

De sanctivering door de lidstaten van inbreuken op het Europees milieurecht: tussen handhavingsnood, sanctieverplichtingen en rechtswaarborgen [The sanctioning by Member States of breaches of European environmental law: between enforcement needs, sanctioning duties and protective requirements]

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The environmental law applicable in the Member States of the European Union is to a very large extent of European origin. Therefore the influence of EU law on the substantial environmental policies of the Member States can hardly be overestimated. The enforcement stage, however, remains mostly a responsibility of the Member States. Environmental directives and regulations often make no mention of how they should be monitored and sanctioned or simply refer to the national law of the Member States. Therefore the EU is largely dependent on the Member States for the enforcement of its environmental rules.

This Ph.D. project offers a detailed description and thorough analysis of the obligations of EU Member States as the enforcers of European environmental law. The focus is on the public law enforcement of rules addressing legal and natural persons, especially the sanctioning of such rules. The two main tracks the EU uses to shape the sanctioning by Member States of European environmental offences, are extensively discussed. Thus, on the one hand, the jurisprudential and *general* sanctioning obligation developed by the European Court of Justice. In its jurisdiction the Court gradually derived some instrumental enforcement requirements from the principle of loyal cooperation laid down in Article 4(3) TEU. More specifically, the sanctions that Member States prescribe for violations of EU-embedded law must be non-discriminatory (compared to the sanctioning of pure national law violations of a similar nature and importance), effective, proportionate and dissuasive. Moreover, Member States must proceed with respect to EU law violations with the same diligence as they must in enforcing corresponding national laws. These jurisprudential requirements are binding on Member States and constitute the boundaries of their enforcement autonomy. Next, on the other hand, the regulatory and *specific* sanctioning obligations imposed by the European environmental legislator in European environmental regulations and directives. Indeed, the EU legislator sometimes incorporates specific sanctions in environmental directives and regulations that Member States subsequently have to implement in their domestic legal order. Usually these specific sanctions are provided without any reference to their (criminal or administrative) nature. The Eco-crime Directive 2008/99/EC and the amended Ship Source Pollution Directive 2005/35/EC are, however, different in that they oblige Member States to use criminal sanctions for certain 'serious' environmental offences. Following the description and analysis of the EU sanctioning requirements the issue is discussed whether sanctions for EU violations should only be implemented in law or should also be applied in practice.

The analysis is completed by an overview of the provisions in European environmental regulations and directives that imply an enforcement obligation for the Member States.

The Ph.D. research resulted in a book:

Meeus (2014). Sanctioning European environmental law. In between enforcement needs and sanctioning duties.

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