



Council of the  
European Union

Brussels, 11 June 2018  
(OR. en)

8430/18  
DCL 1

ENFOPOL 193  
COPEN 119  
ENV 262

## DECLASSIFICATION

---

of document: 8430/18 RESTREINT UE/EU RESTRICTED

dated: 27 April 2018

new status: Public

---

Subject: Evaluation report on the eighth Round of Mutual Evaluations "The practical implementation and operations of European policies on preventing and combating environmental crime"  
- Report on Finland

---

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

---



Council of the  
European Union

Brussels, 27 April 2018  
(OR. en)

8430/18

RESTREINT UE/EU RESTRICTED

ENFOPOL 193  
COPEN 119  
ENV 262

**REPORT**

---

Subject: Evaluation report on the eighth Round of Mutual Evaluations "The practical implementation and operations of European policies on preventing and combating environmental crime"  
- Report on Finland

---

DECLASSIFIED

**EVALUATION REPORT ON THE  
EIGHT ROUND OF MUTUAL EVALUATIONS**

**The practical implementation and operation of European policies on  
preventing and combating environmental crime**

**REPORT ON FINLAND**

DECLASSIFIED

Table of Contents

<b>1. EXECUTIVE SUMMARY</b> .....	7
<b>2. INTRODUCTION</b> .....	11
<b>3. GENERAL MATTERS AND STRUCTURES</b> .....	14
<b>3.1. Action plan or similar strategic documents against waste crime</b> .....	14
<b>3.2. National programmes/projects with regard to waste crime</b> .....	15
<b>3.3. Statistics</b> .....	17
3.3.1. Main trends with regard to waste crime .....	17
3.3.2. Number of registered cases .....	18
<b>3.4. Domestic budget allocated to prevent and fight against waste crime and support from EU funding</b> .....	22
<b>3.5. Prevention of waste crime</b> .....	23
<b>3.6. Conclusions</b> .....	28
<b>4. NATIONAL STRUCTURES</b> .....	29
<b>4.1. Judiciary (Prosecution and Courts)</b> .....	29
4.1.1. Internal structure .....	29
4.1.2. Capacity of and obstacles to prosecution and sanctioning waste crime .....	31
<b>4.2. Law Enforcement Authorities</b> .....	32
4.2.1. The structure of and cooperation between investigative authorities involved in preventing and combating waste crime .....	32
4.2.2. Investigative Techniques/Tools .....	37
4.2.3. Capacity of and obstacles to successful investigation of waste crime .....	37
<b>4.3. Other authorities/institutions</b> .....	39
<b>4.4. Cooperation and exchange of information among national authorities</b> .....	43
4.4.1. Cooperation and coordination .....	43
4.4.2. Access to information and focal points on intelligence .....	46
<b>4.5. Training</b> .....	46
<b>4.6. Conclusions</b> .....	49

<b>5. LEGAL ASPECTS</b> .....	51
<b>5.1. Substantive criminal law</b> .....	51
5.1.1. Description of national legislation pertaining to waste crime.....	51
5.1.2. Determination of the seriousness of waste crime.....	54
5.1.3. Links with other serious criminal offences .....	55
5.1.4. The role of the NGOs.....	56
<b>5.2. Procedural, jurisdictional and administrative issues</b> .....	56
5.2.1. Difficulties encountered with regard to evidence .....	56
5.2.2. Measures other than criminal or administrative sanctions.....	57
5.2.3. Treatment of seized objects.....	58
<b>5.3. Environmental restoration</b> .....	59
<b>5.4. Jurisdiction</b> .....	59
5.4.1. Principles applicable to the investigation of waste crimes .....	59
5.4.2. Rules in the event of conflicts of jurisdiction .....	59
<b>5.5. Conclusions</b> .....	60
<b>6. COOPERATION</b> .....	61
<b>6.1. International Cooperation</b> .....	61
6.1.1. Forms of the cooperation in cross-border cases.....	61
6.1.2. Channels for the exchange of information and the use of EU databases .....	62
6.1.3. Difficulties faced in judicial cooperation relating to waste crime .....	62
6.1.4. Operational performance of JITs in waste crime .....	63
<b>6.2. Cooperation with EU Agencies and networks</b> .....	63
6.2.1. Cooperation with Europol and Eurojust.....	63
6.2.2. Experience resulting from the use of various environmental networks.....	64
<b>6.3. Cooperation between Finland and Interpol</b> .....	64
<b>6.4. Cooperation with the private sector</b> .....	64
6.4.1. The involvement of the private sector/ Public Private Partnership (PPP) .....	64
6.4.2. Liability in case of non-compliance with an obligation to pass on information to competent authorities .....	65
6.4.3. Experience of cooperation with the private sector.....	65
<b>6.5. Conclusions</b> .....	66
<b>7. ILLEGAL TRAFFICKING OF WASTE</b> .....	67

<b>7.1. National structure</b> .....	67
7.1.1. Authorities involved in preventing and fighting illegal shipment of waste.....	67
7.1.2. Detection of illegal shipment of waste.....	67
7.1.3. Specificity of illegal shipment of waste.....	68
7.1.4. Measure on shipment of wastes.....	68
<b>7.2. Inspections</b> .....	69
7.2.1. Methodology of inspections and follow - up.....	69
7.2.2. Specific inspections with regard to waste electrical and electronic equipment (WEEE) and end-of-life vehicles (ELV).....	69
7.2.3. First inspection plan.....	70
7.2.4. Challenges with regard to the taking back of illegal waste shipments.....	70
<b>7.3. Conclusions</b> .....	71
<b>8. MANAGEMENT OF HAZARDOUS WASTE</b> .....	72
<b>8.1. The classification of hazardous waste and the challenges in terms of establishing the gravity of offence</b> .....	72
<b>8.2. The system of inspections and authorities involved</b> .....	73
<b>8.3. Measures for the protection of the environment and human health in the treatment of hazardous waste</b> .....	73
<b>8.4. Trends in illegal hazardous waste management</b> .....	73
<b>8.5. Conclusions</b> .....	74
<b>9. ILLEGAL PRODUCTION OR HANDLING OF DANGEROUS MATERIALS</b> .....	75
<b>9.1. The concept of dangerous materials</b> .....	75
<b>9.2. Types of illegal activities related to illegal production and handling of dangerous materials and current trends in that field</b> .....	75
<b>9.3. Procedural aspects</b> .....	76
9.3.1. The means of collecting evidence and of handling dangerous materials.....	76
9.3.2. Cooperation with European and international partners.....	77
9.3.3. Investigative techniques.....	78
9.3.4. Main obstacles to successful investigation and prosecution.....	78
9.3.5. Training.....	78
<b>9.4. Conclusions</b> .....	79
<b>10. FINAL REMARKS AND RECOMMENDATIONS</b> .....	80

**RESTREINT UE/EU RESTRICTED**

<b>10.1.</b>	<b>Suggestion from Finland</b> .....	80
<b>10.2.</b>	<b>Recommendations</b> .....	80
10.2.1.	Recommendations to Finland .....	80
10.2.2.	Recommendations to the European Union, its institutions, and to other Member States .....	82
10.2.3.	Recommendations to Eurojust/Europol/Commission .....	82
<b>A.</b>	<b>ANNEX A: PROGRAMME FOR THE ON-SITE VISIT</b> .....	83
<b>B.</b>	<b>ANNEX B: PERSONS INTERVIEWED/MET</b> .....	86
<b>C.</b>	<b>ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS</b> .....	88

DECLASSIFIED

## 1. EXECUTIVE SUMMARY

The visit was well prepared by the Finnish authorities and included meetings with the relevant actors with responsibilities in the field of preventing and combating environmental crimes as well as in the implementation and operation of European policies.

During the on-site visit the Finnish authorities provided the evaluation team with information on legal and operational aspects of preventing and combating environmental crimes, cross-border cooperation and cooperation with EU agencies, and additional information was sent by email upon request. All the relevant information, even points that were not very exhaustively explained in the questionnaire, was acquired during the visit and after its implementation.

Thus the evaluation team was able to satisfactorily review the system, and to identify good practices to be shared with other member states.

Until recently, the ways in which waste affects the natural environment, health and the economy had been poorly recognised in Finland. But in the past few years Finland has begun to consider the fight against environmental crimes a priority. As a matter of fact a cornerstone of the National Environmental Crime Policy published in the spring 2015 is to further enhance cooperation between the authorities. To a large extent, the future of prevention and control of environmental crime is dependent on the success of these measures and on the commitment of actors in active cooperation at regional and national levels.

According to the strategic document against environmental crime in force since 2015, the goals listed in the document are supposed to be met by 2020. This should also ensure sufficient coordination between all actors.



Despite the promising steps forward, the same Finnish authorities recognise that there are inadequacies in preventing and controlling waste crime at all stages of the process. These inadequacies are reflected in the field not only in different personal views and experiences of control and prevention, but also in regional differences in taking measures. With respect to waste crime, operators clearly need more expertise in prevention, control and investigation as well as in applying penalties.

It is assumed that not all environmental offences are reported to criminal investigation authorities.

Dialogue between the private sector, third sector and public sector has been poorly utilised in detection of illegal operations. A major challenge for authorities in the field of waste crime prevention and detection at the moment is to develop intelligence-led operations and assume that all environmental crimes are reported to criminal investigation authorities.

Authorities have common concerns about waste crime prevention and control drifting slowly but surely to the margin in the public sector due to reduced resources. Today, individual problems are mainly solved reactively, and operational models are relatively context-sensitive and person-dependent.

Although prevention and control of environmental crime typically fall within the sphere of several authorities, maintaining cooperation at organisational and unit levels is quite often dependent on the activities and open attitudes of individual officials.

Therefore, enhancing multi-agency cooperation at national and regional levels by setting up regional groups for multi-agency cooperation and investing in multi-agency training to be arranged on a regular basis have been identified as goals to be achieved.

With the exception of certain individual cases, no very serious or extensive cases of impairment of the environment or cases committed in a particularly methodical manner have been detected. It may be, however, that the criminal investigation authorities have become aware only of a fraction of the actual number of environmental crimes.

The estimate of the proportion of environmental offences not known to authorities is based on comparison of environmental crime figures between Finland and its neighbouring countries, Sweden and Norway. National authorities estimate that a high proportion of environmental offences are never reported.

One of the hazards in the field of environmental crime is related to the low risk of apprehension for environmental crimes. Because of that low risk, the number of environmental crimes committed as a part of business operations pursued for financial gain is probably higher than de Finnish authorities suspect.

Another problem is related to the quite lenient sentencing adopted by the Courts in environmental crime cases. In practise, Courts usually impose day fines for impairment of the environment and, very seldom, conditional prison sentences. Since amending the environmental crimes section of the Criminal Code in 1995, an unconditional prison sentence has been passed only once, in the so-called 'Lokapojat' case.

As regards prevention and awareness, in 2014 - 2015 a research project titled 'Illegal Waste Streams as a part of the Black Economy' was carried out by the Police College, funded by the National Police Board and Ministry of Internal Affairs (Sahramäki, Iina & Kankaanranta, Terhi: 'Waste Crime in Finland Now and in the Future'. National Police College Publication Series, No 43, 2016). The project aimed to raise situational awareness concerning waste crime and ways to prevent and control it, as well as ways to introduce targets and identify needs for short-term and long-term developments in the field. The project also focused on introducing situational awareness gained through the research and suggestions for developing methods for prevention and control.

The research project focused on the current state of illegal waste streams and illegal trade in waste materials, as well as future trends viewed from five different perspectives: experts, court rulings, case studies, future studies and cross-border phenomena. It was attempted to make the big picture more comprehensive by the use of multiple research data and by applying a diverse range of research methods.

Nevertheless, several steps have to be taken in this field, and the private sector should be involved much more.

In general terms, Finnish authorities make use of the formal instruments of international cooperation. Law enforcement agencies make also use of direct contacts with foreign countries, especially with Estonian counterparts.

Taking into account Finland's ambitious approach and its intention to continue fighting environmental crime, the evaluators consider that the situation in Finland is promising.

DECLASSIFIED

## 2. INTRODUCTION

Following the adoption of Joint Action 97/827/JHA of 5 December 1997<sup>1</sup>, a mechanism had been established for evaluating the application and implementation at national level of international undertakings in the fight against organised crime. In line with Article 2 of the Joint Action, the Working Party on General Matters including Evaluations (GENVAL) decided on 5 May 2017 that the eighth round of mutual evaluations should be dedicated to the practical implementation and operation of European policies on preventing and combating environmental crime.

The choice of environmental crime as the subject for the eighth mutual evaluation round was welcomed by Member States. However, due to the broad range of offences covered by the term environmental crime, it was agreed that the evaluation would focus on those offences which Member States felt warranted particular attention.

To that end, the evaluation round covers three specific areas: waste crime, illegal production or handling of dangerous materials and hazardous waste; it should also provide a comprehensive examination of the legal and operational aspects of tackling environmental crime, cross-border cooperation and cooperation with relevant EU agencies.

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives<sup>2</sup> (transposition date 12 December 2010), Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law<sup>3</sup> (transposition date 26 December 2010), and Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste<sup>4</sup> (entry into force 12 July 2007) are particularly relevant in this context.

---

<sup>1</sup> Joint Action of 5 December 1997 (97/827/JHA), OJ L 344, 15.12.1997 pp. 7 - 9.

<sup>2</sup> OJ L 312, 22.11.2008, p. 3.

<sup>3</sup> OJ L 328, 6.12.2008, p. 31.

<sup>4</sup> OJ L 190, 12.07.2006, p. 1.

Following the decision made by GENVAL, the evaluation round does not cover transnational criminal activities linked to other types of environmental crime, such as illicit wildlife trafficking, illicit timber trade, illicit fish trade and air pollution.

Furthermore, the Directive on Waste requires the Member States to create national waste prevention programmes by 12 December 2013. The objective of these programmes is to present a coordinated national approach to waste prevention, delineating targets and policies, and aiming to decouple economic growth from the environmental impacts of waste generation. National waste prevention programmes should support Member States in decoupling economic growth from the environmental impacts of waste generation.

Experience from past evaluations show that Member States will be in different positions regarding the implementation of relevant legal instruments and programmes, and the current process of evaluation could also provide useful input to Member States that may not have implemented all aspects of the various instruments.

Moreover, the Council conclusions of 8 December 2016 on Countering Environmental Crime<sup>5</sup> recognise that combating environmental crime requires a comprehensive multidisciplinary approach at all levels, better cooperation and exchange of information between the competent authorities, including third countries, and the need to enhance dialogue and cooperation with relevant international organisations.

Taking all the above elements into consideration, the evaluation aims to be broad and interdisciplinary and to focus not only on implementation of various instruments relating to fighting environmental crime but also on operational aspects in the Member States. Therefore, apart from cooperation with prosecution services with Eurojust, this will also encompass how police authorities and customs cooperate at the national level with Europol or Interpol and how information from the actors concerned is channelled to the appropriate police and specialised agencies. The evaluation also covers operational practices in the Member States with regard to waste treatment operations, establishments and undertakings which collect and transport waste on a professional basis.

---

<sup>5</sup> 15412/16, ENFOPOL 484 ENV 791 ENFOCUSTOM 235.

The order of visits to the Member States was adopted by GENVAL on 5 May 2017. Finland was the third Member State to be evaluated during this round of evaluations. In accordance with Article 3 of the Joint Action, a list of experts in the evaluations to be carried out has been drawn up by the Presidency. Member States have nominated experts with substantial practical knowledge in the field, pursuant to a written request on 28 January 2017 to delegations made by the Chairman of GENVAL.

The evaluation teams consist of three national experts, supported by two staff from the General Secretariat of the Council and observers. For the eighth round of mutual evaluations, GENVAL agreed with the proposal from the Presidency that the European Commission, Eurojust and Europol should be invited as observers.

The experts charged with undertaking the evaluation of Finland were Mr Michal Buczen, Mr Väino Vaidla, and Mrs Leontine Sitee. The General Secretariat of the Council was represented by Mr Michael Carlin and Ms Carmen Giuffrida.

This report was prepared by the team of experts with the assistance of the General Secretariat of the Council, based on findings arising from the evaluation visit that took place in Finland between 7 November 2017 and 10 November 2017, and on Finland's detailed replies to the evaluation questionnaire and to follow-up questions.

DECLASSIFIED

### 3. GENERAL MATTERS AND STRUCTURES

#### 3.1. Action plan or similar strategic documents against waste crime

Finland has both a National Strategy for Environmental Crime Prevention, in force since 2015, and an Action Plan.

Based on Resolution AGN/65/RES/25 agreed by the INTERPOL General Assembly on 23-29 October 1996, a national working group (Finnish Environmental Crime Monitoring Group) connected with the National Bureau of Investigation (NBI) was established on 1 October 1997. The duties of this working group were agreed to include monitoring environmental crime and development in cooperation with various supervisory authorities. The Finnish Environmental Crime Monitoring Group also prepares annual reports on the environmental crime situation in Finland.

The Monitoring Group has submitted an annual report since 1997. In its annual reports, the Monitoring Group recommended that a national environmental crime prevention strategy should be drafted for all the authorities tackling with environmental crime in order to secure the efficiency of their work.

In compliance with Monitoring Group' recommendations, towards the end of 2014, the Ministry of the Environment and the Ministry of the Interior set up a joint working group, representing all the key authorities in the field to prepare a draft for national strategy and an action plan on environmental crime prevention, in order to build an overall picture of various forms of national cooperation and to identify problems.

The National Environmental Crime Prevention Strategy was ready in 2015, and the aim is to meet the objectives set therein by 2020.

The joint working group has published an Action Plan for the new operational period, i.e. for the years 2017-2018.

The Finnish Environmental Crime Monitoring Group is responsible for drafting an annual report on environmental crime situation in Finland since 1997 and, since then, have addressed several recommendations and identified future trends in its reports. The most important are:

- the drafting of a national environmental crime prevention policy for all authorities taking part in prevention work. The Monitoring Group recommended that all involved authorities continue to develop and enhance their mutual cooperation in detection and prevention of environmental crime, because efficient cooperation between the authorities is a necessary precondition for success in preventing and investigating environmental crime.
- the organisation of joint training sessions and seminars on a regular basis in order to improve the special skills needed by supervisory authorities, criminal investigation authorities and prosecutors.
- significant investment in enhancing multi-agency cooperation at national and regional levels. In practice, it would imply setting up regional groups for multi-agency cooperation.
- regular assessment and examination of national legislation.

### 3.2. National programmes/projects with regard to waste crime

In addition to the National Strategy for Environmental Crime Prevention and the setting up of the monitoring working group described under paragraph 3.1, Finland has implemented the following projects:



A **research project titled 'Illegal Waste Streams'** was carried out in 2014 and 2015 by the Police College as a part of a research project on the black economy funded by the National Police Board and the Ministry of Internal Affairs (Sahramäki, Iina & Kankaanranta, Terhi: Waste Crime in Finland Now and in the Future, National Police College Publication Series, No 43. 2016). The project aimed to raise situational awareness concerning waste crime and to identify ways to prevent and control it, as well as ways to introduce targets and identify needs for short-term and long-term developments in the field. The project also focused on introducing situational awareness gained through the research and suggestions for developing methods for prevention and control.

The research project concentrated on the current state of illegal waste streams and illegal trade in waste materials as well as future trends viewed from five different perspectives: experts, court rulings, case studies, futures studies and as cross-border phenomena. It was attempted to make the big picture more comprehensive by the use of multiple research data and by applying a diverse range of research methods.

A **pilot project in Eastern Uusimaa Department** has been launched by the NPB and is still ongoing. The project aims to establish investigation groups specialising in the field of environmental crimes.

In 2016, the NPB issued a guidance letter for the establishment of a regional cooperation group involving participants from police, prosecution offices, customs, tax authorities, the Centre for Economic Development, Transport and Environment and municipal environmental officials. The group has gathered to exchange information on problematic cases and investigations and to organise common training on legal amendments. The NPB supervises this network activity and in 2016 requested a report on progress and achievements.

The Finnish authorities consider this pilot project very successful and aim to extend the network to all regions.

Finally, the Ministry of the Environment has granted the Uusimaa ELY Centre the proceeds of a seizure for a **steering development project in order to have an operational model for an ELY Centre as an injured party**, including templates for statements, damages claims, final statements and appeals. On conclusion of the project, in autumn 2017 a network of experts of the ELY Centres has been established for purposes of cooperation and to provide advice to the ELY Centres and municipal environmental authorities in pending environmental crime cases.

### 3.3. Statistics

#### 3.3.1. Main trends with regard to waste crime

The cases of environmental crime and criminal offences containing environmental elements which have come to the attention of customs authorities and have proceeded to investigation during the last few years have mainly consisted of WEEE and used accumulators exported to Estonia, other Baltic states or outside the EU. Hardly any cases of illegal international transfers of electrical waste and electronic equipment that would have led to criminal investigations were detected in Finland before the end of 2011 and during 2012.

The majority of environmental offences in Finland concern the exportation of WEEE used accumulators from Finland to Estonia, or forwarded via Estonia to other Baltic states. In some cases, the criminal conduct has also involved other dangerous goods, such as paint thinner or oil waste. The majority of these cases have been uncovered at the ports of Helsinki.

Recently, some cases of export regarding end-of-life vehicles (car spare parts) have also been registered, cases in which the destinations have also been countries outside the Union.

On the basis of the research, work and suggestions, some police units have planned and performed targeted raids on waste transport companies.

The means of transport has been freight containers and vehicles such as vans, trucks and passenger cars. Typically, parties in Finland have loaded electronic waste into freight containers and attempted to send them by sea to different African states.

In many cases of impairment of the environment and environmental offences, they have also registered crimes or offences regarding the transportation of dangerous goods using transport vehicles with inadequate equipment and/or inadequately packaged goods. However, not all recorded cases of transportation of dangerous goods involve environmental crime.

So far no cases have shown any connection to organised crime or any other serious criminal activity. On one occasion a case of impairment of the environment was connected to an aggravated accounting offence.

In summer 2017, the National Bureau of Investigation issued a media release regarding the first large-scale waste trafficking case investigation detected in Finland. In this case, dozens of truckloads of demolition waste were shipped from the Helsinki metropolitan region to Estonia. The case is unique in the Finnish context and is also directly linked to an extremely large financial crime investigation with elements of serious and organised crime.

### *3.3.2. Number of registered cases*

Statistics on environmental offences are compiled on the basis of the offence concerned. The title of the case may change during the prosecution phase as well as during the court procedure. The number of environmental crimes depends on the definition of environmental crimes.

However, crimes are not always reported to the police, so environmental crime statistics do not reflect the current state of the environment or give a reliable indication of possible risks.

Environmental crimes in Finland are mainly related to waste. As all the statistics of the Finnish prosecuting authority are drafted on the basis of the charges, the statistics on waste crimes can be counted by searching individual criminal offences. However, from the statistics it is not possible to infer whether the Waste Act has been applied. In fact, it is likely that most of the cases filed by the police as violations of the Waste Act are cases of littering or dumping or uncontrolled management of waste. Private persons or companies have neglected their duty to take care of their own waste (e.g. household waste, pieces of furniture, household appliances, building waste) and dumped them, for example in woods. Charges for cleaning are incurred by the company and sometimes by private property owners too.

Environmental offences filed and investigated by the customs authorities, as well as violations containing various kinds of elements of environmental crime, have mainly concerned the transporting of waste electrical and electronic equipment (WEEE) and used batteries. Nature conservation offences and violations have mainly consisted of products made of animals and plants subject to licence brought from abroad as postal deliveries and imports by travellers. In some cases, the offence was committed in the context of business. In the investigated cases, offenders have been Finnish natural persons as well as Finnish legal persons or foreign private persons. Their *modus operandi* have been above described in more details. Compared to the previous year, the number of environmental offences and nature conservation offences has remained almost the same.

Offences investigated by the border guard are typically offences revealed in the context of border controls carried out outside border crossing points. The border guard are well placed to deal with environmental monitoring, since they perform ground, maritime and air surveillance and have the appropriate equipment to carry out the tasks. Environmental offences are also reported to the border guard by third parties.

The total number of environmental offences and violations filed by the border guard in 2016 was 186, whereas in 2015, the number was 189.

## RESTREINT UE/EU RESTRICTED

In addition to the above offences, the border guard also filed 17 hunting violations (2015: 11 cases), three violations of the Hunting Act (2015: two cases) and 10 game offences (2015: eight cases). Criminal investigation was also commenced in a suspected hunting violation in the province of Åland (2015: no cases). The border guard also filed two violations of marine environmental protection violations (2015: 1 case). Some vessels were suspected of using fuel with a lead content exceeding the allowed limit.

In 2016, prosecutors evaluated 114 environmental crimes involved in the 48th chapter of the Criminal Code, but in total there are approximately 300 environmental crimes annually when crimes not listed in the Criminal Code are included.

In total, prosecutors deal with approximately 80 000 crimes annually.

The statistics are not published as a whole but some of them are published annually in a report by Suomen kansallinen ympäristörikosseurantatyöryhmä; these can be found at [http://www.poliisi.fi/tietoa\\_poliisista/kansallinen\\_ymparistorikosten\\_seurantaryhma](http://www.poliisi.fi/tietoa_poliisista/kansallinen_ymparistorikosten_seurantaryhma).

It is possible to infer some data from the following tables:

**Table 1. Environmental offences against Ch. 48 of the Criminal Code reported to criminal investigation authorities in 2012 - 2016**

<b>Environmental offences against the Criminal Code</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Impairment of the environment, Ch. 48, s 1	146	141	168	166	187
Aggravated impairment of the environment, Criminal Code, Ch. 48, s 2	0	12	9	5	11
Environmental infraction, Criminal Code, Ch. 48, s 3	213	258	192	181	276
Negligent impairment of the environment, Criminal Code, Ch. 48, s 4	4	4	3	5	7
Nature Conservation Offence, Criminal Code, Ch. 48, s 5	32	37	47	37	29
Building protection offence, Ch. 48, s 6	4	3	4	3	1
<b>Total</b>	<b>399</b>	<b>455</b>	<b>423</b>	<b>397</b>	<b>511</b>

**RESTREINT UE/EU RESTRICTED**

**Table 2. Environmental offences and infractions forwarded to prosecutors in 2012 - 2016**

<b>Environmental offences</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Impairment of the environment, Ch. 48, s 1	58	52	75	65	62
Aggravated impairment of the environment, Criminal Code, Ch. 48, s 2	2	7	7	9	3
Environmental infraction, Criminal Code, Ch. 48, s 3	24	29	32	18	35
Negligent impairment of the environment, Criminal Code, Ch. 48, s 4	4	2	2	4	3
Nature Conservation Offence, Criminal Code, Ch. 48, s 5	20	16	24	23	8
Building protection offence, Ch. 48, s 6	4	3	1	1	3
<b>Total</b>	<b>112</b>	<b>109</b>	<b>141</b>	<b>120</b>	<b>114</b>

**Table 3. Other environmental offences forwarded to prosecutors in 2012 - 2016**

<b>Punishable offences against other Acts</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Waste violation	13	1	0	0	0
Violation of the Waste Act	6	19	24	18	23
Fishing violation	17	12	11	11	4
Off-road traffic violation	6	11	9	7	9
Violation of the Nature Conservation Act	4	5	8	9	8
Violation of the Extractable Land Resources Act	0	2	1	0	5
<b>Total</b>	<b>46</b>	<b>52</b>	<b>53</b>	<b>45</b>	<b>49</b>

**Table 4. Trend in the number and proportion of charges dismissed in full or in part in 2012 - 2016**

Year	Sentenced as charged	Charge dismissed in full or in part	Percentage of dismissed cases (%)	All decisions
2012	153	19	9.30 %	203
2013	53	9	9.80 %	122
2014	92	24	18.40 %	130
2015	95	28	16.50 %	170
2016	122	30	18.98 %	158

### 3.4. Domestic budget allocated to prevent and fight against waste crime and support from EU funding

Finland has not allocated any national budget funds specifically to preventing and fighting waste crime. However, a certain amount of money has been reserved for the investigation of economic crime; therefore, since environmental crime is investigated by the economic crime unit, the same budget can be used. As a matter of fact, the budget of these units has enabled investigative authorities to purchase equipment and hire more personnel.

The only budget specifically dedicated to tackling waste crime is that allocated by NPB to fund the pilot project in Eastern Uusimaa Department (see paragraph 3.2).

The prosecution offices and courts do not receive any budget to fight waste crime. This can represent a problem above all when other authorities (e.g. police) do receive funds. In fact, this situation can lead to a large number of cases being investigated but not prosecuted.

Regarding the EU budget, the police have not benefited from EU funding to tackle waste crime. Only the customs authorities have received EU funding (Hercule III), to obtain a train X-ray unit, which is currently stationed at the Vainikkala border crossing point on the Finland-Russia border. The device is used to scan import and export cargo in traffic on the railways between Finland and Russia. The X-ray device is an important tool in the monitoring of railway cargos that travel through Vaalimaa, including illicit transportation of waste. Each year, about 250 000 transport units travel through Vaalimaa, which is about 40 % of the railway transport units in traffic between Finland and Russia. Furthermore, Finnish customs have a permanent X-ray facility for heavy vehicles on the Vaalimaa border crossing point, as well as a relocatable X-ray unit at Vuosaari Harbour in Helsinki. Customs have two completely mobile X-ray units, one in the Helsinki region and the other at the Vaalimaa border crossing point. Funds for the mobile X-ray unit in Helsinki were obtained through the EU Hercule III programme. These X-ray devices are also used in checks for illicit transportation of waste.

### **3.5. Prevention of waste crime**

The prevention of waste crime is based on the provisions and principles laid down in the Criminal Code 39/1889, Chapter 48, §1-4 and in the Waste Act 646/2011, §147.

The Waste Act contains descriptions of several types of forbidden conduct: the penalties are provided for in the Criminal Code as well as in the Waste Act.

Centres for Economic Development, Transport and the Environment (ELY Centres) and municipal environmental authorities are chiefly responsible for overseeing compliance with the requirements set out in the environmental laws. Their competences in monitoring-related matters partly overlap. The Finnish Environmental Institute and Finnish Safety and Chemicals Agency (Tukes) also have certain supervisory duties.



## RESTREINT UE/EU RESTRICTED

ELY Centres have authorising and supervisory duties, defined in the Environmental Protection Act, Nature Conservation Act, Water Act and Waste Act. The general responsibilities of ELY Centres are the following: improving environmental protection; securing the public interest in environment and water-related matters; acting as a complainant or responding to claims in courts of justice and other authorities. According to the Water Act, the Environmental Protection Act and the Waste Act, ELY Centres are eligible to act as injured parties in environmental offences, if some public interest has been violated.

Essential authorising and supervisory duties lie with the municipalities, following the Environmental Protection Act and related special legislation. In a municipality, an environmental protection authority (often, an environmental protection committee) appointed by the municipal council is responsible for these duties. One and the same committee may also serve as a joint authority for many municipalities.

When an unlawful situation is detected, the supervisory authority must take measures to remedy the defects.

The supervising authorities operate in accordance with the regulations of the administrative law and the supervised law in question. The possible ways to proceed in supervisory matters are: request for clarification; inspection (an inspection protocol with possible admonitions); admonition; administrative compulsion order. It has to be underlined that in Finland administrative penalties do not exist. Therefore, the administrative authority can only issue an order to eliminate the consequence of a conduct affecting the environmental crime. Only in case of non-compliance with the order can a fine be imposed.

Supervision authorities are also under an obligation to report their observations of illegal or negligent acts to the police or the Customs, unless there are prerequisites provided by law for refraining from doing so.

Nevertheless, according to Art. 188 of the Environmental Protection Act, *no notification need be made if the act can be considered minor in view of the circumstances and the public interest does not require charges to be brought.*

During the last meeting held in Helsinki a problem of cooperation was reported by the police, who complained that there is under-reporting of waste crimes by administrative authorities in cases of minor offences.

However, the issue has been addressed by the creation of 11 regional multi-agency working groups in 2015 in order to ensure uniform practice within the authorities.

According to the Environmental Protection Act of 2014, ELY Centres, in their role as national supervision authorities and environmental authorities in municipalities, have to prepare a supervision plan for carrying out regular supervision in their area. The supervision plan must contain information on environmental conditions and activities with a risk of pollution and define resources and means available for supervision. The way in which supervision is organised in the municipality concerned, as well as grounds for assessing risks and cooperation between supervision authorities, must also be defined.

The supervision plan must be checked at regular intervals. ELY Centres and environmental authorities in municipalities have to monitor and register all activities subject to environmental permit by periodic inspections. Targets and intervals of inspection have to be defined on the basis of an assessment of risks to the environment. Supervision plans are obligatory only if related to the supervision of plants subject to environmental permit. However, in order to ensure ongoing compliance with the Waste Act, Water Act and Chemical Act, some supervision authorities have also provided for supervisory measures in other cases.

The State Supervision Authority and the Municipal Environmental Authorities must prepare a programme for periodic inspections of activities subject to license and registering and other regular supervision (*supervision programme*). The programme must also contain information on supervised targets and periodic supervision measures taken. It must be kept up to date.

Since 1 January 2015, supervision of environmental permits has been subject to a fee, the amount of which is provided in Government Decree 1397/2014, issued on 30 December 2014. A fee may be collected for rectifying a violation or neglect and inspections relating to accidents or interception of activities, as defined in supervision programme.

Supervision is both proactive and reactive. Proactive supervision involves assessment of need for environmental permits for functions defined in the supervision plan, statements given in respect of permit applications issued to Regional Administrative Agencies and municipalities, participation in inspections and discussions relating to the applications procedure and appeal procedure. Reactive supervision is legality control, i.e. observing compliance with permit terms and other regulations. It consists of checking reports (annual reports, monthly reports, reports on interferences, follow-up reports on environmental conditions); periodic and other inspections in plants; handling reports on exceptional circumstances and reports received from members of the public; taking administrative measures to bring about a lawful state of operations. The possible ways to proceed in supervisory matters are admonitions, administrative compulsion orders and/or requests to the police for criminal investigation.

The Ministry of the Environment directs and develops the carrying out of tasks relating to compliance with different Acts, and may also provide supervising authorities with more detailed instructions on supervision under the Environmental Protection Act. On 16 May 2016, the Ministry of the Environment issued a new supervision order targeted primarily at ELY Centres.

## RESTREINT UE/EU RESTRICTED

In accordance with Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste, Finnish law has been amended (sections 117 and 124 of the Waste Act). The amendment mostly concerned the preparation of country-specific inspection plans in order to enhance the supervision and control of waste shipments. In Finland, the inspection plan for 2017-2019 was implemented at the beginning of 2017. The plan focuses on illegal waste shipments reported to the Finnish Environmental Institute on the basis of the type of waste. In accordance with the risk assessment, used lead batteries, waste electrical and electronic equipment (WEEE), scrap vehicles, spare parts and construction waste were selected as particular points of emphasis. Depending on the type of waste, inspections will take place where waste is created as well as where it is collected, transported and managed.

These amendments entered into force on 1 January 2016.

ELY Centres and Municipal Environmental Authorities are competent to implement inspections when such operations do concern trans-frontier shipments of waste.

As regards prevention of environmental crimes, Finland has not implemented any awareness campaigns. Only a private association has taken voluntary action to raise the awareness of waste transportation operators, in the form of instructions. The action fulfilled an objective in the Action Plan for the National Strategy of Environmental Crime Prevention.

### 3.6. Conclusions

- Finland has both a National Strategy for Environmental Crime Prevention and an Action Plan. The objectives listed in the National Environmental Crime Prevention Strategy are supposed to be achieved by 2020. Taking into consideration that it was adopted just two years ago, it is still too early to have the first visible results.
- However, the adoption of such instruments is to be considered an example of best practice.
- Since 1997, the Finnish Environmental Crime Monitoring Group and the working group have been called on to prepare an annual report on the environmental crime situation in Finland and to address several recommendations. The working groups have been set up with the participation of all authorities tackling environmental crimes.
- All the above seems to show that fighting environmental crimes has begun to be considered a priority. In the evaluator's view this approach should be regarded as example of best practice.
- Some programmes related to raising awareness and improvement of cooperation have been or are being implemented with regard to waste crime. Nevertheless, no campaign focusing on prevention is organised by the state.
- In the evaluator's view, the Finnish authorities tackling environmental crimes, mainly the Ministry of the Environment, should regularly organise public information campaigns to direct people to law-abiding behaviour and explain what it is allowed and what is not. Environmental authorities should take a key role in raising general awareness of the damage and harm caused to the environment by environmental permit violations, as well as by actively informing the public about detected cases and damage caused.
- The data submitted by the Finnish authorities did not allow the evaluation team to have an overall view of the environmental crime situation. Statistics seem to be incomplete and do not reveal the trend at national level.
- In the evaluator's view, statistics should be assembled by one authority and should include all environmental violations, covering criminal offences as well as minor violations and administrative violations. When statistical data are stored in one place, they can be analysed and it is possible to make risk-based assessments and re-evaluations, for example on resource management and on the criminalisation of acts.

## 4. NATIONAL STRUCTURES

### 4.1. Judiciary (Prosecution and Courts)

#### 4.1.1. Internal structure

##### Judicial organisation

The judicial administration consists of independent courts of law; the prosecution service; enforcement authorities, responsible for the enforcement of judgments; the Criminal Sanctions Agency, responsible for the enforcement of custodial sentences; and the Bar Association and other avenues of legal aid.

All of them work within the administrative scope of the Ministry of Justice.

##### Court organisation

There are 27 district courts, which deal with both criminal and civil cases (20 district courts from 2019). The decisions of the district court can normally be appealed against at one of the five courts of appeal. The decisions of the courts of appeal can be appealed against before the Supreme Court, provided that the Supreme Court grants leave to appeal.

The courts are independent, bound only by the law in force. The independence of the courts is guaranteed by the Constitution.

There are also administrative courts, the decisions of which can be appealed to the Supreme Administrative Court. In addition, there are special courts (the Market Court, the Labour Court, the Insurance Court and the High Court of Impeachment).

Prosecution service

The prosecutors are an independent part of the Finnish judicial administration; their decisions and powers are legally binding.

The Prosecution Service consists of the Office of the Prosecutor General and 13 local prosecution offices with 25 subsidiary offices. The Prosecutor General is also independent in his/her task of the Government and the Ministry of Justice. However, the Ministry of Justice decides on the financial resources of the Prosecution Service.

In autumn 2018 a new organisation of Prosecution Service will be introduced. The Prosecution in its entirety will form one unit with four regional prosecution districts (south, west, north and east) and the office of Prosecutor General.

Each prosecutor is independent in performing his/her duties. However, where subordinate prosecutors do not prosecute a case and the Prosecutor General disagrees with their decision, the Prosecutor General has the power to take over a case or to assign it to another prosecutor.

In Finland, the pre-trial investigation is not the responsibility of the prosecutor but is a competence of the pre-trial investigation authorities (the police, the Finnish border guard, Finnish customs and Finnish defence forces). However, LEAs are bound by law to cooperate with prosecutors during pre-trial investigation and also prosecutors are responsible for the result of the investigation. A record of a pre-trial investigation is made and submitted to the prosecutor for the consideration of charges.

When the pre-trial investigation is completed, the prosecutor has to decide whether to charge the suspect or not. If the prosecutor decides to prosecute for an offence, in most cases criminal proceedings are initiated before the district court. The head of a pre-trial investigation must cooperate with the prosecutor. The prosecutor heads an investigation only in offences suspected of being committed by the police.

In Finland, there is no specialised unit inside the Prosecution Office. Environmental cases are assigned mainly to those with a special interest in dealing with these issues, and specialisation in the field is acquired only on the job. However, the small number of cases precludes the development of deep specialisation in the field.

4.1.2. *Capacity of and obstacles to prosecution and sanctioning waste crime*

The lack of specialisation, together with the existence of several laws and regulations, is considered a serious problem by both judges and prosecutors. The lack of specialisation also results in an imbalance of 'strength' between prosecutors and defendants. The latter can appoint lawyers with a deep knowledge of the field.

Prosecutors consider that sentences are too lenient and that the preventive function should be enhanced.

In addition, they consider the problem of African waste collectors a major challenge. The lack of cooperation with third countries prevents ascertainment of the destination of exported goods. That can present a problem when it is difficult to ascertain whether the goods are waste or second-hand goods. Even where the law defines the goods on the basis of identified criteria, the real destination of the goods can be determined only at the destination.

The judges also consider that, in the absence of prior specialisation of judges in the sector of environmental crimes, the relevant expertise cannot be acquired in the field alone, because of the low number of cases (about 100 to 150 per year) and because of their complexity. In addition, only a few cases present are serious crimes.

The judges underline that a significantly higher proportion of cases involving environmental and natural resources offences are dismissed than other offences. This reflects the complexity of the legal questions involved and the difficulty of producing evidence. They consider that cooperation between LEAs and prosecutors during the investigative phase should be enhanced in order to guarantee the acquisition of sufficient evidence to satisfy a criminal standard of proof. They also consider that lay judges, who currently compose the court dealing with the most serious environmental crimes, do not have sufficient knowledge and expertise to deal with the complexity of the cases. In fact, they are not professional judges but are appointed by the municipal councils (mandate of four years).



## 4.2. Law Enforcement Authorities

### 4.2.1. *The structure of and cooperation between investigative authorities involved in preventing and combating waste crime*

In Finland there are three law enforcement authorities, which operate in their own areas of responsibility: police, customs and the border guard.

The police have a general competence related to crime prevention and investigation; customs has the power to investigate customs-related crimes; and the Finnish border guard takes care of border-related cases.

The three law enforcement authorities work in close mutual cooperation. For example, law enforcement authorities have a video meeting every day at 9 a.m., during which they exchange information about the latest cases and phenomena. They have a common situational and analysis structure (PCB - police, customs, border guard).

The steering and monitoring of police and border guard are under the responsibility of the Ministry of the Interior, which is responsible for the guidance and supervision of the police and border guard. The NPB is a central administrative authority, whose tasks include planning, directing, developing and supervising police operations and related support functions. In addition, it is responsible for the equal availability of police services nationwide, decides on cooperation between police units and is in charge of their performance management. It has authority to give regulations, instructions, guidance letters and written orders for the police force. Police departments and national units report directly to the National Police Board.

## Police

Local police services consist of 11 police departments. Local police services are provided at the main police stations and police service points. There are police departments in Helsinki, Eastern Uusimaa, Western Uusimaa, Häme, Southeastern Finland, Southwestern Finland, Eastern Finland, Oulu, Central Finland, Ostrobothnia and Lapland. The duty of the local police is to maintain public order and security; take measures to prevent crime; investigate crimes and other events threatening public order and security; direct and monitor traffic and promote traffic safety; and perform any other duties assigned to the police by law or that they are obliged to carry out.

The national units of the police operating under the National Police Board include the National Bureau of Investigation and the Police University College.

The National Bureau of Investigation (NBI) is tasked with combating international, organised, professional, financial and other serious crime, conducting investigations, and developing crime prevention and crime investigation methods. The NBI operates throughout the territory of Finland. The NBI's headquarters is situated in Vantaa, with field offices in Tampere, Joensuu, Oulu, Turku and Rovaniemi. The organisation is divided into Administration, Criminal Investigation, Criminal Intelligence and Forensic Laboratory.

There is no special unit for investigating environmental crime. Environmental crimes are usually investigated by the economic crimes division due to the fact that they are considered economic crimes.

Each local police department has an economic crimes division that investigates suspected crime within its region. If a crime is suspected of having happened across several places, investigative competence is agreed on a case-by-case basis (ultimately, the NPB has the power to decide). The NBI investigates cases that are especially significant or serious or have an international dimension.

Only in Eastern Uusimaa Department is there a unit dealing with environmental crimes, in the context of the pilot project mentioned under paragraph 3.2.

The Finnish Security Intelligence Service (SUPO) is a national police unit operating under the Ministry of the Interior. SUPO's core functions are counterintelligence, counterterrorism, and security work. The duty of SUPO is to prevent undertakings and crimes that could endanger governmental and social systems or the internal and external security of the state.

The police are a general authority in the field of crime prevention and they investigate all offences. There are three ways police obtain information on a possible environmental offence: an observation reported by a private person; an observation reported by a supervisory authority; or an observation made by an individual police officer. As a rule, supervisory authorities have to report criminal activities observed in their own fields of activity to the police. However, reporting is not required in cases where the offence is a petty one and has not violated any public interest.

The police have to conduct criminal investigations regarding cases that have been reported whenever there are reasons to suspect that a criminal offence has been committed. The police department of the crime scene area usually conducts a criminal investigation into the case. However, if the nature of the case so requires, the investigation may be transferred to the National Bureau of Investigation. In most cases, environmental offences require that a prosecutor be pre-notified of the case and take part in the criminal investigation.

When the criminal investigation is concluded, the case is referred to the prosecutor for consideration of charges. As a rule, the prosecutor must press charges for the suspected offence if he or she considers that the act is punishable by law and that there is other probable evidence to support the criminal suspect's guilt. A decision to drop charges should be made on some ground specifically mentioned in the law. If the prosecutor decides to press charges, the case will be tried by a local district court; in case of appeal, by the court of appeal; finally, in rare cases, by the Supreme Court.

## Customs

Customs operate under the Ministry of Finance. They are in charge of securing transport chains, ensuring product safety and combating cross-border crime; prevent threats to citizens' health, safety and the environment; combating the smuggling of narcotics and other dangerous substances and the shadow economy; implementing various control tasks for different ministries and administrative sectors.

The Customs Investigation Service - consisting of an Investigation Division, an Intelligence and Analysis Division and an International and Legal Affairs Unit - works especially on preventing serious crime, which takes advantage of international trade structures, logistics and payment transactions. They investigate all customs offences, concentrating especially on combating and preventing international professional and organised crime.

Customs are a preliminary investigation authority, also dealing with cases of environmental crime which are by their nature customs offences. Customs offences are e.g. offences that violate provisions of the Customs Act or other legal acts enforceable by customs and offences connected to the importation/exportation of property to Finland, or the transit of property via Finland.

Customs are also a competent authority which supervises the transporting of waste across borders and inspects and processes authorisation documents for third-country traffic in waste transportation.

Finland is a member of the Policy Cycle's new priority EMPACT environmental crime for the years 2018-2021. The Finnish Customs is a national coordinator of this new crime priority and is working in close cooperation with the National Bureau of Investigation within the implementation of operational actions of the priority .

Within customs, cases are also assigned to units/groups that investigate economic crime. These groups also include some investigators more familiar with the investigation of environmental crime.

## **Border Guard**

In addition to its other statutory duties, the border guard is a competent authority to carry out pre-trial investigation of environmental offences and natural resources offences and it is, inter alia, responsible for monitoring compliance with the Hunting Act (615/1993), the Fishing Act (379/2015), the Nature Conservation Act (1096/1996), the Environmental Protection Act (527/2014), the Antiquities Act (295/1963) and the Act on Environmental Protection in Maritime Transport (1672/2009).

In practice, the border guard carries out criminal investigation mainly into natural resources offences, and more specifically into hunting and fishing offences, and it also investigates conduct deemed to be in violation of the above-mentioned substantive Acts the supervision of which falls to the border guard. The border guard also plays a key role in prevention of environmental crime involving the sea.

The border guard's threshold for intervening in environmental offences is low. The border guard investigates all cases which fall within its sphere of competence. Offences which come to the border guard's notice but which are not within its competence are reported to a competent criminal investigation authority. On the basis of section 2(2) of the Act on Cooperation between the Border Guard, Police and Customs (687/2009), the border guard may also take measures to ensure the prevention and investigation of offences, if the offence is not minor and the measures cannot be postponed. A competent criminal investigation authority is informed about the measures without needless delay. The law regarding cooperation between the aforementioned criminal investigation authorities is used to ensure that authority operations are carried out promptly and that the statutory duties of authorities are executed effectively. Additionally, the border guard and the police have formed joint investigation teams, in particular to improve the investigation of hunting offences.

The border guard uses Dornier airplanes on a daily basis to monitor the situation in Finnish territorial waters in relation to oil discharge crimes, but they can also detect waste crime in the course of surveillance. Surveillance flights are flown extensively over Finland's territorial waters and exclusive economic zone. Additionally, flight surveillance has been organised together with the authorities of Sweden and Estonia and is also carried out partly in the territorial waters of the aforementioned countries.

*4.2.2. Investigative Techniques/Tools*

Conventional investigation methods are commonly used in investigating waste crime. In order to use 'special investigative techniques' like telephone tapping, the suspected crime under investigation must be considered an aggravated type of impairment of the environment.

In the cases investigated by customs, the most common methods have been various intelligence inquiries and questioning. In cases involving illegal international waste transporting, no coercive measures have been taken with regard to telecommunications, nor any surveillance-type measures or special covert coercive measures, such as covert collection of intelligence.

*4.2.3. Capacity of and obstacles to successful investigation of waste crime*

Environmental crimes are considered economic crimes, so they are generally investigated by the financial crime units and, in case of waste shipments, principally by customs. However, no specialised team for environmental crime exists in these units except in the region of Uusimaa, where there is an ongoing pilot project establishing a team for environmental crime within the financial crime unit (read under paragraph 3.2). A prosecutor is also part of the team.

Forensic capabilities and equipment are frequently used, and experts have been specially provided with the kind of equipment needed for environmental crime investigation.

In their investigations, LEAs are supported by the Finnish Environment Institute (SYKE). Since 2001, its national environmental reference laboratory is tasked by the Ministry of the Environment with supporting the authorities as well as with implementing research and carrying out surveillance of laboratories and institutes. The aim is to ensure the production of reliable and comparable results that are qualitatively fit for purpose.

As to taking samples, in Finland there are only a few environmental authorities that take environmental samples. In the past, the supervisory authority had responsibility for this; now, the main responsibility for taking environmental crime samples is assigned to the police. Training in sampling has been given to the police, and an environmental crime sampling guide will be prepared by the end of the year.

Customs has its own laboratory, where samples relating to their operations can be analysed.

The forensic laboratory of the National Bureau of Investigation analyses samples delivered by the police.

The forensic laboratory has an agreement with SYKE on analysing samples (for payment). Studies to be carried out are quantisation of contaminated soil or water. Problems arise with unknown materials / samples, which require special techniques for analysis.

The forensic laboratory and the customs laboratory have agreed to analyse each other's samples without charge.

Despite these agreements, analysing demanding samples is not always possible in the forensic laboratories (e.g., in the police's forensic laboratory there is only one chemist responsible for dealing with environmental crime). The problem therefore is to find an authority to perform the analysis. Samples must be sent to private laboratories, which represents an additional cost. In this case, the quality, reliability, safety and justification of private laboratories must be checked.

Other challenges encountered during the investigative phase by law enforcement agencies are related to the difficulty of interrogating the suspects. In fact, they often do not have a permanent residence in Finland.

Another obstacle to investigation arises when a request for investigation comes from the national environmental authority (Finnish Environment Institute SYKE). As a matter of fact, SYKE often does not send the request in real time: the persons may have been in contact with SYKE for quite some time (e.g. he has been heard in accordance with the Administrative Procedure Act) before the investigation request arrives in written form with the preliminary investigation authority (customs) and is processed onwards to the criminal investigator. This can jeopardise the criminal investigation.

In addition, although SYKE's written investigation requests are well written and contain much information connected to the case, they only comment on the suspected crime from the viewpoint of the Waste Act, which means that they can omit information relevant from a criminal point of view.

Another problem encountered in investigating domestic waste crime is that sometimes the local Environmental Supervisors conduct administrative proceedings without reporting the possible crime to law enforcement.

Problems also arise with regard to international unlawful waste transportation. In fact, cooperation among authorities often does not happen in real time.

A serious challenge for customs enforcement is finding storage spaces and unloading places for suspected waste consignments.

#### **4.3. Other authorities/institutions**

The Finnish Environment Institute (SYKE) is the competent authority responsible for waste shipment from, into and through Finland, established within the Ministry of the Environment. The team working on waste shipment is composed of three to four senior advisers and one assistant.

According to the Waste Act, it is responsible for cooperation with other competent authorities in the supervision of transboundary shipments of waste. The Finnish Environment Institute is also the correspondent referred to in the Waste Shipment Regulation.



## RESTREINT UE/EU RESTRICTED

The Finnish Environment Institute supervises compliance with provisions concerning transboundary shipments of waste and to that end it is supported by customs, which is responsible for the supervision of overseas transboundary shipments of waste.

When necessary, customs must stop any transboundary shipment of waste that is in violation of the requirements laid down in the Waste Shipment Regulation or in the Waste Act and must notify the Finnish Environment Institute, which decides on any further measures.

The national legislation to which they make reference is composed of the following legal acts:

- Waste Act 646/2011
- Government Decree on Waste 179/2012
- Act on Transport of Dangerous Goods 719/1994
- Criminal Code 39/1889

In order to implement provisions issued in and under the Waste Act and to enforce it, the Supervisory Authority has the right to conduct inspections and investigations.

The competent authority periodically inspects establishments and undertakings which carry out waste treatment operations on a professional basis; produce hazardous waste; collect or transport waste on a professional basis; act as waste dealer; or carry out trans-frontier shipments of waste.

The focus is chosen based on risk assessment.

Inspections of shipments may take place in particular:

- (a) at the point of origin, carried out with the producer, holder or notifier;
- (b) at the point of destination, including interim and non-interim recovery or disposal, carried out with the consignee or the facility;
- (c) at the frontiers of the Union; and/or
- (d) during shipment within the Union.

Provisions concerning punishment for degradation of the environment in violation of this Act, or provisions or regulations issued thereunder, are laid down in chapter 48, sections 1–4, of the Criminal Code (39/1889).

Unless a more severe punishment is provided for elsewhere in law, fines for violation of the Waste Act are provided for in the following cases: imports of waste from another country; exports of waste to another country; transfers of waste via Finnish territory in violation of law or orders issued regarding individual cases.

Under administrative legislation, SYKE is entitled to request information and to hear parties. SYKE takes decisions on the basis of the information acquired. Its decision cannot consist in imposing a fine, as no administrative penalties are provided for in the Finnish legislation.

In addition to the use of administrative means, in cases of environmental crime, the administrative authority can ask the police to investigate. However, under Art. 188 of the Environmental Protection Act, *no notification need be made if the act can be considered minor in view of the circumstances and the public interest does not require charges to be brought.*

SYKE is also in charge of granting waste shipment permits for hazardous (and unlisted) waste under the Waste Shipment Regulation and Finnish waste legislation.

All waste shipment permits and shipments are registered in a database specifying the validity of the permit, total amount and number of shipments and coverage of financial guarantees.

An electronic system for waste shipments is in use (the so-called Nordic TFS).

SYKE provides external quality control, training for chemical and biological testing; carried out sampling activities; and takes part in national and international standardisation of methods. The expertise of the reference laboratory is also exploited in the development of new analytical methods, in legislative preparation and in international projects. It provides:

- proficiency tests for laboratories;
- calibration services and contract laboratory;

- analytical services. The SYKE laboratory offers a wide range of inorganic and organic parameters for analyses from various environmental sample matrices:
  - physical-chemical analyses of natural and waste water samples;
  - organic analyses of water, soil, sediment, sludge and biota samples;
  - metal analyses of water, soil, sediment, sludge and biota samples;
- certification of qualified sampling personnel;
- methods standardisation in the environmental field.

SYKE has its own database that is not accessible to LEAs as it is only for internal purposes of SYKE.

Section 24 of the Waste Act empowers authorities other than SYKE.

The general supervisory authorities under this Act are the **Centres For Economic Development, Transport And The Environment**, and the **Municipal Environmental Protection Committee** referred to in the Act on municipal environmental administration (Laki kuntien ympäristönsuojelun hallinnosta 64/1986). These authorities supervise compliance with the Act and the provisions issued under it. In addition, they supervise compliance with the provisions of Article 2, Article 3(1) and Article 4(1) of the Mercury Export Ban Regulation. (1104/2011).

The municipal environmental protection committee may delegate the powers referred to in this Act to an official, as provided for in the Act on municipal environmental administration (Laki kuntien ympäristönsuojelun hallinnosta 64/1986). Any provisions laid down on the authority which otherwise manages the duties in question and handles appeals on decisions made by this authority shall apply to the official. However, the powers concerned cannot be delegated to an official in a matter involving the exercise of administrative enforcement.

At regular intervals, the supervisory authority duly inspects facilities and operations where:

- 1) waste treatment is undertaken on a professional basis;
- 2) hazardous waste is generated;
- 3) professional waste transport or collection of waste is undertaken;
- 4) waste-dealing operations take place;
- 5) transboundary shipments of waste are carried out.

The Finnish Environment Institute supervises compliance with provisions concerning transboundary shipments of waste.

#### **4.4. Cooperation and exchange of information among national authorities**

##### *4.4.1. Cooperation and coordination*

Since 2015, eleven regional multi-agency permanent working groups have been established, in compliance with the recommendations addressed by the joint working group set up by the Ministry of the Environment and the Ministry of the Interior (see paragraph 3.1). These working groups are chaired by the regional police, while other members are from the regional prosecutor's office, customs and environmental authorities.

The groups form a nationwide network, including some thematic groups. Joint working group meetings have dealt with topical matters, such as the roles of the authorities in environmental crime prevention; thresholds for lodging criminal complaints; actual crime cases; experts as witnesses; new trends in environmental crime; and ways to enhance cooperation. They have agreed e.g. on regular meetings and rotation of meeting arrangements; mutual cooperation; operational goals; exchange of information; and mutual procedures. They have also organised mutual training sessions and carried out joint operations.

Centres for Economic Development, Transport and the Environment (ELY Centres) and Environment Protection Authorities of Municipalities cooperate on a regular basis in monitoring, as they have similar duties which partly overlap. However, this cooperation should be further improved and the division of labour made clearer. It is especially important for the appropriate allocation of resources.

Environmental authorities, police, border guard, customs and rescue authorities cooperate in environmental matters in joint working groups and on a case-by-case basis.

On the other hand, cooperating with other authorities such as environment authorities is not legally binding. Therefore the level of cooperation varies depending on the activity of local authorities and, at a strictly operational level, it is mainly context-sensitive and person-dependent.

The three law enforcement authorities work in close cooperation with each other. For example, law enforcement authorities have a video meeting every day at 9 a.m., in which they exchange information about the latest cases and phenomena. They have common a situational and analysis structure (PCB - police, customs, border guard).

As to customs investigations, cooperation is especially focused on cooperation with the Finnish Environment Institute (SYKE) and the prosecution authority. SYKE can lodge an investigation request and may request an expert statement and/or hear an environmental representative as a witness. Finnish customs often discusses cases with the prosecutor at the initial stage of the investigation.

The Finnish Environment Institute also cooperates with LEAs, being tasked with supporting them.

Representatives of SYKE often participate as experts during customs inspections. If waste is revealed during the inspection, either the customs enforcement or the environmental authority submits an investigation request to investigation by customs. Alternatively, the Environmental Authority gives a statement on the nature of the waste. The interpretation of the Finnish Environment Institute of how waste is defined and other defining elements has a central role in the investigation.

Environmental authorities (municipal environmental authorities or regional Centres for Economic Development, Transport and the Environment) submit requests for investigation to the police regarding crimes they deem not petty. They may act as witnesses and experts if needed. If the public interest is injured, the Centre for Economic Development, Transport and the Environment also acts as injured party (on behalf of the state) in the criminal procedure.

SYKE and customs laboratories can also be used by the police.

Regarding cooperation between the police or customs and prosecutor's offices, in Finland the police or customs are in charge of the investigation. However, according to the Criminal Investigation Act, the investigative authorities and prosecutors are obliged to cooperate in criminal matters. The investigative authorities report crimes to the prosecutor's office and these two cooperate during the pre-trial investigation. The investigative authorities have also the option to close an investigation if they consider that the costs are higher than the benefits, though they cannot close a case without prior consultation with the prosecutor.

No great practical obstacles have been encountered related to such cooperation, but there is always room for improvement as regards the smoothness of processes. Above all, cooperation in this field should be less context-sensitive and person-dependent.

Problems arise with regard to the lack of understanding of the role of customs by other authorities. As a matter of fact customs has three roles: enforcement authority, preliminary investigation authority and judicial authority. In the last role it has judicial competence to request and provide international legal assistance directly, without delivering the request via national central authority. Due to those three roles, Finnish customs have faced obstacles, especially regarding international assistance, above all when a foreign country had been requested for the first time. This can cause delays in the legal aid process. However, this is a general problem with any kind of criminal investigation, not only with environmental crime.

Keeping the practical operators up to date is also a challenge, due to frequent changes in legislation.

From the prosecution point of view, a practical impediment is the lack of economic resources.

During the meeting, the police reported a problem of cooperation with administrative authorities due to a lack of reporting of waste crimes by administrative authorities. The Ministry of Justice specified that this applied only to minor offences.

*4.4.2. Access to information and focal points on intelligence*

In general, law enforcement and judicial authorities have adequate access to information (databases and registers). Customs and the Border Guard have a common data analysis system, which, however, is not accessible to the police.

They all have a common data system on crime.

Authorities are obliged to provide information to the police and prosecutors in most cases even if there are secrecy orders.

Some problems can arise with regard to the fact that SYKE works during office hours, so customs do not have all the information they need outside office hours (evenings/weekends).

There is no centralised intelligence unit in direct operation solely for gathering or disseminating intelligence on waste crime or environmental crime. Police and customs cover these activities alongside intelligence handling in general.

**4.5. Training**

The Police University College, located in Tampere, is responsible for police training and recruitment; selection of students for diploma and advanced programmes; organizing diploma and advanced studies; provision of further training in the training institute; research and development in the police field. It is the only institute in Finland training police officers.

The Police University College coordinates a national training programme on environmental crime law which was launched in 2017 and covers all LEAs (police, customs and border guard), environmental authorities (both state and municipal) as well as prosecutors.

CEPOL courses are in fact dedicated to law enforcement personnel, meaning that police, customs and border guard can send students to the courses. Some customs investigators have participated in waste crime -related training courses organized by the Police University College and CEPOL.

The training programme covers six modules:

- 1) Theoretical issues of environmental crime;
- 2) crime proceeds and corporate criminal liability;
- 3) crimes relating to activities requiring environmental licensing;
- 4) crimes relating to soil substances and water construction;
- 5) crimes relating to nature conservation, hunting, forest and cultural environment and
- 6) crimes relating to waste.

Most of the modules consist of two days' training. All six modules are organized within a period of 18 months; the last one is planned for October 2018.

Training takes the form of a lecture, which is live-streamed to various places around the country. Illegal waste transportation is covered in the last module which, however, consists mainly of national waste crimes.

The Police University College organizes annually a one-week course on environmental crimes covering a wide range of subjects, including one afternoon on forensic sampling.

In 2017 the first pilot lessons about illegal waste transport were included in the course dealing with dangerous goods transport. Lessons were given by an expert from Finnish Environment Institute.

As part of the Action Plan of the National Strategy of Environmental Crime Prevention a common training programme for LEAs has been set out in the field of environmental crime prevention. The present programme has been drawn up to cover years 2017-2018. It consists of six modules.



The prosecuting authority has organized training for its own employees and interest groups. The training mentioned previously is planned by a working group implementing the previously mentioned strategy and is led by the police organization. The training is organized to take place at the Police University College premises. Also, co-operation seminars and trainings between various authorities have been organized. The topics discussed during these training courses are of interest to both investigators and prosecutors. A nationwide training course targeting especially waste crimes is scheduled to take place from 13<sup>th</sup> to 14<sup>th</sup> of November in 2018.

See more information about the Finnish Environment Institute's environmental responsibilities from [www.syke.fi](http://www.syke.fi).

In the field of supervising the transports of radiation sources, radioactive substances and materials, training is of great importance. Customs is cooperating with the Radiation and Nuclear Safety Authority at national level. Bilateral training events have been organised jointly by the Customs services of Finland and the Russian Federation. Training provided by the EU (Joint Research Centre) has also been used.

DECLASSIFIED

#### 4.6. Conclusions

- Investigations concerning environmental crimes are carried out by the police economic crime units. In the evaluator's view, taking into consideration that environmental crimes are committed mainly for financial benefit, this has to be considered a best practice.
- On the other hand, the experts are advised to set up a specialized unit inside the economic crime unit or at least identify a focal point with proven expertise.
- In this regard, in the evaluator's opinion, the pilot project ongoing at the Eastern Uusimaa Police Department establishing a special police unit dedicated solely to environmental crime investigations has also to be considered as a very positive choice and to be reproduced where possible in all other department.
- Currently, the police obtain information on a possible environmental crime only from observations reported by a private person, by a supervisory authority or by an individual police officer. In the evaluator's opinion, a more proactive approach could produce more effective results e.g. using database research. The involvement of the private sector should also be encouraged.
- As regards internal cooperation, the establishment of working groups (11 regional multi-agencies), the organization of annual meetings (police, prosecutors, environmental authorities), the establishment of a common data base and work structure for police, custom and border guard and the informality of cooperation at operational level have to be considered as best practices .
- However, in many cases cooperation is based on a sensitive-personal approach. Therefore, as recognized by Finnish authorities in their own report, there is still room for improvement.
- It would also be advisable to allow LEAs to access SYKE's database as, so far, it is used by SYKE for internal purposes only.

## RESTREINT UE/EU RESTRICTED

- The interfaces for exchanging information, e.g. between SYKE and the prosecuting authority, should be looked at more closely: eg. investigation requests sent by SYKE could include possible direction by the prosecutor of the SYKE official in charge
- Obstacles to the investigations have been detected in relation to the cases reported by SYKE. Memoranda of Understanding could be helpful in order to avoid wasting time and to guarantee the processing of all relevant information for the LEAs.
- No specific budget is allocated for tackling environmental crimes, the only exception being the budget related to the pilot project in Uusimaa department. In the evaluator's opinion, an increase in the budget especially dedicated to these crimes would be advisable. This goal could also be achieved by using the profit from crime to fund the fight against environmental crime.
- The evaluators stress the fact that the budget should anyway be allocated equally among the institutions involved in fighting waste crimes for the purpose of prevention, detection and conviction of waste crime in order to guarantee that they all could cooperate at the same level to achieve a common end result.
- It has to be underlined that Finland has already made use of this possibility. As a matter of fact, the Ministry of the Environment has granted the Uusimaa ELY Centre the proceeds of a seizure for a steering development project in order to have an operational model for an ELY centre as an injured party.
- Considerations should be given to keeping and analyzing samples in a secure, objective and certified laboratory, possibly managed by the law enforcement authorities.
- Finland should improve cooperation with third countries.
- None of the Finnish LEAs, prosecution services and courts have a special unit/team assigned to tackling environmental crimes.
- So far judges and prosecutors have acquired specialized knowledge only through daily work and personal commitment. In the evaluator's opinion, their specialized knowledge should also be enhanced through training courses.
- Also, the specialized knowledge of LEAs should be improved by joint training activities.

## 5. LEGAL ASPECTS

### 5.1. Substantive criminal law

#### 5.1.1. Description of national legislation pertaining to waste crime

The Criminal Code of Finland and special environmental acts contain provisions on environmental offences.

The most serious acts that attract prison sentences have been gathered under Chapter 48 of the Criminal Code. The reason why environmental offences were included as a separate entity in the Criminal Code is to emphasise the blameworthiness of the acts.

Chapter 48 of the Criminal Code contains the following provisions: Sections 1-4 (damage to the environment, aggravated damage to the environment, environmental offence, environmental damage due to negligence) and section 9 (corporate criminal liability). In addition, Chapter 44 deals with offences endangering health and safety (Sections 11 and 12: explosives offences, careless handling). See <http://www.finlex.fi/fi/laki/kaannokset/1889/en18890039.pdf>.

Sentences vary from a fine to a maximum of six years' imprisonment, depending on the seriousness of the criminal act in question. For multiple offences a maximum of 9 years may be imposed under certain conditions. Provisions on corporal criminal liability and corporate fines referred to in Chapter 9 of the Criminal Code are also applied to the environmental offences referred to in Chapter 48. A corporate fine is at least 850 euros and at most 850 000 euros.

Other laws forming actual environmental legislation, such as the Waste Act, Water Act, Nature Conservation Act and the Environmental Protection Act, include minor offences punishable by a fine at most.

In accordance with Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste, Finnish law has been amended ( sections 117 and 124 of the Waste Act). The amendment concerned mostly preparation of country-specific inspection plans in order to enhance supervision and control of waste shipments. In Finland, the inspection plan for the years 2017 - 2019 was implemented at the beginning of 2017. The plan focuses on illegal waste shipments reported to the Finnish Environment Institute on the basis of the type of waste. In accordance with the risk assessment, used lead batteries, waste electrical and electronic equipment (WEEE), scrap vehicles, spare parts and construction waste were selected as particular points of emphasis. Depending on the type of waste, inspections will take place where waste is created as well as where it is collected, transported and managed. These amendments entered into force on 1st January 2016.

Provisions on forfeiture apply to environmental and natural resources offences, too. Proceeds of crime are forfeited to the State in these cases also. Forfeiture may also relate to compensation costs caused by illegal waste management. Proceeds from crime, instruments used in the commission of crime as well as any object or property which has been produced, manufactured or brought about by way of an offence, or at which an offence has been directed, may be forfeited to the State under certain conditions.

Provisions on nature conservation and environmental offences were amended at the beginning of 2016. The purpose of the amendment was that the nature of nature conservation offences and environmental crime cases as financial crimes were considered in the assessment in more detail than before so that sanctions ordered for them would correspond better to blameworthiness of the acts. A new provision on an aggravated nature conservation offence was included in Chapter 48 a, section 5a of the Criminal Code. A nature conservation offence could be considered aggravated if it is deemed aggravated when assessed as a whole and it puts nature in serious risk, financial benefit was sought in the offence or it was committed in a particularly methodical manner. The penalty scale runs from imprisonment of four months to imprisonment of at most four years. Before the amendment, the maximum punishment for nature conservation offences was imprisonment for at most two years.

The provision concerning aggravated damage to the environment (Chapter 48, s 2) was amended so that the grounds for assessing the seriousness of the criminal act reflect the extent of neglect and the amount of financial gain better than before. Now, damage to the environment may be considered aggravated if the act was committed in a particularly methodical manner or for considerable financial gain. Damage to the environment is by nature a financial crime by which the offender seeks financial benefit by neglecting obligations laid down in law.

Aggravating and mitigating factors are defined inter alia in Chapter 6 Sections 3—8 of the Criminal Code. The general principle on sentencing provides that the sentence is determined in just proportion to the harmfulness and dangerousness of the offence, the motives for the act and other culpability of the offender manifest in the offence.

Other provisions implementing Directive 2008/99/EC are included in acts on dangerous chemicals, nuclear waste etc. For a more detailed description of the implementation of the directive, see publication "Ympäristörikos- ja alusjäterikosdirektiivien voimaansaattaminen" (Oikeusministeriö, Mietintöjä ja lausuntoja 31/2010; in Finnish) and Government Bill 157/2010 vp (in Finnish and Swedish).

In addition to the aforementioned relevant legal documents, it must be underlined that in Finland legislative background (*travaux préparatoires*) is a central source of law. The Finnish legal tradition stresses the importance of legislative intent, which is expressed in the preliminary legislative documents, government bills (*hallituksen esitys*, *regeringsproposition*), and Parliamentary Commission statements (*valiokunnan mietintö*, *utskottsbetänkande*). Therefore the Courts must also take into consideration these documents. Regarding Directive 2008/99/EC, such material is included for example in Government Bill 157/2010 vp.

5.1.2. *Determination of the seriousness of waste crime*

The general principles of sentencing are defined in Chapter 6 of the Criminal Code. The aggravating factors prescribed in Chapter 48 Section 2 may also be taken into account. The Criminal Code does not require that the damage is substantial, i.e. national legislation is more comprehensive than the directive. Criminal liability may be imposed even in cases where the damage is not substantial.

The threshold for considerable damage is high. With regard to one of the aggravating circumstances (“the damage or danger of damage caused to the environment or to health is especially serious, with regard to the long duration, wide effect and other circumstances of the damage either caused or imminent”) the Government proposition on environmental crimes (HE 94/1993) has stated the following: “... *the grounds would firstly be the long duration of environmental impact caused by the damage or danger of damage. Environmental impact means contamination of the environment, other corresponding environmental despoliation or littering. Exact temporal limits cannot be set for the long duration. However, the damage must be permanent in such a way that it will not pass soon. The long duration refers to damages lasting for months or even years*”.

Action causing the long duration impact has usually been ongoing for a longer period. However, isolated cases of damage to the environment, such as illegal felling of timber carried out in a protection forest area, might be also considered as having a long -term duration as stipulated in the Act. On the other hand, the paragraph does not apply to an irreversible change of environment if the change was not especially big but has only occurred in a smaller part of the environment.

The extent and duration of damages should be evaluated as a whole. Thus, a shorter impact should be larger in extent for paragraph 2 to be applied. The idea of evaluating the extent and duration of the damage as a whole was mentioned in the paragraph taking those two as the basis for evaluating the magnitude of the damage. Thus, the duration of the damage is one component of the magnitude of the damage.

To cause damage or to cause danger of damage would be paralleled.

The broadness of actions causing or risking damage to the environment means that the action endangers the environment over a geographically large area or exposes numerous people to danger. In these cases, it usually exceeds ordinary damage or risk of damage.

There are other actions causing very considerable damage or risk of damage. This refers to exceptional situations, e.g. the damage is irremediable, in which the damage to the environment deserves to be regarded as more serious than usual. E.g., a beautiful esker with exceptionally valuable flora is ruined by gravel.

### *5.1.3. Links with other serious criminal offences*

The competent Finnish authorities have not encountered any link between environmental crime and organized crime. In any case it has to be underlined that so far in Finland there have been no convictions for any kind of organized crime, whether or not related to environmental crimes.

One of the most serious crimes investigated in Finland was the first large-scale waste trafficking case (in summer 2017 the National Bureau of Investigation recently put out a media release). In this particular case dozens of truckloads of demolition waste were shipped from Helsinki metropolitan region to Estonia. The case is very unique in a national context and it is also directly linked to an extremely large financial crime investigation with elements of serious and organised crime.

Among the cases investigated by customs, two important investigations are the following: a case relating to an aggravated accounting offence that was connected with a case of environmental damage; one case, still under investigation, consists of suspected illegal waste transports by a Finnish company.



*5.1.4. The role of the NGOs*

The NGO have the right to report a crime, as any other natural or legal person. However, reporting a crime does not automatically entitle the person reporting it to have a status in the criminal procedure.

In specific situations the Waste Act recognises the right of NGOs to play a role in the proceedings (134 §), as does the Environmental Act 527/2014 (186 §).

**5.2. Procedural, jurisdictional and administrative issues**

*5.2.1. Difficulties encountered with regard to evidence*

The difficulties encountered with regard to the evidence are mainly related to distinguishing between the kinds of damage (concrete or abstract danger), e.g. if the danger has not been clearly very tangible or the act has not caused damage.

In addition, proving intent can be problematic. As a matter of fact, both the criminal damage to the environment and the environmental offence may be perpetrated intentionally or by gross negligence. The prosecutor has to prove one of the two psychological elements and it is often not easy to prove intent.

It has to be underlined that, in the majority of the cases, special means of investigation are not used due to the fact that they are reserved for cases of aggravated damage.

5.2.2. *Measures other than criminal or administrative sanctions*

In Finland, besides criminal sanctions, criminal assets recovery is both a legal obligation and a normal routine practice conducted by the law enforcement agencies. The proceeds of crime are traced by the police and customs together with the tax administration and law enforcement authorities.

Chapter 10 of the Criminal Code regulates forfeitures. The proceeds of crime are ordered to be forfeited to the State. In addition, it is possible to confiscate the means used to commit an offence and objects or properties which has been produced, manufactured or brought about by way of an offence. Alternatively, equivalent monetary value is charged.

Defining the proceeds of crime is one of the most complex questions in the area of criminal law. Assessing such proceeds is often difficult. As a matter of fact, it is the value of such proceeds that is the most controversial question in court proceedings. Defendants often strongly contest the calculation of the value of criminal proceeds made by environmental and criminal authorities.

When calculating the value of the proceeds of crime, the terms used are 'net profit' and 'gross profit'. When deciding the amount of criminal proceeds, the Court must assess whether the nature of the criminal action in question was such that it is possible to deduct operational costs. It is in the interests of defendants that the Court would assess the value of proceeds to be forfeited to the State as low as possible and that, when considering the amount of the net profit, the Court would accept deduction of operational costs to the maximum value possible.

Currently there are several cases pending before the Courts of Appeal in which District Courts ordered the forfeiture of significantly smaller amounts than the ones demanded by prosecutors.

The Court can also order the offender to pay compensation for the damage caused by the offence. There are no other penal sanctions but in some cases other income might be forfeited, e.g. agricultural subsidies etc. Administrative fines are unknown in Finnish administrative proceedings, with the exception of administrative oil discharge fees.

5.2.3. *Treatment of seized objects*

The Coercive Measures Act (chapter 7 para 13) stipulates that the confiscating authority must store the seized object or document or in any case keep it in a careful manner. The chief of the police department may order the object to be sold if it deteriorates easily or its value diminishes quickly. The costs are in practice borne by the police units.

Customs handles seized materials in different ways. Sometimes the goods are kept in a hired container during the criminal investigation and the costs are borne by the suspect during the court proceedings. In the case of a not guilty verdict, the costs are borne by the State. Sometimes the goods are destroyed before the court judgement, based on the decision of the investigator in charge. In other cases the holder of the goods has given permission for the goods to be destroyed. However, goods will be destroyed or sold very rarely before the case is closed. The matter may also be discussed with the defence lawyer. In most cases, the actual goods are not needed as evidence if they are properly documented.

The costs of the temporary storage of objects in the criminal investigation are in practice borne by the state both during and after the process. Normally it does not make a difference whether the suspect is convicted or acquitted.

In some cases, the goods can be returned e.g. where only an authorization is required. In one case at least, the holder of the goods paid the storage costs, since the goods had not been seized; they were only held administratively, because the requirements of the procedure were not met.

### 5.3. Environmental restoration

In general, the party causing damage is responsible for paying compensation (Tort Act 2 chapter 1 §).

### 5.4. Jurisdiction

#### 5.4.1. Principles applicable to the investigation of waste crimes

The international scope of Finnish criminal law is defined in Chapter 1 of the Criminal Code. Criminal liability may be based for instance on citizenship or residence, although dual criminality may be required in some cases. It should be noted that an offence is deemed to have been committed both in the place where the criminal act was committed and in the place where the consequence contained in the statutory definition of the offence became apparent (Chapter 1 Section 10).

Waste crimes committed outside the territory of Finland are considered to have been committed within its jurisdiction if the consequence of the offence becomes apparent in Finland. For instance, unlawful disposal of waste outside Finnish territory falls within national jurisdiction if it causes damage to the environment in Finland.

#### 5.4.2. Rules in the event of conflicts of jurisdiction

The mechanisms for resolving conflicts of jurisdiction with other Member States in specific matters of cross-border waste crimes in Finland are those provided for by Council Framework Decision 2009/948/JHA of 30 November 2009.

## 5.5. Conclusions

- The provisions on environmental offences are contained in the Criminal Code of Finland and in other special environmental acts, such as the Waste Act, the Water Act, the Nature Conservation Act and the Environmental Protection Act. The most serious criminal acts punishable by imprisonment have been grouped together in Chapter 48 of the Criminal Code, while minor offences punishable by a fine at most are contained in the Waste Act.
- In the evaluator's view, the law does not appear to clearly and unambiguously stipulate when minor violations must be reported to the competent authority.
- Based on the aforementioned, the experts recommend that clear rules be laid down at legislative level stipulating how to distinguish between administrative offences, minor violations (which must in any case be considered criminal offences and consequently must be reported to the criminal justice authorities) and major crimes. Administrative offences could be punished by providing for administrative penalties.

DECLASSIFIED

## 6. COOPERATION

### 6.1. International Cooperation

#### 6.1.1. *Forms of the cooperation in cross-border cases*

Besides the formal instruments of international cooperation, law enforcement agencies make use of informal contacts with foreign countries. In recent cases customs and police have established effective and straight forward co-operation, especially with Estonian counterparts.

In cases investigated by customs, the Finnish Environment Institute (SYKE) has often contacted, at the request of customs, the competent authority in the foreign country involved asking for information (in cases where the goods have been stopped abroad). As regards, e.g., the exchange of intelligence, the SIENA system of Europol can be used, as well as the legal assistance system in the field of investigation.

The prosecuting authority has no special forms of co-operation for waste crimes. However, prosecutors can co-operate using Eurojust and European Judicial Network.

Among all the requests for international legal assistance and police-to-police assistance, international search warrants and other operational correspondence in 2015, the NBI International Affairs Division filed only two requests related to environmental crime: one case concerned a request for exchanging information between Interpol Bureaux and the other case concerned a request for interviewing parties involved in an environmental offence committed abroad. The police filed no international requests for legal assistance in environmental criminal matters in 2016.

*6.1.2. Channels for the exchange of information and the use of EU databases*

Information exchange has often taken place through the Finnish Environment Institute (SYKE).

The available channels are the same as for other types of crime.

There is no national contact point specifically for environmental crimes. However, the National Bureau of Investigation and customs do operate as national contact points with international police organisations (ICPO Interpol, Europol, Prum, etc)

Police and customs have access to a wide range of national registers. If information is needed from the Europol database (SIENA), a contact network with Europol Liason officers is used as a first instance. The National Bureau of Investigation has also sent a representative to Envicrimenet meetings since 2011.

*6.1.3. Difficulties faced in judicial cooperation relating to waste crime*

According to reports, the Finnish authorities do not encounter practical problems in judicial cooperation in criminal matters relating to waste crime. However, the visit elicited the information that it was not always easy to execute letters rogatory as some member states do not give all the relevant contact details.

*6.1.4. Operational performance of JITs in waste crime*

So far no JITs have needed to be set up in cross-border waste crime cases. However, if any such case were detected with regard to the environmental offence of cross -border waste shipping, Finland would be willing to actively establish a JIT if it were considered beneficial by the both parties in question. As a matter of fact, Finland has been one of Europe's leading countries in establishing JITs and has participated in JITs in relation to environmental crimes other than waste crimes and considers this international instrument to be a very useful tool for cooperation.

**6.2. Cooperation with EU Agencies and networks**

*6.2.1. Cooperation with Europol and Eurojust*

The Finnish Eurojust desk has handled only one case of environmental crime, albeit not in connection with waste crime. However, according to the information acquired on the spot, prosecutors maintain good contacts with Eurojust by also keeping cooperation informal.

Customs and the National Bureau of Investigation are quite familiar with tools such as the Environmental Crime Threat Assessment (2013), SOCTA, Early Warning Notifications, platforms of experts available on the internet (EPEs on EnviCrimeNet and EPE on Customs Enforcement). In fact they participate in the preparatory meetings of SOCTA.

Finland is a member of the Policy Cycle's new priority EMPACT environmental crime for the years 2018-2021. The Finnish Customs is a national coordinator of this new crime priority .

On the other hand, only a few prosecutors are familiar with those products and tools.



*6.2.2. Experience resulting from the use of various environmental networks*

A representative of the National Bureau of Investigation has taken part in Envicrimenet meetings since 2011.

The National Bureau of Investigation, through its representative, has for the past ten years also been an active member of Interpol's Pollution Crime Network.

The Ministry of the Environment takes part in IMPEL and has had good co-operation with ENPE and EUFJE on, for example, shared conferences.

Prosecutors have participated in at least IMPEL, ENPE and EUFJF meetings whenever the topics discussed there have been considered interesting.

From experience, these networks are considered good forums for reflecting on means of combating environmental crimes where participants can exchange experiences and acquire important information.

**6.3. Cooperation between Finland and Interpol**

Only one case concerning a request for the exchange of information between Interpol Bureaux has been reported by Finnish authorities.

**6.4. Cooperation with the private sector**

*6.4.1. The involvement of the private sector/ Public Private Partnership (PPP)*

So far the private sector has not been actively involved in prevention, with only two exceptions:

1) a voluntary action by a private association to raise awareness on the part of waste transportation operators. The action concerned instruction. It fulfilled an objective in the Action Plan of the National Strategy of Environmental Crime Prevention.

2) a mutual Memorandum of Understanding (MOU) between customs and several players of private sector has been signed.

*6.4.2. Liability in case of non-compliance with an obligation to pass on information to competent authorities*

Under the Police Act, Chapter 4 section 3, the police are entitled to obtain information. At the request of a police commander, the police have the right to obtain any information necessary to prevent or investigate an offence, notwithstanding business, banking or insurance secrecy binding on members, auditors, managing directors, board members and employees of an organisation. If an important public or private interest so requires, the police have the same right to obtain information needed in a police investigation referred to in Chapter 6.

If an entity refuses to give such information, the Criminal Code provision on obstruction of a public official (16.3) could apply..

Everyone has the obligation to report a serious offence, and failure to do so is an offence under CC Chapter 15, section 10. The offences listed in the Section include aggravated endangerment of health, offences involving nuclear devices and aggravated damage to the environment. The possible punishment for such failure is a fine or imprisonment for at most six months.

*6.4.3. Experience of cooperation with the private sector*

Finnish customs has signed voluntary and mutual Memoranda of Understanding (MOU) with several players in the private sector. The objective of the MOU agreement is to enhance further cooperation between Finnish customs and the private sector especially in order to prevent, detect and solve customs offences.

Customs/business cooperation initiated by the World Customs Organization (WCO) is an important element of the EU's fight against organized crime. In Finland, MOU agreements have been signed since 1994. For example, under the umbrella of those agreements there has been cooperation between Finnish customs and certain shipping companies to increase awareness of the illegal transportation of used batteries and thus try to prevent those crimes.

## 6.5. Conclusions

- Finland has over the last ten years played an active role in different networks such as Envicrimenet, Interpol's Pollution Crime Network, IMPEL and it has good co-operation with ENPE and EUFJE.
- Prosecutors maintain also informal contact with Eurojust.
- Due to the above, the level of international cooperation seems to be good.
- On the other hand, the cases that so far have involved international cooperation are very few, therefore it is not possible to assess the level of cooperation at operational level.
- Mutual Memoranda of Understanding with several players in the private sector have been signed by Customs, representing an important step in the involvement of private sector.
- The MoUs are the only way of involving the private sector. In the evaluators' opinion, greater participation of the private sector should be encouraged.
- As the knowledge bases of the networks might remain inadequate and insufficient, regional networks should incorporate a dialogue with representatives of the private sector and third sector as a permanent part of the networks. Taking associations and other private sector players into account is essential in order to collecting tacit knowledge and information and to chart and prevent risks.

## 7. ILLEGAL TRAFFICKING OF WASTE

### 7.1. National structure

#### 7.1.1. Authorities involved in preventing and fighting illegal shipment of waste

The authorities involved in preventing and fighting illegal shipment of waste are the ones mentioned under paragraph 4.1, 4.2 and 4.3.

Finnish customs is carrying out inspections on the basis of risk analysis. There are several risk criteria for shipments involving environmental goods.

#### 7.1.2. Detection of illegal shipment of waste

In Finland the illegal shipment of waste is usually detected on the basis of surveillance.

Most cases investigated by customs have been detected in the course of the latter's normal surveillance work. Joint control operations by customs and the Finnish Environment Institute (SYKE) have sometimes contributed to the detection of an illegal shipment.

It has to be underlined that while generally in their own detection work the police do prioritise areas of activity that do not have a separate control authority, they do not especially target resources in detection in the environmental field because there is a specific and separate control authority system. However, the police perform their own risk assessment and analysis in relation to companies doing business in this field.

*7.1.3. Specificity of illegal shipment of waste*

In many investigations involving damage to the environment, a common factor is that the exporters are rather poor individuals whose financial situation means they cannot afford the high costs of renting containers and purchasing goods. Exporters usually state when questioned that the owner of the container is somebody else or that his/her name and identity has been misused. This raises the suspicion that the illegal exports are organized from somewhere else while the persons declared as exporters are only front men. However, any evidence to support this suspicion has not yet been obtained and as a consequence no case has been filed.

*7.1.4. Measure on shipment of wastes*

The shipment of waste has to be either authorized by the competent authority or, in case of green waste, be accompanied by an Annex VII document in accordance with the EU Waste Shipment Regulation 1013/2006.

More specifically, the waste shipments are subject to the prior written notification and consent procedure and are followed up until the final processing has been reported to the Finnish Environment Institute (SYKE). The shipments of so -called green- listed waste are inspected during waste shipment inspections arranged jointly by Customs and SYKE at harbours and border crossings and during inspections by local environmental authorities at the facilities. The focus is also on informing the actors of the current legislation.

Finnish customs is carrying out inspections on the basis of risk analysis. Several risk criteria exist regarding shipments of goods.

## 7.2. Inspections

### 7.2.1. Methodology of inspections and follow-up

Finnish customs performs X-ray scanning of vehicles. However, in most cases the vehicle or container has to be unloaded for a thorough inspection.

If there is a reason to suspect a customs crime, Finnish Custom carries out the preliminary investigation. In this phase customs often needs an expert's opinion from SYKE. Therefore the above- mentioned authorities cooperate closely during the inspection and the preliminary investigation.

Confiscation measures are also applied by Finnish customs during the preliminary investigation.

### 7.2.2. Specific inspections with regard to waste electrical and electronic equipment (WEEE) and end-of-life vehicles (ELV)

In addition to normal customs control activities, special control periods are arranged several times a year. The competent authority also takes part in these and offers its expertise to help customs. The focus has often been on WEEE.

Finnish customs carries out the pre-arrival risk analysis on WEEE as well as post- operational analysis on shipments of WEEE. If any deviation occurs, customs will take appropriate action, carry out inspections and/or possible preliminary investigations.

In 2017 SYKE and customs arranged two special inspection periods focusing on exports of ELVs and used spare vehicle parts (May/June and October). Exports of ELVs and spare vehicle parts to Africa and the Baltic countries was chosen as one of the main suspected illegal waste streams in the inspection plan (WSR Article 50) for the years 2017 – 2019.

ELV were also the focus during the above mentioned special control periods.

7.2.3. *First inspection plan*

The first inspection plan was adopted on the 29.12.2016

The link to the inspection plan for 2017-2019 is: [http://www.ymparisto.fi/fi-FI/Asiointi\\_luvat\\_ja\\_ymparistovaikutusten\\_arviointi/Luvat\\_ilmoitukset\\_ja\\_rekisterointi/Jatteiden\\_kansainvaliset\\_siirrot/Jatesiirtojen\\_valvonta\\_ja\\_tarkastukset](http://www.ymparisto.fi/fi-FI/Asiointi_luvat_ja_ymparistovaikutusten_arviointi/Luvat_ilmoitukset_ja_rekisterointi/Jatteiden_kansainvaliset_siirrot/Jatesiirtojen_valvonta_ja_tarkastukset).

7.2.4. *Challenges with regard to the taking back of illegal waste shipments*

The take-back of illegal shipments is managed in accordance with WSR Article 24. In most cases a simplified notification procedure is used as agreed between the authorities.

Finland might be a transit country for illegal shipments from Norway or Sweden, exports of lead acid batteries being one example. In general, the cooperation with Norwegian and Swedish authorities works well. If an illegal waste shipment is stopped in Central Europe it is sometimes a challenge to get the exporter to cooperate concerning the take-back. The arrangements might take time and storing costs may rise.

If any shipment has left without being declared, Finnish customs sends a Risk Information Form (RIF-message) to the countries in question. In most cases international cooperation has worked well and the Finnish authorities have been able to ensure the return of illegal waste shipments. The costs of inspections are lower in Finland than in other countries and therefore taking back the shipments is usually easy to recommend. The biggest challenge is between the client and the forwarding agent in trying reach agreement on the return costs. International cooperation is not a challenge in itself.

### 7.3. Conclusions

- In Finland the illegal shipment of waste is usually detected in the course of customs surveillance. Good cooperation between customs and the Finnish Environment Institute (SYKE) through joint monitoring has sometimes contributed to the detection of an illegal shipment.
- It is often suspected that exporters are only front men and that the illegal exports are organized from elsewhere. However, any evidence to support this suspicion has not yet been obtained. In the evaluator's opinion, special methods of investigation should be used in order to obtain the relevant evidence to identify the organizers.
- Usually the crimes are detected on the basis of surveillance. In the expert's opinion, a more proactive attitude (e.g. through the use of intelligence sources, data analysis) would make it possible to detect and investigate more crimes and also to acquire more evidence.
- In addition to normal customs control activities, special control periods are arranged focusing on WEEE and ELV.

DECLASSIFIED



## 8. MANAGEMENT OF HAZARDOUS WASTE

### 8.1. The classification of hazardous waste and the challenges in terms of establishing the gravity of offence

Many crimes detected in Finland come within the scope of Article 3(b) of Directive 2008/99/EC (Environmental Crime Directive) even if it is difficult to report the exact number of cases. It is known that in customs investigations registered since the beginning of 2016, approximately half of the cases included hazardous wastes (half of a car items, lead accumulators).

Many of the offences related to hazardous waste are committed through misclassification. Specifically, goods are not declared as waste at all or hazardous waste is declared as non-hazardous/green waste. Under the Waste Act (646/2011), hazardous waste must be packaged and labelled. The necessary information must be provided, if requested, at all stages of waste management, so as to facilitate monitoring of shipments of waste from the place of origin to the recovery or disposal site, as well as monitoring of the properties of the waste (these provisions do not apply to private households). Further provisions on the packaging and labelling of hazardous waste, and information to be provided on such waste, may be given by government decree.

Supervisory authorities control the implementation of the legislation.

Establishing the gravity of the offence can be a considerable challenge because the waste consignments have often been transported away from Finnish territory before detailed examinations are carried out. This makes it impossible to determine the hazards they pose to biodiversity, environment and health.

## **8.2. The system of inspections and authorities involved**

In Finland, customs is responsible for enforcing the rules on shipments of waste. Documentation is checked for every import or export of waste. Physical inspections are made if deemed necessary. In addition, specific control periods are arranged several times a year.

## **8.3. Measures for the protection of the environment and human health in the treatment of hazardous waste**

The Environmental Protection Act (547/2014) and the Waste Act (646/2011) set requirements to ensure that the production, collection and transportation of hazardous waste, as well as its storage and treatment, are carried out in conditions providing protection for the environment and human health. These Acts transpose the EU legislation regarding industrial emissions (IED, 2010/75/EU) and wastes (2008/98/EC). An environmental permit from a competent authority (governmental or municipal) is usually required. Governmental or municipal authorities supervise these actions.

## **8.4. Trends in illegal hazardous waste management**

The main trend in cases investigated by customs is that consignments, including both hazardous and non-hazardous wastes, are exported from or transited through Finland with the help of a forwarding agency without the necessary declarations being submitted to the competent enforcement authorities.

## 8.5. Conclusions

- Many of the offences detected in Finland in relation to hazardous waste are committed through misclassification.
- Establishing the gravity of the offence can be a considerable challenge because the waste consignments have often been transported away from Finnish territory detailed examinations are carried out. This makes it impossible to determine the hazards they pose to biodiversity, environment and health..
- In the expert's opinion, a more proactive attitude (e.g. through the use of intelligence sources, data analysis) would make it possible to detect and investigate more crimes and also to acquire more evidence.

DECLASSIFIED

## 9. ILLEGAL PRODUCTION OR HANDLING OF DANGEROUS MATERIALS

### 9.1. The concept of dangerous materials

There is no definition of dangerous material in Finnish law. When it is not clear whether a given substance should be considered as dangerous material or not, EU legislation applies.

The prohibitions and restrictions of acts related to the production or handling of dangerous materials are included in substantive environmental law (national laws & EU regulations). The Criminal Code prohibits inter alia the introduction, emission or disposal of an object, a substance or radiation into the environment (in Finnish: "saattaa, päästää tai jättää ympäristöön esineen, ainetta, säteilyä tai muuta sellaista") in violation of substantive environmental law. In addition, it is punishable, for instance, to produce, convey, transport, use, handle or store a substance, preparation, mixture, product or object or to operate a device in violation of certain EU regulations (in Finnish: "valmistaa, luovuttaa, kuljettaa, käyttää, käsittelee tai säilyttää ainetta, valmistetta, seosta, tuotetta tai esinettä taikka käyttää laitetta").

### 9.2. Types of illegal activities related to illegal production and handling of dangerous materials and current trends in that field

Every year customs investigates a number of offences related to the transportation of dangerous goods. For instance, in 2016 customs uncovered a case in which a vehicle carrying over 20,000 gross kg of inflammable ADR goods arrived by ship in Finland. The goods were not declared as ADR goods and the driver had no ADR licence.

In connection with environmental crimes, traffic offences involving dangerous goods have often also been registered (inadequate accessories of the vehicle and/or irregularities in the packing of the goods).

In recent years, there have been several cases involving exports of scrap accumulators to Estonia and other Baltic countries.

Customs plays a significant role as it is the enforcement authority for the transportation of radioactive substances and dangerous goods. Transportation of actual nuclear materials has not been observed so far.

Specific provisions related to criminal activities involving dangerous materials are laid down in the Criminal Code of Finland: Chapter 48 (environmental offences) Sections 1-4 ( environmental damage, aggravated environmental damage, environmental offence, environmental damage due to negligence) and section 9 (corporate criminal liability), Chapter 44 (offences endangering health and safety) Sections 10, 11 and 12 (offences involving nuclear energy use, explosives, careless handling), Chapter 34 (endangerment) Section 6 (nuclear device offence). See <http://www.finlex.fi/fi/laki/kaannokset/1889/en18890039.pdf>.

Provisions on dangerous materials are also included in several acts referred to in the aforementioned criminal code provisions.

### **9.3. Procedural aspects**

#### *9.3.1. The means of collecting evidence and of handling dangerous materials*

The collection of evidence, especially in regard to different types of waste crime, is carried out in co-operation with relevant authorities. Several examples of photographic and chemical evidence were discussed during the on-site visit. For example, in the case of the dumping of demolition, waste police have also received assistance from the Border Guard (aerial filming and documentation) and the Finnish Defence Force (ground radar evidence, etc). Evidence-gathering techniques vary. For example, evidence can be obtained by specialist statements from SYKE officials. The statements are based on the inspection of the shipment carried out by SYKE, where customs is also present. The statement has to include the basis on which the shipment is classified as waste, the requirements for importing/exporting, and the reasons why the shipment is classified as illegal. For example, waste batteries need to be weighed, and other waste generally needs to be specified (eg. how many refrigerators, cars etc., were in the shipment).

After the customs inspections, Finnish customs draws up the Customs control report which also includes photographs where relevant. The customs controls are conducted by at least two customs officers for reasons of legal protection.

The precise nature of dangerous substances has been established in some cases on the basis of the packaging markings or with the assistance of the manufacturer / the customs laboratory.

The environmental protection authorities have primary responsibility for the proper handling of dangerous materials seized.

In the case of cross-border shipments, dangerous substances and materials are confiscated mainly by customs but in the context of domestic environmental crimes, dangerous materials and subjects have often been part of the police's case investigation.

The seized scrap accumulators are transferred in special transports by Ekokem from the port to the customs storage for confiscated goods. Later on, the goods are transported to Ekokem to be destroyed. The costs incurred might be claimed from the suspected person, or the State bears the costs. Depending on the type of goods, the danger they pose is analysed either by the Finnish Environment Institute (SYKE) or by the customs laboratory.

Details of cases investigated are entered in the police data system.

There is not much active sharing of information between investigators and the EU and/or international bodies at the moment.

### *9.3.2. Cooperation with European and international partners*

No specific experience has been reported as regard cooperation with European and international partners

*9.3.3. Investigative techniques*

In the Finnish system, environmental crimes are normally investigated by financial crime investigators, and so usually financial techniques are used. Cyber investigations, on the other hand, are not generally used.

*9.3.4. Main obstacles to successful investigation and prosecution*

The obstacles to the investigation and prosecution of cases involving dangerous material are in general the same as those in relation to the investigation of generic waste crime.

Environmental crimes are quite often very complicated crimes to investigate. Such investigation also requires time and resources, often both limited. The number of experienced environmental crime investigators is also very limited and therefore expertise in this field should be widened in the near future. There are also a number of challenges concerning the storage of the goods as the volume of goods, together with their long-term storage, can be very costly for the state.

Regarding prosecution, there is no specific problem specifically relating to these offences but the problems are generally those relating to the complexity of the legislation and the lack of specialization in the general field of environmental crimes.

*9.3.5. Training*

Training courses are organized as already reported under paragraph 4.4.

#### 9.4. Conclusions

- Specific provisions related to criminal activities involving dangerous materials are laid down in the Criminal Code of Finland and in several Acts.
- Finnish legislation does not provide for any definition of dangerous material. However, this is not considered to be a problem as, where there is uncertainty, the EU legislation applies.
- These crimes are mainly investigated by customs in the case of cross-border shipments and by the police in the context of domestic environmental crimes.
- The environmental protection authorities have primary responsibility for the proper handling of dangerous materials seized
- No transportation of actual nuclear materials have been observed so far.
- Several cases that have been investigated were connected with exports of scrap accumulators to Estonia and other Baltic countries.
- There is not much active sharing of information between investigators and the EU and/or international bodies at the moment.
- The obstacles to investigation and prosecution of cases involving dangerous material are in general those relating to the investigation of waste crime.
- No specific problem related to these offences has been detected, but the same problems generally related to the complexity of the legislation and lack of specialization have been reported by the Finnish authorities.
- In the evaluators' opinion, there is therefore a need for greater specialization on the part of all the operators dealing with the matter.
- Problems related to the storage of the goods have been detected as the volume of goods together with their long-term storage can be very costly for the state. Therefore, Finland should work on solutions to resolve the issue of high costs resulting from the storage, e.g. disposal of goods before the end of the criminal proceedings by the seized goods.



## 10. FINAL REMARKS AND RECOMMENDATIONS

### 10.1. Suggestion from Finland

None.

### 10.2. Recommendations

As regards the practical implementation and operation of the Directives and the Regulation, the expert team involved in the evaluation of Finland was able to satisfactorily review the system in Finland.

Finland should conduct a follow-up on the recommendations given in this report 18 months after the evaluation and report on the progress to the Working Party concerned.

The evaluation team thought it fit to make a number of suggestions for the attention of the Finnish authorities. Furthermore, based on the various good practices, related recommendations to the EU, its institutions and agencies, Europol in particular, are also put forward.

#### *10.2.1. Recommendations to Finland*

- Clear rules should be established on how to distinguish between administrative offences, minor violations and major crimes.
- There should be legal arrangements to ensure that local and regional authorities are obliged to report minor offences to the police or introduce administrative penalties.
- Finland should be encouraged to provide for penalties in the case of administrative offences .

- The specialization of all operators dealing with environmental matters should be enhanced, not only through the daily work but also through joint training courses.
  - Specialized units should be set up inside the economic crime units or, at least, a focal point with proven expertise should be identified.
  - LEAs should be encouraged to adopt a more proactive attitude (e.g. through the use of intelligence sources, data analysis) to detect and investigate more crimes and also to acquire more evidence.
  - The use of special methods of investigation should be encouraged in order to obtain the relevant evidence to identify the organizers.
  - The number of cases investigated and prosecuted should be increased through a more proactive attitude and more secure evidence so to increase also the number of convictions .
  - Retention and analysis of samples in a secure, objective and certified laboratory, possibly managed by the law enforcement authorities, should be encouraged.
  - Cooperation between LEAs and SYKE should be improved in order to guarantee the processing of all relevant information for criminal proceedings.
  - Budget funds especially allocated to fighting these crimes should be increased and distributed equally among the institutions involved in the prevention, detection and prosecution of waste/environmental crime.
  - The proceeds of these crimes could be used to the fight against environmental crime .
- Work should focus on solutions to resolve the issue of high storage costs . Goods could be disposed of before criminal proceedings are concluded by cashing them in and evidence could in any case be obtained by appointing an expert to describe the goods before their disposal.
- Should improve cooperation with third countries.

- Finnish authorities tackling environmental crimes, mainly the Ministry of the Environment, should regularly organize public information campaigns in order to encourage people to abide by the law and explain what is allowed and what is not. Environmental authorities should play a key role in raising general awareness of the damage and the harm caused to the environment by environmental permit violations and they should also actively inform the public of cases detected and damage caused.
- The participation of the private sector should be increased.
- A method to collect systematic, reliable and updated statistics comprising the number of notifications, investigations, prosecutions and convictions should be devised.

*10.2.2. Recommendations to the European Union, its institutions, and to other Member States*

In order to expedite the procedure, Member States should be encouraged to enter all relevant data (email, phone number of the person making the request etc.) in the letters rogatory.

*10.2.3. Recommendations to Eurojust/Europol/Commission*

None.

A. ANNEX A: PROGRAMME FOR THE ON-SITE VISIT

EVALUATION VISIT PROGRAMME

7 - 10 November 2017

Monday, 6 November 2017

Arrival of GENVAL experts, Helsinki - Vantaa airport

Tuesday, 7 November 2017

*National Bureau of Investigation, Jokiniemenkuja 4, Vantaa.*

9.00. **Ms Hannele Taavila will meet evaluators at the hotel's reception.**

**Transportation to the National Bureau of Investigation**

9.30. **Welcoming of the Evaluation Team**

9.45. **General matters**

**National structures**

11.00. **Coffee break**

11.15. **Law enforcement authorities - investigation of environmental crime**

12.30. **Lunch**

- 13.30. **Environmental crime investigation team**
- 14.30. **Cooperation between police - customs - border guard**

**Discussion**

**End of the meeting**

**Transfer to hotel**

**Wednesday, 8 November 2017**

*Ministry of the Environment, Aleksanterinkatu 7, Helsinki*

- 9.30. **National strategy for preventing environmental crimes**
- 10.30. **Coffee break**
- 10.45. **Continue (National strategy)**
- 11.30. **Lunch**

*Customs, Opastinsilta 12, Helsinki*

- 13.30. **Customs role in the fight against environmental crime  
Enforcement and investigation of environmental crime  
EMPACT Environmental Crime**
- 14.30. **Coffee break**
- 14.45. **Continue ( role of customs, etc.)**
- 16.00. **End of the meeting**

**Thursday, 9 November 2017**

*Ministry of Justice, Eteläesplanadi 10, Helsinki*

- 9.30.           **Criminal legislation**
- 10.30.           **Coffee break**
- 10.45.           **Judiciary (prosecution and court)**
- 12.00.           **Lunch**
- 13.30.           **Practical challenges in prosecuting environmental offences**  
**Jurisdiction- related issues**
- 16.00.           **End of the meeting.**

**Friday, 10 November 2017**

*Ministry of the Interior, Kirkkokatu 12, Helsinki*

*Room: Ritari*

- 9.00.           **Wrap-up session**
- 12.00.           **End of the meeting**

**Genval evaluation 7. - 10. November 2017**

**B. ANNEX B: PERSONS INTERVIEWED/MET****Wednesday, 8 November at the National Bureau of Investigation**

Hannele Taavila	Senior Ministerial Adviser, Ministry of the Interior
Jenni Juslén,	Chief Superintendent, National Police Board
Janne Järvinen,	Senior Detective Superintendent, National Bureau of Investigation
Niina Viitala,	Forensic Chemist, National Bureau of Investigation
Juha Koivisto	Detective Chief Inspector, Itä-Uusimaa Police Department
Christian Blomqvist,	Detective Sergeant, Itä-Uusimaa Police Department
Juho Vanhatalo,	Head of Crime Prevention Unit, Gulf of Finland Coast Guard District
Jarmo Orola,	Head of enforcement, Analysis and Intelligence Unit, Customs
Teemu Koskela,	Senior Customs Officer, Analysis and Intelligence Unit, Customs
Heli Lampela,	Senior Customs Officer, Customs Enforcement, Customs
Juha Havumäki,	Senior Customs Officer, Economic Crime Investigation, Customs
Arnaldo Squillante,	Senior Customs Officer, Economic Crime Investigation, Customs

**Thursday, 9 November in the morning at the Ministry of Justice**

Mika Junninen,	Senior Planning Officer, Ministry of Justice
Lauri Rautio,	Senior Specialist Lauri Rautio, Ministry of Justice
Ville Hinkkanen,	Senior Adviser, Legislative Affairs, Ministry of Justice
Tuuli Eerolainen,	State Prosecutor, Office of the Prosecutor -General
Tommi Hietanen,	District Prosecutor, Helsinki
Petteri Plosila,	Judge, Helsinki district court

**Thursday afternoon, 9 November at the Ministry of the Environment**

Tia Laine-Ylijoki-Laakso, Senior Officer for Legal Affairs, Ministry of the Environment

Hannele Nikander, Senior Adviser, Finnish Environment Institute

**Wrap-up session on Friday 19 November at the Ministry of the Interior**

Hannele Taavila, Senior Ministerial Adviser, Ministry of the Interior

Janne Järvinen, Senior Detective Superintendent, National Bureau of Investigation

Teemu Koskela, Senior Customs Officer, Analysis and Intelligence Unit, Customs

Ville Hinkkanen, Senior Adviser, Legislative Affairs

DECLASSIFIED



C. ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	FINLAND OR ACRONYM IN ORIGINAL LANGUAGE	FINLAND OR ACRONYM IN ORIGINAL LANGUAGE	ENGLISH
(NBI)			National Bureau of Investigation
SUPO			Finnish Security Intelligence Service
SYKE)			Finnish Environment Institute
ELY Centres			Centres for Economic Development, Transport and the Environment
PCB			Police, customs, border guard
(WEEE)			waste electrical and electronic equipment
- LEAs			Law enforcement agencies
CEPOL			European Union Agency for Law Enforcement Training
NGOs			Non-governmental organizations
ELV			End -of -life vehicles
ICPO			International Criminal Police Organization
JITs			Joint investigation teams
SOCTA			Serious and Organised Crime Threat Assessment

**RESTREINT UE/EU RESTRICTED**

<b>LIST OF ACRONYMS, ABBREVIATIONS AND TERMS</b>	<b>FINLAND OR ACRONYM IN ORIGINAL LANGUAGE</b>	<b>FINLAND OR ACRONYM IN ORIGINAL LANGUAGE</b>	<b>ENGLISH</b>
IMPEL			European Union Network for the Implementation and Enforcement of Environmental Law
ENPE			<a href="#">European Network of Prosecutors for the Environment</a>
EUFJF			
(PPP)			Public- Private Partnership
(MOU)			Memorandum of Understanding
(WCO			World Customs Organization
EPA			Environmental Protection agency

DECLASSIFIED