Executive Summary

It must first be emphasised that the following study presents theoretical information about the practically extremely complex issue of sanctioning environmental crimes. Each individual crime that is sanctioned will actually have many unique circumstances which have to be considered before the courts can determine the appropriate sanction.

Criminal sanctions for the specific environmental crimes committed in relation to the Directives and Regulations of this study exist in almost all Member States, with the notable exception of Spain where the only sanctions for the specific crimes are administrative. However, in Spain criminal sanctions do still exist, they are just not detailed with specific reference to crimes committed in relation to these Directives and Regulations. Germany, Denmark and Austria also have comprehensive legislation detailing administrative sanctions for environmental offences, alongside criminal sanctions.

All Member States’ environmental legislation refers to framework legislation on various themes (such as environmental protection, air, water and waste) which provide the legal basis for governments to legislate against specific environmental offences. This framework legislation also contain specific information on sanctions for general environmental crimes.

In theory, environmental crimes in all countries are sanctioned with similar penalties to traditional crimes, including with fines, prison and community sentences. However, in practice, fines are by far the most commonly used sanction for environmental offences and it is extremely rare for prison sentences to be issued. Many Member States also offer further complementary sanctions such as confiscation of property used to carry out a crime or confiscation of monetary benefits gained from the crime, orders for remediation work to be carried out, or disqualification from being a company director or holding specific authorisations. These sanctions may be detailed in legislation relating to specific crimes or they may be detailed more generally in background legislation.

The level of sanctions for specific crimes differs greatly between Member States as well as between Directives and Regulations and between specific crimes detailed in individual articles of Directives and Regulations. However, a general trend can be noted in all Member States towards more severe sentencing of environmental crimes, a trend which is being encouraged by the competent authorities. It can also be noted that the number of prosecutions for environmental crimes are increasing in all Member States. This can be explained partly by an increase in the amount of environmental legislation and partly by an increasing willingness and ability for competent authorities to bring prosecutions which reflects an increasing public concern over environmental damage.