

The background of the slide features a soft-focus landscape. In the upper half, there are rolling hills or mountains under a pale sky. In the lower right corner, a dark, thin branch of a willow tree hangs down, adorned with small, dark, round buds. The overall color palette is muted, consisting of various shades of beige, tan, and light brown.

*Sanctioning the Directives –
balance between administrative
and criminal tracks*

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The Basic Orientation in Finland

- ❖ Administrative law and administrative sanctions dominant in environmental law theory, teaching and practice
- ❖ Criminal charges have only a supplementary role
→ breaches against environmental legislation punishable, but in practice the role of criminal sanctions of a minor importance
 - principle of "administrative accessority"
- ❖ **WHY? SHOULD SOMETHING BE CHANGED?**

Basics of administrative sanctioning

- ❖ Action in contravention with the NCA → coercive measures → forbid from continuing or repeating the offence + require that the unlawful situation shall be corrected ← threat (threat of fine or suspension or having the measures taken at the offender's expense)
 - administrative procedure at the regional environmental authority
 - initiated ex officio or by parties suffering from inconvenience or NGO's

Advantages of administrative sanctioning

- ❖ Enables restoring of the object (if possible)
- ❖ The costs shall be borne by the offender
- ❖ Easy and inexpensive procedure in authorities and administrative courts having expertise in environmental cases
- ❖ The decision of the authority shall be observed irrespective of appeal

Discussion 1

- ❖ Administrative enforcement efficient and not entailing major costs
- ❖ Criminal sanctions also relevant in the background: regardless of use of administrative force the offender is liable to punishment (day fines or even imprisonment)
- ❖ Ecocrime directive → Gov't Proposal 157/2010 → all offences covered by Art. 3 already punishable, the MS may define the types and levels of criminal sanctions → no need for radical amendments

Discussion 2

- ❖ Preventive function
 - administrative sanctions imply responsibility for restoration costs
 - criminal sanctions ← general prevention → would rising of the level of sanctions prevent destruction of natural values? → environmental criminality often economic criminality, cf. crimes against habitats or species
 - in Finland crimes against CITES Regulation will be included in the Penal Code → a corporate fine possible
- ❖ Repressive function
 - must not be forgotten, but punishment does not restore the natural values
- ❖ Administrative and criminal tools together should guarantee an effective system of sanctioning offences against natural values safeguarded by the Directives
- ❖ No need to change the balance between the administrative and the criminal track, but rendering criminal charges against environmental criminality more effective desirable (resources and expertise of police, prosecutors and criminal courts)