1. INTRODUCTION

In 1996 the Council of Europe passed the draft convention for the Protection of the Environment through Criminal Law. However, earlier in 1994 the 15th International Congress of Penal Law led to several resolutions recommending the use of criminal sanctions to ensure the protection of the environment. These international efforts may not only be understood as deriving from the ‘global’ and ‘transnational’ nature of environmental degradation. It is also necessary to protect the environment at international levels because of the rising of economic global markets. In other words worldwide economy and trade demand a better and synchronized protection of the environment.

In addition to these international trends, many legal systems, such as France and Spain, have totally or partially revised their Penal Code. In the following I want to give a very brief sketch of these national developments on the protection of the environment through Criminal Law. Thereby, I will be restricted to presenting some typical models of criminal environmental legislation. Without discussing in detail the European Council Draft Convention, this survey of the national systems may sharpen one’s view on the possibilities of European as well as international harmonization.

I will start with an overview of the substantive Environmental Criminal Law, then treat briefly the issue of possible sanctions and finally make some remarks about procedural aspects of the criminalization of environmental degradation.

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7. Comprehensive Reports on the Environmental Criminal Law of different countries may be found in books from the series 'Beiträge und Materialien aus dem Max-Planck-Institut für ausländisches und internationales Strafrecht Freiburg - Arbeiten zum Umweltrecht', Eser, A. and Heine, G. (Ed.).
2. SUBSTANTIVE ENVIRONMENTAL CRIMINAL LAW

I understand substantive Criminal Law as the whole body of rules holding someone criminally responsible. In pointing out the substantive Environmental Criminal Law I will start with its codification; in the Penal Code or in some other Laws.

Secondly, I will make some remarks about the dependence of Criminal Law on prior administrative decisions. The overview will finish with discussing the criminal liability of firstly, the management, and secondly, the public environmental officers. Thirdly, I will raise the issue of criminal liability of legal entities.

2.1. Criminal Law – Police Law – Administrative Law

A comparison of national systems of Environmental Criminal Law faces an initial difficulty due to the fact that Environmental Criminal Law often may not be found in the Penal Code. It is often only an appendix to various Administrative Environmental Laws. Sometimes a Central Law of environmental protection may be found which will also contain provisions of criminal liability.

The Council of Europe Draft Convention asks to install a system of Environmental Criminal Law, but leaves it to the signatory state whether the environmental criminal offences are part of the national Penal Code or only an appendix to various administrative laws. In Germany (1980) as well as in Austria (1977 / 1987), Finland (1994), former Jugoslavia, the Netherlands, Poland (1970), Portugal (1995), Spain (1996), and Sweden environmental crimes are to be found in the national penal codes. In making environmental offences part of the hard core of national criminal law, legislators want to express the independent social value of the environment and enhance the common sense of environmental responsibility. Two points are worthy of attention. Firstly, some national constitutions such as the

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9. Bundesgesetz of 23 January 1974; Strafrechtsänderungsgesetz of 1987 (http://www.sbg.ac.at/ssk/docs/StGB/StGB_index.htm).
12. In the Netherlands, criminal provisions may be found in the general Penal Code as well as in the Act on Economic Offences. See also Waling, C., Das niederländische Umweltstrafrecht, Freiburg 1991.
15. See supra Fn. 6.
16. See Cornils, K., Heine, G., loc. cit. (Fn. 10).