

# Questionnaire EUFJE Conference 2010 – Enforcement of European Biodiversity Law at national level

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I. Natural habitats and their fauna and flora

A. Habitat protection

## ***Introduction***

**Habitat-directive (92/43/EEC) - Special areas of conservation.** According to art. 4 of the directive, a list of sites selected as sites of Community importance was adopted by the European Commission<sup>1</sup>. Once a site of community importance has been adopted, the Member State concerned designates that site as a special area of conservation, as soon as possible and within six years of designation by the Commission at the latest.

According art. 6.2. of the directive Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of the directive. Moreover, according to art. 6.3. of the directive, any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

**Birds-directive (79/409/EEC) – Special protection areas.** According to art. 4.1 of the directive, the Member States shall classify as special protection areas the most suitable territories for the conservation of *Annex I – bird species*, in order to ensure their survival and reproduction<sup>2</sup>. According to art. 4.2 of the directive, Member

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<sup>1</sup> See for the actual lists of SACs:

[http://ec.europa.eu/environment/nature/natura2000/sites\\_hab/index\\_en.htm](http://ec.europa.eu/environment/nature/natura2000/sites_hab/index_en.htm)

See also: [http://ec.europa.eu/environment/nature/natura2000/db\\_gis/index\\_en.htm](http://ec.europa.eu/environment/nature/natura2000/db_gis/index_en.htm)

<sup>2</sup> See for the actual list of SPAs:

[http://ec.europa.eu/environment/nature/natura2000/sites\\_birds/sites\\_spa.htm](http://ec.europa.eu/environment/nature/natura2000/sites_birds/sites_spa.htm)

States shall take similar measures for regularly occurring *migratory species not listed in Annex A*. To this end, they shall pay particular attention to the protection of wetlands, particularly wetlands of international importance.

**Ecocrime-directive (2008/99/EC)**. Art. 3 (h) of the Ecocrime-directive prescribes that Member States shall ensure that the following conduct constitutes a **criminal offence**, when unlawful and committed intentionally or with at least serious negligence (...) "*h) any conduct which causes the significant deterioration of a habitat within a protected site ; (...)*". A 'habitat within a protected site' is any natural habitat or habitat of species for which a site is designated as a special area of conservation under the Habitat-directive or any habitat of species for which an area is classified as a special protection area under the Birds-directive.

## Questions

I.A.1. Are there general habitat protection measures, applicable to all special areas of conservation and special protection areas in your country, or are they site specific, or is there a combination of general and site specific measures?

The general habitat protection measures are in the legislation of the Slovak Republic governed by the **Act no. 543/2002 Coll. on Nature and Landscape Protection**. This Act in general regulates competencies of state administration bodies and municipalities, and rights and obligations of legal persons and natural persons in nature and landscape protection with the aim to support preservation of diverse living conditions and life forms on the Earth, to create conditions for sustainability, restoration and rational use of natural resources, preservation of natural heritage, characteristic landscape features and to reach and maintain ecological stability.

The Act in § 6 contains legislation measures to protect the habitats of European interest and the habitats of national interest. List of the habitats of European interest and the habitats of national interest is contained in the Decree No. 24/2003 Coll., issued by the Ministry of Environment of the Slovak Republic implementing the Act on Nature and Landscape Protection.

The Act No 543/2002 Coll. on Nature and Landscape Protection includes a special section concerned to the nature and landscape protection in accordance with the **principle of territorial protection (§ 11)** and the principle of **species protection of protected plants, protected animals, protected minerals and protected fossils**.

According to **principle of territorial protection** the Sites hosting natural habitats of European interest and natural habitats of national interest, habitats of species of European interest, habitats of species of national interest and habitats of birds including migratory species for protection of which protected areas, important landscape elements or areas of international interest are designated, can be designated as protected areas. There are 6 types of the protected areas (§ 17 of the Act. No 543/2002 Coll.). The different types of protected areas are defined primarily in terms of size of the territory.

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See also: [http://ec.europa.eu/environment/nature/natura2000/db\\_gis/index\\_en.htm](http://ec.europa.eu/environment/nature/natura2000/db_gis/index_en.htm)

**Species protection of protected plants, protected animals, protected minerals and protected fossils** according to this Act, is defined as the specific protection of species of plants, animals, minerals and fossils and restriction of use of selected species of plants and animals.

I.A.2. Who supervises habitat protection measures in your country? Are there (also) specialized inspectorates supervising them?

The act on Nature and Landscape Protection in general regulates competencies of state administration bodies with respect to nature and landscape protection. The Ministry as the central body of the state administration of nature and landscape protection has designated the **Slovak Environmental Inspection** as a body of the state supervision by which the Ministry executes the state supervision and which imposes penalties to natural persons, entrepreneurs and other legal persons according to the Act on Nature and Landscape Protection and informs the Ministry about their imposing. The inspection also orders necessary remedial measures to eliminate shortcomings found out.

Slovak Environmental Inspectorate is divided into the head of inspection and four inspectorates with territorial jurisdiction for Bratislava, Banska Bystrica, Kosice and Zilina.

I.A.3. If habitat protection measures are infringed, what type of sanctions can be imposed by whom? Are these sanctions administrative, criminal or civil in nature? What is the level of sanctions? Are those sanctions often applied and considered to be effective? Can those sanctions be applied on legal persons?

If the unlawfully act is committed by an entrepreneur or legal person, this act is called **other tort** and if the unlawfully act is committed by natural person this act is called **offence**.

The nature protection body may impose a penalty up to 33 193,91 € and forfeiture of a thing to an **entrepreneur or legal person** who acts unlawfully and in contravention of the Act on Nature and Landscape Protection. If a person commits another tort within two years following imposition of a penalty for the same tort, a penalty up to the double of the upper limit may be imposed to that person.

For an **offence** committed by natural person who acts unlawfully and in contravention of the Act on Nature and Landscape Protection may be imposed the warning or a penalty up to 2 958,17 €.

The sanctions may be imposed separately. **Forfeiture of a thing** may be imposed separately or along with a penalty. It is not possible to impose forfeiture of a thing if a value of the thing is in obvious disproportion to the nature of another tort.

The nature protection body may in its decision with respect to another tort require the responsible person to carry out corrective measures within a specified period to correct his illegal action for which the penalty has been imposed to him. If the responsible person fails to carry out these measures, another penalty may be imposed to him up to the maximum of double the original penalty.

The Supreme Court of the Slovak Republic has no knowledge as regards the frequency and the amount of the sanctions imposed, since it is not the body authorized impose fines. The Supreme

Court of the Slovak Republic only reviews the procedure and the decisions of regional courts and the state authorities within the scope of the appeal.

As we mentioned above, penalties for other tort may also apply to legal persons. The penalties are in the nature of administrative penalty.

I.A.4. What type of sanctions can be applied if a plan or project as referred to in art. 6.3. of the Habitat-directive is carried out without an appropriate assessment? Makes it a difference if not only an appropriate assessment is lacking, but also a permit for the project or an approval of the plan?

In case if it is required necessary comment of the nature protection body, for example in proceedings of issuance of a land and building decision, the competent authority decides after submission of statements of the nature protection body or after the decision on approval of the nature protection body. Without its submission, it is not possible to issue a final decision, for example the issuance of a land decision.

The nature protection body may impose a penalty up to 9 958,17 € and forfeiture of a thing to an entrepreneur or legal person if such consent on the competent authority is absenting.

I.A.5. Conduct falling under article 3(h) of the Ecocrime-directive shall, at the latest on 26 December 2010, be qualified as a criminal offence and be punishable by effective, proportionate and dissuasive criminal penalties. Has these provision already been implemented in your country, as the case may be, by pre-existing legislation? How is this conduct described in your legislation: copy- and past or a specific national description? What are the minimum and maximum penalties? Is there a difference between penalties for natural and legal persons? If such an infringement is reported, is it still possible not to prosecute such an offence before a criminal court and to apply other types of sanctions or to simply drop the case?

The directive was implemented into our national legislation **by Act no. 224/2010 Coll., which amends Act no. 300/2005 Coll. Penal Code** as amended by later regulations, shall enter into force on 1 9th 2010th.

Criminal Code no. 300/2005 Coll. defines the constituent elements of criminal acts against the environment and in the second section, title VI, the second part, in § 300 et seq., is concerned the criminal acts and threats of environmental damage, as the facts of the breach of plants, animals, trees and shrubbery protection.

With regard to the proceeding that falls within Article 3 (h) of the protection of the environment through criminal law, in criminal law is a specific arrangement of such proceedings. These crimes have already been incorporated in Criminal Code and are efficient from the 1 January 2006. There is the criminal offense of the **Breach of Plant and Animal Species Protection Regulations** (§ 305 ods.1 Criminal Code). The penalty for such conduct shall be a term of imprisonment of up to two year. This provision relates to unlawful act by a natural person, as legal persons are not criminally responsible.

In the administrative procedure may be the sanctions imposed to an entrepreneurs or legal persons as well as to the natural person. The sanctions imposed are in the same level as mentioned in the

answer in the point II. 3.

**Please provide, if available, summaries of interesting cases that illustrate the answers to the questions above.**

## B. Species protection

### *Introduction*

**Habitat-directive (92/43/EEC) – Animal and plant species.** According to art. 12 of the directive Member States shall take the requisite measures to establish a system of strict protection for the **animal species listed in Annex IV (a)** in their natural range, prohibiting: (a) all forms of deliberate capture or killing of specimens of these species in the wild; (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration; (c) deliberate destruction or taking of eggs from the wild; (d) deterioration or destruction of breeding sites or resting places. Member States shall also prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before the directive is implemented. The protection shall apply to all stages of life of the animals. According art. 13 of the directive, Member States shall take the requisite measures to establish a system of strict protection for the **plant species listed in Annex IV (b)**, prohibiting: (a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild; (b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before the directive is implemented. The prohibitions shall apply to all stages of the biological cycle of the plants.

**Birds-directive (79/409/EEC).** Similar provisions apply to birds. Pursuant to art. 5 of the directive, Member States shall take the requisite measures to establish a general system of protection for all species of birds referred to in art. 1 of the directive, being *“all species of naturally occurring birds in the wild state in the European territory of the Member States”*, Greenland excepted. They will be prohibiting in particular: (a) deliberate killing or capture by any method; (b) deliberate destruction of, or damage to, their nests and eggs or removal of their nests; (c) taking their eggs in the wild and keeping these eggs even if empty; (d) deliberate disturbance of these birds particularly during the period of breeding and rearing, in so far as disturbance would be significant having regard to the objectives of the directive; (e) keeping birds of species the hunting and capture of which is prohibited.

Without prejudice to the provisions of art. 6.2 and art. 6.3 of the directive, which allow for some exceptions, Member States shall also prohibit for all those bird species the sale, transport for sale, keeping for sale and the offering for sale of live or dead birds and of any readily recognizable parts or derivatives of such birds (art. 6.1 directive). Regarding the hunting, capture or killing of the birds, Member States shall prohibit the use of all means, arrangements or methods used for the large-scale or non-selective capture or killing of birds or capable of causing the local disappearance of a species, and in particular the use of those listed in Annex IV (a). Moreover, Member States shall prohibit any hunting from the modes of transport and under the conditions mentioned in Annex IV (b) (art. 8 directive).

**Ecocrime-directive (2008/99/EC).** Art. 3 (f) of the directive prescribes that Member States shall ensure that the following conduct constitutes a **criminal offence**, when unlawful and committed intentionally or with at least serious negligence: *“f) the killing, destruction, possession or taking of specimens of **protected wild fauna or flora species**, except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species”*. For the purpose of this article, ‘protected wild

fauna and flora' are, under the Habitat-directive, the Annex IV animals and plants, and under the Birds-directive, the Annex I bird species and regularly occurring migratory bird species not listed in Annex I.

## **Questions**

I.B.1. Are the fauna (including birds) and flora protection measures organized within one coherent legislative framework, or through a patchwork of legislations, or is there a combination of general and specific measures?

The general regulation are in the legislation of the Slovak Republic governed by the **Act no. 543/2002 Coll. on Nature and Landscape Protection** as well as in the **Decree No. 24/2003 Coll.**, issued by the Ministry of Environment of the Slovak Republic implementing the Act on Nature and Landscape Protection. The Decree contains among other things the list of the species of European interest and the species of national interest, species of birds for which protection the protected areas are declared etc.

I.B.2. Who supervises fauna and flora protection measures in your country? Are there (also) specialized inspectorates supervising them?

**Slovak Environmental Inspection** is the body of the state supervision by which the Ministry executes the state supervision. Slovak Environmental Inspectorate has four inspectorates with territorial jurisdiction.

I.B.3. Do the enforcement efforts concentrate on a few types of fauna, birds or flora? Are there some topics that gather all attention, all enforcement efforts? Is there an evolution through time in the focus of enforcement efforts?

As we know from the decision-making activities of the Supreme Court of the Slovak Republic there are the administrative decisions issued by the Ministry of Environment of the Slovak Republic, in which was decides on applications for exemptions from the conditions of the protection protected animal brown bear.

The cases which consider the Supreme Court of the Slovak Republic as the second instance court of appeal within the legality of judicial review of administrative decisions are not legally completed. At that time proceedings are suspended, as was brought the proposition before the Court of Justice of the European Union for a preliminary ruling on the Environment and Aarhus Convention, public participation in decision making and access to justice in environmental matters.

I.B.4. If fauna and flora protection measures are infringed, what type of sanctions can be imposed by whom? Are these sanctions administrative, criminal or civil in nature? What is the level of sanctions? Are those sanctions often applied and considered to be effective? Can those sanctions be applied on legal persons?

Here we refer to the answer to the point I.A3. since the **Act no. 543/2002 Coll. on Nature and Landscape Protection** contains rules relating to the consequences when fauna and flora protection measures are infringed. The nature of the sanctions is the same, it is possible to impose the sanctions

to entrepreneurs or legal persons and to natural person as well. The penalties are in the nature of administrative penalty.

I.B.5. Conduct falling under article 3(f) of the Ecocrime-directive shall, at the latest on 26 December 2010, be qualified as a criminal offence and be punishable by effective, proportionate and dissuasive criminal penalties. Has these provision already been implemented in your country, as the case may be, by pre-existing legislation? How is this conduct described in your legislation: copy- and past or a specific national description? What are the minimum and maximum penalties? Is there a difference between penalties for natural and legal persons? If such an infringement is reported, is it still possible not to prosecute such an offence before a criminal court and to apply other types of sanctions or to simply drop the case?

We refer to the answer to question I.A.5

**Please provide, if available, summaries of interesting cases that illustrate the answers to the questions above.**

## II. International trade

### *Introduction*

**CITES-regulation (336/97/EC).** The CITES-regulation<sup>3</sup> aims to protect species of wild fauna and flora which are threatened by trade, or likely to be so threatened, by regulating trade therein. 'Trade' encompasses "the introduction into the Community, including introduction from the sea, and the export and re-export therefrom, as well as the use, movement and transfer of possession within the Community, including within a Member State, of specimens subject to the provisions of the regulation". The protected species are subdivided into 4 categories of conservation status, listed in the annexes A to D. Annex A lists in essence species threatened with extinction or so rare that any level of trade would imperil the survival of the species. Annex D contains the species which are not listed in the Annexes A to C and are imported into the Community in such numbers as to warrant monitoring. The *introduction into the Community* of specimens of the species listed in the Annexes A and B is subject to the completion of checks at the border customs office of the point of introduction and of an import permit issued by a management authority of the Member State of destination. The introduction into the Community of specimens of the species in the annexes C and D is also subject to the completion of checks at the border customs office of the point of introduction and also requires an import notification. The *export or re-export from the Community* of specimens of the species listed in the Annexes A, B and C is subject to the completion of checks at the customs office at which the export formalities are completed and requires an export permit or re-export certificate issued by the management authority of the Member States in which the specimens are located. Member States had to designate customs offices for the introduction and export and re-export of the protected species. In principle, *within the Community* all *commercial activities* concerning specimens of species listed in the annexes A and B are prohibited. *Any movement within the Community of a life specimen* of a species listed in Annex A requires a prior authorization of the Member State in which the specimen is located.

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<sup>3</sup> See also: [http://ec.europa.eu/environment/cites/legis\\_wildlife\\_en.htm](http://ec.europa.eu/environment/cites/legis_wildlife_en.htm)

The CITES-regulation also contains *enforcement provisions*. The competent authorities of the Member States shall *monitor compliance* with the provisions of the regulation. If, at any time, the competent authorities have reason to believe that these provisions are being infringed, they shall *take the appropriate steps to ensure compliance or to instigate legal action*. Member States shall inform the Commission and, in the case of species listed in the Appendices to the CITES-Convention, the Convention Secretariat, of any steps taken by the competent authorities in relation to significant infringements of the regulation, including seizures and confiscations. (art. 14.1 regulation) Art. 16 of the regulation, titled ‘sanctions’, states:

*“1. Member States shall take appropriate **measures to ensure the imposition of sanctions for at least the following infringements** of this Regulation:*

- (a) introduction into, or export or re-export from, the Community of specimens without the appropriate permit or certificate or with a false, falsified or invalid permit or certificate or one altered without authorization by the issuing authority;*
- (b) failure to comply with the stipulations specified on a permit or certificate issued in accordance with this Regulation;*
- (c) making a false declaration or knowingly providing false information in order to obtain a permit or certificate;*
- (d) using a false, falsified or invalid permit or certificate or one altered without authorization as a basis for obtaining a Community permit or certificate or for any other official purpose in connection with this Regulation;*
- (e) making no import notification or a false import notification;*
- (f) shipment of live specimens not properly prepared so as to minimize the risk of injury, damage to health or cruel treatment;*
- (g) use of specimens of species listed in Annex A other than in accordance with the authorization given at the time of issuance of the import permit or subsequently;*
- (h) trade in artificially propagated plants contrary to the provisions laid down in accordance with Article 7(1)(b);*
- (i) shipment of specimens into or out of or in transit through the territory of the Community without the appropriate permit or certificate issued in accordance with this Regulation and, in the case of export or re-export from a third country party to the Convention, in accordance therewith, or without satisfactory proof of the existence of such permit or certificate;*
- (j) purchase, offer to purchase, acquisition for commercial purposes, use for commercial gain, display to the public for commercial purposes, sale, keeping for sale, offering for sale or transporting for sale of specimens in contravention of Article 8;*
- (k) use of a permit or certificate for any specimen other than one for which it was issued;*
- (l) falsification or alteration of any permit or certificate issued in accordance with this Regulation;*
- (m) failure to disclose rejection of an application for a Community import, export or re-export permit or certificate, in accordance with Article 6 (3).*

*2. The measures referred to in paragraph 1 shall be appropriate to the nature and gravity of the infringement and shall include provisions relating to the seizure and, where appropriate, confiscation of specimens.*

*3. Where a specimen is confiscated, it shall be entrusted to a competent authority of the Member State of confiscation which:*

- (a) following consultation with a scientific authority of that Member State, shall place or otherwise dispose of the specimen under conditions which it deems to be appropriate and consistent with the purposes and provisions of the Convention and this Regulation; and*
- (b) in the case of a live specimen which has been introduced into the Community, may, after consultation with the State of export, return the specimen to that State at the expense of the convicted person.*

*4. Where a live specimen of a species listed in Annex B or C arrives at a point of introduction into the Community without the appropriate valid permit or certificate, the specimen must be seized and may be confiscated or, if the consignee refuses to acknowledge the specimen, the competent authorities of the Member State responsible for the point of introduction may, if appropriate, refuse to accept the shipment and require the carrier to return the specimen to its place of departure.”*

**Ecocrime-directive (2008/99/EC).** Art. 3 (g) of the directive prescribes that Member States shall ensure that the following conduct constitutes a **criminal offence**, when unlawful and committed intentionally or with at least serious negligence: *“g) trading in specimens of protected wild fauna or flora species or parts or derivatives thereof, except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species”*. For the purpose of this article, ‘protected wild fauna and flora’ are those listed in Annex A or B of the CITES-regulation.

## Questions



II.1. Who supervises compliance with the CITES-regulation in your country? Do the monitoring efforts concern as well the import into and export and re-export from the Community as the commercial activities and movements of life specimens within the Community, your country<sup>4</sup>?

The powers that derive to authority of the Slovak Republic on the basis of Council Regulation (EC) 338/97 implemented in the Slovak Republic on the basis of **Act no. 15/2005 Coll. on the protection of species of wild fauna and flora by regulating trade therein** exercises the Ministry of Environment of the Slovak Republic and the competences conferred to the regional office, district office of the environment and the Slovak Environmental Inspection.

The Ministry of Environment of the Slovak Republic (hereinafter the Ministry) is the central state administrative authority in matters of the specimens protection.

Ministry managed the performance of state administration and carrying out state supervision in matters of specimens, regulation the trade with them, and determines the main directions of this activity. It also acts as the executive body of the Slovak Republic pursuant to Regulation No. 1808/2001 of 08/31/2001, that laying down detailed rules for implementing Council Regulation (ES) no. 338/97 on the protection of species of living animals and plants by regulating trade with them.

The Ministry also decides about the issue an import permit, export permit and re-export of specimens, consent to the transfer of live specimens and keep the evidence. The Ministry also keep registration of the mortality of live animals import into the European Community.

The state administration in matters of specimens executing the district authority of environment and in the second stage the regional authority environment.

Slovak Environmental Inspectorate is a body of state supervision in matters of specimens protection through which the Ministry carries out state supervision. Laying to individuals and business entities penalty under this Act.

Other authorities in the area of specimens protection under the legal order of the Slovak Republic are customs offices, that checking the observance of the conditions for import, export, re-export and transit of specimens in collaboration with the veterinary and plant-veterinary conservation in accordance with the Regulation.

II.2. If protection measures are infringed, what type of sanctions can be imposed by whom? Are these sanctions administrative, criminal or civil in nature? Do they include the possibility of seizure and confiscation of specimens? What is the level of fines and prison sentences? Are the sanctions often applied and considered to be effective? Can the sanctions be applied on legal persons?

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<sup>4</sup> See point II.(g) of the Commission Recommendation C(2007)2551 of 13 June 2007 identifying a set of actions for the enforcement of Council Regulation (EC) n° 338/97 on the protection of species of wild fauna and flora by regulating trade therein (Pb. L. 2007/159).

The consequences of unlawful conduct against the protection measures are regulated by the **Act No. 15/2005 Coll. on the protection of species of wild fauna and flora by regulating trade therein**. This act lays down in §22 **other torts** and in 23 § **offences**.

**Other torts:** a penalty from 331,93 € to 33193,91 and forfeiture of a thing may be imposed by District Authority of Environment to an **entrepreneur or legal person** who acts unlawfully and in contravention of the **Act on the protection of species of wild fauna and flora by regulating trade therein** or the **CITES regulation** and cause lasting harm and more serious than a minor damage.

If a person commits another tort within two years following imposition of a penalty for the same tort, a penalty up to the double of the upper limit may be imposed to that person.

**Offences:** for the same unlawful acts committed by **natural person** may be imposed by District Authority of Environment the warning or a penalty from 16,59 € up to 9 958,17 €. If a person commits another tort within two years following imposition of a penalty for the same tort, a penalty up to the double of the upper limit may be imposed to that person.

Above mentioned penalties may apply to legal persons well as to the natural persons. The penalties are in the nature of administrative penalty.

The Supreme Court of the Slovak Republic has no knowledge as regards the frequency and the amount of the sanctions imposed, since the Supreme Court of the Slovak Republic only reviews the procedure and the decisions of the state authorities within the scope of the appeal. Review of the sanctions occurs rarely.

II.3. Conduct falling under article 3(g) of the Ecocrime-directive shall, at the latest on 26 December 2010, be qualified as a criminal offence and be punishable by effective, proportionate and dissuasive criminal penalties. Has these provision already been implemented in your country, as the case may be, by pre-existing legislation? How is this conduct described in your legislation: copy- and past or a specific national description? What are the minimum and maximum penalties? Is there a difference between penalties for natural and legal persons? If such an infringement is reported, is it still possible not to prosecute such an offence before a criminal court and to apply other types of sanctions or to simply drop the case?

With regard to the act that falls within Article 3 (g) of the directive about protection of the environment through criminal law, there is a specific retreatment of such procedure in the criminal code. These crimes have already been incorporated in criminal code and are effective from 1st January 2006. This is the offense of the Breach of Plant and Animal Species Protection (§ 305 paragraph of the Criminal Code). The penalty for such conduct is imprisonment from six months to three years. This provision applies to unlawful act by a natural person, as legal persons are not criminally responsible.

**Please provide, if available, summaries of interesting cases that illustrate the answers to the questions above.**