1.1. What usually triggers, in your country, the opening of a file on an environmental offence at the public prosecutor's office? The reception of a notice of violation recording the offence? Other triggers?

According to the Italian Code of criminal procedure (art. 330) both the Police and the Public Prosecutor are allowed to acquire directly a notice of violation. Nevertheless, a notice can be reported in accordance with what is laid down by the code (art. 331 – 334), for example, every functionary who, in the execution of his duty, finds out a notice of violation has to report it to the Public Prosecutor or a police officer (any violation to this obligation is a criminal offence).
A notice of a violation can come directly to the knowdlege of the Police and the Public prosecutor by any and all available means, like media reports or even by anonymous tips.
It is important to make it clear that an anonymous tip could be utilised as source of information and not as evidence. For example, if an anonymous letter reveals that an illegal garbage dump is made in a given location, a police officer could only go there in order to confirm the information but the anonymous source could not be included in the records of the trial.
The Public prosecutor leads the investigation and coordinates the activities of the Police.
These rules are also applyied to environmental crimes.

1.2. What is on average the time required in your country in criminal proceedings to go from a citation to a first instance judgment and to an appeal judgment?

It is important to start by saying that on 30 june 2015 were pending, before all the Courts in Italy, 3.467.896 criminal proceedings.
The average length of inquiry is 394 days; the first instance judgment takes on average 375 days, whereas appeal judjment takes in turn 943 days. Moreover, before the Supreme Court (Corte di Cassazione, in Italian) the average lenght is 220 days (in Italy, the Supreme Court is at the top of the ordinary jurisdiction).
The above data are official (source: Report on the administration of justice 2015 – Giovanni CANZIO First President, Corte di Cassazione)

1.3. What procedural steps can take time?

At the end of investigation (the deadline is, in most cases, 6 – 12 months from the beginning) the Public prosecutor, before the prosecution, must send a notice to the person under investigation, who has 20 days to look the file and ask for more inspections that will be done in 30 – 60 days.
For less serious crimes, the prosecutor can sue directly the person under investigation at least 60 days before.
In other cases, he must ask for a preliminary hearing to a judge, who sets it to no later than 35 days. At the end of the preliminary hearing the judge decides for an acquittal or a trial in 10 days.
All this takes place before the trial, that has the average lenght mentioned above.

1.4. Are you aware of difficulties with this guarantee?

Yes.
The most serious thing is that the limitation period relentlessly begins to run from the day when the crime is committed until the end of the trial (first instance judgment, appeal and judgment before the Supreme Court).
This period, that in some cases can be interrupted or suspended, is set in 5 years or 7 years and 6 months for most of the environmental crimes.
Only in 2015 serious crimes against the environment have been added to the others, and a longer limitation period has been introduced.
This being the case, it is obvious that it is in the interests of the defendant to extend as much as possible the lenght of the trial.
Some changes are possible, but, for the moment, *the political will* to make effective and decisive reforms seems *lack*ing.

1.5. What are the legal consequences of undue delay in your legal system?

The law provides, since 2001 (l. 14/3/2001 n. 89 also known as “legge Pinto”) a compensation if the trial exceeds the average time that the law sets as 3 years for the first instance judgment, 2 years for the appeal judgment and 1 year for the judjment before the Supreme Court (there are, however, some limitations and exceptions).
We can find, in the judjment database of the Supreme Court, 1061 records until today. Only 95 of them concern criminal prosecutions.
These cases are only those officialy recorded, the total number of claims for compensation is not easy to calculate.

2.1 What do you know about the implementation of judgments in your country? Are punitive sanctions (prison sentences, fines, other) implemented? Are remedial sanctions (reinstatement of the environment, compensatory action, other) implemented? Who is in charge? What goes well, wrong?

Criminal law system in Italy does not results in an implementation of every judgment.
Only in case of convictions for serious crimes there is a good chance of a real implementation, because laws provide many opportunities to suspend or delay it.
That happens expecially regarding environmental crimes, most of which involve fines or light penalties.
For example, illegal non-hazardous waste management is subject to a penalty between 3 months and 1 year of detention or, alternatively, a fine between 2,600 and 26,000 euros and, for hazardous waste, a penalty between 6 months and 2 years together with a fine beetween 2,600 and 26,000 euros.
Generally, if the trial comes to a conclusion without the frequent effect of limitation period, these penalties are suspendend or executed after a long time.
The same goes for the remedial sanctions that the law provides, as reclamation of polluted sites, others reinstatements of the environment, etc.
There are also some differences concerning illegal building, because the law provides the demolition of the builds and, in case of noncompliance, seizure.
A similar sanction is provided in case of illegal landfill.
These penalties are applied to the offender.

However, only in 2011, implementing the Directive 2008/99/CE a law provided, after waiting 10 years, the introduction in Italy of corporate administrative liability for criminal environmental offences, that should have been provided since 2001, according a previous law, which delegated the government to implement it.

2.2. Can criminal courts also impose remedial sanctions in your country? If so, can they do so ex officio or only on request by the prosecution or a civil party?

Yes, it is possible.
Some laws provide remedial sanctions in Italy.
For example, when sentencing someone for criminal environmental offence, the judge (ex officio) orders reclamation or reinstatements of the environment and a suspendend sentence could be subordinated until the fulfilment of those obligations.
That is possible for water pollution, illegal waste management, illegal waste trafficking and other cases.
If the judge does not order that, the public procecutor could contest the verdict in order to obtain it in an appeal judgment.
The civil party has only the right to recover damages as in a civil procedure.

2.3.Worldwide NGO's play a significant role in the prosecution of environmental offences. Can they be a civil party in criminal proceedings under the law of your country? Do they have an easy access to criminal proceedings or are there severe conditions to meet? Can they obtain damages? Can they request remedial action?

In Italy there are many NGOs which are designed to protect the environment. Their activity is done at national or local level, and their goal is to improve public dialogue and citizen participation regarding enviromental issues and political decision.
They give a strong impetus to local government for the protection of the environment, revealing every abuse to the public.
Of course they can be a civil party in criminal proceeding even though in 2006, by law, the Ministry of Environment plays a leading role on trials for remedying of environmental damage.
Nevertheless, the NGOs can obtain in a crimiminal proceeding a compensation for any economic loss sustained in consequence of environmental crime. Jurisprudence expressed its view stating, practically, that the NGOs can be a party in a trial in defence of the collective good they represent and every damage to the environment could also be a damage to their reputation.
The access to criminal proceeding is guaranteed to the NGOs as every person but they can not request remedial action

3.1. What are the basic principles of evidence in the criminal law of your country? Are the means of proof free or restricted? What evidence is most often used in environmental cases? What type of evidence creates troubles (too costly, too difficult to obtain, too easily mismanaged by environmental inspectorates, …)

In Italy all evidence is disciplinated by law but it is also possible to employ means of proof that the law does not regulate, as long as they don't compromise the moral liberty of a person.
All proof needs to be admitted by judge at the request of any interested party.
Environmental cases are characterised by peculiar requirements, due to the fact that investigations involve both technical and legal knowledge.
Environmental police must have high professionality and tecnical-scientifical competence (es.

knowledge of
chemistry, physics etc.), availability of special vehicles and infrastructure and (availability) of labs and specialised technicians.
They often use photos and videos to show the condition of an area, cross-control of documentation, sampling and analysis, verification of productive cycles and, seldom, technologically advanced (and expensive) techniques, such as integrated geophysical methods for buried waste detection, detection of alterations in the sea bed with echo sounding.
In regards to poaching and preservation of animal life, infra-red micro-cameras activated by motion sensors, ballistic analysis on illegal or modified weapons, research for in-flesh projectiles with metal detectors etc. can also be used.
However, the more complex the investigation, the harder is to show results efficiently and clearly in a trial.
Expertises and testimonies are usually used, same as documentation.
Sampling and analysis are the most challenged evidences, expecially for procedures, even though they take place in public laboratories and are officialy certified, frequently due to noncompliance of good practice or fundamental rights of defence.
Many cases of water pollutions are nullified because of unsuitable analysis, the same for classification of waste.

3.2. How do you see the impact of the principle of innocence on the prosecution policy? Do you feel it has an overly restrictive impact, in general, for some type of cases?

The principle of innocence is regularly applied in Italy. A validation can be found in the Consitution (art. 27) where is affirmed that an accused can not be considered guilty until a final sentence.
It is applied to every cases, therefore, it has no restrictive impact.

4.1. Does the environmental law in your country make (an extensive) use of self-monitoring and - reporting obligations? Does it provide in inspection rights to ask for information, sanctioned when not complied with?

The environmental laws in Italy don’t make a large use of self-montoring and reporting obligations.
One can find a similar obligation, for example, in the rules on water and air pollution but it is quite difficult to make use of the results in a trial, although the non compliance of an obligation is sanctioned.
Nevertheless, these sanctions are not appropriate in the event of an infringement of the obligation, until 2015, when serious crimes against the environment have been added in Penal Code.
One of them is the crime of “impedimento al controllo” (literally: impediment to control) sanctioned by article 452-septies with a penalty between 6 months and 3 years. This article punishes every behaviour directed to impede, hinder or elude the control or compromise the results of a control.
However, there are no criminal conviction for this crime so far.

4.2 If so, are you aware of prosecution difficulties caused by the privilege against self-incrimination? Is it easy to draw the boundaries between evidence that can be used and evidence that cannot be used because of this privilege?

The difficulties don't depend on the privilege against self-incrimination, but on the sporadic use of self - monitoring and reporting obligations. There are no known cases where the results of self – control activity has been used as basic evidence in a criminal court.

5.1. Are criminal courts in your country confronted with double jeopardy when dealing with environmental offences? If so, what is the typical case-set: a combination with administrative fines, with penalties from other policy areas such for instance as agricultural policies?

The double jeopardy in Italy is not permitted, according to a general legal principle estabishled by the Code of criminal procedure (art. 649). A defendant cannot be tried again on the same fact, even if differently considered for name, status or circumstances.
A typical case-set like the one mentioned in the question is unknown about environmental offences.
A precedent could be found in a pronuncement of Supreme Court (*n.* 44982, 7/11/2007 – 4/12/2007).
The Court judjed that uncontrolled waste disposal and noncompliance of an order to remove the waste are not the same fact and ruled out the possibility of a double jeopardy.

5.2. Are there discussions with regard to the scope of the guarantee? Areas of doubt, vagueness? What, for instance, about EU-regulations regarding extensive farming and mandatory cuts in the income support to farmers when infringing the cross-compliance conditions?

There are discussions with regard to the scope of the guarantee in general, not specifically about enviromental offences.

6.1. Have you noticed, in your practice, environmental cases where the penalties inflicted were too severe?
No, as wrote on top (question n. 2) most of environmental crimes involve fines or light penalties. The new serious crimes against the environment, inserted in the Penal Code on 2015, are not yet applied with a final judgment

6.2. If so, could you elaborate and tell why you felt the penalty was too severe?
See n. 6.1.

6.3. At the level of the Council of Europe, Recommendation No. R (92) 17 of the Committee of Ministers tot member states concerning consistency in sentencing states, in its point B.7.a: "As a matter of principle, every fine should be within the means of the offender on whom it is imposed." Do you consider that proportionality in punishment requires to have consideration for the extent to which the penalty hurts the offender, implying, for instance, that for identical offences a firm with healthy finances should be punished with quite higher fines than an individual with a low income? What is the punishing practice in this regard in your country?

I agree with the first question about proportionality in punishment
The Penal Code (art. 132) provides large latitude about implementation of punishments and, regarding fines, provides also that judges are allowed to increase or decrease them up to three times considering financial conditions of the offender.

7.1. Have you noticed an impact of the right to respect for private of family life on the environmental adjudication in your country? If yes, could you please provide examples form the case-law illustrating this influence?

No, I haven't, but general principles about the right to respect for private of family life are applied

7.2. Would you be willing to use this right in support of environmental adjudication and, if so, in which type of cases?

No, I think it is not necessary

8.1. Have you noticed an impact of the right life on the environmental adjudication in your country? If yes, could you please provide examples form the case-law illustrating this influence?

Many environmental offences involve severe risks for health and life and, in some cases, the danger for life is specifically considered by the law. For example, the jurisprudence conceived the crime of "environmental disaster" making use of an article of the Penal Code relating to a general crime against public safety (art. 434).
In 2015 when severe enviromental crimes were added to the Penal Code, life and health were reasons behind specific crimes, as "inquinamento ambientale" (letterally, pollution; art. 452-bis, 452-ter) and "disastro ambientale" (litterally environmental disaster; art. 452-quater).
However, the risks for health and life was not ignored in criminal proceedings.
For example in the 90's, an investigation about water pollution in Venice lagoon discovered a large amount of carcinogenic chemicals and heavy metals up to three times over the legal limit and a risk for consumers eating fish and shellfish fished in the lagoon.
As of late, for example, severe risks for health and life are esteemed relevant in prosecution of large illegal waste management.
It is very arduous, howewer, to find a link between pollution and life or health damage, whereas, in some cases relating to workers' health, that link is easily found, even though this is a specific juridical area, different from environmental law.

8.2. Would you be willing to use this right in support of environmental adjudication and, if so, in which type of cases?

Yes. In all cases conrcerning the most considerable events

9.1. Do you consider this right to have impact on environmental adjudication?

Yes, I do. Every environmental adjudication should also be founded on an adequate evaluation of consequences on the quality of the environment

9.2. Do you agree with the proposition that, in environmental adjudication, it is only fit to impact on the sanctioning policy, meaning choice and level of sanctions inflicted?

I think it is also important to avoid worsening of the environment applying remedial sanctions