LATVIA

THIRD STUDY COMMISSION QUESTIONNAIRE.

TOPIC 2013: Environmental pollution: is Criminal Law a good instrument?

Questionnaire.

Question 1.

Has your country special legislation for:
1.1. the violation of laws concerning environment in general?
   Yes.
1.2. Are there special rules for criminal investigation?
   No, investigation should be the same like in other cases.
1.3. If no, is there any such legislation under consideration?
   No.

Question 2.

2.1. Do the laws which deal with environment include specific punitive measures?
   Punitive measures are same as if other criminal offence has been comited.
2.2. What are the possible sentences? Could you give an example?

Pollution of the Sea

For a person who commits polluting of the sea with dangerous or other polluting substances, materials or wastes, if substantial harm is caused thereby to the environment, or property or economic interests,

the applicable punishment is deprivation of liberty for a term not exceeding four years or short deprivation of liberty, or community service, or a fine.

For a person who commits polluting of the sea with dangerous or other harmful polluting, materials or wastes, if serious consequences are caused thereby,

the applicable punishment is deprivation of liberty for a term from three years, but not exceeding twenty years.
Question 3.

3.1. Is “restitution “ possible.
Is it for instance possible that the sentence is suspended in that sense that the sentence will be executed only if the offender does not fulfill certain conditions; for example a condition to repair all damages and take measures to prevent new damages in the future.

No.

3.2. Is it possible in your country that the Public Prosecutor decides to impose a fine instead of taking the case to Court (out of Court settlement).

Yes.

3.3. Is it possible for the Public Prosecutor to take coercive measures?, i.e. measures the public prosecutor may take in criminal proceedings( like temporarily closing of a factory)

No.

Question 4.

Has your country set up one or more specialised agencies to investigate and indentify violation of environmental laws ?

Yes.

Question 5.

5.1. Has your country signed and ratified Agreements, Treaties or other forms of international cooperation regarding protecting environment ?

Yes.

To mention a few:

5.2.
*Has your country ratified the Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal (March 22, 1989)*
*The Hong Kong International Convention for the safe and environmentally sound recycling of ships 2009;*
*The UN Treaty on the Law of the Sea; (Monetgo Bay, November 16/1994)*
See f.i. articles 207 etc on the pollution of the marine World;
*The international Convention for the prevention of Pollution from ships 1973 (Marpol and its annexes);*
5.3. The European Union (EU) has set up a system for the supervision and control of shipments of waste within its borders and with the countries of the European Free Trade Organisation (EFTA), the organisation for Economic Cooperation and Development (OESO) and third countries which are party to
the Basel Convention ( Act 7.15.2006; amendig acts 6.25.2009, 4.20 . 2009 and 1.1.2010);

Have you had any experience with this system?
No.

Question 6.
6.1. Could your country be more active in the field?
Yes.
6.2. Is there pressure from companies or governemental organisations to be more lenient when environment is concerned based on economical reasons (or f.i. employment)?
No.

Question 7.
7.1. Could you as Judge be more active in the field?
No.
7.2. Are you as an individual active in the protection of the environment (f.i. by being member of a society which has a goal to protect the environment?) Does that raise questions in the Court were you are working?
No.
7.3. Do you think that you have enough instruments and qualifications to handle these type of violations in Court?
No.
7.4. Is it considered to be a specialisation to handle these cases in Court?
Yes.

Question 8.
8.1. Do you think there should rules to govern the situation in which a pollution is discovered long after the company involved has disappeared or changed ownership?
Yes.

Question 9.
9.1. Is there any other comment on the subject that you would like to make?
No.