

### THIRD STUDY COMMISSION QUESTIONNAIRE.

November 8 – November 14 2014.  
Brazil, Foz do Iguacu

Last year in Yalta, Ukraine (things can change overnight!) we focused in our study commission on the topic: Environmental pollution: is Criminal Law a good instrument?.

In the two meetings we discussed whether there exists in the different countries special legislation concerning the violation of laws regarding the environment in general, including the possibility of restitution, the role of the Public Prosecutor, the question of specialisation. As a result of the discussion it was considered useful – in view of the complexity of the issues at hand - to further evaluate the questionnaire and bring in new elements that could be explored at the meeting in Brazil.

That brings us to the topic chosen for this year's questionnaire and conference :

#### ENVIRONMENTAL POLLUTION : IS CRIMINAL LAW A GOOD INSTRUMENT? A FURTHER EVALUATION.

##### Question 1.

As a result of the questionnaire of last year;

- 1.1. Could you further elaborate on the functions of specialised agencies set up to investigate and indentify violation of environmental laws, if these agencies exist in your country.
- 1.2. If not, do you think it would be useful to create these sorts of agencies?

##### Question 2.

- 2.1. Could you elaborate on the cooperation between Police, Customs and Prosecution when it comes to violation of environmental laws.
- 2.2. What are the possibilities in your country with regard to :
  - a. import/export of protected animals?;
  - b.import/export of skins of animals?;
  - c.import/export of ivory of elephants,rhino,walrus?
  - d.import/export of other parts of mammals, birds, reptiles?

##### Question 3.

A number of countries see – speaking in general terms - a decline of nature.

- 3.1. Is this true for your country?
- 3.2. Do you have specific areas where this decline is visible? For instance the deforestation of the tropical rainforests in a number of countries? The decline of water resources? Competition between water resources for recreational use as opposed to argicultural use?

3.3 In some places, the use of water for agriculture and the building of structures on certain land may threaten the extinction of some small fish, birds or other creatures. In your country, are laws used to protect animal rights over the rights of humans?

3.4. Do you feel that criminal law could or should be an effective instrument to safeguard nature? Is civil law sufficient? If not, why not?

#### Question 4.

4.1. Do in your country the responsible authorities develop incentives to report pollution on a voluntary basis?

4.2.If yes, how do they develop these incentives?

4.3. Do you think that there are possibilities left unused? What is your personal idea?

4.4.Could you elaborate on the possibilities to enlarge the possibilities of restitution in stead of punishment?

#### Question 5.

We all know that our world is full of forms of legal pollution ( air pollution, water pollution, huge masses of plastic in the oceans).

5.1. Can the Judiciary be more active in their verdicts to urge the politicians to really have interest in solving the existing problems.

5.2. Could organizations as Greenpeace or World Wildlife Fund be more active. Do activists from such environmental organizations as Greenpeace go too far. Should they be punished if their activities harm or endanger people?

#### Question 6.

The International Court of Justice ( ICJ) in The Hague ( Holland) gave a decision in March this year which forbids Japan to hunt whales in the Southern seas. (see the activities of the The Sea Shepard). Still Iceland and Norway will continue to hunt whales. Will there be more whales for Iceland and Norway to hunt if Japan is forbidden to hunt? Who wins in such a situation?

6.1. Do you think that more countries should address the ICJ in order to settle disputes arising with regard to environment?

#### Question 7.

What are your ideas about finding a balance between the economic interests and environmental harm that can be a result of an economic activity.

7.1. Do you for instance think that criminal law could have as a form of punishment the obligation to the industry to work on the “cradle to cradle “principle? That means that all the raw materials used to make a product have to be reused at the end of the lifetime of such a product.

#### Question 8.

8.1. If one country spends large amounts of its wealth on cleaning the air, but other countries continue to pollute the air in the course of economic activity, is the first country foolish since air goes all around the world?

8.2 If environmental pollution is truly a world-wide problem rather than a local problem, what kinds of incentives could be created to encourage all countries to resist the tendency to prefer

economic activity over environmental constraints? Is the criminal law more or less effective than other incentives?

8.3 Cleaning and protecting the environment is not free, it is expensive. Who should bear the cost? Why?

#### Question 9

8.1. Is there any other comment on the subject you would like to make.

8.2. What are your “outside of the box thinking “ideas?

8.3. Do you feel a personal responsibility to guard the nature in the world for the coming generations.

The presidency of the Third Study Commission looks forward to receive your answers not later than in september 2014. That will give us time to present the answers in a proper way.

On behalf of the commission,

Frans G. Bauduin, President of Study Commission III.  
Amsterdam: April 2014.