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- Report on Slovakia

**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 SLOVAKIA

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1. EXECUTIVE SUMMARY

The visit was very well organised by the Slovak authorities and included meetings with the relevant bodies with responsibilities in the field of preventing and combating environmental crime as well as in the implementation and operation of European policies (e.g. the Supreme Court, the Ministry of Agriculture and Rural Development, the Public Health Authority, the Ministry of Justice, the Ministry of Environment, the Slovak Environmental Inspectorate, the Slovak Environment Agency, the General Prosecutor's Office, the Ministry of Interior and the Presidium of the Police Force).

During the on-site visit, the Slovak authorities did their utmost to provide the evaluation team with information and clarifications on legal and operational aspects of preventing and combating environmental crime, cross-border cooperation and cooperation with EU agencies. The Slovak authorities' open and transparent approach ensured that the on-site visit was efficient and provided the evaluators with all the necessary materials to assess the legal and operational aspects of the Slovak system.

The Slovak Republic has not developed any strategic documents against environmental crime at central level, although the creation of such document is considered reasonable by the Slovak authorities. Instead, a number of sectoral documents on the handling of environmental crime and violations have been put in place. Nevertheless, Slovak efforts to set up a strategic management of the prevention of and the fight against environmental crime are clearly visible in the form of concrete measures, such as the setting-up of specialised prosecutors and police forces (at national and regional level), the training of these officials and the monitoring and evaluation of criminal activity by the General Prosecutor's Office. However, in the evaluators' view, Slovakia should continue developing and finalising its strategy documentation dedicated to combating environmental crime.

Prosecutors specialised in environmental crime are present at all levels of the Prosecution Service. This is the result not only of the formal appointment of prosecutors at central, regional and local level but also of the annual monitoring of prosecutorial activity in this area conducted by the General Prosecutor's Office. Unlike prosecutors, judges are not specialised. They deal with a variety of cases depending on what they happen to be given. Although the Judicial Academy of the Slovak Republic offers specific training on the EU environment crime acquis that is also open to judges, it seems that these training opportunities are not frequently used by them.

At central level, the Police Force has set up the Department for the Detection of Dangerous Substances and Environmental Crime of the Criminal Police Bureau, which is specialised in investigating environmental crime. It comprises 13 police officers, including four investigators and nine intelligence police officers. At local level, two police officers are appointed within each directorate and at regional level (eight regional police directorates). This formal appointment does not mean that the officers deal exclusively with environmental crime cases, as they also fulfil duties in other areas. Therefore, specialisation within the police forces – in particular at district and regional levels – is needed to handle environmental crime cases, specifically at local level. Clearly, the small number of such cases means that the work of the appointed individuals cannot be restricted to environmental crime alone.

In addition, since there is a distinct shortage of investigators at both central and local levels, police officers lack information and training. In the evaluators' view, environmental crime appears to be only one of the many priorities of the Presidium of the Police Force. The situation is complex, as local police operate on the ground. If local officers lack awareness and motivation, much of the information received may be disregarded and may not be forwarded to the specialised investigators. Therefore, in the evaluators' view, there is a clear need to specialise police officers at regional and local levels. Apart from formal appointments at local level, training for police staff is needed. Specialised investigators should also take into account financial and economic aspects of environmental crimes (e.g. fraud, money laundering and tax evasion) and the recovery and seizure of assets, in particular in serious environmental crime cases.

In the administrative field, the Ministry of Environment and the Slovak Environmental Inspectorate play a key role in combating waste crime and violations. The Ministry of Environment is the central state administrative authority for waste management. The Slovak Environmental Inspectorate carries out checks and inspections in the environmental field, but also carries out other more administrative tasks. These two governmental bodies are vested with the power to impose administrative sanctions in the event of violations but do not play a role in criminal proceedings.

There is no formal structure for permanent coordination of the efforts made by all stakeholders involved in the fight against environmental crime and violations in Slovakia. Where the need arises to combine the efforts of relevant stakeholders (administrative inspectors, police and prosecutors), *ad hoc* coordination is set up in individual cases with certain governing rules not applying. In the evaluators' view, a more formal, permanent coordination structure could improve cooperation and allow for a more coordinated decision-making process, in particular in large cases or those affecting people's health.

Very few statistics have been provided (apart from statistics related to criminal and non criminal part provided by the General Prosecutor's Office), and the figures available do not allow for an in-depth analysis of the field of environmental crime. There is an absence of coherent, comprehensive statistics covering the entire flow of cases from the administrative authorities, the police, the Prosecutor's Offices and the courts. The lack of coherent statistics threatens to undermine the overall assessment of the work carried out by all actors and could also make the Government's decision-making process difficult in the field of environmental crime. Therefore, in the evaluators' view, Slovakia should work on compiling comprehensive, coherent statistics on waste crime and hazardous materials.

Slovakia has introduced a complex system of substantive criminal law provisions that appears to have established a suitable legal basis for efficiently investigating and prosecuting waste crime. Slovak legislation has a unique definition for the term 'damage', which takes into account both ecological damage and damage to assets defined as the cost of restoring the environment and removing the waste from the site in addition to the price at which the waste is typically processed (Section 124, para. 3 of the Criminal Code (CC)). Through application of these aspects, the system of gradually increasing sanctions is based on suitable criteria for assessing the seriousness of environmental crime. However, the highly formalised criminal procedure appears to create problems with regard to court evidence. At local, regional and national levels, environmental offences are often considered as minor and to have a lesser impact on human life and health and the environment.

In addition, the practitioners met stressed that the criminal procedure is not subject to facilitating amendments. Therefore, an effective way of dealing with these problems appears to be educating and training police officers (and prosecutors) and administrative inspectors on procedural requirements in the field of environmental crime (e.g. interrogation at different stages of the administrative/criminal procedure, sampling evidence appropriately). With regard to searches, inspections and investigations, there are clearly two parallel structures: the police structure and the administrative structure (i.e. the Slovak Environmental Inspectorate). When an infringement case is considered to constitute a 'criminal file', most of evidence collected by the Inspectorate loses its value, as it is not recognised as evidence before the courts. The police department that takes over the file is required to take new samples, carry out new analyses, etc.

There is modest cooperation with the private sector and NGOs with a view to enhancing prevention and raising awareness among citizens and private companies. In the evaluators' view, this aspect of cooperation merits further development.

The Ministry of Agriculture and Rural Development has developed a dynamic, competent department for plant protection products. The department appears to have developed a coherent strategy for plant protection products (PPPs) and, more specifically, for investigating illegal PPPs and detecting PPPs using residues from the degradation of active molecules. The misuse or illegal use of PPPs can have significant irreparable consequences for the environment, including the soil, surface water, groundwater and waste, etc. Therefore, in the evaluators' view, a good PPPs strategy is essential. Slovakia appears to have developed a coherent strategy on combating the use of illegal pesticides, including research into pesticide residues.

Slovakia plays an active role in various international fora such as IMPEL and ENPE, and is involved as a 'co-driver' for the 'Environmental crime' priority of the EMPACT project under the framework of the 2018–2021 EU Policy Cycle. Furthermore, efforts during the Slovak Presidency of the Council of the EU in 2016 resulted in encouraging experts from the respective Member States to place the emphasis on environmental crime through EnviCrimeNet. Slovakia actively cooperates with neighbouring countries in the fight against illegal shipments of waste; in particular, cooperation with the Czech Republic appears to be exemplary. Similar cooperation has been developed with Ukraine to a lesser extent, in particular in the area of hazardous waste.

Taking all factors into account, in Slovakia the evaluation team found many examples of best practices to be shared with the other Member States. Legislation appears to be strict as it is intended to play a preventive role and protect the country from environmental crime. Giving priority to combating environmental crime and violations by any governmental body – not only the Prosecution Service or the Slovak Environmental Inspectorate – could result in a more efficient outcome. More specialisation, in particular within the Police, as well as more structured cooperation and coordination involving all relevant actors involved in environmental protection, could also facilitate this process. The overall opinion of the evaluators is positive on account of the dedication of staff to protecting the environment from environment-related crime and the active role played at European and international levels. The evaluators appreciate how the capacity of the Slovak system dedicated to the fight against environmental crime has been built up, and encourages the Slovak authorities to continue in this vein.

2. INTRODUCTION

Following the adoption of Joint Action 97/827/JHA of 5 December 1997¹, 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 14 December 2016 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 environmental crime, it was agreed that the evaluation would focus on those offences which Member States felt warranted particular attention.

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

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives² (date of transposition: 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 law³ (date of transposition: 26 December 2010) and Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste⁴ (date of entry into force: 12 July 2007) are particularly relevant in this context.

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

² OJ L 312, 22.11.2008, p. 3.

³ OJ L 328, 6.12.2008, p. 31.

⁴ OJ L 190, 12.7.2006, p. 1.

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

Furthermore, Directive 2008/98/EC requires that Member States draw up waste management plans and waste prevention programmes, the latter by 12 December 2013. The objective of these programmes is to present a coordinated national approach to waste prevention, defining targets and policies, and aiming to decouple economic growth from the environmental impact of waste generation.

Experience from past evaluations shows that Member States will be in different positions as regards the implementation of the relevant legal instruments and programmes, and the current evaluation process could provide useful input for Member States, including those which may not have sufficiently implemented all aspects of the various instruments.

Moreover, the Council Conclusions on Countering Environmental Crime of 8 December 2016⁵ 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 enhanced dialogue and cooperation with relevant international organisations. The Council Conclusions of 18 May 2017⁶ on setting the EU's priorities for the fight against organised and serious international crime between 2018 and 2021 also identified the fight against environmental crime as one of the EU's priorities.

⁵ 15412/16 ENFOPOL 484 ENV 791 ENFOCUSTOM 235.

⁶ 9450/17 COSI 107 ENFOPOL 247 CRIMORG 107 ENFOCUSTOM 133.

Taking all the above elements into consideration, the evaluation aims to be broad and interdisciplinary, focusing not only on the implementation of various instruments relating to fighting environmental crime, but mainly on the related operational aspects in the Member States. It will therefore encompass cooperation between environmental, police, customs and judicial authorities at national level, as well as between Europol, Interpol and Eurojust. The evaluation will also cover operational practices in the Member States with regard to waste treatment operations and establishments and undertakings which collect and transport waste.

The order of visits to the Member States was adopted by GENVAL on 5 May 2017. Slovakia was the eighth Member State to be evaluated during this round of evaluations. In accordance with Article 3 of Joint Action 97/827/JHA, a list of experts with substantial practical knowledge in the field who were prepared to participate in the evaluations, nominated by the Member States, was drawn up by the Presidency.

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

The experts charged with undertaking the evaluation of Slovakia were Ms Sylvie Hilgers (Belgium), Mr Christian Tournié (France) and Mr Thomas Böß (Germany). The following observers were also present: Ms Johanna Engstrom (European Commission), Mr Michael Carlin and Mr Sławomir Buczma (both General Secretariat of the Council). Eurojust and Europol were not represented.

This report has been 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 Slovakia between 23 and 26 January 2018, and on Slovakia's detailed replies to the evaluation questionnaire together with its detailed answers to ensuing follow-up questions.

3. GENERAL MATTERS AND STRUCTURES

3.1. Action Plan or similar strategic documents against environmental crime

No strategic and comprehensive documents against environmental crime have been adopted at national level. However, a number of sectoral documents on environmental crime have been put in place, including:

1. The Instruction of the Prosecutor General of the Slovak Republic of 24 October 2008 on the Establishment of the Specialisation of Prosecutors in Criminal Offences against the Environment

Since 2008 specialists in criminal offences against the environment were appointed at each level of the Prosecution Service. They supervise the lawfulness of pre-trial proceedings (by closely cooperating with specialised police forces, state authorities responsible for a protection of nature and other authorities and institutions dealing with protection of environment and, where necessary, by coordinating their activities), participate in national and international seminars and congresses on criminal law environmental protection, and organise these kinds of activities.

This field of criminal activity, together with other fields, is annually monitored and reported on to the Prosecutor's General Office. On that basis, the Report of the Prosecutor General of the Slovak Republic on the Activities of the Prosecution Service is prepared. The report is submitted by the Prosecutor General to the National Council of the Slovak Republic. Reports are published on the General Prosecution Office's website.

2. 2012 National Action Plan for the Sustainable Use of Pesticides

The National Action Plan was developed by the Ministry of Agriculture and Rural Development of the Slovak Republic in compliance with Directive 2009/128/EC of the European Parliament and of the Council establishing a framework for Community action to achieve the sustainable use of pesticides. It includes measures to moderate risks and means for improvement. It is published on the Ministry of Agriculture and Rural Development's website and is updated every five years. The next update is expected in 2018.

3.2. National programmes/projects with regard to waste crime

Programme on the prevention of waste generation

On the basis of Article 29 of Directive 2008/98/EC on waste, the Ministry of the Environment established a Programme on the prevention of waste generation. The Programme evaluates the influence of waste on the environment and subsequently prevents its generation. Once adopted by the Government of the Slovak Republic, it is published in the Official Publications of the Ministry of the Environment of the Slovak Republic and on its website.⁷

The Programme is usually adopted for a period of 10 years. However, this period can be extended or shortened. The current one is valid for 2014–2018 and sets out objectives for the prevention of waste generation, including packaging waste, the existing measures to achieve these goals and, if necessary, proposals for new measures to be adopted. The objectives focus on countering the direct link between economic growth and the negative environmental impact of waste generation. Part of the programme involves evaluating of the effectiveness of the existing measures.

Programme on waste management

The Programme on waste management for 2016–2020 was adopted by the Government of the Slovak Republic on 14 October 2015. The Programme is adopted for a stated territorial unit in accordance with the hierarchy of waste management aims, and contains analyses of the current status of waste management in the respective territorial unit, the measures that need to be taken to improve environmentally appropriate preparation for the repeated use, recycling, assessment and disposal of waste, and an evaluation of how the Programme will support the fulfilment of these objectives and the provisions of Act No 79/2015 Collection of Acts, as amended.⁸ The Programme lists the waste specified in the Catalogue of Waste and polychlorinated biphenyls and facilities containing polychlorinated biphenyls. It also regulates the operability of the programme at national, regional and local levels (municipalities) and the programme for holders of polychlorinated biphenyls.

⁷ See: <http://www.minzp.sk/sekcie/temy-oblasti/odpady-obaly/program-predchadzania-vzniku-odpadu/>

⁸ See: <http://www.minzp.sk/sekcie/temy-oblasti/odpady-obaly/poh/poh-sr-2016-2020/>

Each programme contains basic data on the territory to which it applies or basic data on holders of polychlorinated biphenyls, a description of the current status of waste management and an evaluation of the previous programme.

National programmes/projects in the field of capacity-building, professional development, increasing public awareness and international cooperation:

The Government's commitment to the fight against environmental criminal activity was demonstrated by the activities it organised in the second half of 2016, when Slovakia held the Presidency of the Council of the EU. These included informal meetings of the network of environmental crime experts 2-4 November 2016 in Bratislava, and especially the International Conference on Environmental Crime, 'The Need for an Action Plan to Fight Environmental Crime', held on 24-25 November 2016 in Bratislava.

The aim of the conference was to highlight the current unfavourable development of the security situation in the field of environment and to identify essential measures to ensure the effective performance of the law enforcement agencies in EU Member States relating to the fight against environmental criminal activity, primarily those which are the most important for disclosing and investigating environmental criminal activity and punishing offenders. Special emphasis was placed on strengthening the specialisation of LEAs in the fight against environmental crime, developing of cooperation at national level, and supporting international cooperation between the respective authorities. The conclusions of the conference reported that further important activities by its working subgroups focusing on, for example, the illegal management of nuclear materials, cross-border cooperation for better detection of illegal CBRN (chemical, biological, radioactive and nuclear) materials are taking place.

From the Slovak perspective, it is obvious that actively and effectively protecting the environment is becoming increasingly important, with priority parameters in international connections. As an EU Member State, Slovakia feels obliged to respond to these underlying trends more than ever before and to create the legislative, material and personnel conditions required to achieve this. The Prosecutor's General Office operates in the field of law enforcement agencies at the forefront of this effort, and its activity in this field is designed to meet EU requirements systematically and in the long term.

In addition, the Public Health Authority participates in the following projects:

1. Decreasing the risk of illegal handling of sources of ionising radiation and disposal of radioactive waste

In the field of state public health supervision, employees in radiation protection departments highlighted the fact that during checks on workplaces with sealed radioactive sources focus on the immediate elimination of disused sources through authorised organizations. For companies facing bankruptcy procedures, the fact that individuals appointed by the courts as administrators of the estate of the bankrupt party often are in possession of sources that do not feature on the list of administered possession, remains a particular issue.

2. Registering all sources imported to and exported from Slovak territory, preventing the non-controlled movement of radiation sources and decreasing the risk of exposure, and consistently registering and recording radiation sources at the central registry of radiation sources

Natural persons and legal entities may only import and distribute sources of ionising radiation to Slovakia if they are in possession of a permit issued by the Public Health Authority, in compliance with Section 45, para. 2, letter I of the Act on Protection, Support and Development of Public Health No 355/2007 Coll., pursuant to Section 49, para. 1 of the Regulation of the Ministry of Health No 545/2007 Coll. on the Particulars on Securing Radiation Protection. Holders of a permit for importing and distributing radioactive sources in Slovakia are required to report the import and sale of radioactive sources to the competent bodies in Slovakia within one month of the operation.

The relevant natural persons and legal entities may only use the radioactive sources if they are in possession of a permit issued by the respective Slovak regional public health authority, in accordance with Section 45, para. 3 of the Act on Protection, Support and Development of Public Health No 355/2007 Coll. Checks that authorised use is being made of the radioactive source are carried out by the respective actors responsible for radiation protection monitoring.

Foreign entities that supply radioactive sources to individual entities in the Slovak Republic according to the Council Regulation (EURATOM) No 1493/93 on shipments of radioactive substances between Member States are required to notify the competent authority (the Public Health Authority of the Slovak Republic) of the name and address of the customer and the activity of the radioactive substances delivered to the territory of the Slovak Republic on a quarterly basis.

The importers and distributors of radioactive sources reported on the import and sale of sources in Slovakia in 2017 on a monthly basis. The exact physical identification of an individual sealed radioactive source is only possible by means of the production number with which radioactive sources are marked, which can be checked by organisations equipped with special technology. The production number is verified by the authorised organisation through the issuing of sealed source certificates.

There are no producers of sealed radioactive sources in Slovakia. On average, approximately 150 sealed radioactive sources, 40 of which are high-activity sources, are imported to Slovakia annually. However, on average approximately 125 shipments of open radioactive sources are also imported to Slovakia annually. The users are required to hand over any closed radioactive sources not in use to the competent organisation for collection and elimination.

All sealed radioactive sources whose use requires a permit are recorded in the central registry of radiation sources of the Public Health Authority in Bratislava, which is used to keep track of individual operators (Regulation of the Ministry of Health No 545/2007 Coll., which determines the particulars of the requirements for securing radiation protection for activities resulting in irradiation and activities which are important from the point of view of radiation protection). Sources registered in the central registry are removed from the records upon notification by the operator of the termination of their use and submission of a handover certificate by an organisation authorised for collection and elimination in order to prevent elimination by illegal methods. Changes in users of radioactive sources are also recorded. In the case of the detection of sealed radioactive sources of unknown origin, it is possible to check whether the source was registered at the central registry and who the last user was, once the production number has been identified. At the central registry no records are kept of radiation used sources.

3. Carrying out state public health surveillance in scrap metal collection facilities with the aim of identifying non-registered radioactive material.

Employees of the Public Health Authority and regional public health authorities carry out an average of 60 checks per year in scrap metal collection facilities of scrap metal in the Slovak Republic. In connection with the imposition of obligations for the owners of these collection facilities, the procedures and records of training courses for collection facility workers were also checked. Three more comprehensive training courses for management workers were organised by the staff of the Regional Public Health Authority in Banská Bystrica. The officials in charge of the waste collection facilities were also instructed on the potential problems and consequences of a negligent approach to carrying out the obligations laid down in Regulation of the Government of the Slovak Republic No 345/2006 Coll. on basic security requirements for the radiation protection of workers and citizens.

Based on experience from checking activities, training courses for employees of waste collection facilities were held. The training courses were especially important in districts with small waste collection facilities, which are not part of large firms. The training courses were primarily aimed at regular employees of waste collection facilities who handle scrap on daily basis and who may be able to identify hazardous sources of ionising radiation in bought scrap. Examples of employees of waste collection facilities detecting radiation sources based on making discoveries and comparing what they have found with pictures on posters show that this is an effective means of monitoring.

The Department for the Detection of Dangerous Substances and Environmental Crime of the Office of Criminal Police of the Presidium of the Police Force carried out the following projects aimed at promoting international cooperation:

- a) 2007–2008 'Specialised Training for Officers of the Police Force on Detecting and Documenting of the Most Serious Forms of Environmental Crime';
- b) 2010–2013 'All Together against CBRN Terrorist Threats';
- c) 2012–2014 '*Extension of Police Force Information System ACHERON*';
- d) 2015–2017 'SOS Alert Solution – Cross-border Cooperation for Enhanced Detection and Interception of Illicit CBRN Materials at the Slovak-Ukrainian Border';
- e) 2017–2021 'Capacity Reinforcement in the Fight against Illegal Management of CBRN Materials in the Slovak Republic'.

3.3. Statistics

3.3.1. Major trends in the area of waste crime

In 2015, the General Prosecutor's Office noticed a significant decrease in the number of prosecutions for unauthorised waste management pursuant to Article 302 of the Criminal Code. According to the statistics provided by the General Prosecutor's Office, 36 people were prosecuted in 2014, compared to only 22 in 2015. Thirteen people were charged (a decrease of 12) and nine were sentenced (a decrease of 7). In 2016 a total of six people were accused of unauthorised waste management, which in comparison to the total figure of 73 062 crimes is a statistical irrelevance. In comparison to the previous year, 16 fewer prosecutions were made in 2016.

This type of activity is also well represented in Police statistics. Since 2012, there has been a decrease in the number of criminal offences disclosed, with the lowest figure in 2013 (27 cases). An increase to 90 cases was recorded in 2014 and a slight decrease to 76 cases in 2015. In 2016 an increase to 198 cases was registered, which is a rise of more than 200 % in comparison to the previous year. The number of resolved criminal offences was very low during the whole period, with only nine to ten cases per year – except for 2012, when 28 cases were solved. The percentage of criminal activity involving unauthorised waste management in the overall crime rate was very low in the years 2012-2016. However there has been a gradual decrease: in 2013 criminal activity unauthorised waste management accounted for only 0.3 % of the overall crime rate, whereas in 2016 the figure was 0.28 %.

As regards the Military Police, six cases were registered in the area of waste crime, which represents 0.68 % of the overall crime rate recorded by the Military Police in 2013-2017.

3.3.2. Number of registered cases of waste crime

All public authorities administrate their own statistical indices which focus on their specific field of competence. However, the various statistics systems are not interlinked: the courts, the Prosecution Service and the Police each compile their own statistics, as do other entities involved in the handling of environmental or CBRN materials.

The Prosecution Service compiles an annual Statistical Year Book. Statistical data are kept specifically in relation to waste crime, also in addition to other environmental crimes. They are separated from statistics gathered by other authorities, such as the Police⁹.

⁹ Statistics are available on the General Prosecutor's Office web page under 'Statistics': www.genpro.gov.sk

The Prosecution Service carries monitors the non-criminal section of environmental cases (related to the decisions and activities of various authorities). The following table shows the total number of non-criminal environmental cases registered in 2013 - 2017:

	number of cases	number of cases with environmental elements	%	Protest	Accepted	%	caution	accepted	%	reviews
2017	13 441	1 687	12.55%	221	174	78.73%	387	358	92.51%	525
2016	13 197	853	6.46%	72	69	95.83%	227	224	98.68%	228
2015	14 202	947	6.67%	158	138	87.34%	290	287	98.97%	130
2014	13 810	1 415	10.25%	112	100	89.29%	542	520	95.94%	213
2013	13 210	1 344	10.17%	86	84	97.67%	593	584	98.48%	231
Total	67 860	6 246	9.20%	649	565	87.06%	2 039	1 973	96.76%	1 327

The second column shows the total number of cases with an environmental element (most of the cases were related to waste issues). The next shows the rate of environmental cases as a proportion of the overall number of cases within the non-criminal area. The next column shows the number of environmental cases in which prosecutors lodged a protest and how many were accepted. Next is the number of cautions issued by prosecutors in environmental cases and the number of cases where cautions were complied with by the subject concerned. Lastly is the number of files reviewed.

Police statistics are collected in compliance with Instruction of the Ministry of Interior No 83/2014 on the Use of Information Systems of the Police Force of the Recording-Statistical System of Criminal Activity. The Instruction lays down the obligation to record reported criminal offences, including unauthorised waste management. This obligation includes the need to register all criminal offences detected by an investigator working directly for the Police or commissioned by a Police officer, including where statistics record that the criminal offence has been changed to a misdemeanour or rejected. The collection of statistics takes account of criteria such as articles relating criminal offences or issues. Since 2010 specific statistical outcomes in the field of environmental criminal activity have been where statistics on all criminal offences which fall within the area of environmental crime are presented in the respective outcomes, including statistics on unauthorised waste management.

The pilot version of the new 'Management of Investigation Files' information system is expected to be launched in 2018, and will fall under the competence of the Ministry of Interior. The new information system will be interlinked with the information systems of the General Prosecutor's Office and the Ministry of Justice. Although there is no intention to provide joint statistics, the systems need to be interlinked to enable to the exchange of data between the different bodies.

The judicial statistics show the following number of convictions registered in the court system in 2016:

Criminal offence	No. of convictions in 2016
General Threats	24
Damage to and Endangerment of the Operation of a Generally Useful Device	32
Illegal Production and Possession of Nuclear Materials, Radioactive Substances, Hazardous Chemicals and Hazardous Biological Agents and Toxins	0
Damage to and Endangerment of the Environment	0
Unauthorised Waste Management	8
Unauthorised Discharge of Pollutants	0
Violation of Water and Air Protection	0
Illegal Production and Management of Substances	0
Damage to the Ozone Layer	
Violation of Flora and Fauna Protection	22
Violation of Tree and Shrub Protection	12
Spreading of Contagious Animal and Plant Diseases	0
Release of Organisms	0
Poaching	138
Animal Cruelty	6
Animal Neglect	0

3.4. Domestic budget allocated to preventing and combating waste crime and support from EU funding

Every competent authority of the state administration is allocated financial means to combat and prevent criminal activity within the framework of its regular operational activities.

The Police focuses on publicity in the media in the form of disclosing cases to discourage potential perpetrators of this kind of criminal activity. The Presidium of the Police Force has carried out numerous projects in the field of the illegal management of dangerous materials, including various types of dangerous waste (most notably the Norwegian Financial Mechanism) and also takes part in the European Commission's Prevention of and Fight against Crime (ISEC) initiative.

3.5. Prevention of waste crime

According to the Slovak authorities, the threat of a sanction for committing a criminal offence or administrative infringement in the area of waste management serves a preventive purpose. Therefore, in a number of legal acts a prevention requirement is stipulated, e.g. the following:

(a) Article 415 of the Civil Code, which states that every person is required to act in such a way as to prevent any damage to health, property or the environment;

(b) Section 17, para. 1 of the Act on Environment No 17/1992 Coll., which contains a prevention requirement in connection with the environment while carrying out any kind of activity;

(c) Act No 79/2015 Coll. on waste, as amended, regulates the waste generation prevention measures and the rights and requirements of legal entities and natural persons relating to waste generation prevention and waste management. Pursuant to Section 6, para. 6 of Act No 79/2015 Coll.:

'Generators of waste are required to prevent waste generation arising from their activity and to limit the amount of waste and negative consequences thereof. Any waste whose generation cannot be prevented must be managed or eliminated in compliance with section 1 in such a way as not to endanger human health or the environment, in compliance with this act and other binding statutes'.

The following legal acts focus on prevention in the field of the environment, including waste:

- Act No 39/2013 Coll. on Integrated Prevention Monitoring of Environment Pollution, as amended;
- Act No 128/2015 Coll. on Prevention of Major Industrial Accidents, as amended;
- Act No 24/2006 Coll. on Evaluation of Influences on the Environment, as amended;
- Art No 405/2011 Coll. On Phytosanitary care as amended in Act No 387/2013 Coll.;
- Regulation of the European Parliament and Council concerning the placing of plant protection products on the market No 1107/2009 and repealing Council Directives 79/117/EHS and 91/414/EHS relating to deadlines.

In addition to the binding legal acts relating to the prevention of the criminal activities cited, this issue is also regulated by the internal regulations of the particular entities concerned. In the context of the Police Force, the Instruction of the Ministry of Interior of the Slovak Republic No 77/2005 on Proceedings Relating to the Prevention, Prohibition, Disclosure and Documentation of Environmental Crime, Determination of Perpetrators, Investigation and Summary Investigation applies. The objective of preventing environmental crime under this Instruction is assigned to the Office of Criminal Police of the Presidium of the Police Force, and to the contact persons at the regional and district headquarters of the Police Force. Crime prevention is mostly carried out by means of preventive-security measures. The police officers directly responsible in organising and carrying out activities in the field of crime prevention can therefore be involved in this task.

3.6. Conclusions

- There are no action plans or strategic plans on environmental crime. Waste prevention and waste management plans are, however, in place. These plans constitute a legal requirement imposed by the EU Waste Directive. In the evaluators' view, prevention or management plans should nevertheless be backed by a plan for monitoring and law enforcement activities targeting those who fail to comply with prevention and management measures. Slovakia has acknowledged the need to develop a strategic document to combat environmental crime.
- The fight against environmental crime was raised and strongly supported during the Slovak Presidency in the Council of the EU in 2016. Slovakia organised the International Conference on Environmental Crime, 'The Need for an Action Plan to Fight Environmental Crime', held on 24-25 November 2016 in Bratislava, to enhance informal contacts and experts networks on environmental crime. The outcome of the conference was a call for the adoption of Council Conclusions on the issue. The Council adopted Conclusions on setting the EU's priorities for the fight against organised and serious international crime between 2018 and 2021 on 18 May 2017. Slovakia also plays an active role at international level, in particular in the area of waste crime.
- Police statistics show that only 8 % of environmental crime cases, at most, involve anything other than timber, poaching and nature conservation issues – i.e. only 8 % involve offences relating to waste water, surface and ground water, waste, operating licences, etc. Given Slovakia's general economic, environmental and geographical situation, this figure seems to be below what might be expected. The figures provided imply that considerably less attention is devoted to offences involving waste, waste trafficking, water pollution, etc. than to other issues such as nature conservation, poaching or timber theft. Given Slovakia's situation, in particular its geographical location, it is likely that a significant amount of crime involving waste and waste trafficking is going undetected.

- The statistics provided by the Ministry of the Environment are insufficiently detailed to enable relevant conclusions to be drawn. These figures do not distinguish between administrative/minor offences and offences which have an impact on the environment.
- Therefore, the evaluators' overall impression is that Slovakia does not collect interlinked and integrated statistics. Rather, such statistics are maintained by each individual authority involved in preventing and combating waste crime. Despite the existence of multiple individual statistical sources, which are certainly important for evaluation of effectiveness of each part of the system, the absence of a link between the different statistics leads to a lack of information on the entire flow of cases from the administrative authorities, the police, the prosecutors office and the courts. The abovementioned new 'Management of Investigation files' information system (piloted in 2018) may be a first step towards providing stakeholders with improved access to relevant data.
- In the evaluators' view, it is crucial to have access to centrally compiled relevant information provided by all authorities involved in preventing and combating waste crime in order to assess the efficiency of the implementation of the existing laws by the LEAs.
- The Slovak authorities assume that there are a significant number of unreported cases of organised crime and corruption. The explanations of the relevant dialogue partners during the on-site visit also revealed that the accompanying financial investigations into environmental crime could be intensified. In the evaluators' view, it might be useful to determine whether more focused financial investigations could help to provide more evidence of such links.
- A domestic budget is allocated to each authority involved in the fight against waste crime, but it is not specifically earmarked for preventing and combating waste crime.

- The Presidium of the Police Force has carried out numerous projects in the field of the illegal management of dangerous materials, including various types of hazardous waste (most notably the Norwegian Financial Mechanism), and takes part in the European Commission's Prevention and Fight against Crime initiative. In addition, the programme on the prevention of waste generation, which may (only) have an indirect influence on the development of waste crime, and other measures, such as the adopted Programme on waste management for 2016–2020 (Article 29 of Directive 2008/98/EC) could make a positive contribution to the prevention of environmental crime.

4. NATIONAL STRUCTURES

4.1. Judiciary (prosecution and courts)

4.1.1. Internal structure

This type of criminal activity is dealt with by the general courts (district, regional and Supreme Court) and the general Public Prosecutor's Offices (district, regional and General Prosecutor's Office).

Specialisation is required among prosecutors at every level pursuant to the Instruction of the Prosecutor General No. 9/2008 of 24 October 2008 on the Establishment of Specialisation of Prosecutors for Environmental Crimes. At least one prosecutor at every District Prosecutor's Office is appointed to handle environmental crime cases, and specialists are appointed at the Regional Prosecutor's Offices and General Prosecutor's Office. It should be noted that specialisation in environmental criminal offences in Slovakia exists at district level only within the Prosecution Service. 'Environment' prosecutors enjoy a protected, stable position.

There is no such specialisation among the courts and judges.

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

The Slovak authorities highlighted two types of obstacles in the context of the handling of environmental cases: insufficient knowledge of LEA staff, and the need for better organisational and personnel capacities.

One of the main challenges in the area of waste crime sanctions, identified by Prosecution Service, is capacity building. Increasing the number of judges and enhancing their specialisation appears to be an intended aim, but is contingent on the annual overall analysis of judges' average performance in the main judicial agendas.

As regards capacity-building in terms of the number of police officers, a proposal for setting-up regional offices in the Department for the Detection of Dangerous Substances and Environmental Crime of the Criminal Police Office of the Presidium of the Police, which should provide services with a better local coverage of Slovak territory, is currently being prepared.

Furthermore, despite the fact that the General Prosecutor's Office registers detailed statistics of criminal activities in the relevant field, these do not reflect the reality of the situation. This finding has been corroborated by the Report of the Prosecutor General on the Activity of the Prosecution Service in 2016. The General Prosecutor's Office has continuously raised the issue of the high level of latency of this kind of criminal activity and has suggested measures, mostly in the form of establishing a specialised professional police authority, the Nature Police, which would deal with disclosing and prosecuting offenders in more broadly. The efforts of the General Prosecutor's Office have met with the positive response from the Government, which in September 2016 assigned the Minister of the Interior with the task of establishing a specialised police division for the fight against environmental crime to begin operations in 2018.

The public prosecutors met also pointed out a number of difficulties:

- Local police forces do not have specialised units.
- Delays and obtaining evidence from experts are problematic.
- Criminal proceedings are excessive and onerous.
- The impact and consequences of the offence on the environment are not always visible, or cannot be immediately assessed (leading to classification errors: e.g. as an offence rather than a crime).
- At present, the environment remains a subject in which the general public has little interest.

4.2. Law enforcement authorities

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

There is no body specifically dedicated to the field of environmental crime at regional or local level.

The Department for the Detection of Dangerous Substances and Environmental Crime of the Criminal Police Bureau of the Presidium of the Police is specialised in investigating environmental crime. This body is located at the central level of the Police Force and comprises 13 police officers, including four investigators and nine intelligence police officers. Its work consists of the detection, documentation and investigation of environmental crime throughout Slovak territory. Due to a lack of personnel, these tasks are only performed in the most serious cases.

Within the criminal police departments of the regional and district directorates of the Police Force, two police officers are appointed within each directorate who are specialised in environmental criminal offences at regional level (eight Regional Police Directorates in total). Apart from their formal appointment, they also carry out duties in other areas.

Cooperation among investigative authorities in Slovakia is on an *ad hoc* basis according to the needs of individual cases. There are no rules governing this cooperation. Previous forms of this kind of cooperation, based on the Inter-ministerial Expert Coordination Body (MEKO) to combat crime under the auspices of the Presidium of the Police, addressed a broader social context of environmental crime in 2016, in particular the application of Council Regulation (EC) 338/97 on the protection of species of wild fauna and flora by regulating trade therein, with a view to drawing up a National Action Plan to Combat Wildlife Crime, which is being finalised. At the same time, the necessary legislative changes were proposed to reflect the current situation in the area of environmental crime, and at the same time to provide the necessary legislative framework to combat this type of criminal activity.

Within MEKO is the Multidisciplinary Integrated Expert Group on Elimination of Environmental Crime (MISO). The members of this body are appointed by the Minister of the Interior, and all central state administration bodies with competence in the fight against waste crime have representatives within it. They meet on a case-by-case basis as required.

At the initiative of the Presidium of the Police, the General Prosecutor's Office is involved in the setting-up of an interdepartmental expert commission, which aims at monitoring and determining the methodology of the subordinate components of both institutions and ensuring their effective cooperation in solving current factual, legal and evidence-related problems, in particular in criminal cases, and the coordination of the procedure of both authorities in criminal proceedings.

Competences for the investigation of environmental crime are shared. Police officers perform summary investigations or investigations. Summary investigation is *in principle* conducted by authorised police officers of local departments of the Police Force on offences that are punished by an imprisonment sentence not exceeding three years (Section 202, para. 2 of the Criminal Procedure Code, Act No. 301/2005 (CCP)). Summary investigations on other offences and investigations are performed by police investigators from district and regional police departments.

Summary investigations and investigations are supervised by the prosecutor.

4.2.2. Investigative Techniques/Tools

The most common methods used to detect criminal activities include cooperation with collaborators of the Police Force (informants), which takes the form of covert operations in the field. Both static and dynamic surveillance of goods (e.g. vehicles or waste) and perpetrators are used to document criminal offences.

In serious cases, criminal activities are documented by computerised and technical means which enable the production of pictorial records documenting the movements of waste and persons. In particular, the interception of telecommunications enables the police to obtain more information on the engagement of other persons in criminal activity or to identify locations where unauthorised waste handling has occurred. Relevant information may also be obtained from crime scene searches, house searches and searches of other premises or land, as well as through interrogations and expert examination.

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

From the LEAs' point of view, there are several deficiencies. For example, the Public Prosecutor's Office considers the absence of a specialised police body, the 'Nature Police' (especially its operative part), as a huge deficiency. Its establishment was first initiated nine years ago. In addition, it should be noted that certain authorities, including some prosecutors, have insufficient knowledge of Directive 2008/99/EC of the European Parliament and of the Council on the protection of the environment through criminal law.

Other challenges and barriers to the investigation of waste crime include the almost complete absence of coordination or cooperation between the state administration bodies concerned, the inconsistency between the procedures of the various individual bodies, and the fact that this type of crime is not taken seriously.

In 2017, the Public Prosecutor's Office evaluated the lawfulness of the procedures and decisions of law enforcement bodies, state administration bodies and self-government bodies in the application of the Act No. 79/2015 Coll. on waste and on amendments to certain acts, as amended.

According to the Public Prosecutor's Office, the findings confirmed the above deficiencies, especially the extremely high latency of this type of crime. The Slovak Environmental Inspectorate was therefore criticised for not always having notified the bodies involved in criminal proceedings of crimes identified, but handling themselves matters that fall under the authority and competence of law enforcement authorities. The assessment also revealed that municipalities deal with waste management issues without the necessary programme or material security.

Since this type of crime was in the past committed by a broad spectrum of the population, the change in citizens' mind-set has been gradual. Citizens' have now started reporting criminal offences and the competent authorities have begun to act and punish the offenders.

Another major problem in investigating both national and cross-border cases is the cost of documenting the extent of illegal activity, which requires the involvement of multi-disciplinary experts, e.g. in geodesy, chemistry, ecology, etc. Obtaining evidence is therefore financially demanding. For this reason, the exact nature of the quantity and type of waste and the quantification of the damage to the environment are often overlooked.

Similarly, a lack of cooperation with the authorities in certain neighbouring countries and different thresholds for criminal offences are major challenges and obstacles to the detection, clarification and proving of criminal offences, and consequently the prosecution of the perpetrators. The ability to exchange and secure information and response speed are contingent on previous cooperation with the partner concerned.

4.3. Other authorities/institutions

The Ministry of the Environment, as the central authority of the state administration for waste management, established the Slovak Environmental Inspectorate as a supervisory authority across the entire area of environmental protection, including waste management. At the lowest level in the field of waste crime prevention, municipalities and district offices take charge of waste management offences. These authorities proceed according to the rules of administrative law. They may take actions against both natural persons (e.g. from municipalities or district offices) and legal persons (e.g. district offices or Slovak Environmental Inspectorate). They may impose financial penalties and corrective measures in administrative proceedings.

The Hunting Guard, the Forest Guard, the Field Guard, the Guard of Nature and the Water Guard are the LEAs involved in environmental protection. LEA officers working for these agencies, who are hired after passing professional examinations, supervise compliance with the relevant legislation. Although the investigation of waste crime does not fall directly within their remit, they are obliged by law to notify the competent authorities of their findings.

The phytosanitary inspectors of the Central Control and Testing Institute of Agriculture in Bratislava carry out action relating to the activities of the Control Institute and the related application of plant health control and phytosanitary measures in accordance with Section 13a (state administration bodies) and Section 14 (state professional control) of the Act No. 136/2000 Coll. on fertilisers, as amended, and in accordance with Sections 4 and 9 of Act No. 405/2011 Coll. on plant health care.

In addition to the above authorities, the Slovak Information Service is also involved in crime prevention involving receiving intelligence on criminal matters, which is forwarded to the Police Corps and the Public Prosecutor's Office. It also provides other state authorities with the necessary information if it is required to prevent illegal activity.

Within their organisational structures, the armed security forces and the armed forces of the Slovak Republic have systematised services capable of carrying out the above activities, which are able, if necessary, to be closely involved in intelligence activities and the detection and clarification of criminal offences, as well as their investigation or summary investigation. Individual forces operate within their sphere of competence, but in line with the policy of close cooperation, they immediately forward the matter to the competent authority if they find that they are not authorised to act in the case in question.

Experts registered on an expert list at the Ministry of Justice are used in expert examinations. The Police Corps also has an expert institute: the Forensics and Expertise Institute of the Police Corps. This institute performs expert examinations across a very wide range of expert departments, in particular in fields often used in evidence for criminal proceedings. The institute provides expertise and expert opinions to other armed security corps and armed corps.

Regarding relationship between the criminal and administrative sanctions regimes, it should be noted that environmental offences are covered by Sections 35 (Offences in the field of agriculture, hunting and fishing) and 45 (Offences in the field of environmental protection) of Act No. 372/1990 Coll. on misdemeanours, as amended. However, some types of environmental offences may fall outside the scope of this Act, and are instead regulated by specific legislation.

In order to establish whether an act is subject to the criminal or administrative sanction regime, it is essential to determine whether it is a misdemeanour or an administrative infringement, and consequently which regime is applicable for the imposition of sanctions (either the Act on Misdemeanours, specific legislation, or the CC (for criminal offences)). The constituent elements of criminal offences are exclusively listed in in the CC. No other law can define a criminal offence. The competent administrative body shall decide on sanctions for misdemeanours or other administrative infringements. The punishment for criminal offences is determined by courts.

4.4. Cooperation and exchange of information among national authorities

4.4.1. Cooperation and coordination

State administration bodies in the field of waste management include the Ministry of the Environment, the inspection, the district office at the headquarters of the region, and the district office. State administration in waste management is also performed by municipalities, the Slovak Trade Inspection, and state administration bodies in the field of taxes, fees and customs.

Despite the fact that the individual legal provisions establish the legal prerequisites for mutual cooperation (for example, through co-action), no comprehensive manual of cooperation of all participating state administration bodies has been developed so far. Cooperation between the individual state administration bodies is carried out according to the generally binding legal regulations and internal management acts of these bodies. In general, this cooperation can be divided into two levels.

The first is cooperation among the central government bodies that meet regularly within the framework of the multidisciplinary integrated expert group on the elimination of waste crime - the Interministerial Expert Coordination Body. The members of this body are appointed by the Minister for the Interior, and all the central state administration bodies with competence in the area of the fight against crime in the waste sector are represented on it. The group delivers up-to-date information on the state of waste crime and addresses current issues.

The second level of cooperation occurs in detection, documentation and case-by-case investigation, which is carried out as required at both regional and national level.

However, the effectiveness of the above-mentioned forms of cooperation and coordination in the prevention of crime needs to be improved.

Due to the absence of a comprehensive manual governing the conduct of all participating state bodies in matters of crime against the environment and crime related to CBRN materials, as well as differences in the interpretation of the law by the staff of the various participating state administration bodies and occasional incorrect application in practice, problems relating to misunderstandings, competence arguments, and the inactivity of some participating state administration bodies arise from time to time. Nevertheless, these problems are being effectively eliminated through working together. The fact remains that the existing problems greatly prolong the reaction time of the individual participating state administration authorities, which has a negative impact on law enforcement and public confidence in those authorities. Among the greatest obstacles to cooperation at national level is the dismissive attitude to waste crime adopted by some participating authorities.

4.4.2. Access to information and focal points on intelligence

Police officers have direct access to their own information systems as well as access to Criminal Records, which fall within the competence of the General Prosecutor's Office. Likewise, they use publicly available databases, e.g. Business Register of the Slovak Republic, Slovak Trade Register, Real Estate Cadastre, etc. Access to information from other authorities is ensured on the basis of requests addressed to the competent authorities as appropriate in individual cases.

In addition to accessing individual databases and registers through requests from other government agencies, police officers have access to some international police databases (Interpol, Europol, etc.).

Other state authorities have access to databases and registers in their areas of competence, and do not provide LEAs and the judiciary (prosecution and courts) with direct access to these databases and registers. However, they provide information on request, unless extraordinary circumstances prevent them from doing so. Through representatives of the Ministry of Agriculture and Rural Development and representatives of the financial administration, the Slovak Republic is represented in the OECD Expert Group - ONIP for Combating Illicit Trafficking in Pesticides.

Due to this membership, those representatives have access to the OECD rapid alert system for illegal or suspected consignments of pesticides. Information from this system can be provided to law enforcement officers and justice authorities at their request.

As regards the national focal point on intelligence for waste crime, the National Security Analytical Centre (NBAC) is entrusted with tasks in the area of cooperation and exchange of information between state authorities on security threats. In the context of monitoring security incidents and security events, the NBAC also collects and evaluates environmental safety information, specifically that relating to the handling of toxic and hazardous materials without appropriate permits, and the risk resulting from the transport or storage of dangerous substances, including those which are classified as waste. In this context, the NBAC's focus is primarily on attempts to make use of toxic or dangerous substances to commit an attack on Slovak citizens.

Slovakia does not have a national contact point specifically dedicated to waste crime. This function within the Police Corps is performed by the Department for the Detection of Dangerous Substances and Environmental Crime of the Criminal Police Office of the Presidium of the Police Corps, to which all the subordinate units of the Police Corps send their decisions, in accordance with the established reporting obligation.

4.5. Training

Pursuant to Article 2 of the Instruction of the Prosecutor General, a general prosecutor, a regional prosecutor enables a prosecutor specialist and a district prosecutor enables an appointed prosecutor the education within the range of the determined specialisation. A prosecutor specialist and an appointed prosecutor are obliged to follow appropriate training and take part regularly in the specialist expert education provided by the public prosecution, the Judicial Academy and international organisations and institutions.

Training in the area of criminal activity against the environment is provided on the basis of the Framework Agreement on Cooperation between the Ministry of Environment and the Judicial Academy of 7 July 2016. However, these activities are not aimed at investigators, as they are not the target group of the training provided by the Judicial Academy.

The following events focused on environmental crime were organised in 2017:

- 1) 10 May 2017 – National basis for punishment (criminal offences against the environment – Sections 300 to 310 of the Criminal code) –Slovak and Czech practices;
- 2) 22 May 2017 – Waste management (definition of the terms waste, waste disposal, hazardous waste, shipment of waste);
- 3) 22 – 23 June 2017 – Protection of air, protection of water, protection of soil, protection of land, protection of flora and fauna;
- 4) 4 – 5 September 2017 – Specific requirements on judicial reviews in the area of the environment;
- 5) 16 – 17 October 2017 – Impact of the EU/EC law on environment.

Training for judges, prosecutors, candidate prosecutors and court officials is arranged, organised and carried out by the Judicial Academy, the budget of which is the responsibility of the Ministry of Justice, and also by the General Prosecutor's Office. They conduct the activity on their own initiative and based on practical experience, which enables them to identify training needs. It is based on the annual training programme (curricula), which is approved by the Board of the Academy on the basis of the substantial content of the training of judges established by the Judicial Council, with the agreement of the Minister for Justice, and of the substantial content of the training of prosecutors established by the Prosecutor General.

No systematic preparation as regards environmental crime exists within the system for training police officers. The training has rather an informative nature and is aimed at providing basic information about environmental crime. Within the classes on Operative-Search Activities at the Secondary Vocational School of the Police Force in Devínska Nová Ves, there are 4 lessons dedicated to environmental crimes. Within the classes for the Summary Investigation carried out at the Secondary Vocational School of the Police Force in Pezinok, there are 6 lessons dedicated to environmental crimes. The Department for the Detection of Dangerous Substances and Environmental Crimes of the Crime Police Office of the Police Force Presidium organises, once a year, a two-day course for police officers assigned to the detection, documentation and investigation of environmental crimes, as part of which police officers are informed about amendments to legal acts, new trends in the perpetration of crimes, and best practise in combating the environmental crimes.

Training and courses for police officers who provide their services directly in territories close to the Schengen border or directly at the border are organised by the Department for the Detection of Dangerous Substances and Environmental Crimes of the Crime Police Office of the Police Force Presidium. As part of these training courses, police officers are provided with basic theoretical information about the issue of CBRN materials, and they acquire basic practical skills as well. Every year the above-mentioned Department provides courses for specialists of the crime police divisions of the district directorates and regional directorates of the Police Force focused on strengthening and deepening knowledge and skills in the area of crimes against the environment and CBRN materials (Lešť, Bojnice, etc.).

Furthermore, the Department on the Detection of Dangerous Substances and Environmental Crimes of the Crime Police Office for the Police Force Presidium established an *ad hoc* cooperation arrangement with the Ministry of Agriculture and Rural Development. As part of the training for phyto-inspectors, which is provided by the Ministry itself, the police officers of the Department gave lectures focused on the criminal context in relation to the infringement of generally binding legislation in the area of pesticides and fertilizers outside of the scope of the intellectual property rights legislation. If this cooperation is deemed successful, its continuation or extension is likely to be agreed.

Police officers from the Department for the Detection of Dangerous Substances and Environmental Crimes of the Crime Police Office of the Police Force Presidium regularly participate in international workshops, seminars, training and exercises focused on detecting and resolving crimes related to CBRN materials, and also on the actions in places contaminated with CBRN materials and the related crisis management. Many of these activities take the form of projects, which are carried out by the above-mentioned division together with foreign partners. In this regard, the Department carries out exercises from the own sources with the active participation of all subjects, who fulfil their tasks in the case of a CBRN incident taking place.

CEPOL training is used by police officers and prosecutors. Police officers from this Department participated several times in courses run by the CEPOL agency focused on combating crimes against environment and on combating crimes related to CBRN materials.

In 2009 and 2010, the Bureau of the Judicial and Criminal Police of the Presidium of the Police Force took part in a project organised by the non-governmental organisation “*Priatelja zeme*” (Friends of the Earth). The aim of the project was to raise the awareness (especially of responsibilities in this field) of all waste originators and waste handlers, reducing the amount of waste which is managed in the above-mentioned way. Several training courses for police officers in the field of detection and investigation of criminal offences of unauthorised waste management and in the field of detection of minor offences were provided, in the light of the Act on Waste No 79/2015 Coll. and of the amendment of certain acts.

4.6. Conclusions

- On the basis of the Instruction of the Prosecutor General No. 9/2008 of 24 October 2008 on the Establishment of Specialisation of Prosecutors for Environmental Crimes, prosecutors were appointed at district and regional level to handle environmental crime. Since then, public prosecutors in charge of environment files have been required by law to undergo specialised training. 'Environment' prosecutors enjoy a protected and stable status which, in the evaluators' view, is an example of best practice.
- Public prosecutors can follow specific training organised by the Judicial Academy. They are also required to participate in national and international meetings. International cooperation appeared to be real and based on cross-border cases. Specialisation of prosecutors at central, regional and district level is, in the evaluators' view, an example of best practise.
- Unlike prosecutors, judges are not specialised. They deal with whatever files they happen to be given. Some opinions were expressed that having specialised judges would run counter to the fundamental principles of justice.
- There is no specialisation or specific training for judges as regards environmental crime. Although the Judicial Academy offers specific training open to judges, it is not frequently attended. Therefore, due to the complexity of the subject-matter, judges should be more incentivised to follow training and become specialised. Judges, who conclude cases, are not provided with the same opportunities to become specialised as prosecutors.

- Within the Police Force, the Criminal Police Bureau is specialised in investigating environmental crime at central level. This structure comprises 13 police officers, including four investigators and nine intelligence police officers. At local level, two police officers are designated at each district directorate and at regional level (8 Regional Police directorates). Apart from this formal designation, they also perform duties in other areas. As the Criminal Police Bureau is the only specialised structure within the Police Force and suffers from a lack of specialised investigators, in the evaluators' view, its structure should be reinforced, inter alia by designating more investigators.
- Since there is a distinct shortage of investigators at both central level and local level, police officers lack information and training. In the evaluators' view, environmental crime appears to be only one of the priorities among many others for the Police Force Presidium. The situation is complex, given the fact that the local police operate on the ground. If the local officers lack awareness and motivation, much of the information received may be disregarded and may not be forwarded to the specialised investigators at central level. Therefore, in the evaluators' view, there is a clear need for specialised police officers at regional and local level.
- As environmental crime is assessed to be 'control criminality', the fact that there is currently only a small number of cases of environmental crime should not lead to the conclusion that more specialisation of officials is unnecessary. Specialisation in the sense of limitation of the responsibilities of the persons appointed to environmental crime could perhaps enable a larger proportion of the currently unreported cases to be detected as a result of the enhancement of the available resources.
- Furthermore, specialised investigators should also take into account the financial and economic side of environmental crimes, in particular in serious crime. According to the practitioners encountered, this kind of investigation is rarely performed for different reasons. Financial investigations delay the investigations; the investigators involved require special skills and a lot of resources are needed. Nevertheless, in the opinion of the evaluators, it should be taken into consideration that focusing on the economic and financial aspects of the cases:

- allows a better understanding of the background to the crime;
 - provides strong support for efforts to find the persons behind the scenes ('follow the money');
 - helps convince the courts / judges of the seriousness of the crime;
 - allows asset recovery.
-
- Training of police officers should also be enhanced, and aimed in particular at police officers at local and district level, if appropriate through a 'train the trainers' programme. A better knowledge of environmental legislation and the practical implications resulting from its application, as well as the procedural requirements and peculiarities with regard to environmental crime (e.g. interrogation at the different procedural stages, sampling in an admissible manner for evidence), could, in the evaluators' view, provide good motivation for these local officers.
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- As regards the administrative field, the Ministry of the Environment and the Slovak Environmental Inspectorate play a paramount role in combatting waste crime and violations. The Ministry of the Environment is the central authority of the state administration for waste management. The Slovak Environmental Inspectorate carries out checks and inspections in the environmental field, but it also carries out other, more administrative, tasks. According to the information received, the Inspectorate employs around 180 graduates (including engineers, legal experts, etc., i.e. not just scientists).

- The Inspectorate has not provided accurate statistics, but even those reported show that 3 400 inspections were carried out in 2016, revealing breaches of the law in 22.6 % of cases. This proportion should encourage the Inspectorate to perform further risk analysis to find out if the targeting of inspections is sufficiently effective.
- The General Prosecutor's Office highlighted the fact that the Slovak Environmental Inspectorate has not always notified the bodies involved in criminal proceedings of the crimes identified, but has handled itself matters that are within the authority and the competence of LEAs. On the other hand, the practitioners encountered explained that this was a result of different interpretations of the law and recognition of the constituent elements of environmental crime, which could be resolved in the meantime. This shows that a problem of communication existed between the aforesaid authorities.
- In addition, the cooperation of investigative authorities takes place on an *ad hoc* basis in individual cases without certain governing rules (e.g. MISO). In the evaluators' view, more structured and permanent cooperation between the authorities involved at the central and regional levels could be helpful in the fight against environmental crime.
- Furthermore, the strongly formalised procedure seems to be a problematic area with regard to evidence to be presented in court. Practitioners interviewed highlighted the fact that since the criminal procedure will not facilitate changes, a favourable way to deal with this problem seems to be the education and training of police officers (and prosecutors) with regard to procedural requirements in the field of environmental crime (e.g. interrogation at different stages of the administrative / criminal procedure; sampling in an admissible manner for evidence).

- When it comes to searches, inspections and investigations, there are clearly two parallel structures: the police and the administrative structure, i.e. the Slovak Environmental Inspectorate. That is why when an infringement is considered to constitute a 'criminal file', most of the evidence put forward by the Inspectorate loses its value, as it is not recognised as evidence before the courts. The police department taking over the file is required to take new samples, carry out new analyses, etc.
- Consideration should also be given to vesting the competent authorities with more effective measures for combating and, above all, stamping out offences. The – proven – fact that an undertaking may refuse entry to environmental inspectors, even when it is strongly suspected that serious infringements have occurred, is difficult to understand. In such cases, the authorities should be entitled to force entry. If an inspection service has to go first through many procedures in order to gain access to a site, it may lose the opportunity to identify any offence that may have been committed, take a sample of water in time, or take any other necessary measure rapidly.
- Moreover, when compared with other categories of offences, opposing or impeding the investigations of the inspection authorities could be considered as a crime within the meaning of Slovak law. The lack of effective administrative measures is also apparent from the fact that the authorities do not have the resources to put a stop to a crime when the offender refuses to cooperate.

5. LEGAL ASPECTS

5.1. Substantive criminal law

5.1.1. Description of national legislation pertaining to waste crime

There is extensive legislation in place in Slovakia regarding the fight against waste crime¹⁰. The following acts are *inter alia* criminalised under the Slovak Criminal Code (Act No. 300/2005 Coll.): General Threats (Sections 284 and 285), Unlawful Production and Possession of Nuclear Materials, Radioactive Substances, Hazardous Chemicals and Hazardous Biological Agents and Toxins (Sections 298 and 299), Damage to and Endangering of the Environment (Sections 300 and 301), Unauthorised Waste Management (Section 302), Unauthorised Discharge of Pollutants (Section 302a), Violation of Water and Air Protection (Sections 303 and 304), Violation of Flora and Fauna Protection (Section 305), Violation of Tree and Shrub Protection (Section 306).

The fundamental provision is unauthorised waste management as provided for by Section 302, which is defined as a criminal offence in the following way:

Section 302. Unauthorised Waste Management

(1) Any person who even out of negligence breaches generally binding legal regulations when handling a small amount of waste shall be liable to a term of imprisonment of up to two years.

(2) The offender shall be liable to a term of imprisonment of between six months and three years if he or she commits the offence referred to in paragraph 1 and

a) puts the environment at risk of larger damage, or

b) puts another person at risk of grievous bodily harm or death.

(3) The offender shall be liable to a term of imprisonment of one to five years if he or she commits the offence referred to in paragraph 1 on a considerable scale.

¹⁰ Due to the large number of pages involved, a description has not been included in the report. For more information see Annex D.

(4) The offender shall be liable to a term of imprisonment of three to eight years if he or she commits the offence referred to in para 1

- a) and causes by such offence grievous bodily harm or death, or*
- b) on an extensive scale.¹¹*

In addition to a prison sentence, it is possible to impose house arrest on the offender, community service, a pecuniary penalty up to EUR 331 930, forfeiture of tools used to commit a criminal offence or obtained via a criminal offence, disqualifications, prohibition of residence (if the criminal offence was committed by a foreign national).

Criminal penalties for criminal offences under Section 302 are not unified with the criminal penalties for property criminal offences, which are considerably more severe, since the motive for the criminal offences under Section 302, as well as of other criminal offences against the environment, is to obtain a property advantage, to save the resources that would be necessary for legal waste management.

Slovak legislation provides for the criminal liability of legal persons and for specific penalties which are stipulated by Act No. 91/2016 Coll. on Criminal Liability of Legal Persons and on amendments to certain acts, as amended, in Section 10. In determining the type of penalty and its extent, the court must take into account the various factors detailed in Section 11 of the Act. The law also provides for the possibility of imposing penalties separately or of imposing additional penalties. Furthermore, punishment by dissolution of the legal entity, forfeiture of a thing, a pecuniary penalty of up to EUR 1 600 000, temporary prohibition of activity, and punishment by conviction disclosure may be imposed on legal persons.

¹¹ Explanation and definitions of the constituent elements of the criminal offence under Section 302 of the CC may be found in Annex D.

5.1.2. *Other rules or judiciary instructions*

Although the Instruction of the Prosecutor General of the Slovak Republic, No. 9/2008 Coll. of 24 October 2008 on the establishment of specialisation of prosecutors for crimes against the environment does not specifically govern procedures in the field of waste, it will apply to prosecutors when waste crime is involved.¹²

5.1.3. *Determination of the seriousness of waste crime*

The criterion for assessing the seriousness of the criminal offence of unauthorised waste management under Section 302 of the CC is the scale of the act and the amount of the damage (calculated according to the same criteria set forth in Section 124 para 3 and Section 125 para 1 of the CC).

Section 302 para 1- small scale of the action, i.e. more than EUR 266 (an offence¹³) - criminal penalties of up to two years' imprisonment;

Section 302 para 2- a risk of greater damage, i.e. EUR 2 660 - (offence) - penalty of imprisonment of six months to three years;

Section 302 para 3 - significant scale of the action, i.e. EUR 26 600 - (offence) - penalty of one to five years' imprisonment;

Section 302 para 4 –large scale of the action, i.e. over EUR 133 000 - (crime) - penalty of imprisonment for three to eight years.

¹² <https://www.genpro.gov.sk/legislativa/zbierka-sluzobnych-predpisov-generalneho-prokuratora-308f.html?a=download&id=1231>.

¹³ As opposed to its ordinary use as a synonym for 'misdemeanour', in this context it is to be understood within the official translation of the Slovak Criminal Code into English, where the definition of a criminal offence includes an offence and a crime.

Pursuant to Section 124 para 3, damage means combined ecological damage and assets damage, while assets damage also includes the cost of restoring the environment to its original state. In the case of a criminal offence of unauthorised waste management under Section 302, the scale of the act means the price at which the waste, at the time and place of the discovery of the act, is typically collected, transported, exported, imported, recovered, disposed of or stored, and the costs of removing waste from the site that is not designated for its storage.

Pursuant to Section 125 para 1, minor damage means damage in excess of EUR 266. Larger damage means an amount reaching at least ten times that amount. Significant damage means an amount of at least a hundred times that amount. Damage on a large scale means an amount of at least five hundred times that amount. These considerations apply equally to the determination of the amount of the benefit, the value of items, and the scale of the act.

In relation to the concept of 'serious injury' used in Article 3(a) of Directive 2008/99/EC on the protection of the environment through criminal law, in the Slovak legislation there is an equivalent solution in the form of the term 'grievous bodily harm', which is defined in Section 123 paragraphs 3 and 4 of the Criminal Code.

Under Section 123 paragraphs 3 and 4 of the Criminal Code

(3) For the purposes of this Act, grievous bodily harm shall mean only serious bodily harm or a serious illness, which is

- a) mutilation,
- b) loss or significant reduction of working capacity,
- c) limb paralysis,
- d) loss or significant weakening of the functions of sensory organs,
- e) damage to important organs,
- f) disfigurement,

- g) occurrence of abortion or killing of the foetus,
 - h) excruciating suffering, or
 - i) long-term health disorder.
- (4) For the purposes of this Act, a long-term health disorder means a disorder which objectively requires treatment, or possibly involves the incapacity to work, of at least forty-two calendar days, during which the usual way of life of the injured person was seriously affected.

When determining the type of punishment and its amount, the court always considers the manner of committing the act and its consequences, the capability, motive, aggravating circumstances, mitigating circumstances, and the perpetrator, his or her personal circumstances and the possibility of his or her rehabilitation.

5.1.4. Links with other serious criminal offences

The Police Force officers detected cases of connection with groups committing criminal activities as well as the involvement of legal entities and corruption within the framework of disclosing, documenting and investigating criminal activities in the field of waste. Proving ties between perpetrators in the field of waste and organised crime is extremely difficult. Perpetrators communicate with each other in a sophisticated way, making detection and inquiry very complicated with a view to providing evidence in terms of the CCP. The transfer of financial resources also takes place by sophisticated means, which hinders detection. Therefore, it is proved only sporadically.

With regard to the overall small number of cases identified involving ties with organised crime, not even a conservative estimate was provided. Since 1 July 2016, the liability of legal entities has been modified and currently also includes unauthorised waste management.

5.1.5. *The role of NGOs*

A criminal complaint can be made by anyone who has learned about the commission of a criminal offence. This may be an eyewitness to the criminal offence or a person who has learned about the act even though he or she was not present at the crime scene. A group of people, a civic association or other legal person may also lodge a complaint to initiate criminal proceedings. The police are also required to investigate an anonymous complaint if it is can be assumed that a crime has been committed. LEAs and courts act *ex officio* unless the Code of Criminal Procedure provides otherwise.

NGOs may take part in criminal proceedings as the injured party (Section 46 para 1 of the CCP). Unlike in administrative or administrative judicial proceedings where NGOs' involvement is common, in criminal proceedings it is not common for an NGO to be involved as the injured party in relation to environmental criminal offences.

If an NGO reports a criminal offence, it has the standard status of a person who has notified an offence and must therefore be notified of the method of report processing within 30 days from the receipt of the criminal complaint by the delivery of the relevant decision (on deferral of the matter or on referral of the matter for treatment as a misdemeanour) or by notification of the commencement of the criminal prosecution and, where applicable, of the pressing of charges, by which time the involvement of the reporting person in criminal proceedings ends if they are not at the same time the injured party. NGOs can report criminal offences, but the status of the injured party corresponds to the State in these cases.

NGOs serve frequently to help the injured party, providing free assistance, and they may also participate in criminal proceedings as the proxy of the injured party for their representation (Section 10 para 23 and Section 53 para 1 of the CCP).

5.2. Procedural, jurisdictional and administrative issues

5.2.1. Difficulties encountered with regard to evidence

The Slovak authorities reported problems related to the assessment of the amount of the damage caused which may affect the appropriate classification of the crime, to obtaining evidence having the required procedural value and to inadequate execution of procedural actions (in particular, crime scene inspection/search). One of the problematic areas mentioned is the over-formalisation of the Slovak criminal procedure.

In the area of forensic methodology, certain shortcomings were noted, especially as regards expert examination and its financial implications (e.g. sampling, verified and accredited methods, selection of active substances, as well as the costs of analyses).

5.2.2. Measures other than criminal or administrative sanctions

In addition to sanctions and protective measures, the Criminal Code allows, apart from the different types of penalty, the imposition of appropriate restrictions and obligations, which are set forth in Section 51 para 3 and 4 of the CC, such as obligations to compensate for the damage caused during the probation period, and/or to repay the debt or outstanding alimony during the probation period.

In the event of a breach of obligations in relation to agropesticides, pursuant to the Act No. 405/2011 Coll. (Phytosanitary Act) or regulation No 1107/2009, apart from sanctions and administrative fines, it is possible to decide, for example, on the disposal of pesticides.

5.2.3. *Treatment of seized objects*

Things seized in criminal proceedings are preferably stored in the premises of the Ministry of the Interior. If the nature of the matter so requires, things are kept by another state body, legal entity, or a natural person running a business in that field. The costs of maintenance in criminal proceedings are borne by the Police Force. Where the seized item consists of waste, the waste is transferred at the expense of its originator at the end of the expert examination. If the waste producer is not known, the cost of waste disposal is covered by public funds.

There is a legislative process underway to draft a law on the enforcement of decisions on seizure of assets and on managing the seized property, as well as on amendments to the laws that will regulate the handling of the seized items in a comprehensive manner. This law is expected to come in force in 2018.

In the event that the waste was shipped from another country, the Ministry of the Environment ensures disposal of the waste in the state of origin.

5.3. Environmental restoration

In terms of criminal law, it is the offender who has the primary responsibility for the restoration of the environment. The state is involved in environmental restoration and damage repair in the event that the offender does not have sufficient resources.

Pursuant to Section 27 of Act No. 17/1992 Coll. on the environment, responsibility for the breach of obligations in environmental protection entails that anyone who, by damaging the environment or by other criminal activity causes ecological damage, is obliged to restore the natural functions of the damaged ecosystem or of its parts. If this is not possible or if it is not desirable for serious reasons, he or she is obliged to compensate for the ecological damage in a different manner (substitute compensation); if this is not possible, he or she is obliged to compensate for the damage financially. The Act does not exclude simultaneous implementation of these types of compensation. The method of calculating ecological damage and other details is to be stipulated by a special regulation. The court may impose an obligation in the sentence to compensate for damage.

5.4. Jurisdiction

5.4.1. Principles applicable to the investigation of waste crime

The Criminal Code provides for jurisdiction over criminal offences committed by an offender outside the territory of the Slovak Republic in the following cases:

- if he or she committed a criminal act on its territory, either in part or entirely,
- if the violation or endangering of an interest protected by this Act occurred, or was intended to occur, either in whole or in part, outside of its territory,
- if an offender committed an act outside the territory of the Slovak Republic,
- if the violation or endangering of an interest protected by this Act was intended to take place, or if such a consequence was intended to occur, at least in part, on its territory.

The extraterritorial jurisdiction of the Criminal Code for the prosecution of criminal offences in the field of waste is not specifically regulated; the general provisions are to be applied - on time, territorial, personal jurisdiction and universal jurisdiction (Sections 1 through 6) of the Criminal Code as well as the scope of the international treaties (Section 7). An exception is the criminal offence of Illegal Production and Possession of Nuclear Materials, Radioactive Substances, Hazardous Chemicals and Hazardous Biological Agents and Toxins (Sections 298 and 299). In relation to this crime, the scope of the Criminal Code is also applicable if such a criminal offense was committed outside the territory of the Slovak Republic by a foreigner who has no permanent residence in the Slovak Republic (Section 5a).

The Criminal Code also allows prosecution of a person who is a citizen of the Slovak Republic or a foreigner residing permanently in the Slovak Republic for a criminal offence committed outside the territory of the Slovak Republic. A foreign national may also be prosecuted providing that he or she has no permanent residence in the Slovak Republic and commits a criminal offence outside the Slovak Republic, if the act is also punishable under the law effective in the territory where it was committed, and the perpetrator was apprehended or arrested in the territory of the Slovak Republic, and if he or she was not extradited to another state for criminal prosecution.

5.4.2. Rules in case of conflicts of jurisdiction

According to the information provided by Eurojust, from 1 January 2004 until the time of the on-site visit, Slovakia has not registered any environmental crime cases at Eurojust. Slovakia was, however, requested in four cases in the same period of time (three of them were still pending).

From the Slovak perspective, no specific mechanisms have been introduced to deal with waste crime cases having a cross-border dimension.

Slovakia transposed Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings in the provision of Section 530a of the CCP. It lays down rules in cases of conflict of jurisdiction irrespective of the nature of a criminal case. In the event that parallel criminal proceedings are being, or have been, conducted in Slovakia, the Slovak authority will provide its contact with data and information about the stage of the criminal proceedings or information about the nature of the final decision in the matter in question. If the Slovak authority concludes that the continuation of the criminal prosecution in the Slovak Republic is impractical, it will submit a motion to transfer the criminal prosecution to the Member State of the European Union in which the parallel criminal proceedings are being conducted. If it is agreed that the criminal proceedings are to be concentrated in the Slovak Republic, the Slovak authority will inform the authority of the Member State of the European Union about the result of the criminal proceedings without undue delay.

5.5. Conclusions

- Slovak legislation, particularly the penalties applicable to infringements, generally meets European requirements, i.e. that the penalties must be effective, proportionate and dissuasive. Environmental legislation and the classification of an infringement as a serious crime or a criminal offence take account not only of the unlawfulness of the act, but also of the costs associated with it.
- The following factors must be taken into account when classifying the infringement: firstly, what the cost would have been if the management of the waste, waste water, etc. had been compliant and lawful; and secondly, the cost of repairing the damage. This approach to determining the seriousness of an infringement is interesting but at the same time very difficult. Classification of the infringement has to be fairly swift since it determines who is to deal with the case (administrative court or public prosecutor/police). However, at the beginning of the investigation, the information needed to assess the actual cost of treatment or repair is not always available.
- In the opinion of the practitioners encountered, the Criminal Code, which also applies to environmental matters, is sometimes severe and inflexible. Despite the strict penalties, two major obstacles were noted preventing the consequent application of these provisions: on the one hand, the fact that (at least in the past and as a result of different interpretations of the provisions) the Slovak Environmental Inspectorate has not in certain cases forwarded cases detected having a criminal nature. On the other hand, the practitioners met indicated that environmental crime has not always been taken seriously by judges, which resulted in the application of less severe penalties. Judges are often convinced about the seriousness of a crime only if offences against property and assets with serious asset damage are prosecuted at the same time. In the evaluators' view, this underlines the importance of financial investigations.

- NGOs do not seem to play a significant role in terms of cooperation with LEAs and as an independent party in criminal proceedings. They tend to rather help the injured persons, providing free assistance, though they may also participate in criminal proceedings as the proxy of the injured party for his or her representation.
- In terms of criminal law, the offender has primary responsibility for the restoration of the environment. The State is involved in environmental restoration and damage repair in the event that the offender does not have sufficient resources.
- Slovakia has an extensive legal basis for jurisdiction relating to the acts committed on its own territory and also abroad with regard to more serious cases, and it has transposed Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings.

6. COOPERATION

6.1. International Cooperation

6.1.1. Forms of the cooperation in cross-border cases

If there is a need for cooperation in cross-border cases relating to criminal activity, it is arranged in general via bilateral meetings with competent authorities from other states. If the criminal proceedings have been commenced, cooperation is conducted on the basis of mutual legal assistance by the applicable international treaties and EU instruments applying the principle of mutual recognition and implementing provisions of the CCP as well as on the basis of reciprocity. One example is the European Investigation Order legislation which came into effect in Slovakia on 15 October 2017. International judicial cooperation is conducted through direct contact between judicial authorities, through central authorities or through diplomatic channels.

As regards Customs cooperation, the Criminal Office of Financial Administration is the central coordinating unit for customs cooperation in the field of the taxes, fees and custom services, and applies the rules laid down by the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations (Naples II Convention)¹⁴. The Slovak authorities voiced a positive opinion as regards cooperation on the basis of Naples II Convention.

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

Slovakia has not used any specific technical channels for information exchange in cross-border waste crime cases. If needed, contact points of the EJM or other networks, such as the European Network of Prosecutors for the Environment (ENPE) or Eurojust, can be used. To make cooperation faster, it is possible to use communication channels via Interpol or Europol.

¹⁴ O.J.EU C 24 of 23.1.1998, p.2

No national contact point has been established for that purpose. Nonetheless, there is a 24/7 system of police, judges and prosecutors on duty in the Slovak Republic, which enables unavoidable procedures to be carried out at the level of bodies involved in criminal proceedings and courts in the case of urgent national and cross-border matters.

The Slovak authorities reported that no databases are used in order to prevent, detect, investigate and prosecute cross-border cases of waste crime apart from those operated by Europol and the World Customs Organization (WCO).

6.1.3. Difficulties faced in judicial cooperation relating to waste crime

Since cooperation is based on standard international agreements, including the EU acquis, practical problems may arise to the same extent as in other fields of international judicial cooperation in criminal matters. The prosecutors met expressed the need to provide a more effective exchange of experience and knowledge between the judicial authorities within the EU, e.g. via Eurojust and other relevant EU agencies.

6.1.4. Operational performance of JITs in waste crime

According to the information provided by Eurojust, Slovakia has not registered any environmental crime cases at Eurojust from 1 January 2004 up to the present date. However, Slovakia has been a requested party in four cases during this time period. Those cases dealt with emissions and illegal trafficking of protected species. Three of these cases are ongoing. In one of the ongoing cases, the setting up of a JIT may be considered.

The General Prosecutor's Office has ample and positive experience relating to the use of JITs in the case of evidence gathering relating to criminal activity.

6.2. Cooperation with EU Agencies and networks

6.2.1. Cooperation with Europol and Eurojust

Slovakia praised the cooperation with Eurojust and Europol in various areas, but there is no specific experience with regard to waste crimes. Both agencies have an equal and irreplaceable position in supporting cross-border investigation in the area of waste crimes and environmental protection, even though the focus of their activity is different.

Police officers repeatedly contribute with their experience to questionnaires, on the basis of which the environmental crimes threat assessment is produced, as well as SOCTA. Several police officers from the Department for the Detection of Dangerous Substances and Environmental Crimes of the Crime Police Office of the Police Force Presidium are members of the European Platform for Experts (EPE) and for the EnviCrimeNet.

Furthermore, Slovakia is involved as a 'co-driver' for the priority 'Environmental crime' of the EMPACT project in the framework of the EU Policy Cycle for 2018 – 2021, within which the criminal activity concerned will also be dealt with. Slovakia is committed to leading and to playing a role in some operational actions of the Action Plan for 2018.

Furthermore, Slovakia designated the Criminal Police Bureau as the national police contact point to facilitate and accelerate cooperation with Europol and Interpol in combatting environmental crime.

6.2.2. Experience resulting from the use of various environmental networks

Slovakia is a member of the following networks and has practical experience relating to cooperation with the police, prosecution or courts from other Member States:

Network for combating environmental crimes (EnviCrimeNet)

The police officers of the Department for the Detection of Dangerous Substances and Environmental Crime of the Office of Criminal Police of the Presidium of the Police Force are the long-term members. They regularly participate in the meetings and, since 2015, they have been members of the management committee of this network. Slovakia sees great potential for further development. The main asset is the information exchange relating to environmental crime in the respective Member States by means of regular annual meetings, where the representatives of the law enforcement agencies of each Member State report on the current situation relating to environmental crime, issues of disclosing and investigation, as well as procedures which could resolve these problems. EnviCrimeNet played an important role in the coordination of activities during the Slovak and Maltese Presidencies in the Council of the EU in 2016 and 2017, when it helped to activate experts from the respective Member States by putting an emphasis on environmental crime.

Network for the Implementation and Enforcement of Environmental Law (IMPEL)

The Slovak Environmental Inspectorate participates in the current projects of the network by cooperating in activities relating to projects, by participating in work meetings organised in connection with projects, and also by taking part in joint checks of cross-border waste movements in conjunction with neighbouring EU Member States.

European Network of Prosecutors for the Environment (ENPE)

Cooperation with the ENPE network is at a development stage and mostly focuses on providing answers to requests for statistical data, providing answers within the framework of questionnaires relating to the issue of statistical information requests, and the exchange of invitations for seminars and workshops relating to the issue of environmental crime.

EU Forum of Judges for the Environment (EUFJE)

Slovakia is a long-term member of the network in question. Within the framework of this network, judges in Slovakia obtain information personally or by means of Internet databases on the decision-making practices of their counterparts in relation to the protection of the environment from EU courts which would not otherwise be accessible.

Whereas the condition for the membership is not only the execution of proper judiciary but it involves also the particularity of its execution, especially by judges from Northern Europe, Slovak judges participate in the joint annual meetings and analyse the various national cases from the perspective of criminal and civil justice. Simultaneously, the representatives of the European Commission, for whom Slovakia is a source of information on practices and vice versa, participate in these meetings as well. The members of the network illustrate, comment on or complete many EU legal regulations from a very extensive field of environmental protection with theoretical knowledge and statistical data.

In the past, representatives of the network dealt with the issue of administrative and legal sanctioning of violations of legal regulations concerning environmental protection, the issue of soil protection, the effectiveness of waste management and many other topics which inevitably arise in relation to environmental protection. At present, the meeting of members of the network in Oxford is due to discuss the topic: 'Lawsuits connected with climate change and the first national experience in judicial review of these cases at national levels.'

All the information, knowledge or shared experience and practices are exceedingly beneficial to the extent that, for example, in one of the senates of the Supreme Court become the stimulus for preliminary rulings according to Article 267 TFEU in 3 cases, while the Court of Justice interpreted at least 2 cases in its annual report as exceedingly important prejudicial questions put in the field of environment.

OECD expert group - ONIP for Combating Illicit Trafficking in Pesticides

It was established under umbrella of the Working Group on Pesticides (WGP) in 2013, with the aim of decreasing the health risk for humans and the environment originating from pesticides and strengthening the structures in the field of pesticide regulation. Pesticides are among the most regulated products in the world. However, the international trade in counterfeit and illegal products is continually increasing. Slovakia is an active member of this group.

6.3. Cooperation between Slovakia and Interpol

Cooperation with Interpol takes place before the criminal proceedings start and after an official exchange of information. Interpol's communication channels are also used with a view to making police-to-police cooperation faster.

6.4. Cooperation with the private sector

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

According to the Slovak authorities, the private sector plays an important role in preventing and combating waste crime in Slovakia. Several NGOs are active in the area of educating the public as regards the negative impact of waste crime not only on the environment but also on people's health.

The private sector is also actively involved in exposing unauthorised waste management. If the criminal offences are detected by persons who are afraid to file a criminal complaint on their own, the complaint can be filed by representatives of non-governmental organisations having higher legal awareness. For example, one particular civic association has filed tens of criminal complaints for unauthorised storage of waste on sites not designated for storage. Several companies carrying out the entrepreneurial activity in the waste management sector also contribute to combating this criminal activity by notifying the Police Force about their suspicions of criminal activity.

Particularly in the area of pesticides, holders of authorisations, holders of permits for parallel trade, importers of products or persons authorised by them, who, pursuant to the Section 22 of the Act No. 405/2011 Coll. on phytosanitary care, must inform without delay about the cancellation of the authorisation or of the permit for parallel trade, as well as about the reasons for cancellation or amendment of the authorisation or permit, about the deadlines or securing the takeover and the disposal of the plant protection products. In this area, close cooperation between the public administration (including the inspection) and the private sector (holders of permits for pesticides, holders of certificates for fertilizers) is noteworthy, where consultations and communications are provided in specific cases.

The private sector also cooperates with the Slovak Information Service, which is authorised to request legal entities or natural persons to provide assistance, certificates and information which can contribute to the clarification of facts relevant to its work.

6.4.2. *Liability regarding the obligation to pass on information to competent authorities*

The private sector is not tasked with a specific obligation to forward information to the LEAs or to other competent agencies, though the CC provides for criminal accountability in the event of failure to report a criminal offence.

A criminal complaint can be filed by anyone who has knowledge concerning the commission of a criminal offence. It can be an eyewitness or a person who has detected a criminal offence even if he or she was not present at the crime scene. A request to commence a criminal investigation can also be made by a group of people, a civic association or other legal entity. The police are also obliged to verify an anonymous request if it shows that the perpetration of a criminal offence has taken place. The LEAs and courts act also *ex officio*.

In the case of pesticides, all the obligations on the holder of the authorisation for a plant protection product are set out in Article 56 of the Regulation (EC) of the European Parliament and of the Council No 1107/2009 concerning the placing of plant protection products on the market and repealing Council Directives No 79/117/EEC and No 91/414/EEC.

6.4.3. *Experience of cooperation with the private sector*

Police officers cooperated in the past with the civic association “*Priatelìa Zeme*” (Friends of the Earth), which financed as part of an ongoing project the training of police officers assigned to detecting and investigating cases of environmental crimes. They also cooperate actively with several non-governmental organisations in detecting unauthorised waste management.

The intelligence service also has practical experience with the private sector, mainly in relation to the area of prevention and raising legal awareness.

Apart from the armed security forces, the Ministry of Agriculture and Rural Development also has practical experience in cooperation with the private sector in the area of fertilizers and pesticides, especially in cases of illegal trafficking.

6.5. Conclusions

- In general, Slovakia praised cooperation with Eurojust and Europol in various areas, but there is no specific experience related to waste crimes. Slovakia has not yet established cooperation based on a JIT in that regard.
- There appears to be advanced cooperation between the LEAs at international level. Slovakia plays an active role in different international fora, such as IMPEL or ENPE. Slovakia is involved as a 'co-driver' for the priority 'Environmental crime' of the EMPACT project in the framework of the EU Policy Cycle for 2018 – 2021, as part of which the criminal activity concerned will also be dealt with. Furthermore, Slovak efforts during its Presidency of the Council of the EU in 2016 resulted in experts from the respective Member States putting an emphasis on environmental crime through EnviCrimeNet. Slovakia designated the Criminal Police Bureau as the national police contact point to facilitate and accelerate cooperation with Europol and Interpol in combating environmental crime.
- The evaluators noted that the Criminal Police Bureau does not regularly attend events (e.g. conferences such as IMPEL TFS), where a practical approach to criminal offences involving waste and the cross-border shipment of waste is addressed. Given the way Slovak legislation is structured, i.e. the fact that once a serious crime has been committed, it is the police that take over and deal with the case, they could not only take advantage of the experience of the other participating countries, but could also give the latter the benefit of their experience.
- Whereas prosecutors and police officers actively participate in different fora of international cooperation, judges do not seem to be involved.
- Although NGOs are engaged in the fight against waste crime, it seems that they could possibly be more integrated in public efforts to enhance prevention and raise awareness among citizens and private companies.

7. ILLEGAL TRAFFICKING OF WASTE

7.1. National structure

7.1.1. Authorities involved in preventing and combating illegal shipments of waste

There are no specialised bodies in Slovakia designated to prevent and combat illegal shipments of waste. In general these tasks are carried out by the Ministry of the Environment, which is authorised to issue permits for cross-border shipments of waste, and the Slovak Inspectorate of the Environment, which carries out regular checks at border crossings with neighbouring countries. Their tasks and competencies are determined in detail in Act No 79/2015 Coll. on waste, as amended.

The task of the Slovak Environmental Inspectorate is to monitor cross-border movements of waste. It is therefore authorised to carry out checks on documents in the area of cross-border movements of waste, to carry out physical checks on waste, and to take and analyse samples of waste, specifically at the place of origin of the waste, on the premises of the notifying body, on the premises of the recipient of the waste, at facilities, at border crossings and throughout the territory of the Slovak Republic. The checks are carried out by waste management inspectors, who are legally bound to have a university degree and who must have passed the expert capability tests on waste management. Cross-border cooperation with the Czech Republic was specifically praised.

Furthermore, the Financial Administration (Customs) is involved in carrying out inspections, and units of the Police Force conduct investigations in the event that the extent of the detected illegal shipment reaches the level required in order to be deemed a criminal offence.

7.1.2. Detection of illegal shipments of waste

Illegal shipments of waste are mostly detected as a result of checks carried out directly at border crossings, or during customs checks by releasing the products into the customs regime. The detection of illegal shipments outside border crossings is less feasible due to the sophisticated modi operandi. A hit is likely to take place on the basis of notifications from citizens or competent authorities in the neighbouring countries, or possibly through information and technical resources.

The main problem relating to the information gained is its credibility. Moreover, one of the biggest obstacles in detecting this type of crime is how quickly information about checks is spread among HGV drivers via transmitters. Another obstacle referred to is the need for an expert search to prove that the waste being shipped does not correspond to the waste declared in the permit.

Furthermore, there is a visible lack of formal coordination between the efforts made by several bodies (the Slovak Environmental Inspectorate, the Police Force and the Financial Administration); such coordination is necessary for carrying out such checks.

7.1.3. Specificity of illegal shipment of waste

The Slovak authorities mentioned that they have observed a significant shift in the means of perpetrating illegal shipments of waste in recent years, especially in terms of the detection of this type of criminal activity.

The perpetrators operate within established legal entities claiming to carry out entrepreneurial activities in the area of waste management. The waste is officially being imported for the purpose of recovery in the facilities; however, no recovery is in fact taking place there and the waste is subsequently disposed of illegally. In addition, several cases were documented in which hazardous waste was reported as municipal waste and dumped in sites designated for waste other than hazardous waste.

In the opinion of the Slovak authorities, the extent of such unlawful criminal activity proves that it could not be perpetrated only by individuals without the involvement of organised crime groups. The Slovak authorities therefore suspect corruption among officials in the competent bodies manifested by decisions and procedures which do not correspond to the legal acts. In one of the cases investigated it was noted that indirect pressure had been applied to the competent law enforcement officials to discourage them from properly executing an inspection activity.

7.1.4. Measures on shipment of wastes

Cross-border shipments of waste are entirely within the remit of the Ministry of Environment and must be carried out in accordance with the provisions and requirements of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste.

Cross-border shipments of dangerous goods on Slovak roads are covered by Act No 56/2012 Coll. on road traffic, as amended (Sections 34 to 39), which regulates shipments of dangerous goods and the obligations of participants as regards shipments of such goods. It also designates the security advisor and sets criteria for training courses and examinations relating to the inspection of shipments of dangerous goods, and the conditions of roadside inspections. It also contains a reference to the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR Treaty), which lays down provisions ensuring the shipment of dangerous goods within a maximum security regime from the place of loading to the destination in the respective transportation chain.

7.2. Inspections

7.2.1. Methodology of inspections and follow-up

During the execution of an inspection a suitable place in the proximity of a border crossing is determined with a sufficient capacity for the vehicles stopped. The HGVs are halted by police officers or officers from the Financial Administration (customs officers). As well as physical inspections, service dogs are also used together with advanced technologies such as mobile or stationary RTG scanning devices, ionising radiation detectors, etc. If the inspection shows that the vehicle inspected is being used to transport waste, inspectors from the Slovak Environmental Inspectorate become involved in the inspection.

The tools and methods used for the inspections are set out in the Act on waste and in Act No 10/1996 Coll. on control in the state administration, as amended. The execution of inspections of shipments of dangerous goods is regulated by Sections 38 and 39 of Act No 56/2012 Coll. on road traffic, as amended, and by the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR Treaty), implemented by Decree of the Ministry of Foreign Affairs of the Czechoslovak Socialist Republic No 64/1987 Coll.¹⁵ The results of inspections of shipments of dangerous goods and any infringements detected are processed for statistical purposes and evaluated by the Police Force Presidium.

If the state supervisory authority determines that a person under inspection has violated an obligation imposed by the Act on waste (Section 112 para 2), the generally binding legislation issued to enforce that Act or obligations imposed by decisions issued on the basis thereof, it will impose a fine pursuant to Section 116. An inspector conducting state supervision is entitled to carry out any one of the following activities:

¹⁵ The Slovak Republic acceded to the ADR Treaty in 1993 by succession following the dissolution of the Czech and Slovak Federative Republic.

1. accompanied by an employee of the person under inspection and in accordance with the instructions for ascertaining safety and health protection within the place of work of the person under inspection which apply to said person's workplace and premises, freely enter the property, operating premises, buildings, facilities and other areas used by the person under inspection,
2. require persons under inspection to prove their identity, or the identity of their employees or persons acting on their behalf,
3. require persons under inspection to submit their operational records and certificates, and inspect said records and certificates, and request copies thereof,
4. conduct any necessary investigations, including taking samples, compiling photo and video documentation and requesting the necessary data and explanations in relation to the conduct of the inspection (Section 112 para 4).

Pursuant to Section 11 of Act of the National Council of the Slovak Republic No 10/1996 Coll. on control in the state administration, as amended:

(1) Inspecting officials involved in the execution of the inspection are authorised, to the extent necessary:

- a) to enter the premises, facilities, operational sites, grounds and other buildings of the subjects under inspection, if they are directly related to the matter of inspection; the inviolability of the dwelling must not be violated by the execution of such authorisation,
- b) to request the subject under inspection and its employees to provide within the deadline specified the certificates, other documents, statements and information (including technical carriers of data) necessary for the execution of the inspection, together with the original certificates; when requesting certificates and information pertaining to classified facts or personal data it is necessary to follow the procedure determined by specific acts,
- c) for the purposes of documentation in relation to the protocol on the outcome of the inspection, to make photocopies of the materials taken,

- d) in duly substantiated cases, to remove the original certificates from the premises of the subject under inspection in cases where the issuing of such certificates is not prohibited by generally binding legislation, and to remove written certificates and other materials and carry out other necessary acts relating to the inspection,
- e) to request the cooperation of the subject under inspection, its employees and any other state bodies as required for the execution of the inspection. It is possible to request the cooperation of legal entities and natural persons to the extent necessary and with their consent; in relation to verifying the correctness of the procedures by providing and using the resources of the European Community, including the resources from the state budget provided for fulfilling those tasks, such persons are obliged to cooperate as requested. Cooperation cannot be requested if that would jeopardise the life or health of the persons concerned or violate the duty of confidentiality determined by law, where the subject under inspection was not relieved of the duty of confidentiality by the authorised body.

(2) Inspecting officials, in relation to the execution of the inspection, are obliged:

- a) to notify the subject under inspection in advance about the subject, purpose and duration of the inspection and to show the mandate for execution of the inspection together with the certificate proving their identity, unless otherwise laid down by a specific act; if such notification prior to the start of the inspection might lead to the purpose of the inspection being thwarted, then it must be done at the start of the inspection at the latest,
- b) to give the subject of the inspection a receipt for any original certificates, written documents or other materials taken away and to ensure their proper protection against loss, destruction, damage and misuse; if the materials taken away are not needed for further execution of the inspection or for other procedures pursuant to specific acts, they are obliged to return them to the person from whom they were taken,
- c) to notify the law enforcement authorities of the circumstances suggesting that a criminal offence has been perpetrated, and to notify other bodies of the facts pursuant to the specific acts; to that end, the inspecting officials are authorised to take action to protect evidence from loss or destruction,

- d) to acquaint the superior of the subject under inspection with the protocol concerning the outcome of the inspection (Section 13) before its negotiation, and to request his/her written response to all findings of the inspection within a reasonable deadline determined by the inspecting officials; any written responses provided within the prescribed deadline by means of which the superior of the subject under inspection casts doubt on the findings of the inspection constitute challenges; no account is taken of any responses submitted after the determined deadline has expired,
- e) to verify the justification for any challenges to the findings of the inspection, to take justified challenges into account in the addendum to the protocol and to acquaint the superior of the subject under inspection with that addendum,
- f) to provide written justification for the lack of any basis for such challenges to the superior of the subject under inspection at the latest by the deadline for negotiating the protocol,
- g) to negotiate the protocol on the outcome of the inspection, including its component parts (the ongoing protocol, the partial protocol and the addendum to the protocol) with the superior of the subject under inspection; before negotiating the protocol, to remind the superior of the subject under inspection of the consequences of violating the legal obligation pursuant to Section 12 para 4,
- h) in the record of the negotiation of the protocol, to task the superior of the subject under inspection, within the deadline determined following the completion of the inspection, with notifying the supervisory body of the action taken to remedy the stipulated shortcomings and the causes thereof, designating the employees responsible for the shortcomings detected as a result of the inspection and submitting a written report to the supervisory body describing the execution of any action taken and the enforcement of legal responsibility,
- i) in duly substantiated cases, to inform the competent supervisory body of the results of the inspection,
- j) to forward to the superior of the subject under inspection the protocol on the outcome of the inspection, the ongoing protocol, the partial protocol and the addendum to the protocol and the record of the negotiation of the protocol or record of the inspection,
- k) to maintain confidentiality in respect of any facts which may have come to light in the course of the inspection, if they are not relieved of such a duty by the person in the interests of whom they have such a duty, or in the public interest by the head of the inspecting body; this does not affect the duty of confidentiality in respect of classified facts and personal data.

Where the extent of unlawful activity indicates that the criminal offence of illegal handling of waste has been perpetrated, the mobile group of the respective district directorate of the Police Force is called to the scene to document the extent of the unlawful activity in cooperation with the inspectors from the Slovak Environmental Inspectorate.

Where it is necessary to examine the waste, it is seized and stored on the premises of the legal entity which carries out entrepreneurial activities in the area of waste management. Once the waste is no longer necessary for any further procedures, it is delivered to the state of origin.

Specific inspections with regard to Waste Electrical and Electronic Equipment (WEEE) and End of Life Vehicles (ELV)

The Slovak authorities have not yet carried out any specific inspection activities in the area of WEEE focusing on the detection of unlawful flows or any activities or analyses in the area of ELV. However, in the past several cases have been investigated involving illegal increases in the value of vehicles.

Decree of the Ministry of Environment No 366/2015 Coll. on registering and reporting duty lays down forms for keeping records on waste and the reporting of data, determines the detailed way in which such forms are to be completed and specifies the deadlines for compiling those forms.

7.2.2. First inspection plan

The first inspection plan was adopted in Slovakia and is presented on the website of the Slovak Inspectorate of the Environment.¹⁶

¹⁶ Please see <http://www.sizp.sk/doc/cinnost/odpady/poznatky/plan-kontrol.pdf>

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

Among the main problems, reference was made to the taking back of illegal shipments whose origin is concealed. A specific group of problems concerns the rules regarding the place where the waste can be stored until it is delivered to the state of origin.

7.3. Conclusions

- Whereas the Ministry of Environment is authorised to issue permits on cross-border shipments of waste, the Slovak Environmental Inspectorate carries out regular checks at border crossings with neighbouring states. The Inspectorate regularly accompanies Customs during roadside inspections. In the evaluators' view, it is a shame that cooperation at the level of cross-border waste shipments does not extend to other services conducting roadside inspections.
- The police conduct investigations in the event that the extent of the illegal shipments detected reaches the level necessary in order for them to be deemed a criminal offence. However, police officers involved in inspections are not provided with any specialised training relating to road checks on waste. In the evaluators' view, this deprives the police forces of the opportunity to inspect a large number of trucks. It is therefore particularly useful to have at this level police officers who have at least an elementary knowledge of waste, and more specifically waste shipments.
- The insufficiency of the exchange of information or cooperation between the Slovak Environmental Inspectorate, the Police Force and the Prosecutor's Offices was noted. This is the result of a differing interpretation of environmental law. In the evaluators' view, this should be improved on in future as it may hamper measures to combat environmental crime. Direct contacts between inspectors, administration and prosecutors could reduce the risk of criminals being detected merely by accident.
- There are no overall statistics available regarding cases of cross-border waste shipments.
- There is sound legislation in place laying down rules determining how inspections should be carried out. The first inspection plan was adopted in Slovakia and is presented on the website of the Slovak Environmental Inspectorate.

- WEEE European legislation provides that countries should devise specific strategies for combating environmental crime, especially as regards WEEE. Such strategies must cover waste prevention, recovery and recycling, as well as the control and prevention of unlawful activities. The Slovak administration explained that it was working on such a plan. The evaluators believe that this work should be continued with a view to developing and finalising the WEEE plan and in particular ensuring that it is adopted, so that the strategy thereby devised becomes workable and the various authorities involved (administration, police, customs, etc.) assume responsibility.
- While any national legal regulations may also be of a preventive nature, and criminal law seems to be a sufficient means of effectively combating environmental crime, there is no legal basis for controls or inspections. The additional information provided during the on-site visit was helpful insofar as the evaluation team learned that there is obviously a sufficient legal basis for effective inspections (Act No 10/1996 Coll. On Inspection in State Administration).
- While Slovakia maintains close cooperation with the Czech Republic, specific, long-term cooperation with Ukraine with regard to cross-border shipments of waste seems to be non-existent.

8. MANAGEMENT OF HAZARDOUS WASTE

8.1. The classification of hazardous waste and the challenges involved in its management

In the past, an increasing number of illegal collections, shipments, exports and recoveries of hazardous waste (old automotive batteries) has been noted. The increased involvement of the Police Force in the detection of criminal activity has succeeded in partially eliminating such activities.

A few cases are currently under investigation involving the storage of waste in premises not authorised for hazardous waste. It is impossible to indicate exact numbers as cases involving illegal waste management are not recorded in separate statistics and it is impossible to separate them from other cases of waste management.

Pesticides and their remnants and their packaging thereof are classified as hazardous waste and must be disposed as a hazardous waste. This information is mandatory, and is stated on the label of every such product. Pursuant to Act No 405/2011 Coll. on phytosanitary care, the provisions concerning the obligation to use such products in accordance with the instructions must be stated on the label and fines are imposed in the event of any infringement of those provisions.

As regards other type of hazardous waste, given the need for a complicated expert search in order to prove such unlawful activity, it has not been noticed yet any increase in such cases.

The owner of the waste is obliged to submit at the request of the previous owner of the waste certificates containing complete and true information regarding the way in which the waste has been handled. The Act on waste and the respective implementing acts regulate in detail the method for recording waste and the way in which it should be marked.

Since pesticides – plant protection products and their packaging thereof are still regarded as hazardous waste, pursuant to Regulation (EC) No 1107/2009 every professional user of pesticides is obliged to maintain records regarding their use. Any person who places pesticides on the market is obliged to maintain records regarding such placing on the market. For this reason, on-the-spot inspections of the aforementioned subjects are carried out by the phytosanitary inspectors to determine both the quantity of used pesticides and whether the amount of packaging specified for the disposal thereof corresponds to the amount used. Similarly, during an inspection the phytosanitary inspectors check the contracts concluded between the companies dealing with the disposal of hazardous waste and professional users of pesticides. In this regard, an administrative check on the documents/certificates (cross-check) is also carried out.

The main concern expressed by the Slovak authorities as regards hazardous waste concerns the need for costly expert evidence.

8.2. The system of inspections and the authorities involved

The Slovak Environmental Inspectorate, the District Offices in the seat of a Region and the District Offices are among the national authorities responsible for conducting inspections.

The Slovak Environmental Inspectorate, as the main control authority in the field of waste management, is authorised to inspect the way in which legal entities, natural persons, entrepreneurs and communities abide by the generally binding legislation in matters concerning waste management. It also imposes fines on the subjects inspected, actions in terms of rectification and certain other obligations in cases of proven infringement of the legal provisions in the area of waste management, monitors compliance with the rectification measures imposed, issues integrated permits, deals with complaints, petitions, announcements and initiatives submitted by citizens, organisations, other state administration bodies and local self-government, and cooperates with other state administration bodies, as well as with other organisations active in the area of waste management.

It is authorised to carry out checks on certificates in the area of cross-border movements of waste pursuant to the specific acts and pursuant to the Act on waste, carry out physical inspections of waste, and take and analyse samples of waste, namely at the place where the waste was created, at the place of notification, on the premises of the recipient of the waste, in facilities, at border crossings and throughout Slovak territory.

The inspection system is regulated by the Act on waste and the Act on control in the state administration. The inspection system is based on district offices administering waste management at regional level and issuing permits. Inspections are carried out by inspectors in the Slovak Inspectorate of the Environment on the basis of the pre-authorised plan of inspection activities, as well as citizens' initiatives and requests by other law enforcement authorities.

The Police Force investigates cases involving illegal waste management on the basis of various initiatives, as well as its own findings from operative search activities.

Measures to combat hazardous waste are also implemented by the phytosanitary inspectors of the Central Control and Testing Institute in Agriculture in Bratislava, whose competencies are determined in accordance with Section 13a (state administration bodies) and Section 14 (state expert control) of Act No 136/2000 Coll. on fertilisers, as amended, and in accordance with Sections 4 and 9 of Act No 405/2011 Coll. on phytosanitary care regarding the operation of the Control Institute and the related phytosanitary control measures.

The national inspection plan is drawn up each year and focuses on the placing of pesticides and fertilisers on the market and their storage, use and disposal. The system of inspections follows the plan for the main tasks.

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

The Act on waste and the respective implementing acts regulate in detail the obligations regarding the handling of waste, while any breach of the obligations constitutes an administrative offence in respect of which a fine is imposed in Slovakia. Responsibility for any handling of the waste lies with the owner of the waste. Checks on compliance with those obligations are laid down by the conditions specified in the permits for carrying out the related actions and are carried out by the waste management bodies of the state administration, which are responsible for inspections, by the Slovak Environmental Inspectorate, by the District Offices in the seat of a Region and by the District Offices.

Since pesticides and the packaging thereof are regarded as hazardous waste pursuant to Act No 405/2011 Coll. on phytosanitary care, the phytosanitary inspectors, within the remit of the tasks assigned to them, also carry out various types of inspections, such as on-the-spot inspections, inspections of the amount of pesticides used and inspections to determine whether the amount of packaging agreed upon for disposal corresponds with the amount used. Similarly, during inspections the phytosanitary inspectors check the contracts between the companies dealing with the disposal of hazardous waste and professional pesticide users. An administrative check on the documents/certificates (cross-check) is also carried out.

8.4. Trends in the illegal hazardous waste management

The Slovak authorities reported that, due to the lack of an effective mechanism for detecting cases of unlawful shipments at the level of LEAs, such common features and trends cannot be precisely defined. Nevertheless, in recent years there have been efforts to highlight the criminal offence of the illegal management of hazardous waste whereby such waste is labelled as non-hazardous waste and subsequently disposed of on sites which are not authorised to deal with hazardous waste.

8.5. Conclusions

- The legislation applicable to hazardous waste is mainly based on European regulations and directives and is, therefore, similar to that of other EU Member States.
- In practice, not many cases involving hazardous waste have been recorded in Slovakia. No specific inspection plan seems to have been developed in the area of hazardous waste owing to the small number of cases. Since it seems that the number of hazardous waste offences recorded in other EU Member States shows the opposite tendency, in the evaluators' view, the mechanism for their detection and registration should be enhanced in Slovakia.
- An inspection plan is a vital tool for both the Slovak Environmental Inspectorate and the Police Force in order to investigate certain waste streams, and particularly hazardous waste streams, in a targeted and efficient manner.

9. ILLEGAL PRODUCTION OR HANDLING OF DANGEROUS MATERIALS

9.1. The concept of dangerous materials

Although the term 'dangerous materials' has not been explicitly defined by Slovak legislation, it is defined in the form of making reference to the following acts:

- Section 2 para 9 of Act No 79/2015 Coll. on Waste implementing Commission Regulation (EU) No 1357/2014 of 18 December 2014 replacing Annex III to Directive 2008/98/EC on waste and repealing certain Directives¹⁷;
- Decree of the Ministry of the Environment of the Slovak Republic 100/2005 Coll. laying down detailed arrangements for the handling of dangerous materials, on the particulars of an emergency plan and on the procedure for resolving a specific deterioration in water quality;
- Notification of the Ministry of the Foreign Affairs No 280/2007 Coll. on the accession of the Slovak Republic to the Rotterdam Convention, on the prior informed consent procedure for certain dangerous chemicals and pesticides in international trade and other regulations laying down the handling of chemical, radioactive and other dangerous substances.

The Criminal Code does not itself contain any definition of dangerous materials. Related constituent elements of the relevant criminal offences constitute 'referring legislation' that refers to the aforementioned special acts. Section 298 of the CC lays down the criminal offence of illegal production and possession of nuclear materials, radioactive substances, dangerous chemicals and dangerous biological agents and toxins, nuclear or other radioactive materials or similar dangerous biological agents or toxins.

¹⁷ OJ L 365 of 19.12.2014.

Section 284 of the CC criminalises placing people at risk of death or grievous bodily harm or putting someone's property at risk of large-scale damage by causing fire or flood, or failure, or an accident by means of public transport, or adverse effects of explosives, gas, electricity, radioactivity or other similar dangerous substances or forces, or committing any similar dangerous procedure.

Dangerous substances are defined in Section 3 para 3 of Act No 42/1994 Coll. on Civil Protection as natural or synthetic substances that can, on account of their chemical, physical, toxicological or biological characteristics, individually or in a combination, cause a threat to life, health or property. Section 2 (e) of Act No 128/2015 Coll. on the prevention of serious industrial accidents and amending and supplementing certain acts defines 'dangerous substances' as a substance or a mixture¹⁸ listed in the first part of Annex I or in the second part of Annex I, namely in the form of a raw material, product, by-product, residue or intermediate.¹⁹

The handling of radioactive nuclear materials, spent nuclear fuel and radioactive waste is regulated by Act No 541/2004 Coll. on the peaceful use of nuclear energy (nuclear act) and amending and supplementing certain acts; the terms concerning nuclear materials are defined, with spent nuclear fuel and nuclear waste arising from the operation of nuclear installations.

Act No 346/2013 Coll. on restrictions on the use of certain dangerous substances in electrical and electronic equipment, amending Act No 79/2015 Coll. on waste, regulates the use of dangerous substances listed in Annex I in electrical and electronic equipment, whereby it refers to such dangerous substances and their maximum admissible weight concentration in homogenous materials as follows:

1. Lead (0.1 %)
2. Mercury (0.1 %)

¹⁸ Article 2(7) and (8) of Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008) as amended.

¹⁹ Annex I to Act No 128/2015 Coll., which defines dangerous materials and their threshold values, is available on the following website: https://www.slov-lex.sk/pravne-predpisy/prilohy/SK/ZZ/2015/128/20160701_4453977-2.pdf

3. Cadmium (0.01 %)
4. Hexavalent chromium (0.1 %)
5. Polybrominated biphenyls (PBB) (0.1 %)
6. Polybrominated diphenyl ethers (PBDE) (0.1 %).

The following are also regarded as dangerous materials:

- chemical weapons, even though Act No 129/1998 Coll. on the prohibition of chemical weapons and amending and supplementing certain acts does not explicitly refer to the concept of 'dangerous materials';
- certain categories of products of the defence industry (Measure of the Ministry of the Economy No 1/2016 of 12 September 2016, establishing a list of products of the defence industry pursuant to Section 43 letter a) of Act No. 392/2011 Coll., on trading with the products of the defence industry and amending and supplementing certain acts, as amended);
- drug precursors (Act No 331/2005 Coll. on state administration bodies in matters of drug precursors and amending and supplementing certain acts, Regulation of the Ministry of the Economy No 380/2005 Coll. laying down the scope, form and deadline for reporting by operators on international trade with scheduled substances and on marketing the scheduled substances);
- explosive precursors (Act No 262/2014 Coll. on state administration bodies in matters of explosive precursors and amending and supplementing certain acts);
- dual-use list (Regulation No 428/2009 Coll.);
- scheduled products (Act No 144/2013 Coll. on trading in scheduled products the possession of which is restricted for security reasons and amending Act No 145/1995 Coll. on administrative fees, as amended).

Section 5 of Act No 333/2011 Coll. on state administration bodies in the field of taxes, fees and customs, while describing the competencies of the Crime Office of the Financial Administration, specifies that it fulfils and implements tasks relating to dangerous substances, including measures to combat the illegal transportation of radioactive substances and other highly dangerous substances, etc.

Furthermore, the service manual issued by the General Staff of the Armed Forces of the Slovak Republic contains a 2007 terminological glossary of radiation, chemical and biological protection that complies with the standardisation agreement of the NATO Glossary of NBC terms and definitions – AAP-21 (A), STANAG 2367 NBC (Edition 5,6). This terminological vocabulary is addressed to the staff of the Ministry of Defence with a view to defining and unifying the concept of radiation, chemical and biological protection within the Armed Forces of the Slovak Republic with the terms used in NATO.

In relation to the production of dangerous materials, activities which could potentially have a serious impact on human life or health or which could cause considerable damage to someone else's property or give rise to an imminent threat of such consequences are prohibited or limited. Causing or giving rise to an imminent threat arising as a result thereof during the production or handling of dangerous materials as a consequence of the violation of obligations (prohibition or limitation) results in the criminal liability of a natural person who acted illegally or of a legal person who is legally responsible for the illegal action which caused such an effect.

From a legal point of view (the Criminal Code), any kind of action that as a consequence of such unauthorised manipulation leads to the risk of damage or actual damage to life, health or property or the state constitution is sanctioned.

Pursuant to Section 298 of the CC, anyone who, without permission, produces, imports, exports, transports, purchases, sells, exchanges, modifies, uses, gives for transport, stores, removes or otherwise procures for themselves or another person, or possesses nuclear or other radioactive materials or similar high-risk chemical substances, or a high-risk biological agent or toxin, or items intended for their production, even by negligence, is liable to a term of imprisonment of between one and six years.

Act No 129/1998 Coll. on the prohibition of chemical weapons and amending and supplementing certain laws and Decree of the Ministry of the Economy of the Slovak Republic No 44/1999 Coll. implementing the Act on the prohibition of chemical weapons and amending and supplementing several acts lay down the rights and obligations of legal and natural persons in relation to the prohibition on the development, production, accumulation and use of chemical weapons and the disruption thereof, as well as provisions concerning the use of toxic chemical substances and their precursors that can be misused for the purpose of violating the prohibition on chemical weapons.

Prohibited actions, defined in the law, are:

1. The development, production, possession and use of chemical weapons,
2. The importation of chemical weapons into the territory of the Slovak Republic and the transit thereof through Slovak territory.

Pursuant to Regulation (EC) No 2003/2003 of the European Parliament and of the Council relating to fertilisers (Annex 4), there is an obligation to carry out a detonation test in the case of industrial fertilisers containing ammonium nitrate if the quantity of nitrogen arising from the ammonium nitrate is more than 28%. Pesticides and the residues and packaging thereof are classified as dangerous materials and must be handled as such. This information must be stated on the label of each such product. Act No 405/2011 Coll. on phytosanitary care lays down provisions concerning the obligation to use such products in accordance with the instructions printed on the label, and fines are applied in the event of any violation of those provisions.

The examination of dangerous materials calls for expertise; accordingly, where clarification is necessary for criminal proceedings, the LEAs or courts request a specialised opinion, or an expert is appointed to draw up an expert report.

Chemical materials:

Act No 129/1998 Coll. on the prohibition of chemical weapons sets out the list of chemical substances that may be regarded as 'dangerous materials' in accordance with the definition used in that document. According to that act, the state administration body in the field of the prohibition of chemical weapons is the Ministry of the Economy. That Ministry grants licences for the handling of such materials. In the case of pesticides and the residue and packaging thereof, this concerns the hazardous waste that must be handled in such a way.

Radioactive materials:

1. With regard to waste that is radioactively contaminated, but whose level of contamination is such that it can be released into the environment, such waste is not considered to be radioactive waste – rather, it is regarded as radioactively contaminated material (waste). In the case of radioactively contaminated material originating from activities leading to radiation, it is possible to release such waste into the environment. In order to release the material from administrative control (into the environment), the permission of the public health body is required. This procedure is laid down in Act No 355/2006 Coll. on the protection, support and development of public health and amending and supplementing certain acts.
2. The detailed procedures are laid down in Regulation of the Government of the Slovak Republic 345/2006 Coll. on the essential safety requirements for the protection of the health of workers and inhabitants from ionising radiation and activities important from the point of view of radiation protection.

3. Any waste which is radioactively contaminated in such a way that it is not possible to release it into the environment is regarded as radioactive waste. If such waste originated from outside nuclear facilities, it may be considered to be institutional radioactive waste (IRAO), and the conditions for handling it are also regulated by:

- Act No 355/2006 Coll. on the protection of, support for and development of public health and amending and supplementing certain acts,
- Regulation of the Government of the Slovak Republic No. 345/2006 Coll. on the essential safety requirements for the protection of the health of workers and inhabitants from ionising radiation, and
- Decree No 545/2007 Coll. laying down the detailed requirements for ensuring radiation protection in connection with activities leading to radiation and activities important from the point of view of radiation protection.

In principle, no distinction is drawn between low-level and high-level IRAO. The handling of IRAO always requires the permission of the public health body.

3. In the case of RAO originating from nuclear facilities, such waste is considered to be radioactive waste from nuclear facilities. In such cases, besides the aforementioned legislation, Act No 541/2004 Coll. on atomic law and other decrees implementing relevant acts are also applicable. For the handling of RAO from nuclear facilities, the permission of the Nuclear Regulatory Authority of the Slovak Republic and of the Public Health Authority of the Slovak Republic are required.

Nuclear materials:

In case of doubt as to whether nuclear materials are concerned, the power to label such materials lies in the hands of the Nuclear Regulatory Authority of the Slovak Republic, in accordance with Act No 541/2004 Coll. on the peaceful use of nuclear energy (Nuclear act).

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

The Police Force recorded several cases of illegal handling of dangerous materials (or illegal handling/smuggling of nuclear materials). It was reported that the following cases represent the most significant types of illegal production and handling of dangerous materials:

- unauthorised handling of high-risk chemical substances (e.g. storage of metallic mercury in a place easily accessible to the public), which statistically represents the highest number of cases;
- finding the source of radioactive radiation outside administration control, e.g. in metal scrap;
- illegal trafficking in dangerous materials (this exists in Slovakia to a limited extent, albeit repeatedly).

Besides the unauthorised handling of waste containing dangerous materials, several other offences stipulated by the Criminal Code may also be listed, such as:

- general threats (Section 284 of the CC),
- illegal production and possession of nuclear materials, radioactive substances, highly dangerous chemicals and highly dangerous biological agents and toxins (Section 298 of the CC),
- unauthorised discharge of pollutants (Section 302a of the CC),
- violation of water and air protection (Section 303 of the CC),
- illegal production and handling of ozone-depleting substances (Section 304 a of the CC);
- wrecking activities (Section 315 of the CC);
- terrorism and other forms of participation in terrorism (Section 419 of the CC);
- participation in the activities and organisation of armed groups within the territory of another state (Section 419a of the CC).

Section 298 of the Criminal Code states as follows: 'Whosoever, even by negligence, without permission produces, imports, exports, transports, purchases, sells, offers, exchanges, modifies, uses, gives for transport, stores, removes or otherwise procures for themselves or another person, or possesses nuclear or other radioactive material or a similar highly dangerous chemical substance, or highly dangerous biological agents or toxins, or items intended for their production, shall be punished by a prison sentence of one to six years.'

On that basis, the transportation of nuclear materials without the permission of the competent public health body is considered a criminal offence (Section 45 para 2 letter (j) of Act No 355/2007 Coll. on the protection, support and development of public health and amending and supplementing certain acts, as amended).

Section 45

Authorisation of activities leading to radiation, activities important from the point of view of radiation protection and the release of radioactive substances and radioactively contaminated objects and materials from administrative control:

1. The activities referred to in paragraphs 2 to 5 can be carried out only subject to the permission of the competent public health body at the request of a natural person – entrepreneur or legal person.
2. The permission of the public health body, unless otherwise stated in this act, is required for executing the following matters leading to radiation:
 - a) Operation of nuclear facilities and stages of decommissioning of nuclear facilities,
 - b) Mining and processing of materials containing natural radionuclides and extracted or processed for their radioactive, fissile or fertile characteristics,
 - c) Addition of radionuclides to consumable products and objects, medicinal and healthcare products; for importing and exporting such products from countries outside the European Union,

- d) Consumption, storage and use of sources of ionising radiation for irradiation of foods, objects of normal use and other materials,
- e) Consumption, storage and use of open radioactive sources at workplaces of Category III.⁴⁹⁾ and for consumption, storage and use of fresh nuclear fuel,
- f) Operation of particle accelerators during the operation of which an energy higher than 1 MeV is produced, for the production of radionuclides or for scientific research or technical purposes,
- g) Installation, maintenance and repair of sources of ionising radiation,
- h) Collection, storage and adjustment of radioactive source including ionising fire detectors for the purpose of disposal,
- i) Production, distribution, sale and lease of radiation sources used in activities for which a notification or permission according to this act is required, production of ionising fire detectors, importation of radiation sources from countries outside the European Union and exportation of radiation sources from countries outside the European Union,
- j) Transportation of radiation sources, unless otherwise stated in this act, transportation of radioactive waste, spent nuclear fuel and radioactively contaminated objects that cannot be released from administrative control for their activity,
- k) Handling of radioactive residues, radioactive waste and spent radioactive fuel,
- l) Handling of orphan sources, radioactive wastes of unknown origin and disused radioactive sources,
- m) Medical exposure in biomedical, diagnostic or therapeutic research programmes,
- n) Medical exposure in connection with preventive medical programmes or screenings.

The number of detected cases of illegal production and possession of dangerous materials has remained constant: from 2012 to 2016 it ranged from 13 to 15 cases per annum. 2013 was exceptional: 24 cases were detected that year.

The resolution efficiency rate was at the level of 23% – 50%. Several cases of transportation of radioactive materials without permission were resolved not only by police officers but also by the Ministry of Transport and Building of the Slovak Republic, namely by means of the administrative procedure.

In the field of the illegal importation / exportation / transit of dangerous materials and related current trends, Slovakia recorded in particular:

- a trend in the transportation of radioactive materials for medical purposes (radioisotopes) without relevant permissions for importation / exportation / transit or transfer, respectively;
- the entry into the country of radioactively contaminated vehicles, and in particular railway wagons from Ukraine transporting legal goods (e.g. iron);
- imports of basic raw materials for industrial production exceeding the maximum permitted radiation limit,
- illegal imports of radiation sources for private purposes (e. g. aircraft instrumentation which is a source of radiation),
- the smuggling of radiation sources without relevant permissions for the purpose of onward sale to organised crime groups.

As far as nuclear materials are concerned, all activities supervised by the Nuclear Regulatory Authority are executed in accordance with Act No 541/2004 Coll. and relevant decrees. It is therefore not possible to produce these materials illicitly; they can be developed only in a nuclear reactor, and therefore new trends in illegal production can be excluded.

9.3. Procedural aspects

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

Documentation of cases of the illegal production of dangerous materials or the handling thereof is based on an inspection of the crime scene. This is carried out by a mobile team of the relevant district directorate of the Police Force with the methodical and practical support of the Department for the Detection of Dangerous Substances and Environmental Crime of the Criminal Police Bureau. More serious cases are documented and investigated by the National Crime Agency with the methodical and practical support of the Department for the Detection of Dangerous Substances and Environmental Crime of the Criminal Police Bureau.

Within the framework of inspections of crime scenes or house searches and searches of other premises and estates, samples of dangerous materials are seized and analysed by the Control Chemical Laboratories of the Civil Protection. In addition to sampling, other criminal traces are documented. In the event of contamination of the scene by dangerous materials, such acts are executed with the aid of protective equipment at the level corresponding to the threat.

One specific category of dangerous materials is dual-use materials. Depending on the sensitivity of those materials, the Slovak Information Service fulfils specific tasks in accordance with Sections 27 and 28 of Act of the National Council of the Slovak Republic No 39/2011 Coll on dual-use materials and amending Act of the National Council of the Slovak Republic No 145/1995 Coll. on administrative charges, as amended. It is authorised to execute inspections of entities trading in dual-use materials. Many commodities fall within the category of items usable for the production of CBRN materials; consequently, the controls focus on compliance with legal requirements and verification of the data stated in requests and accompanying documents provided by exporters, importers or other entities involved in specific trade cases. In the event of the detection of facts indicating that a criminal offence has been committed, the Slovak Information Services forward this information to the relevant bodies of the Police Force.

9.3.2. The cooperation with European and international partners

Information on cases is shared with international partner organisations. The most common communication channels used are Europol, Interpol and the organisational parts of UNO, but use is also made of various working groups established by European Union bodies (e.g. the Standing Committee of DG HOME for CRBR materials, the Standing Committee of the European Commission (DG HOME) for explosives precursors, EnviCrimeNet, etc.).

9.3.3. Techniques of investigation

The financial investigation and potential cybercrime investigation techniques are those available with regard to other types of criminal activity. The Slovak authorities have ensured that they have effective mechanisms that could be used, if necessary.

In the case of cybercrime, cases are passed on to experts within the Department of Cybercrime of the Criminal Police Bureau of the Presidium of the Police Force. Slovakia also avails itself of cooperation with Eurojust, the European Judicial Cybercrime Network and 24/7 contact points on the basis of the Convention on Cybercrime of 23 November 2001.

9.3.4. Main obstacles to successful investigation and prosecution

Among the main obstacles mentioned in terms of investigating cases involving dangerous materials, reference was made to the high level of knowledge and expertise and the high financial requirements linked to seizure and analysis of traces. Since such cases are marginal, LEAs carrying out documentation, and investigation activities do not always possess the necessary technical skills and expert knowledge.

Therefore, in the opinion of the Slovak authorities, a compendium of cases from the EU Member States, or at least of those containing an international element, would be welcome in order to familiarise themselves with best practices from those Member States which have experience in investigating and prosecuting such cases. Furthermore, the use of Eurojust's potential for obtaining and sharing necessary information in this field would be appreciated, in a similar form as with regard to cybercrime, for example, whereby the Cybercrime Judicial Monitor is processed. This would provide judicial bodies with a better understanding of cross-border cases, problems relating thereto and best practices.

9.3.5. Training

The Judicial Academy regularly organises expert training courses for judges, prosecutors and court officers in the field of the environment. The following courses focusing on the protection of the environment were organised in 2017:

1. National punishment basis (criminal offences against the environment – Sections 300 - 310 of Act No 300/2005 Coll. Criminal Code, Slovak application practice, Czech application practice);
2. Waste management (definition of the term 'waste', transportation of waste, the case of the *Pastuchov* illegal waste disposal site, basic principles of waste management and obligations for holders of waste);
3. Protection of the atmosphere, protection of water, protection of soil, protection of land, protection of flora and fauna (industrial emissions and their treatment, BAT – best available techniques and judicial exploration of that concept and their role in protection, integrated permission, emission limits and inspection, administrative penalties – administrative and criminal sanctions, differences in national legislation, principles – effective, average and preventive sanctions in environment, the special situation of large combustion plants, the international situation of CITES – Convention on International Trade in Endangered Species of Wild Fauna and Flora, poaching, practical experience of the Police Force in detection, documentation and investigation of criminal offences of risk and environmental damage, criminal offences of violation of waters and atmosphere and criminal offences of violation of protection of flora and fauna);

4. Special requirements in relation to judicial review in the field of the environment (basic definitions, information on the environment, public affected, access to justice, national level – the Constitution of the Slovak Republic, declaration, international level – regional: the Council of Europe, Article 6 of the Convention, Article 1 and Article 8, UNECE, Aarhus and especially Article 9 TEU – Article 6 of the TEU, influence of the Charter + Article 19 of the TEU, effective means of judicial protection, Article 37 and Article 47 of the Charter, universal level – the United Nations International Covenant, individual procedural institutes: involvement, public affected and *actio popularis*, fair, fast and low-cost judicial procedure and temporary legislation governing relationships, effective means of rectification, preliminary measures, Aarhus regulation – question of obligatory effect for national courts, the role of the Commission in terms of compliance, three-pillar structure – introductory provisions, 1st pillar – access to information on the environment, 2nd pillar – participation in the public process of the EIA, 3rd pillar – access to justice in matters of the environment, access to judicial courts in matters of the environment in the conditions pertaining in the Czech Republic);

5. Influence of EU/EC legislation on the environment

(definition of the concept of 'environment', principle of national preference, principle of loyal cooperation and principle of direct application of regulations, principle of direct effect of directives (horizontal versus vertical), Directive on public access to environmental information (2003/4/EC) and Directive providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment (2003/35/EC), including the jurisdiction of the CJEU, Directive on the assessment of the effects on the environment (2011/92/EU), Directive on industrial emissions (2010/75/EU), including the jurisdiction of CJEU, Directive SEVESO III (2012/18/EU), access to justice in matters of the environment including the jurisdiction of the CJEU, practical cases of Union legislation relating to the environment).

Expert knowledge is also exchanged during special meetings and seminars organised by the General Prosecutor's Office (in 2016, a national meeting took place in line with the Plan of expert training and education of the prosecutor's office for 2016, focusing on criminal offences against the environment, while in 2017 a three-day meeting took place in October 2017 focusing specifically on problems associated with the illicit handling of waste).

Special training for prosecutors is carried out via their attendance at events organised by the Presidium of the Police Force. Such events include training courses, workshops and projects carried out by the Department for the Detection of Dangerous Substances and Environmental Crime of the Criminal Police Bureau of the Presidium of the Police Force, which has carried out several projects since 2010 focusing on improvements to the technical equipment of the Police Force.

Extensive training courses are held for police officers focusing on both documentation and investigation of such criminal activities and on the protection of life and health. Training courses are targeted at police officers responsible for the detection, documentation and investigation of environmental crime within the individual regional and district directorates of the Police Force. They are conducted annually, and each year approximately 200 police officers are trained. Several training courses are also attended by representatives of the intelligence services, especially those in respect of whom such an agenda forms part of their job content/description.

These expert training courses organised by the Ministry of the Interior are also attended by officials from other central bodies of the state administration, e.g. the employees of the Unit of the Head Hygienist of the Ministry of Transport and Building.

9.4. Conclusions

- There is no integrated definition of 'dangerous material' in a single piece of legislation in Slovakia. This term is defined on the basis of European legislation and sectoral national legislation referring to the protection of the habitat and human health. The acts in question define dangerous materials as chemical, biological, radioactive and nuclear materials which may pose a general risk to human life, health or safety.
- As regards LEAs, Slovak legislation has developed measures allowing for prosecution and penalties which in the opinion of the evaluators can be considered sufficient and dissuasive.
- The various services involved in the management and control of dangerous substances (chemical products, pesticides, radiation problems, etc.) have shown that there is a good dynamic within those services.
- Roadside checks are carried out in cooperation with the traffic police. However, such checks do not encompass waste trafficking, nor do they comprise sustained collaboration with the inspectors from the Slovak Environmental Inspectorate.
- The Ministry of Agriculture and Rural Development has developed a dynamic and competent department for plant protection products. It seems that this department had developed a coherent strategy for PPPs and, more specifically, for investigating illegal PPPs and detecting residues from the degradation of active molecules. The misuse or illegal use of PPPs can have significant and irreparable consequences for the environment, including the soil, surface water, groundwater, waste, etc. Therefore, in the evaluators' view, a good PPPs strategy is essential. When new pesticides are developed or enter the market, this leads to new types of waste and pollution. Regular work is needed to keep up to date on such developments.

- The department for plant protection products is equipped with effective tools – a manual, an action plan, a high-tech laboratory, etc. – and staffed with people who are very committed to their work. The dedication of the services, and especially the officials, is also clear from the description of the problems they encounter every day.
- The inspection service works on the basis not only of an action plan, i.e. carrying out its own checks on PPPs users and storage companies working with PPPs, but also on the basis of complaints. It is clear that there is also a positive interaction between the inspection services through the organisation of specific training courses which include not only agriculture officials but also customs officers and police officers. Finally, the department is active at international level, especially with regard to analytical research into PPPs and their degradation products.
- Due to its geographical location, Slovakia is affected by problems relating to radioactive material and waste. For that reason, the control of radioactive material and waste is more advanced and integrated in particular into roadside checks. Although the most problematic cases relate to the Ukrainian border, bilateral cooperation has not yet been developed.
- The problems relating to evidence and investigation are probably the same as those encountered by most inspection services: costs, representative sampling, physicochemical developments in the time since the samples were taken, etc.
- Training in dangerous materials is organised in Slovakia and forms part of the general training relating to the fight against environmental crime. It covers training offered to prosecutors and police officers where they have the possibility of exchanging views and forms of cooperation. In the evaluators' view, these joint training courses constitute examples of best practice.

10. FINAL REMARKS AND RECOMMENDATIONS

10.1. Recommendations

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

Slovakia should conduct a follow-up examination of the recommendations made in this report 18 months after the evaluation and submit a progress report to the competent Working Party.

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

10.1.1. Recommendations to Slovakia

Slovakia should

1. Continue developing and finalising the strategy documentation dedicated to the fight against environmental crime, *inter alia* by using risk analyses to focalise the environmental problems; (cf. 3.1 and 3.6)
2. Build up interlinked, comprehensive and coherent statistics on waste crime and hazardous materials on the basis of existing statistical resources; (cf. 3.2.3, 3.6, 8.1 and 8.5)
3. Reinforce the structure of the Criminal Police Bureau by involving more investigators in the handling of environmental crime cases, specifically at local level; (cf. 4.2.1, 4.2.3 and 4.6)

4. Provide a formal and permanent structure for coordinating the efforts made by all stakeholders involved in the fight against environmental crime and violations; (cf. 4.2.1, 4.4.1 and 4.6)
5. Strengthen the specialisation of the police force at local and district levels, including appropriate training focusing on environmental crime and awareness-raising of police officers dedicated to the fight against environmental crime; (cf. 4.2.1, 4.2.3 and 4.6)
6. Focus not only on aspects of environmental crime but also on economic and financial aspects of this type of crime (e.g. money laundering, asset recovery and tax evasion) while investigating this type of crime; (cf. cf. 4.2.1, 4.2.3 and 4.6)
7. Enhance the training of police officers and in particular focus on the training of police officers at local and district levels, where appropriate through a 'training the trainers' programme and by propagating knowledge of environmental legislation; (cf. 4.5 and 4.6)
8. Encourage judges to undergo training focusing on the EU environmental crime *acquis*, particularly in relation to waste management; (cf. 4.1.1, 4.5 and 4.6)
9. Consider providing more effective administrative tools to stop ongoing illegal activities affecting the environment, such as forced entry into compromised sites; (cf. 4.6)
10. Work on more structured cooperation with the private sector/NGOs with a view to enhancing prevention and raising awareness among citizens and private companies; (cf. 5.1.5, 5.5, 6.4.1 and 6.5)

11. Consider developing more extensive cooperation between all authorities involved in road controls; in cross-border cases involving shipments of waste, this should include not only the Slovak Environmental Inspectorate and the Customs Service, but also other competent authorities including the Police Force; (cf. 7.1.1 and 7.3)
12. Consider facilitating the exchange of information between administrative authorities handling environmental matters and prosecutors in such a way as to involve them in and provide them with relevant information on alleged illegal shipments of waste; (cf. 7.1.1 and 7.3)
13. Consider conducting an overview of the actual influx of cross-border movements of hazardous waste by ensuring closer bilateral cooperation with Ukraine; (cf. 7.4, 9.2 and 9.4)

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

14. Member States are encouraged to focus closely on the problem of illegal shipments of waste at international level; (cf. 3.2 and 3.6)
15. Member States should consider designating specialised prosecutors with a protected and stable status to combat environmental crime at central, regional and local level, as is done in Slovakia; (cf. 4.1.1 and 4.1.2 and 4.6)
16. Member States are encouraged to actively participate in the work carried out at EU and international level to implement effective measures against environmental crime, as is done by Slovakia; (cf. 6.2.1, 6.2.2 and 6.5)

17. Member States should consider designating national police contact points to facilitate and accelerate cooperation with Europol and Interpol in terms of combating environmental crime, such as the Criminal Police Bureau in Slovakia; (cf. 6.2.1 and 6.5)
18. Member States should cooperate closely with neighbouring countries in combating illegal shipments of wastes, in the same way as such cooperation has been developed by Slovakia with the Czech Republic; (cf. 7.1.1 and 7.3)
19. Member States should consider developing a coherent strategy to fight against pesticides which may have an impact on waste problems; (cf. 3.1, 8.1, 9.1 and 9.4)
20. Member States should consider organising joint training on dangerous materials for prosecutors, police officers and possibly other agents involved in the fight against environmental crime in order to exchange experiences and forms of cooperation, as is organised in Slovakia; (cf. 9.3.5 and 9.4)

10.1.3. Recommendations to Eurojust/Europol/Commission

21. More effective exchange of information and best practices should be facilitated and channelled through the relevant EU agencies such as Europol, Eurojust and Frontex; (cf. 6.1.3).

23 January 2018		24 January 2018		25 January 2018		26 January 2018	
08:00	Transport from the hotel	08:30	Transport from the hotel	08:30	Transport from the hotel	08:00	Transport from the hotel
8:30 - 9:00	Welcome speech by Mr. Jaroslav Málik (1st Vice-president of the Police Force) in the Presidium of the Police Force	9:00 - 10:00	Slovak Environmental Agency - The Scope of Powers, Establishment and Waste Management Statistics	9:00 - 9:45	Department for the Detection of Dangerous Substances and Environmental Crime, Criminal Police Bureau, Presidium of the Police Force - Unauthorised Waste Management	9:00-10:45	Discussion among the evaluation team and participants from different state administration (prosecutors, coll customs, police officers...)
9:00 - 9:30	Department for the Detection of Dangerous Substances and Environmental Crime, Criminal Police Bureau, Presidium of the Police Force - The Police Force Organisation and Responsibilities in the field of Environmental Crime	10:00 - 11:00	Ministry of Environment - The Waste Act and the Way Forward of Waste Legislation	9:45 - 10:20	Department for the Detection of Dangerous Substances and Environmental Crime, Criminal Police Bureau, Presidium of the Police Force - project TECUM	10:45-11:15	The Supreme Court of the Slovak Republic - The judicial activity of courts in connection with the unauthorized waste management and case studies
9:30 - 10:15	Department for the Detection of Dangerous Substances and Environmental Crime, Criminal Police Bureau, Presidium of the Police Force - The production and possession of hazardous substances in the Slovak Republic	11:00 - 11:15	Coffee Break	10:20 - 10:35	Coffee Break	11:15-12:00	Ministry of Justice - The Court System in the Slovak Republic and legislation with regard to environmental crime
10:15 - 10:45	Q & A	11:15 - 11:50	Ministry of Environment - The Waste Act and the Way Forward of Waste Legislation	10:35 - 11:05	Department for the Detection of Dangerous Substances and Environmental Crime, Criminal Police Bureau, Presidium of the Police Force - The Case landfill (PASTÚCHOV)	12:20-12:40	Closing ceremony and evaluation
10:45 - 11:00	Coffee Break	11:50 - 12:45	Slovak Environmental Inspectorate - The Scope and the Organizational Structure, Agenda and her activities	11:05 - 11:35	Department for the Detection of Dangerous Substances and Environmental Crime, Criminal Police Bureau, Presidium of the Police Force - The Case of illegal Scrapyard	12:45	Departure to the Vienna Airport
11:00 - 11:35	Crisis Management Section, Ministry of Interior - The Place and Tasks of the Control Chemical Laboratories	13:00 - 14:00	Lunch	11:35 - 12:15	Q & A		
11:35 - 12:10	Ministry of Transport and Construction	14:00 - 14:35	Q & A	12:15 - 13:30	Lunch		
12:10 - 12:45	Ministry of Agriculture and Rural Development - The Practical Implementation and Operation of European Policies on Preventing and Combating Environmental Crime - area of PPPs	14:35 - 15:10	Slovak Environmental Inspectorate - The Case landfill (PASTÚCHOV)	13:45 - 14:30	General Prosecutor's Office - Status and scope of the Prosecutor's Office		
12:50 - 13:50	Lunch	15:10 - 16:00	Q & A	14:30 - 15:30	General Prosecutor's Office - Prosecutor's office in the criminal and non-criminal section within the assessed area, practical and legal issues		
14:00 - 14:40	Public Health Authority of the Slovak Republic - Radiation Protection in Slovakia	16:15	Transfer to the hotel	15:30 - 15:45	Coffee Break		
14:40 - 15:15	Nuclear Regulatory Authority of the Slovak Republic - Combating Illicit Trafficking in the Slovak Republic			15:45 - 16:45	Q & A		
15:15 - 16:00	Q & A			17:00	Transfer to the hotel		
16:00	Transfer to the hotel			18:15	Transfer from the hotel		
				19:15	Farewell dinner		

ANNEX B: PERSONS INTERVIEWED/MET

Meetings on 23 January 2018

Venue: The Police Headquarters

Person interviewed/met	Organisation represented
Jaroslav MÁLIK	Ministry of Interior
Anna JARABÁ	Ministry of Interior
Miloš ŠOBAT	Ministry of Interior
Ondrej KOPOREC	Ministry of Interior
Mário KERN	Ministry of Interior
Miloš KOSÍR	Ministry of Interior
Branislav BOHÁČIK	General Prosecutor's Office

Venue: The Police Headquarters

Person interviewed/met	Organisation represented
Anna JARABÁ	Ministry of Interior,
Ondrej KOPOREC	Ministry of Interior
Miloš DUNAJSKÝ	Ministry of Transport and Construction
Alena BUJNOVÁ	Ministry of Transport and Construction
Bronislava ŠKARBOVÁ	Ministry of Agriculture and Rural Development

Vladimír JURINA	Public Health Authority
Juraj VÁCLAV	Nuclear Regulatory Authority
Michaela GAŠPAROVÁ	Ministry of Justice

Meetings on 24 January 2018

Venue: The Police Headquarters

Person interviewed/met	Organisation represented
Daniela MEDŽOVÁ	Ministry of Environment
Eleonóra ŠUPLATOVÁ	Ministry of Environment
Jana JURÍKOVÁ	Ministry of Environment
Ivana NOVIKMECOVÁ	Slovak Environmental Agency
Jarmila ĎURĎOVIČOVÁ	Slovak Environmental Inspectorate
Peter ŠIMURKA	Slovak Environmental Inspectorate

Meetings on 25 January 2018

Venue: The Police Headquarters

Person interviewed/met	Organisation represented
Jaroslav MÁLIK	Ministry of Interior
Anna JARABÁ	Ministry of Interior
Miloš ŠOBAT	Ministry of Interior
Ondrej KOPOREC	Ministry of Interior
Mário KERN	Ministry of Interior
Michaela GAŠPAROVÁ	Ministry of Justice

Venue: The General Prosecutor's Office

Person interviewed/met	Organisation represented
Ladislav HANNIKER	General Prosecutor's Office
Branislav BOHÁČIK	General Prosecutor's Office
Juraj PURGAT	General Prosecutor's Office
Alexander FENÍK	Regional Prosecutor's Office Žilina

Meetings on 26 January 2018

Venue: The Police Headquarters

Person interviewed/met	Organisation represented
Jaroslav MÁLIK	Ministry of Interior
Anna JARABÁ	Ministry of Interior
Ondrej KOPOREC	Ministry of Interior
Katarína BENCZOVÁ	Supreme Court of the Slovak Republic
Ladislav HANNIKER	General Prosecutor's Office
Branislav BOHÁČIK	General Prosecutor's Office
Michaela GAŠPAROVÁ	Ministry of Justice

ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	SLOVAK OR ACRONYM IN ORIGINAL LANGUAGE	SLOVAK OR ACRONYM IN ORIGINAL LANGUAGE	ENGLISH
ADR Treaty	<i>ADR Treaty</i>		the European Agreement concerning the International Carriage of Dangerous Goods by Road
CBRN	<i>CBRN</i>		chemical, biological, radioactive and nuclear material
EnviCrimeNet	<i>EnviCrimeNet</i>		Network for combat against environmental crimes
IRAO	<i>IRAO</i>		institutional radioactive waste
MEKO	<i>MEKO</i>		The Inter-ministerial Expert Coordination Body
MISO	<i>MISO</i>		Multidisciplinary Integrated Expert Group on Elimination of Environmental Crime
NBAC	<i>NBAC</i>		The National Security Analytical Centre
IMPEL	<i>IMPEL</i>		Network for the Implementation and Enforcement of Environmental Law

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	SLOVAK OR ACRONYM IN ORIGINAL LANGUAGE	SLOVAK OR ACRONYM IN ORIGINAL LANGUAGE	ENGLISH
SOCTA	<i>SOCTA</i>		Serious and Organized Crime Threat Assessment
WCO	<i>WCO</i>		World Customs Organization

Section 10 of the Criminal Code

(1) A minor offence is

- a) a criminal offence committed by negligence, or*
- b) an intentional criminal offence for which this Act, in a Special e part, sets out a prison sentence with an upper penalty limit not exceeding five years.*

(2) It is not an offence if the seriousness is negligible given the method of commission of the act, its consequences, and the circumstances under which such act was committed, the extent of the culpability, and the motivation of the offender.

Section 11 Crime

(1) A crime is an intentional criminal offence for which this Act, in its Special part, sets out a prison sentence with an upper penalty limit exceeding five years.

(2) An intentional minor offence which, because of its seriousness, carries a maximum custodial penalty of more than five years shall also be deemed as a crime.

(3) Particularly serious crimes are those intentional criminal offences for which this Act sets out a prison sentence with a lower penalty limit of at least ten years.

Competence of the criminal police departments of the Regional directorates of the Police Force, and of the Criminal Police Office of the Presidium of the Police Corps is selective and is determined by taking into account the specifics of the illegal activity committed. In addition to their discretion, the criminal police departments of the Regional Offices of the Police Corps are also competent to carry out investigations into cases of particularly serious crimes (Section 11, para 3 of the Act No. 300/2005 Coll., Criminal Code).

In the case of crossborder shipments of waste, if criminal offences committed by transport between the Slovak Republic and a country outside the European Union occur, the competent authority for the summary Investigation and Investigation of criminal offences is the Criminal Office of the Financial Administration (Section 5 para 3 (i) of the Act No.333/2011 Coll. on governmental agencies for taxes, fees and customs, as amended).

Section 302. Unauthorised Waste Management

(1) Any person who breaches generally binding legal regulations when handling of a small amount of waste shall be liable to a term of imprisonment of up to two years.

(2) The offender shall be liable to a term of imprisonment of between six months to three years if he or she commits the offence referred to in paragraph 1 and

a) put the environment at risk of larger damage, or

b) put another at risk of grievous bodily harm or death.

(3) The offender shall be liable to a term of imprisonment of one to five years if he or she commits the offence referred to in paragraph 1 on a considerable scale.

(4) The offender shall be liable to a term of imprisonment of three to eight years if he or she commits the offence referred to in para 1

a) and causes by such offence grievous bodily harm or death, or

b) on an extensive scale.

Explanation and definitions of the terms/elements of the merits of the criminal offence under Section 302 of the Criminal Code:

Section 124 para 1 - *For the purposes of this Act, damage means damage to assets or real loss of assets or the rights of the victim or another damage, which is causally related to a criminal offence, regardless of whether it is damage to items or rights. For the purposes of this Act, damage also means the obtaining of benefit causally related to a criminal offence.*

Section 124 para 3 - In criminal offences against the environment, damage shall mean combined ecological damage and assets damage while assets damage also includes the costs of restoring the environment to its original state. In the case of a criminal offence of an unauthorised waste management under Section 302 the extent of the act means the price at which the waste, at the time and place of the discovery of the act is typically collected, transported, exported, imported, recovered, disposed of or stored, and the costs for removing waste from the site that is not designated for its storage.

Section 125 para1 - Small damage means damage in excess of EUR 266.

Section 131 para 2 - For the purposes of this Act, waste management shall mean the collection, transport, export, import, recovery, disposal and dumping of waste.

Note: This scope of the definition of "waste management" does not correspond to the full scope of the term of "waste crime". "The supervision of such waste operations and the after-care of disposal sites" are missing. The definition in the Criminal Code narrows the definition of waste management according to Section 3 para 2 of the Act No. 79/2015 Coll. on waste and on amendments to certain acts.

Section 1 para 1 of the Act No. 400/2015 Coll. on Creating of Legal Regulations and on Collection of Laws and on amendments to certain acts - definition of the term "a generally binding legal regulation" and Art. 7 subs. 2 of the Constitution of the Slovak Republic and Section 1 of the Act No 416/2004 Coll. on the Official Journal of the European Union in relation to legally binding EC and EU acts.

General binding legal regulations governing the shipment of waste:

- Section 26 of the Act No 79/2015 Coll. – Obligations relating to the transport of hazardous waste within the territory of the Slovak Republic
- Sections 84 through 88 of the Act No.79/2015 Coll. – Cross-border transport/shipments of waste
- Regulation (EC)No 1013/2006 of the European Parliament and of the Council on shipments of waste, as amended (Official Journal of the European Union L 190, of 12 July 2006)

2. Legal persons:

Section 3 of the Act No. 91/2016 Coll. on Criminal Liability of Legal Entities and on amendments to certain acts.

(b) - the definition and nature of the criminal offence

- 2. Unauthorised waste management within the scope of the definition of “waste management” provided by Section 131 para 2 of the Criminal Code is a criminal offence (in relation to both legal and natural persons).*
- 3. Unauthorised waste management over the scope of the definition of “waste management” provided by Section 131 para 2 of the Criminal Code (the supervision of such operations and the after-care of disposal sites) is a misdemeanour under Section 115 (a natural person) or another administrative delict (natural persons - sole traders or legal persons) under Section 117 of the Act No. 79/2015 Coll.*

c) minimum and maximum penalties or administrative sanctions for natural persons and legal entities

1. in relation to a natural person:

- sanctions for criminal offences*
- **Section 302 para 1** (an offence) - the criminal penalties of prison sentence for up to two years,*
- **Section 302 para 2** (an offence (see TN above) - the criminal penalties of prison sentence from 6 months up to three years),*
- **Section 302 para 3** (an offence (see TN above) - the criminal penalties of prison sentence from one year up to five years),*
- **Section 302 para 4** (a crime - the criminal penalties of prison sentence from three years up to eight years.)*

In addition to a prison sentence, the Criminal Code allows to impose on the offender also other sanctions as referred to in the General Part of the Criminal Code in Section 32 (Types of Punishment) and Section 33 (Types of Protective Measures):

Section 32 Types of Punishment

“For the commission of criminal offences the court may impose on an offender who is a natural person, only

- a) a prison sentence,*
- b) house arrest,*
- c) community service,*
- d) pecuniary penalty,*
- e) forfeiture of property,*
- f) forfeiture of a thing,*
- g) disqualification,*
- h) prohibition of residence,*
- i) prohibition of attendance at public events,*
- j) the loss of honorary degrees and accolades,*
- k) the loss of military and another rank,*
- l) expulsion.”*

Section 33 Types of Protective Measures

“Protective measures are:

- a) protective treatment,*
- b) protective education,*
- c) protective supervision,*
- d) detention,*
- e) confiscation of a thing.”*

- *sanctions for an misdemeanour:*

Under Section 115 of the Act No. 79/2015 Coll., a fine of up to EUR 2 500 (the lower limit is not established) and. forfeiture of a thing may be imposed.

Under Section 116 para 3, when deciding to impose a fine, the waste management administrative authority may simultaneously require the party under obligation to take measures to remedy the results of the unlawful activity for which the fine was imposed. If the party under obligation fails to take said measures within the defined deadline, the waste management administrative authority may impose an additional fine of up to two times the maximum sum of the fine established by this Act.

Under Section 116 para 4 of the Act No. 79/2015 Coll., if, within a period of one year as of the entry into effect of the decision to impose the fine pursuant to this Act, the party under obligation violates the obligation for which the fine was imposed or fails to take the remedial measures, then an additional fine of up to two times the maximum sum of the fine established by this Act shall be imposed.

2. in relation to a legal entity

- *sanctions for criminal offences:*

Section 10 of the Act No. 91/2016 Coll. (it sets out the types of penalties that may be imposed on legal entities).

“Under Section 3, court may impose the following penalties on legal entities for a criminal offence committed:

*a) **dissolution of the legal entity,***

*b) **forfeiture of property,***

*c) **forfeiture of a thing,***

*d) **pecuniary penalty** (from EUR 1,500 up to EUR 1,600,000 – Section 15),*

*e) **temporary prohibition of activity** (for one to ten years, if the court convicts the legal entity for a criminal offence committed in connection with such activity – Section 16 para 1)*

*f) **prohibition from accepting grants, subsidies or subventions** (for a period of one to ten years; if a legal person is given a sentence for a criminal offence committed in connection with the application for subsidy, subvention, contribution or other payment from the state budget, from the budget of the public institution, the budget of the state fund, the budget of the higher territorial unit or the municipality budget, their provision or use - Section 17 para 1),*

*g) **prohibition from accepting aid or support from the European Union funds;** (for a period of one to ten years; if a legal person is given a sentence for a criminal offence committed in connection with the application for the aid and support provided from European Union funds under a special regulation or other payment from European Union funds, their provision or use),*

h) prohibition from participating in public procurement procedures - Section 18 para 1

(for one to ten years, if a legal person is given a sentence for a criminal offence committed in connection with public procurement or with the application for the aid and support provided from European Union funds under a special regulation or other payment from European Union funds, their provision or use - Section 19 para 1)),

i) conviction disclosure”.

- *sanction for another administrative delict:*

Section 117 of the Act No. 79/2015 Coll. - For committing another administrative delict, a fine from EUR 500 to EUR 350 000 may be imposed, and the forfeiture of a thing.

Section 116 para 3 of the Act No. 79/2015 Coll. - When deciding to impose a fine, the waste management administrative authority may simultaneously require the party under obligation to take measures to remedy the results of the unlawful activity for which the fine was imposed. If the party under obligation fails to take said measures within the defined deadline, the waste management administrative authority may impose an additional fine of up to two times the maximum sum of the fine established by this Act.

Section 116 para 4 of the Act No. 79/2015 Coll. - If, within a period of one year as of the entry into effect of the decision to impose the fine pursuant to this Act, the party under obligation violates the obligation for which the fine was imposed or fails to take the remedial measures, then an additional fine of up to two times the maximum sum of the fine established by this Act shall be imposed.

- *Aggravating circumstances are regulated in Section 37 of the Criminal Code:*

Section 37

An aggravating circumstance is when an offender

- a) committed a criminal offence due to a particularly despicable reason,*
- b) committed a criminal offence as revenge against another person who, in dealing with the offender, fulfilled his or her obligation arising out of law or another generally binding legal regulation, in particular against a pedagogic employee or professional employee,*
- c) committed a criminal offence in order to obstruct or hinder the application of another person's fundamental rights and freedoms or to facilitate or conceal another criminal offence,*

- d) committed a criminal offence during a natural disaster or another extraordinary event seriously threatening the life or health of people, other fundamental rights and freedoms, the constitutional system, property, public order or good morals,
- e) abused his or her employment, occupation, function or position to obtain an unlawful or undue advantage,
- f) committed a criminal offence in public,
- g) committed a criminal offence in a place which is subject to special protection under a generally binding legal regulation, especially in the house or flat of another person,
- h) committed several criminal offences,
- i) misused a person, who is not criminally responsible, for the commission of a criminal offence,
- j) incited a juvenile to committing a criminal offence,
- k) committed a criminal offence as its organiser,
- l) committed a criminal offence in connection with a foreign power or a foreign agent,
- m) has been previously convicted for the criminal offence; the court may ignore the consideration of such fact based on the nature of the previous conviction,
- n) committed a criminal offence as a member of a group of persons when moving to or from the place of a public event, or
- o) committed a criminal offence on account of his or her membership in a sports club.

- **Mitigating circumstances are regulated in Section 36 of the Criminal Code**

Section 36

A mitigating circumstance is when an offender

- a) committed a criminal offence in a state of justifiable strong emotional distress,
- b) committed a criminal offence as a result of lack of knowledge or experience,
- c) committed a criminal offence in connection with the negative consequences of his or her illness,
- d) committed a criminal offence at an age close to that of a juvenile or as an elderly person, if such fact had any influence on his or her mental capacity or will,

- e) committed a criminal offence under the pressure of dependency or subordination,*
- f) committed a criminal offence under the effects of threat or duress,*
- g) committed a criminal offence as a result of an emergency for which he or she was not responsible,*
- h) committed a criminal offence under the influence of stressful personal or family situation which he or she did not cause himself or herself,*
- i) committed a criminal offence while averting an attack or another danger or acting under circumstances which, under the completion of further conditions, otherwise exclude the criminal liability of the act, but he or she acted without completely satisfying the conditions for self-defence, extreme necessity, exercising the rights and obligations or the consent of the injured party, authorised use of a weapon, admissible risk or the performance of the duties of an agent,*
- j) had led a regular life before the commission of the criminal offence,*
- k) contributed to the elimination of detrimental consequences of the criminal offence or voluntarily compensating damages,*
- l) confessed to the commission of the criminal offence and sincerely regretted the criminal offence,*
- m) reported the criminal offence to the competent authorities himself or herself,*
- n) was cooperative with the competent authorities in clarifying the criminal activity, or*
- o) contributed to uncovering or convicting an organised group, criminal group or terrorist group.*

When imposing penalties, account shall be taken of mitigating and aggravating circumstances, their proportion and their severity according to the rules laid down in Section 34 para 4, Sections 38 and 110 para 1 of the Criminal Code.

Section 34

(4) In determining the type and severity of the penalty, the court shall mainly consider the method in which the act was committed, its consequence, culpability, and motive, aggravating circumstances, mitigating circumstance, and the offender as a person, his or her personal situation and the rehabilitation potential.

Section 38

(1) A circumstance that constitutes statutory elements of a criminal offence may not be considered as a mitigating circumstance, aggravating circumstance, circumstance that is subject to the imposition of a punishment below the lower limit of the criminal penalty set by law, or a circumstance that is subject to the application of a higher criminal penalty.

(2) In determining the type and degree of a penalty, the court must consider the balance and extent of the seriousness of the mitigating and aggravating circumstances.

(3) If the balance of the mitigating circumstances outweighs the aggravating circumstances, the upper limit of the legally set criminal penalty shall be decreased by one third.

(4) If the balance of the aggravating circumstances outweighs the mitigating circumstances, the lower limit of the legally set criminal penalty shall be increased by one third.

(5) During the repeated commission of a crime, the lower limit of the legally set criminal penalty shall be increased by a half; in such case, the provisions of para 4 shall not apply.

(6) During the repeated commission of a particularly serious crime, the lower limit of the legally set criminal penalty shall be increased by two thirds; in such case, the provisions of paragraphs 4 and 5 shall not apply.

(7) The provisions of para 4 through 6 shall not apply if an increased multiple or cumulative punishment is additionally imposed under Section 41 para 2 or under Section 42, if the simultaneous application of such provisions was disproportionately severe for the offender.

(8) The decrease of the upper limit or increase of the lower limit of the criminal penalty under paragraphs 3 through 6 shall be performed only within the legally set criminal penalty; the basis for the decrease or increase of the criminal penalty is the difference between the upper and lower limit of the criminal penalty set by law. The decrease of the upper limit or an increase of the lower limit of the criminal penalty set by law shall not be applied in cases for which the separate part of this Act stipulates a prison sentence to twenty-five years or a life prison sentence.

Criminal activities in the area of waste provided for by the Criminal Code, as amended Act No. 300/2005 Coll.:

• **Section 284 General Threats**

- a) a criminal offence
- b) a prison sentence of 4 up to 25 years
- c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

• **Section 285 General Threats**

- a) a criminal offence
- b) a prison sentence of 1 up to 10 years
- c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

• **Section 286 Damaging and Endangering the Operation of a Generally Beneficial Device**

- a) a criminal offence
- b) a prison sentence of 1 up to 8 years
- c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

• **Section 288 Damaging and Endangering the Operation of a Generally Beneficial Device**

- a) a criminal offence
- b) 6 months
- c) general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

• **Section 298 Illegal Production and Possession of Nuclear Materials, Radioactive Substances, Hazardous Chemicals and Hazardous Biological Agents and Toxins**

- a) a criminal offence
- b) a prison sentence of 1 up to 25 years
- c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

- **Section 299 Illegal Production and Possession of Nuclear Materials, Radioactive Substances, Hazardous Chemicals and Hazardous Biological Agents and Toxins**
 - a) a criminal offence
 - b) a prison sentence of 1 up to 15 years
 - c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

- **Section 300 Damage and Endangering of the Environment**
 - a) a criminal offence
 - b) a prison sentence of 3 up to 10 years
 - c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

- **Section 301 Damage and Endangering of the Environment**
 - a) a criminal offence
 - b) a prison sentence of 1 up to 8 years
 - c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

- **Section 302a Unauthorised Discharge of Pollutants**
 - a) a criminal offence
 - b) a prison sentence of 6 months up to 8 years
 - c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

- **Section 303 Violation of Water and Air Protection**
 - a) a criminal offence
 - b) a prison sentence of 6 months up to 8 years
 - c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

- **Section 304 Violation of Water and Air Protection**
 - a) a criminal offence
 - b) a prison sentence of 1 up to 5 years
 - c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

- **Section 304a Unauthorised production and handling of ozone-depleting substances**
 - a) a criminal offence
 - b) a prison sentence of 6 months up to 8 years
 - c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

- **Section 305 Violation of Flora and Fauna Protection**
 - a) a criminal offence
 - b) a prison sentence of 2 up to 8 years
 - c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

- **Section 306 Violation of Trees and Shrubs Protection**
 - a) a criminal offence
 - b) a prison sentence of 3 up to 8 years
 - c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

- **Section 307 Spreading of Contagious Animal and Plant Diseases**
 - a) a criminal offence
 - b) a prison sentence of 1 up to 5 years
 - c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

- **Section 308 Spreading of Contagious Animal and Plant Diseases**
 - a) a criminal offence
 - b) a prison sentence of 1 up to 5 years
 - c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

- **Section 309 Release of Organisms**
 - a) a criminal offence
 - b) a prison sentence of 3 up to 20 years
 - c) the qualified constituent elements of this criminal act, general mitigating and aggravating circumstances set forth in Sections 36 and 37 of the Criminal Code

Section 340

Failure to Report a Criminal Offence

(1) *Whoever, in a credible manner, learns that another person committed a crime for which this Act stipulates a prison sentence with an upper limit of at least ten years, or any of the criminal offences of corruption referred to in Chapter Eight, Division III of a separate part of this Act, and fails to report such crime or criminal offence without undue delay to the law enforcement authorities or the Police Force, or instead, if it is a soldier to their superior or service authority and a person serving a prison sentence or in custody even to the member of the Corps of Prison and Court Guard, shall be punished by a prison sentence of up to three years.*

(2) *Whoever commits an act referred to in para 1 is not criminally liable if they were not able to report it without putting themselves or a close person at danger of death, bodily harm or another grievous harm, or criminal prosecution.*

(3) *Whoever commits an act referred to in para 1 is not criminally liable if,*

by reporting the criminal offence, they would violate

a) the confessional secrecy or secrecy of information entrusted to them orally or in writing under the condition of confidentiality as the person commissioned with pastoral activity, or

b) a legally recognised obligation of confidentiality.

Section 94 Storage of Released, Seized and Accepted Item

(1) The storage of released, seized and accepted items in the course of pre-trial proceedings shall be provided by a police officer or public prosecutor, unless this Act stipulates otherwise. The court provides the storage of items if they were released or seized in a court proceeding or if the court requests the released, seized or accepted items from a police officer or a public prosecutor in a pre-trial proceedings because the photographic documentation, prepared expert reports, or other evidence used in the pre-trial proceedings are not sufficient for the evidence; only small items, the storage of which is also provided by the court, shall be enclosed to the indictment or the petition for the approval of an agreement on guilt and punishment as factual evidence.

(2) If the court, public prosecutor, or police officer is not able to provide the storage of the released, seized or accepted items, they shall provide it through another public authority or legal entity, or a natural person who performs an entrepreneurial activity in such field. If it is a real estate, in writing it may authorise such person with real estate management and serve the resolution of the seizure of the real estate to the competent public administration authority at the department of the Land Registry.

Section 530a

Prevention of Conflicts within the European Union

(1) If it may be reasonably assumed that in another Member State of the European Union criminal proceedings are or were conducted against the same person for the same act (hereinafter referred to as “parallel criminal proceedings”), the court or the public prosecutor which conducts the parallel proceedings shall request the competent authority of the other Member State of the European Union to provide them, within a period set out by them, with the information whether in the given Member State of the European Union criminal proceedings are or have been conducted against the same person for the same act that is the subject of the criminal proceedings conducted in the Slovak Republic, and if parallel criminal proceedings are being or have been conducted, also the information about the stage of the on-going criminal proceedings in such State or about the nature of the final decision in the given criminal matter; this procedure shall not apply if the Slovak authority has been informed about the existence of such proceedings in another manner.

(2) *The competent authority of the Member State of the European Union may be ascertained through contact points of the European Judicial Network or Eurojust.*

(3) *The request under para 1 shall include:*

a) contact details of the Slovak authority,

b) description of acts and circumstances that are the subject of the relevant criminal proceedings conducted in the Slovak Republic,

c) all relevant data about the identity of the suspected or accused person or data about the identity of the injured,

d) information about the stage of the criminal proceedings conducted in the Slovak Republic,

e) information about custody of the accused person if a custodial matter is concerned, and

f) any additional information relating to the criminal proceedings conducted in the Slovak Republic the notification of which is regarded as useful by the Slovak authority.

(4) *The competence to deal with a request of an authority of a Member State of the European Union for the provision of information relating to the conduct of parallel criminal proceedings in the Slovak Republic is possessed by the court or public prosecutor which is conducting or has conducted the parallel criminal proceedings in the Slovak Republic or which issued a decision terminating such criminal proceedings. If the request of an authority of a Member State of the European Union is delivered to a Slovak authority that is not competent to deal with it, such authority shall forward the matter to the competent Slovak authority and shall inform the authority of the Member State of the European Union thereof; otherwise, it shall forward the matter to the General Prosecutor's Office. If the General Prosecutor's Office confirms the conduct of parallel criminal proceedings in the Slovak Republic, it shall assign the matter to the competent Slovak authority. If the General Prosecutor's Office does not ascertain the conduct of parallel criminal proceedings in the Slovak Republic, it shall inform the authority of the Member State of the European Union thereof.*

- (5) *In its response to a request under para 4, the competent Slovak authority shall provide the authority of the Member State of the European Union with the information whether criminal proceedings have been or are being conducted in the matter of any or all acts identical to those that are the subject of the criminal proceedings indicated in the request, or whether the matter relates to the same persons. If parallel criminal proceedings are being or have been conducted in the Slovak Republic, the Slovak authority shall provide its contact data and information about the stage of the criminal proceedings or information about the nature of the final decision in the given matter. The competent Slovak authority may also provide additional information relating to any related acts that are the subject of the criminal proceedings conducted in the Slovak Republic.*
- (6) *The competent Slovak authority shall provide information at a request under para 4 within the period set out by the authority of the Member State of the European Union. Where a custodial matter is concerned, it shall do so without undue delay. If the competent Slovak authority cannot grant the request within the period set out, or if no period is set out and the Slovak authority cannot grant the request within a reasonable period, it shall inform the authority of the Member State of the European Union about the reasons and shall indicate the period within which it will provide the requested information.*
- (7) *If the procedure under para 1 through 6 results in confirmation that parallel criminal proceedings are being or have been conducted in another Member State of the European Union, the Slovak authority shall initiate consultations with the authority of the Member State of the European Union on further procedures in order to avoid any adverse consequences of conducting parallel criminal proceedings. Consultations on further procedures may also take place through Eurojust, particularly if the Slovak authority and the competent authority of the other Member State of the European Union fail to agree in which State proceedings shall continue. At the same time, the Slovak authority shall also inform the authority of the Member State of the European Union about all important procedural measures taken by the Slovak authority in the given criminal matter in the course of such consultations.*

- (8) *If, within the consultations under para 7, the Slovak authority concludes that the continuation of the criminal prosecution in the Slovak Republic is impractical, it shall submit a motion to transfer the criminal prosecution to the Member State of the European Union where the parallel criminal proceedings are being conducted. If, within the consultations under para 7, it is agreed that the criminal proceedings shall be concentrated in the Slovak Republic, the Slovak authority shall inform the authority of the Member State of the European Union about the result of the criminal proceedings without undue delay.*
- (9) *Within the consultations with the authority of the Member State of the European Union under para 7, the Slovak authority shall not provide any information the disclosure of which would be inconsistent with the protection of interests of the State under Section 481.*
-