WORKSHOP IMPLEMENTATION GUIDE
ON ENVIRONMENTAL LAW

TRAINING MODULE ON
PROTECTION OF ENVIRONMENT THROUGH CRIMINAL LAW
1 Introduction into the Workshop Implementation Guide

The Training programme for Judges consists of thematic “modules” designed for support of training workshops in EU environmental law.

A “module” is made up of a set of training materials, legislation and supportive documents dedicated to a specific field of European environmental law targeting an audience of judges and prosecutors from EU Member States. Each module is split into interrelated but self-standing 10-15 “sessions” so that a training programme for a workshop later can be set up individually based on this set of sessions and related materials, depending on the specific training approach and time available.

This workshop implementation guide describes for each session in detail the most relevant aspects such as the objectives, learning points, methodology and materials to be used. Insofar it shall serve as an instruction manual on a thematic module for both the organisers of training events and for trainers / speakers in charge of single sessions – it is intended to help for preparing largely participatory learning workshops.

Training materials have been developed, tested and revised by competent experts in English language on a range of thematic modules. They complement this instruction manual and annexed to the respective module. The same goes for other materials useful for the achievement of a successful training event for judges and prosecutors, such as print-out of links to useful sources in internet for further information on the topics addressed, reprinted legislation and EU Communications.

Most training materials are accompanied by specific speakers’ notes. These notes should enable other experts then the original authors to make use of the materials and adapt them to individual needs. The overall goals of the training events to be organised with the help of this manual are basically threefold, namely:

a) to develop and raise the understanding on the key legal aspects of EU legislation in a given field of environment law and their practical relevance for domestic jurisdiction and

b) to exchange views of judges / prosecutors from one or various EU Member States on a given topic, i.e. to foster the dialogue between judges / prosecutors of different nationalities / from different institutions and

c) to develop and promote contacts between European Commission services and national judges / prosecutors.

The participatory approach is a key assumption of the workshops to be implemented by using the developed materials. This implies that no workshop should be organised for more than 25-30 participants including expert speakers. It is proposed that each session shall be implemented or guided by an expert who will make use of the training materials provided for in this implementation guide.
The guide does not address logistic aspects like travel, accommodation, event locations, translation or interpretation. As for the latter, if required, simultaneous interpretation is the preferred option, at least for plenary sessions.

At the end of each session-chapter of this guide, there are additional notes. These notes provide for a range of useful complementary suggestions and aspects to be taken into account for the conduction of the respective sessions.

All thematic workshop modules addressed in workshop implementation guides have been tested by EIPA on several occasions. Programmes for 2.5 day workshops for judges and prosecutors from several EU Member States have been designed and constantly improved in accordance with the test results and feedback given by the participants as well as amended EU legislation and new jurisprudence.

A few aspects need to be stressed:

1. **Duration of sessions:**

   We propose durations of all sessions based on the materials developed and tested. However, we made the experience that virtually all sessions have its own dynamics. It depends largely on the participants to which extent discussions are wanted and how many questions, comments and remarks are given at the end of - or during - a session. This may consume more or less time than planned. As stated above, the exchange of opinions is considered to be a primary goal of the training modules. This should be explained to all participants at the beginning of a workshop and also that the schedule of the programme will be applied in a flexible manner, so that all attendees are aware of this. Nevertheless, it is important that the moderator of a session strictly reminds that contributions shall be short.

2. **Arrangement of sessions:**

   Six thematic modules developed so far have been tested in different arrangement of sessions. It turned out that the main criteria for the set-up of a programme is the alternation of sessions with front-teaching and interactive methodology. Day 1 should not be overloaded with teaching sessions at the expense of work in working groups on cases. Of course, the arrangement of sessions also depends on fixed dates such as lunch or coffee breaks or end dates as well as the availability of speakers.

3. **Materials / workshop reader:**

   Workshop readers have been assembled for all six modules containing of the materials produced by experts under the respective module, main legislation in that area and other useful information. It is recommended that such readers are being used is order to reach a sustainable effect which goes beyond the training event; a reader can be used well as reference book for daily practice.
Module on Protection of Environment through Criminal Law

The module on Protection of Environment through Criminal Law was the sixth of a range of modules developed. Its sessions and materials prepared by competent experts have been tested during three 2.5 days workshops by EIPA.

In the course of the training event, we propose that the participating judges and prosecutors shall receive in the form of hand-outs teaching materials and those legislative texts which are relevant for the sessions (see below, Workshop Reader content).

The overall objectives of the implementation of this module differ considerably from those of the other 5 modules. Legislation on “environmental offences”, as the main topic of this module, is foremost national law. The sole directive which harmonizes environmental offences legislation EU-wide is Directive 2008/99/EC on the protection of the environment through criminal law. This Directive, however, only determines minimum requirements and criteria but leave a very wide scope to the legal regimes of the Member States how to address, prosecute and sanction environmental offences.

Therefore, the focus of most sessions of this module is on the exchange of views and experience of participants – partly in the light of the Directive - and less on the enhancement of the knowledge of EU legislation and CJEU jurisprudence.

The overall objectives of the implementation of this module are

- to exchange views on national practice related to the prosecution and sanctioning of environmental offences in national legal systems and national courts (see in particular sessions 4, 6, 7, 9, 12)
- to enhance knowledge on EU policy and legislation on environmental offences (Directive 2008/99/EC) and on environmental liability (Liability Directive) (see sessions 3 and 8)
- to enhance knowledge on European and International nature protection legislation with particular respect to species protection and main threats (see session 5)
- to learn about the tools and discuss European cooperation in the field of environmental offences (see session 10)
- to understand the role of national courts as concerns the implementation of European environmental legislation and the preliminary reference mechanism to the CJEU (see in particular session 2);
- to be informed on easy access to relevant EU documents on the internet (see session 11)

As stated above, the training module on “Protection of Environment through Criminal Law” is divided into a number of sessions. The sessions proposed and prepared for this module are as follows:
In principle all sessions stand for themselves as they are described below. However, some of them are closely interrelated and build on a preceding session. This applies in particular for session 4 and the case session I which should be conducted after the introductory sessions 3 and 5 respectively.

The proposed sequence of the case studies is merely indicative and can of course be changed. The session on environmental liability can be held at any stage but fits best after some cases have been completed as it is considered to be complementary to the main topic of “environmental crimes”.

In general, it is more effective with regard to the attention of participants if front teaching sessions and interactive sessions are alternated.

Attached to this module you can find the potential agenda for a 2.5 day workshop based upon the learning objectives and the pedagogic content of this manual as well as the experience gained during the four test workshops conducted by EIPA.

This agenda gives an example for similar training events, but can, of course, be adapted according to the experience of the workshop participants and the exact objectives that have been set by training organisers. However, it is suggested that workshop trainers do not stray too far from the outline agenda that we have proposed.

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**Workshop Reader content**

We suggest that the material prepared for the module on “Protection of Environment through Criminal Law” should be put together for a reader given to the participants at the beginning of the workshop. This reader should be composed of the following documents:

1. Workshop agenda and information on logistics useful during the workshop as well as names and contact data of speakers and participants (see Session 1)
2. Hand-outs of presentations of sessions 2, 3, 5, 6, 8 and 10
3. Facts of the cases used in the case study sessions 6, 7 and 9 (but without photos presented in cases I and II)
4. Overview on useful internet sources addressed in session 11
5. Relevant legislation and legislation extracts such as:
   a) Text of Articles 191 – 194 and 267 TFEU (Treaty on the Functioning of the European Union)
   b) CITES Convention Articles 1-14 (without Annexes)
   c) Bern Convention (without Annexes)
   e) Directive 2004/35/EC on environmental liability
   f) Seveso Directive 96/82/EC (consolidated version without Annexes)
   g) Wild Birds Directive 2009/147/EC (without Annexes)
   h) Extract of Habitats Directive 92/43/EEC (Articles 12 – 16)
6. Other documents:
   a) Example of structure of a letter of request for evidence to be sent to the UK
   b) Information note on references from national courts for a preliminary ruling (2011/C 160/01)

**Optional:** Workshop evaluation questionnaire

The facts of the case studies could be sent optionally to participants prior to the workshop as these cases are not based on CJEU decisions. However, one must be aware that some participants may prepare the cases while others do not and such a discrepancy may eventually have a negative impact on the discussion atmosphere in the working groups.

Case answers should be distributed only at the beginning of the debriefing part of the respective case session.

*The authors*
2.1 Session 1: Opening of workshop (introductory session)

a) **Short description of content**

The starting point of each training event should be a short introductory session on the entire programme through the chair of the event.

b) **General objectives**

The objectives of the opening session are to welcome the participants, to introduce the trainers / facilitators of the single sessions and to explain the main objectives (learning and exchange of information and experiences, promotion of contacts) of the training event as well as the methodology applied. A short overview on the content of the reader should be given. Besides, the opening session should give a platform for a short introduction of all participants (e.g.: where do I come from, which position do I hold, what is my experience on the themes addressed, what is my motivation for attendance, what are my expectations of the workshop).

This session also serves as a “warming up” exercise in order to encourage participants to contribute actively to the workshop.

c) **Specific learning points**

The participants shall become familiar with the content of the workshop programme and its sessions as well as the timing and location of sessions (at least those of day 1) and logistic issues such as programme breaks and meals (where, when) etc.

The introduction of all attendees serves as an “ice-breaking” part of the session, i.e. participants get to know each other and the respective professional background and the atmosphere usually becomes more relaxed so that people feel more comfortable to join discussions.

d) **Methodology to be applied (organisation)**

The introduction of the programme and the objectives should be presented to the participants in a plenary session (front presentation). Whether the programme is presented on the screen or just by reference to the hand-outs (reader) that each participant has in front of her/him is up to the chair.

e) **Duration**

The introductory session should last no longer than 45 minutes of which at least one minute should be calculated for the introduction of each participant. In our experience, often workshops start with a short delay of up to 15 minutes. Such delay should also be taken into account in order to avoid time pressure from the very beginning.
f) **Training aides / materials**

The Workshop Reader should contain especially the hand-out of the programme (agenda) and PowerPoint presentations, as well as word documents containing the facts of the cases (for the case studies) to be discussed and solved by the participants. The answers to the case studies should be given separately at the end of each case.

g) **Supportive documents**

A draft agenda of a training event should be set up by the event organisers in due time prior to an event and sent to the invited participants together with the invitation. It might be useful for the proper planning of the workshop that the invited persons confirm their presence and/or if needed prepare in advance on the topic at hand (for example, by bringing relevant pieces of legislation or being prepared to share their own experience of practical cases with other participants).

Assuming that this has been done, any updates on the programme or any relevant information on logistics are to be given in the first session. It is recommended that the workshop reader which is composed of various documents is also distributed at this stage (or even when participants enter the room).

h) **Additional Notes**

The introduction should be given jointly by the Chair and possibly the host of the event. The Chair could be any competent person who takes the overall responsibility for the smooth coordination of the event. It should be stressed during the opening session that the time schedule will not be applied very strict. Interesting discussions shall not be cut off unless there is time pressure. Always bear in mind that the exchange of views/national experiences in this Module is the key purpose of the event.
2.2 Session 2: Role of the National Judge in the implementation of EU law: The preliminary reference tool

a) **Short description of content**

This session is not directly related to “Protection of Environment through Criminal Law”; it deals with horizontal aspects and is insofar of particular relevance for all environmental fields.

In this session the infringement procedure (and the roles of the Commission and the CJEU) is explained in short. The main is on the preliminary reference mechanism of national courts to the CJEU. The use and modalities of this mechanism should be explained in detail as well as the significance in practice for the EU Member States and national courts.

b) **General Objectives**

The participants from the national judiciaries shall increase their knowledge on

- infringements in EU environmental law by sector and by country with a short introduction into the procedure and the penalties,
- key procedural, practical and content elements of preliminary references of national courts to the CJEU and the effect of the preliminary rulings.

Participants shall also be encouraged to promote or make use of the preliminary reference mechanism themselves when appropriate. If one or more of the participants have had already the opportunity to be involved in a preliminary reference addressed by their national court, they should be encouraged to share their experience with the audience.

c) **Specific learning points**

Participants shall improve their understanding of how European environmental law infringements are addressed through the infringement procedure when EU environmental law provisions are not complied with by the Member States.

The preliminary reference mechanism under Article 267 TFEU should be presented as a tool at the disposal of the national judge in order to interpret specific provisions of EU primary and secondary environmental law and then apply the interpretation given by the CJEU to the facts of the case the national judge is dealing with. The judges will learn when, how and under which circumstances they can (and sometimes must) address a preliminary reference. The prosecutors cannot address a preliminary reference but they will still what are the effects of the preliminary ruling and how these rulings are used as a tool for interpreting EU environmental law provisions.

d) **Methodology to be applied**

The proposed methodology for this session is front-teaching with the use of power point presentation tools. Examples of specific preliminary rulings in the field of EU environmental law may be given by the trainer, to demonstrate the modalities and
effect of the preliminary reference mechanism in practice. As a main tool to be used during the presentation, it is recommended that the trainer regularly refers to specific and detailed points addressed by the Information Note from the CJEU on references from national courts for a preliminary ruling (2011/C 160/01). The following discussion should be moderated by either the trainer or the chair of the event.

e) **Duration**

The entire session shall last about 50 – 60 minutes including plenary discussion.

f) **Training aids / materials**

Materials that should be handed out to the participants are power point slides of the trainer, printed copies of the text of Article 267 TFEU and the Information Note referred to in the next paragraphe.

g) **Supportive documents**

The Information Note from the CJEU on references from national courts for a preliminary ruling (2011/C 160/01) in the most suitable language should be copied and distributed to the participants as hard copy.

h) **Additional notes**

The trainer / facilitator in this session should be highly familiar with the preliminary rulings procedure and have a sound knowledge also on the infringement procedure. The session does not address the “direct effect” of EU environmental law as this will not be of relevance for the target group of Criminal Judges and Prosecutors.

It is important that there is some room left for discussion (up to 1/4 of the length of this session) in order to consolidate the understanding of information presented by the trainer and to offer participants the chance to clarify any issues that they have not fully understood.
2.3 Session 3: Introduction to the Environmental Offences Directive 2008/99/EC

a) Short description of content
Session 3 aims to introduce participants to the historical background, legal basis, main content as well as transposition and implementation issues of the Environmental Offences Directive.

b) General Objectives
The objectives are to inform participants about history and details of the content of the Environmental Offences Directive.

c) Specific learning points
The session focuses first on the history and legal basis of the Directive. Key elements of its content such as definitions and the list of criminal offences established in Article 3, sanctions and the issue of liability of legal persons will be addressed. Another focus is on the transposition situation and implementation challenges.

d) Methodology to be applied
The proposed methodology for this session is front-teaching in the plenary with the use of power point presentation tools. At the end of – or during – the session there should be given some room for discussion of open questions.

e) Duration
Based on our experience we propose that this session should last approximately 45 minutes including about 10 minutes time for questions for clarification.

f) Training aids / materials
The participants should receive print outs of the power point slides designed by the trainer as hand-outs for that session prior to the session start.

g) Supportive documents
The text of the Directive including its Annexes in the most suitable language should be copied and distributed to the participants as hard copy.

h) Additional notes
The trainer should be very familiar with the history (including legal basis and decision-making) and content of the Environmental Crimes Directive as well as with the main aspects related to its national transposition and implementation.
2.4 Session 4: Exchange Session on environmental crimes legislation in EU Member States

a) **Short description of content**

The main purpose of the workshop to be designed is the exchange of views and experience of judges and prosecutors as regards the legal and practical situation on the prosecution and sanctioning of environmental crimes in their courts / Member States’ practice. This is based on the assumption that both, prosecution and sanctioning of environmental offences differs considerably between EU Member States.

There are two exchange sessions incorporated into this Module. The first one will focus on the existing national environmental crimes legislation, i.e. transposition aspects of the Environmental Offences Directive into national law. (It will later be followed by an exchange session on legal practice.)

b) **General Objectives**

In this session judges / prosecutors are given the opportunity to exchange with colleagues from other Member States their experience related to environmental crimes legislation in their countries. This includes the exchange on competences of administrative / criminal courts and prosecutors.

c) **Specific learning points**

Which aspects of the Environmental Crimes legislation shall be discussed is foremost up to the participants who shall be encouraged to present their legal systems and provisions.

It is advisable, that the moderator, prior to the session encourages between 1-3 participants to present national cases in order to initiate the discussion. If there is little input from the participants, questions on the typical types of environmental crimes and prosecution problems in a Member State may also be appropriate to start with.

d) **Methodology to be applied**

The proposed methodology for this session is an open plenary discussion moderated by the workshop Chair or – even better - an experienced expert.

e) **Duration**

The duration of this session could be between 30 – 60 minutes, depending on the time available and the discussion atmosphere in previous sessions. The more attendees seemed to have enjoyed discussions and gave input in other sessions the more time should be left for this “open” session.

f) **Training aides / materials**

None

g) **Supportive documents**
h) **Additional notes**

This session shall only be included in the programme if there is a need for “exchange” – which may be not / less the case if participants come from only 1 or 2 Member States.

Regardless of the fact that the main actors in this session should be the attendees, the session should be well structured by the moderator in order to ensure effectiveness.

It is important that the moderator is able to guide and steer the discussion in order to have learning benefit. If attendees are eager to present and discuss examples from their national or court experience, this session can be very fruitful for everybody.
2.5 Session 5: Introduction to European and International Nature Protection Legislation

a) **Short description of content**

The next two sessions focus on environmental crimes with regard to natural species protection. Session 5 actually consist of two main parts: An introduction into international and EU legal regimes followed by a presentation of the current situation and main threats in the EU for wild birds.

b) **General Objectives**

The objectives of the first part of the session are to inform participants about key features of the CITES and the Bern Conventions as well as the species protection regime and exceptions under the Habitats and the Birds Directive.

The focus will be on the latter Directive as both, the second part of this session and the subsequent case study I address environmental crimes against wild birds.

The objective of the second part of this session is to sensitise participants on existing threats for wild birds in the EU and legal action to be taken from the European Commission’s point of view.

c) **Specific learning points**

The session will focus in its first part primarily on the protection system established by CITES on the international trade of endangered species and its transposition into EU law followed by a short summary of the species protection regime under the Bern Convention. The legislative part of the session then focuses on the protection of animal and plant species under the Habitats Directive and potential derogations under Article 16. The same approach is taken for the provisions of the Birds Directive: Prohibitions and possible legal derogations will be explained by the speaker. On both directives a few CJEU decisions shall help to understand key provisions properly.

In the second part the speaker will provide data on the situation of protected species and habitats in the EU and recent trends. Participants will be informed on the main threats and illegal activities for the loss of biodiversity and counter measures taken and envisaged by the EU Commission.

d) **Methodology to be applied**

The proposed methodology for this session is front-teaching in the plenary with the use of power point presentation tools. A number of examples are given by the trainer(s) especially in the second part of the session. At the end of the session (or alternatively: between both parts) there should be given some room for discussion of open questions.

e) **Duration**
Based on our experience we propose that this session should last approximately two times 30 – 40 minutes including about 10 – 15 minutes time for questions for clarification and discussion.

f) **Training aides / materials**

The participants should receive print outs of the power point slides designed by the trainer(s) as hand-outs for that session prior to the session start.

g) **Supportive documents**

The text of the CITES and the Bern Conventions (without Annexes) and the Birds and the Habitats Directives (extracts, without Annexes) in the most suitable language should be copied and distributed to the participants as hard copy.

h) **Additional notes**

This session – as it is designed here – is likely to require two speakers: A lawyer and a natural scientist. The lawyer should have a sound knowledge especially on the species protection regimes under the Birds and Habitats Directives. The natural scientist should be familiar with the bird protection policy and measures of the European Commission and in a position to present and explain them well.

This session should be conducted before Case Study I on animal (birds) trafficking as it serves for a proper legal and factual background to better understand the case.
2.6 Session 6: Case Session I – Animal trafficking

a) Short description of content

Session 6 is the first case session. Within case sessions in this module, real national cases should be presented to and discussed by the attending judges and prosecutors mainly on the basis of their national legislation. Additionally, aspects of applicable EU environmental law shall be taken into account.

The first case is a case from Belgium with links to decisions of a Spanish court and also the CJEU on the issue of birds trafficking. Although this case shall be discussed primarily on the basis of national laws, the requirements of the CITES regime will also be considered.

N.B This also means that – as opposed to cases used in the other modules – it is rather unlikely that somebody else than the original author of the case materials can make full use of them and conduct this session as it stands.

b) General Objectives

The general objective of this session is primarily to raise awareness on the crime of illegal birds trafficking and laundering its – largely insufficient – prosecution.

c) Specific learning points

The main learning points are to understand the relevance of illegal birds trafficking as an organized crime in Europe and its consequences for the protection of wild birds. The practical consequences of decisions of a Spanish court and of the CJEU in case C-149/94 (Vergy Case) will highlighted. Participants shall discuss potential solutions of the case and opinions based on their national legislation (“How would this case be prosecuted and sanctioned in my country / at my court”).

d) Methodology to be applied

We propose the following methodology:

The case to be discussed and answered here is presented by the trainer (expert) in brief to the plenary. The case is also available to the participants as hand-out. After the presentation the plenary should be divided into 2-4 smaller working groups with no more than 6-7 persons/group. Each group shall appoint a moderator and a rapporteur (these persons may be identical). Within the working groups questions to the cases shall be discussed based on the participant’s national legislation and taking into account the CITES Convention as reprinted in the reader.

Small working group discussions have several advantages:

- They create variety, including a change of physical position, which will help to stimulate concentration.
- They allow greater participation and more time for each participant to speak.
• They encourage reluctant participants who may be nervous about speaking to the plenary.

After the discussions in the working groups all participants shall meet again in the plenary. There the rapporteur of each working group should present the findings of their discussion in short statements. We suggest that each working group gives its answers and opinions on a question followed by the next working group on the same question.

Once all questions have been addressed by all working groups this is followed by a debriefing by the trainer (expert).

Be aware that here the debriefing shall be done by means of a lengthy slideshow of more than 60 slides as prepared for this case. After the slideshow a further discussion on the topic of illegal bird trafficking and laundering may take place.

e) **Duration**

The cases presentation should take no more than 5 minutes, followed by the discussion of the cases in the parallel working groups for about 60 minutes. In the plenary the presentation of working group findings and the final debriefing (and discussion) could take another 45 - 60 minutes.

f) **Training aides / materials**

The case prepared for this session is fictive but based on similar closed and pending cases at Belgian courts. The hand-outs for the participants consist of precise descriptions of the facts of the case and references to the Birds Directive and the CITES Convention as well as questions and complementary considerations to be addressed during the working group meeting and the subsequent de-briefing.

There are no “answers” to the case; only extracts from Belgium legislation and selected slides from the slide show which provide an extract of the CJEU decision C-149/94 (Vergy Case) will be handed out to the participants at the end of the debriefing meeting.

g) **Supportive documents**

The texts of the Birds Directive and the CITES Convention should have been distributed to the participants.

h) **Additional notes**

We strongly advise that the expert making the presentation / debriefing of the case is the original author (Jan Van den Berghe - Court of First Instance Ghent, Belgium) as it is questionable if any other person is able to handle this case without the proper national and case-specific background. Still, elements of the facts and also the debriefing part (slideshow) might be used well by other trainers. In any case the trainer must be an expert on EU bird protection legislation, case decisions from CJEU in this field and the problem of international bird trafficking.
Working groups should be picked up randomly and represent a mix of countries / regions / courts. Make sure that each group has a rapporteur – someone who will report its conclusions to the plenary. Other criteria for the mixing of the working groups may be the professional experience or knowledge, gender, language skills, in a way that all working groups will function well.

As concerns the determination of the moderator and rapporteur for each working group – these persons should be quickly selected internally by each working group.

The moderator should promote a full group discussion so that no one is disadvantaged by not having taken part (ask questions to everybody on his/her opinion). It is highly advisable to make use of the guiding questions which have been prepared for each case but participants should feel free to bring up questions from their own experience for discussion.

The moderator should also be responsible for controlling and managing the time available for the working group meeting and be available for assistance to the groups if required by them.

This case session should be done after the introduction session into species protection and threats (session 5).
2.7 Session 7: Case Session II – Industrial accident leading to severe groundwater pollution

a) **Short description of content**

   Session 7 is the first case session. Within case sessions in this module, real national cases should be presented to and discussed by the attending judges and prosecutors mainly on the basis of their national legislation. Additionally, aspects of applicable EU environmental law shall be taken into account.

   The second case is a real case from the UK on an industrial accident leading to severe groundwater pollution. Although this case shall be discussed primarily on the basis of national laws, the requirements of the Environmental Offences as well as of the Seveso Directive will also be considered.

   **N.B** This also means that it is rather unlikely that somebody else then the original author of the materials of the case will be able to make full use of this material.

b) **General Objectives**

   The general objective of this session is inform participants on the prosecution of an industrial pollution case in the UK in the light of relevant EU legislation (here: Seveso Directive and Environmental Offences Directive) and discuss with participants the handling of similar accidents in their countries.

c) **Specific learning points**

   The main learning points are to understand and discuss prosecution problems related to persons’ failures at the site of the accident in the light of the Seveso Directive and its transposition into national law. In particular aspects related to evidence taking and burden of proof shall be discussed.

   Participants shall discuss potential solutions of the case and opinions based on their national legislation (“How would this case be prosecuted and sanctioned in my country / at my court”).

d) **Methodology to be applied**

   We propose the following methodology:

   The case to be discussed and answered here is presented by the trainer (expert) to the plenary with a number of slides prepared. The case is also available to the participants as hand-out. After the presentation the plenary should be divided into 2-4 smaller working groups with no more than 6-7 persons/group. Each group shall appoint a moderator and a rapporteur (these persons may be identical). Within the working groups questions to the cases shall be discussed based on the participant’s national legislation and taking into account the Seveso Directive and the Environmental Offences Directive. Additionally the extract from the British legislation as reprinted in the facts of the case may also be taken into consideration.
Small working group discussions have several advantages:

- They create variety, including a change of physical position, which will help to stimulate concentration.
- They allow greater participation and more time for each participant to speak.
- They encourage reluctant participants who may be nervous about speaking to the plenary.

After the discussions in the working groups all participants shall meet again in the plenary. There the rapporteur of each working group should present the findings of their discussion in short statements. We suggest that each working group gives its answers and opinions on a question followed by the next working group on the same question.

Once all questions have been addressed by all working groups this is followed by a debriefing by the trainer (expert). The debriefing shall be done by a few additional slides that summarize the complexity of the investigation in this case.

e) **Duration**

The cases presentation should take no more than 10 – 15 minutes, followed by the discussion of the cases in the parallel working groups for about 60 minutes. In the plenary the presentation of working group findings and the final debriefing (and discussion) could take another 45 - 60 minutes.

f) **Training aids / materials**

The case prepared for this session is a real case from the UK. The hand-outs for the participants consist of precise descriptions of the facts of the case, extracts from the Seveso and the Environmental Offences Directive as well as from national legislation and questions to be addressed during the working group meeting and the subsequent de-briefing.

Detailed “Answers to the Questions”, summarizing the handling of the case in the UK and the main difficulties faced in the prosecution process are handed out to the participants at the end of the debriefing meeting.

g) **Supportive documents**

Despite reprint of the key provisions relevant for this case the texts of the Seveso Directive and the Environmental Offences Directive should have been distributed to the participants.

h) **Additional notes**

We strongly advise that the expert making the presentation / debriefing of the case is the original author (Anne Brosnan – Environment Agency’s Chief Prosecutor, UK), as it is questionable whether any other person is able to handle this case without the proper national and case-specific background. Still, elements of the facts and also the
debriefing part (answers to the questions) might be used well by other trainers. In any case the trainer must be an expert on EU Seveso and Environmental Offences Directive and familiar with the crimes prosecution system in the UK.

Working groups should be picked up randomly and represent a mix of countries / regions / courts. Make sure that each group has a rapporteur – someone who will report its conclusions to the plenary. Other criteria for the mixing of the working groups may be the professional experience or knowledge, gender, language skills, in a way that all working groups will function well.

As concerns the determination of the moderator and rapporteur for each working group – these persons should be quickly selected internally by each working group.

The moderator should promote a full group discussion so that no one is disadvantaged by not having taken part (ask questions to everybody on his/her opinion). It is highly advisable to make use of the guiding questions which have been prepared for each case but participants should feel free to bring up questions from their own experience for discussion.

The moderator should also be responsible for controlling and managing the time available for the working group meeting and be available for assistance to the groups if required by them.
2.8  Session 8: Environmental Liability Directive 2004/35/EC

a) **Short description of content**

Session 8 aims to introduce participants to the background and main features of the Environmental Liability Directive 2004/35/EC and the obligations deriving from it for EU Member States.

b) **General Objectives**

The objectives are to inform participants about the background, concept, objectives and obligations under the Environmental Liability Directive. The session shall be complementary to the criminal sanctioning aspects under the Environmental Offences Directive.

c) **Specific learning points**

The session will focus on historical background and the concept behind the Liability Directive. Basic features and main definitions as well as key requirements of the Directive are explained in detail. Insofar the CJEU decision in case C-378/08 (*Rada die Augusta*) is highlighted. Besides, the transposition of certain elements of the Directive, such as defences, multiple party causation and financial security in EU Member States are presented.

d) **Methodology to be applied**

The proposed methodology for this session is front-teaching in the plenary with the use of power point presentation tools. Examples may be given by the trainer, to explain the practical meaning of a provision. At the end of the session there should be given some room for discussion of open questions.

e) **Duration**

Based on our experience we propose that this session should last about 60 minutes including 10 minutes time for questions for clarification.

f) **Training aides / materials**

The participants should receive print outs of the power point slides designed by the trainer as handouts for that session prior to the session start.

g) **Supportive documents**

The text of the Environmental Liability Directive including its Annexes in the most suitable language should be copied and distributed to the participants as hard copy.

h) **Additional notes**

The trainer should be very familiar with the concept and provisions of the Environmental Liability Directive and the CJEU decision in case C-378/08.
2.9 Session 9: Case session III – Illegal transboundary shipment of waste

a) **Short description of content**

Session 9 is the third case session. Within case sessions in this module, real national cases should be presented to and discussed by the attending judges and prosecutors mainly on the basis of their national legislation. Additionally, aspects of applicable EU environmental law shall be taken into account.

The third case is a real case from Germany on illegal mixing and transboundary shipment of waste. This case shall be discussed primarily on the basis of national laws of the participants. Besides, the requirements of Article 18(1) waste framework Directive – waste mixing prohibition – and of the provisions of the German law which transpose parts of the Basel Convention as reprinted in the facts of the case will also be considered.

**N.B** This also means that it is rather unlikely that somebody else then the original author of the materials of the case will be able to make full use of this material.

b) **General Objectives**

The general objective of this session is inform participants on the prosecution of an illegal transboundary shipment of waste case in Germany in the light of relevant EU and international legislation (here: Mixing prohibition and Basel Convention requirements) and discuss with participants the handling of similar cases in their countries.

c) **Specific learning points**

The main learning points are to understand and discuss prosecution problems related to criminal character of specific waste activities, the liability of legal persons and the confiscation of profits gained by offences.

Participants shall discuss potential solutions of the case and opinions based on their national legislation (“How would this case be prosecuted and sanctioned in my country / at my court”).

d) **Methodology to be applied**

We propose the following methodology:

The case to be discussed and answered here is presented by the trainer (expert) to the plenary in brief. The case is also available to the participants as hand-out. After the presentation the plenary should be divided into 2-4 smaller working groups with no more than 6-7 persons/group. Each group shall appoint a moderator and a rapporteur (these persons may be identical). Within the working groups questions to the cases shall be discussed based on the participant’s national legislation and taking into account the Waste Framework Directive and the Environmental Offences Directive.
Additionally, the extract from the German legislation as reprinted in the facts of the case shall also be taken into consideration.

Small working group discussions have several advantages:

- They create variety, including a change of physical position, which will help to stimulate concentration.
- They allow greater participation and more time for each participant to speak.
- They encourage reluctant participants who may be nervous about speaking to the plenary.

After the discussions in the working groups all participants shall meet again in the plenary. There the rapporteur of each working group should present the findings of their discussion in short statements. We suggest that each working group gives its answers and opinions on a question followed by the next working group on the same question.

Once all questions have been addressed by all working groups this is followed by a debriefing by the trainer (expert).

e) **Duration**

The cases presentation should take no more than 10 minutes, followed by the discussion of the cases in the parallel working groups for about 60 minutes. In the plenary the presentation of working group findings and the final debriefing (and discussion) could take another 45 - 60 minutes.

f) **Training aides / materials**

The case prepared for this session is a real case from Germany. Though the case occurred some 20 years ago similar offences can still be observed throughout Europe.

The hand-outs for the participants consist of precise descriptions of the facts of the case and extracts from German legislation and questions to be addressed during the working group meeting and the subsequent de-briefing.

Detailed “Answers to the Questions”, summarizing the handling of the case in Germany and the main difficulties faced in the prosecution and sanctioning process are handed out to the participants at the end of the debriefing meeting.

g) **Supportive documents**

The Environmental Offences Directive should have been distributed to the participants.

h) **Additional notes**

We strongly advise that the expert making the presentation / debriefing of the case is either the original author (Manfred Stotz – Prosecutor from Frankfurt, Germany) or an expert familiar with the case. It is questionable whether any other person is able to handle this case without the proper national and case-specific background. Still,
elements of the facts and also the debriefing part (answers to the questions) might be used well by other trainers. In any case the trainer must be an expert on EU Waste legislation and familiar with the Environmental Offences Directive and the crimes prosecution and sanctioning system in Germany.

Working groups should be picked up randomly and represent a mix of countries / regions / courts. Make sure that each group has a rapporteur – someone who will report its conclusions to the plenary. Other criteria for the mixing of the working groups may be the professional experience or knowledge, gender, language skills, in a way that all working groups will function well.

As concerns the determination of the moderator and rapporteur for each working group – these persons should be quickly selected internally by each working group. The moderator should promote a full group discussion so that no one is disadvantaged by not having taken part (ask questions to everybody on his/her opinion). It is highly advisable to make use of the guiding questions which have been prepared for each case but participants should feel free to bring up questions from their own experience for discussion.

The moderator should also be responsible for controlling and managing the time available for the working group meeting and be available for assistance to the groups if required by them.
2.10 Session 10: European co-operation in the field of environmental crimes

a) **Short description of content**
   Session 10 aims to inform participants on various aspects related to European cooperation in the prosecution of environmental crimes.

b) **General Objectives**
   The objectives are to enhance the knowledge and understanding of participants of the instruments and practical benefits for EU wide cooperation in criminal matters and discuss remaining problems and shortcomings.

c) **Specific learning points**
   In this session the main focus is on sources of assistance for cooperation and in particular the functioning of the Mutual Legal Assistance (MLA) mechanism and the European Arrest Warrant. Besides, the example of the British template of a letter of request (LOR) for legal assistance will be explained.

d) **Methodology to be applied**
   The proposed methodology for this session is front-teaching in the plenary with the use of power point presentation tools. Examples are given by the trainer, to explain how the MLA mechanism and the LOR template work in the UK. During the session there should be given some room for discussion of open questions and experiences from other countries.

e) **Duration**
   Based on our experience we propose that this session should last about 45 – 60 minutes including at least 20 minutes for questions and discussion.

f) **Training aides / materials**
   The participants should receive print outs of the power point slides designed by the trainer as hand-outs for that session prior to the session start.

g) **Supportive documents**
   The template for a letter of request (Annex D – F) from the UK could be provided as print out.

h) **Additional notes**
   The trainer should be very familiar with the history and instruments of European cooperation in criminal matters and in particular the MLA mechanism. She/he may also have good knowledge on the use of templates such as the LOR. The session should be conducted towards the end of the workshop.
2.11 Session 11: How to access relevant online information

a) **Short description of content**
   Session 11 is a session advising participants how to track down different types of relevant EU documents in internet.

b) **General Objectives**
   This session has been incorporated into this module on particular request of EIPA’s testing workshop participants. Given the diversity of EU legislation, policy documents and case law plus rather less known websites such as the e-justice portal and EU media center, during this session the participants are advised how to use EUR-LEX, <curia-europe.eu> as concerns CJEU decisions and other useful sources of information.

c) **Specific learning points**
   The participants are instructed on the search tools and options of the several websites and what can be found there in order to make use of these sources in their daily practice.

d) **Methodology to be applied**
   This session will only work out if there is online access of the trainer to internet. She/he will then access the relevant websites, such as the EUR-LEX, the DG Environment, the E-justice portal and the CJEU websites and explain in short its features and gives examples how to find cases, policy papers and legislative texts. During the session there should be given some room for questions and additional practical advices given by participants who have used certain websites for their work.

e) **Duration**
   Session 11 should last no longer than 30 – 45 minutes in total.

f) **Training aides / materials**
   An overview on relevant websites and links could be provided for the participants – online access of the trainer to internet must be ensured.

g) **Supportive documents**
   None

h) **Additional notes**
   Session 11 can take place any time. The trainer should have some practical experience working with EUR-LEX, DG Environment, E-justice portal and <curia-europe.eu> websites.
2.12 Session 12: Exchange session on environmental crimes in EU Member States

a) **Short description of content**

As stated above, the main purpose of the workshop to be designed is the exchange of views and experience of judges and prosecutors as regards the legal and practical situation on the prosecution and sanctioning of environmental crimes in their courts / Member States’ practice. This is based on the assumption that both, prosecution and sanctioning of environmental offences differs considerably between EU Member States.

The second exchange session incorporated into this Module is supposed to focus on existing situations in the EU Member States presented at the workshop as regards the prosecution and sanctioning of environmental crimes in daily practice and main national problems and constraints.

b) **General Objectives**

In this session judges / prosecutors are given the opportunity to exchange with colleagues from other Member States their experience related to the prosecution and sanctioning of environmental crimes in their countries and discuss main shortcomings and ideas to overcome these problems.

c) **Specific learning points**

Which types of Environmental Crimes shall be discussed is foremost up to the participants who shall be encouraged to present selected cases and experiences.

If there is little input from the participants – which may be the case at the beginning of this session – the moderator, who should be an expert, may initiate the discussion especially with questions related to the to the transposition of Article 3 of the Directive and its high number of indefinite terms. Another potential aspect to be discussed is the question of sanctioning (in particular the relation between administrative and criminal sanctions in the Member States) and the liability of legal persons under national law.

d) **Methodology to be applied**

The proposed methodology for this session is an open plenary discussion moderated by the workshop Chair or – even better - an experienced expert.

e) **Duration**

The duration of this session could be between 30 – 45 minutes, depending on the time available and the discussion atmosphere in previous sessions. The more attendees seemed to have enjoyed discussions and gave input in other sessions the more time should be left for this “open” session.

f) **Training aides / materials**
g) Supportive documents
None

h) Additional notes
This session shall only be included in the programme if there is a need for “exchange” – which may be not / less the case if participants come from only 1 or 2 Member States.

Regardless of the fact that the main actors in this session should be the attendees, the session should be well structured by the moderator in order to ensure effectiveness. We recommend that the moderator asks at the beginning one or two questions in order to promote discussion, for instance on the influence of the Directive on the national legal systems and their specific characteristics as concerns the prosecution and sanctioning of environmental offences. Questions used as starting point may also be topics left over from the previous session or which participants would like to discuss in more detail.

It is important that the moderator is able to guide and steer the discussion in order to have learning benefit. If attendees are eager to present and discuss examples from their national or court experience, this session can be very fruitful for everybody.
2.13 Session 13: Workshop evaluation – closing of the event

a) **Short description of content**

The final session of the workshop should draw conclusions from lessons learnt and include an evaluation of the thematic sessions of this module.

b) **General Objectives**

Apart from thanking all trainers and participants for their contributions, the focus of the closing event should be the collection of feedbacks on the sessions and the materials by the participants.

This evaluation is very important for the improvement of the content of the module and the corresponding training and information materials but also to improve and redesign the programme of future training events.

c) **Specific learning points**

For the organiser: to improve the training module and the design of the training event.

d) **Methodology to be applied**

The proposed methodology for this session is an open plenary discussion moderated by the Chair of the event. Besides oral comments, however, evaluation sheets on the entire workshop (its programme, content, shortcomings, speakers etc.) could be filled out by the participants.

e) **Duration**

The closing session may last no more than about 30 – 45 minutes, depending on the number of participants.

f) **Training aides / materials**

An evaluation form could be handed out to the participants at the beginning of the workshop – it may be part of the workshop reader. A proposed text and design of this evaluation form is attached to this module. This evaluation form should be filled out by everybody anonymously at the latest during this final evaluation session and collected by the Chair of this session. The form shall encompass an evaluation of all sessions conducted during the workshop. It will help to improve the session’s design and especially the training material.

g) **Supportive documents**

None

h) **Additional notes**

Participants should be encouraged by the Chair to orally give critical feedback and highlight the pros and cons of the training event. We propose that the Chair asks all attendees for their feedback one-by-one without pressure.