List of questions to the authorities, bodies and institutions inquired by the national experts

This check-list is the result of joint efforts of the contractors for both studies on non-criminal measures: Milieu Ltd., Huglo Lepage & Associés Conseil, Jendrośka Jerzmański Bar & Partners, Environmental Lawyers and Environmental Management and Law Association (EMLA).

Please note that this list should not serve as a questionnaire to be filled by the interviewees but only as a suggestion for experts.

Not all the questions have to be asked to each authority / body / institution subject to inquiry. For example NGO may answer question no. 11, while probably do not have data needed to answer questions 1,3,4, etc.

1) Number of administrative (administrative criminal) cases - per year and per sector (if such data are available, pld. use section 1.2.4 of the Guidelines in the description of the sectors):
   - Number of ex officio initiated proceedings
   - Number of cases finished with sanctions

2) What is the most common sanction applied? Is there a different pattern for the cases of different sectors (e.g. certain sanctions are more frequent in hazardous waste cases than in noise ones)?

3) What is the average level of the fines and other sanctions imposed comparing to the highest and the lowest possible level?

4) Number of decisions/verdicts imposing sanctions subject to appeal
   - In percentage - comparing to number of cases finalized with sanction
   - Number of cases in which the original decision has been cancelled or the sanction has been mitigated or - if it is possible within the national legal system, i.e. where the “prohibition of reformatio in peius” does not apply - elevated (i.e. what are the outcomes of the revision processes).

5) What is the average length of the proceedings. Please check how many cases ended up in the first instance before an administrative authority, how many is continued before the second instance/court in order to assess which period (1. + 2. instance / 1. + 2. instance + court / etc.) is the most representative one?

6) What is the final result (please compare how many cases, administrative and criminal, ended up with a sanction) - in percentage, comparing the number of cases ending up with a sanction to the number of initiating proceedings?
7) “Recidivism” - i.e., how many violators commit the same offence again; i.e., to what extent they intend to include e.g., the fines imposed, into “the costs of activity”?

8) If there is a possibility to negotiate between administrative authorities and the violator please check if the possibility is used. How this can affect the length of the proceedings and deterrent effect of the measures (e.g., plea bargaining)?

9) What type of violation is pursued through criminal and administrative jurisdictions (e.g., severe material infraction through criminal jurisdiction, infraction of technical requirements of a permit through the administrative jurisdiction…)?

10) What is the level of administrative tolerance for certain types of infractions, as technical ones?

11) What is the level of social disapproval (that the imposition of a sanction demonstrates)?

12) Under what circumstances competent authorities use interim measures (injunctive relief or other extraordinary implementation of decision/part of decision), typically (…).

13) What measures (administrative / criminal administrative / criminal) are typically applied in particular types of cases?

14) Give examples of inter-agency communication in implementing sanctions.

15) In your opinion, what propels you to opt for criminal or administrative procedures? Are there any areas in which you are more reluctant to use the administrative procedures? If so, why?

16) What do you think should be changed in national or European procedures to ensure a better protection of the environment?