this case a further notification shall be made.
   No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.

3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or,
4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

4. Unlawful significant deterioration of a protected habitat


**Article 62.** For these species, Member States shall prohibit the keeping, destruction and damaging of natural sites under protection.

<table>
<thead>
<tr>
<th>Crystal Code:</th>
<th>Section 114: Destruction and damaging of natural sites under protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>114.1. Valsts īpaši aizsargājamā dabas objekta iznicināšana un bojāšana</td>
<td>Prison penalty up to 5 years</td>
</tr>
<tr>
<td>Par valsts īpaši aizsargājamā dabas teritoriju vai dabas objektu</td>
<td>Or</td>
</tr>
<tr>
<td>Destruction and damaging of animals</td>
<td>Fine up to 100 times the minimum monthly wage</td>
</tr>
</tbody>
</table>

Section 12. of the criminal code provides for coercive measures to be applied to legal persons.

Chapter VIII, section 70 of the Criminal Code provides for the penalties applicable to legal persons.

Section 70.1 Types of Coercive Measures Applicable to Legal Persons.
transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

**Article 12**

1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:

   (a) all forms of deliberate capture or killing of specimens of these species in the wild;

   (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

   (c) deliberate destruction or taking of eggs from the wild;

   (d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall take the measures necessary to prevent the trade in the species in the wild.

**and plants under special protection of the State**

<table>
<thead>
<tr>
<th>Prison penalty up to 6 years</th>
<th>Fine up to 120 times the minimum monthly wage</th>
</tr>
</thead>
</table>

(1) For a legal person one of the following coercive measures may be specified:

1) liquidation;

2) limitation of rights;

3) confiscation of property; or

4) monetary levy
States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Article 13
1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

(a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the
wild;

(b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.


Article 4 Control of the placing on the market and use of controlled substances

1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:
   (a) chlorofluorocarbons;
   (b) other fully halogenated chlorofluorocarbons;
   (c) halons;
   (d) carbon tetrachloride;
   (e) 1,1,1-trichloroethane;
   (f) hydrobromofluorocarbons.

2. The procedure how Latvia ensures the compliance with the particular requirements of the Regulation No. 2037/2000, is established by the Regulations No. 233 of the Cabinet of Ministers (in Riga, 1st April 2004) “Ozone layer protection regulations”, which after 1st January 2006 was replaced by the Regulations No. 688 of the Cabinet of Ministers (in Riga, 6th September 2005) “Regulations regarding ozone depleting substances and fluorinated greenhouse gases, which are refrigerating fluids”.

Criminal code:

103.pants. Atmosfēras gaisa piesārņošana (1) Par atmosfēras gaisa piesārņošanu, piegūšanu, fizikālu vai citādu kafigu iedarbību uz to jebkādu veidā, pārsniežot noteikto normatīvu

No specific penalty could be identified
Article 5  
Control of the use of hydrochlorofluorocarbons  
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:  
   (a) in aerosols;  
   (b) as solvents:  
       (...)  
   (c) as refrigerants:  
       (...)  
   (d) for the production of foams:  
       (...)  
   (e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;  
   (f) in all other applications.  

Article 21 Penalties  
Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.
### Lithuania*

*The information provided in this table result from a reform project presented the 14th of April 2005 by the Lithuanian Government to the Parliament.

Lithuania did not confirmed yet if this project has been adopted.

<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
</table>
| 1. Unlawful discharge of hazardous substances into water | Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community | Article 31. Protection of Water Resources and Water Bodies from Pollution by Liquid and Solid Waste. 2) It shall be prohibited to pollute the basins of water bodies or ice cover with household, industrial or other waste, as well as with oil products, toxic chemicals, fertilisers, radioactive and other harmful substances. Article 41. Liability for Violations: Natural persons shall be subject, under the laws of the Republic of Lithuania, to disciplinary, administrative or criminal prosecution if they: 7) pollute bodies of water and their basins with household, industrial | Criminal code: Art 270(1) Endangering the environment  
Prison penalty up to 3 years  
or  
Fine  
or  
Detention, or restriction of liberty  
Art 270 (2) Major harm to the environment  
Prison penalty up to 6 years  
or  
Fine from 125 to 250 000 Lt (36 to 7240 €)  
or  
Detention or restriction of liberty  
Art 270 (3) : Minor harm to the environment  
Fine from 125 to 6250 Lt (36 to 1810 €)  
or  
Detention or restriction of liberty  
Public work penalty for a period from 1 month to 1 year (p to 240 hours) | Article 270§4 of the Criminal code provides for criminal liability of legal persons  
Penalties (article 43 Criminal code) :  
Fine up to 1 250 000 Lt (362 025 €)  
Restriction of the activities  
Liquidation |
<table>
<thead>
<tr>
<th><strong>limited period only.</strong></th>
<th>They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.</th>
<th><strong>Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Article 11</strong></td>
<td><strong>Programme of measures</strong></td>
<td><strong>Criminal Code, article 270</strong></td>
</tr>
<tr>
<td>3. &quot;Basic measures&quot;</td>
<td>are the minimum requirements to be complied with and shall consist of:</td>
<td>Article 270 (1) of the Criminal code Violation of the rules concerning environment protection and using of natural resources which causes a serious danger to life and health of people or which could involves significant damage to fauna and flora or other consequences for the environment.</td>
</tr>
<tr>
<td>(j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:</td>
<td></td>
<td>Article 270(2): Violation of the rules on environmental protection thus causes major harm to fauna and flora or other consequences</td>
</tr>
<tr>
<td>Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.</td>
<td></td>
<td>Article 270 (3) : Violation of the rules on environmental protection thus causes minor harm to fauna and flora or other grave consequences.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>2. Unlawful dumping of waste</strong></th>
<th><strong>Law on environment protection 21 January, 1992, No.1-2223</strong></th>
<th><strong>Criminal code:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 4. 2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled waste.</td>
<td>Article 23. Waste Management Legal and natural persons must keep records on waste and follow a procedure relating to safe removal of waste</td>
<td>Art 270(1) ENDANGERING THE ENVIRONMENT</td>
</tr>
<tr>
<td><strong>Penalties (article 43 Criminal code):</strong></td>
<td><strong>Prison penalty up to 3 years</strong> or <strong>Fine</strong></td>
<td><strong>Fine up to 1 250 000 Lt (362 025 €)</strong></td>
</tr>
<tr>
<td>Article 270§4 of the Criminal code provides for criminal liability of legal persons</td>
<td></td>
<td><strong>Restriction of the activities</strong></td>
</tr>
</tbody>
</table>
disposal of waste.

keeping, storing, sorting, utilisation and treatment established by the institutions authorised by the Government of the Republic of Lithuania. The waste shall be managed, held, stored, disposed of, treated and transported at the expense of the manufacturers or users.

Legal and natural persons shall be liable for waste which is the result of production until it is recycled, treated or transferred to other legal or natural persons in accordance with the established procedure.

**Article 31. Legal Responsibility**

Legal and natural persons who violate the regulations of the law of environmental protection shall be subject to disciplinary, administrative, material and criminal liability under the laws of the Republic of Lithuania.

Criminal Code, article 270 (see above)

<table>
<thead>
<tr>
<th>Criminal code:</th>
<th>Penalty (article 43 Criminal code):</th>
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<td>Art 270(1) Endangering the environment</td>
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<tr>
<td>or Detention, or restriction of liberty</td>
<td>Liquidation</td>
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<tr>
<td>Art 270 (2) Major harm to the environment</td>
<td>Fine from 125 to 6250 Lt (36 to 1810 €)</td>
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<td>or Detention or restriction of liberty</td>
<td></td>
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<tr>
<td>Art 270 (3) : Minor harm to the environment</td>
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<td>or Detention or restriction of liberty</td>
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<tr>
<td>Public work penalty for a period from 1 month to 1 year (p to 240 hours)</td>
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<tr>
<td>Complementary sanctions:</td>
<td></td>
</tr>
<tr>
<td>Art 69 Criminal Code: Removal of material damage</td>
<td></td>
</tr>
<tr>
<td>Art 67 sect 3 Criminal Code: confiscation of instruments or tools used to commit the crime</td>
<td></td>
</tr>
</tbody>
</table>

3. Illegal shipment of waste

**Preamble of Regulation 1013/2006 of 14 June 2006,**

**Article 35**

‘illegal shipment’ means any shipment of waste effected:

(a) without notification to all competent authorities concerned pursuant to this Regulation; or

(b) without the consent of the competent authorities concerned pursuant to this Regulation; or

(c) with consent obtained from the competent authorities concerned through falsification.

**Law on environment protection 21 January, 1992, No.I- 2223:**

**Article 23 Waste management**

:23.6. The import of waste to the Republic of Lithuania for storage, treatment or disposal shall be prohibited. (Amended and 7th paragraph repealed 28 May 1996)

**Article 31. Legal Responsibility**

Legal and natural persons who violate the regulations of the law of environmental

<table>
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<td>Liquidation</td>
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<tr>
<td>Fine from 125 to 6250 Lt (36 to 1810 €)</td>
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<td>or Detention or restriction of liberty</td>
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<td>Public work penalty for a period from 1 month to 1 year (p to 240 hours)</td>
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**Article 270§4 of the Criminal code** provides for criminal liability of legal persons

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<th>Penalty (article 43 Criminal code):</th>
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<td>Fine up to 1 250 000 Lt (362 025 €)</td>
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<tr>
<td>Liquidation</td>
</tr>
<tr>
<td>Restriction of the activities</td>
</tr>
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</table>
misrepresentation or fraud; or
(d) in a way which is not specified materially in the notification or movement documents; or
(e) in a way which results in recovery or disposal in contravention of Community or international rules; or
(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:
(i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
(ii) non-compliance with Article 3(4),
(iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

Article 50
Enforcement in Member States
1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.


Criminal Code, article 270 (see above)

Art 270 (3) : Minor harm to the environment
Fine from 125 to 6250 Lt (36 to 1810 €)
or Detention or restriction of liberty
Public work penalty for a period from 1 month to 1 year (p to 240 hours)

Complementary sanctions:
Art 69 Criminal Code: Removal of material damage
Art 67 sect 3 Criminal Code: confiscation of instruments or tools used to commit the crime
Community

Article 26

1. Any shipment of waste effected:
   (a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or
   (b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
   (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
   (d) which is not specified in a material way in the consignment note; or
   (e) which results in disposal or recovery in contravention of Community or international rules; or
   (f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.

2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
   (a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
   (b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.

In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an
3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

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<td>Article 62. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.</td>
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<table>
<thead>
<tr>
<th>Criminal code</th>
<th>Criminal code :</th>
</tr>
</thead>
<tbody>
<tr>
<td>Art 272 Illegal fishing and hunting or other illegal exploitation of wild fauna.</td>
<td>Article 272: (1) Illegal fishing and hunting or other illegal exploitation of wild fauna.</td>
</tr>
<tr>
<td>(1) Illegal hunting and fishing during an interdiction period or with prohibited equipments or method or illegal exploitation which involves serious harm to wild fauna.</td>
<td>Prison penalty up to 2 years</td>
</tr>
<tr>
<td></td>
<td>Or</td>
</tr>
<tr>
<td></td>
<td>Fine</td>
</tr>
<tr>
<td></td>
<td>Or</td>
</tr>
<tr>
<td></td>
<td>Detention or restriction of liberty</td>
</tr>
<tr>
<td>(2)</td>
<td>Prison penalty up to 3 years</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Criminal code :</th>
<th>Article 272 (5) and article 274 (3) of the Criminal code are providing for corporate criminal liability of legal persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Penalties (article 43 Criminal code) :</td>
<td>Fine up to 1 250 000 Lt (362 025 €)</td>
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<td>Restriction of the activities</td>
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<td></td>
<td>Liquidation</td>
</tr>
</tbody>
</table>
### Article 12

1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:

   (a) all forms of deliberate capture or killing of specimens of these species in the wild;

   (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

   (c) deliberate destruction or taking of eggs from the wild;

   (d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species

<table>
<thead>
<tr>
<th>Article 274: Damage and illegal exploitation and picking of protected flora</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Anyone who illegally picks, uproots, destroys, transforms, transports or sells wild plants, mushrooms which are belonging to protected species shall be sentenced</td>
</tr>
<tr>
<td>(2) Anyone who illegally picks, uproots, destroys, transforms, transports or sells wild plants, mushrooms which are belonging to protected species shall be sentenced</td>
</tr>
<tr>
<td>or Fine or Detention or restriction of liberty</td>
</tr>
<tr>
<td>(3) Prison penalty up to 4 years or Fine or Detention or restriction of liberty</td>
</tr>
<tr>
<td>(4) : Fine or Detention or restriction of liberty</td>
</tr>
<tr>
<td>Public work penalty for a period from 1 month to 1 year (p to 240 hours)</td>
</tr>
</tbody>
</table>

5. The acts described in previous paragraphs are still considered as criminal offences even if the offender was acting by negligence.

6. The acts described in previous paragraphs are still considered as criminal offences even if the offender was acting by negligence.

Art 274 Damage and illegal exploitation and picking of protected flora

(1) Fine
Or Public work penalty
(2) Prison penalty up to 3 years
Or Fine
Or Detention or restriction of liberty
listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

**Article 13**

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

   (a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;

   (b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

   (3) (...) (4) The acts described in previous paragraphs are still considered as criminal offences even if the offender was acting by negligence.

---

<table>
<thead>
<tr>
<th>5. Unlawful trade in or use of Ozone Depleting Substances (ODS)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Article 4</strong></td>
<td><strong>Criminal code:</strong></td>
</tr>
<tr>
<td><strong>Control of the placing on the market and use of controlled substances</strong></td>
<td>Art 270 Illegal trade of ozone depleting substances</td>
</tr>
<tr>
<td>1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be</td>
<td>Anyone who sells or place on the market illegally ozone depleting substances shall be sentenced.</td>
</tr>
<tr>
<td></td>
<td><strong>Criminal code:</strong></td>
</tr>
<tr>
<td></td>
<td>Prison penalty 2 years</td>
</tr>
<tr>
<td></td>
<td>Or</td>
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<tr>
<td></td>
<td>Fine between 145 € and 580 €</td>
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<td></td>
<td>Or</td>
</tr>
<tr>
<td></td>
<td>Detention or restriction of liberty</td>
</tr>
<tr>
<td></td>
<td><strong>Article 270 §2 of the Criminal code</strong> provides for corporate criminal liability.</td>
</tr>
<tr>
<td></td>
<td><strong>Penalties (article 43 Criminal code):</strong></td>
</tr>
<tr>
<td></td>
<td>Fine up to 1 250 000 Lt (362 025 €)</td>
</tr>
<tr>
<td></td>
<td>Restriction of the activities</td>
</tr>
<tr>
<td></td>
<td>Liquidation</td>
</tr>
</tbody>
</table>
prohibited:
(a) chlorofluorocarbons;
(b) other fully halogenated chlorofluorocarbons;
(c) halons;
(d) carbon tetrachloride;
(e) 1,1,1-trichloroethane;
(f) hydrobromofluorocarbons.

**Article 5**
Control of the use of hydrochlorofluorocarbons
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
(a) in aerosols;
(b) as solvents:
(...)
(c) as refrigerants:
(...)
(d) for the production of foams:
(...)
(e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
(f) in all other applications.

**Article 21 Penalties**
Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.
Luxembourg

Typology of criminal penalties

The national transposing measures of European Directives and Regulations related to environment are based on general environmental laws. These laws are providing for criminal sanctions in case of infringement of the law or of the executive orders.

Most of the time, the environmental law refers to the first book of the penal code and article 130-1 to 132-1 of the criminal procedure code. These provisions enumerate general rules like the kinds of penal sanctions and the power of the judge to reduce or aggravate the fixed sanctions.

In environmental laws, the prison sanctions are sanctions applicable to misdemeanour (délits) whereas crime are usually sanctioned by fines.

The five offences are classified as délits which are offences sentenced in the penal code to a prison penalty from 8 days to 5 years and/or to a fine of 251€ minimum.

The sentences provided for the 5 offences in the specific environmental laws range from 8 days to 6 months only but the fines can reach an important amount (up to 125 000€ for the unlawful discharge of certain dangerous substances in surface waters and up to 750 000€ for the unlawful dumping of waste for example).

The judge is bound by the minimum and maximum scheme fixed for each and every breach of the law. The more severe penalties of the penal code can apply if the environmental law refers to it.

In addition to the imprisonment and the fine, the penal code organizes accessory confiscation (article 31). If the specific environmental laws refer to the first book of the penal code, article 31 is applicable in case of breach of the said laws. Confiscation is also provided by environmental specific law which may provide a more specific kind of confiscation. For instance, the law of 19 June 2004 on nature and natural resources protection organizes a compulsory confiscation.

Another accessory sanction can take place in criminal law: the closing of a site. This sanction is often provided in case of re-offense. There is no similar provision in environmental laws, except as administrative sanctions, submitted to other conditions and procedures than penal sanctions.

In environmental matters, restoration of the site is always provided at the offender’s expense. The maximum delay to be given to the offender to proceed to such restoration is one year beginning on the day the judgment enters into force. The judge is habilitated to pronounce a (daily or monthly) penalty, in case of non completion of the restoration. The amount of the penalty is left to the appreciation of the judge.

Luxembourg has not yet organized the penal responsibility of legal persons.

<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
</table>
discharge of hazardous substances into water

February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community

Article 3  
Member States shall take the appropriate steps to eliminate pollution of the waters referred to in Article 1 by the dangerous substances in the families and groups of substances in List I of Annex I, hereinafter referred to as ‘List I substances’, and to reduce pollution of the said waters by the dangerous substances in the families and groups of substances in List II of Annex I, hereinafter referred to as ‘List II substances’, in accordance with this Directive.

Article 4  
With regard to List I substances:  
(a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned;  
(b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers;  
(c) authorisations may be granted for a limited period of protection and management of water states in its article 26 that:

protection et la gestion de l'eau,  
(Mém. A - 70 du 6 septembre 1993, p. 1302; doc. parl. 3401) modifiée par:  

Art. 4. Interdictions  
Sans préjudice des activités autorisées conformément à la présente loi, il est interdit – de jeter, de déposer ou d'introduire, directement ou indirectement, volontairement ou involontairement, dans les eaux superficielles ou souterraines des substances solides, liquides ou gazeuses polluées, polluantes, ou susceptibles de polluer,


1. Commet une infraction au présent règlement qui conséquence déverse dans les eaux superficielles, directement ou indirectement, des eaux usées ou d'autres rejets susceptibles de contenir des substances dangereuses  
a) sans en avoir obtenu l’autorisation du ministre, au titre de l’article 6, paragraphe 1, ou

Infringements to this Law and to its implementing regulations are punished by:

A prison penalty from 8 days to 6 months and/or  
A fine from 251 € to 125 000 €.

In case of re-offence if a similar offence is committed again in a 2 years delay, the penalty may be doubled.

Complementary sanctions:

Restoration of the site at the offender’s expense in a one year delay. The judge can pronounce a (daily or monthly) penalty in case of non completion of the restoration.

Law of 29 July 1993, article 25 provides for administrative sanctions:

The Minister of environment may :

- Take any urgent or necessary measures  
- Order the closure of the installation  
- Order the suspension of the activity
only. They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.

b) si les valeurs limites d’émission prescrites par l’autorisation au titre de l’article 6, paragraphe 1, ou de l’article 9, paragraphe 2, points b et c, ne sont pas respectées ou c) si la date fixée au titre de l’article 10, paragraphe 2, points a et b, pour le délai de la mise en œuvre des mesures de réduction de la pollution n’est pas respectée.


La Directive 2006/11/EC concernant la pollution causée par certaines substances dangereuses déversées dans le milieu aquatique de la Communauté n’a pas encore été transposée au Luxembourg.

<table>
<thead>
<tr>
<th>2. Unlawful dumping of waste</th>
<th>Article 4.2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.</th>
</tr>
</thead>
</table>

Il est défendu d’abandonner, de déposer ou de jeter en dehors des lieux spécialement désignés à cet effet par les autorités étatiques et communales des déchets de quelque nature que ce soit, y compris tous engins mécaniques hors d’usage et les parties de ces engins mécaniques. |

| Art. 64 of the Law of 19 January 2004 provided for: | A prison penalty from 8 days to 6 months and/or A fine from 251€ to 750 000€ |

Complementary sanctions:

Art. 65 Confiscation of vehicles and equipments used for committing the offence.

Restoration of the site at the offender’s expense in a one year delay. The judge can pronounce a (daily or monthly) penalty in case of non completion of the restoration |

No corporate criminal liability

Art 11 of the of the Law of 19 January 2004:

The Minister of environment can withdraw an authorisation to exploit a rubbish dump

Art 28 of the Law of 17 June 1994 on waste elimination and management

The Minister of environment can :
- Take any urgent or necessary measures
- Order the closure of the installation
- Order the suspension of the activity
### 3. Illegal shipment of waste

**Preamble of Regulation 1013/2006 of 14 June 2006, article 35**

*illegal shipment* means any shipment of waste effected:

(a) without notification to all competent authorities concerned pursuant to this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) in a way which is not specified materially in the notification or movement documents; or
(e) in a way which results in recovery or disposal in contravention of Community or international rules; or
(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:
   (i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
   (ii) non-compliance with Article 3(4),
   (iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

### Art. 35 of Law of 17 June 1994 on waste elimination and management

(Mém. A - 57 du 5 juillet 1994, p. 1076; doc. parl. 3667) provides for:

- A prison penalty from 8 days to 6 months and/or
- A fine from 251 € to 125 000 €.

In case of re-offence if a similar offence is committed again in a 2 years delay, the penalty may be doubled.

**Complementary sanction:**

Confiscation of vehicles and tools used for committing the offence.

Restoration of the site at the offensor’s expense in a one year delay. The judge can pronounce a (daily or monthly) penalty in case of non completion of the restoration.

### Art 28 of Law of 17 June 1994 on waste elimination and management

The Minister of environment can:
- Take any urgent or necessary measures
- Order the closure of the installation
- Order the suspension of the activity

### No corporate criminal liability

Art 28 of Law of 17 June 1994 on waste elimination and management

The Minister of environment can:
- Take any urgent or necessary measures
- Order the closure of the installation
- Order the suspension of the activity
**Article 50**

**Enforcement in Member States**

1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the 12.7.2006 EN Official Journal of the European Union L 190/29 Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.

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<table>
<thead>
<tr>
<th>Article 50 Enforcement in Member States</th>
<th>4. Unlawful significant deterioration of a protected habitat</th>
<th>No corporate criminal liability</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the 12.7.2006 EN Official Journal of the European Union L 190/29 Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.</td>
<td>92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora <strong>Article 6§2</strong>: Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.</td>
<td>Art. 57 of the Law of 19 January 2004: The Minister of environment can order the prohibition and the suspension of illegal work</td>
</tr>
<tr>
<td></td>
<td>Art 17 de la loi du 19 juin 2004 concernant la protection de la nature et des ressources naturelles (Mém. A - 10 du 29 janvier 2004, p. 148; doc. parl. 4787) Il est interdit de réduire, de détruire ou de changer les biotopes tels que mares, marécages, marais, sources, pelouses sèches, landes, tourbières, couvertures végétales constituées par des roseaux ou des joncs, haies, broussailles ou bosquets. Sont également interdites la destruction ou la détérioration des habitats de l’annexe 1 et des habitats d’espèces des annexes 2 et 3.</td>
<td><strong>Complementary sanctions:</strong> Art. 64 of the Law of 19 January 2004 provided for: A prison penalty from 8 days to 6 months and/or an fine from 251€ to 750 000€</td>
</tr>
<tr>
<td></td>
<td>Art. 65 Confiscation of vehicles and equipments used for committing the offence. Restoration of the site at the offensor’s expense in a one year delay. The judge can pronounce a (daily or monthly) penalty in case of non completion of the restoration</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The executive order of 4 June 2004: Fine from 251 € to 125.00 € In addition a confiscation penalty can be applied and the illegal benefit can be removed.</td>
<td>No administrative sanctions</td>
</tr>
</tbody>
</table>
| Article 21 provides that: | Art. 2. Les infractions aux dispositions des articles 3 (inobservation de l'interdiction de production; dépassement des niveaux calculés de production), 4 (inobservation de l'interdiction de la mise sur le marché et d'utilisation; dépassement des niveaux calculés de mise sur le marché et d'utilisation; inobservation de l'interdiction d'importation), 5 (inobservation de l'interdiction d'utilisation), 16 (inobservation des dispositions relatives à la récupération, au recyclage, à la régénération ou à la destruction), 17 (défaut de mesures préventives pour éliminer et réduire les fuites) et 19 (défaut de communication des informations), du règlement (CE) N° 2037/2000, tel que modifié par les règlements (CE) N° 2038/2000 et N° 2039/2000, sont punies d'une amende de «251 à 12.500 euros».

This Regulation implements the Loi du 9 août 1971 concernant l’exécution et la sanction des décisions et des directives ainsi que la sanction des règlements des Communautés européennes en matière économique, technique, agricole, forestière, sociale et en matière de transports. (Mem A-59 du 6 septembre 1971) |

Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions. |

In case of re-offence if a similar offence is committed again in a 2 years delay, the penalty may be doubled

**Malta**

<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Unlawful discharge of hazardous substances into water</td>
<td>Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community</td>
<td>Article 4 With regard to List I substances: (a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned; (b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers; (c) authorisations may be granted for a limited period only. They may be renewed,</td>
<td>No prison for a first conviction</td>
<td>No prison for a first conviction</td>
</tr>
<tr>
<td></td>
<td></td>
<td>L.N. 213 of 2001 Environment Protection Act, 2001, Pollution Caused by Certain Dangerous Substances Discharged Into the Aquatic Environment Regulations</td>
<td>On a first conviction to a fine of not less than five hundred liri but not exceeding one thousand liri;</td>
<td>Fine from 500 liri to 1000 liri (1150 € to 2300 €)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art 4. (1) Any person who discharges into the waters referred to in sub-regulation (2) of regulation 2 any substances within List I shall require prior authorization by the competent authority. (2) The licence issued by the competent authority shall lay down emission standards with regard to discharges of any such substance into the waters referred to in sub-regulation (2) of regulation 2 and, where this is necessary for the implementation of these regulations, to discharges of any such substance into sewers: Provided that in the case of existing discharge of any such substance into the waters referred to in sub-regulation (2) of regulation 2, the person effecting such discharge shall comply with the conditions laid down in the licence within the period stipulated therein. Such period shall not exceed the limits laid down in accordance with regulation 7. (3) A licence by the competent authority</td>
<td>On a second or subsequent convictions, to a fine of not less than one thousand liri, but not exceeding two thousand liri or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment</td>
<td>In case of re-offending : fine from 1000 liri to 2000 liri (2300 € to 4600 €)</td>
</tr>
</tbody>
</table>

- Complementary sanctions:
  - Payment of the expense incurred by the competent authority as a result of the offence
  - Revocation of the permit issued by the competent authority
  - Confiscation of the corpus delicti
  - Disqualification from holding or obtaining a licence, permit or authority for more than one year

- Type and level of criminal sanction for natural persons:
  - 100 Maltese liri=231,50 euros

- Type and level of sanction for legal persons (if applicable):
  - 100 Maltese liri=231,50 euros
taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.


**Article 11**

**Programme of measures**

3. "Basic measures" are the minimum requirements to be complied with and shall consist of:
(j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:
Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

may be granted for a limited period only, provided that it may be renewed, taking into account any changes in the limit values referred to in regulation 7.

12. Any person shall be guilty of an offence under these regulations if:
(a) he fails to comply with any provision of these regulations or with any order lawfully given in terms of any provision of these regulations; or
(b) he contravenes any restriction, prohibition or requirement imposed by or under these regulations; or
(c) he acts in contravention of any of the provisions of these regulations; or
(d) he conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene the provisions of these regulations or to fail to comply with any such provisions, including any order lawfully given in terms of any of the provision of these regulations, or to contravene any restriction, prohibition or requirement imposed by or under the said regulations.

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<table>
<thead>
<tr>
<th>2. Unlawful dumping of waste</th>
<th>Directive 2006/12/EC of 5 April 2006 on waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 4.</td>
<td></td>
</tr>
<tr>
<td>2. Member States shall take</td>
<td>Environment Protection Act, 2001</td>
</tr>
<tr>
<td>the necessary measures to</td>
<td>Waste Management (Permit and Control) Regulations, 2001</td>
</tr>
<tr>
<td>prohibit the abandonment,</td>
<td>Art 7.</td>
</tr>
<tr>
<td>dumping or uncontrolled</td>
<td>(1) Any holder of waste, who undertakes or</td>
</tr>
<tr>
<td>disposal of waste.</td>
<td>has undertaken operations in connection</td>
</tr>
<tr>
<td></td>
<td>therewith, is jointly and severally</td>
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<td></td>
<td>responsible for managing the waste, and</td>
</tr>
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<td></td>
<td>for ensuring that it is managed, in</td>
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<td></td>
<td>Fine from 500 liri to 1000 liri (1150 € to 2300 €)</td>
</tr>
<tr>
<td></td>
<td>In case of re-offending : fine from 1000 liri</td>
</tr>
<tr>
<td></td>
<td>to 2000 liri (2300 € to 4600 €)</td>
</tr>
</tbody>
</table>
accordance with these regulations and the conditions attached to any permit.

(3) No person may deposit any waste except in a waste management site which is authorised to receive that waste by virtue of a permit.

26. Any person shall be guilty of an offence under these regulations if:
(a) he abandons, drops, dumps or otherwise handles waste not in accordance with the provisions of these regulations.

Complementary sanctions:
- Payment of the expense incurred by the competent authority as a result of the offence
- Revocation of the permit issued by the competent authority
- Confiscation of the corpus delicti
- Disqualification from holding or obtaining a licence, permit or authority for more than one year

3. Illegal shipment of waste

Preamble of Regulation 1013/2006 of 14 June 2006,

Article 35

‘illegal shipment’ means any shipment of waste effected:
(a) without notification to all competent authorities concerned pursuant to this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) in a way which is not specified materially in the notification or movement documents; or
(e) in a way which results in recovery or disposal in contravention of Community LN 205 OF 2000, Environnement Protection Act CAP348)

Environment Protection (Control of transboundary movement of toxic and other substances) Regulations, 2000 :

Article 8 : the competent authority shall ensure that the management and transboundary movement of hazardous waste and other waste is carried out in an environmentally sound manner. In doing so, the Competent authority may take any action whatsoever in order to ban, restrict and control the management, transit, export and import of hazardous waste and other waste.

Article 17 : the competent authority shall notify, or ask the exporter to notify, in writing, the competent authorities of the States concerned, in a language acceptable to them, of the proposed transboundary movement. Such notification shall contained detailed information as per Annex V A of schedule 1 and Schedule 2 to these Regulation.

Article 22 : Hazardous wastes or other wastes may only be imported subject to

LN 205 OF 2000

Article 37:
Any person who fails to comply with any provision of these regulation or with any order lawfully given in terms of any provision of these regulations. Or contravenes any restriction, prohibition or requirement imposed by or under these regulations Acts in contravention of any provision of these regulations Shall be guilty of an offence

Article 38:
Any person who commits an offence under these regulations shall be liable:
On a first conviction, to a fine of not less than 500 liri but not exceeding 50 000 liri
On a second or subsequent conviction, to a fine of not less than 1000 liri but not exceeding 100 000, liri

Shall be guilty of an offence

Complementary sanctions :
- Payment of the expenses incurred by the competent authority
- Revocation of the permit issued
- Disqualification from holding or obtaining a licence, permit or authority for more than one year

fine from 500 liri (€ 1155) to 50 000 liri (€ 115 500) in case of re-offending fine from 1000 liri (€ 2300) to 100 000, liri (€ 231 000)
or international rules; or (f) contrary to Articles 34, 36, 39, 40, 41 and 43; or (g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from: (i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or (ii) non-compliance with Article 3(4), (iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

Article 50
Enforcement in Member States

1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.

Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision of the written authorisation or permission of the Competent Authority.
and control of shipments of waste within, into and out of the European Community

**Article 26**

1. Any shipment of waste effected:
   - (a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or
   - (b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
   - (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
   - (d) which is not specified in a material way in the consignment note; or
   - (e) which results in disposal or recovery in contravention of Community or international rules; or
   - (f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.

2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
   - (a) taken back by the notifier or, if necessary, by the
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competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.

In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.

3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of
the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

4. Unlawful significant deterioration of a protected habitat


Article 6

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply

A.L. 311 ta’ l-2006
ATT DWAR IL-ARSIEN TA’ L-AMBJENT (KAP. 435)
Regolamenti ta’ l-2006 dwar il-Protezzjoni tal-Flora, Fawna u Ambjenti Naturali
Parti IV
Dispositions transposant les rticles 6, 12 et 13 {ARSIEN TA’ SPE?I
24. (1) Ebda persuna ma g[andha deliberament ti;bor, tikkollezżjona, taqta’, taqla’ mill-g[eruq, tiddistr;u;i jew tikka;una [sara b’xi mod lil xi ħempli ta’ speċi

L.N. 311 of 2006
Environment Protection Act (CAP. 435)
Flora, Fauna and Natural Habitats Protection Regulations, 2006
Part XI Permitting and penalties

Article 49

In the case of a first offence, a fine (multa) of not less than Lm200 for each specimen, but not exceeding Lm1,000 for each specimen

In the case of a second or subsequent offence, a fine (multa) of not less than Lm500 for each specimen, but not exceeding Lm2,000 for each specimen, or imprisonment for a period not exceeding two years, or both such fine and imprisonment

Fine from 200 liri (€ 462) for each specimen, but not exceeding 1000 liri (€ 2315) for each specimen

In case of re-offending fine from 500 liri for each specimen (€1165 ) to 2000, liri (€ 4650) for each specimen
to all stages of life of the animals to which this Article applies.

**Article 12**

1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:

(a) all forms of deliberate capture or killing of specimens of these species in the wild;

(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

(c) deliberate destruction or taking of eggs from the wild;

(d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

**Complementary sanctions:**

- The Court shall order the offender to remove the causes of the offence and to undo anything which was done without a permit within a time sufficient for the purpose, but in any case not exceeding three months from the date of judgement, to be fixed by the Court and, if the offender fails to comply with any such order within the time so fixed, he shall be liable to a fine (mutu) of not less than Lm25 and not more than Lm50, as the Court may fix, for every day that the default continues after the expiration of the said time.

- Payment for the expenses incurred for the keeping and transport of specimen, for remedying the damage caused by the said infringement, and for any other expense incurred or mitigation measures required to remedy such doings, damage and infringement.

- Disqualification from holding or obtaining a licence, permit or authority for more than one year.
3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

**Article 13**

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

   (a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;

   (b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before
this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

5. Unlawful trade in or use of Ozone Depleting Substances (ODS)

<table>
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<tr>
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<tbody>
<tr>
<td>Article 4 Control of the placing on the market and use of controlled substances</td>
</tr>
<tr>
<td>1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited: (a) chlorofluorocarbons; (b) other fully halogenated chlorofluorocarbons; (c) halons; (d) carbon tetrachloride; (e) 1,1,1-trichloroethane; (f) hydrobromofluorocarbons. (…)</td>
</tr>
</tbody>
</table>

| Article 6: control of the placing on the market and use of controlled substances |
| §1 The placing on the market and the use of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, trichloroethane and hydrobromofluorocarbons shall be prohibited. |

| Article 21 Any person who fails to comply with any provision of these regulation or with any order lawfully given in terms of any provision of these regulations. Or contravenes any restriction, prohibition or requirement imposed by or under these regulations Acts in contravention of any provision of these regulations Shall be guilty of an offence |

| Article 10: Imports of controlled substances from a States not party to the Protocol : The competent authority shall prohibit the importation or inward processing of controlled substances and of products and equipment containing controlled substances imported from any Stat not party to the Protocol. |

| Article 12: Export of controlled substances of product containing controlled substances: The competent authority shall prohibit exports of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, trichloroethane and hydrobromofluorocarbons or products or equipment, other than personal effect, containing those substances or whose continuing function relies on supply of |

| Article 22 Penalties: Any person who commits an offence under these regulation shall be liable: On a first conviction to a fine of not less than 500 liri but not exceeding 1000 liri On a second or subsequent convictions, to a fine of not less than 1000 liri but not exceeding 2000 liri or to imprisonment for a term not exceeding 2 years, or to both such a fine and imprisonment. |

| Complementary sanctions: Payment of the expense incurred by the competent authority as a result of the offence Revocation of the permit issued by the competent authority Confiscation of the corpus delicti |

Fine from 500 liri to 1000 liri (1165 € to 2315 € )

In case of re-offending, fine from 1000 liri to 2000 liri (2315 € to 4650 € )
shall be prohibited:
(a) in aerosols;
(b) as solvents:
(…)
(c) as refrigerants:
(…)
(d) for the production of foams:
(…)
(e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
(f) in all other applications.
(…)

<table>
<thead>
<tr>
<th>Article 21</th>
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<tr>
<td><strong>Penalties</strong></td>
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<tr>
<td>Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.</td>
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<tr>
<td>Criminal offence</td>
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<tr>
<td>1. Unlawful discharge of hazardous substances into water</td>
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1. Unlawful discharge of hazardous substances into water

2. Violation criminalized under article 1a sub1 of the Economic Offences Act

3. In case of a felony according to article 6 of the Economic Offences Act:
   - P: 6 years imprisonment max.
   - F: 45.000 Euro max.

4. In case of a corporate defendant LP:
   - P: 1 year detention max.
   - F: 11.250 Euro max.

5. Accessory measures:
   - Deprivation of rights
   - Total of partly shut down of the corporation for the maximum of a year
   - Confiscation
   - Total or partly deprivation of rights for the maximum of 2 years
   - Publication of the judicial verdict

6. Further additional measures are stated in article 8 of the Economic Offences Act, they are:
   - Placement under supervision, in case of a felony for a maximum of 3 years
(a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned;
(b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers; (c) authorisations may be granted for a limited period only. They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.

van een werk of op een andere daarbij aangegeven wijze, regels worden gesteld, die nodig zijn ter bescherming van het oppervlaktewater tegen verontreiniging, dan wel met het oog op een doelmatige werking van de betrokken zuiveringstechnische werken. Bij de maatregel kan worden bepaald dat daarbij gestelde regels slechts gelden in daarbij aangegeven categorieën van gevallen. Artikel 8.40, tweede lid, van de Wet milieubeheer is van overeenkomstige toepassing. Ten aanzien van bij de regels te stellen voorschriften zijn de artikelen 8.11, derde lid, 8.12, 8.13, 8.15, 8.16 en 8.22, eerste en tweede lid, van de Wet milieubeheer van overeenkomstige toepassing.

2. Bij een algemene maatregel van bestuur krachtens het eerste lid kan worden bepaald dat de bij of krachtens artikel 1 gestelde verboden niet gelden met betrekking tot het brengen van stoffen als bedoeld in artikel 1, eerste lid, in het oppervlaktewater in gevallen, behorende tot een bij die maatregel aangewezen categorie.

3. In afwijking van het eerste lid stellen Onze Ministers van Verkeer en Waterstaat en van Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer tezamen, regels als bedoeld in het eerste lid vast bij ministeriële regeling indien zij uitsluitend strekken ter uitvoering van een voor Nederland verbindend besluit van een volkenrechtelijke organisatie, tenzij voor een juiste uitvoering wijziging van een algemene maatregel van bestuur of de wet noodzakelijk is. Indien wijziging van een algemene maatregel van bestuur noodzakelijk is, wordt daarvan, gelijktijdig met de voordracht aan Ons, gemotiveerd kennis gegeven aan de Staten-Generaal, onder vermelding van de korte inhoud van de voorgenomen algemene maatregel van bestuur.

Artikel 2b
1. Bij een algemene maatregel van bestuur krachtens artikel 2a, eerste lid, waarbij toepassing is gegeven aan artikel 2a, tweede lid, wordt de of € 45000,-- in case a criminal offence result in death (article 173a, second paragraph).

Under article 172 and 173 of the Dutch Criminal Code criminal charges can be made in case of pollution of the drinking-water (such as poisoning). The maximum penalty is imprisonment of 15 years or a fine of € 45000,-- in case of foul play and a criminal offence result in death (article 172 sub1, second paragraph).

Apart from the Dutch Criminal Code, article 1a of the Economic Offences Act (EOA) also sanctions environmental crimes. Article 1a of the EOA refers to different texts of environmental law, the violation of which is criminalised under article 6 of the EOA. The penalties are laid down in article 6 of the Act and differ according to the Act that was violated.

years, in case of a misdemeanour for a maximum of 2 years

- Restitution, or the obligation to do what is illegally neglected or omitted, or to abolish or undo what is illegally established

Explanatory note

Within the Economic Offences Act it is possible to deviate from the Dutch Criminal Code due to the special characteristics of Economic offences and Environmental Crimes are commonly recognized, as shown on the left, as Economic Offences.

Therefore, article 6 of the Economic Offences Act states that in case the defendant is a corporation and the total value of the goods directly or indirectly used to violate the Economic Offences Act is higher of equal to a quarter of the maximum fine which can be imposed according to article 6, under 1 to 4 of the Economic Offences Act, the maximum fine can be exceeded one category up to a maximum of 450.000 euro according to article 6 of the Economic Offences Act (a similar provision can be found in article 23, section 7 and 8 of the Dutch Criminal Code).

The secondary penalties can be found in article 7 of the Economic Offences Act, they are:
verplichting opgelegd het betrokken brengen van stoffen in het oppervlaktewater of het brengen van verandering daarin te melden.

2. In gevallen als bedoeld in het eerste lid wordt bij de maatregel aangegeven:
   a. het bestuursorgaan waaraan de melding wordt gericht;
   b. het tijdstip, voorafgaand aan het betrokken brengen van stoffen in het oppervlaktewater of het brengen van verandering daarin, waarop de melding uiterlijk moet zijn gedaan;
   c. de gegevens die bij de melding moeten worden verstrekt.

3. Onze Minister van Verkeer en Waterstaat kan nadere regels stellen met betrekking tot de in het tweede lid, onder c, bedoelde gegevens en de wijze waarop zij moeten worden verstrekt.

4. De melding wordt - behoudens in gevallen als bedoeld in artikel 7, tweede lid, waarin de paragrafen 3.5.2 tot en met 3.5.5 van de Algemene wet bestuursrecht en afdeling 13.2 van de Wet milieubeheer niet van toepassing zouden zijn - openbaar gemaakt in één of meer dag-, nieuws- of huis-aan-huisbladen. Indien op grond van een algemene maatregel van bestuur krachtens artikel 2a, eerste lid, ook anderszins gegevens moeten worden verstrekt, kunnen bij de maatregel regels over het bekend maken daarvan worden gesteld. Bij algemene maatregel van bestuur kunnen bestuursorganen worden aangewezen, waaraan een exemplaar van de melding of de anderszins verstrekte gegevens moet worden gezonden.

**Artikel 2c**

1. Bij een algemene maatregel van bestuur krachtens artikel 2a kan - behoudens in gevallen waarin toepassing is gegeven aan artikel 2a, tweede lid - worden bepaald dat het orgaan dat bevoegd is een vergunning krachtens artikel 1 te verlenen, bij het verlenen of wijzigen van de vergunning met betrekking tot daarbij aangegeven onderwerpen in de beperkingen waaronder de vergunning wordt verleend, of in de daaraan verbonden...

- deprivation of rights total of partly shut down of the corporation of the convicted where the economic offences has been committed for the maximum of a year
- confiscation
- total or partly deprivation of rights conferred by the government in relation to the enterprise of the convicted
- publication of the judicial verdict

The measures can be found in article 8 of the Economic Offences Act, they are:

- the measures as set forth in the Dutch Criminal Code
- placement of the enterprise convicted under supervision, in case of a felony for a maximum of 3 years, in case of a misdemeanor for a maximum of 2 years
- restitution, or the obligation to do what is illegally neglected or omitted, or to abolish or undo what is illegally established
voorschriften van bij de maatregel gestelde regels kan afwijken. In dat geval wordt aangegeven in hoeverre het bevoegd gezag van de regels kan afwijken. Bij de maatregel kan tevens worden bepaald dat de bevoegdheid tot afwijken slechts geldt in daarbij aangegeven categorieën van gevallen.


3. Bij een algemene maatregel van bestuur krachtens artikel 2a worden regels gesteld met betrekking tot hetgeen in verband met het gaan gelden van de maatregel regeling behoeft.

**Artikel 2d**

1. Bij algemene maatregel van bestuur kunnen regels worden gesteld, inhoudende de verplichting voor het orgaan dat bevoegd is een vergunning krachtens artikel 1 te verlenen, beperkingen of voorschriften, die nodig zijn ter bescherming van het oppervlaktewater tegen verontreiniging, dan wel met het oog op een doelmatige werking van de betrokken zuiveringstechnische werken, en waarvan de inhoud in die maatregel is aangegeven, aan te brengen onderscheidenlijk te verbinden aan de vergunningen voor het brengen van bij de maatregel aangewezen afvalstoffen, verontreinigende of schadelijke stoffen in het
oppervlaktewater. Bij de maatregel kan worden bepaald dat de daarbij gestelde regels slechts gelden in daarbij aangegeven categorieën van gevallen. Artikel 8.40, tweede lid, van de Wet milieubeheer is van overeenkomstige toepassing. Ten aanzien van bij de regels te stellen voorschriften zijn de artikelen 8.11, derde lid, 8.12, 8.13, 8.15, 8.16 en 8.22, eerste en tweede lid, van de Wet milieubeheer van overeenkomstige toepassing.

2. Bij een algemene maatregel van bestuur krachtens het eerste lid wordt bepaald in hoeverre het in het eerste lid bedoelde orgaan met betrekking tot daarbij aangegeven onderwerpen van bij de maatregel gestelde regels kan afwijken of nadere eisen kan stellen. Daarbij kan worden bepaald dat de bevoegdheid tot afwijken of tot het stellen van nadere eisen slechts geldt in bij de maatregel aangegeven categorieën van gevallen.

3. Bij de maatregel wordt voor de daarbij opgelegde verplichtingen het tijdstip aangegeven, waarop zij met betrekking tot de al verleende vergunningen moeten zijn uitgevoerd.

4. Artikel 2a, derde lid, is van overeenkomstige toepassing.

<table>
<thead>
<tr>
<th>2. Unlawful dumping of waste</th>
<th>Directive 2006/12/EC of 5 April 2006 on waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 4.2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.</td>
<td>Wet van 13 juni 1979, houdende regelen met betrekking tot een aantal algemene onderwerpen op het gebied van de milieuhygiëne</td>
</tr>
<tr>
<td>Artikel 10.2</td>
<td>EOA</td>
</tr>
<tr>
<td>1. Het is verboden zich van afvalstoffen te ontdoen door deze - al dan niet in verpakking - buiten een inrichting te storten, anderszins op of in de bodem te brengen of te verbranden.</td>
<td>• felony: max penalty = 6 years imprisonment. or a fine up to € 45000</td>
</tr>
<tr>
<td>2. Bij of krachtens algemene maatregel van bestuur kan, indien het belang van de bescherming van het milieu zich daartegen niet verzet, voor daarbij aangegeven categorieën van gevallen vrijstelling worden verleend van het verbod, bedoeld in het eerste lid.</td>
<td>• misdemeanor: max penalty = 1 year imprisonment. or € 11250;</td>
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<td></td>
<td>• Felony: fine up to 450 000 euros</td>
</tr>
<tr>
<td></td>
<td>• Misdemeanour: fine up to 45 000 euros</td>
</tr>
<tr>
<td></td>
<td>• Accessory measures: see above</td>
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</tbody>
</table>

EOA
<table>
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<tr>
<th>3. Illegal shipment of waste</th>
<th>Wet van 13 juni 1979, houdende regelen met betrekking tot een aantal algemene onderwerpen op het gebied van de milieuhygiëne</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 35</td>
<td>Artikel 10.60</td>
</tr>
<tr>
<td>‘illegal shipment’ means any shipment of waste effected: (a) without notification to all competent authorities concerned pursuant to this Regulation; or (b) without the consent of the competent authorities concerned pursuant to this Regulation; or (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or (d) in a way which is not specified materially in the notification or movement documents; or (e) in a way which results in recovery or disposal in contravention of Community or international rules; or (f) contrary to Articles 34, 36, 39, 40, 41 and 43; or (g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from: (i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>EOA</td>
</tr>
<tr>
<td></td>
<td>• felony: max penalty = 6 years imprisonment or a fine up to € 45000</td>
</tr>
<tr>
<td></td>
<td>• misdemeanour: max penalty = 1 year imprisonment or € 11250;</td>
</tr>
<tr>
<td></td>
<td>Accessory measures: see above</td>
</tr>
<tr>
<td>Wet van 13 juni 1979, houdende regelen met betrekking tot een aantal algemene onderwerpen op het gebied van de milieuhygiëne</td>
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</table>
or (ii) non-compliance with Article 3(4), (iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

**Article 50**
**Enforcement in Member States**
1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.

4. **Unlawful significant deterioration of a protected habitat**


**Article 6**
1. For special areas of conservation, Member States shall establish the

Wet van 25 mei 1998, houdende regels ter bescherming van in het wild levende planten- en diersoorten (Flora- en faunawet) (as modified by Wet van 20 januari 2005 tot wijziging van de Natuurbeschermingswet 1998 in verband met Europeesrechtelijke verplichtingen)

**Artikel 10a**
1. Onze Minister wijst gebieden aan ter uitvoering van richtlijn (EEG) nr. 79/409 en richtlijn (EEG) nr. 92/43.

**EOA**
- felony: max penalty = 6 years imprisonment. or a fine up to € 45000
- misdemeanour: max penalty = 1 year imprisonment. or € 11250;

- Felony: fine up to 450 000 euros
- Misdemeanour: fine up to 45 000 euros

Accessory measures: see above
necessary conservation measures involving, if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.

2. Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.

Article 12

1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:
   (a) all forms of deliberate capture or killing of specimens of these

2. Een besluit als bedoeld in het eerste lid, bevat de instandhoudingsdoelstelling voor het gebied. Tot de instandhoudingsdoelstelling behoren in ieder geval:
   a. de doelstellingen ten aanzien van de instandhouding van de leefgebieden, voorzover vereist ingevolge richtlijn (EEG) nr. 79/409 of b. de doelstellingen ten aanzien van de instandhouding van de natuurlijke habitats of opulaties in het wild levende dier- en plantensoorten voorzover vereist ingevolge richtlijn (EEG) nr. 92/43.

3. De instandhoudingsdoelstelling, bedoeld in het tweede lid, kan mede betrekking hebben op doelstellingen ten aanzien van het behoud, het herstel en de ontwikkeling van het natuurschoon of de natuurwetenschappelijke betekenis van het gebied, anders dan vereist ingevolge de richtlijnen, bedoeld in het tweede lid.

4. Een besluit als bedoeld in het eerste lid, gaat vergezeld van een kaart, waarop de begrenzing van het gebied nauwkeurig wordt aangegeven alsmede van een toelichting.

5. Artikel 10, tweede en derde lid, is van overeenkomstige toepassing.

Hoofdstuk III. Algemene verbodsbepalingen

Paragraaf 1. Bepalingen betreffende planten op hun groeiplaats

Artikel 8

Het is verboden planten, behorende tot een beschermd inheemse plantensoort, te plukken, te verzamelen, af te snijden, uit te steken, te vernielen, te beschadigen, te ontwortelen of op enigerlei andere wijze van hun groeiplaats te verwijderen.

Paragraaf 2. Bepalingen betreffende dieren in hun natuurlijke leefomgeving

Artikel 9

Het is verboden dieren, behorende tot een beschermd inheemse diersoort, te doden, te verwonden, te vangen, te bemachtigen of met het oog daarop op te sporen.
species in the wild;
(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
(c) deliberate destruction or taking of eggs from the wild;
(d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact.

Artikel 10
Het is verboden dieren, behorende tot een beschermde inheemse diersoort, opzettelijk te verontrusten.

Artikel 11
Het is verboden nesten, holen of andere voortplantings- of vaste rust- of verblijfplaatsen van dieren, behorende tot een beschermde inheemse diersoort, te beschadigen, te vernielen, uit te halen, weg te nemen of te verstoren.

Artikel 12
Het is verboden eieren van dieren, behorende tot een beschermde inheemse diersoort, te zoeken, te rapen, uit het nest te nemen, te beschadigen of te vernielen.

Paragraaf 3. Bepalingen betreffende het bezit, het vervoer en de handel

Artikel 13
1. Het is verboden:
   a. planten of producten van planten, of dieren dan wel eieren, nesten of producten van dieren, behorende tot een beschermde inheemse of beschermde uitheemse plantensoort onderscheidenlijk een beschermde inheemse of beschermde uitheemse diersoort, of
   b. [Dit onderdeel is nog niet in werking getreden.]

2. te koop te vragen, te kopen of te verwerven, ten verkoop voorhanden of in voorraad te hebben, te verkopen of ten verkoop aan te bieden, af te leveren, te gebruiken voor commercieel gewin, te huren of te verhuren, te ruilen of in ruil aan te bieden, uit te wisselen of tentoon te stellen voor handelsdoeleinden, binnen of buiten het grondgebied van Nederland te brengen of onder zich te hebben.
5. Unlawful trade in or use of Ozone Depleting Substances (ODS)  

<table>
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<td>Article 21 Penalties Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.</td>
<td>This Regulation was implemented trough the Reglement oonzlaagafbrekende stoffen Wet milieugevaarlijke stoffen 2001. Violation of this Statute constitutes an offence of the Wet milieugevaarlijke stoffen and a criminal offence under article 1a sub 1 and 2 of the Economic Offences Act.</td>
</tr>
<tr>
<td>The maximum criminal penalties are: In case of a felony: 2 years imprisonment In case of a misdemeanour: 1 year detention</td>
<td>Felony: fine up to 450 000 euros Misdemeanour: fine up to 45 000 euros</td>
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<td>Poland</td>
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<td><strong>Criminal offence</strong></td>
<td><strong>General and Specific provision of EC law infringed</strong></td>
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| 1. Unlawful discharge of hazardous substances into water | Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community | USTAWA z dnia 18 lipca 2001 r. Prawo wodne1) Rozdział 1 Zasady ochrony wód | - Prison: from 3 months up to 5 years or fine: up to 180 000 euros or restriction of freedom: prohibition of travelling and public works from 3 months up to 1 year  
- Fine: up to 1250 euros  
- Prison: from 3 days up to 30 days or fine: up to 1 250 euros or restriction of freedom: prohibition of travelling and public works from 3 months up to 1 year | - financial penalty to a maximum amount of 10% of incomes,  
- forfeiture of objects obtained even indirectly as a result of committing a prohibited act or objects used or meant for committing a prohibited act;  
- forfeiture of financial benefits obtained even indirectly as a result of committing a prohibited act;  
- forfeiture of equivalent objects or financial benefits obtained even indirectly as a result of committing a prohibited act; |
| Article 4 With regard to List I substances:  
(a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned;  
(b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers;  
(c) authorisations may be granted for a limited period only. |          | Art. 38.  
1. Wody podlegają ochronie, niezależnie od tego, czy są stanowią własność.  
2. Celem ochrony wód jest utrzymanie lub poprawa jakości wód, biologicznych stosunków w środowisku wodnym i na obszarach zalewowych tak, aby wody osiągnęły co najmniej dobry stan ekologiczny i w zależności od potrzeb nadawały się do:  
1) zaopatrzenia ludności w wodę przeznaczoną do spożycia,  
2) bytkowania ryb w warunkach naturalnych oraz umożliwiały ich migrację,  
3) rekreacji oraz uprawiania sportów wodnych.  
3. Ochrona wód polega w szczególności na:  
1) unikaniu, eliminacji i ograniczaniu zanieczyszczenia wód, w szczególności zanieczyszczenia substancjami szczególnie szkodliwymi dla środowiska wodnego,  
2) zapobieganiu niekorzystnym zmianom naturalnych przepływów wody albo naturalnych poziomów zwierciadła wody.  
4. Ochrona wód jest realizowana z uwzględnieniem postanowień działu I i działu III w tytule II oraz działów I-III w tytule III ustawy - Prawo ochrony środowiska.] | Explanatory Note:  
Polish penal code  
Chapter XXII Offences against the Environment |
| Article 182.  
§ 1. Whoever pollutes the water, air or ground with a substance or contaminates with ionising radiation in such quantities or form that it could endanger the life or health of many persons or cause destruction to plant and animal life of considerable dimensions shall be subject to the penalty of the deprivation of liberty for a term of between 3 months and 5 years.  
§ 2. If the perpetrator acts unintentionally he shall be subject to a fine, the penalty of restriction of liberty or the penalty of | Act on liability of collective entities for acts prohibited under the a threat of punishment (Official Journal of Laws, No. 197, item 1661) |
They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.


**Article 11. Programme of measures**

3. "Basic measures" are the minimum requirements to be complied with and shall consist of:

(j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

powierzchniowych:

a) uniknąć niekorzystnych zmian w ich potencjale ekologicznym i stanie chemicznym,

b) dążyć do osiągnięcia lub zachować dobry potencjał ekologiczny I dobry stan chemiczny,

3) jednolitych części wód podziemnych:

a) uniknąć niekorzystnych zmian ich stanu ilościowego i chemicznego,

b) odwrócić znaczące i utrzymujące się tendencje wzrostowe zanieczyszczenia powstałego w wyniku działalności człowieka,

c) zapewnić równowagę pomiędzy poborem i zasilaniem wód podziemnych,

d) zachować lub osiągnąć dobry stan ilościowy i chemiczny.

3. Realizując cele, o których mowa w ust. 2, zwane dalej „celami środowiskowymi”, należy zapewnić, aby wody, w zależności od potrzeb, nadawały się w szczególności do:

1) zaopatrzenia ludności w wodę przeznaczoną do spożycia, 2) rekreacji oraz uprawiania sportów wodnych, 3) bytowania ryb i innych organizmów wodnych w warunkach naturalnych, umożliwiających ich migrację.

4. W celu ochrony jednolitych części wód podejmuje się w szczególności działania polegające na:

1) unikaniu, eliminowaniu, ograniczaniu zanieczyszczenia wód, w szczególności spowodowanego przez wprowadzanie do jednolitych części wód powierzchniowych substancji szczególnie szkodliwych dla środowiska wodnego, w tym substancji priorytetowych, określonych w przepisach wydanych na podstawie art. 38a ust. 6,

2) eliminowaniu lub stopniowym ograniczaniu przedstawiania się do wód zanieczyszczonych, w szczególności substancji priorytetowych,

3) zapobieganiu niekorzystnym zmianom naturalnych przepływów wody albo naturalnych poziomów zwierciadła wody,

4) zapobieganiu niekorzystnym zmianom naturalnego ukształtowania koryt cieków.

5. Dopuszcza się czasowe pogorszenie stanu jednolitych części wód, jeśli jest ono wynikiem okoliczności o charakterze naturalnym lub następnie wystąpieniem wypadków, których nie można było przewidzieć, w szczególności ekstremalnych zjawisk powodziowych i długo trwałej suszy, albo jest ono związane z utrzymywaniem wód powierzchniowych oraz morskich wód wewnętrznych I brzegu morskiego zgodnie z interesem publicznym.

6. Ochrona wód jest realizowana z uwzględnieniem postanowień działu I I działu III w tytule II oraz działów I-III w tytule III ustawy z dnia 27 kwietnia 2001 r. - Prawo ochrony środowiska (Dz.U. Nr 62, poz. 627, z późn. zm.).>

**Art. 38a.**

**Article 185.**

§ 1. If the consequence of the act specified in Article 182 § 1, is the destruction of plant or animal life of considerable dimensions, the perpetrator shall be subject to the penalty of the deprivation of liberty for a term of between 6 months and 8 years.

§ 2. If the consequence of the act specified in Article 182 § 1, is the death of a human being or the serious bodily harm to many persons, the perpetrator shall be subject to the penalty of the deprivation of liberty for a term of between 2 and 12 years.

**Liability of a collective entity**

falls as a consequence of criminal liability of a natural person if the behaviour brought or could have brought any benefit, even a non-financial one, to the collective entity.

The natural person in question must be (Article 3):

- acting on behalf or in the interest of a collective entity under a power or an obligation to represent it, making decisions or performing an internal inspection or when abusing such a power or failing to fulfill such an obligation,

- admitted to act as a result of abusing powers or fulfilling obligations by a person as stated above,

- acting on behalf or in the interest of a collective entity with a consent or knowledge of a person as stated above.

Pursuant to Article 16 sec. 1 point 8 of the act, a collective entity is subject to liability based on the act, if a person as stated under Article 3 committed a serious offence against the environment provided for under Article 181 to 184 and Article 186, 187 and 188 of the Penal Code (among others polluting the water).
1. Minister właściwy do spraw gospodarki wodnej w porozumieniu z ministrem właściwym do spraw środowiska określi, w drodze rozporządzenia, kryteria i sposób oceny stanu wód podziemnych, w tym:
   1) klasyfikację elementów fizykochemicznych i ilościowych stanu wód podziemnych,
   2) definicje klasyfikacji stanu ilościowego oraz stanu chemicznego wód powierzchniowych,
   3) sposób interpretacji wyników badań elementów, o których mowa w pkt 1,
   4) sposób prezentacji stanu wód podziemnych,
   5) częstotliwość dokonywania ocen jakości poszczególnych elementów oraz stanu wód.
2. Minister właściwy do spraw gospodarki wodnej w porozumieniu z ministrem właściwym do spraw środowiska określi, w drodze rozporządzenia:
   1) elementy jakości dla klasyfikacji stanu ekologicznego oraz potencjału ekologicznego wód powierzchniowych,
   2) definicje klasyfikacji stanu ekologicznego oraz potencjału ekologicznego wód powierzchniowych.
3. Minister właściwy do spraw gospodarki wodnej w porozumieniu z ministrem właściwym do spraw środowiska określi, w drodze rozporządzenia, kryteria i sposób oceny stanu wód powierzchniowych, w tym:
   1) klasyfikację:
      a) elementów fizykochemicznych, biologicznych, hydromorfologicznych, uwzględniającą warunki referencyjne różnych typów wód powierzchniowych,
      b) stanu ekologicznego oraz potencjału ekologicznego wód powierzchniowych, uwzględniając klasyfikację elementów, o których mowa w lit. a),
      2) definicje klasyfikacji stanu chemicznego wód powierzchniowych,
      3) sposób interpretacji wyników badań elementów, o których mowa w pkt 1 lit. a),
      4) sposób prezentacji wyników monitoringu i klasyfikacji stanu ekologicznego wód powierzchniowych i potencjału ekologicznego wód powierzchniowych,
      5) częstotliwość dokonywania ocen jakości poszczególnych elementów oraz stanu ekologicznego i potencjału ekologicznego wód powierzchniowych.
4. Minister właściwy do spraw gospodarki wodnej w porozumieniu z ministrem właściwym do spraw środowiska określi, w drodze rozporządzenia, ogólną klasyfikację i ocenę ogólną wód powierzchniowych, w tym:
   1) elementy oceny,
   2) sposób interpretacji wyników badań poszczególnych elementów oceny,
3) ocenę wyników badań poszczególnych elementów oceny.
5. Minister, wydając rozporządzenia, o których mowa w ust. 1-4, będzie się kierować istniejącym stanem rozpoznania procesów zachodzących w środowisku wodnym oraz dostępnymi wynikami pomiarów i badań.
6. Minister właściwy do spraw gospodarki wodnej w porozumieniu z ministrem właściwym do spraw środowiska określi, w drodze rozporządzenia, wykaz substancji priorytetowych, o których mowa w art. 38 ust. 4, uwzględniając przepisy Unii Europejskiej dotyczące substancji priorytetowych w dziedzinie polityki wodnej.

Art. 39.
Zabrania się wprowadzania ścieków:
1) bezpośrednio do poziomów wodonośnych wód podziemnych,
2) do wód powierzchniowych oraz do ziemi,
a) jeżeli byłoby to sprzeczne z warunkami wynikającymi z utworzenia form ochrony przyrody, stref ochronnych zwierząt lownych lub ośrodków na podstawie ustawy z dnia 16 kwietnia 2004 r. o ochronie przyrody (Dz.U. Nr 92, poz. 880),
b) w pasie technicznym, o którym mowa w art. 23,
c) w obrębie kapelisk, plaży publicznych nad wodami oraz w odległości mniejszej niż 1 km od ich granic,
3) do wód stojących,
4) do jezior oraz do ich dopływów, jeżeli czas dopływu ścieków do jeziora byłby krótszy niż jedna doba, nowe brzmienie art. 39 wchodzi w życie z dn. 30.07.2005 r.
5) do ziemi, jeżeli stopień oczyszczania ścieków lub miąższość warstwy gruntu nad zwierciadem wód podziemnych nie stanowi zabezpieczenia tych wód przed zanieczyszczeniem.

Art. 39.
1. Zabrania się wprowadzania ścieków:
1) bezpośrednio do wód podziemnych,
2) do wód:
a) powierzchniowych, jeżeli byłoby to sprzeczne z warunkami wynikającymi z istniejących form ochrony przyrody, utworzonych stref ochrony zwierząt lownych albo ośrodków na podstawie ustawy z dnia 16 kwietnia 2004 r. o ochronie przyrody (Dz.U. Nr 92, poz. 880), a także stref ochronnych oraz obszarów ochronnych ustanowionych na podstawie art. 58 i 60,
b) powierzchniowych w obrębie kapelisk, plaży publicznych nad wodami oraz w odległości mniejszej niż 1 kilometr od ich granic,
c) stojących,
d) jezior oraz do ich dopływów, jeżeli czas dopływu ścieków do jeziora byłby krótszy niż 24 godziny,
3) do ziemi:
   a) jeżeli byłoby to sprzeczne z istniejącymi formami ochrony przyrody, utworzonych stref ochrony zwierząt lądowych albo ostatnia podstawą ustawy o ochronie przyrody, a także stref ochronnych oraz obszarów ochronnych ustanowionych na podstawie art. 58 i 60, b) zawierających substancje szczególnie szkodliwe dla środowiska wodnego, określone w przepisach wydanych na podstawie art. 45 ust. 1 pkt 1, jeżeli byłoby to niezgodne z warunkami określonymi w przepisach wydanych na podstawie art. 45 ust. 1 pkt 3, c) w pasie technicznym, o którym mowa w art. 23, d) jeżeli stopień oczyszczania ścieków lub miąższość utworów skalnych nad zwierciadłem wód podziemnych nie stanowi zabezpieczenia tych wód przed zanieczyszczeniem, e) w odległości mniejszej niż 1 kilometr od granic kąpielisk oraz plaży publicznych nad wodami.

2. Dopuszcza się wprowadzanie:
   1) wód opadowych lub roztopowych, wód z przelewów kanalizacji deszczowej oraz wód chłodniczych do wód powierzchniowych lub do ziemi, w odległości mniejszej niż 1 kilometr od granic kąpielisk i plaży publicznych nad wodami, 2) wód opadowych lub roztopowych do jezior oraz do ich dopływów, jeżeli czas dopływu ścieków do jeziora byłby krótszy niż 24 godziny, 3) wód chłodniczych, których temperatura nie przekracza +26oC albo naturalnej temperatury wody, do jeziora oraz do ich dopływów, jeżeli czas dopływu ścieków do jeziora byłby krótszy niż 24 godziny, 4) ścieków, o których mowa w ust. 1 pkt 3 lit. b), jeżeli jest to zgodne z warunkami określonymi w przepisach wydanych na postawie art. 45 ust. 1 pkt 3 - o ile organ właściwy do wydania pozwolenia wodnoprawnego ustali, że takie dopuszczenie nie koliduje z utrzymaniem dobrego stanu wód lub wymaganiami jakościowymi dla wód.

3. Dyrektor regionalnego zarządu gospodarki wodnej może, w drodze decyzji, zwolnić od zakazu wprowadzania do ziemi, w odległości mniejszej niż 1 kilometr od granic kąpielisk oraz plaży publicznych nad wodami, ścieków innych niż wymienione w ust. 2 pkt 1, jeżeli wystąpi istotna potrzeba ekonomiczna lub społeczna, a zwolnienie nie spowoduje zagrożenia dla jakości wód.

Art. 39a. Zakazy określone w art. 39 pkt 4 nie dotyczą wód chłodniczych, których temperatura nie przekracza +26oC albo naturalnej temperatury wody, chyba że w ocenie organu właściwego do wydania pozwolenia wodnoprawnego za zakazem w konkretnym przypadku przemawiają względy utrzymania wód w dobrym stanie ekologicznym lub wymagania jakościowe wody w kąpieliskach
Art. 40.
1. Zabrania się:
1) wprowadzania do wód odpadów, w rozumieniu ustawy z dnia 27 kwietnia 2001 r. o odpadach (Dz.U. Nr 62, poz. 628) oraz ciekłych odchodów zwierzęcych,
2) spławiania do wód śniegu wywołanego z terenów zanieczyszczonych, a w szczególności z centrów miast, terenów przemysłowych, terenów składowych, baz transportowych, dróg o dużym natężeniu ruchu wraz z parkingami, oraz jego składowania na terenach położonych między wałem przeciwpowodziowym a linią brzegu wody lub w odległości mniejszej niż 50 m od linii brzegu wody,
3) lokalizowania na obszarach bezpośredniego zagrożenia powodzią inwestycji zaliczanych do przedsięwzięć mogących znacząco oddziaływać na środowisko, gromadzenia ścieków, odchodów zwierzęcych, środków chemicznych, a także innych materiałów, które mogą zaniechać wody, prowadzenia odzysku lub unieszkodliwiania odpadów, w tym w szczególności ich składowania,
4) mycia pojazdów w wodach powierzchniowych oraz nad brzegami tych wód,
5) pobierania z wód powierzchniowych wody bezpośrednio do opryskiwaczy rolniczych oraz ich mycia w tych wodach,
6) używania farb produkowanych na bazie związków organiczno-cynowych (TBT) do konserwacji technicznych konstrukcji podwodnych.

2. Zakazy, o których mowa w ust. 1 pkt 1 i 3, nie dotyczą wykorzystywania gruzu, mas ziemnych oraz skalnych przy wykonywaniu robót związanych z utrzymywaniem lub regulacją wód, a także lokalizowania inwestycji gospodarki rybackiej.

3. Dyrektor regionalnego zarządu gospodarki wodnej może, w drodze decyzji zwolnić od zakazu, o którym mowa w ust. 1 pkt 3, w części dotyczącej gromadzenia ścieków, a także innych materiałów, prowadzenia odzysku lub unieszkodliwiania odpadów, jeżeli wystąpi istotna potrzeba ekonomiczna lub społeczna a zwolnienie to nie spowoduje zagrożenia dla jakości wód w przypadku wystąpienia powodzi.

4. Przepisy ust. 1 pkt 3 i ust. 3 stosuje się odpowiednio do wysp oraz przylisków, o których mowa w art. 18.
### Art. 41.

1. Ścieki wprowadzane do wód lub do ziemi w ramach zwykłego albo szczególnego korzystania z wód, oczyszczone w stopniu wymaganym przepisami ustawy, nie mogą:

1) zawierać:
   a) odpadów oraz zanieczyszczeń pływających,
   b) dwuchloro-dwufenylo-trójchloroetanu (DDT), wielopierścieniowych chlorowanych dwufenyli (PCB) oraz wielopierścieniowych chlorowanych trójfenyli (PCT),
   c) chorobotwórczych drobnoustrojów pochodzących z obiektów, w których leczeni są chory na choroby zakaźne,

2) powodować w tych wodach:
   a) zmian w naturalnej, charakterystycznej dla nich biocenozie,
   b) zmian naturalnej mętności, barwy, zapachu,
   c) formowania się osadów lub piany.

2. Zabrania się rozcieńczania ścieków wodą w celu uzyskania ich stanu oraz składu zgodnego z przepisami.

3. Dopuszcza się wprowadzanie do wód lub do ziemi wód opadowych z przelewów kanalizacji deszczowej lub ścieków z przelewów burzowych komuw art. 41: nowe brzmienia zd. wstępnego, lit. b w pkt 1 w ust. 1 i ust. 2 oraz dodane ust. 3-6 wchodzą w życie z dn. 30.07.2005 r. (Dz.U. z 2005 r. Nr 130, poz. 1087) nalnej kanalizacji ogólnospławnej na warunkach określonych w przepisach wydanych na podstawie art. 45 ust. 1 pkt 3.

4. Organ właściwy do wydania pozwolenia wodnoprawnego, ustalając warunki wprowadzania ścieków do wód lub do ziemi, może określić w pozwoleniu wodnoprawnym wartości zanieczyszczeń w ściekach niższe niż najwyższe dopuszczalne wartości zanieczyszczeń określonych w przepisach wydanych na podstawie art. 45 ust. 1 pkt 3, jeżeli istniejące urządzenia
oczyszczające umożliwiają ich osiągnięcie.
6. Organ właściwy do wydania pozwolenia wodnoprawnego, ustalając warunki wprowadzania ścieków do wód lub do ziemi, może określić w pozwoleniu wodnoprawnym wartości zanieczyszczeń w ściekach wyższe niż najwyższe dopuszczalne wartości zanieczyszczeń określonych w przepisach wydanych na podstawie art. 45 ust. 1 pkt 3, jeżeli dotrzymanie najwyższych dopuszczalnych wartości nie jest możliwe mimo zastosowania dostępnych technik i technologii oczyszczania ścieków oraz zmian w procesie produkcji, a jednocześnie stan wód odbiornika i ich podatność na eutrofizację pozwala na dokonanie odstępstw.

Art. 42.
1. Wprowadzający ścieki do wód lub do ziemi są obowiązani zapewnić ochronę wód przed zanieczyszczeniem, w szczególności przez budowę i eksploatację urządzeń służących tej ochronie, a tam gdzie jest to celowe powtórne wykorzystanie oczyszczonych ścieków. Wybór miejsca i sposobu wykorzystania albo usuwania ścieków powinien minimalizować negatywne oddziaływanie na środowisko.
2. Obiekt budowlany lub zespół takich obiektów, których użytkowanie jest związane z wprowadzaniem ścieków do wód lub do ziemi, nie może zostać oddany do użytkowania, jeżeli nie zostały spełnione wymagania, o których mowa w art. 76 ustawy - Prawo ochrony środowiska.
[3. Budowę urządzeń służących do zaopatrzenia w wodę realizuje się jednocześnie z rozwiązaniem spraw gospodarki ściekowej, w szczególności przez budowę systemów kanalizacyjnych i oczyszczalni ścieków.] 
3. Budowę urządzeń służących do zaopatrzenia w wodę realizuje się jednocześnie z rozwiązaniem spraw gospodarki ściekowej, w szczególności przez budowę systemów kanalizacji zbiorczej i oczyszczalni ścieków.
[4. W miejscach, gdzie budowa systemów kanalizacyjnych nie przyniosłaby korzyści dla środowiska lub powodowałaby nadmierne koszty, należy stosować systemy indywidualne lub inne rozwiązania zapewniające ochronę środowiska.] 
4. W miejscach, gdzie budowa systemów kanalizacji zbiorczej nie przyniosłaby korzyści dla środowiska lub powodowałaby nadmierne koszty, należy stosować systemy indywidualne lub inne rozwiązania zapewniające ochronę środowiska. > nowe brzmienie ust. 3 i 4 w art. 42 wchodzi w życie z dn. 30.07.2005 r. (Dz.U. z 2005 r. Nr 130, poz. 1087) w art. 43: nowe brzmienie ust. 1, 2a i 4c oraz dodane ust. 3c i 4d wchodzą w życie w życie jw.

Art. 43.
[1. Aglomeracje, o równoważnej liczbie mieszkańców powyżej 2000, powinny być wyposażone w sieci kanalizacyjne dla ścieków komunalnych zakończone}
1. Aglomeracje o równoważnej liczbie mieszkańców powyżej 2000 powinny być wyposażone w systemy kanalizacji zbiorczej dla ścieków komunalnych, zakończone oczyszczalniami ścieków, zgodnie z ustaleniami krajowego programu oczyszczania ścieków komunalnych.

2. Aglomeracja oznacza teren, na którym zaludnienie lub działalność gospodarcza są wystarczające skoncentrowane, aby ścieki komunalne były zbierane i przekazywane do oczyszczalni ścieków komunalnych, natomiast przez jednego równoważnego mieszkańca rozumie się ładunk substancji organicznych biologicznie rozkładalnych wyrażony jako wskaźnik pięciocodowego biochemicznego zapotrzebowania na tlen w ilości 60 g tlenu na dobę.

2a. Aglomeracje, o których mowa w ust. 1, wyznacza, po zasięgnięciu opinii zainteresowanych gmin i zarządu województwa, wojewoda w drodze aktu prawa miejscowego; jeżeli aglomeracja obejmowała tereny położone w dwóch lub więcej województwach, właściwe do wyznaczenia aglomeracji jest wojewoda tego województwa, na którego terenie znajduje się większa część aglomeracji.

3. Krajowy program oczyszczania ścieków komunalnych, którego integralną część stanowi wykaz aglomeracji, o których mowa w ust. 1, oraz wykaz niezbędnych przedsięwzięć w zakresie budowy i modernizacji urządzeń kanalizacyjnych sporządzający minister właściwy do spraw środowiska, a zatwierdza Rada Ministrów.

3a. Krajowy program oczyszczania ścieków komunalnych określa dla przedsięwzięć, o których mowa w ust. 3, w szczególności:
1) zakres rzeczowo-finansowy,
2) termin zakończenia.
3b. Wojewoda przedkłada ministrowi właściwemu do spraw środowiska corocznie, nie później niż do dnia 31 marca, sprawozdanie z realizacji krajowego programu oczyszczania ścieków komunalnych w województwie, zawierające:
1) wykaz aglomeracji,
2) informację o stanie wyposażenia aglomeracji w systemy kanalizacji zbiorczej i oczyszczalnie ścieków komunalnych,
3) informację o postępie realizacji przedsięwzięć określonych w krajowym programie.
programie oczyszczania ścieków komunalnych,
4) informację o ilości wytworzonych w ciągu roku Mg suchej masy osadów ściekowych w oczyszczalniach ścieków komunalnych aglomeracji oraz sposób postępowania z tymi osadami z uwzględnieniem podziału państwa na obszary dorzeczy i regiony wodne.

<3c. Wójt, burmistrz lub prezydent miasta przedkłada wojewodzie corocznie, nie później niż do dnia 28 lutego, informacje, o których mowa w ust. 3b, za rok ubiegły.>

4. Minister właściwy do spraw środowiska przedkłada co dwa lata Radzie Ministrów sprawozdanie z wykonania krajowego programu oczyszczania ścieków komunalnych.

4a. Minister właściwy do spraw środowiska, w porozumieniu z ministrem właściwym do spraw administracji publicznej oraz ministrem właściwym do spraw budownictwa, gospodarki przestrzennej i mieszkaniowej, określi, w drodze rozporządzenia, sposób wyznaczania obszaru i granic aglomeracji.

4b. Wydając rozporządzenie o którym mowa w ust. 4a, minister uwzględnia koszty rozwoju i eksploatacji systemów kanalizacji zbiorczej oraz gęstość zaludnienia.

4c. Krajowy program oczyszczania ścieków komunalnych podlega okresowej aktualizacji, nie rzadziej niż raz na dwa lata.

4c. Rada Ministrów dokona aktualizacji krajowego programu oczyszczania ścieków komunalnych, nie później niż w terminie 2 lat od dnia jego zatwierdzenia; kolejne aktualizacje będą dokonywane co najmniej raz na 4 lata.

4d. Minister właściwy do spraw gospodarki wodnej ogłasza, w drodze obwieszczenia w Dzienniku Urzędowym Rzeczypospolitej Polskiej „Monitor Polski”, krajowy program oczyszczania ścieków komunalnych oraz jego aktualizacje.

5. Przepisy ust. 1-4 nie naruszają obowiązku gmin w zakresie odprowadzania i oczyszczania ścieków komunalnych wynikających z przepisów o samorządzie gminnym.

Art. 44.
1. Ścieki bytowe oraz ścieki komunalne lub przemysłowe o składzie zbliżonym do ścieków bytowych, a także ścieki, o których mowa w art. 9 ust. 1 pkt 14 lit. f), mogą być oczyszczane przez ich rolnicze wykorzystanie.

2. Przez rolnicze wykorzystanie ścieków, o którym mowa w ust. 1, rozumie się zastosowanie ścieków do nawadniania oraz naważenia użytków rolnych oraz stawów wykorzystywanych do chowu lub hodowli ryb.

3. Roczne i sezonowe dawki ścieków wykorzystywanych rolniczo nie mogą przekroczyć zapotrzebowania roślin na azot, potas, wodę oraz utrudniać przebiegu procesów samooczyszczania się gleby.

4. Zabrania się rolniczego wykorzystania ścieków:
1) gdy grunt jest zamarznięty do głębokości 30 cm lub przykryty śniegiem, z wyjątkiem dna stawów ziemnych wykorzystywanych do chowu i hodowli ryb,
2) na gruntach wykorzystywanych do upraw roślin, przeznaczonych do spożycia w stanie surowym,
3) na gruntach, w których zwierciadło wód podziemnych znajduje się płytko niż 1,5 m od powierzchni ziemi lub od dna rowu rozprowadzającego ścieki,
4) na obszarach o spadku terenu większym niż:
   a) 10% dla gruntów ornych,
   b) 20% dla łąk, pastwisk oraz plantacji drzew leśnych.

Art. 45.  
1. Minister właściwy do spraw środowiska, w porozumieniu z ministrem właściwym do spraw gospodarki wodnej, określi, w drodze rozporządzenia:
   1) substancje szczególnie szkodliwe dla środowiska wodnego, powodujące zanieczyszczenie wód, które powinno być eliminowane (wykaz I), oraz substancje szczególnie szkodliwe dla środowiska wodnego, powodujące zanieczyszczenie wód, które powinno być ograniczone (wykaz II),
   2) metodyki referencyjne badania stopnia biodegradacji substancji powierzchniowoczących zawartych w produktach, których stosowanie może mieć wpływ na jakość wód,
   3) warunki, jakie należy spełnić przy wprowadzaniu ścieków do wód lub do ziemi oraz w celu rolniczego wykorzystania ścieków, a także miejsce i częstotliwość pobierania próbek ścieków, metodyki referencyjne analizy i sposób oceny czy ścieki odpowiadają wymaganym warunkom.

2. Minister właściwy do spraw środowiska w porozumieniu z ministrem właściwym do spraw gospodarki wodnej może określić, w drodze rozporządzenia, dopuszczalne masy substancji, które mogą być odprowadzane w ściekach przemysłowych, w jednym lub więcej okresach, przypadające na jednostkę masy wykorzystywanego surowca, materiału, paliwa lub powstającego produktu.

3. Ministrowie, wydając rozporządzenia, o których mowa w ust. 1 i 2, uwzględniają:
   1) właściwości substancji szczególnie szkodliwych dla środowiska wodnego, a zwłaszcza ich toksyczność, trwałość w środowisku, zdolność do bioakumulacji oraz zagrożenie, jakie mogą one powodować dla wód oraz życia lub zdrowia ludzi,
2) obecny stan wód i ich podatność na eutrofizację,
3) efektywność usuwania zanieczyszczeń ze ścieków w procesach ich oczyszczania,
4) rozwój technik umożliwiających stopniowe zmniejszanie emisji,
5) położenie, rzeźbę terenu i rodzaj gleb na obszarach, na których może być stosowane rolnicze wykorzystanie ścieków,
6) zróżnicowanie w czasie warunków, jakie należy spełnić przy wprowadzaniu do wód ścieków zawierających substancje szczególnie szkodliwe dla środowiska.

dz. 30.07.2005 r. (Dz.U. z 2005 r. Nr 130, poz. 1087) pkt 6 w ust. 3 w art. 45 stosuje się do dnia 31 grudnia 2007 r. dowiska wodnego, powodujące zanieczyszczenie wód, które powinno być eliminowane (wykaz I).

4. Ministrowie, wydając rozporządzenie, o którym mowa w ust. 1, będą się kierować potrzebą:
1) zapobiegania zagrożenia dla życia i zdrowia ludzi powodowanego wprowadzaniem do wód substancji szczególnie szkodliwych dla środowiska wodnego,
2) zapewnienia 75% redukcji całkowitego ładunku azotu i fosforu w ściekach komunalnych pochodzących z całego terytorium państwa w celu ochrony wód powierzchniowych, w tym wód morskich, przed eutrofizacją,
3) minimalizacji kosztów oczyszczania ścieków komunalnych przy osiągnięciu celów zakładanych w pkt 2,
4) spełnienia wymagań zdrowotnych dotyczących żywności i pasz na terenach rolniczego wykorzystania ścieków.

5. Zasady postępowania z osadami ściekowymi określają przepisy ustawy o odpadach.

Art. 45a.
Warunki, jakie należy spełnić przy wprowadzaniu do urządzeń kanalizacyjnych ścieków zawierających substancje szczególnie szkodliwe dla środowiska wodnego określone na podstawie art. 45 ust. 1 pkt 1, określają przepisy o zbiorowym zaopatrzeniu w wodę i zbiorowym odprowadzaniu ścieków.

Art. 45a.
1. Minister właściwy do spraw środowiska w porozumieniu z ministrem właściwym do spraw gospodarki wodnej określi, w drodze rozporządzenia, uwzględniając art. 45 ust. 1 pkt 1, substancje szczególnie szkodliwe dla środowiska wodnego, których wprowadzanie w ściekach przemysłowych do urządzeń kanalizacyjnych wymaga uzyskania pozwolenia wodnoprawnego.
2. Minister, wydając rozporządzenie, o którym mowa w ust. 1, będzie się kierował:
1) potrzebą zapobiegania zagrożeniom dla zdrowia i życia ludzi,
powodowanego wprowadzaniu do kanalizacji substancji szczególnie szkodliwych dla środowiska wodnego,
2) podatności substancji szczególnie szkodliwych dla środowiska wodnego na mechaniczno-biologiczne procesy oczyszczania,
3) koniecznością redukcji substancji szczególnie szkodliwych w miejscu ich powstawania, gdy nie jest możliwe ich usunięcie w mechaniczno-biologicznych procesach oczyszczania.

Art. 46.
1. Zakłady pobierające wodę oraz przeznaczające ścieki do rolniczego wykorzystania obowiązane są prowadzić pomiary ich ilości i jakości. Nowe brzmienie art. 45a wchodzi w życie z dn. 30.07.2005 r.
2. Obowiązki w zakresie pomiarów ilości i jakości ścieków wprowadzanych do wód lub do ziemi określają przepisy ustawy - Prawo ochrony środowiska.
3. Zakłady wprowadzające ścieki do wód lub do ziemi mogą zostać obowiązane do prowadzenia pomiarów jakości:
   1) wód powierzchniowych powyżej i poniżej miejsca zrzutu ścieków,
   2) wód podziemnych.
4. Zakłady pobierające wodę w ilości większej niż 100 m³ na dobę są obowiązane do dokonywania systematycznego pomiaru ilości pobieranej wody.

Art. 47.
1. Produkcję rolną prowadzi się w sposób ograniczający i zapobiegający zanieczyszczeniu wód związkami azotu pochodzącymi ze źródeł rolniczych, przy czym przez związki azotu rozumie się wszelkie substancje zawierające azot, z wyjątkiem gazowego azotu cząsteczkowego.
2. Minister właściwy do spraw rolnictwa w porozumieniu z ministrem właściwym do spraw środowiska, biorąc pod uwagę wymagania, o których mowa w ust. 1, opracuje zbiór zasad dobrej praktyki rolniczej i upowszechni te zasady, w szczególności w drodze organizowania szkoleń dla rolników.
3. Dyrektor regionalnego zarządu gospodarki wodnej, określi, w drodze rozporządzenia, wody powierzchniowe i podziemne wrażliwe na zanieczyszczenie związkami azotu ze źródeł rolniczych oraz obszary szczególnie narażone, z których odpływ azotu ze źródeł rolniczych do tych wód należy ograniczyć, uwzględniając:
   1) zawartość związków azotu w wodach powierzchniowych i podziemnych, ze szczególnym uwzględnieniem wód pobieranych do zaopatrzenia ludności w wodę przeznaczoną do spożycia,
   2) stopień eutrofizacji śródlądowych wód powierzchniowych, morskich wód wewnętrznych i wód przybrzeżnych, dla których czynnikiem eutrofizacji jest azot,
   3) charakterystykę terenu, ze szczególnym uwzględnieniem: rodzaju
| działalności rolniczej, struktury użytków rolnych, koncentracji produkcji zwierzęcej, rodzaju gleb i klimatu.  
4. Wody i obszary, o których mowa w ust. 3, poddaje się co 4 lata weryfikacji w celu uwzględnienia zmian czynników nieprzewidzianych podczas ich wyznacznia.  
5. Wyznaczenia i weryfikacji wód i obszarów, o których mowa w ust. 3, dokonuje się w oparciu o pomiary dokonywane w ramach państwowego monitoringu środowiska.  
6. Wojewódzki inspektor ochrony środowiska dokonuje, co 4 lata, oceny stopnia eutrofizacji śródlądowych wód powierzchniowych, morskich wód wewnętrznych i wód przybrzeżnych.  
7. Dla każdego z obszarów, o którym mowa w ust. 3, w ciągu 2 lat od jego wyznaczenia dyrektor regionalnego zarządu gospodarki wodnej opracowuje program działań mających na celu ograniczenie odpływu azotu ze źródeł rolniczych, o którym mowa w art. 84 ustawy - Prawo ochrony środowiska; program wprowadzany jest w drodze rozporządzenia dyrektora regionalnego zarządu gospodarki wodnej.  
8. Minister właściwy do spraw środowiska, w porozumieniu z ministrem właściwym do spraw rolnictwa oraz ministrem właściwym do spraw rozwodów, określa w drodze rozporządzenia:  
1) kryteria wyznaczania wód wrażliwych na zanieczyszczenie związkami azotu ze źródeł rolniczych,  
2) szczegółowe wymagania, jakim powinny odpowiadać programy działań mających na celu ograniczenie odpływu azotu ze źródeł rolniczych.  
9. Minister właściwy do spraw środowiska określający:  
1) kryteria wyznaczania wód wrażliwych na zanieczyszczenie związkami azotu ze źródeł rolniczych, uwzględnia w szczególności dopuszczalne stężenie azotanów w wodach stanowiących źródło poboru wody przeznaczonej do spożycia oraz podatność wód na eutrofizację,  
2) szczegółowe wymagania, jakim powinny odpowiadać programy działań wskazane w szczególności: a) rodzaj i zakres działań, jakie mogą być wprowadzone do obowiązku stosowania w obszarach szczególnie narażonych, dotyczących w szczególności stosowania nawozów, przechowywania nawozów naturalnych, sposobu gospodarowania gruntami, b) terminy wprowadzania poszczególnych działań w życie i okresy ich obowiązywania, c) wzory dokumentów stosowanych w celu kontroli i monitorowania oraz dokumentowania realizacji działań wynikających z programu i efektów wdrażania programu,  
3) tryb opracowania programów, uwzględnia potrzebę wszczętnych konwersacji projektów programów, w szczególności z organizacjami społeczno-zawodowymi rolników. |
**Art. 48.**
1. Ścieki ze statku, z zastrzeżeniem ust. 2 i 3, usuwa się do urządzenia odbiorczego na lądzie.
2. Przepisu ust. 1 nie stosuje się do statków bez napędu mechanicznego o iloczynie długości i szerokości nieprzekraczającym 20 m2 lub o napędzie mechanicznym o mocy silników do 20 kW, niewyposażonych w urządzenia sanitarne, a używanych wyłącznie do celów sportowych oraz rekreacyjnych.

**Art. 49.**
1. Badania i ocenę jakości wód powierzchniowych w zakresie elementów fizycznych, chemicznych i biologicznych oraz wód podziemnych w zakresie elementów fizycznych i chemicznych dokonuje się w ramach państwowego monitoringu środowiska.
2. Wojewódzki inspektor ochrony środowiska wykonuje badania oraz ocenę jakości wód powierzchniowych i podziemnych w zakresie określonym w ust. 1.
3. Gdy jest to uzasadnione specyfiką badań, obowiązki dotyczące prowadzenia badań oraz przeprowadzenia oceny jakości wód powierzchniowych i podziemnych w zakresie określonym w ust. 1 wykonuje Główny Inspektor Ochrony Środowiska.
4. Minister właściwy do spraw gospodarki wodnej w porozumieniu z ministrem właściwym do spraw środowiska określi, w drodze rozporządzenia, sposób oceny stanu wód powierzchniowych i podziemnych, uwzględniający:
   1) klasyfikację:
      a) elementów fizycznych i chemicznych, biologicznych, hydrologicznych i morfologicznych uwzględniającą warunki referencyjne różnych typów wód powierzchniowych,
      b) ekologicznego stanu wód powierzchniowych uwzględniającą klasyfikację elementów, o których mowa w lit. a,
      c) elementów fizycznych i chemicznych oraz zasobów wód w odniesieniu do wód podziemnych,
   2) sposób interpretacji wyników,
   3) sposób prezentacji jakości poszczególnych elementów klasyfikacji wód oraz oceny stanu wód,
   4) częstotliwość dokonywania ocen jakości poszczególnych elementów oraz stanu wód.
5. Minister, wydając rozporządzenie, o którym mowa w ust. 4, będzie się...
kierować istniejącym stanem rozpoznania procesów zachodzących w środowisku wodnym oraz dostępnymi wynikami pomiarów i badań.

Art. 49a.
1. Minister właściwy do spraw gospodarki wodnej w porozumieniu z ministrem właściwym do spraw środowiska określi, w drodze rozporządzenia, sposób prowadzenia monitoringu wód powierzchniowych oraz podziemnych, uwzględniający:
   1) kryteria wyznaczania wód powierzchniowych i podziemnych objętych monitoriowaniem,
   2) kryteria wyznaczania punktów pomiarów i badań,
   3) zakres i częstotliwość badań poszczególnych elementów,
   4) metodyki referencyjne oraz warunki zapewnienia jakości badań.
2. Minister, wydając rozporządzenie, o którym mowa w ust. 1, będzie się kierować analizą dotychczas funkcjonującego systemu monitoringu wód powierzchniowych oraz podziemnych. W zakresie metodyk referencyjnych oraz warunków jakości badań tych wód minister będzie się kierować obowiązującymi w tym zakresie przepisami prawa Unii Europejskiej.

Art. 50.
1. Minister właściwy do spraw środowiska, w porozumieniu z ministrem właściwym do spraw gospodarki wodnej oraz ministrem właściwym do spraw zdrowia, określi, w drodze rozporządzenia, wymagania, jakim powinny odpowiadać wody powierzchniowe wykorzystywane do zaopatrzenia ludności w wodę przeznaczoną do spożycia, a także częstotliwość pobierania próbek wody, metodyki referencyjne analiz i sposób oceny czy wody odpowiadają wymaganym warunkom.
2. Minister właściwy do spraw środowiska, w porozumieniu z ministrem właściwym do spraw gospodarki wodnej oraz ministrem właściwym do spraw rolnictwa, określi, w drodze rozporządzenia, wymagania, jakim powinny odpowiadać wody śródlądowe będące środowiskiem życia ryb w warunkach naturalnych oraz morskie wody wewnętrzne i wody przybrzeżne będące środowiskiem życia skorupiaków i mięczaków, a także częstotliwość pobierania próbek wody, metodyki referencyjne analiz i sposób oceny czy wody odpowiadają wymaganym warunkom.
3. Minister właściwy do spraw zdrowia, w porozumieniu z ministrem właściwym do spraw gospodarki wodnej oraz ministrem właściwym do spraw gospodarki morskiej, określi, w drodze rozporządzenia, wymagania, jakim powinna odpowiadać woda w kąpieliskach, a także częstotliwość pobierania próbek wody, metodyki referencyjne analiz i sposób oceny czy wody odpowiadają wymaganym warunkom oraz sposób informowania ludności o jakości wody w kąpieliskach.
4. Wydając rozporządzenie, o którym mowa:
1) w ust. 1 - minister uwzględnia podział wód na 3 kategorie w dostosowaniu do standardowych procesów uzdatniania, jakim wody z uwagi na ich zanieczyszczenie muszą być poddane w celu uzyskania wody przeznaczonej do spożycia, a także będzie się kierował efektywnością tych procesów oraz potrzebą sukcesywnej poprawy jakości wód wykorzystywanych do poboru wody przeznaczonej do spożycia,

2) w ust. 2 - minister uwzględnia podział wód na wody dla ryb łososiowatych oraz wody dla ryb karpiowatych i będzie się kierował potrzebą ochrony populacji ryb przed szkodliwymi skutkami zanieczyszczenia wody, a ponadto będzie miał na uwadze ochronę zdrowia konsumentów ryb oraz produktów wytwarzanych ze skorupiaków i mięczaków, a tym samym potrzebę zabezpieczenia określonych populacji skorupiaków i mięczaków przed szkodliwymi skutkami wprowadzania zanieczyszczeń do wód morskich,

3) w ust. 3 - minister uwzględnia ochronę zdrowia publicznego, potrzebę sukcesywnej poprawy jakości wody w kąpieliskach oraz potrzebę dostarczania społeczeństwu informacji w tym zakresie.

5. Wody powierzchniowe, które nie spełniają wymagań określonych na podstawie ust. 1, nie mogą być wykorzystywane do zaopatrzenia ludności w wodę przeznaczoną do spożycia. Mogą one być użyte do tego celu tylko w sytuacjach wyjątkowych, pod warunkiem zastosowania odpowiednich procedur, w tym mieszania z wodami innego pochodzenia, gwarantujących spełnienie wymagań dotyczących jakości wody przeznaczonej do spożycia przez ludzi określonych na podstawie ustawy z dnia 7 czerwca 2001 r. o zbiorowym zaopatrzeniu w wodę i zbiorowym odprowadzaniu ścieków (Dz.U. Nr 72, poz. 747).

**Art. 122.**
1. Jeżeli ustawa nie stanowi inaczej, pozwolenie wodnoprawne jest wymagane na: nowe brzmienie art. 120 i 121 wchodzi w życie z dn. 30.07.2005

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) szczególne korzystanie z wód,</td>
<td>2) regulację wód oraz zmianę ukształtowania terenu na gruntach przylegających do wód, mającą wpływ na warunki przepływu wody,</td>
<td>3) wykonanie urządzeń wodnych,</td>
</tr>
<tr>
<td>4) rolnicze wykorzystanie ścieków, w zakresie nieobjętym zwykłym korzystaniem z wód,</td>
<td>5) długotrwałe obniżenie poziomu zwierciadła wody podziemnej,</td>
<td>6) piętrzenie wody podziemnej,</td>
</tr>
<tr>
<td>7) gromadzenie ścieków oraz odpadów w obrębie obszarów górniczych utworzonych dla wód leczniczych,</td>
<td>8) odwodnienie obiektów lub wykopów budowlanych oraz zakładów górniczych,</td>
<td></td>
</tr>
</tbody>
</table>
9) wprowadzanie do wód powierzchniowych substancji hamujących rozwój glonów,
[10] wprowadzanie do urządzeń kanalizacyjnych ścieków zawierających substancje szczególnie szkodliwe dla środowiska wodnego określone na podstawie art. 45 ust. 1 pkt 1.

<10) wprowadzanie do urządzeń kanalizacyjnych, będących własnością innych podmiotów, ścieków przemysłowych zawierających substancje szczególnie szkodliwe dla środowiska wodnego określone w przepisach wydanych na podstawie art. 45a ust. 1.>

2. Pozwolenie wodnoprawne jest wymagane również na:
1) gromadzenie ścieków, a także innych materialów, prowadzenie odzysku lub unieszkodliwianie odpadów,
2) wznoszenie obiektów budowlanych oraz wykonywanie innych robót,
3) wydobywanie kamienia, żwiru, piasku, innych materiałów oraz ich składowanie na obszarach bezpośredniego zagrożenia powodzą, jeżeli wydano decyzje, o których mowa w art. 40 ust. 3 i art. 83 ust. 2 pkt 1.] <= na obszarach bezpośredniego zagrożenia powodzą, jeżeli wydano decyzje, o których mowa w art. 40 ust. 3 i w art. 82 ust. 3 pkt 1.>

3. Pozwolenie wodnoprawne na szczególne korzystanie z wód jest jednocześnie pozwoleniem na wykonanie urządzeń wodnych służących do tego korzystania.

<3. Pozwolenie wodnoprawne na wprowadzanie do ziemi ścieków innych niż wymienione w art. 39 ust. 2 pkt 1 może być udzielone, jeżeli wydano decyzje, o której mowa w art. 39 ust. 3.>


Art. 193.
Kto wbrew obowiązkowi:
1) nie utrzymuje w należytym stanie wód lub urządzeń wodnych,
2) uniemożliwia dostęp do wód, o którym mowa w art. 28 ust. 1 i 2,
3) nie prowadzi pomiarów, o których mowa w art. 46,
[4) nie wykonuje lub nie utrzymuje w należytym stanie urządzeń zapobiegających szkodom, o których mowa w art. 133 ust. 1 pkt 2] <= 4) nie wykonuje lub nie utrzymuje w należytym stanie urządzeń zapobiegających szkodom, o których mowa w art. 128 ust. 1 pkt 7a.>
4) nie wykonuje lub nie utrzymuje w należytym stanie urządzeń zapobiegających szkodom, o których mowa w art. 128 ust. 1 pkt 7a - podlega karze grzywny.
<table>
<thead>
<tr>
<th>Article 194.</th>
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<tbody>
<tr>
<td><strong>Kto:</strong></td>
</tr>
<tr>
<td>1) zmienia stan wody na gruncie,</td>
</tr>
<tr>
<td>2) grodzi nieruchomość przyległą do powierzchniowych wód publicznych w odległości mniejszej niż 1,5 m od linii brzegu,</td>
</tr>
<tr>
<td>3) nie przekazuje danych niezbędnych do prowadzenia katastru wodnego,</td>
</tr>
<tr>
<td>4) nie stosuje się do zakazów, o których mowa w art. 39 i art. 40 ust. 1,</td>
</tr>
<tr>
<td>5) rozcięcia ścieki wodą w celu uzyskania ich stanu i składu zgodnego z przepisami,</td>
</tr>
<tr>
<td>6) wykorzystuje ścieki w sposób niezgodny z ustawą,</td>
</tr>
<tr>
<td>7) nie zapewnia ochrony wód przed zanieczyszczeniem zgodnie z wymaganiami, o których mowa w art. 42,</td>
</tr>
<tr>
<td>8) nie usuwa ścieków ze statku do urządzenia odbiorczego na lądzie,</td>
</tr>
<tr>
<td>9) nie stosuje koniecznego sposobu lub rodzaju upraw rolnych oraz leśnych w pasie gruntu przylegającego do linii brzegu,</td>
</tr>
<tr>
<td>10) nie oznacza granic terenu ochrony bezpośredniej i ochrony pośredniej ujęcia wody,</td>
</tr>
<tr>
<td>11) nie stosuje się do zakazów, nakazów i ograniczeń obowiązujących w strefie ochronnej ujęcia wody albo w strefie ochronnej urządzeń pomiarowych,</td>
</tr>
<tr>
<td>12) niszczyc, uszkadza, przemieszcza oznakowanie stref ochronnych ujęć wód albo stref ochronnych urządzeń pomiarowych,</td>
</tr>
<tr>
<td>13) wykonuje na obszarach bezpośredniego zagrożenia powodzią roboty oraz czynności, które mogą utrudnić ochronę przed powodzią,</td>
</tr>
<tr>
<td>14) przemieszcza bez upoważnienia urządzenia pomiarowe służby państwowych</td>
</tr>
<tr>
<td>15) udostępnia osobom trzecim informacje, o których mowa w art. 110 ust. 3 i 4, w celu wykorzystania ich do celów komercyjnych”&gt; - podlega karze grzywny.</td>
</tr>
</tbody>
</table>

**2. Unlawful dumping of waste**

**Article 4.**

Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.

**Article 13.**

1. Odzysk lub unieszkodliwianie odpadów może odbywać się tylko w miejscu wyznaczonym w trybie przepisów o zagospodarowaniu przestrzennym w instalacjach lub urządzeniach, które spełniają określone wymagania, z zastrzeżeniem: 1—4.

2. Przepis ust. 1 nie stosuje się do:

1) posiadaczy odpadów prowadzących odzysk za pomocą działań określonych jako R10 w załączniku nr 5 do ustawy, |
2) osób fizycznych prowadzących kompostowanie, |
3) dopuszczonych do spalenia roślinnych i inne, poza instalacjami i urządzeniami, jeśli spalenie to nie narusza odrębnym przepisom. |

If no danger to the environment:

- Prison from 5 days to 30 days and a Fine up to 1250 €

If danger to the environment, and/or human health:

- Prison: from 3 months up to 12 years (death) or fine: up to 180 000 euros or restriction of freedom: prohibition of travelling and public works from 3 months up to 1 year

**Explanatory note:**

Applicable for violation of the provisions on collection of waste management where it may cause a serious damage.

A collective entity is subject to liability based on the act, if a person as stated under Article 3 committed a serious offence against the environment provided for under Article 181 to 184 and Article 186, 187 and 188 of
4. Jeeli spalanie odpadów ze względu na bezpieczeństwo jest niemożliwe w instalacjach lub urządzeniach przeznaczonych do tego celu, wojewoda może zezwolić na spalanie poza instalacjami lub urządzeniami, określając w drodze decyzji miejsce spalania, ilość odpadów, warunki spalania danego rodzaju odpadu oraz czas obowiązywania tej decyzji.

5. Instalacje oraz urządzenia do odzysku lub unieszkodliwiania odpadów mogą być eksploatowane tylko wówczas, gdy:
1) nie zostaną przekroczone standardy emisyjne, określone na podstawie odrębnych przepisów;
2) pozostałe instalacje powstające w wyniku działania działości związanej z odzyskiem lub unieszkodliwianiem będa poddawane odzyskowi lub unieszkodliwianiu z zachowaniem wymagań określonych w ustawie.

6. W razie niedopełnienia przez posiadacza odpadów, prowadzącego odzysk lub unieszkodliwianie odpadów, obowiązku, o których mowa w ust. 1 i 5 oraz w art. 11, art. 12 i art. 25 ust. 2, wojewódzki insp. ochrony Środowiska może wydać decyzję o wstrzymaniu tej działalności. Posiadacz odpadów pomimo wstrzymania prowadzonej działalności jest obowiązany do usunięcia jej skutków na własny koszt.

7. Postępowanie w sprawie wydania decyzji o wstrzymaniu działalności wraz z wniesieniem do wojewódzkiego insp. ochrony Środowiska.

8. W przypadkach określonych w ust. 6, na wniosek posiadacza odpadów, wojewódzki insp. ochrony Środowiska może ustalić termin do usunięcia i zwrotu dokumentów o Autorze działalności, a w razie niesusia i ich w tym terminie — wstrzyma działalność związanej z odzyskiem lub unieszkodliwianiem odpadów.

9. W decyzji, o której mowa w ust. 6 i 8, określone termin wstrzymania działalności, uwzględniając potrzeby bezpiecznego dla Środowiska jej zakończenia.

Art. 55. 1. Zakazuje się składowania odpadów:
1) występujących w postaci ciekłej, w tym odpadów zawierających wodę w ilości powyżej 95% masy całkowitej, z wyłączeniem szlamów,
2) o wadze 1 000 kg lub więcej,
3) medycznych i weterynaryjnych,
4) powstających w wyniku prac naukowo-badawczych, rozwojowych lub działości dydaktycznej, które nie są zidentyfikowane lub są nowe i których oddziaływanie na Środowisko jest nieznanne,
5) opon i ich części, z wyłączaniem opon rowerowych i opon o średnicy większej niż 1 400 mm,
6) w wodach powierzchniowych i podziemnych,
7) w polskich obszarach morskich,
8) w przypadkach określonych w przepisach odrębnych.

Criminal code
Article 183.
§ 1. Whoever, in violation of the provisions of law, stores, disposes of, processes, renders harmless or carries waste or substances under such conditions or in such a manner that could endanger the life or health of human beings or cause the destruction to plant or animal life of considerable dimensions shall be subject to the penalty of the deprivation of liberty for a term of between 3 months and 5 years.

Article 185.
§ 1. If the consequence of the act specified in Article 182 § 1, is the destruction of plant or animal life of considerable dimensions, the perpetrator shall be subject to the penalty of the deprivation of liberty for a term of between 6 months and 8 years.

§ 2. If the consequence of the act specified in Article 182 § 1, is the death of a human being or the serious bodily harm to many persons, the perpetrator shall be subject to the penalty of the deprivation of liberty for a term of between 2 and 12 years.

See above for type and level of criminal liability.
2. Zakazuje się rozcianie lub sporządzania mieszanin odpadów ze sobą lub z innymi substancjami lub przedmiotami w celu spełnienia kryteriów dopuszczenia odpadów do składowania na składowisku odpadów.
3. Minister właściwy do spraw gospodarki w porozumieniu z ministrem właściwym do spraw środowiska, kierując się w kontekście odpadów, może określić, w drodze rozporządzenia, kryteria dopuszczenia odpadów do składowania na składowisku odpadów danego typu.
4. Odpady powinny być składowane w sposób selektywny. Dopuszcza się składowanie określonych rodzajów odpadów w sposób nieselektywny (mieszanie), jeżeli w wyniku takiego składowania nie nastąpi zwiększenie negatywnego oddziaływania tych odpadów na środowisko.
5. Minister właściwy do spraw gospodarki w porozumieniu z ministrem właściwym do spraw środowiska, kierując się w kontekście odpadów, może określić, w drodze rozporządzenia, rodzaje odpadów, które Art. 70. Kto:
2) wbrew zakazom dotyczącym składowania odpadów lub niezgodnie z wymaganiami określonymi w zatwierdzoną instrukcję eksploatacji składowiska odpadów składowuje odpady, lub
3) w miejscach na ten cel nieprzeznaczonych magazynuje lub składowuje odpady, lub
misrepresentation or fraud; or
(d) in a way which is not specified materially in the notification or movement documents; or
(e) in a way which results in recovery or disposal in contravention of Community or international rules; or
(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:
(i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
(ii) non-compliance with Article 3(4),
(iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

**Article 50**

**Enforcement in Member States**

1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take

<table>
<thead>
<tr>
<th>Substances hazardous to the environment.</th>
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<tbody>
<tr>
<td>§ 3. The same punishment shall be imposed on anyone, who despite his duty allows the commitment of the act specified in § 1 or 2.</td>
</tr>
<tr>
<td>§ 4. If the perpetrator of the act specified in § 1-3 acts unintentionally he shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.</td>
</tr>
</tbody>
</table>
all measures necessary to
ensure that they are
implemented. The
penalties provided for
must be effective,
proportionate and
dissuasive. Member
States shall notify the
Commission of their
national legislation
relating to prevention
and detection of illegal
shipments and penalties
for such shipments.

Council Regulation
(EEC) No 259/93 of 1
February 1993 on the
supervision and control
of shipments of waste
within, into and out of
the European
Community

Article 26
1. Any shipment of
waste effected:
(a) without notification
to all competent
authorities concerned
pursuant to the
provisions of this
Regulation; or
(b) without the consent
of the competent
authorities concerned
pursuant to the
provisions of this
Regulation; or
(c) with consent obtained
from the competent
authorities concerned
through falsification,

2. W zezwoleniu na prowadzenie dziańialnoEci w zakresie odzysku lub
unieszkodliwiania odpadów okreEla siÉ:
1) rodzaj i iloEç odpadów przewidywanych do odzysku lub
unieszkodliwiania w okresie roku,
2) miejsce i dopuszczone metody odzysku lub unieszkodliwiania odpadów,
3) dodatkowe warunki prowadzenia dziańialnoEci w zakresie odzysku lub
unieszkodliwiania odpadów, jeÊli wymaga tego specyfika odpadów, w
szczególnoEci niebezpiecznych, lub potrzeba zachowania wymagaj/ ochrony
ycia, zdrowia ludzi lub ochrony Erodowiska,
4) miejsce i sposób magazynowania odpadów,
5) warunki transportu odpadów,
6) czas obowiEzywania zezwolenia.
3. Zezwolenie na prowadzenie dziańialnoEci w zakresie unieszkodliwiania
odpadów niebezpiecznych moEê byE wydane po sprawdzeniu przez
wojewódzkiego inspektora ochrony Erodowiska funkcjonowania instalacji i
urzdEÊci EluÊcych do unieszkodliwiania oraz po uzyskaniu wymaganego
pozwolenia na uÊtkowanie obiektu w rozumieniu przepisów prawa
budowlanego.

Art. 70. Kto :
6) bez wymaganego zezwolenia prowadzi dziańialnoEci w zakresie zbierania,
transportu, odzysku lub unieszkodliwiania odpadów, podlega karze aresztu
albo grzywny.

• Penal code

Article 183.
§ 1. Whoever, in violation of the provisions of law, stores, disposes of,
processes, renders harmless or carries waste or substances under such
conditions or in such a manner that could endanger the life or health of
human beings or cause the destruction to plant or animal life of considerable
dimensions shall be subject to the penalty of the deprivation of liberty for a
term of between 3 months and 5 years.

§ 2. The same punishment shall be imposed on anyone, who, in violation of
the provisions of law, imports waste or substances hazardous to the
environment.

§ 3. The same punishment shall be imposed on anyone, who despite his duty
allows the commitment of the act specified in § 1 or 2.

§ 4. If the perpetrator of the act specified in § 1-3 acts unintentionally he
shall be subject to a fine, the penalty of restriction of liberty or the penalty of
misrepresentation or fraud; or (d) which is not specified in a material way in the consignment note; or (e) which results in disposal or recovery in contravention of Community or international rules; or (f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.

2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:

(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable; (b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned. In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall deprivation of liberty for up to 2 years.
oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.

3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this
cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC. Article 5 shall apply to all stages of life of the animals to which this Article applies.


**Article 6**

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

**Article 12**

1. Member States shall take the requisite measures to establish a system of strict protection for the animal.

<table>
<thead>
<tr>
<th><strong>USTAWA z dnia 18 lipca 2001 r. Prawo wodne</strong></th>
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<tbody>
<tr>
<td><strong>Art. 13.</strong></td>
</tr>
<tr>
<td>1. Ryby oraz inne organizmy żyjące w wodzie stanowią jej pożytki, do pobierania których jest uprawniony właściciel wody.</td>
</tr>
<tr>
<td>1a. Do pobierania pożytków, o których mowa w ust. 1, z wód w urządzeniu wodnym przeznaczonym do chowu lub hodowli ryb i usytuowanym na publicznych śródlądowych wodach powierzchniowych płynących jest uprawniony jego właściciel.</td>
</tr>
<tr>
<td>1b. Do pobierania pożytków, o których mowa w ust. 1, w drodze rybackiego korzystania z wód sztucznego zbiornika wodnego usytuowanego na publicznych śródlądowych wodach powierzchniowych płynących, jest uprawniony dyrektor regionalnego zarządu gospodarki wodnej, jeżeli utrzymanie i gospodarowanie wodą w tym zbiorniku należy do jego zadań.</td>
</tr>
<tr>
<td>1c. Dyrektor regionalnego zarządu gospodarki wodnej może przekazać uprawnienie, o którym mowa w ust. 1b, osobom trzecim na zasadach i warunkach określonych w ust. 1d-10.</td>
</tr>
<tr>
<td>1d. Zasady i warunki rybackiego korzystania z publicznych śródlądowych wód powierzchniowych płynących są określone w przepisach ustawy z dnia 18 kwietnia 1985 r. o rybactwie śródlądowym (Dz.U. z 1999 r. Nr 66, poz. 750, z późn. zm-4).</td>
</tr>
<tr>
<td>[2. Rybackie korzystanie z publicznych śródlądowych wód powierzchniowych płynących następuje w drodze oddania w użytkowanie obwodów rybackich, ustanowionych na podstawie ustawy z dnia 18 kwietnia 1985 r. o rybactwie śródlądowym (Dz.U. z 1999 r. Nr 66, poz. 750, z 2000 r. Nr 120, poz. 1268 oraz z 2001 r. Nr 81, poz. 875 i Nr 110, poz. 1189).]</td>
</tr>
<tr>
<td>2. Publiczne śródlądowe wody powierzchniowe płynące, stanowiące własność Skarbu Państwa, dyrektor regionalnego zarządu gospodarki wodnej oddaje do rybackiego korzystania w drodze oddania w użytkowanie obwodów rybackiego ustanowionego na podstawie ustawy o rybactwie śródlądowym.</td>
</tr>
<tr>
<td>[3. Oddanie w użytkowanie obwodów rybackich następuje za opłatą roczną, Prison: from 3 months up to 2 years or Restriction of freedom (prohibition of travelling and public works)</td>
</tr>
<tr>
<td>Fine up to 180 000 euros</td>
</tr>
</tbody>
</table>

**Explanatory Note:**

**Criminal code**

**Article 181.**

§ 1. Whoever causes destruction of plant or animal life of considerable dimensions shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years.

§ 2. Whoever, in violation of the provisions in force in the protected area, destroys or damages plants or animals, causing serious harm shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.

§ 3. The same penalty shall be imposed on anyone who, irrespective of place of the act, destroys or damages plants or animals under protection, causing essential harm.

§ 4. If the perpetrator of the act specified in § 1 acts unintentionally he shall be subject to a financial penalty to a maximum amount of 10% of incomes.

A collective entity is subject to, if a person as stated under Article 3 committed a serious offence against the environment provided for under Article 181 to 184 and Article 186, 187 and 188 of the Penal Code (among other destruction of plant or animal life of considerable dimensions).
| Article 187 | 1. Whoever destroys, considerably damages or essentially reduces the natural values of a protected area or an object, causing considerable damage shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years. |
| Article 188 | Whoever, in violation of the law, builds a new facility or extends an existing one, or conducts business which threatens the environment shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years. |

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information obtained, the competent authorities shall take appropriate action to prevent or restrict the capture and killing of such species.

5. Oddanie w użytkowanie następuje w drodze konkursu ofert, przy czym maksymalna oferowana stawka opłaty rocznej za 1 ha powierzchni obwodu rybackiego nie może być wyższa niż równowartość 0,5 dt żyta, ustalona według średniej ceny skupu żyta, o której mowa w ustawie z dnia 15 listopada 1984 r. o podatku rolnym (Dz.U. z 1993 r. Nr 94, poz. 409, z 1997 r. Nr 43, poz. 272 i Nr 137, poz. 926, z 1998 r. Nr 108, poz. 681 oraz z 2001 r. Nr 81, poz. 875), zależnie od rybackiego typu wody i jej położenia.

5a. W uzasadnionych przypadkach Prezes Krajowego Zarządu Gospodarki Wodnej, po zasięgnięciu opinii ministra właściwego do spraw rolnictwa, może zawiesić konkurs ofert albo wstrzymać zawarcie umowy o oddanie w użytkowanie obwodu rybackiego na czas niezbędny do dokonania kontroli i przeglądania. Odpowiednikiem Prezesa Krajowego Zarządu Gospodarki Wodnej jest Dyrektor Regionalny Zarządu Gospodarki Wodnej. W przypadku nierealizowania założeń zawartych w umowach w drodze konkursu ofert albo wstrzymania zawarcia umowy, wskazanego w punkcie 5a, Prezes Krajowego Zarządu Gospodarki Wodnej może podjąć decyzję o odwołaniu konkursu ofert.

6. Nie pobiera się opłat za oddanie w użytkowanie następujących części obwodu rybackiego:

1) obrębu ochronnego,
2) uzupełniającego obrębu rybackiego,
3) wód uznanych na podstawie przepisów ustawy, o której mowa w ust. 2, za nieprzydatne do prowadzenia racjonalnej gospodarki rybackiej.

7. W przypadku nierozliczania założeń zawartych w umowach w drodze konkursu ofert albo wstrzymania zawarcia umowy, wskazanego w punkcie 5a, Prezes Krajowego Zarządu Gospodarki Wodnej może podjąć decyzję o odwołaniu konkursu ofert.
of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

**Article 13**

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:
   (a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;
   (b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

organ, o którym mowa w ust. 3.
8. W sprawach nieuregulowanych dotyczących użytkowania stosuje się odpowiednio przepisy Kodeksu cywilnego.
9. Minister właściwy do spraw rolnictwa w porozumieniu z ministrem właściwym do spraw gospodarki wodnej określi, w drodze rozporządzenia, tryb i warunki przeprowadzania konkurсу ofert, o którym mowa w ust. 5, zasady oceniania ofert i elementy oferty podlegającej ocenie, a także maksymalną stawkę opłaty rocznej za 1 ha powierzchni obwodu rybackiego zależnie od rybackiego typu wody i jej położenia.

[10. Minister wydając rozporządzenie kierować się będzie potrzebą wyłonienia oferenta którego przygotowanie i doświadczenie zawodowe zapewni realizację zasad racjonalnej gospodarki rybackiej, zgodnie z przedłożonym operatem rybackim, w celu utrzymania lub uzyskania dobrego stanu ekologicznego wód obwodu rybackiego. Minister określając tryb i warunki przeprowadzania konkurсу ofert uwzględnia w szczególności konieczność udostępnienia oferentom informacji na temat:
   1) rozliczenia obciążeń publiczno-prawnych związanych z przedmiotem użytkowania oraz nakładów rzeczowo-finansowych, określonych w operacji rybackim,
   2) zasad udostępniania wód obwodu rybackiego do celów badań naukowych oraz przekazywania danych na temat wyników prowadzonej gospodarki rybackiej,
   3) ograniczeń związanych z oddaniem w użytkowanie gruntów pod wodami w obwodzie rybackim na cele określone w art. 20 ust. 1.]

10. Minister, wydając rozporządzenie, o którym mowa w ust. 9, kierować się będzie potrzebą wyłonienia oferenta, którego przygotowanie i doświadczenie zawodowe zapewni realizację zasad racjonalnej gospodarki rybackiej zgodnie z przedłożonym operatem rybackim, w celu utrzymania lub uzyskania dobrego stanu wód obwodu rybackiego, a określając tryb i warunki przeprowadzania konkurсу ofert, uwzględnia w szczególności konieczność udostępnienia oferentom informacji w zakresie:
   1) rozliczenia obciążeń publiczno-prawnych związanych z przedmiotem użytkowania oraz nakładów rzeczowo-finansowych określonych w operacji rybackim,
   2) zasad udostępniania wód obwodu rybackiego do celów badań naukowych oraz przekazywania danych na temat wyników prowadzonej gospodarki rybackiej,
   3) ograniczeń związanych z oddaniem w użytkowanie gruntów pod wodami w obwodzie rybackim na cele określone w art. 20 ust. 1 oraz potrzeby zapewnienia kontroli nad prawidłowością przeprowadzanego postępowania...
Art. 34.  
[1. Każdemu przysługuje prawo do powszechnego korzystania ze śródlądowych powierzchniowych wód publicznych, morskich wód wewnętrznych wraz z wodami Zatoki Gdańskiej i z wód morza terytorialnego, jeżeli przepisy nie stanowią inaczej.]

1. Każdemu przysługuje prawo do powszechnego korzystania ze śródlądowych powierzchniowych wód publicznych, morskich wód wewnętrznych wraz z morskimi wodami wewnętrznych Zatoki Gdańskiej, i z wód morza terytorialnego, jeżeli przepisy nie stanowią inaczej.>

2. Powszechne korzystanie z wód służy do zaspokajania potrzeb osobistych, gospodarstwa domowego lub rolnego, bez stosowania specjalnych urządzeń technicznych, a także do wypoczynku, uprawiania turystyki, sportów wodnych oraz, na zasadach określonych w przypisach odrębnych, amatorskiego polowu ryb.

3. Powszechne korzystanie z wód nie obejmuje:
   [1) wydobywania kamienia, żwiru, piasku oraz innych materiałów z morskich wód wewnętrznych wraz z wodami Zatoki Gdańskiej oraz z wód morza terytorialnego,]
   1) wydobywania kamienia, żwiru, piasku oraz innych materiałów z morskich wód wewnętrznych wraz z wodami Zatoki Gdańskiej oraz z wód morza terytorialnego,>
   2) wycinania roślin z wód lub brzegu,
   3) wydobywania kamienia i żwiru z potoków górskich [.]  
   4) korzystania z wód w zbiornikach wodnych, przemianowanych do chowu lub hodowli ryb oraz innych organizmów wodnych, usytuowanych na wodach płynących,
   5) wprowadzania ścieków. Wydobywanie kamienia, żwiru, piasku oraz innych materiałów w granicach powszechnego korzystania z wód, może odbywać się, po uzyskaniu zgody właściciela wody, w miejscach wyznaczonych przez radę gminy w drodze uchwały.

Art. 58.  
[1. Strefę ochronną, z zastrzeżeniem ust. 5, ustanawia, w drodze rozporządzenia, dyrektor regionalnego zarządu gospodarki wodnej, na wniosek i koszt właściciela ujęcia wody, wskazując zakazy, nakazy, ograniczenia oraz obszary, na których
obowiązują, stosownie do przepisów art. 52-57.

1. Strefę ochronną ustanawia, w drodze aktu prawa miejscowego, dyrektor regionalnego zarządu gospodarki wodnej, na wniosek i koszt właściciela ujęcia wody, wskazując zakazy, nakazy, ograniczenia oraz obszary, na których one obowiązują, stosownie do art. 52-57.

2. Wniosek o ustanowienie strefy ochronnej ujęcia wody zawiera:
   1) uzasadnienie potrzeby ustanowienia strefy ochronnej oraz propozycje granic wraz z planem sytuacyjnym;
   2) charakterystykę techniczną ujęcia wody,
   3) propozycje zakazów, nakazów i ograniczeń dotyczących użytkowania gruntów oraz korzystania z wód na terenach ochrony pośredniej.

3. Do wniosku o ustanowienie strefy ochronnej ujęcia wody podziemnej dołącza się dokumentację hydrogeologiczną.

3a. Do wniosku o ustanowienie strefy ochronnej ujęcia wody podziemnej dołącza się dokumentację hydrogeologiczną, o której mowa w art. 55 ust. 2.

4. Obowiązek, o którym mowa w art. 53 ust. 3 i art. 57 ust. 1, należy do właściciela ujęcia wody.

5. W przypadku, o którym mowa w art. 52 ust. 3, strefę ochronną obejmującą wyłącznie teren ochrony bezpośredniej ustanawia, na wniosek i koszt właściciela ujęcia wody, w drodze decyzji, organ właściwy do wydania pozwolenia wodnoprawnego; kopią wydanej decyzji organ przekazuje właściwemu dyrektorowi regionalnego zarządu gospodarki wodnej.

**Art. 40.**

1. Zabrania się:
   1) wprowadzania do wód odpadów, w rozumieniu ustawy z dnia 27 kwietnia 2001 r. o odpadach (Dz.U. Nr 62, poz. 628) oraz ciekłych odchodów zwierzęcych, 2) spławiania do wód śniegu wywożonego z terenów zanieczyszczonych, a w szczególności z centrów miast, terenów przemysłowych, terenów składowych, baz transportowych, dróg o dużym natężeniu ruchu wraz z parkingami, oraz jego składowania na terenach położonych między wałem przeciwpowodziowym a linią brzegu wody lub w odległości mniejszej niż 50 m od linii brzegu wody,
   3) lokalizowania na obszarach bezpośredniego zagrożenia powodzią inwestycji zaliczanych do przedeświecie mogących znacząco oddziaływać na
środowisko, gromadzenia ścieków, odchodów zwierzęcych, środków chemicznych, a także innych materiałów, które mogą zaniechać wody, prowadzenia odzysku lub unieszkodliwiania odpadów, w tym w szczególności ich składowania,
4) mycia pojazdów w wodach powierzchniowych oraz nad brzegami tych wód,
5) pobierania z wód powierzchniowych wody bezpośrednio do opryskiwaczy rolniczych oraz ich mycia w tych wodach,
6) używania farb produkowanych na bazie związków organiczno-cynowych (TBT) do konserwacji technicznych konstrukcji podwodnych.

2. Zakazy, o których mowa w ust. 1 pkt 1 i 3, nie dotyczą wykorzystywania gruzu, mas zieminych oraz skalnych przy wykonywaniu robót związanych z utrzymywaniem lub regulacją wód, a także lokalizowania inwestycji gospodarki rybackiej.

[3. Dyrektor regionalnego zarządu gospodarki wodnej może, w drodze decyzji, zwolnić od zakazu, o którym mowa w ust. 1 pkt 3, w części dotyczącej gromadzenia ścieków, a także innych materiałów, prowadzenia odzysku lub unieszkodliwiania odpadów, jeżeli wystąpi istotna potrzeba ekonomiczna lub społeczna, a zwolnienie to nie spowoduje zagrożenia dla jakości wód w przypadku wystąpienia powodzi.]

3. Dyrektor regionalnego zarządu gospodarki wodnej może, w drodze decyzji, zwolnić od zakazu, o którym mowa w ust. 1 pkt 3, jeżeli wystąpi istotna potrzeba ekonomiczna lub społeczna, a zwolnienie nie spowoduje zagrożenia dla jakości wód w przypadku wystąpienia powodzi.

4. Przepisy ust. 1 pkt 3 i ust. 3 stosuje się odpowiednio do wysp oraz przynulisk, o których mowa w art. 18

**Art. 46.**

1. Zakłady pobierające wodę oraz przeznaczające ścieki do rolniczego wykorzystania obowiązane są prowadzić pomiary ich ilości i jakości.
2. Obowiązki w zakresie pomiarów ilości i jakości ścieków wprowadzanych do wód lub do ziemi określają przepisy ustawy - Prawo ochrony środowiska.
3. Zakłady wprowadzające ścieki do wód lub do ziemi mogą zostać obowiązane do prowadzenia pomiarów jakości:
   1) wód powierzchniowych powyżej i poniżej miejsca zrzutu ścieków,
   2) wód podziemnych.
4. Zakłady pobierające wodę w ilości większej niż 100 m³ na dobę są obowiązane do dokonywania systematycznego pomiaru ilości pobieranej wody.

Art. 36.
1. Właścicielowi gruntu przysługuje prawo do zwykłego korzystania z wód stanowiących jego własność oraz z wody podziemnej znajdującej się w jego gruncie; prawo to nie stanowi prawa do wykonywania urządzeń wodnych bez wymaganego pozwolenia wodnoprawnego.
2. Zwykłe korzystanie z wód służy zaspokojeniu potrzeb własnego gospodarstwa domowego oraz gospodarstwa rolnego, z zastrzeżeniem ust. 3.
3. Nie stanowi zwykłego korzystania z wód:
   1) nawadnianie gruntów lub upraw wodą podziemną za pomocą deszczowni,
   2) korzystanie z wody podziemnej, jeżeli urządzenia do poboru wody umożliwiają pobór w ilości większej niż 5 m³ na dobę;
   2) pobór wody powierzchniowej lub podziemnej w ilości większej niż 5 m³ na dobę,
   3) korzystanie z wód na potrzeby działalności gospodarczej,
   4) wprowadzanie do wód lub do ziemi oczyszczonych ścieków, jeżeli ich ilość jest większa niż 5 m³ na dobę,
4) rolnicze wykorzystanie ścieków lub wprowadzanie do wód lub do ziemi oczyszczonych ścieków, jeżeli ich łączna ilość jest większa niż 5 m³ na dobę

Art. 27.
1. Zabrania się grodzenia nieruchomości przyległych do powierzchniowych wód publicznych w odległości mniejszej niż 1,5 m od linii brzegu, a także zakazywania lub uniemożliwiania przechodzenia przez ten obszar.
2. Zakaz, o którym mowa w ust. 1, nie dotyczy grodzenia terenów stref ochronnych ustanowionych na podstawie ustawy oraz obrębów hodowlanych ustanowionych na podstawie przepisów ustawy o rybach i śródlądowym.

Art. 58.
1. Strefę ochronną, z zastrzeżeniem ust. 5, ustanawia, w drodze rozporządzenia, dyrektor regionalnego zarządu gospodarki wodnej, na wniosek i koszt właściciela ujęcia wody, wskazując zakazy, nakazy, ograniczenia oraz obszary, na których obowiązują, stosownie do przepisów art. 52-57.
1. Strefę ochronną ustanawia, w drodze aktu prawnego miejscowego, dyrektor regionalnego zarządu gospodarki wodnej, na wniosek i koszt właściciela
ujęcia wody, wskazując zakazy, nakazy, ograniczenia oraz obszary, na których one obowiązują, stosownie do art. 52-57.>

2. Wniosek o ustanowienie strefy ochronnej ujęcia wody zawiera:
   1) uzasadnienie potrzeby ustanowienia strefy ochronnej oraz propozycje granic wraz z planem sytuacyjnym,
   2) charakterystykę techniczną ujęcia wody,
   3) propozycje zakazów, nakazów i ograniczeń dotyczących użytkowania gruntów oraz korzystania z wód na terenach ochrony pośredniej.

[3. Do wniosku o ustanowienie strefy ochronnej ujęcia wody podziemnej dołącza się dokumentację hydrogeologiczną.]

3. Do wniosku o ustanowienie strefy ochronnej ujęcia wody podziemnej dołącza się dokumentację hydrogeologiczną, o której mowa w art. 55 ust. 2.>

3a. Do wniosku o ustanowienie strefy ochronnej ujęcia wody powierzchniowej dołącza się wyniki badań, o których mowa w art. 56 ust. 2.>

4. Obowiązek, o którym mowa w art. 53 ust. 3 i art. 57 ust. 1, należy do właściciela ujęcia wody.

5. W przypadku, o którym mowa w art. 52 ust. 3, strefę ochronną obejmującą wyłącznie teren ochrony bezpośredniej ustanawia, na wniosek i koszt właściciela ujęcia wody, w drodze decyzji, organ właściwy do wydania pozwolenia wodnoprawnego; kopię wydanej decyzji organ przekazuje właściwemu dyrektorowi regionalnego zarządu gospodarki wodnej.

**Penal code**

**Article 181.**

§ 1. Whoever causes destruction of plant or animal life of considerable dimensions shall be subject to the penalty of the deprivation of liberty for a term of between 3 months and 5 years.

§ 2. Whoever, in violation of the provisions in force in the protected area, destroys or damages plants or animals, causing serious harm shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.

§ 3. The same penalty shall be imposed on anyone who, irrespective of place of the act, destroys or damages plants or animals under protection, causing essential harm.

§ 4. If the perpetrator of the act specified in § 1 acts unintentionally he shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.

§ 5. If the perpetrator of the act specified in § 2 or 3 acts unintentionally, he...
shall be subject to a fine or the penalty of restriction of liberty.

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<tr>
<td><strong>Article 4</strong> Control of the placing on the market and use of controlled substances</td>
<td></td>
</tr>
<tr>
<td>1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:</td>
<td></td>
</tr>
<tr>
<td>(a) chlorofluorocarbons;</td>
<td></td>
</tr>
<tr>
<td>(b) other fully halogenated chlorofluorocarbons;</td>
<td></td>
</tr>
<tr>
<td>(c) halons;</td>
<td></td>
</tr>
<tr>
<td>(d) carbon tetrachloride;</td>
<td></td>
</tr>
<tr>
<td>(e) 1,1,1-trichloroethane;</td>
<td></td>
</tr>
<tr>
<td>(f) hydrobromofluorocarbons.</td>
<td></td>
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<tr>
<td>(...)</td>
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</tbody>
</table>

**Article 5** Control of the use of hydrochlorofluorocarbons

1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:

| (a) in aerosols; |
| (b) as solvents: |
| (...) |

| Act on management of Ozone Depleting Substances (OJ 2001 n°62 item 537, as amended) |
| Criminal Code (OJ 1997 n°88 item 553, as amended) |
| Fine (up to 1250 €), restriction of freedom or Prison up to 2 years (in minor cases: fine or restriction of freedom only) |

**Administrative sanctions**

Act of 20 April 2004 on Substances that Deplete the Ozone layer

- Permit revocation
- Fine up to 150 € / kg of substance
- Confiscation of substance or product
- Stopping of activity
(c) as refrigerants: (…)
(d) for the production of foams: (…)
(e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
(f) in all other applications. (…)

<table>
<thead>
<tr>
<th>Article 21</th>
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<tbody>
<tr>
<td>Penalties</td>
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<tr>
<td>Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.</td>
</tr>
<tr>
<td>Criminal offence</td>
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<tr>
<td>---------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>1. Unlawful discharge of hazardous substances into water</td>
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<tr>
<td>Article 4 With regard to List I substances:</td>
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</tbody>
</table>
waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned; (b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges into sewers; (c) authorisations may be granted for a limited period only. They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.

fixed o prazo de adaptação a conceder às instalações já em funcionamento à data da sua entrada em vigor, findo o qual serão reexaminadas as licenças de descarga, os métodos analíticos de referência a utilizar para a verificação de conformidade e as demais condições a que obedecerá essa descarga, que poderá eventualmente dizer respeito também à descarga no solo.

3 - Com a entrada em vigor do diploma legal referido nos n.os 1 e 2 do presente artigo relativo a uma substância perigosa incluída nas famílias ou grupos de substâncias da lista I, consideram-se caducas todas as referências que lhe sejam feitas nos anexos XVIII, XX e XXI e nos objetivos ambientais e planos específicos que possam representar condições menos exigentes de descarga.

4 - Para as substâncias perigosas da lista II, o INAG elaborará, em colaboração com as entidades mencionadas no n.º 1, conforme o caso, programas específicos visando reduzir a poluição das águas referidas no n.º 2 do artigo 63.º

5 - Os programas específicos referidos no n.º 4 incluirão objectivos de qualidade para as águas do meio receptor, estabelecidos segundo as directivas comunitárias, quando existam, e fixarão os prazos e calendários de execução, bem como os investimentos envolvidos e as entidades responsáveis pela sua realização.

6 - As substâncias que fazem parte das famílias e grupos de substâncias constantes da lista I e para as quais não hajam ainda sido fixados valores limite nos termos dos n.os 1 e 2, e até que isso aconteça, são equiparadas, para todos os efeitos do presente diploma a substâncias da lista II.

7 - A descarga de substâncias da lista I em colectores de esgoto obedecerá às condições fixadas no diploma previsto no n.º 1, as quais prevalecem sobre qualquer outra disposição ou regulamento eventualmente em vigor, devendo a entidade competente para autorizar essa descarga comunicar as condições da autorização à DRA, a quem compete verificar a sua conformidade com as disposições daquele diploma. Até à publicação do mencionado diploma legal aplicar-se-ão os VLE dos anexos XVIII e XX.

8 - No caso de se constatar que a autorização de descarga concedida nos termos do n.º 7 não respeita as disposições employee criminally responsible for a crime of pollution, as criminal responsibility arises from violation by the agent of prohibitions or limits imposed by the competent administrative authority. The employee is also not punishable in such cases, for omission of acts which could have prevented the polluting result, as the employee is not in the position of guarantor. Only where the employee has the duty to avoid the environmental assault can he be considered criminally responsible.

Hence, in this table all the sanctions are administrative.
do diploma previsto no n.º 1, a DRA determinará, à entidade competente para autorizar, a rectificação das condições de descarga, não se considerando esta conforme, para todos os efeitos, até que obedeça às condições fixadas no referido diploma.

Artigo 67.º
Proteção das águas subterrâneas contra a poluição causada pelas substâncias perigosas
1 - É proibida, para as substâncias das famílias ou grupos de substâncias das listas I e II, a sua introdução nas águas subterrâneas sem encaminhamento no solo ou no subsolo, de ora em diante designada «descarga directa».
2 - As acções de eliminação, ou de depósito para a eliminação, das substâncias das famílias ou grupos de substâncias das listas I e II só poderão ser autorizadas caso fique previamente demonstrado pela entidade requerente que, mediante precauções técnicas adequadas nessas acções de eliminação ou de depósito, é possível impedir a sua introdução nas águas subterrâneas após encaminhamento no solo ou no subsolo, de ora em diante designada «descarga indirecta».
3 - A DRA tomará as medidas que julgar necessárias e adequadas para impedir qualquer descarga indirecta de substâncias da lista I e para limitar essas descargas no que respeita às substâncias da lista II, devido a acções efectuadas à superfície ou no interior do solo diferentes das mencionadas no n.º 2.
4 - Se o requerente da licença fizer a prova prévia de que as águas subterrâneas nas quais se prevê uma descarga de substâncias das famílias ou grupos de substâncias das listas I e II são permanentemente impróprias para qualquer uso, designadamente para uso doméstico ou agrícola, que a presença dessas substâncias não põe em causa a exploração dos recursos do solo e que através de adequadas precauções técnicas não existe o risco de que essas substâncias possam atingir outras águas a que se refere o presente capítulo ou prejudicar outros ecossistemas, a DRA poderá autorizar a descarga condicionada à adoção pela entidade licenciada das referidas precauções técnicas.
5 - As licenças a que se referem os n.os 2 e 4 só poderão ser concedidas após a DRA ter verificado que o controlo
6 - A prova prévia a que se refere o n.º 4 incluirá, para além dos demais elementos que nos termos do artigo 38.º do Decreto-Lei n.º 46/94, de 22 de Fevereiro, devem instruir o pedido de licença, um estudo das condições hidrogeológicas da respectiva zona, do eventual poder depurador do solo e do subsolo, dos riscos de poluição e alteração da qualidade das águas subterrâneas pela descarga e a prova de que a descarga nessas águas constitui uma solução adequada sob o ponto de vista ambiental.

7 - Quando uma descarga directa, ou uma acção de eliminação ou de depósito com vista à eliminação de substâncias das famílias ou grupos de substâncias das listas I e II que conduz inevitavelmente a uma descarga indirecta, for autorizada de acordo com os n.os 2 e 4, da licença deverão constar, para além dos elementos já referidos no artigo 39.º do Decreto-Lei n.º 46/94, de 22 de Fevereiro, os seguintes:

a) O local da descarga ou o local onde se situa a acção de eliminação ou depósito com vista à eliminação;
b) A técnica de descarga ou os métodos de eliminação ou depósito utilizados;
c) As precauções indispensáveis a que obedecerá a descarga ou acção de eliminação ou depósito com vista à eliminação, tendo especialmente em conta a natureza e a concentração das substâncias presentes nos efluentes ou nas matérias a eliminar ou a pôr em depósito, as características do meio receptor, assim como a proximidade de captações de água, em especial para produção de água para consumo humano, de nascente e minerais naturais;
d) A quantidade máxima de cada substância pertencente às famílias ou grupos de substâncias das listas I e II admisssível nos efluentes ou nas matérias a eliminar ou a pôr em depósito, bem como as concentrações aceitáveis dessas substâncias;
e) As precauções técnicas previstas no n.º 4 para impedir qualquer descarga de substâncias das listas I e II em outras águas que não sejam as águas subterrâneas nas quais é licenciada a descarga directa ou indirecta;
f) Os dispositivos que permitem o controlo dos efluentes...
descarregados nas águas subterrâneas;
g) Se necessário, as medidas que permitem o controlo das águas subterrâneas e designadamente da sua qualidade.
8 - As licenças a que se referem os n.os 2 e 4 serão revistas, pelo menos, de quatro em quatro anos, e podem ser prorrogadas, modificadas ou revogadas.
9 - As disposições do presente artigo prevalecem sobre o disposto nos demais artigos deste capítulo.

Código Penal Português

Artigo 278º
Danos contra a natureza
1 - Quem, não observando disposições legais ou regulamentares, eliminar exemplares de fauna ou flora ou destruir habitat natural ou esgotar recursos do subsolo, de forma grave, é punido com pena de prisão até 3 anos ou com pena de multa até 600 dias.
2 - Para os efeitos do número anterior o agente actua de forma grave quando:
a) Fizer desaparecer ou contribuir decisivamente para fazer desaparecer uma ou mais espécies animais ou vegetais de certa região;
b) Da destruição resultarem perdas importantes nas populações de espécies de fauna ou flora selvagens legalmente protegidas;
c) Esgotar ou impedir a renovação de um recurso do subsolo em toda uma área regional.
3 - Se a conduta referida no nº 1 for praticada por negligência, o agente é punido com pena de prisão até 1 ano ou com pena de multa.

Artigo 279º
Poluição
1 - Quem, em medida inadmissível:
a) Poluir águas ou solos ou, por qualquer forma, degradar as suas qualidades;
b) Poluir o ar mediante utilização de aparelhos técnicos ou de instalações; ou
c) Provocar poluição sonora mediante utilização de aparelhos técnicos ou de instalações, em especial de máquinas ou de veículos terrestres, fluviais, marítimos ou aéreos de qualquer natureza; é punido com pena de prisão
até 3 anos ou com pena de multa até 600 dias.

2 - Se a conduta referida no n° 1 for praticada por negligência, o agente é punido com pena de prisão até 1 ano ou com pena de multa.

3 - A poluição ocorre em medida inadmissível sempre que a natureza ou os valores da emissão ou da imissão de poluentes contrariarem prescrições ou limitações impostas pela autoridade competente em conformidade com disposições legais ou regulamentares e sob cominação de aplicação das penas previstas neste artigo.

**Artigo 280º**

**Poliuição com perigo comum**

Quem, mediante uma conduta descrita no n° 1 do artigo anterior, criar perigo para a vida ou para a integridade física de outrem, ou para bens patrimoniais alheios de valor elevado, é punido com pena de prisão:

a) De 1 a 8 anos, se a conduta e a criação do perigo forem dolosas;
b) Até 5 anos, se a conduta for dolosa e a criação do perigo ocorrer por negligência.

**Artigo 281º**

**Perigo relativo a animais ou vegetais**

1 - Quem:

a) Difundir doença, praga, planta ou animal nocivos; ou

b) Manipular, fabricar ou produzir, importar, armazenar, ou puser à venda ou em circulação, alimentos ou forragens destinados a animais domésticos alheios; e criar deste modo perigo de dano a número considerável de animais alheios, domésticos ou úteis ao homem, ou a culturas, plantações ou florestas alheias, é punido com pena de prisão até 2 anos ou com pena de multa.

2 - Se o perigo referido no número anterior for criado por negligência, o agente é punido com pena de prisão até 1 ano ou com pena de multa até 240 dias.

3 - Se a conduta referida no n° 1 for praticada por negligência, o agente é punido com pena de prisão até 6 meses ou com pena de multa até 120 dias.

**Artigo 282º**

**Corrupção de substâncias alimentares ou medicinais**

1 - Quem:
a) No aproveitamento, produção, confecção, fábrico, embalagem, transporte, tratamento, ou outra atividade que sobre elas incida, de substâncias destinadas a consumo alheio, para serem comidas, mastigadas, bebidas, para fins medicinais ou cirúrgicos, as corromper, falsificar, alterar, reduzir o seu valor nutritivo ou terapêutico ou lhes juntar ingredientes; ou
b) Importar, dissimular, vender, expuser à venda, tiver em depósito para venda ou, por qualquer forma, entregar ao consumo alheio substâncias que forem objecto de actividades referidas na alínea anterior ou que forem utilizadas depois do prazo da sua validade ou estiverem avariadas, corruptas ou alteradas por acção do tempo ou dos agentes a cuja acção estão expostas; e criar deste modo perigo para a vida ou para a integridade física de outrem é punido com pena de prisão de 1 a 8 anos.
2 - Se o perigo referido no número anterior for criado por negligência, o agente é punido com pena de prisão até 5 anos.
3 - Se a conduta referida no nº 1 for praticada por negligência, o agente é punido com pena de prisão até 3 anos ou com pena de multa.

**Artigo 283º**
Propagação de doença, alteração de análise ou de receituário
1 - Quem:
a) Propagar doença contagiosa;
b) Como médico ou seu empregado, enfermeiro ou empregado de laboratório, ou pessoa legalmente autorizada a elaborar exame ou registo auxiliar de diagnóstico ou tratamento médico ou cirúrgico, fornecer dados ou resultados inexactos; ou
c) Como farmacêutico ou empregado de farmácia fornecer substâncias medicinais em desacordo com o prescrito em receita médica; e criar deste modo perigo para a vida ou perigo grave para a integridade física de outrem é punido com pena de prisão de 1 a 8 anos.
2 - Se o perigo referido no número anterior for criado por negligência, o agente é punido com pena de prisão até 5 anos.
3 - Se a conduta referida no nº 1 for praticada por negligência, o agente é punido com pena de prisão até 3 anos ou com pena de multa.
2. Unlawful dumping of waste

<table>
<thead>
<tr>
<th>Directive 2006/12/EC of 5 April 2006 on waste</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Article 4.2.</strong></td>
</tr>
<tr>
<td>Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Decreto-Lei n.o 178/2006 de 5 de Setembro</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Artigo 9.o</strong></td>
</tr>
<tr>
<td><strong>Princípio da regulação da gestão de resíduos</strong></td>
</tr>
<tr>
<td>3—São igualmente proibidos o abandono de resíduos, a incineração de resíduos no mar e a sua injeção no solo, bem como a descarga de resíduos em locais não licenciados para realização de operações de gestão de resíduos.</td>
</tr>
</tbody>
</table>

| Artigo 67.o |
| **Contra-ordenações** |
| 1—Constitui contra-ordenação, punível com coima de E 1500 a E 3740, no caso de pessoas singulares, e de E 7500 a E 44 890, no caso de pessoas colectivas: |
| a) O incumprimento do dever de assegurar a gestão de resíduos, a quem, nos termos do previsto no artigo 5.o, caiba essa responsabilidade; |
| 3—A tentativa e a negligência são puníveis, sendo nesse caso reduzidos para metade os limites mínimos e máximos das coimas referidos no presente artigo. |

| Artigo 68.o |
| **Sanções acessórias** |
| 1—As contra-ordenações previstas no artigo anterior podem, em simultâneo com a coima e nos termos da lei geral, ser aplicadas as seguintes sanções acessórias: |
| a) Perda a favor do Estado dos objectos pertencentes ao agente e utilizados na prática da infracção; por entidades ou serviços públicos; |
| d) Privação do direito de participar em concursos públicos que tenham por objecto a empreitada ou a concessão de |

- **Prison** : from 1 to 8 years (see above) if “damage to nature” or “pollution” and if intentional
- **Attempt or negligence are sanctioned too**
- **Restoring prior situation**
- **Seizure**
- **Prohibition to be part of public procurement (up to 2 years)**

| No corporate criminal liability |
| Administrative sanctions: |
| • **Fine** : from 7 500 up to 44 890 euros |
| • **Accessory measures**: forfeiture of the means used to commit the offence, and up to two years: prohibition to exercise the activity which lead to the offence, prohibition to receive any subvention, cancellation of the licences |
| • **Attempt or negligence are sanctioned too** |
| • **Restoring prior situation** |
obras públicas, o fornecimento de bens e serviços, a concessão de serviços públicos e a atribuição de licenças ou alvarás;
2—As sanções referidas nas alíneas b) a f) do número anterior têm a duração máxima de dois anos contados a partir da data da respectiva decisão condenatória definitiva.

**Artigo 69.o**
Reposição da situação anterior
1—Sem prejuízo do disposto no artigo anterior, o infractor está obrigado a remover as causas da infracção e a reconstituir a situação anterior à prática da mesma.
2—Sempre que o dever de reposição da situação anterior não seja voluntariamente cumprido, as entidades competentes para a fiscalização actuam directamente por conta do infractor, sendo as despesas cobradas coercivamente através do processo previsto para as execuções fiscais.

**Artigo 70.o**
Instrução de processos e aplicação de sanções
1—Compete às entidades fiscalizadoras, exceptuadas as autoridades policiais, instruir os processos relativos às contra-ordenações referidas nos artigos anteriores e decidir da aplicação da coima e sanções acessórias.
2—Quando a entidade autuante não tenha competência para instruir o processo, o mesmo é instruído e decidido pela Inspecção-Geral do Ambiente e do Ordenamento do Território.

**Código Penal Português**

**Artigo 278º**
Danos contra a natureza
1 - Quem, não observando disposições legais ou regulamentares, eliminar exemplares de fauna ou flora ou destruir habitat natural ou esgotar recursos do subsolo, de forma grave, é punido com pena de prisão até 3 anos ou com pena de multa até 600 dias.
2 - Para os efeitos do número anterior o agente actua de forma grave quando:
a) Fizer desaparecer ou contribuir decisivamente para
fazer desaparecer uma ou mais espécies animais ou vegetais de certa região;
b) Da destruição resultarem perdas importantes nas populações de espécies de fauna ou flora selvagens legalmente protegidas;
c) Esgotar ou impedir a renovação de um recurso do subsolo em toda uma área regional.
3 - Se a conduta referida no nº 1 for praticada por negligência, o agente é punido com pena de prisão até 1 ano ou com pena de multa.

Artigo 279º
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c) Provocar poluição sonora mediante utilização de aparelhos técnicos ou de instalações, em especial de máquinas ou de veículos terrestres, fluviais, marítimos ou aéreos de qualquer natureza; é punido com pena de prisão até 3 anos ou com pena de multa até 600 dias.
2 - Se a conduta referida no nº 1 for praticada por negligência, o agente é punido com pena de prisão até 1 ano ou com pena de multa.
3 - A poluição ocorre em medida inadmissível sempre que a natureza ou os valores da emissão ou da imissão de poluentes contrariarem prescrições ou limitações impostas pela autoridade competente em conformidade com disposições legais ou regulamentares e sob cominação de aplicação das penas previstas neste artigo.

Artigo 280º
Poluição com perigo comum
Quem, mediante uma conduta descrita no nº 1 do artigo anterior, criar perigo para a vida ou para a integridade física de outrem, ou para bens patrimoniais alheios de valor elevado, é punido com pena de prisão:
a) De 1 a 8 anos, se a conduta e a criação do perigo forem dolosas;
b) Até 5 anos, se a conduta for dolosa e a criação do perigo ocorrer por negligência.
### Preamble of Regulation 1013/2006 of 14 June 2006,

**Article 3**

‘Illegal shipment’ means any shipment of waste effected:

(a) without notification to all competent authorities concerned pursuant to this Regulation; or

(b) without the consent of the competent authorities concerned pursuant to this Regulation; or

(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or

(d) in a way which is not specified materially in the notification or movement documents; or

(e) in a way which results in recovery or disposal in contravention of Community or international rules; or

(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or

(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:

(i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB; or

(ii) non-compliance with

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### Decreto-Lei nº 296/95 de 17 de Novembro de 1995

**Artigo 3.º**

Transferências de resíduos por via marítima

Para as transferências de resíduos que se efectuem por via marítima é exigido:

a) Parecer genérico favorável da Direcção-Geral de Portos, Navegação e Transportes Marítimos (DGPNTM), que levará em conta as normas de segurança específicas para o transporte em causa, por forma a garantir a segurança da navegação, a salvaguarda da vida humana no mar e a protecção do meio ambiente;

b) Menção no diário náutico do navio do transporte de resíduos, das entradas e saídas em águas nacionais dos Estados membros ou de terceiros Estados e da data da entrega aos respectivos destinatários;

c) Registo no plano de carga do navio da localização, tipo, embalagem e quantidade de resíduos transportados;

d) Manutenção a bordo do navio de amostras dos resíduos transportados, durante um período mínimo de três meses, devidamente identificadas, lacradas e autenticadas pelo carregador e notificador, no caso de transporte a granel de resíduos;

e) Recolha de amostras, nos termos definidos na alínea anterior, quando ocorram avarias na carga, envolvendo derrames de resíduos embalados.

**Artigo 4.º**

Movimento transfronteiriço a partir de portos portugueses

1 - A autoridade de notificação só poderá conceder a autorização para a eliminação de resíduos no alto mar a partir de portos portugueses se a operação de eliminação estiver abrangida por uma licença específica da autoridade marítima.

2 - É proibida a eliminação de resíduos no mar territorial e na zona económica exclusiva de Portugal.

**Artigo 5.º**

Garantia financeira

1 - As transferências de resíduos abrangidas pelo disposto no Regulamento estão sujeitas à constituição de uma garantia financeira ou equivalente que cubra as despesas de transferência e da sua eliminação ou valorização.

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**Administrative sanctions:**

- **Fine:** up to +/- 3 000 euros
- **Accessory measures:** forfeiture of the means used to commit the offence, prohibition to exercise the activity which lead to the offence, prohibition to receive any subvention, cancellation of the licences
- **Attempt or negligence are sanctioned too**
- **Restoring prior situation**

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**Prison:** from 1 to 8 years if “damage to nature” or “pollution” and if intentional

**Cancellation of the licences**

---

**No corporate criminal liability**
Article 3(4),
(iii) the shipment being
effected in a way which is
not specified materially in
the document set out in
Annex VII.

Article 50

Enforcement in Member
States
1. Member States shall lay
down the rules on penalties
applicable for infringement
of the provisions of this
Regulation and shall take all
measures necessary to
ensure that they are
implemented. The penalties
provided for must be
effective, proportionate and
dissuasive. Member States
shall notify the Commission
of their national legislation
relating to prevention and
detection of illegal
shipments and penalties for
such shipments.

2 - A garantia referida no número anterior será constituída pelo notificador e apresentada à DGA, podendo revestir a forma de caução ou garantia bancária, bem como a de certificado emitido por fundo de indemnização ou apólice de seguro que sirvam integralmente as finalidades visadas com a exigência da garantia.

3 - O montante da garantia referida nos números anteriores será calculado por aplicação da fórmula prevista no anexo ao presente diploma e que dele faz parte integrante.

4 - No acto de apresentação da garantia financeira, o notificador deverá anexar nota explicativa do cálculo em que a mesma se baseia.

5 - A garantia financeira considera-se suficiente e legalmente constituída se não for recusada, com fundamento em insuficiência, pela DGA.

6 - As garantias referidas nos números anteriores ficarão exclusivamente afectas à cobertura das despesas mencionadas no n.º 1 e serão devolvidas mediante apresentação de:
   a) Certificado de eliminação ou valorização que ateste que os resíduos chegaram ao seu destino e foram eliminados ou valorizados segundo métodos ecologicamente correctos;
   b) Exemplar de controlo T5, elaborado de acordo com o Regulamento (CEE) n.º 2823/87, da Comissão, que ateste, em caso de trânsito através da União Europeia, que os resíduos abandonaram o território da União;

7 - No caso de importação ou trânsito proveniente de outro Estado membro da União Europeia, o notificador fica dispensado de constituir a garantia a que se referem os números anteriores, se fizer prova, mediante declaração da autoridade competente desse Estado, de que já constituiu garantia adequada para o mesmo efeito.

Artigo 6.º

Seguros
1 - As transferências de resíduos às quais se aplica o presente diploma ficam condicionadas à existência de um seguro de responsabilidade civil por danos causados ao ambiente ou à saúde pública, nos termos dos números seguintes.
2 - A obrigação de segurar recai sobre o transportador.
3 - O contrato de seguro tem por objecto a garantia do pagamento das indemnizações que legalmente sejam exigíveis ao segurado, em razão da sua responsabilidade subjectiva ou objectiva, pelos danos causados a terceiros e que resultem do exercício profissional da actividade de transporte de resíduos.

4 - O contrato de seguro poderá excluir os danos:
   a) Devidos a responsabilidade por acidente com veículo que, nos termos da lei, deva ser objecto de seguro obrigatório de responsabilidade civil;
   b) Devidos a atrasos ou incumprimento na efectivação dos trabalhos;
   c) Reclamados com base em responsabilidade do segurado resultante de acordo ou contrato particular, na medida em que a mesma exceda a responsabilidade a que o segurado estaria obrigado na ausência de tal acordo ou contrato;
   d) Devidos a actuação dolosa do segurado ou de terceiro;
   e) Resultantes de poluição gradual;
   f) Causados por acidente nuclear;
   g) Causados por tremores de terra ou outras catástrofes naturais;
   h) Resultantes de actos de guerra, invasão, hostilidades, rebelião, insurreição, poder militar ou usurpado, tentativa de usurpação do poder, terrorismo, sabotagem, tumultos, assaltos, greves ou lock-out;

5 - O contrato de seguro terá um capital mínimo de 20 milhões de escudos por sinistro e por anuidade.

6 - O contrato de seguro pode incluir uma franquia não aponível a terceiros lesados.

7 - O seguro cobrirá os danos causados por sinistros ocorridos durante a vigência da apólice e reclamados até dois anos após a data do seu termo.

8 - O contrato de seguro pode prever o direito de regresso da seguradora, nos casos de actuação dolosa do segurado.

9 - A resolução ou suspensão do contrato de seguro reger-se pelo disposto na lei geral e torna-se eficaz três dias úteis depois de comunicada pela seguradora à DGA, sob pena da sua inoponibilidade perante terceiros.

_Código Penal Português_

_Artigo 279º_

_Poluição_
1 - Quem, em medida inadmissível:
   a) Poluir águas ou solos ou, por qualquer forma, degradar as suas qualidades;
   b) Poluir o ar mediante utilização de aparelhos técnicos ou de instalações; ou
   c) Provocar poluição sonora mediante utilização de aparelhos técnicos ou de instalações, em especial de máquinas ou de veículos terrestres, fluviais, marítimos ou aéreos de qualquer natureza; é punido com pena de prisão até 3 anos ou com pena de multa até 600 dias.
2 - Se a conduta referida no nº 1 for praticada por negligência, o agente é punido com pena de prisão até 1 ano ou com pena de multa.
3 - A poluição ocorre em medida inadmissível sempre que a natureza ou os valores da emissão ou da imissão de poluentes contrariarem prescrições ou limitações impostas pela autoridade competente em conformidade com disposições legais ou regulamentares e sob cominação de aplicação das penas previstas neste artigo.

Artigo 280º
Poluição com perigo comum
Quem, mediante uma conduta descrita no nº 1 do artigo anterior, criar perigo para a vida ou para a integridade física de outrem, ou para bens patrimoniais alheios de valor elevado, é punido com pena de prisão: a) De 1 a 8 anos, se a conduta e a criação do perigo forem dolosas; b) Até 5 anos, se a conduta for dolosa e a criação do perigo ocorrer por negligência.

4. Unlawful significant deterioration of a protected habitat


Article 6
1. For special areas of conservation, Member States shall establish the necessary conservation measures involving, if necessary:
   - Restoring prior situation
   - Fine: from 3990 euros up to 44890 euros
   - Prison: from 6 months (or periodic penalty payment up to 6 months) up to 3 years
   - Restoring prior situation

No corporate criminal liability
need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.

2. Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.

**Article 12**

1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:

   a) all forms of deliberate capture or killing of specimens of these species in the wild;
   b) deliberate disturbance of these species, particularly during the

fazer desaparecer uma ou mais espécies animais ou vegetais de certa região;

b) Da destruição resultarem perdas importantes nas populações de espécies de fauna ou flora selvagens legalmente protegidas;

c) Esgotar ou impedir a renovação de um recurso do subsolo em toda uma área regional.

3 - Se a conduta referida no nº 1 for praticada por negligência, o agente é punido com pena de prisão até 1 ano ou com pena de multa.

**Artigo 281º**

**Perigo relativo a animais ou vegetais**

1 - Quem:

a) Difundir doença, praga, planta ou animal nocivos; ou

b) Manipular, fabricar ou produzir, importar, armazenar, ou puser à venda ou em circulação, alimentos ou forragens destinados a animais domésticos alheios; e criar deste modo perigo de dano a número considerável de animais alheios, domésticos ou úteis ao homem, ou a culturas, plantações ou florestas alheias, é punido com pena de prisão até 2 anos ou com pena de multa.

2 - Se o perigo referido no número anterior for criado por negligência, o agente é punido com pena de prisão até 1 ano ou com pena de multa até 240 dias.

3 - Se a conduta referida no nº 1 for praticada por negligência, o agente é punido com pena de prisão até 6 meses ou com pena de multa até 120 dias.

- **Decreto-Lei n.º 49/2005 de 24 de Fevereiro**

O Decreto-Lei n.º 140/99, de 24 de Abril, rectificado pela Declaração de Rectificação n.º 10-AH/99, de 31 de Maio, procedeu à transposição para o ordenamento jurídico português da Directiva n.º 79/409/CEE, do Conselho, de 2 de Abril, relativa à conservação das aves selvagens (directiva aves), na redacção que lhe foi dada pelas Directivas n.ºs 85/411/CEE, da Comissão, de 25 de Junho, 91/244/CEE, da Comissão, de 6 de Março, 94/24/CE, do Conselho, de 8 de Junho, e 97/49/CE, da Comissão, de 29 de Julho, e da Directiva n.º 92/43/CEE, do Conselho, de 21 de Maio, relativa à preservação dos habitats naturais e
period of breeding, rearing, hibernation and migration;
(c) deliberate destruction or taking of eggs from the wild;
(d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Artigo 11.º
Espécies animais
1 - Para assegurar a protecção das espécies de aves previstas na alínea a) do n.º 1 do artigo 2.º e das espécies animais constantes dos anexos B-II e B-IV, é proibido:
   a) Capturar, abater ou deter os espécimes respectivos, qualquer que seja o método utilizado;
   b) Perturbar esses espécimes, nomeadamente durante o período de reprodução, de dependência, de hibernação e de migração, desde que essa perturbação tenha um efeito significativo relativamente aos objectivos do presente diploma;
   c) Destruir, danificar, recolher ou deter os seus ninhos e ovos, mesmo vazios;
   d) Deteriorar ou destruir os locais ou áreas de reprodução e repouso dessas espécies.

2 - Relativamente às espécies referidas no n.º 1, são ainda proibidos a exposição com fins comerciais, a venda, a oferta, a troca, a detenção, o transporte para fins de venda ou de troca e ainda a compra de espécimes retirados do meio natural, vivos ou mortos, incluindo qualquer parte ou produto obtido a partir dos mesmos, com excepção dos espécimes obtidos legalmente antes da entrada em vigor do Decreto-Lei n.º 75/91, de 14 de Fevereiro, com a redacção que lhe foi dada pelo Decreto-Lei n.º 224/93, de 18 de Junho, e do Decreto-Lei n.º 226/97, de 27 de Agosto.

3 - As proibições referidas nas alíneas a) e b) do n.º 1 e no n.º 2 aplicam-se a todas as fases da vida dos animais abrangidos pelo presente artigo.

Artigo 12.º
Espécies vegetais
1 - Para assegurar a protecção das espécies vegetais constantes dos anexos B-II e B-IV, são proibidos:
   a) A colheita, o corte, o desenraizamento ou a destruição das plantas ou partes de plantas no seu meio natural e dentro da sua área de distribuição natural;
   b) A detenção, o transporte, a venda ou troca e a oferta da fauna e da flora selvagens (directiva habitats), na redacção que lhe foi dada pela Directiva n.º 97/62/CE, do Conselho, de 27 de Outubro.
<table>
<thead>
<tr>
<th>Para fins de venda ou de troca de espécimes das referidas espécies, colhidos no meio natural, com excepção dos espécimes legalmente colhidos antes da entrada em vigor do Decreto-Lei n.º 226/97, de 27 de Agosto.</th>
</tr>
</thead>
</table>
| **Artigo 15.º**  
**Coleções**  
1 - É proibido coleccionar espécimes, vivos ou mortos, das espécies previstas nos artigos 11.º e 12.º, incluindo partes ou produtos delas derivados, bem como ninhos e ovos, com excepção das espécies constantes no anexo D quando esses actos sejam permitidos pela legislação que regula o exercício da caça.  
3 - Para efeitos do disposto no n.º 2, os interessados devem comprovar junto do ICN a finalidade das respectivas colecções de acordo com os procedimentos previstos no artigo 20.º, com as necessárias adaptações.  
4 - Para efeitos de aplicação dos n.ºs 2 e 3, as entidades singulares ou colectivas já possuidoras de colecções ficam obrigadas a dar conhecimento ao ICN das características essenciais identificadoras dessas colecções, no prazo de 180 dias contados da data da entrada em vigor do presente diploma. |
| **Artigo 15.º-A**  
**Espécimes de cativeiro**  
Os criadores de espécimes de espécies de aves autóctones ou de outras espécies incluídas no âmbito de aplicação do presente diploma devem proceder conforme o estipulado em portaria conjunta dos Ministros da Agricultura, Pescas e Florestas e do Ambiente e do Ordenamento do Território. |
| **Artigo 19.º**  
**Taxidermia**  
1 - É proibida a taxidermia em espécimes das espécies de aves previstas na alínea a) do n.º 1 do artigo 2.º e das espécies de animais inscritas nos anexos B-II, B-IV e B-V, até à entrada em vigor da respectiva regulamentação, por portaria do Ministro do Ambiente e do Ordenamento do Território.  
2 - É proibida a taxidermia em espécimes das espécies constantes do anexo D, até à entrada em vigor da
respeita regulamentação, por portaria do Ministro da Agricultura, Pescas e Florestas.

SECÇÃO IV
Fiscalização e sanções

Artigo 22.º
Contra-ordenações

1 - Constitui contra-ordenação, punível com coima de (euro) 250 a (euro) 3740, aplicável a pessoas singulares, e de (euro) 3990 a (euro) 44890, no caso de pessoas colectivas:
   a) A violação do disposto no n.º 2 do artigo 9.º;
   b) A violação do disposto no n.º 1 do artigo 10.º

2 - Constitui contra-ordenação, punível com coima de (euro) 125 a (euro) 3740, aplicável a pessoas singulares, e de (euro) 3990 a (euro) 44890, no caso de pessoas colectivas:
   a) A violação do disposto nos n.ºs 1, 2 e 3 do artigo 11.º;
   b) A violação do disposto no n.º 1 do artigo 12.º;
   c) A violação do disposto no artigo 13.º;
   d) A violação do disposto nos n.ºs 1, 3 e 4 do artigo 15.º;
   e) A violação do disposto no n.º 2 do artigo 18.º;
   f) A violação do disposto nos n.ºs 1 e 2 do artigo 19.º

3 - A negligência é punível, sendo neste caso reduzidos a metade os montantes máximos das coimas.

4 - A tentativa é igualmente punível, sendo o valor da coima especialmente atenuado.

5. Unlawful trade in or use of Ozone Depleting Substances (ODS)


Article 21
Penalties

Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and

Decreto-Lei n.º 152/2005 de 31 de Agosto

O empobrecimento da camada de ozono provocado pela emissão de certas substâncias para a atmosfera tem como resultado o aumento das radiações UV-B, constituindo uma ameaça grave para a saúde e para o ambiente.

Artigo 11.º
Fiscalização, contra-ordenações e sanções

1 - Sem prejuízo das contra-ordenações previstas no artigo 8.º do Decreto-Lei n.º 119/2002, de 20 de Abril, bem como nos diplomas legais de gestão de resíduos aplicáveis, constitui contra-ordenação punível com coima de (euro) 1250 a (euro) 3740, quando praticada por pessoas singulares, e de (euro) 2500 a (euro) 44890, quando praticada por pessoas colectivas:
   a) A violação da obrigação de recuperação, para efeitos

Fine of up to € 3740,98

No corporate criminal liability

Administrative sanctions:
Fine up to € 44.891,81
Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.

de reciclagem, valorização ou destruição das substâncias regulamentadas contidas em equipamentos de refrigeração e de ar condicionado, bombas de calor, sistemas de proteção contra incêndios e extintores, durante as operações de assistência ou manutenção ou antes das operações de desmantelamento ou destruição definitiva do equipamento em fim de vida, através de tecnologias ecologicamente aceitáveis;

b) A realização de operações de recuperação, reciclagem, valorização e destruição das substâncias regulamentadas contidas em equipamentos de refrigeração e de ar condicionado, bombas de calor, sistemas de proteção contra incêndios e extintores por técnicos não qualificados;

c) As intervenções em equipamentos de refrigeração e de ar condicionado e bombas de calor realizadas por técnicos sem as qualificações identificadas no anexo I do presente diploma;

d) As intervenções em equipamentos de refrigeração e de ar condicionado e bombas de calor realizadas sem observância da norma EN 378;

e) As intervenções em sistemas de proteção contra incêndios e extintores efectuadas por técnicos sem a qualificação exigida no n.º 2 do artigo 5.º do presente diploma;

f) As intervenções em sistemas de proteção contra incêndios e extintores efectuadas sem observância das normas NPEN 3-7, NPEN 27201 e NP 4413;

g) O não preenchimento da ficha de intervenção a que se refere o n.º 3 do artigo 8.º;

h) O não envio das fichas de intervenção ao Instituto do Ambiente, conforme exigível nos termos do n.º 4 do artigo 8.º;

i) A não adopção das medidas viáveis para evitar ou minimizar as fugas das substâncias regulamentadas;

j) A violação das obrigações impostas pelo n.º 1 do artigo 9.º ao proprietário e ou detentor de um equipamento de refrigeração e de ar condicionado, bombas de calor, sistemas de proteção contra incêndios e extintores;

k) A violação da obrigação imposta pelo n.º 2 do artigo 9.º ao técnico qualificado;

l) A violação das obrigações impostas pelo n.º 3 do
artigo 9.º aos operadores de gestão de resíduos, enquanto detentores de equipamentos em fim de vida que contêm as substâncias regulamentadas; n) Não observância pelos respectivos intervenientes das soluções técnicas aplicáveis constantes do anexo IV. 2 - A fiscalização, processamento, aplicação e afectação do produto das coimas relativas às contra-ordenações previstas no número anterior são aplicáveis os artigos 7.º, 9.º e 10.º do Decreto-Lei n.º 119/2002, de 20 de Abril, respectivamente.
1. Unlawful discharge of hazardous substances into water

Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community

Article 4
With regard to List I substances:
(a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned;
(b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers;
(c) authorisations may be granted for a limited period only. They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex

THE CRIMINAL CODE
Chapter V
Crimes and delicts against the environment
Violation of rules on water protection
Art.396 – (1) The act of expelling, throwing or injecting into surface or subterranean waters, into inner sea waters or into territorial sea waters used water, waste, residue or products of any kind, which contain substances, bacteria or microbes, in a quantity or concentration that can change characteristics of the water, thus jeopardising the life, health and corporal integrity of persons, the life of animals, the environment, agricultural or industrial production or the piscatorial supply, shall be punished by strict imprisonment from one to 5 years.
(2) The penalty in para.(1) shall sanction also the following acts:
   a) polluting, in any way, water supplies, if this has a systematic nature and causes damage to the users of water downstream;
   b) discharging used waters and waste from ships or floating platforms directly into natural waters;
   c) pollution by expelling or sinking into natural waters dangerous substances or waste directly or from ships or floating platforms;
   d) storing, in the major channel of rivers, nuclear fuel or waste emerging from its use.
(3) Storage or use of chemical fertilisers, pesticides or other toxic dangerous substances, in the water protection areas, shall be punished by strict imprisonment from one to 3 years or by days/fine.

- If intentional : strict imprisonment from 1 to 5 years
- If negligence: strict imprisonment from 1 to 3 years or by days/fine
- If serious corporal injury of a person or have endangered the health or corporal integrity of a great number of persons or caused significant material damage, the penalty shall be strict imprisonment from 5 to 10 years and the prohibition of certain rights
- fine in the form of days/fine, from 5 to 360 days, each day being calculated from 100.000 to 1.000.000 lei
- community service, from 100 to 500 hours.
- prohibition of the exercise of certain rights from one to 10 years

- The main penalty is fine: when the law provides the penalty of imprisonment for the offence committed by a natural person, the special minimum of the fine for legal persons shall be 10.000.000 lei, and the special maximum of the fine shall be 7.500.000.000 lei. (296 € to 222 649 €)
- Complementary penalties are:
  a) dissolution of legal entities;
  b) suspension of the activity or of one of the activities of the legal entity for a duration of one to 3 years;
  c) prohibition to partake in public acquisition proceedings, from one to 5 years;
  d) prohibition of access to certain financial resources, from one to 5 years;
  e) display of the conviction decision or its dissemination in the Official Gazette of Romania, or in the media.
IX to Directive 2000/60/EC.


Article 11

Programme of measures

3. “Basic measures” are the minimum requirements to be complied with and shall consist of:

(i) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

(4) Commission of the acts in para.(1) and (2) by negligence shall be punished by strict imprisonment from one to 3 years or by days/fine, and that of the acts in para.(3), by imprisonment from 6 months to one year or by days/fine.

(5) If the acts in para.(1)-(3) resulted in the serious corporal injury of a person or have endangered the health or corporal integrity of a great number of persons or caused significant material damage, the penalty shall be strict imprisonment from 5 to 10 years and the prohibition of certain rights.

(6) If the acts in para.(1)-(3) resulted in the death of one or more persons, in the mass poisoning of the population, in epidemics or in major damage to the national economy, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

Explanatory note –

Regulations for execution of fines

Contents of the penalty of the fine in the form of days/fine

The penalty of fine is applied in the form of days/fine. In this case the total sum to be paid is the result of multiplying the number of days of penalty established by the court in relation to the seriousness of the act and the person of the perpetrator, by the sum representing the evaluation in money of each penalty day, taking into account the perpetrator’s financial possibilities and the legal obligations he/she has with regard to the persons in his/her care.

When the law provides for a fine without showing its limits, alternatively with the penalty of detention, the special minimum of days/fine is 40 days, and the special maximum is 180 days, and when the law provides the penalty of the fine alternatively with the penalty of strict imprisonment, the special minimum is 60 days and the special maximum is 240 days.

Explanatory note - criminal system

• Conditions for criminal liability of legal entities

A legal entity, except for the State, the public authorities and the public institutions, shall be criminally liable, in cases provided in the law, for offences committed on behalf or in the interest of the legal entity, by its bodies or representatives.

Criminal liability for legal entities shall not exclude the criminal liability of natural persons who took part in the commission of that same act.

2. Unlawful dumping of waste

Directive 2006/12/EC of 5 April 2006 on waste

Article 4.

2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.

Penal Code

Violation of rules on soil protection

**Art.400** – (1) The act of bringing into the country cultures of micro-organisms, live plants and animals belonging to the wild flora and fauna, without approval from the central public authority for environment protection, shall be punished by strict imprisonment from 2 to 7 years.

(2) The penalty in para.(1) shall sanction also the failure, in awareness, to take measures for the total removal of dangerous chemical substances that have become waste, not supervising and not securing storage facilities for waste and dangerous substances, as well as refusal to intervene in case of accidental pollution of waters and coastal areas.

• strict imprisonment from 1 to 7 years

• If serious corporal injury of a person or danger of the health or corporal integrity of a great number of persons or significant material damage, the penalty shall be strict imprisonment from 5 to 10 years and the prohibition of certain rights

• fine in the form of days/fine, from 5 to 360 days, each day being calculated from 100.000 to 1.000.000 lei

• community service, from 100 to 500 hours.

• The main penalty is fine: when the law provides the penalty of imprisonment for the offence committed by a natural person, the special minimum of the fine for legal persons shall be 10.000.000 lei, and the special maximum of the fine shall be 7.500.000.000 lei.

• Complementary penalties are:

a) dissolution of legal
3. **Illegal shipment of waste**

**Preamble of Regulation 1013/2006 of 14 June 2006, Article 35**

‘illegal shipment’ means any shipment of waste effected:

(a) without notification to all competent authorities concerned pursuant to this Regulation; or

(b) without the consent of the competent authorities concerned pursuant to this Regulation; or

(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or

(d) in a way which is not specified materially in the notification or movement documents; or

(e) in a way which results in recovery or disposal in contravention of Community or international rules; or

(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or

(g) In a way resulting in the import of non-hazardous waste laid down in annex 1, without considering the limits of the processing capacity of installations;

(h) contrary to Articles 34, 36, 39, 40, 41 and 43; or

(i) not complying with legal obligations on the storage in places of specific destination and recycling recyclable waste.

(3) The following shall be punished by severe imprisonment from one to 5 years:

- h) uncontrolled storage of household, industrial and animal waste in areas not expressly established for this and unauthorised, resulting in severe damage to the soil and pollution of the environment;
- i) not complying with legal obligations on the storage in places of specific destination and recycling recyclable waste.

(4) If the acts in para. (1)-(3) resulted in the serious corporal injury of a person or has endangered the health or corporal integrity of a great number of persons or caused significant material damage, the penalty shall be strict imprisonment from 5 to 10 years and the prohibition of certain rights.

(5) If the acts in para. (1)-(3) resulted in the death of one or more persons or in major damage to national economy, the penalty shall be severe detention from 15 to 20 years

- prohibition of the exercise of certain rights from one to 10 years
- If death of one or more persons or in major damage to national economy, the penalty shall be severe detention from 15 to 20 years
- entities; b) suspension of the activity or of one of the activities of the legal entity for a duration of one to 3 years;
- c) prohibition to partake in public acquisition proceedings, from one to 5 years;
- d) prohibition of access to certain financial resources, from one to 5 years;
- e) display of the conviction decision or its dissemination in the Official Gazette of Romania, or in the media.

1. **GOVERNMENT DECISION No 228/20.02.2004 on the control of introducing into the country non hazardous waste with the purpose of import, inward processing and transit (Official Journal 189/04.03.2004)**

The following actions shall be considered as minor offences and shall be punished with a fine from 50,000,000 lei to 250,000,000 lei:

- Not transmitting by the non hazardous waste consignee to the environmental protection agency of the movement/tracking form according to the provisions of art.21, para. 2;
- bringing into the country by the importer of the transportation means loaded with non-hazardous waste without the documents and the approvals referred to in art.13 and art.24;
- the import of non-hazardous waste laid down in annex 1, without considering the limits of the processing capacity of installations;
- non-compliance by the importer with the obligation of return abroad of the non-hazardous waste resulted from its inward processing.

1. Fine from 50,000,000 lei to 250,000,000 Lei
(g) which, in relation to shipments
of waste as referred to
in Article 3(2) and (4), has resulted
from:
(i) the waste being discovered not
to be listed in Annexes III, IIIA or
IIIB, or
(ii) non-compliance with Article
3(4),
(iii) the shipment being effected in
a way which is not specified
materially in the document set out
in Annex VII.

Article 50
Enforcement in Member States
1. Member States shall lay down
the rules on penalties applicable for
infringement of the provisions of
this Regulation and shall take all
measures necessary to ensure that
they are implemented. The
penalties provided for must be
effective, proportionate and
dissuasive. Member States shall
notify the Commission of their
national legislation relating to
prevention and detection of illegal
shipments and penalties for such
shipments.

Council Regulation (EEC) No
259/93 of 1 February 1993 on the
supervision and control of
shipments of waste within, into
and out of the European
Community

Article 26
1. Any shipment of waste effected:
(a) without notification to all
competent authorities concerned
pursuant to the provisions of this

2. Penal Code

Article 382
Failure to comply with provisions on importing toxic
waste and residue
4) importing devices, installations, equipment,
machinery, substances and products used and worn down
belonging to the category of waste the import of which is
prohibited
5) refusing to return waste to the country of origin if
such a measure has been ordained by the competent bodies;
6) conducting any other operations of importing
waste and residue of any kind or other merchandise that is
dangerous for public health and for the environment or
inserting in any way or transiting them on Romanian
territory, while not observing legal provisions.

Art.452
import and export operations
4) conducting any unauthorised act considered by
the law to be operations of export, import or transit

2.

Art. 382
• Strict imprisonment from 2 to 7 years
• If danger for the health or corporal
integrity of a great number of persons
or have caused significant material
damage, the penalty shall be strict
imprisonment from 3 to 10 years and
the prohibition of certain rights
• Fine (see above)
• community service, from 100 to 500
hours
• prohibition of the exercise of certain
rights from one to 10 years

If death of one or several persons or
major damage to the national
economy was caused, the penalty
shall be severe detention from 15 to
20 years and the prohibition of
certain rights

Art. 452
• strict imprisonment from 2 to 7 years
• fine (see above)
• community service, from 100 to 500
hours
• prohibition of the exercise of certain
rights from one to 10 years

2. Art. 382 and 452
• The main penalty is fine:
when the law provides the
penalty of imprisonment for
the offence committed by a
natural person, the special
minimum of the fine for
legal persons shall be
10.000.000 lei, and the
special maximum of the fine
shall be 7.500.000.000 lei.
• Complementary penalties
are:
a) dissolution of legal
entities;
b) suspension of the activity
or of one of the activities of
the legal entity for a
duration of one to 3 years;
c) prohibition to partake in
public acquisition
proceedings, from one to 5
years;
d) prohibition of access to
certain financial resources,
from one to 5 years;
e) display of the conviction
decision or its dissemination
in the Official Gazette of
Romania, or in the media.
Regulation; or
(b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) which is not specified in a material way in the consignment note; or
(e) which results in disposal or recovery in contravention of Community or international rules; or
(f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.
2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.
In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of
destination and with an explanation of the reason.
3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.
4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.
5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

4. Unlawful significant deterioration of a protected habitat


Article 6
2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and

1. Emergency Government Ordinance no 236/2000 Published in the Official Journal no 625 from 12.04.2000 regarding the management of protected natural areas and the conservation of natural habitats, wild flora and fauna as amended by Law No. 462 from July 18, 2001 for the approval of the Government Ordinance of Urgency No. 236/2000 regarding the management of protected natural areas, and the conservation of natural habitats, wild flora and fauna

No criminal offence
Fine from 500 000 (14,5 €) up to 20 000 000 lei (590 €)

Fine from 5 000 000 (145 € ) up to 75 000 000 lei (2220 €)
offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.
3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

Article 12
1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:
(a) all forms of deliberate capture or killing of specimens of these species in the wild;
(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
(c) deliberate destruction or taking of eggs from the wild;
(d) deterioration or destruction of breeding sites or resting places.
2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.
3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.
4. Member States shall establish a

CHAPTER III
Conservation of habitats and species

Art.25. – (1) Natural and semi-natural, terrestrial, aquatic and underground habitats of community interest, that exist on Romanian territory and are provided in Annex No.2, are protected and conserved by declaring special areas of conservation.
(2) Wild terrestrial, aquatic and underground plant and animal species of community interest, that are provided in Annex No.3, are protected by declaring special areas of conservation and avifauna areas of special protection.

Art.26. – For wild terrestrial, aquatic and underground plant and animal species under special protection regulations, including those provided in Annex No.4 as well as the species included on the national red list and which live on as well as outside protected natural areas, the following are forbidden:
a) any type of gathering, catching, killing, destroying or hurting;
b) deliberate perturbing during the period of reproduction, growing, hibernation and migration;
c) destruction and/or deliberation collecting of nests and eggs in nature;
d) deterioration and/or destruction of reproduction or rest places;
e) gathering of fruits and flowers, collecting, cutting, uprooting or deliberate destruction of these plants in their natural habitats;
f) Possession, transport, trade or exchange for any purpose without the authorization of the competent environment authority.

Art.27. – The turning to good account of these wild plant and animal species provided in Annex No.5 as well as of other species under the same protection regulations will be done under conditions compatible with the maintenance of those species in a favourable conservation state, taking as appropriate, the following measures:
a) regulation on the access on certain areas and/or in certain periods;
system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Article 13
1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:
   a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;
   b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.
2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

Art.28 - Excepting the provisions of the arts 26 and 28, the central public authority for environmental protection will submit for approval by law, by a previous agreement of the Academy of Romania, derogation, provided that there is not an acceptable alternative and the derogation measures do not prejudice against the concerned species populations keeping in a favourable conservation condition within their natural area and only in the following cases:
   a) in order to protect the wild flora and fauna and preserve the natural habitats;
   b) for preventing the harm of crops, domestic animals, forests, fishing, waters and other goods;
   c) for the interest of public health and safety;
   d) for the purposes of scientific research and education;
   e) in order to repopulate and reintroduce such species.

5. Unlawful trade in or use of Ozone Depleting Substances (ODS)
   Article 4 Control of the placing on the market and use of controlled substances
   1. Subject to paragraphs 4 and 5,
      a) temporary and/or local interdiction of gathering and catching some species;
      b) regulation on the periods, ways and means of gathering/catching in conformity with the provisions of Annex No.6 of the present ordinance of urgency;
      d) setting-up of a system for authorizing wild plant and animal gathering/catching for trade purposes, including shares determination;
      e) stimulation of growing and breeding wild flora and fauna species of economic interest, into captivity in order to reduce pressure on natural populations.

1. LAW nr. 9 of 2 February 2001 on the approval of Government Ordinance nr. 24/2000 for the acceptance of the Amendment to the Montreal Protocol regarding the ozone layer depleting substances, adopted in Copenhagen on 25 November 1992
Published in the Official Gazette of Romania, with number 61 on 5 February 2001

2. Penal Code - Article 395

No specific criminal sanction has been identified.

Where the illicit use or trade in ODS leads to an environmental damage and to the violation of rules on the protection of the atmosphere, article 395 of the penal code would apply

- Strict imprisonment from one to 5 years.
- If serious corporal injury of a person or Violation of rules on the protection of the atmosphere

- The main penalty is fine: when the law provides the penalty of imprisonment for the offence committed by a natural person, the special minimum of the fine for legal persons shall be 10.000.000 lei, and the
the placing on the market and the use of the following controlled substances shall be prohibited:
(a) chlorofluorocarbons;
(b) other fully halogenated chlorofluorocarbons;
(c) halons;
(d) carbon tetrachloride;
(e) 1,1,1-trichloroethane;
(f)hydrobromofluorocarbons.

Article 5
Control of the use of hydrochlorofluorocarbons
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
(a) in aerosols;
(b) as solvents:
(c) as refrigerants:
(d) for the production of foams:
(e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
(f) in all other applications.

Article 21
Penalties
Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the

Violation of rules on the protection of the atmosphere
(1) Failure to take measures to stop the operation of installations representing a major risk for the quality of air found by the qualified authorities, as well as failure to notify them

danger for the health or corporal integrity of a great number of persons or significant material damage, strict imprisonment from 5 to 10 years and the prohibition of certain rights
• fine in the form of days/fine, from 5 to 360 days, each day being calculated from 100.000 to 1.000.000 lei
• Community service, from 100 to 500 hours.
• prohibition of the exercise of certain rights from one to 10 years
• If death of one or more persons or major damage to national economy, severe detention from 15 to 20 years and the prohibition of certain rights

special maximum of the fine shall be 7.500.000.000 lei.
• Complementary penalties are:
  a) dissolution of legal entities;
  b) suspension of the activity or of one of the activities of the legal entity for a duration of one to 3 years;
  c) prohibition to partake in public acquisition proceedings, from one to 5 years;
  d) prohibition of access to certain financial resources, from one to 5 years;
  e) display of the conviction decision or its dissemination in the Official Gazette of Romania, or in the media.
provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.
Slovakia

Corporate criminal liability
The crime is committed by a legal person if it is committed by the body or the representative of the legal person on behalf of the legal person or in benefit to the legal person and the responsible person acted in contrary to the regulations or he/she did not maintain the necessary level of caution, or he allowed the commitment of the crime by insufficient control or management. The criminal liability of legal persons does not apply to the state, its bodies, to the National Bank of Slovakia, upper territorial units (regions) and municipalities. Criminal liability of a legal person does not exclude the criminal liability of a natural person. Legal persons may be criminally liable for the crimes expressly stated in the special part of the Criminal Code. The liability of legal persons applies to crimes against the environment.

The penalties for crimes of legal persons shall be as follows:
- fine,
- permanent or temporary dissolution of the legal person or the part thereof
- forfeiture of the property,
- forfeiture of an object.

The fines are calculated as such:
- 3 years of prison = a fine from 50 000 Sk (1 400 €) to 10 000 000 Sk (287 000 €),
- 5 years of prison = a fine from 500 000 Sk (14 400 €) to 50 000 000 Sk (1 400 000 €)
- 10 years of prison = a fine from 10 000 000 Sk (287 000 €) to 100 000 000 Sk (2 870 000 €)

Should the legal person repeat the crime, notwithstanding that it was convicted in the last three years for such a crime or for a more serious crime, the criminal penalty rates shall be increased by one third.

A court is entitled to permanently dissolve the legal person or the part thereof with liquidation, if the legal person or the part thereof was established for committing the criminal activities, or was convicted for the crime to which the Criminal Code provides for the imprisonment with an upper limit of more than 10 years. Otherwise the only possibility shall be to dissolve the legal person or a part thereof for a maximum duration of five years.

<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of</th>
<th>Provision of National law qualifying this infringement as a</th>
<th>Type and level of criminal sanction</th>
<th>Type and level of sanction for legal</th>
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<tr>
<td>EC law infringed</td>
<td>criminal offence (in official language)</td>
<td>for natural persons</td>
<td>persons (if applicable)</td>
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<td>Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community</td>
<td><strong>Article 4</strong> : With regard to List I substances: (a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned; (b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers; (c) authorisations may be granted for a limited period only. They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.</td>
<td>Criminal Code</td>
<td>(01/01/2006. – Trestny zakon)</td>
<td>100 Sk=2.90 euros</td>
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<td>§ 312</td>
<td><strong>Porušovanie ochrany vôd a ovzdušia</strong></td>
<td><strong>Art 312</strong> Violation of water protection</td>
<td>Prison penalty from 1 to 5 years</td>
<td>Prison penalty from 3 to 8 years in case of large scale harm to the environment</td>
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<tr>
<td>1) Kto koná v rozpore s predpismi na ochranu vôd a ovzdušia a spôsobí zhoršenie kvality povrchových vôd alebo podzemných vôd alebo ovzdušia tak, že spôsobí škodu v značnom rozsahu, potrestá sa odhatím slobody na jeden rok až päť rokov.</td>
<td><strong>Art 313</strong> Violation of water protection by negligence</td>
<td>Prison penalty from 6 months to 3 years</td>
<td>Prison penalty from 1 to 5 years in case of large-scale harm to the environment</td>
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<tr>
<td>2) Odhatím slobody na tri roky až osem rokov sa páchateľ potrestá, ak činom uvedeným v odseku 1 spôsobi škodu veľkého rozsahu.</td>
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<td>§ 313</td>
<td>(1) Kto z nedbanlivosti koná v rozpore s predpismi na ochranu vôd alebo ovzdušia a spôsobí havarijné zhoršenie kvality povrchových vôd alebo podzemných vôd alebo ovzdušia tak, že spôsobí škodu v značnom rozsahu, potrestá sa odhatím slobody na šesť mesiacov až tri roky.</td>
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<td>(2) Odhatím slobody na jeden rok až päť rokov sa páchateľ potrestá, ak činom uvedeným v odseku 1 spôsobi škodu veľkého rozsahu.</td>
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<td>v odseku 1 a spôsobi ním škodu veľkého rozsahu.</td>
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<td>Article 11 Programme of measures</td>
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<td>3. <strong>Basic measures</strong> are the minimum requirements to be complied with and shall consist of:</td>
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<td>(j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions: Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.</td>
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<thead>
<tr>
<th>2. Unlawful dumping of waste</th>
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<tbody>
<tr>
<td><strong>Directive 2006/12/EC of 5 April 2006 on waste</strong></td>
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<tr>
<td>Article 4.</td>
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<tr>
<td>2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.</td>
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<td><strong>Art 18 (3)</strong> it is prohibited to dispose waste or recover waste differently than in compliance with the act.</td>
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<tr>
<th>Criminal Code (Trestny Zakon)</th>
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<tr>
<td>§ 311 Neoprávnené nakladanie s odpadmi</td>
</tr>
<tr>
<td>(1) Kto nakladá s odpadmi v malom rozsahu v rozpore s osobitným predpisom, potrestá sa odňatím slobody až na dva roky.</td>
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<tr>
<td>(2) Odňatím slobody na šesť mesiacov až tri roky sa páchatel potrestá, ak spáchal čin</td>
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<thead>
<tr>
<th>Criminal Code</th>
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<tr>
<td><strong>Article 311 unlawful treatment of waste</strong></td>
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<tr>
<td>Prison penalty up to 2 months in case of minor offence</td>
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<td>Prison penalty from 6 months to 3 years for more important offence</td>
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<td>Prison penalty from 1 to 5 years in case of important offence</td>
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<td>Prison penalty from 4 to 8 years for large scale offence</td>
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<tr>
<th>Article 309 and 310 (see above)</th>
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<th>Article 306 Criminal Code:</th>
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<td>3 years of prison = a fine from 50 000 Sk (1400 €) to 10 000 000 Sk (287 000 €),</td>
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<td>5 years of prison= a fine from 500 000 Sk (14 400 €) to 50 000 000 Sk, (1 400 000 €)</td>
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<tr>
<td>10 years of prison = a fine from 10 000 000 Sk (287 000 €) to 100 000 000 Sk, (2 870 000 €)</td>
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<td>500 000 Sk (14 400 €) to 50 000</td>
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<td>000 000 Sk, (1 400 000 €)</td>
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<td>10 years of prison = a fine from</td>
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<td>10 000 000 Sk (287 000 €) to 100</td>
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<td>000 000 Sk, (2 870 000 €)</td>
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(i) the waste being
discovered not to be listed in
Annexes III, IIIA or IIIB, or
(ii) non-compliance with
Article 3(4),
(iii) the shipment being
effected in a way which is
not specified materially in
the document set out in
Annex VII.

Article 50
Enforcement in Member
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1. Member States shall lay
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of the provisions of this
Regulation and shall take all
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The penalties provided for
must be effective,
proportionate and dissuasive.
Member States shall notify
the Commission of their
national legislation relating
to prevention and detection
of illegal shipments and
penalties for such shipments.

Council Regulation (EEC)
No 259/93 of 1 February
1993 on the supervision
and control of shipments of
waste within, into and out
of the European
Community

Article 26
1. Any shipment of waste
effected:
(a) without notification to all
competent authorities concerned pursuant to the provisions of this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) which is not specified in a material way in the consignment note; or
(e) which results in disposal or recovery in contravention of Community or international rules; or
(f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.

2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within
such other period of time as may be agreed by the competent authorities concerned.
In this case a further notification shall be made.
No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.
3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.
4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed
of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC. 5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

| Article 6 |
| 2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented. 3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies. |

| Article 12 |
| 1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, |

| Criminal Code (Trestny Zakon), article 181c) Violation of the protection rules on plants and animals: |
| §314 Porušovanie ochrany rastlin a živočíchov |
| (1) Kto v rozpore s predpismi na ochranu prírody a krajiny alebo s predpismi na ochranu exemplárov reguláciou obchodu s nimi vo väčšom rozsahu poškodí, zničí, vytrhne, vykope alebo nazbiera chránenú rastlinu alebo poškodí alebo zničí jej biotop, usmrť, zraní, chytí alebo premiestní chráneného živočícha alebo poškodí alebo zničí jeho biotop a obydlie, poškodí alebo zničí strojom alebo ker, alebo ich vyrúbe, alebo ohrozí chránený živočíšny druh alebo rastlinný druh, potrestá sa odňatím slobody až na dva roky. |

| (2) Kto v rozpore s predpismi na ochranu prírody a krajiny alebo s predpismi na ochranu exemplárov reguláciou obchodu s nimi vo väčšom rozsahu vo väčšom rozsahu získa pre seba alebo pre iného chráneného živočícha alebo chránenú rastlinu alebo experimátor, vo väčšom rozsahu drží, pestuje, chová, spracúva, dováža alebo vyváža chránené rastliny alebo chránené živočíchy alebo exempláre alebo s nimi obchodu alebo ich inak scudzi, alebo zámerné odhíne, falsuje, pozmení alebo inak neoprávnene použije nezamieniteľné označenie chránených živočíchov alebo |

| Criminal Code : |
| Article 314 Violation of the rules protecting flora and fauna |
| Prison penalty up to 2 years |

| Prison penalty from 6 months to 3 years under aggravating circumstances |
| Prison penalty from 1 year to 5 years if the offence was committed in order to make profit or another aggravating circumstance. |
| Prison penalty from 3 to 8 years if the offence was committed with the intention of or causes a large scale damage |

| Article 126 Criminal Code: |
| 3 years of prison = a fine from 50 000 Sk (1400 €) to 10 000 000 Sk (287 000 €), |

| 5 years of prison= a fine from 500 000 Sk (14 400 €) to 50 000 000 Sk, (1 400 000 €) |
| 10 years of prison = a fine from 10 000 000 Sk (287 000 €) to 100 000 000 Sk, (2 870 000 €) |
prohibiting:

(a) all forms of deliberate capture or killing of specimens of these species in the wild;

(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

(c) deliberate destruction or taking of eggs from the wild;

(d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the
light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

**Article 13**

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

(a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;

(b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

<table>
<thead>
<tr>
<th>5. Unlawful trade in or use of Ozone Depleting Substances</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Regulation (EC) of the European Parliament and of the Council No 2037/2000 of 29 June 2000</strong></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>
Article 4
Control of the placing on the market and use of controlled substances
1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:
(a) chlorofluorocarbons;
(b) other fully halogenated chlorofluorocarbons;
(c) halons;
(d) carbon tetrachloride;
(e) 1,1,1-trichloroethane;
(f) hydrobromofluorocarbons.

Article 5
Control of the use of hydrochlorofluorocarbons
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
(a) in aerosols;
(b) as solvents:
(…)
(c) as refrigerants:
(…)
(d) for the production of foams:
(…)
(e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
(f) in all other applications.

Slovak penal code does not contain special provisions about criminal sanction for this offence
General provisions can be used:
Porušovanie ochrany vôd a ovzdušia
§ 303
(1) Kto koná v rozpore so všeobecnými záväznými právnymi predpismi na ochranu vôd a ovzdušia a spôsobí zhoršenie kvality povrchových vôd alebo podzemných vôd, alebo ovzdušia tak, že spôsobí škodu v značnom rozsahu, potrestá sa odňatím slobody na jeden rok až päť rokov.
(2) Odňatím slobody na tri roky až osem rokov sa páchateľ potrestá, ak činom uvedeným v odseku 1 spôsobí škodu veľkého rozsahu.

§ 304
(1) Kto z nedbalivosti koná v rozpore so všeobecnými záväznými právnymi predpismi na ochranu vôd alebo ovzdušia a spôsobí havarijné zhoršenie kvality povrchových vôd alebo podzemných vôd, alebo ovzdušia tak, že spôsobí škodu v značnom rozsahu, potrestá sa odňatím slobody na šesť mesiacov až tri roky.
(2) Odňatím slobody na jeden rok až päť rokov sa páchateľ potrestá, ak činom uvedeným v odseku 1 spôsobí škodu veľkého rozsahu.

Prison penalty from 1 year up to 8 years
Prison penalty from 6 months up to 5 years.
Fine up to 3 000 000 SKK (80 900 €)
### Article 21

**Penalties**

Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.
<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Unlawful discharge of hazardous substances into water</td>
<td>Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community</td>
<td>Article 4 With regard to List I substances: (a) all discharges into the waters referred to in Article I which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned; (b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article I and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers; (c) authorisations may be granted for a limited period only. They may be renewed.</td>
<td>1. Order on the promulgation of the Waters Act (ZV-1) I hereby promulgate the Waters Act (ZV-1), adopted by the National Assembly of the Republic of Slovenia at its session of 12 July 2002. No. 001-22-101/02, Ljubljana, 22 July 2002 Article 68 (depositing or disposal of substances or objects) (1) The discharge, depositing or disposal of the following into waters shall be prohibited: 1. substances or objects which, due to their form, their physical, chemical or biological properties, their quantity or other features, may endanger the life or health of people or of aquatic and semi-aquatic organisms, hamper the flow of waters or threaten water facilities and installations; 2. waste. (2) The following shall be prohibited on water and waterside land: 1. depositing or reloading of</td>
<td>Fine: Individuals performing an independent activity: From SIT 250 000 up to 5 millions SIT Individuals: From 30 000 SIT up to 150 000 SIT Responsible persons of legal persons: From 100 000 up to 500 000 SIT OR Prison: up to 1 year (criminal code art 336)</td>
</tr>
</tbody>
</table>

**Explanatory note**

- Penal code (art. 33) sets the following elements as for legal persons criminal liability: The legal person liability is based upon the perpetrator committing an offence:
  - In the name of the legal person,
  - On behalf of the legal person or
  - In favour of the legal person
- Such liability must be foreseen in the statute
taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.


*Article 11 Programme of measures*

3. "Basic measures" are the minimum requirements to be complied with and shall consist of:

(j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

hazardous substances in solid, liquid or gaseous form;
2. depositing or disposal of extracted or waste materials, or other similar substances;
3. disposal of waste.

**Penal provisions**

*Article 181 (offences)*

(1) Legal persons shall be liable to a fine of between SIT 1 and 10 million for committing an offence if they:

13. discharge, deposit or dispose of into waters substances or items that may endanger the lives and health of people, water and waterside organisms, hamper the flow of waters or threaten water facilities and installations, or if they discharge, deposit or discard waste (first paragraph of Article 68);

14. deposit or reload hazardous substances on water or waterside land in their solid, liquid or gaseous forms, deposit or discard extracted or waste materials or other similar substances, or deposit waste (second paragraph of Article 68);

(2) Individuals shall be liable to a fine of between SIT 250,000 and 5 million for committing an offence referred to in the preceding paragraph in relation to the performance of an independent
activity.

(3) Responsible persons of legal persons shall be liable to a fine of between SIT 100,000 and 500,000 for committing an offence referred to in the first paragraph of this article.

(4) Individuals shall be liable to a fine of between SIT 30,000 and 150,000 for committing an offence referred to in the first paragraph of this article.

2. Penal Code

Chapter Thirty-Two
CRIMINAL OFFENCES AGAINST ENVIRONMENT AND NATURAL RESOURCES

Pollution and Destruction of Environment
Article 333

(1) Whoever, in breach of regulations, causes excessive pollution of the environment, the denigration of the environment or the excessive use and exploitation of natural resources, thereby jeopardising the health of a considerable number of people, or allowing the possibility, in whole or in part, of the destruction of the environment, shall be sentenced to imprisonment for not more than two years.
(2) If the offence under the preceding paragraph is committed through negligence, the perpetrator shall be punished by a fine or sentenced to imprisonment for not more than one year.

(3) If the offence under the first or the second paragraphs of the present article entails the impairment of health of a considerable number of people, the destruction, in whole or in part, of flora or fauna or reservoirs of drinking water or any other damage to the environment resulting in serious consequences, continuing pollution at a critical level, of critical damage to water, the perpetrator shall be sentenced to imprisonment for not more than three years for the offence under the first paragraph, while for the offence under the second paragraph he shall be sentenced to imprisonment for not more than two years.

(4) If the offence under the first or second paragraphs of the present article entails irreparable damage or destruction of the environment or protected natural resources, the perpetrator shall be sentenced to imprisonment for not more than eight years for the offence under the first paragraph, while for the offence under the second paragraph he shall be sentenced to imprisonment for not more than five years.
| **Unlawful Dumping of Dangerous Substances**  
<table>
<thead>
<tr>
<th><strong>Article 336</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Whoever, contrary to regulations, deposits, keeps or disposes of radioactive or other substances or waste hazardous to human life or health or to the environment shall be punished with a fine or sentenced to imprisonment for not more than one year.</td>
</tr>
</tbody>
</table>

| **Pollution of Drinking Water**  
<table>
<thead>
<tr>
<th><strong>Article 337</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Whoever pollutes water used by people for drinking purposes with any noxious agent, thereby endangering human life and health, shall be sentenced to imprisonment for not more than three years.</td>
</tr>
</tbody>
</table>

| (2) If the offence under the preceding paragraph is committed through negligence, the perpetrator shall be punished by a fine or sentenced to imprisonment for not more than one year. |

| (3) If the offence under the first or second paragraphs of the present article entails serious injury to one or more persons, the perpetrator shall be sentenced to imprisonment for not more than five years for the offence under the first paragraph, while for the offence under the second paragraph he shall be sentenced to |
imprisonment for not more than three years.

(4) If the offence under the first or second paragraphs of the present article entails the death of one or more persons, the perpetrator shall be sentenced to imprisonment for not less than one and not more than twelve years for the offence under the first paragraph, while for the offence under the second paragraph he shall be sentenced to imprisonment for not less than one and not more than eight years.

(5) Whoever pollutes water intended for the watering of animals with any noxious agent, thereby causing danger to the lives and health of animals, the perpetrator shall be punished by a fine or sentenced to imprisonment for not more than one year.

(6) If the offence under the fifth paragraph of the present article entails the death of animal of considerable value or the death of a large number of animals, the perpetrator shall be sentenced to imprisonment for not more than three years.

<table>
<thead>
<tr>
<th>2. Unlawful dumping of waste</th>
<th>Directive 2006/12/EC of 5 April 2006 on waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 4.</td>
<td>Rules on waste management (Nos 84/98)</td>
</tr>
<tr>
<td>2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.</td>
<td>Art. 8</td>
</tr>
<tr>
<td>The collection, storage, transportation, processing and disposal of waste must be performed in such a way that there is no danger to human health, and without the use of procedures and methods that would create an</td>
<td>Prison up to 1 year</td>
</tr>
<tr>
<td>Prison up to 2 years where the crime leads to pollution and destruction of the environment</td>
<td>No fine</td>
</tr>
<tr>
<td>Seizure</td>
<td>confiscation</td>
</tr>
</tbody>
</table>
Sanctions are laid down in the following provisions of the criminal code:

**Penal code art.236** - Unlawful Dumping of Dangerous waste

**Penal code art. 333** - Pollution and Destruction of Environment: whoever, in breach of regulations, causes excessive pollution of the environment, thereby jeopardising the health of a considerable number of people, or allowing the possibility, in whole or in part, of the destruction of the environment.

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td></td>
<td>'illegal shipment' means any shipment of waste effected: (a) without notification to all competent authorities concerned pursuant to this Regulation; or (b) without the consent of the competent authorities concerned pursuant to this Regulation; or (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or (d) in a way which is not specified materially in the Decree on the Export, Import and Transit of Wastes; OJ, RS, No. 36/96. It does imply the provisions of the Basel Convention and in accordance with that also most of the provisions of the Reg. EEC/259/93. <strong>Export - Art. 4 - 14</strong></td>
</tr>
<tr>
<td></td>
<td>• Export licence is compulsory • Approval from the Ministry for Environmental Protection • Notification of the importing countries accurate authorities • Financial guarantee • If for nay reason the export can not be performed as provided with by the contract, the exporter shall return the wastes to the producer or public service provider</td>
</tr>
<tr>
<td></td>
<td>1. Prison: up to 5 years only applicable for illegal imports of waste 2. Seizure of the items that were used to commit the offence, intended for the commission of the offence or generated by the offence 3. Confiscation</td>
</tr>
<tr>
<td></td>
<td>1. Seizure of the items that were used to commit the offence, intended for the commission of the offence or generated by the offence 2. Confiscation</td>
</tr>
</tbody>
</table>
notification or movement documents; or
(e) in a way which results in recovery or disposal in contravention of Community or international rules; or
(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:
(i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
(ii) non-compliance with Article 3(4),
(iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

Import - Art. 15 – 22

- Authorisation
- Import licence
- If discrepancy, the wastes must be returned to the exporting country (export licence must then be obtained: see above)

The provisions of the Decree on the supervision and control of international shipments of waste are in compliance with the provisions of Reg. EEC/259/93, including:
- consignment forms of all sorts of wastes, inside and outside the country
- procedure for repeated shipments,
- person's liability to cover the shipment of hazardous wastes by some sort of financial guarantee or equivalent insurance

there are fixed allowed customs posts that means border crossings for shipments of hazardous wastes, which coincide with those for dangerous goods (total number 21).

Penal code – art. 335

Whoever, contrary to regulations, brings radioactive or other dangerous substances or waste into the country: prison up to 3 years.

Whoever, by abuse of his office or authorisations, enables, country to regulations, the bringing of the
penalties for such shipments.


Article 26
1. Any shipment of waste effected:
   (a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or
   (b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
   (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
   (d) which is not specified in a material way in the consignment note; or
   (e) which results in disposal or recovery in contravention of Community or international rules; or
   (f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.

2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority shall impose:
   above substances or waste into the country: prison up to 5 years
authority of dispatch shall ensure that the waste in question is:
(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned. In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.
3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may
be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

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4. Unlawful significant deterioration of a protected habitat


**Article 6**

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive enters into force.

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**NATURE CONSERVATION ACT**

**Article 14**

(General protection regime)

1. It shall be prohibited to exterminate a plant or animal species.
2. It shall be prohibited to reduce the number of plants or animals of individual populations, reduce their habitats or worsen their living conditions to such an extent that the species becomes endangered.

- Fine:
  - Individuals performing an independent activity: From SIT 250 000 up to 5 millions SIT
  - Individuals: From 30 000 SIT up to 150 000 SIT
  - Responsible persons of legal persons: From 100 000 up to 500 000 SIT

- Seizure of the items that were used to commit the offence, intended for the commission of the offence or generated by the offence

- Prison: up to 8 years if the environmental

- Fine: from 1 up to 10 millions SIT

- Seizure of the items that were used to commit the offence, intended for the commission of the offence or generated by the offence

- Confiscation
is implemented.
3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

**Article 12**

1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:
   (a) all forms of deliberate capture or killing of specimens of these species in the wild;
   (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
   (c) deliberate destruction or taking of eggs from the wild;
   (d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken

| (3) It shall be prohibited to kill, harm, take from the wild or disturb plants or animals intentionally, without a justifiable cause. |
| (4) It shall be prohibited to destroy or damage habitats of plant or animal species populations intentionally, without a justifiable cause. |
| (5) Notwithstanding the provision of the third paragraph, it shall be permitted to hunt and fish game species in accordance with the regulations governing hunting and fishing; to perform agricultural and forestry activities in accordance with the regulations governing agriculture and forestry; and to take from the wild plants or animals for the purposes permitted by the law. |
| (6) A cause for the action referred to in the third and fourth paragraphs shall be justifiable when the action has a beneficial result and is socially acceptable. |

**Article 24**

(Protection rules)
The Government shall prescribe in detail the manner of protection of plant or animal species and the protection of other species of living organisms and shall regulate in particular:
1. action in relation to the taking of animals from the wild; breeding; moving; introduction, reintroduction and repopulation; keeping of animals in captivity; trade; animal research; handling of dead animals; and taxidermy;

| crime entails irreparable damage or destruction of the environment or protected natural resources (cf article 333 of the criminal code) |
| Confiscation |
legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Article 13
1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:
   (a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;
   (b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species

2. action in relation to the taking of plants from the wild; cultivation; introduction; reintroduction and repopulation; trade; research and the gathering of plants; and the permitted quantities of gathered plants;
3. action in relation to trade, import, export or transit of plants or animals;
4. procedure for the seizure of plants or animals of non-indigenous species which threaten indigenous species.

Article 26
(Protection of internationally protected species)
(1) A favourable status of plant or animal species which are protected pursuant to the ratified international treaties shall be guaranteed through the protection of their habitats and the protection regime laid down by the Government with the regulation referred to in Article 81.
(2) A species shall be at a favourable status if its distribution and abundance are consistent with the natural fluctuations and do not show a long-term reduction trend and if the habitats of its populations are sufficiently large to maintain the populations on a long-term basis.
(3) The Government shall lay down the guidelines for maintaining a favourable status of the habitats of the species referred to in the first paragraph, which shall have to be taken into account in spatial planning and use of
taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

Article 31
(Conservation of habitat types)
(1) A habitat type is a spatially explicit ecosystem unit distinguished by biotope or biotic characteristics.
(2) The maintenance of habitat types at a favourable status contributes to the conservation of ecosystems.
(3) A habitat type shall be at a favourable status when its natural range and areas it covers within that range are general and stable; when the structure of a habitat type and natural processes or proper use guarantee its self-preservation capacity; when the processes which might deteriorate the structure and function of a habitat type and thus threaten its self-preservation capacity in a foreseeable future are not known; when a favourable status of characteristic habitat types is guaranteed.
(4) The Government shall specify habitat types and prescribe the guidelines for maintaining habitat types at a favourable status, which have to be taken into account in the spatial planning and use of natural assets.

Article 33
(Special protection area)
(1) Special protection area shall be an ecologically important area which is within the European Communities important for the maintenance or attainment of a natural assets.
| | Favourable status of species, their habitats and habitat types. (2) The Government shall specify special protection areas and ensure their protection through the measures for the protection of valuable natural features taken pursuant to the law. (3) The rules of conduct, protection regimes or development orientations specified in the documents issued pursuant to the preceding paragraph shall be the mandatory basis for spatial planning and use of natural assets. (4) In order to protect special protection areas and to improve the coherence of the ecological network those landscape features shall be maintained or developed which are the most important for the maintenance of a favourable status of a species referred to in Article 26. (5) The protection of other areas important for nature conservation that is required by the ratified international treaties shall also be ensured in the manner referred to in the second paragraph. **3.3.1 Small protected areas** **Article 66** (Nature reserve) (1) A nature reserve shall be an area of geotopes, habitats of endangered, rare or representative plant or animal species or an area important for biodiversity conservation which is maintained through sustainable human activity. |
(2) In the protected area it shall be prohibited to carry out activities with the means and in the manner which might cause significant changes in biodiversity and in the structure and functions of ecosystems and to carry out activities in the period when the existence of plants or animals might be threatened.

(3) By the instrument of protection the following may be prohibited or restricted in the protected area:

1. carrying-out activities affecting the physical space;
2. excavation or filling-in of land;
3. changing the water regime;
4. removing alluvial material;
5. causing noise, explosions and vibrations;
6. economic exploitation of natural resources;
7. navigation and anchoring;
8. motor vehicle and vessel transport;
9. flying below a specified altitude, taking off and landing of aircraft;
10. carrying out agri- and hydromeliorations;
11. changing chemical properties of the soil;
12. changing the vegetation;
13. removing hedges, individual trees and other small natural structures;
14. planting monocultures;
15. gathering fruits, mushrooms or plants and parts thereof;
16. disturbing, killing or taking animals from the wild;
17. introducing and repopulating wild animal species;
18. hunting, fishing and gathering plants or animals;
19. artificial snowmaking;
20. researching and removing of research material from the wild;
21. sport and recreation activities;
22. visiting and viewing;
23. carrying out military activities;
24. making fire;
25. any other activity which could significantly threaten the protected area.

(4) In laying down the prohibitions or restrictions concerning activities referred to in the preceding paragraph the characteristics of the protected area and the purpose of protection shall be taken into account.

3.3.2. Large protected areas

Article 67
(Large protected areas)
(1) Large protected areas shall be natural areas possessing great abiotic, biotic and landscape diversity and numerous and diverse valuable natural features which may be intricately and functionally interconnected.
(2) In the establishment of large protected areas the development opportunities of the community and the relaxation and spiritual growth of the population shall be taken into account and guaranteed.
(3) Large protected areas shall be established with a view to enforcing the internationally recognised forms of nature protection.
(4) Small protected areas may be
established within large protected areas.
(5) Protection areas or zones may be designated within large protected areas with a view to regulating in detail the protection regime in the protected area.

Article 68

(General protection regime)
(1) With regard to the type of a large protected area the following may be prohibited, restricted or otherwise regulated in the protected area by the instrument of protection of a large protected area:
1. carrying out activities threatening the original state of nature;
2. constructing infrastructure intended for dwelling, hunting, fishing, tourism and sport, except in locations reserved for these purposes;
3. constructing new transit public utility, energy supply and transport facilities;
4. constructing secondary dwellings;
5. constructing new facilities;
6. digging or filling-in of land;
7. causing explosions or vibrations;
8. economic exploitation of natural resources, except for the purposes of construction in the protected area;
9. removing alluvial material;
10. changing the water regime, except for the purposes of essential maintenance;
11. vehicle and vessel transport;
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<td>12.</td>
<td>flying below a specified altitude, taking off and landing of aircraft;</td>
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<td>13.</td>
<td>para-gliding, hang-gliding or flying with other hot air airships or ultra-light gliders outside areas intended for these purposes;</td>
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<td>14.</td>
<td>flying aircraft below 300 m from the highest point of the protected area;</td>
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<td>15.</td>
<td>agriculture in a manner and with means which might significantly change biodiversity and the structure and types of ecosystems or the surface layer of the soil;</td>
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<td>16.</td>
<td>disturbing, killing or taking animals from the wild, except for ecological and other justifiable reasons;</td>
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<td>17.</td>
<td>hunting and implementing game management measures;</td>
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<td>18.</td>
<td>fishing and implementing fish farming measures;</td>
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<td>19.</td>
<td>gathering plants and parts thereof;</td>
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<td>20.</td>
<td>building pens and animal breeding facilities;</td>
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<td>21.</td>
<td>introducing plants or animals of non-indigenous species;</td>
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<td>22.</td>
<td>changing the vegetation;</td>
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<td>23.</td>
<td>artificial snowmaking;</td>
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<td>24.</td>
<td>disposal of waste not generated in the protected area;</td>
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<td>25.</td>
<td>camping and making fire outside areas intended for these purposes;</td>
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<td>26.</td>
<td>researching and removing research material from the wild;</td>
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<td>27.</td>
<td>organising mass sport, tourist or other public events;</td>
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<td>28.</td>
<td>carrying out water sports and other sports activities outside areas</td>
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</table>
intended for these purposes;  
29. carrying out military activities;  
30. any other activity which could significantly threaten the protected area.  
(2) In laying down the prohibitions or restrictions concerning activities referred to in the preceding paragraph the characteristics of the protected area and the purpose of protection shall be taken into account.  

3.5. Endangered plant and animal species  

Article 81  
(Protection of a species)  
(1) Owing to the actual or possible endangerment established pursuant to the regulation referred to in the preceding paragraph, the Government shall adopt the instrument of protection of plant or animal species; lay down the measures for the protection of their habitats; and prescribe the rules of conduct and a special protection regime.  
(2) With the protection regime referred to in the preceding paragraph particularly the rules of protection of dead and live animals in all stages of development (eggs, larvae, pupae, young and adult animals), of parts of dead animals, or of animal products shall be determined. Rules of protection shall concern in particular the restriction and prohibition of killing, hunting or disturbing of animals, particularly in the periods of life important for
survival; restriction and prohibition of trade in animals and parts and products thereof; and the prohibited transport methods.

(3) Notwithstanding the inclusion of species among the game species in compliance with the law, the animal species protected pursuant to this Act shall not be hunted.

(4) With the protection regime referred to in the first paragraph particularly the rules of protection of all development stages of plants shall be laid down. The rules of protection shall concern in particular the restriction and prohibition of picking, gathering, collecting, cutting, uprooting or destroying, cultivating and selling or exchanging of plants and the prohibited transport methods.

XI. PENALTY PROVISIONS

Article 160
(Offences)

(1) A fine of SIT 1 000 000 to SIT 10 000 000 shall be imposed on a legal person who:

1. exterminates a plant or animal species (first paragraph of Article 14);
2. reduces the number of plants or animals of individual populations, reduces their habitats or worsens their living conditions to such an extent that the species becomes endangered (second paragraph of Article 14);
3. intentionally, without a justifiable cause, destroys or
damages habitats of plant or animal species populations (fourth paragraph of Article 14);
4. carries out an activity affecting nature contrary to the prescribed manner and conditions (second paragraph of Article 15);
5. does not use plants or animals in compliance with the prescribed conditions (second paragraph of Article 16);
6. uses plants or animals whose use is prohibited or uses them contrary to the prescribed restriction of use (third paragraph of Article 16);
7. introduces plants or animals of non-indigenous species without a permission (second and third paragraphs of Article 17);
8. breeds animals of indigenous or non-indigenous species without a permit (first paragraph of Article 21);
9. acts contrary to the protection regime prescribed by the Government for plant or animal species protected pursuant to the ratified international treaties (first paragraph of Article 26);
10. acts contrary to the prescribed guidelines for maintaining a species at a favourable status (third paragraph of Article 26);
11. manages biotechnologically modified plants or animals contrary to the provisions of this Act (Article 27);
12. manages a gene bank without the minister’s authorisation (third paragraph of Article 29);
13. acts contrary to the prescribed rules of conduct while taking
biological material from the wild or managing biological material in gene banks (sixth paragraph of Article 29);
14. acts contrary to the prescribed rules of conduct while taking genetic material from the wild (fourth paragraph of Article 30);
15. acts contrary to the prescribed rules of conduct, protection regimes or development orientations for the conservation of ecologically important areas (fifth paragraph of Article 32);
16. acts contrary to the prescribed rules of conduct, protection regimes or development orientations for the conservation of special protection areas (third paragraph of Article 33);
17. treats a valuable natural feature contrary to the prescribed protection or development orientations (third paragraph of Article 37);
18. treats a valuable natural feature in such a way that its existence is threatened (second paragraph of Article 40);
19. arranges a valuable natural feature for viewing and visiting without a permit (first paragraph of Article 42);
20. uses a valuable natural feature without a concession (first paragraph of Article 43);
21. acts contrary to the prescribed rules of conduct, protection regimes or development orientations for the protected valuable natural feature (second paragraph of Article 49);
22. acts contrary to the prescribed
rules of conduct or protection regimes for a temporarily protected valuable natural feature (third paragraph of Article 50);
23. acts contrary to the prescribed rules of conduct and protection regimes in the protected area (first paragraph of Article 53);
24. carries out activities contrary to the prescribed rules of conduct or management plan (first paragraph of Article 54);
25. treats minerals or fossils contrary to the prescribed rules of conduct (Article 73);
26. takes protected minerals or fossils from nature without a permission (second paragraph of Article 75);
27. without a permission takes from nature minerals or fossils for placing them on the market (third paragraph of Article 76);
28. uses prohibited methods or means while taking minerals or fossils from nature (first paragraph of Article 77);
29. uses prohibited methods or means contrary to the permission (second paragraph of Article 77);
30. does not notify the exploration (first paragraph of Article 78);
31. explores mineral and fossil sites contrary to the permit (third paragraph of Article 78);
32. acts contrary to the prescribed protection regime for endangered plant or animal species (first paragraph of Article 81);
33. carries out an activity affecting nature without the prescribed permit (third paragraph of Article 104).
(2) A fine of SIT 250 000 to SIT 5 000 000 shall be imposed on an individual when he commits an offence referred to in the preceding paragraph in relation to the carrying-out of an independent activity.

(3) A fine of SIT 50 000 to SIT 500 000 shall be imposed on the responsible person of a legal entity committing an offence referred to in the first paragraph.

(4) A fine of SIT 30 000 to SIT 150 000 shall be imposed on an individual when he commits an offence referred to in the first paragraph.

### Article 161

**Offences**

(1) A fine of SIT 600 000 to SIT 8 000 000 shall be imposed on a legal person when:

1. he intentionally, without a justifiable cause, kills, harms or disturbs plants or animals (third paragraph of Article 14);

2. he does not notify the ministry of the intended repopulation of plants or animals of non indigenous species (second paragraph of Article 18);

3. he repopulates plants or animals of non-indigenous species whose repopulation is prohibited (fourth paragraph of Article 17).
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<td>4.</td>
<td>He keeps animals of indigenous or non-indigenous species in captivity in inadequate living conditions and without proper care (first paragraph of Article 19);</td>
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<td>5.</td>
<td>He does not notify the ministry of obtaining an animal in the prescribed period (second paragraph of Article 19);</td>
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<td>6.</td>
<td>He keeps animals of indigenous or non-indigenous species in captivity with the purpose of public exhibition without a permit (first paragraph of Article 20);</td>
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<td>7.</td>
<td>A person trading in animals does not provide prescribed living conditions and proper care and does not keep prescribed records (first paragraph of Article 23);</td>
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<td>8.</td>
<td>He acts contrary to the rules of protection of plant and animal species prescribed by the Government (Article 24);</td>
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<td>9.</td>
<td>He exports, imports or tries to import or export plants or animals or parts or products thereof without the minister’s permit (first paragraph of Article 25);</td>
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<td>10.</td>
<td>He carries out or tries to carry out transit of plants or animals or parts or products thereof without the minister’s permit when the permit is prescribed (first paragraph of Article 25);</td>
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<td>11.</td>
<td>he acts contrary to the prescribed guidelines for maintaining habitat types at a favourable status (fourth paragraph of Article 31);</td>
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<td>12.</td>
<td>he acts contrary to the prescribed guidelines for conserving biodiversity (fifth paragraph of Article 35);</td>
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<td>13.</td>
<td>he acts contrary to the prescribed manner and conditions for an activity affecting nature (second paragraph of Article 36);</td>
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<td>20.</td>
<td>he acts contrary to the prescribed protection regime for the protection of an exceptional specimen, population or their habitat (Article 82);</td>
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<td>(2) A fine of SIT 150 000 to SIT 4 000 000 shall be imposed on an individual when he commits an offence referred to in the preceding paragraph in relation to the carrying out of an independent activity.</td>
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<td>(3) A fine of SIT 40 000 to SIT 400 000 shall be imposed on the responsible person of a legal entity committing an offence referred to in the first paragraph.</td>
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<td>(4) A fine of SIT 20 000 to SIT 140 000 shall be imposed on an individual when he commits an offence referred to in the first paragraph.</td>
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2. Penal Code

Chapter Thirty-Two
CRIMINAL OFFENCES AGAINST ENVIRONMENT AND NATURAL RESOURCES

Pollution and Destruction of Environment
Article 333

(1) Whoever, in breach of regulations, causes excessive pollution of the environment, the denigration of the environment or the excessive use and exploitation of natural resources, thereby jeopardising the health of a considerable number of people, or allowing the possibility, in whole or in part, of the destruction of the environment, shall be sentenced to imprisonment for not more than two years.

(2) If the offence under the preceding paragraph is committed through negligence, the perpetrator shall be punished by a fine or sentenced to imprisonment for not more than one year.

(3) If the offence under the first or the second paragraphs of the present article entails the impairment of health of a considerable number of people, the destruction, in whole or in part, of flora or fauna or
**Article 4**  
Control of the placing on the market and use of controlled substances  
1. Subject to paragraphs 4 and 5, the placing on the reservoirs of drinking water or any other damage to the environment resulting in serious consequences, continuing pollution at a critical level, of critical damage to water, the perpetrator shall be sentenced to imprisonment for not more than three years for the offence under the first paragraph, while for the offence under the second paragraph he shall be sentenced to imprisonment for not more than two years.  
(4) If the offence under the first or second paragraphs of the present article entails **irreparable damage or destruction of the environment or protected natural resources**, the perpetrator shall be sentenced to imprisonment for not more than **eight years** for the offence under the first paragraph, while for the offence under the second paragraph he shall be sentenced to imprisonment for not more than **five years.** | Order on handling of Ozone Depleting Substances (OJ RS 80/97, 41/01) | According to the information reported by the Slovenian authorities to the Commission in accordance with article 21 of Regulation no 2037/2000:  
Criminal fines between 200 000 and 30 Mio tolars (845 – 127 000 €) to be imposed on legal persons, officials or individuals which violate provisions of Regulation 2000/37 and the Montreal Protocol concerning use and trade in ODS | According to the information reported to the Commission:  
Criminal fines between 200 000 and 30 Mio tolars (845 – 127 000 €) to be imposed on legal persons, officials or individuals which violate provisions of Regulation 2000/37 and the Montreal Protocol concerning use and trade in ODS |
market and the use of the following controlled substances shall be prohibited:
(a) chlorofluorocarbons;
(b) other fully halogenated chlorofluorocarbons;
(c) halons;
(d) carbon tetrachloride;
(e) 1,1,1-trichloroethane;
(f) hydrobromofluorocarbons.

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<thead>
<tr>
<th>Article 5</th>
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<tr>
<td>Control of the use of hydrochlorofluorocarbons</td>
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<tr>
<td>1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:</td>
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<td>(a) in aerosols;</td>
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<td>(b) as solvents:</td>
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<td>(c) as refrigerants:</td>
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<td>(d) for the production of foams:</td>
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<td>(e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;</td>
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<td>(f) in all other applications.</td>
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<tr>
<th>Article 21</th>
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<tr>
<td>Penalties</td>
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<tr>
<td>Member States shall determine the necessary penalties applicable to breaches of this Regulation.</td>
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<tr>
<td>The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.</td>
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</tbody>
</table>
Spain

<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
</table>
| 1. Unlawful discharge of hazardous substances into water | Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community | Article 4 With regard to List I substances: (a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned; (b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers; (c) authorisations may be granted for a limited period only. They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC. | Directive 76/464 and 2000/60 are implemented through three different state norms:  
- Real Decreto Legislativo 1/2001, de 20 julio aprueba el texto Refundido de la Ley de Aguas  
- Real Decreto 995/2000, de 2 junio  
- Real Decreto 489/1995, de 7 de abril | Criminal sanctions established for an ecological crime are imprisonment from 6 months up to 7 years, a periodic payment penalty of 8-24 months and professional disqualification from 1 to 3 years (art 325 PC). The storage or dumping of toxic or dangerous waste which may damage the balance of natural systems or human health is punishable also (art 328 PC). The punishment in this case is a periodic payment penalty of 10 to 14 months. If the infringement does not lead to a serious harming of the balance of a natural system: administrative sanctions. Sanctions:  
- Real Decreto Legislativo 1/2001:  
The system of crimes and administrative sanctions is laid down in art 116 to 121. Art 116: administrative infringements; Art 117: administrative fines 6.010 |
Community action in the field of water policy

Article 11
Programme of measures

3. "Basic measures" are the minimum requirements to be complied with and shall consist of:

(i) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

Infracciones leves, multa de hasta 6.010,12 euros (1.000.000 de pesetas).
Infracciones menos graves, multa de 6.010,13 a 30.050,61 euros (1.000.001 a 5.000.000 de pesetas).
Infracciones graves, multa de 30.050,62 a 300.506,06 euros (5.000.001 a 50.000.000 de pesetas).
Infracciones muy graves, multa de 300.506,06 a 601.012,10 euros (50.000.001 a 100.000.000 de pesetas).

2. La sanción de las infracciones leves y menos graves corresponderá al Organismo de cuenca. En relación con las primeras se establecerá reglamentariamente un procedimiento abreviado y sumario, respetando los principios establecidos en el capítulo II del Título IX de la Ley 30/1992, de 26 de noviembre, de Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común. Será competencia del Ministro de Medio Ambiente la sanción de las infracciones graves y quedará reservada al Consejo de Ministros la imposición de multas por infracciones muy graves.

3. El Gobierno podrá, mediante Decreto, proceder a la actualización del importe de las sanciones, previsto en el apartado 1 de este artículo.

Artículo 120. Infracciones constitutivas de delito o falta.

En los supuestos en que las infracciones pudieran ser constitutivas de delito o falta, la Administración pasará el tanto de culpa a la jurisdicción competente y se abstendrá de proseguir el procedimiento sancionador mientras la autoridad judicial no se haya pronunciado. La sanción de la autoridad judicial excluirá la imposición de multa administrativa. De no haberse estimado la existencia de delito o falta, la Administración podrá continuar el expediente.

Art 18: the additional or independent obligation to compensate or repair damage;

Art 120: criminal offences in the breach of law is an environmental crime

- Environmental crimes in Penal Code (PC):

In the Penal Code, article 325 conceives seriously harming the balance of a natural system as a general crime against the environment. It is general because it defines the violation of any law or provisions that protect the environment as a crime. Article 325 additionally states that the sanctions to be imposed will be of the highest range if human health is put at risk. The disposition thus automatically upgrades new incoming laws to the penal code.
sancionador en base a los hechos que los Tribunales hayan considerado probados.

Criminal sanctions:

Código penal Artículo 129.

1. El Juez o Tribunal en los supuestos previstos en este Código, previa audiencia de los titulares o de sus representantes legales, podrá imponer, motivadamente, las siguientes consecuencias:

   a) Clausura de la empresa, sus locales o establecimientos, con carácter temporal o definitivo. La clausura temporal no podrá exceder de cinco años.
   b) Disolución de la sociedad, asociación o fundación.
   c) Suspensión de las actividades de la sociedad, empresa, fundación o asociación por un plazo que no podrá exceder de cinco años.
   d) Prohibición de realizar en el futuro actividades, operaciones mercantiles o negocios de la clase de aquéllos en cuyo ejercicio se haya cometido, favorecido o encubierto el delito. Esta prohibición podrá tener carácter temporal o definitivo. Si tuviere carácter temporal, el plazo de prohibición no podrá exceder de cinco años.
   e) La intervención de la empresa para salvaguardar los derechos de los trabajadores o de los acreedores por el tiempo necesario y sin que exceda de un plazo máximo de cinco años.

2. La clausura temporal prevista en el subapartado a) y la suspensión señalada en el subapartado c) del apartado anterior, podrán ser acordadas por el Juez Instructor también durante la tramitación de la causa.

3. Las consecuencias accesorias previstas en este art. estarán orientadas a prevenir la continuidad en la actividad delictiva y los efectos de la misma.

Código penal art. 325

1. Será castigado con las penas de prisión de seis
meses a cuatro años, multa de ocho a 24 meses e inhabilitación especial para profesión u oficio por tiempo de uno a tres años el que, contraviniendo las leyes u otras disposiciones de carácter general protectoras del medio ambiente, provoque o realice directa o indirectamente emisiones, vertidos, radiaciones, extracciones o excavaciones, aterramientos, ruidos, vibraciones, inyecciones o depósitos, en la atmósfera, el suelo, el subsuelo, las aguas terrestres, marítimas o subterráneas, con incidencia, incluso, en los espacios transfronterizos, así como las captaciones de aguas que puedan perjudicar gravemente el equilibrio de los sistemas naturales. Si el riesgo de grave perjuicio fuese para la salud de las personas, la pena de prisión se impondrá en su mitad superior.

2. El que dolosamente libere, emita o introduzca radiaciones ionizantes u otras sustancias en el aire, tierra o aguas marítimas, continentales, superficiales o subterráneas, en cantidad que produzca en alguna persona la muerte o enfermedad que, además de una primera asistencia facultativa, requiera tratamiento médico o quirúrgico o produzca secuelas irreversibles, será castigado, además de con la pena que corresponda por el daño causado a las personas, con la prisión de dos a cuatro años.

**Código penal Artículo 328.**
Serán castigados con la pena de prisión de cinco a siete meses y multa de 10 a 14 meses quienes estableciesen depósitos o vertederos de desechos residuos sólidos o líquidos que sean tóxicos o peligrosos y puedan perjudicar gravemente el equilibrio de los sistemas naturales o la salud de las personas.

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<tr>
<td>2. Member States shall take the necessary measures to prohibit the unlawful dumping of waste.</td>
<td>2. Queda prohibido el abandono, vertido o eliminación de los residuos.</td>
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- The transposition law document does not lay down criminal sanctions but administrative ones (see article 35 of ley 10/1998).
- Environmental crimes in penal law in criminal law only physical persons can be held individually liable, whereas administrative law admits the liability of legal persons, and joint liability of physical persons.
<table>
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<tr>
<th>Abandonment, dumping or uncontrolled disposal of waste.</th>
<th>Abandono, vertido o eliminación incontrolada de residuos en todo el territorio nacional y toda mezcla o dilución de residuos que dificulte su gestión.</th>
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<tr>
<td><strong>Artículo 34. Infracciones.</strong></td>
<td>1. Sin perjuicio de las infracciones que, en su caso, puedan establecer las Comunidades Autónomas, las infracciones sobre actividades relacionadas con los residuos se clasifican en muy graves, graves y leves. 2. Son infracciones muy graves: b. El abandono, vertido o eliminación incontrolados de residuos peligrosos. c. El abandono, vertido o eliminación incontrolado de cualquier otro tipo de residuos, siempre que se haya producido un daño o deterioro grave para el medio ambiente o se haya puesto en peligro grave la salud de las personas.</td>
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<td><strong>Artículo 35. Sanciones.</strong></td>
<td>1. Las infracciones a que se refiere el artículo anterior podrán dar lugar a la imposición de todas o algunas de las siguientes sanciones: a. En el caso de infracciones muy graves: b. Multa desde 5.000.001 (30.050,61 €) hasta 200.000.000 de pesetas (1.202.024,21 €), excepto en residuos peligrosos, que será desde 50.000.001 (300.506,06 €) hasta 200.000.000 de pesetas (1.202.024,21 €). Inhabilitación para el ejercicio de cualquiera de las actividades previstas en la presente Ley por un periodo de tiempo no inferior a un año ni superior a diez. En los supuestos de infracciones tipificadas en las letras a), d), e), h) y j) del artículo 34.2, clausura</td>
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According to art 35 of the Ley 10/1998, the administrative fines shall apply only to very serious breaches and range from 30.050,61 € to 1.202.024,41€.
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<td><strong>Preamble of Regulation 1013/2006 of 14 June 2006,</strong></td>
<td><strong>Artículo 17. Entrada y salida de residuos del territorio nacional.</strong></td>
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<tr>
<td>Article 35</td>
<td>1. La entrada y salida de residuos del territorio nacional se regirá por lo dispuesto en la legislación comunitaria y en los tratados internacionales en los que España sea parte.</td>
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<td>‘illegal shipment’ means any shipment of waste effected:</td>
<td>2. La Administración General del Estado, en los traslados procedentes de países terceros, y las Comunidades Autónomas, en los supuestos de traslados en el interior de la Unión Europea, podrán prohibir, respectivamente, la entrada en el territorio nacional o en el de la Comunidad Autónoma, de residuos destinados a ser eliminados, cuando no lo impida la normativa comunitaria o los tratados u convenios internacionales de los que España sea parte. (…)</td>
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<td>(a) without notification to all competent authorities concerned pursuant to this Regulation; or</td>
<td><strong>CAPÍTULO II. Responsabilidad administrativa y régimen sancionador</strong></td>
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<tr>
<td>(b) without the consent of the competent authorities concerned pursuant to this Regulation; or</td>
<td><strong>Artículo 32. Responsabilidad.</strong></td>
</tr>
<tr>
<td>(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or</td>
<td>• No criminal sanctions, only administrative ones.</td>
</tr>
<tr>
<td>(d) in a way which is not specified materially in the notification or movement documents; or</td>
<td>• Environmental crimes in penal code:</td>
</tr>
<tr>
<td>(e) in a way which results in recovery or disposal in contravention of Community or international rules; or</td>
<td>Punishments established for an ecological crime are imprisonment from 6 months up to 7 years, a periodic payment penalty of 8-24 months and professional disqualification from 1 to 3 years (art 325 PC).</td>
</tr>
<tr>
<td><em>No criminal sanctions, only administrative ones.</em>*</td>
<td><strong>According to art 35 of the Ley 10/1998, the administrative fines shall apply only to very serious breaches and range from 30.050,61 € to 1.202.024,41€</strong></td>
</tr>
</tbody>
</table>
(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:
(i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
(ii) non-compliance with Article 3(4),
(iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

Article 50
Enforcement in Member States
1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.


Article 26
1. Any shipment of waste effected:
(a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
(c) with consent obtained from the

1. Las infracciones a lo establecido en esta Ley serán sancionadas con arreglo a lo dispuesto en este Título, sin perjuicio, en su caso, de las correspondientes responsabilidades civiles y penales.
2. La responsabilidad será solidaria en los siguientes supuestos:
   a. Cuando el poseedor o el gestor de los residuos los entregue a persona física o jurídica distinta de las señaladas en esta Ley.
   b. Cuando sean varios los responsables y no sea posible determinar el grado de participación de cada uno en la realización de la infracción.
3. Cuando los daños causados al medio ambiente se produzcan por acumulación de actividades debidas a diferentes personas, la Administración competente podrá imputar individualmente esta responsabilidad y sus efectos económicos.

Artículo 34. Infracciones.
1. Sin perjuicio de las infracciones que, en su caso, puedan establecer las Comunidades Autónomas, las infracciones sobre actividades relacionadas con los residuos se clasifican en muy graves, graves y leves.
2. Son infracciones muy graves:
   f. La elaboración, importación o adquisición intracomunitaria de productos con sustancias o preparados prohibidos por la peligrosidad de los residuos que generan.
3. Son infracciones graves:
   f. La entrada en el territorio nacional de residuos procedentes de otro Estado miembro de la Comunidad Europea o de un país tercero, así como la salida de residuos hacia los citados lugares, sin cumplimentar la notificación o sin obtener los permisos y autorizaciones exigidos por la legislación comunitaria o los tratados o convenios internacionales de los que España sea parte.
   g. En el caso de adquisición intercomunitaria y de importaciones de países terceros de residuos, el incumplimiento de la obligación de notificar la realización de su valorización o eliminación, en el
competent authorities concerned through falsification, misrepresentation or fraud; or (d) which is not specified in a material way in the consignment note; or (e) which results in disposal or recovery in contravention of Community or international rules; or (f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.

2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
   (a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
   (b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.

   In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.

3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period plazo máximo de ciento ochenta días tras la recepción de los mismos, de acuerdo con lo establecido en los artículos 5.6, 6.6, 19.9 y 22.1 del Reglamento 259/93/CEE.

**Artículo 35. Sanciones.**

2. Las infracciones a que se refiere el artículo anterior podrán dar lugar a la imposición de todas o algunas de las siguientes sanciones:

   a. **En el caso de infracciones muy graves:**
      Multa desde 5.000.001 (30.050,61 €) hasta 200.000.000 de pesetas (1.202.024,21 €), excepto en residuos peligrosos, que será desde 50.000.001 (300.506,06 €) hasta 200.000.000 de pesetas (1.202.024,21 €).
      Inhabilitación para el ejercicio de cualquiera de las actividades previstas en la presente Ley por un período de tiempo no inferior a un año ni superior a diez.
      En los supuestos de infracciones tipificadas en las letras a), d), e), h) y j) del artículo 34.2, clausura temporal o definitiva, total o parcial, de las instalaciones o aparatos.
      En los supuestos de infracciones tipificadas en las letras a), d), e), f), h), i) y j) del artículo 34.2, revocación de la autorización o suspensión de la misma por un tiempo no inferior a un año ni superior a diez.

b. **En el caso de infracciones graves:**
   Multa desde 100.001 (601,02 €) hasta 5.000.000 de pesetas (30.050,61 €), excepto en los residuos peligrosos, que será desde 1.000.001 (6.010,13 €) hasta 50.000.000 de pesetas (300.506,05 €).
   Inhabilitación para el ejercicio de cualquiera de las actividades previstas en la presente Ley por un período de tiempo de hasta un año.
   En los supuestos de infracciones tipificadas en las letras a), d), f), g), h), i), j) y k) del artículo 34.3, revocación de la autorización o suspensión de la misma por un tiempo de hasta un año.
of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.  
4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.  
5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

<table>
<thead>
<tr>
<th>4. Unlawful significant deterioration of a protected habitat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 6</td>
</tr>
<tr>
<td>2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.</td>
</tr>
<tr>
<td>3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.</td>
</tr>
<tr>
<td>Article 12</td>
</tr>
<tr>
<td>1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:</td>
</tr>
</tbody>
</table>

| Real Decreto 1997/1995, de 7 de diciembre, por el que se establecen medidas para contribuir a garantizar la biodiversidad mediante la conservación de los hábitats naturales y de la fauna y flora silvestres (BOE núm. 310, de 28 de diciembre de 1995) ( c.e. BOE núm. 129, de 28 de mayo de 1996) |
| Artículo 6 Medidas de conservación. |
| 1. Respecto de las zonas especiales de conservación, las Comunidades Autónomas correspondientes fijarán las medidas de conservación necesarias que implicarán, en su caso, adecuados planes de gestión, específicos a los lugares o integrados en otros planes de desarrollo, y las apropiadas medidas reglamentarias, administrativas o contractuales, que respondan a las exigencias ecológicas de los tipos de hábitats naturales del anexo I y de las especies del anexo II presentes en los lugares. |
| 2. Por las Comunidades Autónomas correspondientes se adoptarán las medidas apropiadas para evitar en las zonas especiales de conservación el deterioro de los hábitats naturales y de los hábitats de especies, así como las alteraciones que percutan en las especies |

| Punishments established for an ecological crime are: |
| • imprisonment from 6 months up to 4 years, |
| • a periodic payment penalty of 8-24 months and |
| • professional disqualification from 1 to 3 years (art 325 PC). |

| Criminal responsibility: |
| Article 332 CP punishes anyone who picks, cuts down, collects or deals illegally in any threatened species or subspecies, or destroys or gravely alters their habitat. |
| Article 333 CP punishes the introduction or liberation of non-local |

| No criminal sanction |
| No administrative sanction was identified |
(a) all forms of deliberate capture or killing of specimens of these species in the wild;

(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

(c) deliberate destruction or taking of eggs from the wild;

(d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Article 13

1. Member States shall take the measures necessary to ensure that all altered situations are within parameters that are acceptable in terms of the objectives of the present Real Decreto.

3. Any plan or project that, without being explicitly authorised, or without being necessary for the purpose of the plan or project, has a significant negative impact on the species concerned, or on the species that are subject to special protection and considered to be vulnerable, or which are important for the health and safety of humans, or which are important for the health and safety of animals, or which are important for the health and safety of plants, or which are important for the health and safety of other living organisms, or which are important for the health and safety of the natural environment, shall be subjected to an adequate assessment of its effects. The assessment shall be carried out in accordance with the provisions of this article, the regulations of the autonomous comunidades, and the regulations of the other autonomous communities, taking into account the objectives of the protection of the natural environment.

4. If, despite the negative conclusions of the assessment of the effects on the species, and in the absence of alternative solutions, a plan or project is necessary for reasons of public interest of a significant nature, including social or economic reasons, the public authorities will take all necessary compensatory measures to ensure that the coherence of the Natura 2000 network is protected. In such cases, the autonomous comunidades will inform the Minister of Agriculture, Fisheries and Food of the measures adopted, and he will inform the Commission of the European Communities.

Species when this damages the ecological balance, whenever this harms the biological balance and infringes laws or general regulations which protect flora and fauna species.

Article 334 CP punishes the hunting or fishing of endangered species, actions which impede or make difficult their reproduction or migration, the trade or traffic of these or with their remains. In all cases, criminal liability requires the infringement of laws or regulations which protect flora and fauna species.

Article 336 CP punishes the unauthorised use of explosives or other means of similar destructive capacity in hunting or fishing.

Article 335 CP punishes the hunting of non-threatened species or those not in danger of extinction, when hunting or catching them is not explicitly authorised.
requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

(a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;

(b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

5. Unlawful trade in or use of Ozone Depleting Substances (ODS)


Article 4 Control of the placing on the market and use of controlled substances

1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:

(a) chlorofluorocarbons;
(b) other fully halogenated chlorofluorocarbons;
(c) halons;
(d) carbon tetrachloride;
(e) 1,1,1-trichloroethane;
(f) hydrobromofluorocarbons.


Artículo 12

(…) Esta última previsión, recogida en la disposición adicional segunda, viene impuesta por el Reglamento (CE) 2037/2000, del Parlamento Europeo y del Consejo, de 29 de junio, sobre las sustancias que agotan la capa de ozono, cuyo artículo 21 dispone que “los Estados miembros determinarán las sanciones necesarias aplicables a las infracciones del presente Reglamento”. Las conductas objeto de sanción a que se refiere el citado Reglamento encuentran cobertura legal en los tipos de infracción establecidos en la Ley Orgánica 12/1995, de 12 de diciembre, de represión del contrabando, que en su artículo 1 define “géneros prohibidos” como todos aquellos cuya importación, exportación, circulación, tenencia, comercio o producción esté prohibida expresamente por disposición con rango de ley o por reglamento de la Unión Europea. La tipificación recogida en su artículo 2 se refiere, asimismo, a quienes "realicen operaciones públicas, o relativas a consecuencias positivas de primordial importancia para el medio ambiente, o bien, otras razones imperiosas de interés público de primer orden. En este último caso, a través del cauce correspondiente, habrá que consultar, previamente, a la Comisión Europea. Desde el momento en que un lugar figure en la lista de lugares de importancia comunitaria, éste quedará sometido a lo dispuesto en los apartados 2, 3 y 4 de este artículo. También será de aplicación a las zonas de especial protección para las aves, declaradas, en su caso, por las Comunidades Autónomas correspondientes, al amparo del artículo 4 de la Directiva 79/409/CEE, lo establecido en los apartados 2, 3 y 4 de este mismo artículo.

Criminal or administrative sanctions depending on the value of the goods.

- Punishments established for an ecological crime are imprisonment from 6 months up to 4 years, (art 325 PC).
- Administrative Fines from the double to the quadruple of the goods's value

The real decreto 208/2005 merely refers to Regulation 2037/2000 but concerns in fact the provision of this Regulation that applies to the treatment of WEEE containing ODS.

Currently, industrial activities related to ODS are covered by the IPPC legislation (Law 16/2002). However, the applicable punitive system is not that of IPPC law. The
Control of the use of hydrochlorofluorocarbons
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
   (a) in aerosols;
   (b) as solvents:
   (…) (c) as refrigerants:
   (…) (d) for the production of foams:
   (…) (e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
   (f) in all other applications.
   (…) Article 21
Penalties
Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.

punitive regime applicable to Regulation 2037/2000 is that of LO 12/95, which is the Law on smuggling activities.

This law 12/1995 states that smuggling must concern illicite goods having a value of +/- 18.000 euros to be qualified as a criminal offence. Such a value is not necessary in case of organised traffic.

- When such a requirement is met, the punishment is prison (from 6 month to 4 years)and fines from the double to the quadruple of the good’s value.
  Such punishment must be from medium to maximum grade.
- When such a requirement is not met, the punishment is of administrative nature: up to three times the value of the goods
- In both cases, accessory measures are foreseen: forfeiture of the vehicle of transport and of the illicit goods

Article 21
Penalties
Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.

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- When such a requirement is not met, the punishment is of administrative nature: up to three times the value of the goods
- In both cases, accessory measures are foreseen: forfeiture of the vehicle of transport and of the illicit goods

Article 3. Penalidad.
1. Los que cometieren el delito de contrabando serán castigados con las penas de prisión menor y multa del duplo al cuádruplo del valor de los bienes, mercancías, géneros o efectos.

En los casos previstos en las letras a) y b) del apartado 1 del artículo 2, las penas se impondrán en su grado mínimo y en los restantes en grado medio o máximo.

Artículo 5. Comiso.
1. Toda pena que se impusiere por un delito de contrabando llevará consigo el comiso de los siguientes bienes, efectos e instrumentos: a) Las mercancías que constituyan el objeto del delito. b) Los materiales, instrumentos o maquinaria
empleados en la fabricación, elaboración, transformación o comercio de los géneros estancados o prohibidos.
c) Los medios de transporte con los que se lleve a efecto la comisión del delito, salvo que pertenezcan a un tercero que no haya tenido participación en éste, y el Juez o el Tribunal competente estimen que dicha pena accesoria resulta desproporcionada en atención al valor del medio de transporte objeto del comiso y al importe de las mercancías objeto del contrabando.
d) Las ganancias obtenidas del delito, cualesquiera que sean las transformaciones que hubieran podido experimentar.
e) Cuantos bienes y efectos, de la naturaleza que fueren, hayan servido de instrumento para la comisión del delito.

Artículo 12. **Sanciones** (administrativas)
1. Los responsables de las infracciones administrativas de contrabando serán sancionados con multa del tanto al triplo del valor de los bienes, mercancías, géneros o efectos.
### Sweden

<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
</thead>
</table>

- Fine (level: up to the judge)  
- Prison: up to two years or  
- Prison: from six months up to six years if the offence leads to pollution and is serious. When the seriousness of the offence is considered, special attention shall be paid to whether it caused, or might have caused, lasting damage on a large scale or whether the act was otherwise of a particularly dangerous nature.  
- Forfeiture of the substances involved, the value of the proceeds of the offence, means of transport and other means used for the purposes of or involved in the may be declared forfeited if this is necessary in order to prevent crime or otherwise in special circumstances. Instead of the means itself, its value, or part thereof, may be declared forfeited.

**Fines**  
In Swedish environmental criminal law fines are not sentenced as fixed amounts or levels on a fixed scale, but are proportional to the convict’s income.  

Environmental sanction charges (administrative sanction) according to chapter 30, section 1 of the environment Code.

All occasions when an ESF must be imposed are listed in the governmental decree (SFS 1998:950) on Environmental Sanction Fee. The amount of the fee, which varies from 1,000 SEK to 1,000,000 SEK (approximately 110 Euro to 110,000 Euro) is decided by law, and there is, in principle, no possibility for the CA to apportion.

According to section 30, chapter 2, Environmental sanction charges may range from € 500 (SEK 5,000) to € 100,000 (SEK 1,000,000).
They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.


Article 11 Programme of measures

3. “Basic measures” are the minimum requirements to be complied with and shall consist of:

(j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:

Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

pollution or adverse impact on water areas, land or groundwater.

Chapter 29 environmental code

Section 1 Any person who deliberately:

1. pollutes land, water or air in a manner which involves or is liable to involve risks for human health or detriment to flora and fauna that are not inconsiderable or other significant detriment to the environment;

2. stores waste or other matter in a manner which may give rise to health risks, damage or other detriment referred to in point 1 as a result of pollution; or

3. causes substantial detriment to the environment as a result of noise, vibration or radiation shall, unless a competent authority has permitted the practice or it is generally accepted, be liable to a fine or a term of imprisonment not exceeding two years for environmental offence.

If the offence is serious, the penalty shall be a term of imprisonment of not less than six months nor more than six years.

When the seriousness of the offence is considered, special attention shall be paid to whether it caused, or might have caused, lasting damage on a large scale or whether the act was otherwise of a particularly dangerous nature.

If the act may be deemed to be justifiable in view of the circumstances, no penalty shall be imposed pursuant to this section.

Section 2 Any person who commits an offence referred to in section 1 through negligence shall be liable to a fine or a term of imprisonment not exceeding two years for the offence of causing environmental disturbance.

Section 8 Any person who infringes any of the following provisions, whether deliberately or through negligence,
shall be liable to a fine or a term of imprisonment not exceeding two years:

12. rules or decisions prohibiting discharges of wastewater etc. issued pursuant to chapter 9, section 4;

13. rules concerning precautions in connection with environmentally hazardous activities issued pursuant to chapter 9, section 5;

15. the obligation to maintain a water structure pursuant to chapter 11, section 17 first paragraph or section 20 first paragraph or 21 first paragraph ;

Section 12 Animals, plants and products extracted from animals or plants, chemical products, biotechnical organisms and products that contain chemical products or genetically modified organisms, as well as products containing or consisting of genetically modified organisms, which are involved in an offence referred to in sections 1 to 4, 6, 8, 9 or 10 may be declared forfeited, unless this is manifestly unreasonable. The same shall apply to the value of the property or the proceeds of such an offence.

Means of transport and other means used for the purposes of or involved in an offence referred to in sections 1 to 4, 8, 9 or 10 may be declared forfeited if this is necessary in order to prevent crime or otherwise in special circumstances. Instead of the means itself, its value, or part thereof, may be declared forfeited.

<table>
<thead>
<tr>
<th>2. Unlawful dumping of waste</th>
<th>Directive 2006/12/EC of 5 April 2006 on waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 4.</td>
<td>2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.</td>
</tr>
<tr>
<td></td>
<td>- Environmental code Chap. 15</td>
</tr>
<tr>
<td>Dumping Section 31</td>
<td>Waste, whether in the form of solid matter, liquids or gas, must not be dumped in Sweden’s territorial waters or economic zone. Waste must not be dumped from Swedish vessels or aircraft in the open sea. Waste intended for dumping in the open sea must not be taken out of the country or Sweden’s economic zone.</td>
</tr>
<tr>
<td></td>
<td>• Fine (level: up to the judge)</td>
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<tr>
<td></td>
<td>• Prison: up to two years or</td>
</tr>
<tr>
<td></td>
<td>• Prison: from six months up to six years if the offence leads to pollution and is serious. When the seriousness of the offence is considered, special attention shall be paid to whether it caused, or might have caused, lasting damage on a large scale or whether the act was otherwise of a particularly dangerous nature.</td>
</tr>
<tr>
<td></td>
<td>Environmental sanction charges (administrative sanction) according to chapter 30, section 1 of the environment Code.</td>
</tr>
<tr>
<td></td>
<td>According to section 30, chapter 2, Environmental sanction charges may rank from € 500 (SEK 5.000) to € 100.000 (SEK 1.000.000).</td>
</tr>
</tbody>
</table>
The provisions relating to dumping shall also be applicable to the incineration of waste.

- Chapter 29 environmental code
  Section 1 Any person who deliberately:
  1. pollutes land, water or air in a manner which involves or is liable to involve risks for human health or detriment to flora and fauna that are not inconsiderable or other significant detriment to the environment;
  2. stores waste or other matter in a manner which may give rise to health risks, damage or other detriment referred to in point 1 as a result of pollution; or
  3. causes substantial detriment to the environment as a result of noise, vibration or radiation shall, unless a competent authority has permitted the practice or it is generally accepted, be liable to a fine or a term of imprisonment not exceeding two years for environmental offence.

  If the offence is serious, the penalty shall be a term of imprisonment of not less than six months nor more than six years. When the seriousness of the offence is considered, special attention shall be paid to whether it caused, or might have caused, lasting damage on a large scale or whether the act was otherwise of a particularly dangerous nature.

  If the act may be deemed to be justifiable in view of the circumstances, no penalty shall be imposed pursuant to this section.

  Section 2 Any person who commits an offence referred to in section 1 through negligence shall be liable to a fine or a term of imprisonment not exceeding two years for the offence of causing environmental disturbance.

  Section 8 Any person who infringes any of the following provisions, whether deliberately or through negligence, shall be liable to a fine or a term of imprisonment not exceeding two years:

  24. the prohibition against the dumping or incineration of waste laid down in chapter 15, section 31;

- Forfeiture of the substances involved, the value of the proceeds of the offence, means of transport and other means used for the purposes of or involved in the may be declared forfeited if this is necessary in order to prevent crime or otherwise in special circumstances. Instead of the means itself, its value, or part thereof, may be declared forfeited.

| 3. Illegal shipment of waste | Preamble of Regulation 1013/2006 of 14 June | The Regulation is directly applicable, but is supplemented by certain provisions of national legislation. Criminal | • Fine (level: up to the judge) | • Prison: up to two years | No criminal sanction |
Article 35

’illegal shipment’ means any shipment of waste effected:
(a) without notification to all competent authorities concerned pursuant to this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) in a way which is not specified materially in the notification or movement documents; or
(e) in a way which results in recovery or disposal in contravention of Community or international rules; or
(f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
(g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:
(i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
(ii) non-compliance with Article 3(4),
(iii) the shipment being effected in a way which is
sanctions for infringement the provisions of the Council Regulation are found in these texts or in the chapter 29, section 8, 27 § of the Environmental Code
- Lag (2000:1225), sections 3-5 sanctions the offence of deliberately (section 7 : through negligence) failing to comply with a condition for import/export and provides for a Term of imprisonment not exceeding two years (section 4: minor offence: Fine; section 5: major offence: term of imprisonment not less than six months and not exceeding two years).
- The Criminal Code, chapter 14, sections 1 and 9 sanctions the fact to deliberately produce or use a false document- fine or imprisonment not exceeding 2 years
- The criminal Code, chapter 15, section 10 sanctions the fact to deliberately or through gross negligence under affirmation supplying incorrect information or concealing the truth- Fine or imprisonment not exceeding 2 years

- Chapter 29 environmental code

Section 8 Any person who infringes any of the following provisions, whether deliberately or through negligence, shall be liable to a fine or a term of imprisonment not exceeding two years:

Environmental sanction charges (administrative sanction) according to chapter 30, section 1 of the environment Code.
Environmental sanction charges may rank from € 500 (SEK 5.000) to € 100.000 (SEK 1.000.000).
not specified materially in the document set out in Annex VII.

**Article 50**  
**Enforcement in Member States**

1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.


**Article 26**

1. Any shipment of waste effected:
   (a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or
   (b) without the consent of the competent authorities
concerned pursuant to the provisions of this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) which is not specified in a material way in the consignment note; or
(e) which results in disposal or recovery in contravention of Community or international rules; or
(f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.
2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
(a) taken back by the notifier or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner,
within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned.
In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.

3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be
4. Unlawful significant deterioration of a protected habitat


**Article 6**
2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.
3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

**Article 12**
1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:
- (a) all forms of deliberate capture or killing of specimens of these species in the wild;

Chap. 7 environmental code

<table>
<thead>
<tr>
<th>Habitat protection areas</th>
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<tr>
<td><strong>Section 11</strong> Small land and water areas that constitute habitats for endangered animal and plant species or are otherwise particularly worthy of protection may be designated habitat protection areas by the Government or the authority appointed by the Government. Such designations may relate to individual areas or all the areas of a certain type in the country or part of the country. Activities or measures that are liable to damage the natural environment must not be undertaken in habitat protection areas. If the Government designates all areas of a certain type as habitat protection areas, it may in connection with such a decision issue rules concerning the granting of exemptions for such activities or measures. Exemptions may only be granted in special circumstances. The Government or the authority appointed by the Government may take the necessary measures to conserve habitat protection areas. Before a measure is taken, the owner of the area and any holders of special rights thereto shall be notified. A decision establishing a habitat protection area shall take effect immediately even if it is appealed against.</td>
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<tr>
<th>Wildlife and plant sanctuaries</th>
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</thead>
<tbody>
<tr>
<td><strong>Section 12</strong> If an animal or plant species needs special protection in a specific area, over and above the prohibitions imposed in chapter 8, sections 1 and 2 or the prohibitions and restrictions provided for in the legislation on hunting and fishing, a municipality or a county administrative board may issue rules restricting the right to hunting or fishing or the right of the public or the owner of the land to enter the area.</td>
</tr>
</tbody>
</table>

- Fine (level: up to the judge)
- Prison: up to two years or
- Prison: from six months up to six years if the offence is serious. When the seriousness of the offence is considered, special attention shall be paid to whether it caused, or might have caused, lasting damage on a large scale or whether the act was otherwise of a particularly dangerous nature.
- Forfeiture of the substances involved, the value of the proceeds of the offence, means of transport and other means used for the purposes of or involved in the may be declared forfeited if this is necessary in order to prevent crime or otherwise in special circumstances. Instead of the means itself, its value, or part thereof, may be declared forfeited.

Environmental sanction charges (administrative sanction) according to chapter 30, section 1 of the environment Code.

According to section 30, chapter 2, Environmental sanction charges may rank from € 500 (SEK 5.000) to € 100.000 (SEK 1.000.000).
(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
(c) deliberate destruction or taking of eggs from the wild;
(d) deterioration or destruction of breeding sites or resting places.
2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.
3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.
4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

**Article 13**

1. Member States shall take the requisite measures to

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<th>Shore protection</th>
<th>areas</th>
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<tr>
<td>Section 13 Shore protection applies by the sea, lakes and watercourses. The purpose of shore protection is to assure public access to outdoor recreation facilities and to maintain good living conditions for plant and animal species on land and in water.</td>
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</table>

- **Chapter 8. Special provisions concerning the protection of animal and plant species**

| Section 1 Rules prohibiting the killing, injury or capture of wild animals or the taking of or causing of damage to the eggs, spawn, roe or nests of such animals in the country or any part of it may be issued by the Government or the authority appointed by the Government. Such rules may be issued where there is a risk of a wild animal species becoming extinct or being subjected to exploitation or where they are necessary for compliance with Sweden’s international undertakings with respect to the protection of such a species. Nevertheless, these prohibitions shall not apply in cases where such an animal must be killed, injured or captured in order to defend a person or valuable property against attack. Special provisions shall apply to the killing or capture of wild animals of certain species where such an act takes place in connection with hunting or fishing. |
| Section 2 Rules prohibiting the removal of, the causing of damage to or the taking of seeds or other parts from wild plants in the country or any part of it may be issued by the Government or the authority appointed by the Government. Such rules may be issued where there is a risk of a wild plant species becoming extinct or being subjected to exploitation, or where it is necessary for compliance with Sweden’s international undertakings with respect to the protection of such a species. |
| Section 3 In order to protect wild animal or plant species or the natural environment, the Government or the authority appointed by the Government may issue rules prohibiting, or special conditions concerning, the release |
establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:
(a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;
(b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.
2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

Section 4 In order to protect wild animal or plant species, the Government or the authority appointed by the Government may issue rules concerning imports and exports, transportation, housing, preparation and exhibition of, or trade in, animals and plants. Such rules may be issued where they are necessary for compliance with Sweden’s international undertakings in that area or for other reasons. The rules may also govern any corresponding dealing with eggs, spawn, roe or nests or with other products extracted from animals or plants. The rules may impose prohibitions against, or the requirement to obtain a permit for, or other special conditions relating to, the measures referred to in the first paragraph.

Section 5 Any rules issued or decisions taken in individual cases pursuant to the provisions of this chapter shall take effect immediately even if they are appealed against.

- Chapter 29 environmental code

Section 1 Any person who deliberately:
1. pollutes land, water or air in a manner which involves or is liable to involve risks for human health or detriment to flora and fauna that are not inconsiderable or other significant detriment to the environment;
2. stores waste or other matter in a manner which may give rise to health risks, damage or other detriment referred to in point 1 as a result of pollution; or
3. causes substantial detriment to the environment as a result of noise, vibration or radiation shall, unless a competent authority has permitted the practice or it is generally accepted, be liable to a fine or a term of imprisonment not exceeding two years for environmental offence. If the offence is serious, the penalty shall be a term of
imprisonment of not less than six months nor more than six years. When the seriousness of the offence is considered, special attention shall be paid to whether it caused, or might have caused, lasting damage on a large scale or whether the act was otherwise of a particularly dangerous nature. If the act may be deemed to be justifiable in view of the circumstances, no penalty shall be imposed pursuant to this section.

Section 2 Any person who commits an offence referred to in section 1 through negligence shall be liable to a fine or a term of imprisonment not exceeding two years for the offence of causing environmental disturbance.

Section 8 Any person who infringes any of the following provisions, whether deliberately or through negligence, shall be liable to a fine or a term of imprisonment not exceeding two years:

3. the prohibition against pursuing activities or taking measures in a habitat protection area laid down in chapter 7, section 11;
4. rules that are necessary for special protection of flora or fauna pursuant to chapter 7, section 12;
5. a prohibition against erecting a new building or taking any other measure contrary to chapter 7, section 16 in a shore protection area;
6. rules concerning precautions in environmental protection zones issued pursuant to chapter 7, section 20;
7. rules imposing restrictions in water protection areas issued pursuant to chapter 7, section 22;
8. a temporary prohibition imposed pursuant to chapter 7, section 24 first paragraph;
9. rules imposing prohibitions for the protection of species of animals and plants issued pursuant to chapter 8, section 1 or 2;
10. rules prohibiting or imposing special conditions for the release of animal or plant species issued pursuant to chapter 8, section 3;
11. rules issued pursuant to chapter 8, section 4 by having any dealing with animals, plants, eggs, spawn, roe, nests or products of animals or plants contrary to such a rule or
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<tr>
<td>Article 4</td>
<td>Control of the placing on the market and use of controlled substances</td>
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<tr>
<td>1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:</td>
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<td>(a) chlorofluorocarbons;</td>
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<td>(b) other fully halogenated chlorofluorocarbons;</td>
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<td>(c) halons;</td>
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<td>(d) carbon tetrachloride;</td>
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<td>(e) 1,1,1-trichloroethane;</td>
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<td>(f) hydrobromofluorocarbons.</td>
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<td>(...)</td>
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<td>Article 5</td>
<td>Control of the use of hydrochlorofluorocarbons</td>
</tr>
<tr>
<td>Section 1 Any person who deliberately:</td>
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<tr>
<td>1. pollutes land, water or air in a manner which involves or is liable to involve risks for human health or detriment to flora and fauna that are not inconsiderable or other significant detriment to the environment;</td>
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<tr>
<td>2. stores waste or other matter in a manner which may give rise to health risks, damage or other detriment referred to in point 1 as a result of pollution; or</td>
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<tr>
<td>3. causes substantial detriment to the environment as a result of noise, vibration or radiation shall, unless a competent authority has permitted the practice or it is generally accepted, be liable to a fine or a term of imprisonment not exceeding two years for environmental offence.</td>
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<tr>
<td>If the offence is serious, the penalty shall be a term of imprisonment of not less than six months nor more than six years. When the seriousness of the offence is considered, special attention shall be paid to whether it caused, or might have caused, lasting damage on a large scale or whether the act was otherwise of a particularly dangerous nature.</td>
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<tr>
<td>If the act may be deemed to be justifiable in view of the circumstances, no penalty shall be imposed pursuant to this section.</td>
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<tr>
<td>Section 2 Any person who commits an offence referred to in section 1 through negligence shall be liable to a fine or a term of imprisonment not exceeding two years for the offence of causing environmental disturbance.</td>
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<td>• Fine (level: up to the judge)</td>
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<td>• Prison: up to two years or</td>
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<td>• Prison: from six months up to six years if the offence leads to pollution of the environment and is serious. When the seriousness of the offence is considered, special attention shall be paid to whether it caused, or might have caused, lasting damage on a large scale or whether the act was otherwise of a particularly dangerous nature.</td>
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<tr>
<td>• Forfeiture of the substances involved, the value of the proceeds of the offence, means of transport and other means used for the purposes of or involved in the may be declared forfeited if this is necessary in order to prevent crime or otherwise in special circumstances. Instead of the means itself, its value, or part thereof, may be declared forfeited.</td>
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<tr>
<td>Environmental sanction charges (administrative sanction) according to chapter 30, section 1 of the environment Code.</td>
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<tr>
<td>According to section 30, chapter 2, Environmental sanction charges may rank from € 500 (SEK 5.000) to € 100.000 (SEK 1.000.000).</td>
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<tr>
<td>Fines ESF for Ozone substances: CFC etc. 10.000 SEK and 1.200 SEK for each Kg forbidden substance HCFC etc. 5.000 SEK and 600 SEK for each Kg forbidden substance Halon etc. 10.000 SEK and 1.200 SEK for each Kg forbidden substance</td>
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</table>
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
   (a) in aerosols;
   (b) as solvents;
   (c) as refrigerants;
   (d) for the production of foams;
   (e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;
   (f) in all other applications.

**Article 21**

**Penalties**

Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.

**Section 8** Any person who infringes any of the following provisions, whether deliberately or through negligence, shall be liable to a fine or a term of imprisonment not exceeding two years:
26. the prohibition against providing or the duty to provide information laid down in Council Regulation (EC) No 3093/94 of 15 December 1994 on substances that deplete the ozone layer;
United Kingdom

Typology criminal penalties UK

Penalties:

fines
Offences sentenced by indictment have no stated upper limit, whereas offences sentenced by magistrates are always capped. Section 17(2)c of the Criminal Justice Act 1991 sets the “statutory maximum fine” for cases tried summarily at £5000. However, the legislation can stipulate the maximum fine for certain offences to be up to £20 000, in particular if the case is only triable by summary procedure.

In a magistrates court, the amount of the fine is calculated, relative to the maximum amount detailed in the legislation, according to the principles of the Criminal Justice Act 1991 s.18 which takes into account the seriousness of the offence (which, for environmental crimes, should include considerations of culpability and the extent of the damage) and the defendant’s financial circumstances.

Community sentences
Offences which, according to the legislation, could be sanctioned by imprisonment, and which are more serious than those normally sanctioned only by fines may merit sanction by probation or community service. Community sentences are rare, but the SAP guidelines suggest that it might be appropriate to use them more often, especially because they sanction the offender to perform, over a period of twelve months, a specified number of hours of unpaid work for the benefit of the community and thus result in reparations to the community. An alternative community sentence is probation, which can be ordered for between six months and three years and means the offender will be supervised by a probation officer.

Custodial sentences
Few environmental offences warrant a custodial sentence and according to the SAP guidelines, this should only occur if the crime causes serious damage, such as to human health and involves a very high degree of culpability on the part of the offender. Magistrates courts may pass custodial sentences of up to 12 months but only use this power exceptionally. Sentences of up to two years, whether awarded following summary procedure or following indictment, will often be “suspended” which means that the sentence will not take effect unless the prisoner commits another imprisonable offence during a period decided by the court of between one and two years.

Compensation orders
Compensation orders are rarely used in environmental cases and it suggested that where there is a specific victim, the Court should always consider as making such an order. Under sections 130 to 134 of the Powers of the Criminal Courts (Sentencing) Act, 2000, where an offence causes personal injury, loss or damage, the court may order to pay compensation. This can be up to 5000 pounds in a Magistrates Court and is unlimited in the Crown Court.

Corporate liability:

In UK criminal law, bodies corporate can be tried and sentenced similarly to natural persons. Any director, manager, secretary or other similar officer of a corporate body can be prosecuted personally if the offence is committed with their consent or connivance, or is attributable to neglect. However, criminal liability for legal persons requires express provision to this effect in the relevant legislation (see tables in section II). In such cases, the penalties available to courts do not include custodial or community sentences.
<table>
<thead>
<tr>
<th>Criminal offence</th>
<th>General and Specific provision of EC law infringed</th>
<th>Provision of National law qualifying this infringement as a criminal offence (in official language)</th>
<th>Type and level of criminal sanction for natural persons</th>
<th>Type and level of sanction for legal persons (if applicable)</th>
</tr>
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<tbody>
<tr>
<td>1. Unlawful discharge of hazardous substances into water</td>
<td>Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community</td>
<td>• England and Wales: Water resource Act, 1991: Article 4</td>
<td>10 pounds (GBP)=15,15 euros</td>
<td>Both body corporate and persons in charge can be proceeded against, convicted and punished with the same penalties as for natural persons (except custodial sentences)</td>
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<td>With regard to List I substances: (a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned; (b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers; (c) authorisations may be granted for a limited period only. They may be renewed, taking into account any changes in the emission limit values laid down by the Directive</td>
<td>• Scotland: Water Environment (Controlled Activities) Scotland Regulations (CAR) 2005</td>
<td>• Scotland: Water Environment (Controlled Activities) Scotland Regulations. Discharge without authorization</td>
<td>Scotland: Water Environment (Controlled Activities) Scotland Regulations. Discharge without authorization:</td>
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<td>It is an offence to undertake the following activities without a CAR authorisation: • discharges to all wetlands, surface waters and groundwaters (replacing the Control of Pollution Act 1974 (CoPA));</td>
<td>• Scotland: Water Environment (Controlled Activities) Scotland Regulations. Discharge without authorization:</td>
<td>Summary offence:</td>
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<td>• Northern Ireland: The Water order, 1999. Statutory Instrument 1999 No. 662 (N.I. 6) Section 7. Pollution of water - (1) “Subject to the following provisions of this Part, a person commits an offence if, whether knowingly or otherwise - (a) he discharges or deposits any poisonous, noxious or polluting matter so that it enters a waterway or water contained in any underground strata...”</td>
<td>• Northern Ireland The Water order, 1999, Section 7 Pollution of water</td>
<td>Summary offence:</td>
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<td>The Industrial Pollution Control Order 1997 Section 4) Subject to paragraphs (5) and (6), there is implied in every authorisation a</td>
<td>The Industrial Pollution Control Order 1997:</td>
<td>Summary conviction:</td>
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<td>Type and level of criminal sanction for natural persons</td>
<td>Type and level of criminal sanction for natural persons</td>
<td>Prison up to 3 months</td>
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<td>And/or fine up to 20 000 pounds</td>
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<td>Indictable Offence: Prison up to 2 years.</td>
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<td>And/or fine unlimited</td>
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<td>• Scotland: Water Environment (Controlled Activities) Scotland Regulations. Discharge without authorization:</td>
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<td>Summary offence:</td>
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<td>Prison penalty up to 6 months</td>
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<td>And/or Fine up to 40 000 pounds</td>
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<td>Daily fines up to 250 pounds for persistent offence</td>
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<td>Indictable offence: Prison penalty up to 5 years</td>
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<td>And/or fine unlimited</td>
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<td>Daily fine up to 1000 pounds for persistent offence</td>
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<td>• Northern Ireland The Water order, 1999, Section 7 Pollution of water</td>
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<td>Summary conviction:</td>
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<td>Prison up to 3 months</td>
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<td>• Scotland: Water Environment (Controlled Activities) Scotland Regulations. Discharge without authorization:</td>
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<td>Summary offence:</td>
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<td>Fine up to 40 000 pounds (60 000 €)</td>
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<td>Daily fines up to 250 pounds for persistent offence (375 €)</td>
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<td>Indictable offences:</td>
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<td>Fine unlimited</td>
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<td>Daily fine up to 1000 pounds for persistent offence (1500 €)</td>
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<td>• Northern Ireland: Water resource Act, section 217 provides for corporate liability.</td>
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<td>Summary offence:</td>
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<td>fine up to 20 000 pounds (30 000 €)</td>
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<td>Indictable Offence: fine unlimited</td>
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<td></td>
<td>• Scotland: Water Environment (Controlled Activities) Scotland Regulations, Section 41 provides for corporate liability</td>
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<td>Summary offences:</td>
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<td>Fine up to 40 000 pounds (60 000 €)</td>
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<td>Daily fines up to 250 pounds for persistent offence (375 €)</td>
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<td>Indictable offences:</td>
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<td>Fine unlimited</td>
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<td>Daily fine up to 1000 pounds for persistent offence (1500 €)</td>
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</table>
Directives referred to in Annex IX to Directive 2000/60/EC.


**Article 11**

**Programme of measures**

3. "Basic measures" are the minimum requirements to be complied with and shall consist of:
   (j) a prohibition of direct discharges of pollutants into groundwater subject to the following provisions:
   - Member States may authorise reinjection into the same aquifer of water used for geothermal purposes.

   - **general condition** that, in carrying on the process to which the authorisation applies, the person carrying it on must use the best available technique not entailing excessive cost -
     (a) for preventing the release of substances prescribed for any environmental medium into that medium or, where that is not practicable by such means, for reducing the release of such substances to a minimum and for rendering harmless any such substances which are so released; and
     (b) for rendering harmless any other substances which might cause harm if released into any environmental medium.

   - **fine** up to 20 000 pounds
   - Conviction on indictment: Prison up to 2 years
   - And/or Unlimited fine

2. Unlawful dumping of waste

**Directive 2006/12/EC of 5 April 2006 on waste**

**Article 4.**

2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.

   - **England, Wales and Scotland, Environmental protection Act 1990, section 33**
     Subject to subsection (2) and (3) below and, in relation to Scotland, to section 54 below, a person shall not—
     (a) deposit controlled waste, or knowingly cause or knowingly permit controlled waste to be deposited in or on any land unless a waste management licence authorising the deposit is in force and the deposit is in accordance with the licence;

     - **Northern Ireland**
       **Waste and contaminated Land Order,**
       - **England, Wales and Scotland, Environmental protection Act, 1990, section 33**
         Environmental protection Act, 1990, section 33 Unlawful deposit of controlled waste
         Summary conviction: Prison up to 6 months
         And/or Fine up to 20 000 pounds
         Indictable offence: Prison up to 2 years (except for dangerous or problematic waste)
         And/or Unlimited fine

     Both body corporate and persons in charge can be proceeded against, convicted and punished as the natural persons
     Summary conviction: Fine up to 20 000 pounds (30 000 €)
     Indictable offence: Unlimited fine

   - **Northern Ireland:**
     - The Industrial Pollution Control Order 1997, section 32 provides for corporate liability (cf above)
       Summary conviction: Fine up to 20 000 pounds (30 000 €)
       Conviction on indictment: Unlimited fine

‘illegal shipment’ means any shipment of waste effected:
(a) without notification to all competent authorities concerned pursuant to this Regulation; or
(b) without the consent of the competent authorities concerned pursuant to this Regulation; or
(c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
(d) in a way which is not specified materially in the notification or movement documents; or
(e) in a way which results in

| Statutory Instrument 1997 No. 2778 (N.I. 19) Section 4: Prohibition on unauthorised or harmful deposit, treatment or disposal, etc., of waste
(1) Subject to paragraphs (2) and (3) a person shall not - (a) deposit controlled waste, or knowingly cause or knowingly permit controlled waste to be deposited in or on any land unless a waste management licence authorising the deposit is in force and the deposit is in accordance with the licence; | • Northern Ireland Waste and contaminated Land Order, 1997
Section 4 Unauthorised or harmful deposit of controlled waste
Summary conviction
Prison up to 6 months
And/or
Fine up to 20 000 pounds

Indictable offence
Prison up to 2 years (except for dangerous or problematic waste)
And/or
Unlimited fine | Summary conviction:
Fine up to 20 000 pounds (30 000 €)
Indictable offence:
Unlimited fine |

| The Transfrontier Shipment of Waste Regulation 1994 (amended in 2005), Statutory instrument 1994 n°1137 /
Section 12.—(1) Any person who contravenes a provision of the principal Regulation in the United Kingdom so that waste is shipped in circumstances which are deemed to be illegal traffic under Article 26 commits an offence.
This text applies to all regions of UK | The Transfrontier Shipment of Waste Regulation
Summary conviction
Fine between 1000 and 5000 pounds (except for Northern Ireland fine from 400 to 2000 pounds)
Conviction on indictment
Prison up to 2 years
And/or
Fine unlimited | The Transfrontier Shipment of Waste Regulation
Section 13 provides for corporate liability. Both body corporate and persons in charge can be proceeded against, convicted and punished with the same penalties as for the natural persons.
Summary conviction:
Fine between 1000 and 5000 pounds (1500 € to 7500 €)
(except for Northern Ireland fine from 400 to 2000 pounds: 600 to 3000 €)
Conviction on indictment:
Fine unlimited |
recovery or disposal in contravention of Community or international rules; or (f) contrary to Articles 34, 36, 39, 40, 41 and 43; or (g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from: (i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or (ii) non-compliance with Article 3(4), (iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

Article 50
Enforcement in Member States
1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.
Article 26

1. Any shipment of waste effected:
   (a) without notification to all competent authorities concerned pursuant to the provisions of this Regulation; or
   (b) without the consent of the competent authorities concerned pursuant to the provisions of this Regulation; or
   (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
   (d) which is not specified in a material way in the consignment note; or
   (e) which results in disposal or recovery in contravention of Community or international rules; or
   (f) contrary to Articles 14, 16, 19 and 21 shall be deemed to be illegal traffic.

2. If such illegal traffic is the responsibility of the notifier of the waste, the competent authority of dispatch shall ensure that the waste in question is:
   (a) taken back by the notifier
or, if necessary, by the competent authority itself, into the State of dispatch, or if impracticable;
(b) otherwise disposed of or recovered in an environmentally sound manner, within 30 days from the time when the competent authority was informed of the illegal traffic or within such other period of time as may be agreed by the competent authorities concerned. In this case a further notification shall be made. No Member State of dispatch or Member State of transit shall oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.
3. If such illegal traffic is the responsibility of the consignee, the competent authority of destination shall ensure that the waste in question is disposed of in an environmentally sound manner by the consignee or, if impracticable, by the competent authority itself within 30 days from the time it was informed of the illegal traffic or within any such other period of time as may be agreed by the competent authorities concerned. To this end, they shall
cooperate, as necessary, in the disposal or recovery of the waste in an environmentally sound manner.

4. Where responsibility for the illegal traffic cannot be imputed to either the notifier or the consignee, the competent authorities shall cooperate to ensure that the waste in question is disposed of or recovered in an environmentally sound manner. Guidelines for this cooperation shall be established in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

5. Member States shall take appropriate legal action to prohibit and punish illegal traffic.

<table>
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<tbody>
<tr>
<td><strong>Article 6</strong></td>
<td><strong>Protection of wild animals of European protected species</strong></td>
<td><strong>Protection of wild plants of European protected species</strong></td>
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<tr>
<td>2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.</td>
<td>Regulation 39.—(1) It is an offence— (a) deliberately to capture or kill a wild animal of a European protected species; (b) deliberately to disturb any such animal; (c) deliberately to take or destroy the eggs of such an animal; or (d) to damage or destroy a breeding site or resting place of such an animal.</td>
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<td>3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply</td>
<td>Protection of wild plants of European protected species</td>
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<td>Regulation 39: (6) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale,(5000 pounds) and/or Prison penalty up to 6 months according to Countryside and Rights of Way Act, 2000, section 81</td>
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<td>Regulation 43: (7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale,(2500 pounds) and/or Prison penalty</td>
<td>Both body corporate and persons in charge can be proceeded against, convicted and punished with the same penalties as for natural persons</td>
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<td>• England, Wales and Scotland:</td>
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<td>Conservation (Natural Habitats) Regulations 1994</td>
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<td>Regulation 106 provides for corporate criminal liability</td>
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<td>Regulation 39: Fine not exceeding level 5 on the standard scale (7500 €)</td>
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<td>Regulation 43: Fine not exceeding level 4 on the standard scale (3760 €)</td>
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to all stages of life of the animals to which this Article applies.

**Article 12**

1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:

(a) all forms of deliberate capture or killing of specimens of these species in the wild;

(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

(c) deliberate destruction or taking of eggs from the wild;

(d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

### Regulation 43

**—(1) It is an offence deliberately to pick, collect, cut, uproot or destroy a wild plant of a European protected species.**

### Countryside and Rights of Way Act, 2000: section 81 allows the regulation on wildlife to be amended to impose a custodial sentence up to 6 months.

### Scotland

The **Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004**, Scottish Statutory Instrument 2004 No. 475

**Regulation 18. Offence of intentional or reckless damage to a European site**

(1) Any person who intentionally or recklessly damages any natural feature by reason of which land is a European site is, subject to paragraph (2), guilty of an offence.

### Northern Ireland:

**Conservation (Natural Habitats) Regulations 1995**

**Regulation 34 Protection of wild animals of European protected species**

1) It is an offence—

(a) deliberately to take or kill a wild animal of a European protected species;

(b) deliberately to disturb any such animal;

up to 6 months according to Countryside and Rights of Way Act, 2000, section 81

### Scotland:

The **Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004**.

Regulation 18: Offence of intentional or reckless damage to a European site

Summary conviction: a fine not exceeding level 5 on the standard scale,

Conviction on indictment: a fine.

### Northern Ireland:

**Conservation (Natural Habitats) Regulations 1995**

**Regulation 34: fine not exceeding level 5 on the standard scale (7500 €)**

**Regulation 38: Fine not exceeding level 4 on the standard scale (3760 €)**
3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

**Article 13**

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

(a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;

(b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is

(c) deliberately to take or destroy the eggs of such an animal; or

(d) to damage or destroy a breeding site or resting place of such an animal.

Regulation 38 Protection of wild plants of European protected species

1) It is an offence deliberately to pick, collect, cut, uproot or destroy a wild plant of a European protected species.

2) It is an offence to keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild plant of a European protected species, or any part of, or anything derived from, such a plant.

Regulation 38 : (7) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale. (2500 pounds)
2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.


Article 4
Control of the placing on the market and use of controlled substances
1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances shall be prohibited:
(a) chlorofluorocarbons;
(b) other fully halogenated chlorofluorocarbons;
(c) halons;
(d) carbon tetrachloride;
(e) 1,1,1-trichloroethane;
(f) hydrobromofluorocarbons.

Article 5
Control of the use of hydrochlorofluorocarbons
1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:
(a) in aerosols;
(b) makes a statement which he knows to be false or misleading in a material particular, where the statement is made in purported

The Environmental Protection (control on ozone-depleting substances) Regulations 2002

“Regulation 11 The Schedule to these Regulations shall have effect.
(2) Any person who knowingly supplies information that is false in a material particular for the purpose of obtaining from the Commission -
(a) a licence under Article 6(1); or
(b) an authorisation under Article 12(1), commits an offence.
(3) Any person who fails to discharge a duty to which he is subject by virtue of regulation 6 commits an offence.
(4) Any person who fails to comply with regulation 8 or causes or permits another person to fail to comply with that regulation commits an offence.
(5) Any person who –
(a) without reasonable excuse fails to comply with any requirement imposed under regulation 9(2), or

The Environmental Protection (control on ozone-depleting substances) Regulations 2002

Schedule Part I (production): summary: a fine up to the statutory max (5000 pounds)
Idictment: a fine

Schedule Part II (placing on the market and use of ODS except HCFC): summary: a fine up to the statutory max
Idictment: a fine

Schedule Part III (use of HCFC): summary: a fine up to the statutory max
Idictment: a fine

Schedule Part V (placing on the market and use of new substances): summary: a fine up to the statutory max
Idictment: a fine

Regulation 13: A person who breaches regulation 5 (b) (prohibition of imports) shall be liable, on summary conviction, to a fine not exceeding the statutory maximum or, on conviction on indictment, to a fine;

The Environmental Protection (control on ozone-depleting substances) Regulations 2002

Regulation 12: provides for the potential criminal liability of directors, managers, secretaries or other similar officers of a body corporate.
Both body corporate and persons in charge can be proceeded against, convicted and punished with the same penalties as for natural persons

Summary offence:
Fine up to 5000 pounds (7500 €)
Conviction on indictment:
Fine unlimited
(b) as solvents:

(c) as refrigerants:

(d) for the production of foams:

(e) as carrier gas for sterilisation substances in closed systems,
in equipment produced after 31 December 1997;

(f) in all other applications.

**Article 21 Penalties:**

Member States shall determine the necessary penalties applicable to breaches of this Regulation. The penalties shall be effective, proportionate and dissuasive. Member States shall notify the provisions regarding penalties to the Commission by 31 December 2000 at the latest and shall also notify it without delay of any subsequent amendment affecting such provisions.

A person who -

(a) commits an offence under any provision specified in the Schedule or under regulation 11(2) to (4), (5)(b) or (7)(a) shall be liable, on summary conviction, to a fine compliance with a requirement to furnish information imposed under regulation 9(2)(i), commits an offence.

(6) Any person who contravenes, or causes or permits another person to contravene, regulation 9(8) commits an offence.”

“**Offence by corporations etc.**

12. - (1) Where an offence under regulation 11 (including any offence specified in the Schedule) which has been committed by a body corporate or a partnership in Scotland is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any other person purporting to act in any such capacity (or in the case of a partnership in Scotland, a partner or a person who was purporting to act as such), he, as well as the body corporate or the partnership in Scotland, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.”

“**Penalties**

13. A person who -
| **not exceeding the statutory maximum or, on** | **conviction on indictment, to a fine;** |
| **(b) commits an offence under regulation** | **11(5)(a), (6) or (7)(b) to (d) shall be liable,** |
| **on summary conviction, to a fine not** | **exceeding level 5 on the standard scale.”** |
| **Regulation 5 concerns “prohibitions and** | **restrictions on importation, landing and unloading.** |
| **The Schedule states in substance that any** | **contravention of the provision of the** |
| **Regulation concerning uses of ODS and** | **Trade in ODS is an offence that is** |
| **Trade in ODS is an offence that is** | **punishable by a fine the exact amount of** |
| **punishable by a fine the exact amount of** | **which is not provided.** |