



Council of the
European Union

**Brussels, 24 September 2018
(OR. en)**

**9815/1/18
REV 1**

**ENFOPOL 307
COPEN 196
ENV 409**

REPORT

Subject: Evaluation report on the eighth round of mutual evaluations "The practical implementation and operation of European policies on preventing and combating environmental crime"
- Report on Italy

**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 ITALY

Table of Contents

1. EXECUTIVE SUMMARY	7
2. INTRODUCTION	11
3. GENERAL MATTERS AND STRUCTURES	14
3.1. National strategy or similar strategic documents against waste crime	14
3.2. National programmes/projects with regard to waste crime	15
3.3. Statistics.....	17
3.3.1. <i>Main trends with regard to waste crime</i>	<i>17</i>
3.3.2. <i>Number of registered cases of waste crime</i>	<i>18</i>
3.4. Domestic budget allocated to preventing and combating waste crime and support from EU funding	19
3.5. Prevention of waste crime.....	19
3.6. Conclusions	21
4. NATIONAL STRUCTURES	23
4.1. Judiciary (prosecution and courts).....	23
4.1.1. <i>Internal structure</i>	<i>23</i>
4.1.2. <i>Capacity of and obstacles to the prosecution and sanctioning of waste crime</i>	<i>24</i>
4.2. Law enforcement authorities.....	27
4.2.1. <i>The structure of and cooperation between investigative authorities involved in preventing and combating waste crime</i>	<i>27</i>
4.2.2. <i>Investigative techniques/tools</i>	<i>29</i>
4.2.3. <i>Capacity of and obstacles to the successful investigation of waste crime</i>	<i>30</i>
4.3. Other authorities/institutions	32
4.4. Cooperation and exchange of information among national authorities.....	34
4.4.1. <i>Cooperation and coordination.....</i>	<i>34</i>
4.4.2. <i>Access to information and focal points on intelligence</i>	<i>36</i>
4.5. Training.....	39
4.6. Conclusions	43

5. LEGAL ASPECTS	46
5.1. Substantive criminal law	46
5.1.1. <i>Description of national legislation pertaining to waste crime</i>	46
5.1.2. <i>Other rules or judiciary instructions</i>	78
5.1.3. <i>Determination of the seriousness of waste crime</i>	78
5.1.4. <i>Links with other serious criminal offences</i>	79
5.1.5. <i>The role of the NGOs</i>	80
5.2. Procedural, jurisdictional and administrative issues	81
5.2.1. <i>Difficulties encountered with regard to evidence</i>	81
5.2.2. <i>Measures other than criminal or administrative sanctions</i>	83
5.2.3. <i>Treatment of seized objects</i>	84
5.3. Environmental restoration	84
5.4. Jurisdiction	86
5.4.1. <i>Principles applicable to the investigation of waste crime</i>	86
5.4.2. <i>Rules in the event of conflicts of jurisdiction</i>	87
5.5. Conclusions	88
6. COOPERATION	90
6.1. International Cooperation	90
6.1.1. <i>Forms of cooperation in cross-border cases</i>	90
6.1.2. <i>Channels for the exchange of information and the use of EU databases</i>	91
6.1.3. <i>Difficulties faced in judicial cooperation relating to waste crime</i>	91
6.1.4. <i>Operational performance of JITs in waste crime</i>	91
6.2. Cooperation with EU agencies and networks	92
6.2.1 <i>Cooperation with Europol and Eurojust</i>	92
6.2.2. <i>Experience resulting from the use of various environmental networks</i>	93
6.3. Cooperation between Italy and Interpol	93
6.4. Cooperation with the private sector	94
6.4.1. <i>The involvement of the private sector/ Public Private Partnership (PPP)</i>	94
6.4.2 <i>Liability regarding the obligation to pass on information to competent authorities</i>	97
6.4.3. <i>Experience of cooperation with the private sector</i>	97
6.5. Conclusions	98

7. ILLEGAL TRAFFICKING OF WASTE	100
7.1. National structure	100
7.1.1. <i>Authorities involved in preventing and combating illegal shipment of waste</i>	100
7.1.2. <i>Detection of illegal shipment of waste</i>	101
7.1.3. <i>Specificity of illegal shipment of waste</i>	101
7.1.4. <i>Measures on the shipment of waste</i>	103
7.2. Inspections	104
7.2.1. <i>Methodology of inspections and follow-up</i>	104
7.2.2. <i>Specific inspections with regard to Waste Electrical and Electronic Equipment (WEEE) and End of Life Vehicles (ELV)</i>	105
7.2.3. <i>First inspection plan</i>	106
7.2.4. <i>Challenges with regard to the taking back of an illegal waste shipment</i>	107
7.3. Conclusions	108
8. MANAGEMENT OF HAZARDOUS WASTE	110
8.1. The classification of hazardous waste and the challenges in its management	110
8.2. The system of inspections and the authorities involved	117
8.3. Measures for the protection of the environment and human health in the treatment of hazardous waste	118
8.4. Trends in illegal hazardous waste management	120
8.5. Conclusions	121
9. ILLEGAL PRODUCTION OR HANDLING OF DANGEROUS MATERIALS	122
9.1. The concept of dangerous materials	122
9.2. Types of illegal activities related to the illegal production and handling of dangerous materials and current trends in that field	122
9.3. Procedural aspects	123
9.3.1. <i>The means of collecting evidence and of handling dangerous materials</i>	123
9.3.2. <i>The cooperation with European and international partners</i>	124
9.3.3. <i>Techniques of investigation</i>	124
9.3.4. <i>Main obstacles to successful investigation and prosecution</i>	124
9.3.5. <i>Training</i>	124
9.4. Conclusions	125

10. FINAL REMARKS AND RECOMMENDATIONS	126
10.1. Suggestions from Italy	126
<i>10.1.1. Recommendations</i>	126
<i>10.1.2. Recommendations to Italy</i>	126
<i>10.1.2. Recommendations to the European Union and its institutions, and to other Member States</i>	128
<i>10.1.2. Recommendations to Eurojust/Europol/Commission</i>	129
Annex A: programme for the on-site visit and persons interviewed/met	130
Annex B: Persons interviewed/met	132
Annex C: List of abbreviations/glossary of terms	138

1. EXECUTIVE SUMMARY

The visit to Italy was fruitful. Despite some initial problems due to internal organisational issues, the Italian authorities showed enormous flexibility and adapted the programme on the spot to include visits to additional institutions. They organised the wrap up session with the involvement of the relevant parties responsible for preventing and combating environmental crime as well as for the implementation and operation of European policies.

During the site visit the Italian authorities provided the evaluation team with information on legal and operational aspects of preventing and combating environmental crime, cross-border cooperation and cooperation with EU agencies. Additional information was sent by email upon request. Almost all the relevant information, even on matters not explained in detail in the questionnaire, was acquired during the visit or afterwards.

The evaluation team was therefore able to satisfactorily review the system and to identify good practices to be shared with other Member States.

Several actions taken by Italy prove that environmental protection is considered a priority.

Firstly, it has to be noted that Italy has established a permanent parliamentary committee on waste, with investigative powers and competence to address important issues related to waste crime.

The matter has also been given priority at legislative level through the establishment of a powerful and innovative set of laws that clearly define administrative and criminal offences, allowing the competent authorities to work together in the fight against environmental crime and avoiding any overlap between administrative authorities and law enforcement authorities (LEAs) or between criminal and administrative jurisdictions.

Waste crimes in Italy are often linked to other serious crimes such as organised crime and corruption. Even when not related to criminal organisations, waste trafficking is usually an organised crime and Italy has therefore established a specific offence called 'organised waste management' for illegal waste management committed in an organised manner.

However, some problems can arise due to the complex legislation which is partly contained in the criminal code, partly in the Environment Act (Legislative Decree No 152/2006).

Specialised units dealing with environmental crime exist within almost all Public Prosecutors' Offices as well as within the law enforcement agencies.

Regarding the Public Prosecutor's Office, it should be underlined that the establishment of a network system in the environmental sector, under the supervision of the Chief Prosecutor's Office at the Court of Cassation, guarantees uniformity of procedures without affecting the autonomy of prosecutors.

With regard to the LEAs, the *Carabinieri* have a robust, scientifically trained workforce capable of performing a large number of control operations per year (in 2017 they tackled 30 000 cases involving waste). On the other hand, considering that environmental crimes are mainly economic crimes, the *Guardia di Finanza* also play an important role due to their specific expertise related to economic crimes.

Several databases are available to the judicial police, such as the National Register of Environmental Managers, electric and electronic equipment (EEE) register, PILE register, police database, waste database, waste tracking control system (SISTR), cross-border waste shipment database (mentioned in the national inspection plan), and the waste companies' database which is also accessible to the public.

At administrative level, there is a large network of local and regional agencies responsible for preliminary inspections and administrative offences. Although regional organisation should in theory allow for better control of the territory, in practice it is not effective enough in some regions and there is still scope for criminal action. On the other hand, the National Institute for Environmental Protection and Research (ISPRA) is in charge of coordinating the National System for Environmental Protection and efforts are being made to streamline and coordinate actions between authorities at supervisory and operational level.

A large number of inspections are carried out every year by LEAs and environmental authorities and the perpetrators of several criminal cases are investigated, prosecuted and sentenced. The judicial system's capacity seems to be under severe pressure due to the enormous number of cases and the statute of limitation system combined with the possibility to appeal any decision before the Court of Cassation.

Under the jurisdiction of the Ministry of the Environment, a National Register of Environmental Managers has been established to record information on waste management and an electronic platform is used to record any data concerning shipment and inspection of waste. Both are accessible to administrative authorities and LEAs.

Intensive and comprehensive cooperation takes place between the local, regional and national judicial authorities through protocols, audits, reports, etc. The aim is to achieve uniform implementation of the law.

Italy has also succeeded in getting the private sector involved in the prevention of and fight against waste crime by imposing waste tracking obligations and sanctions in the event of non-compliance. The obligations for proper waste management must be observed by all those involved in the production, distribution, use and consumption of goods which generate waste. Italian case-law has given a wide interpretation of the regime of shared liability provided for by Article 15 of Directive 2008/98/EC, so that the producers or holders are responsible for the whole treatment chain and are considered negligent in the choice of contractor (*'culpa in eligendo'*) when the waste consignee is charged with the crime of unauthorised management.

The aim of private sector involvement is also achieved by extending the administrative liability of legal persons for waste-related crimes, so that the private sector better self-regulates through adoption and implementation of adequate organisational standards in order to prevent perpetration of crimes by persons with a leading or subordinate role.

NGOs also play an important role in the field of prevention. There is a recognised legal framework for cooperation with the private sector and a protocol of understanding on environmental law has been signed between the National Committee for the Register of Waste Managers, *Legambiente* (environmentalist association), *Libera, Associazioni, nomi e numeri contro le mafie* (anti-mafia association) and the *Unione Italiana delle Camere di Commercio, Industria, Artigianato e Agricoltura* (federation of chambers of commerce). NGOs are in constant contact with LEAs, have signed several Memoranda of Understanding and collect statistics based on the data submitted by the LEAs.

Despite the notable level of cooperation at operational level, Italy lacks coordination at strategic level. This coordination could be achieved through an overall integrated national strategy bringing together all competent authorities (judicial, administrative and operational) and stakeholders (chambers of commerce, NGOs, etc.) in organising a coordinated approach to the problem across the country.

A strategic approach is also lacking in terms of prevention programmes for companies, and in the public sector in general.

Problems have been detected in relation to international cooperation, as noted by prosecutors, judges and LEAs.

Various training courses are provided by all institutions tackling environmental crime, the majority of which are aimed at officials working in the institutions providing the training. However, good exchange of experience and knowledge is guaranteed through the appointment of trainers working in different institutions as well as through the allocation of a certain number of places to officials working in different institutions.

Taking into account all the above, the evaluators consider that the situation in Italy is promising.

2. INTRODUCTION

Following the adoption of Joint Action 97/827/JHA of 5 December 1997¹, a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime has been established. In line with Article 2 of the Joint Action, the Working Party on General Matters including Evaluations (GENVAL) decided on 5 May 2017 that the eighth round of mutual evaluations should be dedicated to the practical implementation and operation of European policies on preventing and combating environmental crime.

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

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

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives² (transposition date 12 December 2010), Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law³ (transposition date 26 December 2010), and Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste⁴ (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, 12.07.2006, p. 1.

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

Furthermore, the Waste Directive required the Member States to create national waste prevention programmes by 12 December 2013. The objective of these programmes is to present a coordinated national approach to waste prevention, delineating targets and policies, and aiming to decouple economic growth from the environmental impact of waste generation.

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

Moreover, the Council conclusions 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 in third countries, and the need to enhance dialogue and cooperation with relevant international organisations.

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

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

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

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

The experts charged with undertaking the evaluation of Italy were Mr Ignacio Monreal Bueno (Spain), Ms Cathelijne Schoonenberg (The Netherlands), and Ms Eleni Glypti (Greece). Ms Clelia Antico (Commission) was present as an observer, together with Mr Slawomir Buczma and Ms Carmela Giuffrida from the General Secretariat of the Council.

This report was prepared by the expert team with the assistance of the General Secretariat of the Council, based on findings arising from the evaluation visit that took place in Italy between 21 and 24 November 2017, and on Italy's detailed replies to the evaluation questionnaire together with their detailed answers to follow-up questions.

3. GENERAL MATTERS AND STRUCTURES

3.1. National strategy or similar strategic documents against waste crime

Italian law does not provide for an action plan or other strategic document in the matter of combating environmental crime, nor has any been adopted.

The only document that has been adopted is the national inspection plan in compliance with the provisions of the Decree of the Ministry of the Environment issued on 22 December 2016.

Under this plan an electronic platform has been created which is accessible to:

- the administrative authorities in charge of the notifications required by the Basel Convention;
- competent bodies for surveillance of the cross-border shipments of waste (Customs Agency, *Arma dei Carabinieri*, *Guardia di Finanza*, state police).

All data concerning the shipment of waste is recorded before the operation takes place, and is available to the inspection bodies.

Every inspection is recorded on the platform so as to optimise the activity of all the authorities involved.

In 2017 the *Arma dei Carabinieri* adopted an operative directive identifying the main targets in combating environmental crime, and waste trafficking is one of the most important targets.

3.2. National programmes/projects with regard to waste crime

On 20 November 2013 the National Committee of the Register of Waste Managers (see paragraph 3.5) signed a protocol of understanding on environmental law with *Legambiente, Libera, Associazioni, nomi e numeri contro le mafie* and the *Unione Italiana delle Camere di Commercio, Industria, Artigianato e Agricoltura*. The intention of the protocol is to implement forms of cooperation in order to encourage development of actions aimed at preventing and combating financial crime and to restore legality and spread a culture of legality.

Among the activities to be developed at local level, there are information and training programmes aimed at young people and enterprises in several business sectors. Environmental issues connected to business activities, including waste management, represent an area of interest.

Another aim of the protocol of understanding is to take action to prevent and combat financial crime and restore legality within the environmental sector. This goal can be achieved by promoting a more widespread environmental culture in businesses, spreading good practices and behaviour, and ensuring legislative compliance and sustainable management for the benefit of the territory and citizens. Action will be taken to combat financial crime and encourage respect for the law in the following areas:

- a) prevention of financial crime, through information and training paths for businesses which are members of the register of waste managers, and centralised training for the staff of regional sections of the chambers of commerce, in order to support the actions that will be developed for enterprises at territorial level and to take actions aiming to develop an eco-sustainable entrepreneurial culture amongst young people and at school;
- b) fight against environmental crime and eco-mafia, through information sharing;

c) proper waste management, through establishment of regional monitoring centres implementing round tables with various business associations and the responsible supervisory bodies, in order to identify critical issues in waste legislation and its interpretation, so as to find legal simplifications and shared solutions.

In this regard, some events, workshops, conferences and courses have already been organised aimed at businesses which are members of the National Register of Environmental Managers and at the bodies responsible for territorial protection within the regional sections of Campania, Molise, Sicily, Tuscany and Veneto.

In addition, specific software was created for the supervisory bodies - such as the *Comando Carabinieri Tutela Ambientale NOE* (*Carabinieri* environmental field unit), *Corpo Forestale dello Stato* (National Forestry Authority), ARPA (regional environmental protection agency), *Guardia di Finanza*, *Polizia Provinciale*, (provincial police), etc. - in order to verify waste carriers' authorisations in real time. It is an application which can be used on a smartphone, and allows consultation of authorisations registered in the name of an enterprise: registration, categories of waste transportation, registered vehicles, authorised EER codes, deadlines and submitted MUD statements.

During a meeting held on 14-15 April 2016 at the Chief Prosecutor's Office at the Court of Cassation with the participation of all Chief Prosecutors of the Courts of Appeal it was agreed that a network system should be established in the environmental sector in order to guarantee both the autonomy of all prosecutors and the uniformity of procedures (see paragraph 4.1.2).

It is also important to mention that, in any legislative period, there is a permanent parliamentary committee on waste which has investigative powers and is competent to address important issues related to waste crime, including in the field of prevention. The last one was established by Legislative Decree No 1 of 7 January 2014.

3.3. Statistics

3.3.1. Main trends with regard to waste crime

The illegal management of waste in Italy represents a growing criminal activity extending over the whole national territory and reaching a transnational aspect involving other EU and non-EU countries.

In fact, organised criminal groups have entered this economic sector with business methods, attracted by the large profits coming from waste disposal. In many cases, this prevents legitimate businesses from acquiring market shares and hinders the development of a sound business.

To quantify this phenomenon in Italy, it is sufficient to refer to data reported in the 2017 '*Ecomafia*' report by *Legambiente* according to which 5 722 waste management crimes were reported in 2016, with an increase of 12 % compared to the previous year. At the same time, the number of people reported to a judicial authority also increased, by about 18.5 % from the 2015 figure, reaching 6 887, about 16 people per day.

The data published by *Legambiente* with regard to the historical mafia regions (Calabria, Campania, Puglia and Sicily) highlight that the crimes reported to the Prosecutor's office in Calabria in 2016 (2 421) represent more than 42 % of crimes reported in all other regions.

Referring specifically to the work carried out by the *Guardia di Finanza*, it was highlighted that 2 159 people were reported/denounced for environmental violations in 2016 and there were cases involving 36 illegal dumps and about 307 thousand tons of industrial waste (*Guardia di Finanza* Annual Report 2016).

According to the *Carabinieri*, the number of cases has not changed significantly, except in 2014 and 2016 when there were more crimes than in other years. This was partly due to some national and international campaigns (e.g. the 2014 Interpol Joint Police Operation).

There are countless illegal disposal methods used by this new form of organised crime:

- abandonment of waste on the ground or in water (caves, quarries, forests, rivers, sea);
- accumulation of waste in old ships, which are then sunk on the high seas;
- illegal combustion of waste, which causes emissions of toxic substances including dioxins;
- concealment of waste in the foundations of buildings under construction, embankments of roads, various excavations;
- mixing of hazardous waste with other materials deemed harmless to resell or reuse in other activities;
- disposal of hazardous waste by fraudulently classifying them as non-hazardous, saving costs;
- export of hazardous wastes to developing countries (in particular to Africa, the Middle East and Asia), where there are no disposal facilities or adequate recovery plants.

3.3.2. *Number of registered cases of waste crime*

There are several sources of statistics concerning waste trafficking that are managed by NGOs, LEAs, the Ministry of Justice, etc.

The main ones are the statistics collected by the *Legambiente* NGO, which publishes an annual report on environmental crime based on the data submitted by the LEAs (see <https://www.legambiente.it/contenuti/dossier/ecomafia-2017>)

Judicial statistics are usually available at https://www.giustizia.it/giustizia/it/mg_1_14.page.

The *Carabinieri* collect data and publish their statistics on the website <http://www.minambiente.it/paina/pgubblicazioni-attivita-operative>. Until 2016 the statistics of *Carabinieri* Unit for Forestry, Environmental and Agri-Food Protection and National Forestry Authority were separate, but since 2016 they have been merged to form one body. Therefore, all the data will be harmonised in order to allow for comparable analysis.

The statistics are based on the main types of crime (e.g. waste management or trafficking crime, corruption, falsification of documents etc.) but they are aggregated into groups of similar crimes (e.g. all the data concerning illegal waste management have the same code, except some more serious or significant crimes such as illegal waste trafficking or crimes against the public administration).

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

Italy has no specifically-allocated national budget for the prevention of and fight against waste crime nor does it benefit from EU funding to tackle waste crime.

3.5. Prevention of waste crime

In the area of prevention, a **National Register of Environmental Managers of the Ministry of the Environment and Protection of Land and Sea** has been established and is in force.

The national register is composed of a national committee - based at the same ministry - and regional sections, which sit at the chambers of commerce in the capitals of the regions and the autonomous provinces of Trento and Bolzano.

The register includes a large number of enterprises involved in significant waste management activities. It has a key role in the complex system that regulates waste management and is an important instrument in guaranteeing transparency for enterprises, public authorities and private citizens.

Chambers of commerce, on the basis of their statutory duties, have a role in collecting environmental data produced by enterprises, which are then made available to central and local public authorities. They inform enterprises about legislation and requirements including those related to environmental topics; they promote actions supporting environmental certification of enterprises; they manage (at regional level) environmental registers that themselves constitute authorisation, including the National Register of Environmental Managers of the Ministry of the Environment.

In the field of prevention, NGOs are also actively involved. In fact, on 20 November 2013, the National Committee of the Register of Environmental Managers signed the **protocol of understanding on environmental law** which is mentioned in paragraph 3.2.

In addition, the software mentioned in paragraph 3.2 has a preventive function as it allows the supervisory bodies and LEAs to check the authorisations registered in the name of an enterprise in real-time.

3.6. Conclusions

- Several actions taken by Italy prove that environmental protection is considered a priority.
- Italy has established a permanent parliamentary committee on waste. This committee has investigative powers and is competent to address important issues related to waste crime.
- The establishment of the National Register of Environmental Managers under the jurisdiction of the Ministry of the Environment to manage information on waste management must be considered a best practice. The same applies to the establishment of an electronic platform where all data concerning waste shipments and inspections is recorded and accessible to both administrative authorities and LEAs.
- The *Carabinieri*, who are the main competent LEA for environmental crime, have a specialised unit for the fight against environmental crime.
- The protocol of understanding on environmental law is an agreement that voluntarily involves the relevant stakeholders, NGOs, etc., and the national committee of the National Register of Environmental Managers. Therefore, the National System for Environmental Protection tries to bring together all the country's scientific agencies at an operational and scientific level.

- However, Italy has not adopted any strategic document. In the experts' view, coordination at strategic level through an overall integrated national strategy should be encouraged. Italy should bring together all competent authorities (judicial, administrative and operational) and stakeholders (chambers of commerce, NGOs, etc.) in organising a coordinated approach to the problem across the country. This would address the fragmentation of actions fostered by the administrative structure of the country and the fragmentation of responsibilities. Strategic coordination would allow for organised inspection plans, databases accessible to all competent authorities, and integrated and combined knowledge of information.
- Exhaustive statistics are drafted by each institution tackling environmental crime. However, in the evaluators' view, statistics should be assembled by one authority only and should cover all environmental violations, covering criminal offences as well as minor violations which are resolved by an administrative procedure. In fact, when statistical data is stored in one place, it can be analysed as a whole, which makes it possible to make risk-based assessments and re-evaluations, for example on resource management and the criminalisation of acts.

4. NATIONAL STRUCTURES

4.1. Judiciary (prosecution and courts)

4.1.1. Internal structure

In almost all Public Prosecutor's Offices there are teams specialised in environmental matters. That was ascertained by the Chief Prosecutor at the Court of Cassation in 2016 and 2017 within the monitoring of uniform action against crime provided for by Article 6 of Legislative Decree No 106 of 20 February 2006.

Only a few small offices do not have a specialised group (for example, the Public Prosecutors' Offices of Locri and Palmi).

Some examples of offices with a specialised team are given below.

The Public Prosecutor's Office of Potenza reports that its organisational structure includes a specialised division for environmental crimes and the establishment of a section of investigative police for the environmental sector.

The Public Prosecutor's Office of Grosseto has made a change to its organisational structure, according to which the team working on environmental matters will also deal with crimes in the agri-food sector, crimes involving medicinal products and crimes against public safety.

In 2016 the Public Prosecutor's Office of Palermo reported that, further to the 2015 redistribution of duties within the departments, environmental matters would fall within the specific jurisdiction of Department 2, which deals with crimes against public authorities. The office explained that the decision was 'taken due to frequent interference between environmental crimes and phenomena of maladministration, either due to possible acts of corruption *latu sensu* or proven liability of the public authorities through their inaction in adopting adequate measures of protection and care of the territory'.

A specialised unit also exists inside the National Anti-Mafia and Anti-Terrorism Directorate (DNA) which is a centralised pool of prosecutors specialised in combating serious organised crime and terrorism. The specialised unit, called the *Polo Criminalità Ambientale* (environmental crime hub), deals with environmental crimes committed by criminal organisations.

As regards the courts, a specialised court exists only at the Court of Cassation. However, at the courts of first instance the structure generally provides for the assignment of specific competences to each department and this assignment lasts for four years. At the end of the four years the competences are reassigned using the principle of rotation. The same principle applies to the Court of Appeal.

No prior training is provided for either prosecutors or judges to acquire specialist knowledge of environmental matters. Therefore the specialisation is acquired through ordinary work thanks to the large number of cases. In addition, both judges and prosecutors have the duty and the right to participate in training provided by the school of magistrates. There is no obligation to apply for training related to the matters for which the judge/prosecutor is competent but generally magistrates do apply for training related to their daily work.

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

The environmental crimes unit within the prosecution authority specialises in environmental crime with dedicated and specialised prosecutors.

During a meeting held on 14-15 April 2016 at the premises of the Chief Prosecutor's Office at the Court of Cassation, with the participation of all Chief Prosecutors of the Courts of Appeal, it was agreed that a network system should be established in the environmental sector in order to guarantee uniformity of procedures and, at the same time, the autonomy of all prosecutors.

The network was established in compliance with Article 6 of Legislative Decree No 106 of 20 February 2006, which assigns the following to the Chief Prosecutors at the Courts of Appeal:

- the **duty of supervising** the prosecutors attached to the courts of first instance in order to verify proper and uniform legal action and observance of the rules on fair trials, as well as the precise exercise by prosecutors of their own power of direction, control and organisation of their offices;
- the **obligation to disclose information** by submitting a report at least once a year to the Chief Prosecutor at the Court of Cassation.

In view of establishing the network and monitoring the activities of all prosecutors dealing with environmental crimes, a **special office** was established at the Chief Prosecutor's Office attached to the Italian Court of Cassation. This office will monitor work on environmental matters and liaise with the prosecutors of several districts.

This office is charged with the continuous monitoring of investigations **into environmental crimes** through the establishment of a network bringing together the Chief Prosecutors' Offices at the Courts of Appeal.

The functioning of the network is governed by a **protocol** approved in May 2017.

The network also organises training activities and decentralised meetings, including through telecommunication systems.

Due to the widespread nature of the interests involved in environmental matters and the transverse nature of several issues related to its enforcement, the monitoring **also includes problems of interpretation in civil matters** relating to environmental issues (for example, the rules of jurisdiction, opposition to fines, compensation for environmental damage and environmental taxes).

In fact, another aim of the network is to identify civil cases where there are topics likely to be subject to appeal in the interest of the law pursuant to Article 363 of the Italian Criminal Code.

At the end of the annual meeting of 18 and 19 May 2017, the content was defined for the 'Protocol on the functioning of the network of Chief Prosecutors' Offices on environmental matters within the implementation of Article 6 of Legislative Decree No 106/2006'.

According to the interviews on the spot, the main obstacles experienced in prosecuting and punishing domestic and cross-border cases that relate specifically to waste crime, as for other crimes, are:

- the lack of an answer to a rogatory letter;
- the statute of limitations system together with the fact that individuals can use all the possibilities for appeal including the final appeal to the Supreme Court. This puts a lot of pressure on the judicial system and makes it difficult to effectively punish the crimes. However, partly as a result of the lack of prosecutions, a new mechanism has been introduced by Article 318-bis onwards. The law now states that if there is no risk to human health or the environment the suspect is invited by the judicial police to restore the site or to obtain the missing authorisation. If the suspect reacts positively within a set period then they pay a fine and the investigation ends, if not then the penal action goes on. The cases of application of this mechanism are increasing, because of the convenience of guaranteed restoration of the environment on the one hand and the avoidance of a severe sanction on the other.

4.2. Law enforcement authorities

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

The main LEA dealing with preventing and combatting waste crime is the *Arma dei Carabinieri*. On 1 January 2017 Legislative Decree No 177/2016 provided for the incorporation of the National Forestry Authority into the *Arma dei Carabinieri*. The personnel and structures dealing with environmental crimes were merged into a specialised 'Unit for Forestry, Environmental and Agri-Food Protection'. More than 7 000 police officers are involved.

The same law, together with the Decree of the Ministry of Interior Affairs signed on 15 August 2017, assigns competence for environmental crimes to the *Carabinieri*, the only exception being CITES inspections at the borders, which are the duty of the *Guardia di Finanza*.

The Unit for Forestry, Environmental and Agri-Food Protection has 29 territorial offices, called environmental field units, and coordinates the activities of the 800 *Carabinieri* stations of the Forestry Protection Command, made up of personnel from the National Forestry Authority.

The *Guardia di Finanza* has a subsidiary competence as regards environmental crime. Its main competences are related to economic and financial matters and also to prevention, investigation and suppression of violations including on state property, as established by Legislative Decree No 68 of 19 March 2001. According to Legislative Decree No 177 of 19 August 2016, the *Guardia di Finanza* has also taken on some functions formerly fulfilled by the National Forestry Authority, relating to the safeguarding of sea areas adjacent to protected natural areas.

On 14 October 2014, the *Guardia di Finanza* signed a Memorandum of Understanding with the Ministry of the Environment and Protection of Land and Sea regarding this specific sector.

The fight against environmental crime is carried out at the *Guardia di Finanza* headquarters and, at operational level, by the following bodies:

- a. **naval air units**, which exclusively carry out tasks at sea and dedicate a significant part of their resources to repressing environmental crime. There are two different chains of command and control:
 - projection, whose operational theatre is the whole Mediterranean Sea;
 - regional, carried out by the naval-air operational units which perform tasks near the coast relating to environmental protection and protection of historical and archaeological state property;
- b. **special units**, which provide technical and operational support and risk analysis in the different economic sectors, study a wider range of investigation files and prepare intervention plans targeting complex types of illegal phenomena. Among the special units, the *Servizio Centrale Investigazione Criminalità Organizzata* (SCICO) (central investigation service for organised crime) has specific competence for fighting Italian and foreign mafia organisations;
- c. **territorial units**, composed of fiscal police units, groups, companies, *tenenze* and *brigade*, which contribute to protecting the environment through economic control of the territory in order to find illegal dumps and waste disposal companies, and to provide surveillance of the customs areas to avoid international waste trafficking via land and sea.

There are also other bodies that have specific competences in the matter, such as the Customs Agency, ARPA, and others (see paragraph 4.3).

4.2.2. *Investigative techniques/tools*

The investigative techniques/tools that can be used for the purpose of waste crime investigations include both traditional and specialised methods.

Traditional techniques of investigation:

- surveillance, including by video recording e.g. of the suspect facility from the road, has to be authorised by the prosecutor or by the judge for the preliminary investigation, depending on where the camera is placed (in a public area, the prosecutor's authorisation may be necessary, in a private area such as inside the facility it is necessary to obtain authorisation from the judge for the preliminary investigation, at the request of the prosecutor);
- tracking of suspect vehicles using GPS (authorised by the prosecutor);
- home searches;
- seizures;
- sampling and chemical analysis to identify the waste.

Specialised techniques of investigation:

- telephone tapping (used only in cases which fall under Article 260 of the Environment Act - organised activities for illegal waste trafficking);
- undercover operations (only operations in relation to Article 260 of the Environment Act which have been included in the list under Article 9 of Law No 146 dated 16 March 2006, providing for undercover operations);
- bugging devices (the same provision as for telephone tapping);
- email tapping.

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

In investigating waste crime, the capabilities and equipment of both forensic and financial units are used. Financial investigation is usually necessary in the most important cases because of the large amounts of money related to waste trafficking (money laundering, corruption and tax evasion are the most common crimes in this respect).

In particular, the *Guardia di Finanza* underlined that they appoint personnel specialised in the use of complex technological instruments as well as making use of traditional methods used by the economic and financial police and the judicial police. Particularly in recent years, in addition to its traditional activities fighting against illegal trafficking carried out on the sea (e.g. illegal immigration, drug trafficking, cigarette smuggling, etc.), the specialised naval air unit of the *Guardia di Finanza* has been taking part in structured operational missions to prevent large-scale illegal trafficking carried out by criminal organisations, including trafficking of toxic waste and environmental crimes more generally.

To be precise, the naval air unit uses helicopters and planes equipped with cutting-edge technology and is the most important air unit of the *Guardia di Finanza*. One such plane is the ATR42MP, which is the most high-tech piece of equipment available to the *Guardia di Finanza*. This plane has sensors and radars controlled from a console and by operators in the cabin in order to record each monitoring activity through an integrated system of three cameras particularly suited to fighting environmental crime (an infrared camera for night searches, a long-range camera to read the names of vehicles situated up to 10 km from the plane and a colour camera). In its fight against environmental crime, the *Guardia di Finanza* also uses the technological resources managed by the *Nucleo Speciale Frodi Tecnologiche* (special unit for technological fraud).

The unit also provides technical support to investigations by collecting evidence from IT systems (computer and network forensics) and processes in a professional way, and by processing and analysing data collected during investigations. In fact, it employs professional computer forensics and data analysis personnel, who examine the IT tools, systems and communications used by companies, professionals or private individuals, in order to collect information and evidence which is very important in verifying possible violations.

The personnel employed within the SCICO - in the *Nucleo Speciale Polizia Valutaria* (special unit for currency), the *Nucleo Speciale Frodi Tecnologiche* (special unit for technological fraud) and the *Nuclei di Polizia Tributaria* (special unit for taxation) - have the task of providing IT assistance to the officers working in different parts of the public sector including in the fight against environmental crime. The SCICO is located in the towns where there are District Anti-Mafia Prosecutor's Offices.

The main **challenges** in investigating domestic and cross-border cases of waste crime are the following:

- the technical and scientific aspects make the investigations very complex;
- when a crime is committed by a company, the official representative of the company may be just a figurehead, and a supplementary investigation is then necessary to identify who is actually responsible for the crime;
- legally-registered shell companies are often used;
- the statute of limitation system is a challenge for law enforcement officers since investigations must be conducted within a limited amount of time;
- in cases of cross-border shipments of waste it takes a long time to get information via traditional police channels (Interpol, Europol);
- the heterogeneous legislative framework often frustrates an international investigation, even at European level;
- although organisations tend to cooperate/collaborate on a regular basis in specific investigations there is no central institution or organisation to strategically target efforts in the fight against environmental crime at national level.

Due to the cross-border nature of environmental crime, LEAs need to overcome national borders and create cooperation and collaboration with the judicial authorities and judicial police of other countries.

For the abovementioned reasons, it would be desirable to:

- a) encourage the exchange of information in the sector of environmental crime between police forces in different countries, the EU and international institutions;
- b) harmonise laws in order to facilitate cooperation.

4.3. Other authorities/institutions

Pursuant to par. 5 of the art. 195(5), the Port's Authorities Corp ("Corpo delle Capitanerie di porto"), together with the Carabinieri, provides for the surveillance and ascertainment detection of waste-related violations and for the resuppression of illegal waste trafficking and disposal.

It is also possible for the Guardia di Finanza and Police to intervene.

Customs also play an important role. During the visit to Italy they showed an impressive electronic system through which they can follow the boats moving all around the sea and acquire all relevant information related to products transported on board.

With reference to administrative bodies, Italian law system gives Regional authorities a central role into planning waste management. Since 1994 the **regional environmental protection agencies (ARPA)** and the **National Institute for Environmental Protection and Research (ISPRA)** have been operating in the environmental field in Italy.

Under Law No 132/2016, the regional agencies and ISPRA have been linked within the **National Network for the Protection of the Environment** which has the task of ensuring homogeneity and effectiveness in administrative controls. There is no hierarchy within the network: ISPRA and the regional agencies work together to adopt binding technical rules. The regional agencies, along with ISPRA, may give technical and scientific support to the investigations on the environment (for example they can analyse samples collected during investigations).

Pursuant to Article 197 of Legislative Decree No 152/2006, the ARPAs periodically control all activities of waste management and waste brokers and dealers, and ascertain violations of the provisions of the Part IV of Legislative Decree No 152/2006.

The National Network for the Protection of the Environment also carries out checks on pollution from anthropogenic or natural sources and environmental quality standards as well as on the management of waste, including in emergencies, through sampling, analysis and measurement, inspection activities, including verification of the self-inspection duties provided for by current legislation.

ISPRA and the whole network are competent for technical, supervisory and administrative functions that are complementary with those of the judicial police. By special appointment, some officers of the regional agencies may take on the tasks of the judicial police. In this case they can be empowered by the prosecutor to take investigative measures directly (such as inspections and sampling).

The **Provinces** are competent to impose the pecuniary fines provided for in Part IV of Legislative Decree No 152/2006 (Article 262).

The **Municipalities** are competent to impose penalties for violating the prohibition referred to in Article 226(1) (ban on disposal of packaging and recovered containers) and Article 262 of Legislative Decree No 152/2006.

Italy generally considers as a criminal offence almost any waste management activity carried out without authorisation or in violation of the requirements imposed by the administrative authority, including the illegal shipment of waste. Waste crimes originate from non-compliance with specific regulations as well as from the violation of particular authorisations. The conditions are also regulated by administrative authorities such as the regions and the Ministry.

When such activities have not caused actual damage or given rise to potential damage to environmental, urban or landscape resources, the charges can be dropped if the perpetrator agrees to restore the environment as required by the competent administrative authority and to pay an administrative penalty.

When such activities could cause death or serious injury to persons or damage to the quality of air, soil, water, animals or plants, they are considered as serious crimes and fall within the exclusive competence of the judicial authorities. Collection, transport, recovery, disposal, shipment or brokering of waste are always considered serious crimes. In such cases, the administrative authorities is only involved in the phase of environmental remediation of sites affected by pollution or disaster.

4.4. Cooperation and exchange of information among national authorities

4.4.1. Cooperation and coordination

From the beginning of an investigation, the LEAs are obliged to inform the local Public Prosecutor's Office. When a criminal investigation is pending, cooperation between different police forces is handled by the prosecutor.

The LEAs can also count on the cooperation of other authorities such as the province and ARPA to carry out inspections. In such cases the ARPA officials are specifically appointed as judicial police.

The need to coordinate authorities involved in environmental investigations and implement the circulation of information has led to the following amendments:

- amendment to Article 129 of the implementing provisions of the Italian Criminal Code (amended by Legislative Decree No 136 of 10 December 2013) which provides that, when the prosecutor prosecutes someone for a crime provided for by [Legislative Decree No 152 of 3 April 2006](#), or for an offence provided for by the Italian Criminal Code or by special laws, and which entails potential or actual damage to the environment, the prosecutor is now obliged to inform the Ministry of the Environment and the regional authority competent for the region where the acts occurred;
- amendment to Article 118-bis(1) of the implementing provisions of the Italian Criminal Code (amended by Law No 68 of 2015) which extended obligations for prosecutors to disclose information as follows:
 - it extended the Chief Prosecutor's obligation to disclose information in cases of prosecution for crimes provided for by [Articles 452-bis](#) (environmental pollution), [452-quater](#) (environmental disaster), [452-sexies](#) (highly radioactive waste disposal and trafficking) and [452-octies](#) (the so-called environmental aggravating circumstances) of the Italian Criminal Code;
 - it provided that information must sometimes also be disclosed to the Revenue Agency for the purpose of necessary tax assessment;
 - it added, at the end of the paragraph, the following sentence: 'the prosecutor, when investigating crimes provided for by [Articles 452-bis](#), [452-quater](#), [452-sexies](#) and [452-octies](#) of the Italian Criminal Code or Article [260](#) of [Legislative Decree No 152 of 3 April 2006](#) (organised waste trafficking) and subsequent amendments, has to inform the District Anti-Mafia Prosecutor'.
- amendment to Article 51(3-bis) of the Italian Criminal Code (amended by Article 11 of Law No 136 of 13 August 2010) that extends the jurisdiction of the District Anti-Mafia Directorate - constituted within the Public Prosecutor's Office attached to the district court of first instance - to cover the crime of 'organised waste trafficking', provided for by Article 260 of the Environment Act.

The Office for International Cooperation and Relationships with Counterparts (*Ufficio di Cooperazione Internazionale e Rapporti con Enti Collaterali*) in Department 2 of the *Guardia di Finanza* headquarters can access police data (SDI) and fiscal data (*Anagrafe Tributaria*) but cannot access the database concerning the specific sector of waste, the SISTRI waste tracking control system (*sistema di controllo della tracciabilità dei rifiuti*).

All institutions remarked that cooperation at operational level works well. Although it seems complicated, authorities are familiar with the principles of and distinctions between anti-mafia investigations and 'normal' investigations.

Almost all parties also remarked that the ARPA's regulatory division into regions makes it profitable for criminals to switch their illegal businesses and networks from one region of the country to another.

4.4.2. Access to information and focal points on intelligence

Pursuant to Article 212 of Legislative Decree No 152/2006, the **National Register of Environmental Managers** was established at the Ministry of the Environment and Protection of Land and Sea.

All enterprises and bodies that, at professional level, transport waste, carry out waste brokerage and dealing, or clean up polluted sites or properties containing asbestos, are obliged to join the national register.

All the information related to the registered enterprises is collected, updated and published in the register. From this perspective, it is an instrument of transparency for the sector and an important link in the system of waste tracking and accountability.

In Decision No 1 of 23 July 2014, the methods for remote access to the data contained in the National Register of Environmental Managers were defined as well as the services for access to information for public authorities, pursuant to Law No 183 of 2011.

More specifically, public authorities, supervisory bodies and the police have access to the register through the Public Connectivity System (SPC) according to the technical rules provided for by Article 73(3-bis) of the Digital Administration Code (CAD), on the basis of specific conventions as defined by AGID guidelines relating to Article 58(2) of the CAD.

By consulting the service it is possible to acquire information such as the tax number, registration number or business name, the number plate of a vehicle, and the authorised waste types (CER). The documents that can be obtained through the system are pre-defined in standard format, for example 'standard request for information' or 'certificate'.

The answer given by the register is provided with a timestamp. If required, it is possible to obtain information on the possible existence of suspensions or other ongoing proceedings.

Other environmental registers include the **EEE register** (electric and electronic equipment) and **PILE register** where all producers of batteries and accumulators must be registered in compliance with Legislative Decree No 49 of 14 March 2014 on electric and electronic equipment and Legislative Decree No 188 of 20 November 2014 on batteries and accumulators (both implementing European Directives). The registers are established at the Ministry of the Environment and managed by the chambers of commerce.

The enterprises that manage EEE waste have to be on the National Register of Environmental Managers.

It should be noted that producers are responsible for the whole lifecycle of a product and they bear pro rata the costs for collection, recycling and final disposal of waste deriving from the devices, batteries and accumulators that they placed on the market.

With regard to EEE, legal persons are to be considered waste producers in the following cases:

- when they are established on the national territory and place on the market EEE from a third country or another EU Member State;
- when they are established in another EU Member State or a third country and sell EEE on the national market through remote communications techniques directly to households or users other than households.

With regard to batteries and accumulators, whoever places these products on the national market for the first time at professional level, including those incorporated in devices or vehicles, must be considered a waste producer. In both cases, therefore, there is an obligation on the foreign producer or on the national importer if the latter is not registered.

Whenever non-registered enterprises place devices or batteries and accumulators on the market, this means that the costs of lifecycle management are not covered, so they might become the subject of illegal waste trafficking.

The competent authorities are allowed to access the registers in order to prevent illegal activity.

In addition to the abovementioned registers, several databases are available to the judicial police.

These are:

- **police database**: collecting information concerning crimes, suspected crimes, offenders etc. It is managed by the police and is also accessible to the *Carabinieri*;
- **waste database**: according to Legislative Decree No 152/2006 every company managing waste has to fill in a waste form. The form has to be displayed for inspection (on the road, in the plant, etc.) and the data is recorded in dedicated registers. The data is annually transferred to a national database;

- **waste tracking control system (SISTR)**: a complex system for monitoring waste management in real-time; it is based on a database in which the waste owner or transporter has to fill in the data e.g. of a transport before it starts. The main landfill sites are video monitored in real-time, and a GPS transponder is placed on the trucks.
(http://www.sistri.it/index.php?option=com_content&view=article&id=176&Itemid=27).
The system is managed by the *Carabinieri*;
- **cross-border waste shipment database** (mentioned in the national inspection plan);
- **waste companies database (www.albonazionalegestorimbientali.it)**: a system in which all the companies that manage waste are recorded, as well as all the activities they are allowed to perform (recovery, transportation, disposal, etc.). It is accessible to the public.

Department 2 of the headquarters of the *Guardia di Finanza* is the contact point for the authority's cooperation with other national and international entities and institutions. No information has been provided regarding other LEAs.

4.5. Training

The training delivered to magistrates - both prosecutors and judges - is organised by the Superior School of Magistracy (*Scuola Superiore della Magistratura*), established by Decree No 150 of 25 July 2005.

As provided for by Law No 111 of 30 July 2007, the school is an autonomous authority that guarantees implementation of the right and duty to follow vocational training of the members of the judiciary, and also performs other teaching and research tasks. It is in charge of the ongoing training of magistrates and, in cooperation with the High Judicial Council, of the initial training for new magistrates, who attend the school for six months. The school is also responsible for training officials in charge of court offices and honorary magistrates. It is responsible for training in the international context and also cooperates in training other judicial workers and publishes documents on studies and research.

In addition, based on Resolution of 10 September 2013, the Superior School of Magistracy has replaced the three pre-existing local networks (decentralised trainers, European trainers and trainers for honorary magistrates) and it is now in charge of decentralised training. The aim of this change is to optimise human and financial resources and to provide people with a common culture of jurisdiction.

Decentralised training also aims to support magistrates in their daily work through continuous monitoring of training needs, dissemination of the main case-law and legislative news, and to support magistrates who will be changing roles (from judge to prosecutor or vice-versa).

Environmental crime is the subject of specific joint training courses for judges and prosecutors organised annually by the Superior School of Magistracy. The course programme can be found on the school's website (<http://www.scuolamagistratura.it/formazione-permanente>).

In 2016 training dealt with the following topics:

- Law No 68/2015: from new eco-crimes to call for restoration ;
- the specific cases provided for by Article 452-bis, -ter, -quater and -quinqies;
- the organisational cases provided for by Article 260 of the Environment Act and Article 452-sexies of the Italian Criminal Code (aggravated criminal associations, ex Article 452-novies);
- remarks on Law No 68/2015: searching for equilibrium between prevention and suppression;
- investigations into crimes covered by Article 260 of the Environment Act (Legislative Decree No 152/2006);
- evidence in trials relating to environmental disasters;
- coordination between investigations into violations and investigations into crimes under jurisdiction of the District Anti-Mafia Prosecutor's Office (DDA) - role of the National Anti-Mafia and Anti-Terrorism Directorate (DNA);

- environmental provisions: regulation and organisational protocols of the Public Prosecutors' Offices;
- other possible sanctions related to environmental crimes covered by Article 452-septies and -terdecies of the Italian Criminal Code.

In 2017 training dealt with the following topics:

- crimes of pollution and environmental disaster: provisions of Article 434 of the Italian Criminal Code;
- tools to deflate the criminal process related to environmental crime: the latest on the system of requirements and enforcement of Article 131-bis of the Italian Criminal Code;
- detection of liabilities in complex organisations and enforcement of Legislative Decree No 231/2001 on environmental crimes;
- organised activities for waste trafficking and crimes relating to waste circulation;
- technical and legal classification of waste, and management of waste disposal and recycling facilities;
- the regulatory framework and the tricky issues
 - technical issues;
 - environmental investigations: techniques; coordinating investigations under Article 118-bis of the implementing provisions of the Italian Code of Criminal Procedure; relations with the investigating police bodies and the regional agencies after the amendment of Law No 132/2016; protocols of investigation; appointment of advisors;
 - voluntary disclosure; clean up; restoration of sites;
 - concepts of waste, by-products and 'end of life waste': relationships and tricky cases; recent new rules.

The LEAs are responsible for their own training courses.

The *Carabinieri* have continuous training, the programmes for which are approved annually in relation to specific activities (e.g. CITES, waste trafficking etc.). The frequency and the length of the courses vary. Annual training courses related to pollution and waste trafficking are also delivered to the *Carabinieri's* specialised forensic units (URIS – unit for sample collection and scientific investigations). The *Carabinieri* also take part in environmental crime seminars managed by CEPOL both as students and trainers and in training organised by NGOs, private companies etc. on specific topics.

The *Guardia di Finanza* are also trained on environmental crime. During 2017, the headquarters of the *Guardia di Finanza* organised several training courses and seminars concerning environmental crime. The topics were the following: 'environmental crimes', at the International School for Advanced Training in preventing and fighting criminal organisations, 'the absolute traceability of waste flows: a fundamental criterion for correct management of waste and avoidance of environmental and health damage', 'the role of PoLieCo in the control of traceability of plastic waste', 'environmental crime and damage to public health – the respect of laws on waste also as a legal contribution for economic growth'.

4.6. Conclusions

- The powerful and innovative set of laws, as well as the strict definition of administrative and criminal offences and the clear definition through strict legal separation of administrative and criminal sanctions and fines allows for cooperation in the fight against environmental crime whilst avoiding any overlap between administrative authorities and law enforcement authorities, as well as between criminal and administrative jurisdictions. In the evaluators' opinion this is an example of best practice.
- Intensive and comprehensive cooperation takes place between the local, regional and national judicial authorities through protocols, audits, reports, etc. aiming at the homogeneous implementation of the law. This strong structure does not allow duplication of mandates for inspections given by the judicial authorities (exclusive competence) to the various operational authorities and scientific institutes.
- The existence of specialised units dealing with environmental crimes within almost all Public Prosecutors' Offices must be considered a best practice.
- Another best practice is the establishment of a network system in the environmental sector under the supervision of the Chief Prosecutor's Office at the Court of Cassation, which guarantees uniformity of procedures whilst respecting the autonomy of all prosecutors.
- Customs play an important role by using impressive electronic system through which they can follow the boats moving all around the sea and acquire all relevant information related to products transported on board.
- No operational network exists between the LEAS. In the evaluators' view a national framework of delegated contact points from all organisations could be helpful to focus the fight against environmental crime.
- However, the clear definition of the role played by the different LEAs in relation to environmental crime avoids any overlap of investigations and responsibilities between LEAs (*Carabinieri* and *Guardia di Finanza*).

- Overlaps are also avoided thanks to the role played by the prosecutor, who is in charge of coordinating the investigations, delegating the actions to be taken and deciding on possible cooperation between LEAs in the investigation of a specific case.
- Several databases are available to the judicial police such as: the National Register of Environmental Managers; EEE register (electric and electronic equipment); PILE register; police database; waste database; waste tracking control system (SISTRI); cross-border waste shipment database (mentioned in the national inspection plan); and the waste companies database (www.albonazionalegestorimbientali.it) which is also accessible to the public.
- The *Carabinieri* have a robust, scientifically trained workforce capable of performing a large number of control operations per year (in 2017, they tackled 30 000 cases involving waste). On the other hand, considering that environmental crimes are mainly economic crimes, the *Guardia di Finanza* also play an important role due to their specific expertise related to economic crimes.
- The statute of limitation system is a challenge for law enforcement officers since investigations and court proceedings must be conducted within a limited amount of time.
- However, recently the rule on the statute of limitations has been amended to prolong the term, giving LEAs more scope to investigate criminal structures and offences. The sanctions also are more severe.
- On the other hand, in the experts' view, it would be advisable to also intervene by increasing the capacity of the judicial system.
- In addition, the law has recently been amended and it now states that, if there is no risk to human health or the environment, the suspect is invited by the judicial police to restore the site or to obtain the missing authorisation and, if the suspect reacts positively within a set period and pays a fine, the criminal investigation is closed.

- ISPRA coordinates the National System for Environmental Protection. Efforts are being made to streamline and coordinate actions between authorities at the supervisory and operational levels.
- There is a large network of local and regional agencies responsible for preliminary investigations and administrative offences. Addressing environmental problems starts at local level due to the country's decentralised administrative system. Although regional organisation should in theory allow for better control of the territory, in practice it is not effective enough in some regions.
- Various training courses are provided by all institutions tackling environmental crime, the majority of which are aimed at officials working in the institution providing the training. however, good exchange of experience and knowledge is guaranteed through the appointment of trainers working in different institutions as well as through the allocation of a certain number of places to officials working in different institutions.

5. LEGAL ASPECTS

5.1. Substantive criminal law

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

Prosecution for waste-related offences frequently implies applying a combination of several criminal laws such as those concerning waste disposal, environmental protection or crimes against the individual. These offences are set out in the Environment Act and the Criminal Code.

Italian legislation provides for the punishment of serious crime and minor crimes even in cases which have had no consequences. That means that the conduct itself is punished. In cases where consequences result from illegal conduct, it can be punished as follows:

- as a crime against the environment, when the conduct has caused damage to the environment or the threat of damage and provided that the conditions required by the provisions of law are met;
- as a crime against persons, when the conduct has caused injuries or death.

The **provisions of Article 3(b) of Directive 2008/99/EC** have been included in Articles 255, 256(1), 256(2), 256(3), 256-bis, 259 and 260 of the Environment Act (TUA- testo unico in materia di ambiente/consolidated law on the environment) and in Articles 452-bis, 452-ter, 452-quater, 452 quinquies of the Criminal Code.

Articles 255, 256(1), 256(2), 256(3), 256-bis, 259 and 260 of the Environment Act provide for a penalty related to illegal conduct in itself, even if no damage has occurred. Articles 452-bis, 452-ter, 452-quater and 452-quinquies of the Criminal Code provide for a penalty related to illegal conduct that has caused damage. Whenever the illegal conduct causes injuries, Article 590 also applies; if it causes death, Article 589 of the Criminal Code also applies.

The **provisions of Article 3(c) of Directive 2008/99/EC** have been included in Articles 259, 260 and 452-sexies of the Environment Act.

Definition and nature of the offences

All the offences listed above have a criminal relevance in relation to the physical person who committed the crime and an administrative relevance in relation to the legal persons (as a rule, non-public bodies). Some of them are major crimes, others minor crimes.

In addition environmental law also provides for cases in which the offence is not criminal but administrative, in which case the law indicates the authority competent to impose the administrative penalty (the province). In such a case, if an ongoing criminal proceeding is pending, and if the judicial authority does not have to pronounce a dismissal decree or an acquittal, it orders the records to be forwarded to the relevant administrative authorities in order for them to enforce the administrative sanctions.

Criminal penalties and aggravating and mitigating circumstances

The following penalties and aggravating and mitigating circumstances are provided for:

- imprisonment for 3 months to 1 year or a fine of 2 600 euros to 26 000 euros for unauthorised waste processing, dumping, illegal non-hazardous waste dumping (Article 256(1) and (2));
- imprisonment for 6 months to 2 years and a fine of 2 600 euros to 26 000 euros for the same conduct in the case of hazardous waste (Article 256(1) and (2));

- imprisonment for 6 months to 2 years and a fine of 2 600 euros to 26 000 euros for construction or management of an illegal waste dump (becoming imprisonment for 1 to 3 years and a fine of 5 200 euros to 52,000 euros if the waste dump is intended, even partly, for hazardous waste disposal);
- from 2 to 5 years' imprisonment for illegal waste combustion (Article 256-bis). In the event of burning of hazardous waste, from 3 to 6 years' imprisonment is enforceable. The penalty increases if the act was committed in a place which was under a 'state of emergency' in the waste sector pursuant to Law No 225 of 24 February 1992 at the time of perpetration or within the previous five years;
- a fine of 1 550 euros to 26 000 euros and detention for up to 2 years for illegal waste trafficking in accordance with Article 259 (increased in the case of hazardous waste shipment);
- from 1 to 6 years' imprisonment for organised illegal waste trafficking under Article 260 of the Environment Act;
- from 2 to 6 years' imprisonment and a fine of 10 000 euros to 50 000 euros for highly radioactive waste trafficking and dumping under Article 452-sexies of the Italian Criminal Code;
- from 2 to 6 years' imprisonment and a fine of 10 000 euros to 100 000 euros for environmental pollution under Article 452-bis of the Italian Criminal Code;
- from 2 years 6 months to 7 years' imprisonment or from 3 to 8 years' imprisonment or from 4 to 9 years' imprisonment or from 5 to 10 years' imprisonment, if the environmental pollution referred to in Article 452-bis causes respectively fairly serious injuries, serious injuries, very serious injuries or the death of an individual;
- from 5 to 15 years' imprisonment in the case of an environmental disaster under Article 452-quater;
- a different, lower sentence if the offences set out in Articles 452-bis and 452-quater were committed without malice or forethought.

Besides the special aggravating and mitigating circumstances, ordinary aggravating and mitigating circumstances are also enforceable.

The relevant provisions below are contained in the Environment Act and the Criminal Code.

Article 255 of the Environment Act

(Waste dumping)

1. Without prejudice to the provisions of Article 256(2), anyone who, in violation of the provisions of Article 192(1) and (2), Article 226(2), and Article 231(1) and (2), dumps or deposits waste or throws it into surface water or groundwater shall be punished with an administrative fine ranging from 300 euros to 3 000 euros. If dumping concerns hazardous waste, the administrative fine shall be doubled.

((1-bis. Anyone who violates the prohibition provided for under Article 232-ter shall be punished with an administrative fine ranging from 30 euros to 150 euros. If dumping concerns smoking product waste, the administrative fine shall be doubled, as provided for under Article 232-bis.))

2. Any owner of a collection facility, dealer or branch owner who violates the provisions shall be punished with an administrative fine ranging from 260 euros to 1 550 euros as provided for under Article 231(5).

3. Anyone who does not comply with the mayor's orders, as provided for under Article 192(3), or with the obligations set out under Article 187(3), shall be punished with imprisonment for up to one year. The benefit of probation may be subject to the enforcement of all the requirements specified in the order, as provided for under Article 192(3), or it may be bound to the fulfilment of all obligations, as set out under Article 187(3), specified in the conviction or decision issued in compliance with Article 444 of the Code of Criminal Procedure.

Article 256 of the Environment Act

(Unauthorised waste management)

1. ((Outside the cases sanctioned in accordance with Article 29 quattuordecies(1))), anyone who collects, transports, recovers, dumps, trades or acts as a broker in the field of waste, without the required authorisation, subscription or communication referred to in Articles 208, 209, 210, 211, 212, 214, 215 or 216, shall be punished

a) with imprisonment ranging from 3 months to one year, or a fine ranging from 2 600 euros to 26 000 euros in the event of non-hazardous waste;

b) with imprisonment ranging from 6 months to 2 years, and a fine ranging from 2 600 euros to 26 000 euros in the event of hazardous waste.

2. The punishments specified in paragraph 1 shall be enforced against owners of undertakings and persons liable for bodies that dump or deposit waste in an uncontrolled manner, or throw it into surface water or groundwater in violation of the prohibition provided for under Article 192(1) and (2).

3. ((Outside the cases sanctioned in accordance with Article 29 quattuordecies(1))), anyone who establishes or manages an unauthorised dump shall be punished with imprisonment ranging from 6 months to 2 years and a fine ranging from 2 600 euros to 26 000 euros. The imprisonment ranging from one year to 3 years and fine ranging from 5 200 euros to 52 000 euros shall be enforced if the dump is intended, even if only partially, for the disposal of hazardous waste. The conviction or decision issued under Article 444 of the Code of Criminal Procedure shall be followed by the confiscation of the area on which the unauthorised dump has been established if it belongs to the perpetrator or any person involved in the perpetration of the offence without prejudice to the obligation to remediate or restore the sites to their previous status.

4. *The punishments specified in paragraphs 1, 2 and 3 shall be reduced by half in cases of non-compliance with the regulations contained or re-stated in the authorisations, and in the event of a deficiency in the requirements and conditions specified in the subscriptions or communications.*

5. *Anyone who, in violation of the prohibition provided for under Article 187, undertakes unauthorised waste-mixing activities shall be punished as specified in the paragraph 1(b).*

6. *Anyone who deposits, even temporarily, hazardous medical waste close to the production site, in violation of the provisions of Article 227(1)(b), shall be punished with imprisonment ranging from 3 months to one year or a fine ranging from 2 600 euros to 26 000 euros. Administrative fines, ranging from 2 600 euros to 15 500 euros, shall apply for quantities not exceeding 200 litres or equivalent amounts.*

7. *Anyone who violates the obligations set out in Article 231(7), (8) and (9), Article 233(12) and (13) and Article 234(14), shall be punished with an administrative fine ranging from 260 euros to 1 550 euros.*

8. *Anyone referred to in Articles 233, 234, 235 and 236 who does not comply with the obligations specified therein, shall be punished with an administrative fine ranging from 8 000 euros to 45 000 euros, but without prejudice to the obligation of paying the previous contributions. Until the decree referred to under Article 234(2) is adopted, the sanctions specified in this paragraph cannot be enforced against the persons referred to in that Article(234).*

9. *The sanctions specified in paragraph 8 shall be reduced by half if agreement is made by the sixtieth day of expiry of the deadline to fulfil the participation obligations laid down in Articles 233, 234, 235 and 236.*

Article 256-bis of the Environment Act

(Illegal burning of waste)

1. Unless the action has established a more serious offence, anyone who sets abandoned or deposited waste on fire in an uncontrolled way shall be punished with imprisonment ranging from 2 to 5 years. In the case of burning of hazardous waste, imprisonment for 3 to 6 years shall be enforced. The liable person shall be obliged to restore the status of the sites, compensate for all damage caused to the environment and pay, with compensation, the remediation costs.

2. The same punishment shall be enforced against anyone who engages in conduct aimed at engaging in the illegal burning of waste as provided for under Article 255(1) and Articles 256 and 259.

3. The punishment shall be increased by one third if the offence specified in paragraph 1 is committed within the framework of entrepreneurial activities or, in any case, during an organised activity. The owner of the undertaking or person responsible for an activity, whatever its organisation may be, also under the autonomous profile of the point of view of omitted surveillance, shall be liable for the working activity undertaken by the perpetrators of the offence who, in any case, can be linked to the undertaking or to the activity itself. Furthermore, the entrepreneurs or persons responsible for the activity as specified above shall be subject to the sanctions provided for under Article 9(2) of Legislative Decree No 231 of 8 June 2001.

4. The punishment shall be increased by one third if the offence, as specified in paragraph 1, was committed on land that, when the act took place and in any case within the previous 5 years, was or had been subject to a state of emergency declaration concerning waste in compliance with Law No 225 of 24 February 1992.

5. *The vehicles used to transport waste which is the object of the offence specified in paragraph 1 above and was incinerated in unauthorised areas or plants, shall be confiscated as provided for under Article 259(2), unless the vehicle belongs to a person who is not involved in the acts specified in paragraph 1 above and the offence of participation in the perpetration of the act is not established. A conviction or decision issued under Article 444 of the Code of Criminal Procedure shall be followed by a measure ordering the confiscation of the area where the offence was committed if it belongs to the perpetrator of the offence or his/her accomplice, without prejudice to the obligation to remediate and restore the status of the site.*

6. *The sanctions provided for under Article 255 shall be enforced if the acts specified in paragraph 1 concern waste specified in point (e) of Article 184(2). ((Without prejudice to the provisions of Article 182(6-bis), those of this Article shall not apply in the case of incineration of agricultural or natural forestry material having a public or private green origin as well)).*

Article 257 of the Environment Act

(Remediation of sites)

1. *((Unless the action has established a more serious offence,)) anyone who pollutes soil, subsoil, surface waters or groundwater, by exceeding the risk threshold concentrations, shall be punished with imprisonment ranging from 6 months to one year, or a fine ranging from 2 600 euros to 26 000 euros if the offender does not carry out remediation in accordance with the project approved by the relevant authority under the procedure provided for under Article 242 et seq. In the absence of the communication as referred to in Article 242, offenders shall be punished with imprisonment ranging from 3 months to one year, or a fine ranging from 1 000 euros to 26 000 euros.*

2. *Imprisonment ranging from one year to 2 years, and a fine ranging from 5 200 euros to 52 000 euros shall be enforced if pollution is caused by hazardous substances.*

3. *The benefit of a suspended sentence may be subject to the implementation of emergency interventions and environmental remediation and restoration, in the conviction for the infringement specified in paragraphs 1 and 2, or in the decision issued in accordance with Article 444 of the Code of Criminal Procedure.*

((4. Compliance with the projects approved in accordance with Article 242 et seq. is a condition for being exempted from punishment for environmental infringements provided for under other laws for the same offence and for the same polluting conduct specified in paragraph 1)).

Article 258 of the Environment Act

(Violation of obligations relating to communications and keeping of mandatory registers and forms)

((1. Any person referred to in Article 190(1), who has not joined the waste tracking control system (SISTR) as provided for under point (a) of Article 188-bis(2) and who omits to keep or keeps an incomplete stock register as provided for in the same Article, shall be punished with an administrative fine ranging from 2 600 euros to 15 500 euros.

2. Hazardous waste manufacturers which are not part of organised bodies or undertakings and do not fulfil the obligations of stock register keeping in accordance with the procedure set out under Article 1(1), of Law No 29 of 25 January 2006, and Article 6(1) of the Decree issued by the Ministry of the Environment and Protection of Land and Sea on 17 December 2009, published in the Ordinary Series of the Official Gazette No 9 on 13 January 2010, shall be punished with an administrative fine ranging from 15 500 euros to 93 000 euros.

3. In the case of undertakings employing fewer than 15 workers, the minimum and maximum measures specified in ((paragraph 1)) shall be reduced, respectively, from 1 040 euros to 6 200 euros((...)). The number of workers is calculated by taking into account the number of full-time employees during the year, whereas the part-time and seasonal workers represent fractions of annual working units; for the above-mentioned purposes, the year to be taken into consideration is the last approved accounting year preceding the time at which the infringement was established.

((4. Undertakings that collect and transport their own non-hazardous waste, as set out in Article 212(8), that do not voluntarily join the waste tracking control system (SISTR) referred to in point (a) of Article 188-bis(2), transport waste without being in possession of the form referred to in Article 193, or enter incomplete or inaccurate data in the form, shall be punished with an administrative fine ranging from 1 600 euros to 9 000 euros. The punishment provided for under Article 483 of the Criminal Code shall be enforced against anyone who, in completing a certificate of waste analysis, gives false information about the nature, composition and the chemical and physical features of the waste and anyone who uses a false certificate during transport)).

5. If the information specified in paragraphs 1 and 2 is formally incomplete or inaccurate, but the data in the communication to the registry office, in the stock registers, in the forms identifying the transported waste and in other accounting entries kept by law, allow for a reconstruction of all the due information, an administrative fine ranging from 260 euros to 1 550 euros shall be enforced. The same punishment shall apply if the information specified in Article 4 is formally incomplete or inaccurate but contains all the elements necessary to reconstruct the due information; it is also enforced if the registers are not sent to the relevant authorities, if they are not kept as provided for under Article 190(1), or if the form referred to in Article 193 is not available ((to the liable parties)).

((5-bis. The parties, as provided for under Article 220(2), who do not make the communication required therein, or who do so incompletely or inaccurately, shall be punished with an administrative fine ranging from 2 600 euros to 15 000 euros; if the communication is made within the sixtieth day of the deadline in compliance with Law No 70 of 25 January 1994, an administrative fine ranging from 26 euros to 160 euros shall be enforced.

5 ter. A mayor of a municipality who does not make the communication provided for under Article 189(3), or who makes it incompletely or inaccurately, shall be punished with an administrative fine ranging from 2 600 euros to 15 500 euros; if the communication is made within the sixtieth day of the deadline fixed in accordance with Law No 70 of 25 January 1994, an administrative fine ranging from 26 euros to 160 euros shall be enforced)).

Article 259 of the Environment Act

(Illegal trafficking of waste)

1. Anyone who makes a waste shipment, constituting illegal trafficking within the meaning of Article 26 of Regulation (EEC) No 259 of 1 February 1993, or who makes a shipment of waste listed in Annex II to that Regulation in violation of points (a), (b), (c) and (d) of Article 1(3) of that same Regulation, shall be punished with a fine ranging from 1 550 euros to 26 000 euros and with imprisonment for up to 2 years. The punishment shall be increased in the event of a hazardous waste shipment.

2. The mandatory confiscation of the vehicle follows the conviction or decision issued under Article 444 of the Code of Criminal Procedure for the offences relating to illegal trafficking referred to in paragraph 1, or to illegal transport referred to in Articles 256 and 258(4).

Article 260 of the Environment Act

(Activities organised for illegal waste trafficking)

1. Anyone who, in order to obtain an unfair profit, through several operations and the preparation of vehicles and continuous organised activities, transfers, receives, transports, exports, imports or, in any case, manages considerable quantities of waste illegally, shall be punished with imprisonment ranging from one year to 6 years.

2. In the case of highly radioactive waste, imprisonment ranging from 3 to 8 years shall be enforced.

3. The conviction shall be followed by the additional penalties set out in Articles 28, 30, 32-bis and 32-ter of the Criminal Code within the limits referred to in Article 33 of that Code.

4. With the conviction or decision issued under Article 444 of the Code of Criminal Procedure, the judge shall order the restoration of the environment and may make the benefit of a suspended sentence subject to the elimination of damage or danger to the environment.

((4-bis. The confiscation of the instruments used to commit the offence or constituting the product or profit of the offence shall always be ordered unless they belong to persons who were not involved in the offence. When this is not possible, the judge shall identify all goods available to the convicted person, indirectly or through third parties, having an equivalent value, and shall order their confiscation)).

Article 260-bis of the Environment Act

(Information technology system to control the traceability of waste)

1. The liable parties who fail to join the waste tracking control system (SISTR) referred to in point (a) of Article 188-bis(2), within the terms provided by law, shall be punished with an administrative fine ranging from 2 600 euros to 15 500 euros. In the case of hazardous waste, an administrative fine ranging from 15 500 euros to 93 000 euros shall be enforced. (82) ((104))

2. Those persons liable who omit, within the fixed terms and conditions, to pay the contribution to join the waste tracking control system (SISTR) provided for under point (a) of Article 188-bis(2), shall be punished with an administrative fine ranging from 2 600 euros to 15 500 euros. In the case of hazardous waste, an administrative fine ranging from 15 500 euros to 93 000 euros shall be enforced. If a payment omission has been established, the immediate suspension of the service supplied to the offender by the above-mentioned tracking control system shall be suspended mandatorily. It is necessary to take into consideration the non-payment conditions specified in this paragraph when a calculation is made to pay the new annual contribution to join the above-mentioned tracking control system. (82) ((104))

3. Anyone who omits to fill in the chronological register or SISTRI – HANDLING AREA card, according to the times, procedures and modalities set by the information control system as specified in paragraph 1, supplies incomplete or inaccurate information to the above-mentioned system, alters any of the accessory technological devices of the above-mentioned control information system fraudulently, or hinders its proper functioning in any way, shall be punished with an administrative fine ranging from 2 600 euros to 15 500 euros. In the case of undertakings employing fewer than 15 employees, an administrative fine ranging from 1 040 euros to 6 200 euros shall be enforced. The number of working units is calculated by taking into account the number of full-time workers who, on average, work in one year, whereas part-time and seasonal workers represent fractions of annual working units. For this purpose, the year that must be taken into consideration is the last approved accounting year preceding the date on which the infringement was committed. If information provided, even if it is incomplete or inaccurate, does not affect waste traceability, an administrative fine ranging from 260 euros to 1 150 euros shall be enforced. (82) ((104))

4. If the conduct specified in paragraph 3 concerns hazardous waste, an administrative fine ranging from 15 500 euros to 93 000 euros shall be enforced and the accessory administrative sanction of suspension, ranging from one month to one year, from the function covered by the person who committed the infringement shall be applicable, including suspension from the office of director. In the case of undertakings employing a number of working units lower than 15 employees, the minimum and maximum measures specified in the previous sentence shall be reduced, respectively, from 2 070 euros to 12 400 euros in the case of hazardous waste. The procedure for calculating the number of workers is specified in paragraph 3. If information, even if incomplete or inaccurate, does not affect waste traceability, an administrative fine ranging from 520 euros to 3 100 euros shall be enforced. (82) ((104))

5. Outside the provisions specified in paragraphs 1 to 4, anyone who does not fulfil any other obligation fixed by the above-mentioned waste tracking control system (SISTRI) shall be punished, in consequence of any violations specified above, with an administrative fine ranging from 2 600 euros to 15 500 euros. In the case of hazardous waste, an administrative fine ranging from 15 500 euros to 93 000 euros shall be enforced. (82) ((104))

6. The punishment provided for under Article 483 of the Criminal Code shall be enforced against anyone who, in drafting a certificate of waste analysis used within the framework of the waste tracking control system, provides false information about the nature, composition and the chemical and physical features of waste; it shall also be enforced against anyone who drafts a false certificate with data to be provided for waste traceability purposes. (82) ((104))

7. A transport operator who, during the transport of waste, is not in possession of the paper copy of the SISTRI – HANDLING AREA card and, when necessary, according to the law in force, a copy of the analytical certificate specifying the features of the waste materials, shall be punished with an administrative fine ranging from 1 600 euros to 9 300 euros. In accordance with Article 483 of the Criminal Code, the punishment shall be enforced if any hazardous waste is transported. This latter punishment shall also be enforced against anyone who, during the transport, has a waste analysis certificate containing false information about the nature, composition and the chemical and physical features of the transported waste. (82) ((104))

8. A waste transport operator, who is in possession of a paper copy of the SISTRI – HANDLING AREA card which has been altered fraudulently, shall be punished in accordance with the combined Articles 477 and 482 of the Criminal Code. Punishment shall be increased by up to one third in the case of hazardous waste. (82) ((104))

9. If the conduct specified in paragraph 7 does not affect waste traceability, an administrative fine ranging from 260 euros to 1 550 euros shall be enforced. (82) ((104))

9-bis. Anyone who, by means of actions or omissions, violates several provisions of this Article, or who commits further violations of the same provision, shall be subject to the administrative sanction fixed for the most serious violation increased up to double the amount. The same sanction shall be enforced against anyone who, by means of further actions or omissions implementing the same plan, commits, also at different times, several violations of the same provision or of different provisions of this Article.

9-ter. Anyone who, within 30 days of perpetration of the violation, fulfils the obligations laid down in the regulations relating to the information control system as specified in paragraph 1, shall not be liable for the administrative violations set out in this Article. The offender may settle the arraignment within sixty days of the immediate challenge or notification of the violation, upon fulfilment of the obligations specified above, by paying one fourth of the sanction laid down. Facilitation of payment prevents additional sanctions from being enforced.

(68a) ((72))

UPDATE (68a)

Decree-Law No 101 issued on 31 August 2013, modified by Law No 125 issued on 30 October 2013, stated (in Article 11(3-bis)) that 'Within the ten months following the date of 1 October 2013 [...] the sanctions concerning the SISTRI system referred to in Article 260-bis and 260-ter of Legislative Decree No 152 of 3 April 2006 and its subsequent modifications shall not apply'.

UPDATE (72)

Decree-Law No 101 of 31 August 2013, modified by Law No 125 of 30 October 2013, as amended by Decree-Law No 150 of 30 December 2013 and modified by Law No 15 of 27 February 2014, stated (in Article 11(3-bis)) that 'Until 31 December 2014, [...] the sanctions relating to the SISTRI system referred to in Article 260-bis and 260-ter of Legislative Decree No 152 of 3 April 2006 and subsequent modifications shall not apply'.

UPDATE (82)

Decree-Law No 101 of 31 August 2013, modified by Law No 125 of 30 October 2013, as amended by Decree-Law No 192 of 31 December 2014 and modified by Law No 11 of 27 February 2015, stated (in Article 11(3-bis)) that 'Until 31 December 2015, in order to allow for the keeping of electronic stock registers and forms accompanying transported waste, as well as the application of other simplifications and appropriate modifications of the provisions, the executions and obligations laid down in Articles 188, 189, 190 and 193 of Legislative Decree No 152 of 3 April 2006 in the text prior to the modifications made by Legislative Decree No 205 of 3 December 2010, and the related sanctions, shall continue to apply. During this period, the sanctions relating to the SISTRI system set out in Article 260-bis(3) to (9) and Article 260-ter of Legislative Decree No 152 of 3 April 2006 and subsequent modifications shall not apply. The sanctions relating to the SISTRI system set out in Article 260-bis(1) and (2) of Legislative Decree No 152 of 3 April 2006 and subsequent modifications shall apply as from 1 April 2015'.

UPDATE (104) Decree-Law No 101 of 31 August 2013, modified Law No 125 of 30 October 2013, as amended by Decree-Law No 244 of 30 December 2016 and modified by Law No 19 of 27 February 2017 stated (under Article 11(3-bis)) that "Until the date on which the concessionaire, identified through the procedures specified in paragraph 9-bis, takes over the management of the service and in any case not beyond 31 December 2017, the sanctions relating to the SISTRI system set out in Article 260-bis(3) to (9) and Article 260-ter of Legislative Decree No 152 of 3 April 2006 and subsequent modifications shall not apply. [...] Until the date on which the concessionaire, identified through the procedures specified in paragraph 9-bis, takes over the management of the service, and in any case not beyond 31 December 2017, the sanctions laid down in Article 260-bis(1) and (2) of Legislative Decree No 152 of 3 April 2006, shall be reduced by 50 per cent'.

Section 260-ter of the Environment Act

(Additional administrative sanctions - Confiscation)

- 1. If the violations referred to in Article 260-bis(7) and (8) are established, a 12-month administrative immobilisation of the vehicle used to transport waste shall be mandatory as an additional sanction if the offender's act falls within one of the situations provided for in Article 99 of the Criminal Code or in Article 8-bis of Law No 689 of 24 November 1981, or the offender has already committed administrative violations of the same type or, in any case, has infringed the regulations on waste disposal.*
- 2. The provisions of Articles 213, 214, 214-bis and 224-ter of Legislative Decree No 285 of 30 April 1992 and their implementing provisions shall apply mutatis mutandis.*
- 3. If the violations referred to in Article 260-bis(1), are established, a 12-month administrative immobilisation of the vehicle used by the transport operator shall be mandatory as an additional sanction. In any case, the restitution of the vehicle subject to administrative immobilisation cannot be ordered in the absence of the subscription and related fee payment.*

4. In the event of unauthorised transportation of hazardous waste, the confiscation of the vehicle and of any other means used to transport the waste materials shall always be ordered, within the meaning of Article 240(2) of the Criminal Code, unless the means of transport actually belongs to a person who is not involved in the offence.

5. Immobilisation, as specified in paragraph 1, and confiscation, as specified in paragraph 4, shall be mandatory upon establishment of the violations referred to in Article 256(1).

(68) (72) (82) ((104))

UPDATE (68a)

Decree-Law No 101 of 31 August 2013, modified by Law No 125 of 30 October 2013, stated (under Article 11(3-bis)) that 'Within the ten months following the date of 1 October 2013 [...] the sanctions concerning the SISTRI system laid down in Articles 260-bis and 260-ter of Legislative Decree No 152 of 3 April 2006 and subsequent modifications shall not apply'.

UPDATE (72)

Decree-Law No 101 of 31 August 2013, converted with amendments into Law No 125 of 30 October 2013, as amended by Decree-Law No 150 of 30 December 2013, converted with amendments into Law No 15 of 27 February 2014, stated (under Article 11(3 bis)) that 'Until 31 December 2014, [...] the sanctions relating to the SISTRI system set out in Articles 260-bis and 260-ter of Legislative Decree No 152 of 3 April 2006 and modifications shall not apply'.

UPDATE (82)

Decree-Law No 101 of 31 August 2013, converted with amendments into Law No 125 of 30 October 2013, as amended by Decree-Law No 192 of 31 December 2014, converted with amendments into Law No 11 of 27 February 2015, stated (under Article 11(3-bis)) that 'Until 31 December 2015, in order to allow for the keeping of electronic stock registers and forms accompanying transported waste, as well as the application of other simplifications and appropriate modifications of the provisions, the executions and obligations laid down in Articles 188, 189, 190 and 193 of Legislative Decree No 152 of 3 April 2006, in the text prior to the modifications made by Legislative Decree No 205 of 3 December 2010, and the related sanctions, shall continue to apply. During this period, the sanctions concerning the SISTRI system laid down in Article 260-bis(3) to (9) and subsequent modifications shall not apply'.

UPDATE (104)

Decree-Law No 101 of 31 August 2013, converted with amendments into Law No 125 of 30 October 2013, as amended by Decree-Law No 244 of 30 December 2016, modified by Law No 19 of 27 February 2017, stated (under Article 11(3-bis)) that 'Until the date on which the concessionaire, identified through the procedures specified in paragraph 9-bis, takes over the service and, in any case, not beyond 31 December 2017 [...], the sanctions relating to the SISTRI system set out in Article 260-bis(3) to (9) and Article 260-ter of Legislative Decree No 152 of 3 April 2006 and subsequent modifications shall not apply'.

Article 261 of the Environment Act

(Packaging)

1. The manufacturers and users who do not comply with the collection obligation laid down in Article 221(2) or who, alternatively, do not adopt management systems within the meaning of points (a) and (c) of that same Article 221)(3), shall be punished with an administrative fine of 5 000 euros.

2. *The packaging manufacturers who do not take steps to organise a system for complying with the obligations laid down in Article 221(3), and who do not join a consortium as provided for under Article 223, or who do not adopt a system for returning the packaging as provided for under points (a) and (c) of Article 221(3), shall be punished with an administrative fine ranging from 5 500 euros to 46 500 euros. The same punishment shall be enforced against users who do not comply with the obligation laid down in Article 221(4).*

3. *Violation of the prohibitions laid down in Article 226(1) and (4), shall be punished with an administrative fine ranging from 5 200 euros to 40 000 euros. The same punishment shall be enforced against anyone who places on the domestic market packaging that does not meet the requirements set out under Article 219(5).*

4. *Violation of the provisions of Article 226(3) shall be punished with an administrative fine ranging from 2 600 euros to 15 500 euros.*

((4-bis. Violation of the provisions of Articles 226-bis and 226-ter shall be punished with an administrative fine ranging from 2 500 euros to 25 000 euros.

4-ter. An administrative fine, as specified in Article 4-bis, shall be increased by up to four times of its maximum value if the violation of the prohibition concerns considerable quantities of plastic bags, or their value is higher than 10 % of the offender's turnover, and in the case of wording or other means likely to elude the obligations laid down in Articles 226-bis and 226-ter.

4-quater. The sanctions provided for under paragraphs 4-bis and 4-ter shall be enforced in compliance with Law No 689 of 24 November 1981; if the violations are established, the administrative police authorities shall take measures ex officio upon a complaint, without prejudice to Article 13 of Law No 689/1981 mentioned above)).

Article 263 of the Environment Act

(Proceeds of administrative fines)

1. The proceeds of administrative fines for the violations specified in the provisions of the Part IV of this Decree are given to the provinces with a view to undertaking control activities in environmental matters without prejudice to the proceeds of the administrative fines provided for under Article 261(3), relating to the prohibition laid down under Article 226(1), which are given to the municipalities.

2. The sums of money obtained from the proceeds of administrative sanctions imposed under Article 261-bis shall be added to the budgets of the relevant authorities with a view to increasing the number of extraordinary inspections of the environment provided for under this Decree - more specifically, under Article 29-decies(4), as well as inspections aimed at monitoring compliance with the environmental obligations by plants which are not yet in possession of any authorisation.

((2-bis. Fifty per cent of the sums derived from the proceeds of administrative fines imposed under Article 255(1-bis), shall be added to the budget of the State to be re-allocated to an appropriate fund established at the Ministry of the Environment and Protection of Land and Sea, and intended for the activities provided for under Article 232-bis(1) and (2). The remaining 50 % of the above-mentioned proceeds is directed to the municipalities whose land has been the object of violations; it is used for the activity provided for under Article 232-bis(1) and for specific information campaigns launched by the municipalities themselves, aimed at raising consumers' awareness of the harmful consequences, for the environment, caused by the disposal of smoking products and small waste materials, as set out under Article 232-ter; the proceeds are also used for the urban sewage cleaning system. The implementing provisions for this paragraph have been established through a measure by the Ministry of the Environment and Protection of Land and Sea, together with the Ministry of the Interior and the Ministry of Economy and Finance, to be issued within 90 days of the date of entry into force of this provision)).

Criminal Code

BOOK II

SPECIFIC OFFENCES

TITLE VI-bis

Offences against the environment (¹)

(1) Title inserted by Article 1(1) of Law N° 68 of 22 May 2015, with effect from 29 May 2015, in accordance with the provisions of Article 3(1) of the above-mentioned Law 68/2015.

Article 452-bis (¹)

Environmental pollution

Anyone who unlawfully causes a significant and measurable deterioration or impairment:

1) of waters or air, or of large or significant portions of the soil or subsoil;

2) of an ecosystem, of biodiversity, including agricultural biodiversity, of flora or fauna,

shall be punished by imprisonment for two to six years and a fine of 10 000 euros to 100 000 euros.

Where the pollution affects a protected natural area or an area with landscape, environmental, historical, architectural or archaeological restrictions, or where it harms protected animal or plant species, the penalty shall be increased.

(1) Article inserted by Article 1(1) of Law N° 68 of 22 May 2015, which inserted the entire Title VI-bis, with effect from 29 May 2015, in accordance with the provisions of Article 3(1) of the above-mentioned Law 68/2015.

Article 452-ter

Death or personal injury resulting from the offence of environmental pollution (¹)

Where one of the acts referred to in Article 452-bis results, as an unintentional consequence of the offender's conduct, in personal injury, apart from cases where the illness lasts no longer than twenty days, the penalty shall be imprisonment for two years and six months to seven years; where the personal injury is serious, the penalty shall be imprisonment for three to eight years; where the personal injury is very serious, the penalty shall be imprisonment for four to nine years; where one of the above-mentioned acts results in death, the penalty shall be imprisonment for five to ten years.

In the event of the death of several persons, or personal injury caused to several persons, or of the death of one or more persons and personal injury to one or more persons, the penalty provided for the most serious case, increased by up to one third, shall be imposed; however, the imprisonment may not exceed twenty years.

(1) Article inserted by Article 1(1) of Law N° 68 of 22 May 2015, which inserted the entire Title VI-bis, with effect from 29 May 2015, in accordance with the provisions of Article 3(1) of the above-mentioned Law 68/2015.

Article 452-quater

Environmental disaster ⁽¹⁾

Apart from the cases provided for in Article 434, anyone who unlawfully causes an environmental disaster shall be punished by imprisonment for five to fifteen years. Environmental disaster shall be constituted by either:

- 1) irreversible damage to the balance of an ecosystem;*
- 2) damage to the balance of an ecosystem which would be particularly expensive to remedy and could only be remedied by exceptional measures;*
- 3) acts contrary to public safety which are particularly significant due to the extent of the damage or of its harmful effects, or due to the number of persons injured or exposed to danger.*

Where the disaster affects a protected natural area or an area with landscape, environmental, historical, architectural or archaeological restrictions, or where it harms protected animal or plant species, the penalty shall be increased.

(1) Article inserted by Article 1(1) of Law N° 68 of 22 May 2015, which inserted the entire Title VI-bis, with effect from 29 May 2015, in accordance with the provisions of Article 3(1) of the above-mentioned Law 68/2015.

Article 452-quinquies

Culpable offences against the environment (¹)

Where any of the acts referred to in Articles 452-bis and 452-quater is committed through negligence, the penalties provided for in those Articles shall be reduced by one to two thirds.

Where the commission of the acts referred to in the previous paragraph gives rise to a danger of environmental pollution or environmental disaster, the penalties shall be further reduced by one third.

(1) Article inserted by Article 1(1) of Law N° 68 of 22 May 2015, which inserted the entire Title VI-bis, with effect from 29 May 2015, in accordance with the provisions of Article 3(1) of the above-mentioned Law 68/2015.

Article 452-sexies

Trafficking in and dumping of highly radioactive material (¹)

Unless the act constitutes a more serious offence, anyone who unlawfully transfers, purchases, receives, transports, imports, exports, procures for others, holds, hands over, dumps or illicitly disposes of highly radioactive material, shall be punished by imprisonment for two to six years and by a fine of 10 000 euros to 50 000 euros.

The penalty referred to in the first paragraph shall be increased where the act gives rise to a danger of damage or impairment:

1) of waters or air, or of large or significant portions of the soil or subsoil;

2) of an ecosystem, of biodiversity, including agricultural biodiversity, of flora or fauna.

Where the act gives rise to a danger to the life or safety of persons the penalty shall be increased by up to one half.

(1) Article inserted by Article 1(1) of Law N° 68 of 22 May 2015, which inserted the entire Title VI-bis, with effect from 29 May 2015, in accordance with the provisions of Article 3(1) of the above-mentioned Law 68/2015.

Article 452-septies

Hindering supervision ⁽¹⁾

Unless the act constitutes a more serious offence, anyone who, by denying access, posing obstacles or artificially changing the condition of the sites concerned, hinders, hampers or evades supervision and control related to the environment and to occupational safety and hygiene, or compromises the outcome thereof, shall be punished by imprisonment for six months to three years.

(1) Article inserted by Article 1(1) of Law N° 68 of 22 May 2015, which inserted the entire Title VI-bis, with effect from 29 May 2015, in accordance with the provisions of Article 3(1) of the above-mentioned Law 68/2015.

Article 452-octies

Aggravating circumstances ⁽¹⁾

Where a conspiracy as referred to in Article 416 [of the Italian Criminal Code] is aimed, exclusively or concurrently, at committing any of the offences provided for by this Title, the penalties prescribed by the above-mentioned Article 416 shall be increased.

Where a conspiracy as referred to in Article 416-bis is aimed at committing any of the offences provided for by this Title, or at obtaining the management or control of economic activities, licenses, authorisations, public contracts and services relating to the environment, the penalties provided for by the above-mentioned Article 416-bis shall be increased.

The penalties provided for in paragraphs 1 and 2 shall be increased by one third to one half where public officials or persons in charge of public services who perform functions or carry out services relating to the environment participate in the conspiracy.

(1) Article inserted by Article 1(1) of Law N° 68 of 22 May 2015, which inserted the entire Title VI-bis, with effect from 29 May 2015, in accordance with the provisions of Article 3(1) of the above-mentioned Law 68/2015.

Article 452-novies

Environment-related aggravating circumstance (¹)

Where an act which is already punishable by law as an offence is committed with a view to perpetrating one or more of the offences provided for by this Title, by Legislative Decree N° 152 of 3 April 2006, or by any other legal provision relating to environmental protection, or where the commission of the act results in the infringement of one or more rules provided for by the above-mentioned Legislative Decree No 152 of 2006, or by any other law relating to environmental protection, the penalty shall be increased by one third to one half in the first case, and by one third in the second case. In any case the offence is prosecutable ex officio.

(1) Article inserted by Article 1(1) of Law N° 68 of 22 May 2015, which inserted the entire Title VI-bis, with effect from 29 May 2015, in accordance with the provisions of Article 3(1) of the above-mentioned Law 68/2015.

Article 452-decies

Active repentance ⁽¹⁾

The penalties imposed for the offences under this Title, for the offence of criminal conspiracy referred to in Article 416, aggravated pursuant to Article 452-octies, as well as for the offence referred to in Article 260 of Legislative Decree No 152 of 3 April 2006, and subsequent amendments, shall be reduced by one half to two thirds for any person who acts to prevent the criminal activity from causing further consequences, or, before the first-instance trial is declared open, effectively provides for the safety and remediation of the sites and, where feasible, the restoration of such sites to the baseline condition, while the penalties shall be reduced by one third to one half for any person who effectively helps the police or the judicial authorities to reconstruct the events, find the perpetrators or remove significant resources for the commission of offences.

Where the court, at the request of the defendant, before the first-instance trial is declared open, orders suspension of the proceedings for an appropriate period of time, in any case not exceeding two years, which may be extended for no more than one year, in order to enable the ongoing activities referred to in the previous paragraph to be carried out, the period of limitation shall be suspended.

(1) Article inserted by Article 1(1) of Law N° 68 of 22 May 2015, which inserted the entire Title VI-bis, with effect from 29 May 2015, in accordance with the provisions of Article 3(1) of the above-mentioned Law 68/2015.

Article 452-undecies

Confiscation ⁽¹⁾

In the event of conviction or the application of a penalty upon request of the parties pursuant to Article 444 of the Code of Criminal Procedure, for offences under Articles 452-bis, 452-quater, 452-sexies, 452-septies and 452-octies of this Code, confiscation of the property constituting the proceeds of or the profit from the offence, or which was used in committing the offence, shall always be ordered, unless it belongs to persons unrelated to the offence.

Whenever, following a conviction for one of the offences provided for by this Title, the confiscation referred to in the first paragraph is not possible, the court shall identify property of an equivalent value which the offender has at his/her disposal, including indirectly or through an intermediary, and order confiscation thereof.

The property confiscated pursuant to the previous paragraphs or any proceeds thereof shall be made available to the Public Administration and shall be used only for the remediation of the sites.

Confiscation is not applicable if the defendant has effectively provided for the safety and remediation of the sites and, where necessary, the restoration of such sites to the baseline condition.

(1) Article inserted by Article 1(1) of Law N° 68 of 22 May 2015, which inserted the entire Title VI-bis, with effect from 29 May 2015, in accordance with the provisions of Article 3(1) of the above-mentioned Law 68/2015.

Article 452-duodecies

Restoration of sites to the baseline condition ⁽¹⁾

When passing sentence or imposing a penalty upon request of the parties pursuant to Article 444 of the Code of Criminal Procedure for any of the offences provided for by this Title, the court shall order the recovery and, where technically possible, the restoration of the sites to the baseline condition, and shall impose implementation thereof on the offender and on the entities referred to in Article 197 of this Code.

The provisions of Title II of Part VI of Legislative Decree No 152 of 3 April 2006 concerning restoration of the environment shall apply to the restoration of sites to the baseline condition referred to in the previous paragraph.

(1) Article inserted by Article 1(1) of Law N° 68 of 22 May 2015, which inserted the entire Title VI-bis, with effect from 29 May 2015, in accordance with the provisions of Article 3(1) of the above-mentioned Law 68/2015.

Article 452-terdecies

Failure to carry out environmental remediation ⁽¹⁾

Unless the act constitutes a more serious offence, anyone who fails to provide for environmental remediation, restoration or recovery of the baseline condition of a site, despite being obliged to do so by law or by an order issued by a court or other public authority, shall be punished by imprisonment for one to four years and by a fine of 20 000 euros to 80 000 euros.

(1) Article inserted by Article 1(1) of Law N° 68 of 22 May 2015, which inserted the entire Title VI-bis, with effect from 29 May 2015, in accordance with the provisions of Article 3(1) of the above-mentioned Law 68/2015.

The relevant article is:

Article 262 of the Environment Act

(Competence and Jurisdiction)

1. Without prejudice to the other provisions of Law No. 689 of 24 November 1981 on measures to establish administrative offences, the province in whose territory the offence is committed shall impose the administrative fines specified in the fourth part of this Decree, except for the fines provided under Article 261(3), relative to the prohibition provided for under Article 226(1), where the municipality is the relevant authority.

2. Orders/injunctions relative to the administrative fines specified in paragraph 1 may be appealed under section 23 of Law No. 689 of 23 November 1981 ((provided under Article 22 of Law No. 689 of 2 November 1981)). ((53)).

3. With regard to criminal proceedings pending on the date of entry into force of the fourth part of this Decree, the judicial authority, unless it dismisses the case or pronounces an acquittal, shall order the documents to be forwarded to the bodies specified in subsection 1 for the enforcement of the administrative sanctions.

UPDATE (53)

Legislative Decree No 153 of 1 September 2011 provided (under Article 36(1) and (2) that 'The provisions specified in this Decree apply to proceedings started after the date of its entry into force.

2. The provisions repealed or modified by this Decree continue to apply in disputes pending on the date of its entry into force.'

Article 261-bis

((Sanctions))

((1. Unless the act constitutes a more serious offence, anyone who engages in the activity of incineration or co-incineration of hazardous waste without being in possession of the prescribed authorisation for the activities specified in this chapter, shall be punished by imprisonment for one to two years and by a fine of 10 000 euros to 50 000 euros.

2. Unless the act constitutes a more serious offence, anyone who engages in the activity of incineration or co-incineration of non-hazardous waste in plants referred to in Article 237ter(1)(b),(c), (d) and (e) without being in possession of the prescribed authorisation for the activities specified in this chapter, shall be punished by imprisonment for six months to one year and by a fine of 10 000 euros to 30 000euros.

3. Unless the act constitutes a more serious offence, anyone who disposes of waste water from incineration and co-incineration plants, obtained during the purification of gas discharges, into soil, subsoil or underground water, as provided under Article 237-duodecies(5), shall be punished by imprisonment for one year and by a fine of 10 000 euros to 30 000 euros.

4. Unless the act constitutes a more serious offence, owners and managers who, when decommissioning a waste incineration or co-incineration plant, do not comply with the provisions of Article 237-octies(10), shall be punished by imprisonment of up to one year and by a fine of 10 000 euros to 25 000 euros.

5. *Unless the act constitutes a more serious offence, anyone who engages in the activity of incineration or co-incineration of waste in the conditions provided under Article 237-septiesdecies(3), and exceeds any of the time limits provided therein, shall be punished by imprisonment for up to 9 months and a fine of 50 000 euros to 30 000 euros.*
6. *Unless the act constitutes a more serious offence, anyone who disposes of waste water from incineration and co-incineration plants, obtained during the purification of gas discharges, into surface waters, as provided under Article 237-duodecies(5), without complying with the emission values specified in Annex 1(D), shall be punished by imprisonment for up to six months and by a fine of 10 000 euros to 30 000 euros.*
7. *Unless the act constitutes a more serious offence, anyone who disposes of waste water referred to in Article 237-duodecies without the authorisation specified in paragraph 1, shall be punished by imprisonment for up to three months and by a fine of 5 000 euros to 30 000 euros.*
8. *Unless the act constitutes a more serious offence, anyone who, when engaged in incineration or co-incineration activities, exceeds the emission limits provided under Article 237-undecies, shall be punished by imprisonment for up to one year and by a fine of 10 000 euros to 25 000 euros. If the limits not complied with are those specified in Annex 1(A)(3) and (4), the perpetrator shall be punished by imprisonment for one to two years and by a fine of 10 000 euros to 40 000 euros.*
9. *Unless the act constitutes a more serious offence, a professional who, on the replacement certificate provided under Article 237-octies(8), and Article 237-octies(10), with reference to co-incineration plants, certifies facts which are not true, shall be punished by imprisonment for up to one year or by a fine of 5 000 euros to 25 000 euros.*
10. *Unless the act constitutes a more serious offence, anyone who puts into operation an incineration or co-incineration plant whose construction and operation has been authorised, without the verifications provided under Article 237-octies(7), or without the related replacement certificate communicated in compliance with the terms and conditions provided under Article 237-octies(8), and Article 237-octies(10), with reference to co-incineration plants, shall be punished by imprisonment for up to one year or by a fine of 3 000 euros to 25 000 euros.*

11. Unless the act constitutes a more serious offence and notwithstanding paragraph 12, anyone operating an authorised incineration or co-incineration plant who does not comply with the terms and conditions specified in the authorisation provided under Article 237-quinquies(2), with reference to incineration plants, under Article 237-quinquies(3), Article 237-septies(1) and Article 237-octies(1), shall be punished by a fine of 3 000 euros to 30 000 euros.

12. Unless the act constitutes a criminal offence, anyone operating an authorised incineration or co-incineration plant who, having obtained partial exemptions during authorisation as provided under Article 237-septies(6), and Article 237-nonies, does not comply with the terms and conditions imposed by the relevant authority during authorisation, shall be punished by an administrative fine of 3 000 euros to 25 000 euros.

13. Unless the act constitutes a criminal offence, anyone operating an authorised incineration and co-incineration plant who, having obtained exemptions during authorisation as provided under Article 237-undecies(6), does not comply with the terms and conditions imposed by the relevant authority during authorisation, shall be punished by an administrative fine of 2 500 euros to 25 000 euros.

14. Unless the act constitutes a criminal offence, anyone who, apart from the cases provided under this Article, when operating an incineration and co-incineration plant, does not comply with the terms and conditions specified in this Decree or with those imposed by the relevant authority during authorisation, shall be punished by an administrative fine of 1 000 euros to 35 000 euros.

15. The provisions of paragraphs 1, 2, 5, 6, 7, 8, 10, 12, 13, 14 and 15 shall not apply if the plant is subject to the provisions of Title III-bis of the second part of this Decree.

5.1.2. Other rules or judiciary instructions

In Italy there are also judiciary instructions that are relevant in the area of waste crime.

Firstly, the Court of Cassation plays an important role in making uniform interpretations of law for first and second-instance judges.

Secondly, the Chief Prosecutor's Office at the Court of Cassation has a role of coordination and supervision of the Chief Prosecutor's Office at the Court of Appeal (see paragraph 4.1.2).

Thirdly, the Chief Prosecutor's Office at the Court of Appeal has a role of coordination and supervision of the Public Prosecutors' Offices at first-instance courts (see paragraph 4.1.2).

Finally, the National Anti-Mafia and Anti-Terrorism Directorate (DNA) has a coordination role in respect of the District Anti-Mafia Prosecutor's Offices (DDA) in relation to the crimes of organised waste trafficking set out in Article 260 of the Environment Act.

However, the above mentioned rules are not binding.

5.1.3. Determination of the seriousness of waste crime

The seriousness of waste crime depends on the particular nature of the conduct and on the psychological element of the crime. The law provides for the seriousness of the crime to be defined by imposing different penalties.

For all major and minor crimes, penalties are provided by minimum and maximum thresholds. The judges can determine the amount of the penalty to be enforced, taking into account the seriousness of the facts and the psychological element of the crime. In their capacity as judge they can also follow the guidelines offered by the judgments of the Court of Cassation.

There are also two provisions (Article 452-bis and 452-quater of the Criminal Code) that provide for penalties related to environmental damage caused by conduct which does not fall within the definition of 'illegal waste disposal', but only if the damage caused is significant and measurable.

Those provisions are cited below:

- Article 452-bis requires that the conduct provoke '*significant and measurable damage to or deterioration of: 1) water or air, or extended or significant portions of soil or subsoil; 2) an ecosystem, biodiversity, even agricultural, of flora or fauna*' (with an aggravating penalty '*when pollution is caused in a natural area which is protected or subject to landscape, environmental, historical, artistic, architectural or archaeological legal requirements, or if damage is caused to protected animal or vegetable species*').
- Article 452-quater requires that the conduct provoke '*1) irreversible change in the ecosystem equilibrium; 2) change in the ecosystem equilibrium whose elimination is especially onerous and achievable only through special measures; 3) damage to public safety by virtue of the extent of the damage or its injuring effects or the number of injured parties exposed to danger.*' Also in this last case, the penalty is more serious if the damage has been caused to a protected environment. This point provides for a more serious penalty than the one imposed for the specific offence under Article 452-bis.

5.1.4. Links with other serious criminal offences

A certain number of investigations regarding waste crime have shown links with organised crime. In some cases, Mafia associations directly manage the illicit waste trafficking through some of their companies which do not have the necessary legal requirements but have received formal authorisation anyway from corrupt public officials. In other cases, the criminal organisations manage it indirectly through complacent traders from the sector. In those cases, companies acting illegally are often linked to serious organised crime (Camorra, Ndrangheta, Mafia etc.) and they commit their crime also through corrupting the following categories of public officials:

- a) Civil servants of public bodies (region, province) in charge of issuing authorisations;
- b) Civil servants of public bodies in charge of supervision (region, province, regional environmental protection agency – ARPA);
- c) Civil servants and politicians in charge of updating procedures concerning municipal solid waste (MSW) management;
- d) Officials working in laboratories issuing false certificates for the waste (non-hazardous instead of hazardous, etc.) so as to manage it more cheaply (and less safely).

5.1.5. *The role of the NGOs*

Non-governmental organisations (NGOs) play an important role in the field of prevention. In fact, on 20 November 2013 the National Committee for the Register of Waste Managers signed the **protocol of understanding on environmental law** together with *Legambiente, Libera- Associazioni, nomi e numeri contro le mafie* and *Unione Italiana delle Camere di commercio, Industria, Artigianato e Agricoltura* (see paragraph 3.2).

NGOs can also intervene in proceedings concerning environmental damage as provided for by paragraph 5 of Article 18 of Law No 349 of 1986, and can also appeal before an administrative court for the annulment of an illegal act. It should be underlined that according to the Court, their intervention may have merely procedural purposes of social impetus and control and they cannot obtain compensation for environmental damage, as compensation for public damage in favour of non-public bodies is not possible. However, environmental groups which represent a significant number of members and have continuously defended the environment can join criminal proceedings as a "*parte civile*" in order to obtain compensation for damage to heritage (for example, for the costs incurred by activities conducted to prevent damage to land or for promotional purposes) and non-property damage (for example, related to the reputation of the group, for disrepute deriving from non-achievement of institutional purposes, that might induce the members to deprive the group of their personal and financial support).

NGOs also organise training involving law enforcement agencies (LEAs).

They also collect statistics. Specifically, every year *Legambiente* publishes a report concerning environmental crime based on the data submitted by the police corps.

5.2. Procedural, jurisdictional and administrative issues

5.2.1. Difficulties encountered with regard to admissibility of evidence

Many illegal activities are 'trans-district', which means that they can be committed and/or cause damage in places in which different LEAs and prosecution offices have their jurisdiction. As a consequence precise investigative protocols are necessary, including guidelines for the supervisory bodies and including in relation to investigations on laboratories which provide analyses, and coordination activities among the prosecution offices. However, this coordination has also been achieved through the network to which the Chief Prosecutors' Offices at the Courts of Appeal belong (see paragraph 3.2)

Waste crimes are usually committed by masking illegal waste disposal under the apparent legality of a different operation. This purpose is usually pursued through:

- classifying waste falsely by counterfeiting certificates of analyses. In this way, waste is included under codes for which management costs are considerably lower.
- the procedure of the '*giro bolla*' (falsified delivery note) or 'triangulation'. This is an operation whereby waste is transferred, on paper, from one storage centre to another (usually storage centres in different regions), with the purpose of classifying its type, especially in order to circumvent general and regional rules, and/or remedy authorisations related to the waste facility of destination (that, for example, was authorised to dispose of specific categories of waste or authorised to recycle waste only). In short, it is necessary to change at administrative level the legal regulation of waste so as to make it compatible with

the chosen final destination. Basically, the incoming waste, with the producer's data sheet and a given code, is immediately taken over by the storage centre and registered in the specific waste loading and unloading records. Afterwards, with a new data sheet from the same centre, the same waste is sent for final disposal/recycling without being processed and being sometimes mixed with other waste.

- using false certificates of waste disposal in order to simulate waste spillage or illegal discharge. Often, such operations are combined with issuing invoices for non-existent operations (e.g. unspecified advice) conducted to increase costs (which are evidently lower) in comparison with the apparent ones of legal waste disposal.

Evidence of these offences can be acquired through the following investigations:

- checking the certificates of analysis and verifying their authenticity;
- seizing and examining the waste transported and conducting an *ex post* verification of the documents.

Another difficulty is related to the classification of hazardous waste.

One of the most common difficulties concerns the lack of compliance with procedural guarantees in the phase of taking samples and analysing them, which may affect the proceedings due to the fact that they cannot be used as evidence.

5.2.2. *Measures other than criminal or administrative sanctions*

Law No 68 of 22 May 2015 introduced additional penalties for the following crimes:

- Environmental pollution (Article 452-bis of the Criminal Code)
- Environmental disaster (Article 452-quater of the Criminal Code)
- Trafficking and abandonment of highly radioactive material (Article 452-sexies of the Criminal Code);
- Impairment, hindrance or avoidance of activities of surveillance and monitoring of the environment (Article 452-septies of the Criminal Code);
- Violation of legal obligation, judicial order or administrative order to clean up the affected location, or to restore the environment (Article 452-terdecies of the Criminal Code).
- Organised activities aimed at illegal waste trafficking (Article 260 of the Environment Act).

The additional penalties to be imposed in the above cases are:

- Prohibition on negotiating with the public administration during the whole period the criminal penalty is in force;
- Confiscation of instrumentalities (e.g. the area where the illegal landfill was built or the means of transportation of waste);
- Confiscation of proceeds or, if not possible, of the equivalent value (which is an innovation for environmental offences);
- Ban from holding public office;
- Ban from a profession;
- Temporary ban from managing legal people or enterprises;
- Restoration of the environment.

5.2.3. *Treatment of seized objects*

The purpose of seizure is dual: to keep the evidence and to prevent further damaging consequences.

With the aim of preventing further damaging consequences, the case-law generally rules out the possibility of authorising continuing operation of the facilities that have been seized except in cases where this is considered necessary to guarantee that employees may continue to work. In such cases precautions must be taken in order to avoid the continuation of polluting phenomena. An official is appointed to manage operations so as to curb emissions within legal limits.

The party concerned may be authorised to have access to the seized sites to fulfil the obligations of clean-up, securing and restoration of sites provided for by the law.

If the seizure is revoked by order of the judge of preliminary investigation, the prosecutor cannot issue any order.

Pursuant to Articles 4, 5 and 204 of Presidential Decree No 115 of 30 May 2002 (Consolidation Act of legislative provisions and rules on court expenditures), the costs of temporary storage are paid in advance by the state but are recovered in the event of a court order for costs, which is usually issued together with the guilty verdict.

5.3. Environmental restoration

Several provisions stipulate that in the event of a guilty verdict the offender must conduct the environmental restoration and the removal of the damage caused by the offence.

The Environment Act (Legislative Decree No 152/2006) contains the following provisions:

- Article 29-quaterdecies provides that, if the unauthorised conduct concerns a waste dump, the guilty verdict or the plea-bargain decision is followed by confiscation of the area where the illegal waste dump has been made, and the offender or accomplice in the offence has in any event an obligation to clean up or restore the site concerned.

- Article 139 provides that the offender may benefit from the suspension of the guilty verdict on condition of compensation of damages and action taken to secure, clean up and restore the site concerned (for water-related crimes).
- Article 255(3) provides that in the event of a guilty verdict or plea-bargain decision in cases of non-compliance with the Mayor's order to remove illegally abandoned waste, the offender may benefit from the suspension of the guilty verdict on condition of compensation of damages and action taken to secure, clean up and restore the site concerned.
- Article 256(3) provides that the guilty verdict or the plea-bargain decision for producing and/or managing an illegal dump is followed by confiscation of the area where the illegal dump has been made and the offender or accomplice in the offence has in any event an obligation to clean up or restore the site concerned.
- Article 256-bis provides that the guilty verdict or the plea-bargain decision for illegally burning waste is followed by confiscation of the area where the illegal dump has been made, if owned by the offender or accomplice in the offence, and the offender or accomplice in the offence has in any event an obligation to clean up or restore the site concerned.
- Article 257 provides that in the event of a guilty verdict or plea-bargain decision for omitting clean-up, the verdict can be suspended on condition of the compensation of damages and action taken to secure, clean up and restore the site concerned; in the event of a guilty verdict or by a decision passed pursuant to Article 444, the person concerned can benefit from a suspended sentence on condition of securing, cleaning up and restoring the environment.
- Article 260(4) provides that in the event of a guilty verdict or plea-bargain decision for organised waste trafficking the execution of the verdict can be suspended on condition of the removal of the environmental damage or hazard.

In addition, Article 452-duodecies of the Italian Criminal Code provides that, in the event of a guilty verdict or plea-bargain decision, the judge should order the recovery and, whenever technically possible, restoration of the damaged sites under the responsibility of the sentenced person and the persons provided for by Article 197 of the Italian Criminal Code.

5.4. Jurisdiction

5.4.1. Principles applicable to the investigation of waste crime

With regard to waste crimes committed partially/entirely outside Italian territory, as with regard to any other criminal offence, Italian legislation provides that jurisdiction applies either if the conduct, or part of the conduct or the event of the crime has occurred in the territory of the state.

According to our internal rules (articles 7,8,9,10 of the criminal code) is possible to recognise Italian jurisdiction also in relation to offences committed totally abroad, if the conditions expressly provided for by the law are fulfilled (e.g. the formal request of the Minister of Justice).

In addition it has to be noted that, in compliance with the UN Convention against Transnational Organised Crime, a criminal offence that involves an organised criminal group must be considered as a transnational crime when is punishable by imprisonment of not less than four years and: a) is committed in more than one state; or b) is committed in one state, but a substantial part of its preparation, planning, direction or control takes place in another state; or c) is committed in one state but is related to organised criminal groups involved in criminal activity in more than one state; or d) is committed in one state but has substantial effects in another state.

Therefore, if a crime meets the requirement under point c), even if entirely committed abroad, it could be considered as transnational crime and Italian jurisdiction could therefore apply.

Italy is also competent, like any other Member State, to investigate and issue judgements on pollution crimes committed in the high seas in compliance with Article 3(e) of Directive 2005/35/EC.

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

In addition to Council Framework Decision 2009/948/JHA of 30 November 2009, the most suitable and wide international instrument to this end is the Strasbourg Convention of 1959, as integrated from the Bruxelles Convention of 2000, applicable to all the crimes, and therefore also to environmental crimes.

In addition, another mechanism to resolve conflicts of jurisdiction with other Member States that specifically addresses cross-border waste crime cases is Article 21 of the UN Convention against Transnational Organised Crime. That article applies when waste crimes involve transnational organised crime (according to the definition mentioned in the previous answer). In those cases 'States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence covered by this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution'.

Article 7 of Italian Law No 146 of 2006 provides that the 'transfer of criminal proceedings provided according to Article 21 of the Convention shall take place solely in the forms and within the limits of international agreements. Such agreements shall be ratified with prior authorisation by law'.

5.5. Conclusions

- The provisions of Article 3(b) and (c) of Directive 2008/99/EC are reproduced in the Environment Act (*Testo unico in materia ambientale*) and the Criminal Code.
- All the criminal offences have a criminal relevance in relation to the physical person who committed the crime and an administrative relevance in relation to the legal persons (as a rule: non-public bodies).
- The law clearly identifies the system of administrative and criminal sanctions thus avoiding duplication of responsibilities between administrative and law enforcement authorities and avoiding the imposition of two fines (administrative and penal) for the same infringement having a developmental and environmental impact.
- The criminal penalties provided by the law range between a minimum and a maximum depending on the seriousness of the crime. There are no policy guidelines/judiciary instructions about sanctioning. However, the case-law of the Supreme Court is considered a guideline.
- Administrative sanctions are part of preliminary checks, and the fines are clearly defined by law, thus minimising the discretion of the administration for discriminatory treatment of those audited.
- In addition to criminal and administrative penalties, Italian law provides for other penalties such as the prohibition of negotiating with the public administration during the entire period the criminal penalty is in force; the confiscation of instrumentalities, the proceeds or, if not possible, the equivalent value; a ban from public office, from a profession, or from a management position in enterprises and restoration of the environment.

- With regard to environmental restoration and removal of the damage caused by the offence, the Environment Act (Legislative Decree No 152/2006) contains several provisions that also provide for the possibility of suspending the penalty on condition of the compensation of damages and action taken to secure, clean up and restore the site concerned (for water-related crimes).
- Waste crime is often linked to other serious crime such as organised crime and corruption.
- NGOs play an important role in the field of prevention. Related to the cooperation with NGOs there is a legal framework for cooperation with the private sector that has been recognised in the protocol of understanding on environmental law between the National Committee for the Register of Waste Managers, *Legambiente*, *Libera-Associazioni*, *nomi e numeri contro le mafie* and *Unione Italiana delle Camere di Commercio, Industria, Artigianato e Agricoltura*.
- NGOs are in constant contact with LEAs and collect statistics based on the data submitted by them. They can also intervene in proceedings concerning environmental damage to provide social impetus and control.
- Occasionally, procedural guarantees are not complied with when samples are taken and analysed. This may affect the proceedings due to the fact that the samples cannot be used as evidence.
- The adoption of clear guidelines for the taking and analysis of samples, to be agreed with the involvement of all relevant parties, should be encouraged.
- According to NGOs, the complexity of the rules on waste management presents an opportunity for criminals and criminal networks. The simplification of these rules, possibly by codifying them, should be encouraged.
- The ARPA's legal/institutional subdivision into regions leaves space for criminal activities. Clear guidelines should be produced to be followed by the whole ARPA and its coordination role at central level should be enhanced.

6. COOPERATION

6.1. International Cooperation

6.1.1. Forms of cooperation in cross-border cases

The cooperation channels most commonly used by law enforcement officers are Interpol and Europol. The law enforcement officers send a request to Interpol or Europol through their headquarters. Interpol uses the I-24/7 channel and can get in touch with more countries than Europol. However, some countries may ask for letters of request if provided for by their national legislation.

Usually, it takes more time to get an answer from Interpol than from the Europol channel SIENA. Sometimes law enforcement officers make an explicit request and the National Central Bureau (NCB)/Europol National Unit (ENU) does not get an overview of the case.

According to the *Guardia di Finanza*, in this sector, some specific methods of cooperation can be found in the customs cooperation circuit under the Naples II Convention and also in the normal police network.

With specific reference to the *Guardia di Finanza*, the International Cooperation and Relationships with Counterpart Entities Office (*Ufficio di Cooperazione Internazionale e Rapporti con Enti Collaterali*) in Department 2 of the headquarters of the *Guardia di Finanza* carries out cooperation and information exchange via the Ministry of the Interior's international police cooperation service (*Ministero dell'Interno - Servizio di Cooperazione Internazionale di Polizia*), which coordinates with various foreign law enforcement entities which play a role in preventing and fighting waste crime.

Some other possible means of cooperation on intelligence take place through the experts of the Corp working at the sites of the national diplomatic net and the contacts with each foreign counterpart and also with intelligence services.

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

In Italy the use of the European Network for the Implementation and Enforcement of Environmental Law (IMPEL) and the Environmental Crime Network (EnviCrimeNet) for information exchange is increasing, as it is considered to be very fast although informal. So far very few people use these channels. Thanks to the 'Tackling environmental crime through standardised methodologies' (TECUM) project, SIENA messages are increasing.

A specific contact point for international requests concerning waste trafficking exists only in Interpol (NCB) where a specific unit dealing with it exists. This unit includes representatives of different LEAs.

6.1.3. Difficulties faced in judicial cooperation relating to waste crime

The main difficulties highlighted by the Italian judicial authorities relate to the different waste crime legislation existing in the Member States.

6.1.4. Operational performance of JITs in waste crime

Italy only implemented Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams (JITs) in March 2016 by Legislative Decree No 34 of 15 February 2016, which was published in the Official Journal of the Italian Republic No 58 of 10 March 2016 and entered into force on 25 March 2016. As a consequence so far there has not been any participation in JITs in cross-border waste crime cases as part of either Interpol or Europol activities.

6.2. Cooperation with EU agencies and networks

6.2.1. Cooperation with Europol and Eurojust

The Interpol channel was used more with reference to waste transport by trucks to Slovenia. Anyway, both channels are used.

Italy used cooperation through Europol to investigate waste crimes involving Macedonia and Albania. In those cases some information was also sent to the Interpol National Central Bureau (NCB).

In addition, the Italian authorities dealing with waste crime make use of Europol tools such as the Environmental Crime Threat Assessment (2013), Serious and Organised Crime Threat Assessment (SOCTA), Early Warning Notifications, Europol Platforms for Experts (EPEs) available on the internet (EPEs on EnviCrimeNet and on Customs Enforcement) and they consider that the most useful and most used EU platforms are EnviCrimeNet's EPE and IMPEL.

According to Eurojust data, Italy has registered three environmental cases with Eurojust from 2004 up to now. In those cases Eurojust played a role in the facilitation of mutual legal assistance (MLA) requests. In the same period Italy was a frequently requested party.

According to the Italian authorities, Eurojust was involved in two cases related to waste crimes. In the first case (21 February 2014) the Public Prosecutor's Office in Florence sent an MLA request to the Italian desk in order to facilitate collaboration in the investigations with the Slovenian authorities (in particular, the case regarded illicit trafficking of plastic waste to China, in which a Slovenian citizen was actively involved). In the second case (31 July 2013) the Dutch National Public Prosecutor's Office for Serious Fraud and Environmental Crime asked for the support of Eurojust in relation to a case in which a Dutch company was importing waste from the province of Naples. The reason for suspecting the Dutch company was that it was paid less than the market price for the disposal of the waste. The company was investigated in the Netherlands for money laundering and abuse of EU funding.

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

A representative from the Chief Prosecutor's Office was tasked with presenting a report at the EU Environmental Enforcement Networks Conference 2017, which was held in Oxford on 20 and 21 September 2017, on 'the state of environmental law and jurisprudence in Italy'. The complete programme of the conference can be found at:

https://app.azavista.com/event_website_pages/view/home/58be9791-fbf0-42f5-81f9-1ac4ac110002/6fef9ad8d7.

The *Carabinieri* are part of the EnviCrimeNet Steering Group, which is considered to be a good forum for the exchange of good practices and for reinforcing cooperation among the European police forces dealing with environmental crime.

The *Carabinieri* also act as the national contact point for the cross-border shipment of waste in IMPEL, which is considered to be positive because it is informal and very fast, as the national contact points (NCPs) maintain contact via email.

6.3. Cooperation between Italy and Interpol

As part of the activities of the environmental network of Chief Prosecutors' Offices, in 2017 the Chief Prosecutor's Office at the Court of Cassation activated a contact point with the European Network of Prosecutors for the Environment (ENPE) and, within this context, the Deputy Chief Prosecutor tasked a judge with presenting a report at the EU Environmental Crime Enforcement Networks Conference 2017, which was held in Oxford on 20 and 21 September 2017, on 'the state of environmental law and jurisprudence in Italy'.

The full programme of the conference can be found at:

https://app.azavista.com/event_website_pages/view/home/58be9791-fbf0-42f5-81f9-1ac4ac110002/6fef9ad8d7.

The *Carabinieri* are part of the EnviCrimeNet (steering group) and IMPEL (national contact point for the cross-border shipment of waste). In the first case there is a positive exchange of good practices and a reinforcement of the cooperation among the European police forces dealing with environmental crime. In the second case information exchange is informal but very fast; the NCPs stay in touch via email.

6.4. Cooperation with the private sector

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

Involvement of the private sector in the prevention and fight against waste crime is achieved by imposing an obligation to track waste (see also paragraph 8.1).

Also with the purpose of planning waste management, the Waste Registry ensures complete and continuously updated knowledge of the data collected pursuant to Law No 70 of 25 January 1994, using the nomenclature provided for by the European Waste Catalogue.

Article 189 Law no 70 in the text in force prior to the amendments to Legislative Decree No 205/2010 provides for an obligation to communicate annually to the chambers of commerce having territorial jurisdiction the quantities and characteristics of the waste which are the subject of the activities listed in the law. The modes of communication are provided for by Law No 70 of 25 January 1994.

The following are subject to this obligation: anyone dealing at professional level with waste collection and transport; waste dealers and brokers not in possession of the waste; enterprises and entities dealing with waste recycling and disposal; consortia recycling special waste; enterprises and original producers of hazardous waste; enterprises and original producers of non-hazardous waste.

The following are exempt from the obligation: farmers under Article 2135 of the Italian Civil Code having an annual turnover not exceeding 8 000 euros; enterprises that collect and transport non-hazardous waste under Article 212(8) law n 70; and enterprises and original producers that have no more than 10 employees and deal with non-hazardous waste.

If producers of hazardous waste, on the basis of a specific agreement, make use of the public waste collection service having territorial jurisdiction, the service manager has to communicate the quantity of waste that has been consigned to the public service.

The institutional bodies responsible for the integrated management of urban waste and similar must communicate annually, according to the arrangements provided for by Law No 70 of 25 January 1994, the following information related to past years:

- a) quantity of urban waste collected in their territory;
- b) quantity of special urban waste collected in their territory further to a specific agreement with public or private entities;
- c) entities that provided waste management services, specifying the operations carried out, types and quantity of waste managed by each of them;
- d) costs of management and costs of technical financial amortisation of the investments in waste management, as well as the income obtained from the tariff provided for by Article 238 and the income derived from the consortia responsible for waste recycling;
- e) data related to separate waste collection;
- f) quantities collected, separated by materials, in implementation of the agreements with consortia responsible for waste recycling.

On the basis of data dispatched to the chambers of commerce, the regional and provincial sections and those of the autonomous provinces of the Waste Registry process the data and subsequently send the information received to the national section within 30 days of receipt, pursuant to Article 2(2) of Law No 70 of 25 January 1994. ISPRA processes the data, highlighting the types and quantities of waste produced, collected, transported, recycled and disposed of, as well as the operating waste disposal and recycling facilities and guarantees the data are registered.

Better involvement of the private sector has also been achieved by providing for administrative liability of legal persons for waste-related crimes. Article 1(1) of Legislative Decree No 121 of 7 July 2011, extended the liability of the institutions provided for by Legislative Decree No 231 of 8 June 2001 to environmental crimes, by introducing Article 25-undecies which was then integrated into Law No 68/2015. The aim of the amendment is to push these institutions to better self-regulate through the adoption and implementation of adequate organisational standards in order to prevent the perpetration of crimes by persons with a leading or subordinate role.

The waste crimes for which the law provides for the liability of legal persons are the following:

1. waste collection, transport, recycling, disposal, dealing and brokerage without due authorisation, registration or communication (Article 256(1)(a) and (b));
2. establishment or management of an illegal waste dump (Article 256(3)(1));
3. establishment or management of an illegal waste dump allocated, even partly, to hazardous waste disposal (Article 256(3)(2));
4. non-compliance with the provisions concerning the authorisation of waste dump management or other waste-related activities (Article 256(4));
5. illegal waste mixing (Article 256(5));
6. temporary storage at the place of production of dangerous medical waste (Article 256(6)(1));
7. falsification of waste analysis certificates bearing false data on the nature, composition and physico-chemical characteristics of the waste;
8. use of a false certificate during transportation (Article 258(4));
9. illegal waste trafficking (Article 259(1));
10. organised waste trafficking (Article 260);
11. falsification of waste analysis certificates used within a waste tracking control system bearing false data on the nature, composition and physico-chemical characteristics of the waste (Article 260-bis(6));

12. transportation of hazardous waste without the paper copy of the SISTRI form *Area Movimentazione* (movement area) and, whenever necessary on the basis of the law in force, without a copy of the analysis certificate that identifies waste characteristics (Article 260-bis(7)(2));
13. use, during waste transportation subject to SISTRI, of an analysis certificate bearing false data on the nature, composition and physico-chemical characteristics of the transported waste (Article 260-bis(7)(3));
14. transportation of waste with a fraudulently altered paper copy of the SISTRI form *Area Movimentazione* (Article 260-bis(8)(1));
15. transportation of hazardous waste with a fraudulently altered paper copy of the SISTRI form *Area Movimentazione* (Article 260-bis(8)(2)).
16. soil, sub-soil, surface water and groundwater pollution and related non-communication to the competent authorities;
17. non-restoration in compliance with the plan approved by the competent authority within the proceedings provided for by Article 242 *et seq.*

In addition, legal persons are also liable for the crimes provided for by Law No 68/2015 (see paragraph 5.2.2.).

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

Sanctions are provided for in the event of non-compliance with the obligation to communicate data to the Waste Registry under Article 189 of Legislative Decree No 152 of 3 April 2006.

6.4.3. *Experience of cooperation with the private sector*

Nothing to be added to the information set out in paragraph 6.4

6.5. Conclusions

- Italian law enforcement officers make use of cooperation channels such as Interpol and Europol and find that the Europol channel SIENA is faster than Interpol also thanks to the TECUM project managed by Italy. IMPEL and EnviCrimeNet are used too.
- However, in the experts' opinion, planned and integrated cooperation by operational forces with Europol and Interpol, mainly in identifying contact points in the countries of destination of waste, and in particular those outside the EU, would enhance cooperation at the operational level.
- So far Italy has not taken part in any JITs in cross-border waste crime cases. International and European collaboration between counterparts through Joint Investigation Teams (JITs) should be developed by law enforcement agencies (LEAs), especially with countries which receive illegal cross-border shipments.
- The main difficulties highlighted by the Italian judicial authorities and LEAs in the field of international cooperation are related to the lack of harmonised legislation.
- Eurojust is not used very often and the European Union forum of judges for the environment (EUFJE) was not even mentioned by the judiciary. The use of these instruments should be encouraged.
- A representative has been appointed to the European Network of Prosecutors for the Environment.
- Both prosecutors and judges remark that they often experience problems with cooperation with Member States and gave some examples of letters of request not carried out. LEAs have also experienced some problems in cooperating with certain EU countries. As cross-border shipments of waste are often linked to organised crime, the development of informal and flexible international and European partnerships within international organisations can lead to immediate and fast results. Therefore LEAs should be encouraged to seek more direct contact with counterparts to solve issues on an investigational or enforcement level.

- The involvement of the private sector in the prevention and fight against waste crime is achieved by imposing an obligation to track waste, with penalties in the event of non-compliance. This aim has also been achieved by extending the administrative liability of legal persons to waste-related crimes so that the private sector better self-regulates through the adoption and implementation of adequate organisational standards in order to prevent the perpetration of crimes by persons with a leading or subordinate role.

7. ILLEGAL TRAFFICKING OF WASTE

7.1. National structure

7.1.1. *Authorities involved in preventing and combating illegal shipment of waste*

The competent authorities for shipment are the Regions and the Provinces while the competent authority for transit is the Ministry of the Environment (Article 194 of Legislative Decree No 152/2006, applying the EU legislation and the bilateral agreements referred to in Articles 41 and 43 of Regulation (EC) No 1013/2006).

The authorities of the Member States involved in the inspections are able to request evidence of the legality of shipments of waste, while also ensuring systematic ship inspections are carried out.

The Ministry of the Environment adopted the 'national plan of inspections of facilities, undertakings, brokers and dealers and shipments of waste or their recovery or disposal'. The plan, together with the inspection plans drawn up in the other EU Member States, aims to harmonise at European level the arrangements for inspections of establishments, undertakings, brokers and dealers in accordance with Article 34 of Directive 2008/98/EC, as well as inspections of shipments of waste or their recovery or disposal.

The plan provides for a minimum number of inspections (namely 100), including physical inspections of facilities, undertakings, brokers, dealers and shipments of waste or their recovery or disposal. Representatives of ISPRA interviewed on the spot have confirmed that they implement a much higher number of inspections than the number provided for by the plan.

An information system for collecting data on authorised waste dispatches was established, by decree of 22 December 2016, at the Ministry of the Environment, which is in charge of managing it. The new system complies with the requirements imposed in this respect by the waste tracking control system (SISTR) in application of Article 188-ter of Legislative Decree No 152/2006. In fact, in the case of cross-border shipments from Italy, the waste producer must enter in SISTR a copy of the 'shipment permit' pursuant to Regulation No 1013/2006.

All the competent authorities have access to the system and can therefore share information, including applications and permits for shipments of waste.

The enforcement of measures is guaranteed by authorities which carry out inspection activities within the national territory and at the borders of the European Union. The enforcement authorities are the Customs and Monopoly Agency, the Harbour Police, the Military Police, the Finance Police, and the Civilian Police.

7.1.2. Detection of illegal shipment of waste

In addition to targeted action by the judicial police, illegal shipments of waste can also be detected by the national network of inspectors during ordinary administrative technical checks. If violations are detected, inspectors notify the competent authorities so that they can take action. Regarding the transport of hazardous waste, the national legislation and the integrated environmental authorisation (AIA) prescribe a paper-based tracking system of waste from its production to the disposal/recovery site. There are also plans for the waste producers to implement a computerised tracking system (SISTR) which ensures communication with the competent authority. However, at this stage, this system is not yet fully operational.

7.1.3. Specificity of illegal shipment of waste

According to the experience gained from the National Environmental Protection Network (SNPA)'s control activities, many cases of illegal waste management stem from an illegal misclassification of waste.

The waste is also often fraudulently declared as partially recovered and shipped directly to the Far East. Italian LEAs report that many companies have established new companies abroad exporting waste for full recovery, specifically in countries where they think that controls are less effective. In fact, by doing so they avoid the inspections on cross-border shipments of plastic waste in Italy.

Sometimes false declarations of raw materials or by-products are used to avoid the obligations related to waste management.

The *Carabinieri* underlined that the lack of harmonisation concerning the distinction between waste and second-hand goods results in e-waste (second-hand electrical and electronic equipment) and deregistered vehicles in particular being shipped to countries which are not members of the Organisation for Economic Co-operation and Development (OECD) and other States.

With reference to organised crime, the corporate dimension is linked not only to those organisations that can be identified as Mafia, Camorra and 'Ndrangheta, but also and especially to companies and legal businesses that are attracted to the high profits linked to misrepresentation within the waste management cycle. When assessing the corporate dimension of illegal waste trafficking, the legal business structure of some of the companies involved should also be taken into account, as many may be legal in terms of their form and official activities. So it is possible to say that illegal waste trafficking is an anomalous form of serious organised crime. This is the reason why in Italy there is a specific provision regarding 'organised waste management'.

On the other hand, there are also cases of involvement by criminal organisations such as the Mafia, Camorra and 'Ndrangheta, which are attracted to illicit waste trafficking as it is a field in which they can gain profits or hide the profits from other offences (for instance illegal waste trafficking is often used for money laundering). The *Guardia di Finanza* reported that in many cases the involvement of criminal organisations has been detected. In fact, the modern Mafia often use professionals and a dense network of relationships with public and private subjects to plan their own investments and to camouflage them in the economic fabric of the state.

Specifically referring to the modus operandi, the investigations conducted in the sector concerned have shown repetitive and symptomatic illegal behaviour such as:

- a. **'Triangulation'**, i.e. changing the destination of the waste from disposal to recovery. This means the declassification of waste from 'hazardous' to 'non-hazardous'.
- b. The **'simulation'** of waste recovery and/or treatment. When using this method, the environmental crime is generally linked to other crimes such as falsifying documents and corruption. For example:
 - use of fake invoices: since waste trafficking creates profits, dummy companies are established for the sole purpose of creating fictitious invoices with fictitious costs. These companies disappear immediately after releasing the false fiscal documents;
 - corruption and fraud in issuing authorisations: in these cases the illegal waste trafficking is arranged by companies that, despite not meeting the legal requirements, receive the authorisation anyway thanks to corruptive/collusive agreements with disloyal public officials.

7.1.4. Measures on the shipment of waste

In relation to the cross-border waste shipment system, there is a permit framework, therefore all operations must comply with technical standards.

7.2. Inspections

7.2.1. Methodology of inspections and follow-up

During inspections, the *Carabinieri* take all the relevant measures to ensure staff operate safely. Therefore, if needed, they wear protective clothing such as gloves, masks, disposable suits, etc.

In case of doubt about the proper classification of waste, the *Carabinieri* can use portable tools such as an X-ray device to check on the spot the amount of heavy metals in the soil or in the sample.

They also use a magnetometer to check magnetic anomalies in the soil so as to distinguish the metals buried (for example in the case of waste filled into barrels and then dumped, as occurred in the '*Terra dei fuochi*' - Land of fires - in Campania, where a significant amount of toxic waste was dumped in the 1980s and 90s).

Before inspecting a dump, a radioactivity check is a standard procedure applied by the central unit for sample collection and scientific investigations (URIS). If no portable device is available, the *Carabinieri* are supported by the regional environmental protection agency (ARPA) inspectors, who collect the samples and analyse them in their laboratories.

With regard to the inspections implemented by ISPRA, in addition to national and EU technical standards, they follow procedures and guidelines issued by the SNPA.

If the inspection authorities detect irregularities, the judicial police have the power to confiscate and verify the follow-up of the matter with the administrative supervisory bodies. The SNPA inspectors notify the competent authorities and, if necessary, the judicial authority so they can take the relevant steps.

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

Inspections to detect illegal flows of WEEE are conducted by the judicial police and, more specifically, by the following authorities: Unit for Forestry, Environmental and Agri-Food Protection (CUTFAA), Finance Police, Port Authority and Harbour Police with the support of the Customs Agency.

In the past few years specific inspection campaigns have been carried out, both at regional and national level.

Very often shipments of containers of WEEE and ELVs are made by individuals from Africa who disappear after the delivery of the container to the shipping company. In almost all cases the investigations have revealed that the real owners of the waste were private companies managing them illegally.

Generally the illegality related to ELVs and WEEE consists in declaring the goods as second-hand goods, in particular being shipped to countries which are not members of the Organisation for Economic Co-operation and Development (OECD) and other states, although they are waste. The infringements are usually also related to the management of asbestos, waste oil and automotive shredder residue ('car fluff').

The Italian authorities consider ELVs to be a critical sector in illegal waste management. In fact, the collection of such waste has been managed historically by many small companies which did not care very much about the legislative framework. However, after the implementation of several investigations, these companies are progressively adopting legal behaviour.

Whenever an enterprise, by way of derogation from the authorisation received, wants to recover waste from disused vehicles, this activity is subject to prior inspection, which is implemented by the local province administration. The inspection is conducted within 60 days of the submission of the start-up notification and, in any event, before the start of the activity.

Inspections on these recovery facilities are also carried out after the onset of the activity, at least once a year, with the aim of ascertaining the type and amount of waste recovery operations as well as the compliance of recovery activities with the requirements, techniques and safety measures laid down by the current legislation. If the inspectors ascertain illegal behaviour, the province must prohibit the continuation of the activity, unless the holder of the plant undertakes to adopt the relevant measures within the prescribed deadline.

Information regarding the results of the abovementioned inspections should be submitted annually to ISPRA by the provinces. However, in several cases the competent authorities have failed to send ISPRA the annual report on the audits carried out.

According to the information acquired on the spot a problem exists not only with the lack of feedback from the province to ISPRA but also with the lack of follow-up by the provinces regarding the inspections carried out. In short, there are cases where the enterprise continues its activities despite not having adopted the relevant measures within the prescribed deadline.

7.2.3. First inspection plan

By decree of 22 December 2016, the Ministry of the Environment adopted the 'national inspection plan for facilities, undertakings, brokers and dealers and shipments of waste or their recovery or disposal'.

7.2.4. Challenges with regard to the taking back of an illegal waste shipment

The main problems related to waste shipments derive from poor cooperation with the state of origin, e.g. a lack of information on suspicious elements. This occurs especially at non-European level, partly because neither Regulation (EC) No 1013/2006 nor the Basil Convention provide specific sanctions for states which do not comply with the obligation to return waste.

7.3. Conclusions

- The Ministry of the Environment adopted the 'national plan of inspections of facilities, undertakings, brokers and dealers and shipments of waste or their recovery or disposal', which provides for a minimum number of inspections. However, a much higher number of inspections is implemented every year.
- The illegal shipment of waste is usually detected by LEAs as well as by the national network inspectors who report the results to the competent judicial and administrative authorities.
- It seems that, due to the fact that in Italy inspections to detect cross-border shipments of plastic waste are very effective, many companies have established new companies exporting waste for full recovery in countries where controls are less effective (e.g. in Slovenia). Therefore EU countries should be encouraged to take more effective measures.
- Waste trafficking is usually an organised crime but not necessarily involving or linked to criminal organisations such as the Mafia, Camorra and 'Ndrangheta. In fact in Italy there is a specific provision for 'organised waste management' related to illegal waste management committed in an organised manner.
- Inspections to detect illegal flows of WEEE are conducted by the judicial police and, more specifically, by the following authorities: Unit for Forestry, Environmental and Agri-Food Protection (CUTFAA), Finance Police, Port Authority and Harbour Police with the support of the Customs Agency.
- The law provides that enterprises which want to recover waste from disused vehicles, by way of derogation from the authorisation, have to be inspected prior to the start of the activity and at least once a year after the onset of the activity. If a violation of the law is detected, the holder of the plant must adopt the relevant measures within the prescribed time limit and, in the event of non-compliance, the province must prohibit the continuation of the activity. However, in several cases the enterprise has continued its activity despite not having adopted the relevant measures within the prescribed time limit. Therefore an effective follow-up system should be established.

- Problems have been detected in the matter of waste shipment, deriving from poor cooperation by the state of origin on combating illegal waste shipment especially at non-European level. Cooperation with third countries should be encouraged and specific sanctions for states which do not comply with the obligation to return waste should be established.
- On the other hand an enhanced EU regulatory framework that clearly identifies and promotes the conversion of waste into second-hand products would reduce the financial and administrative burden of cross-border transport and, consequently, illegal cross-border transport.
- Controls should be stepped up at the points of exit of illegal cross-border transfers possibly by taking samples at this stage. In fact, this is the most suitable moment for the classification of the waste to be checked, thus avoiding the cases of misclassification which often characterise illegal cross-border transfers. Carabinieri - who have fast and even instant tracking methods and human resources capacities - could support these inspections at exit points. Operational and strategic cooperation with Customs should be improved in order to fully and uniformly tackle the problem of cross-border transport in relation to waste exit points.

8. MANAGEMENT OF HAZARDOUS WASTE

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

Italian law contains only one Article that specifically defines and punishes illegal conduct in relation to hazardous waste - Article 452-sexies of the Criminal Code punishes the trafficking and abandonment of highly radioactive waste.

All other crimes related to hazardous waste are usually punished in the Italian legal system through a combination of crimes related to waste management and those related mainly to damage to the environment or to people. Therefore crimes related to hazardous waste (Article 3(b) of Directive 2008/99/EC) can be dealt with in the same way as the crimes examined in paragraph 5.1.1. of this document.

The **classification of waste** (hazardous or non-hazardous) is still being discussed in Italy and a request has been submitted to the EU Court of Justice for a preliminary ruling with regard to waste classification. Further details are provided below.

There are two different interpretations regarding waste classification.

The first interpretation is based on the **precautionary principle**, provided for in fundamental environmental legislation at European level (Article 191(2) TFEU) and national level (Article 3-ter of the Environment Act).

According to this interpretation, the waste code can be determined only when the exact composition of the waste is known, and it is thus possible to assess whether it contains specific or generally dangerous substances and, consequently, whether it can be characterised as hazardous. Thus if its composition cannot be identified on the basis of the production process and the producer's data sheet, an exhaustive analysis of the entire quantity of waste must be carried out in order to identify all the substances contained and verify whether any of those substances are dangerous. The analysis is considered to be exhaustive only if almost all the waste is analysed (99.99 %), and the waste can only be classified as non-hazardous if the results of the analysis are negative. Should the percentage of waste analysed be lower, it is automatically considered to be hazardous waste.

The second interpretation considers that the process of **waste analysis/characterisation/classification must be both technically and financially feasible**.

Therefore it is not considered necessary to verify the presence of all possible dangerous substances and determine their concentration. On the contrary it is only necessary to verify the presence (and, if present, the concentration) of those substances which are most likely to be contained in the waste. In other words, actions or measures which are neither technically nor financially feasible should not be required.

In order to find a solution to the disparity between these two interpretations, the Chief Prosecutor's Office asked the third criminal division of the Court of Cassation to submit a preliminary ruling request with regard to the classification of waste with mirror codes (Order No 37460 lodged on 27 July 2017) to the Court of Justice. The request contained the following four queries:

1. Do attached Decision 2014/955/EU and Regulation (EU) No 1357/2014 apply to the classification of waste with mirror codes? If so, this would mean that in the event that the composition of the waste is unknown, the waste producer would have to verify whether hazardous substances are contained in the waste and in what concentration.
2. Must testing for dangerous substances be carried out in accordance with pre-determined, uniform methods?

3. Must the determination of hazardous substances be based on an accurate and representative analysis of the waste, taking into account its composition, if this is known or identified during the characterisation phase, or can hazardous substances be determined using probability criteria based on the substances which can reasonably be expected to be present in the waste?
4. If there is any doubt, or it is not possible to identify with any degree of certainty the presence of dangerous substances in the waste, must it be classified and processed as hazardous waste in accordance with the principle of precaution?

Italy has dealt with cases of misclassification of waste (hazardous waste presented as non-hazardous). This illegal conduct is often related to fraudulent certificates of analysis issued by private laboratories in which hazardous waste has been declared as non-hazardous. This crime is very often committed in cases where the laboratory has been referred (usually covertly) to the companies involved in trafficking.

Another way to misclassify waste is to mix hazardous and non-hazardous waste and conceal the presence of the former, so as to avoid the costs related to hazardous waste management.

Some problems also arise with waste of unknown origin (for example abandoned waste), especially where the European waste list includes mirror entries. The composition of waste of unknown origin is not always easily identifiable and often requires extensive analytical procedures; nevertheless, these do not always result in a clear characterisation of the waste.

Evidence of the offence can be acquired through:

- the results of the sampling;
- waste analysis activities that indicate an incorrect classification or characterisation and, consequently, an incorrect assignment of the waste to a disposal and/or recovery site;
- incorrect method of recording waste handling;
- documentary and digital checks on waste shipment and financial movements.

The following measures have been taken to ensure the traceability, from production to final destination, and the control of hazardous waste:

I. TRACKING SYSTEM

The Environment Act (Legislative Decree No 152/2006) provides for two systems, paper and digital (SISTRI), to ensure the **traceability,** from production to final destination, of hazardous waste (Article 17 of Directive 2008/98/EC) and record keeping (Article 35 of that Directive).

A. Paper option

In order to - *inter alia* - provide the relevant information to the Waste Registry through the Single Declaration Model database (MUD) (Article 189 of the Environment Act), the paper option includes the **loading and unloading records** and **the identification forms**:

A.1) the drafting and keeping of **loading and unloading records**, provided for by Article 190 of the Environment Act and Ministerial Decree No 148 of 1 April 1998, are mandatory for:

- a) undertakings and bodies which are original producers of special hazardous and/or non-hazardous waste [Article 184\(3\)\(c\) and \(d\)](#) and/or of special non-hazardous waste from water purification and/or other water treatment systems under [Article 184\(3\)\(g\)](#);
- b) other waste holders, such as undertakings and bodies which collect and transport waste or make preliminary arrangements for waste recycling and treatment, recovery and disposal, including new producers and, in the case of intermodal transport, those entrusted with special waste awaiting transfer from a shipping line or railway company or undertakings which subsequently transport waste pursuant to the final sentence of the first paragraph of [Article 188-ter](#);
- c) waste brokers and dealers.

The loading and unloading records must contain qualitative and quantitative information on the waste produced or treated. The deadlines for recording the information are the following:

- a) producers must record the information, within 10 working days from production and unloading;
- b) undertakings and bodies making preliminary arrangements for recycling must record the information within 10 working days from waste collection and transport;
- c) undertakings and bodies treating the waste must record the information within 2 working days from waste collection and from the end of the treatment of the waste;
- d) waste brokers and dealers, must record the information in a period between 2 working days before starting the transaction and 10 working days after ending the transaction.

A.2) the **forms** provided for by Article 193 and by Ministerial Decree No 145 of 1 April 1998, must be used by undertakings and bodies collecting and transporting waste which are not obliged to or do not voluntarily comply with the waste tracking control system (SISTR) provided for by [Article 188-bis\(2\)\(a\)](#). The forms must contain the following information:

- a) name and address of the waste producer and holder;
- b) source, type and quantity of waste;
- c) destination facility;
- d) date and route of shipment;
- e) name and address of the recipient.

The identification form provided for under Article 193(1) must be produced in quadruplicate and filled in, dated and signed by the waste producer and countersigned by the carrier who thus acknowledges receipt of the waste.

B) Digital option

The waste tracking control system (SISTRI) provides an alternative to the paper option (Article 188-bis(2)(a) of the Environment Act). During transport, waste must be accompanied by a hard copy of the handling sheet of the waste tracking control system (SISTRI). The chronological log and the handling sheets of the aforesaid waste tracking control system (SISTRI) must be available to the supervisory authorities at any time if requested and those subject to the requirement must keep these documents in electronic format for at least 3 years from their registration date or from the date of waste handling, except those related to waste dumping, which are to be kept for an indefinite period and, at the end of the operation, must be consigned to the authority that granted the authorisation. Without prejudice to the provisions of Legislative Decree No 36 of 13 January 2003, dumping facilities must keep the chronological log until the end of the post-operational management phase of dumping.

The waste tracking control system (SISTRI) can be mandatory or optional. Article 188-ter of the Environment Act provides as follows:

B.1) Obligatory use (Article 188-ter(1))

The obligation to use SISTRI applies to undertakings and bodies which are original producers of special hazardous waste, those which collect or transport special hazardous waste on a professional basis, including foreign carriers operating on national territory, those which transport urban waste and those which handle, recycle or dispose of hazardous waste, including waste dealers and brokers and the new producers who treat or produce hazardous waste. In the case of intermodal transport, those who are entrusted with special hazardous

waste awaiting transfer from a shipping line or railway company or undertakings which subsequently transport the waste are also obliged to use SISTRI (Article 2 of the Ministerial Decree of 24 April 2014 lays down the rules for the full implementation of SISTRI in relation to intermodal transport). If hazardous waste is produced by accident, the producer is obliged to apply to use SISTRI within 3 working days of the date on which the dangerousness of the waste is ascertained (Article 188-ter(10)).

B.2) Optional use (Article 188-ter(2))

Producers, managers, brokers and dealers of waste other than those specified in paragraph 1 may use the waste tracking control system (SISTRI) as provided for by [Article 188-bis\(2\)\(a\)](#) on a voluntary basis.

The functioning of the waste tracking control system (SISTRI) is currently regulated by Ministerial Decree No 78 of 30 March 2016 ('Regulation laying down provisions on the functioning and optimisation of the waste tracking control system in implementation of [Article 188-bis\(4-bis\)](#) of Legislative Decree No 152 of 3 April 2006').

An interim regulation (Article 11(3-bis) of Decree-Law No 101/2013, converted into a law by Law No 125/2013) provides that, until 31 December 2017, those obliged to use SISTRI must also use paper-based procedures, and that the sanctions related to those procedures continue to apply (penalties for false, incomplete or incorrect information reported in the forms).

The obligation to manage waste in compliance with the law must be met by all those involved in the production, distribution, use and consumption of goods that generate waste. In fact in Italy **case-law has given a wide interpretation to the regime of shared liability** provided for by Article 15 of Directive 2008/98/EC, as implemented by Articles 178 and 188 of the Environment Act (Legislative Decree No 152/2006). Not only must producers or holders meet their own obligations related to SISTRI or the forms, but they must also ensure that recipients of the waste have met their obligations as well. In fact, producers or holders can be considered responsible for illegal waste

management on the part of the recipient, and are presumed to have been negligent in the choice of contractor ('*culpa in eligendo*') in their monitoring of the waste recipient. Their liability for the whole treatment chain is based on the general principle of accountability and the co-operation of all parties concerned in the production, distribution, use and consumption of goods which generate waste (Article 178 of the Environment Act).

Liability also exists for mere instigation, issuing orders, supporting or facilitating violations.

II. WASTE LABELLING

As regards waste labelling, Italy refers to 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.

8.2. The system of inspections and the authorities involved

As mentioned in paragraph 7.2, the national inspection plan, adopted by Ministerial Decree of 22 December 2016 on the basis of a risk evaluation of specific waste flows and specific sources of illegal shipment, provides for '*the minimum number of inspections required, including physical inspections of facilities, undertakings, brokers, dealers and shipments of waste or of the related recovery or disposal.*'

The law provides for a minimum number of inspections without further referring to any specific authority that should carry them out. However both LEAs and inspectors from ISPRA have declared that the number of inspections actually performed is much higher.

The supervisory bodies 'that carry out inspections within the national territory and at the frontiers of the European Union' are: *Agenzia delle dogane e dei monopoli* (customs authority); *Capitanerie di Porto* (port authorities); *Arma dei Carabinieri*: especially the Unit for Forestry, Environmental and Agri-Food Protection (CUTFAA); *Guardia di Finanza* (finance police) and *Polizia stradale, ferroviaria, delle comunicazioni* (traffic police, railway police, postal and telecommunications police).

Inspections of shipments may take place in particular: at the point of origin, carried out with the producer, holder or notifier; at the point of destination, including interim or non-interim recovery or disposal, carried out with the consignee or the facility; at the frontiers of the Union and/or during the shipment within the Union (Article 50(3) of Regulation (EU)No 660/2014).

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

Waste management must be carried out in accordance with the principles of precaution, prevention, sustainability, proportionality, accountability and cooperation of all parties involved in the production, distribution, use and consumption of the goods which generate waste, with particular regard for the 'polluter pays' principle (Article 178 of Legislative Decree No 152/2006). It must be carried out with the aim of maximising prevention, preparation for re-use, recycling, recovery (such as energy recovery) and disposal.

With regard to the collection and transport of waste, legislation lays down the obligation to register with the National Environmental Register and sets out provisions for the collection and transport of hazardous waste and rules for brokers and dealers of waste. The subscription to the National Register is also subject to the provision of appropriate financial guarantees to the State.

Persons who intend to create and manage new hazardous waste disposal or recovery facilities must submit an application to the relevant region, enclosing the final plans for the facilities and the required technical documentation in the field of urban planning, environmental protection, occupational health and safety and public hygiene (Article 208 of Legislative Decree No 152/2006).

The competent authority issues the authorisation containing the conditions and requirements necessary to ensure the implementation of the principles referred to in Article 178. It must contain at least the following elements:

- a) the types and quantities of waste to be treated;
- b) for each authorised use, the technical requirements with particular reference to site compatibility, equipment used, types and maximum quantities of waste, and the method of inspection, monitoring and control of the conformity of the installation to the approved design;
- c) the precautionary and safety measures to be taken;
- d) the location of the authorised facility;
- e) the method to be used for each type of treatment;
- f) the closure provisions and the subsequent measures which may prove necessary;
- g) the financial guarantees required, which are to be provided only at the effective launch of the facility's operations; financial guarantees for the management of the landfill, including for the phase after its closure, will have to be provided in accordance with Article 14 of Decree-Law No 36 of 13 January 2003;
- h) the date of expiry of the authorisation, in accordance with the provisions of Article 208(12);
- i) the air emission limits for thermal waste treatment processes, including energy recovery.

8.4. Trends in illegal hazardous waste management

In the SNPA's experience of supervision and technical and administrative controls, violations of hazardous waste management are mainly related to classification, and storage and transfer to collection and treatment centres.

Common modi operandi of illegal hazardous waste management are the artificial downgrading of waste shipments via fraudulent waybills, and the transfer of waste to a treatment facility, either in the country where the waste was produced or, preferably, in a country with looser controls, and allowing it to leave the facility again without being processed.

During recycling, in some cases, dangerous waste and recyclable waste are mixed together.

8.5. Conclusions

- The competent authority should adopt the relevant measures to reduce the generation of hazardous waste through waste management and the recycling of waste. It is important to take concrete measures to strengthen the principle of prevention in order to contribute to the reduction of trans-boundary shipments of waste electrical appliances. Therefore end-of-life vehicles, electrical and electronic equipment and dangerous products in general should be recycled in the country of origin through the appropriate legislative framework (circular economy).
- The classification of waste (hazardous or non-hazardous) is still being discussed in Italy and a request for a preliminary ruling has been submitted to the Court of Justice.
- Actions have been taken to ensure the traceability of waste from production to final destination and the control of hazardous waste; two tracking systems, one in paper form and one electronic (SISTRI) have been established.
- The obligations for proper waste management are to be observed by all those involved in the production, distribution, use and consumption of goods that generate waste. Italian case-law has given a wide interpretation to the regime of shared liability provided for by Article 15 of Directive 2008/98/EC and holds the producers or holders liable for the whole treatment chain. Thus the producers or holders are considered to have been negligent in the choice of contractor (*'culpa in eligendo'*) when the waste consignee is charged with crimes of unauthorised management.
- A national inspection plan has been adopted, which provides for 'a minimum number of inspections'. However the number of inspections carried out by LEAs and administrative authorities is much higher.
- Italian legislation sets out provisions for registering with the National Environmental Register, for the collection and transport of hazardous waste, and for appropriate financial guarantees to the State.

9. ILLEGAL PRODUCTION OR HANDLING OF DANGEROUS MATERIALS

9.1. The concept of dangerous materials

Italy has specific sectoral legislation that identifies hazardous substances based on the chemical characteristics and concentrations of the substances contained therein. More precisely, the definition in use is 'hazardous substance', a substance or mixture fulfilling the criteria relating to physical hazards, health hazards or environmental hazards laid down in parts 2 to 5 of Annex I to the CLP Regulation (Regulation (EC) No 1272/2008).

ISPRA or ARPAs are competent to declare waste as hazardous or non-hazardous according to the chemical analysis.

Unless the fact constitutes a further case of illicit conduct, the manufacturer, importer or user of hazardous waste is subject to specific restrictions or possible administrative and financial penalties.

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

The main crimes committed in relation to hazardous waste are the following:

- spreading untreated industrial sludge with high concentrations of heavy metals on land as a pseudo-fertiliser;
- reintroduction into industrial production cycles (cement plants, furnaces for the production of bricks, road-construction sites) of industrial sludge, fume dust, ashes and slag from the processing of metals;
- use of hazardous waste, sometimes from remediation activities, for environmental restoration or road embankments or in quarries transformed into landfills;
- the burial or abandonment, on the ground or in surface waters, of industrial waste that is undocumented or subject to false claims concerning treatment or disposal;

- the accumulation of large amounts of waste in recycling centres that bankrupt before the treatment begins;
- disposal of special waste in plants for municipal waste;
- sending hazardous waste to plants authorised only for non-hazardous waste or to sites (landfills or environmental restoration) not suitable for such waste;
- the burning of waste, hazardous and non-hazardous, resulting in dense fumes and dioxins.

The main trend in the field of the illegal production or handling of dangerous materials is the incorrect classification and characterisation of materials.

9.3. Procedural aspects

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

Cases of illegal management are reported to the competent prosecutor's office through specific reports drawn up in the context of ordinary administrative supervision activities or investigations carried out by LEAs.

These reports can also be addressed to the administrative authority evaluating the process and can indicate the actions to be taken by the polluter in application of the principles laid down by the law for such matters.

In the event of international police cooperation, the information is shared via official channels (INTERPOL or EUROPOL). Information and best practices are also shared through EnviCrimeNet or IMPEL.

When an illegal activity has been ascertained, the goods are seized. Seized materials are kept at the disposal of the judicial court. Handling, storage, handling costs and analysis of the seized hazardous materials are decided by the competent judicial authority. The costs are met by the State but they are recovered from the producer or operator in the event of a guilty verdict. The person concerned may submit requests to activate environmental monitoring.

9.3.2. The cooperation with European and international partners

Nothing has been reported with specific reference to hazardous waste.

9.3.3. Techniques of investigation

Financial investigations are commonly carried out, due to the large amount of money involved in hazardous and non-hazardous waste trafficking.

In addition, the National Anti-Mafia and Anti-Terrorism Directorate has started monitoring Banca d'Italia-FIU data emerging from suspicious transaction reports, in order to compare them with data emerging from waste monitoring activities and the customs authorities' prosecution of illegal waste exportation, reported to the judicial authority as violations under Article 259 of Legislative Decree No 152/2006 (see the 2015 report of the environmental crime section of the National Anti-Mafia and Anti-Terrorism Directorate).

9.3.4. Main obstacles to successful investigation and prosecution

The main problems related to investigations into hazardous waste trafficking are described in paragraphs 4.2.3, 5.2.1 and 8.1.

9.3.5. Training

Periodically, the SNPA organises training courses in order to improve the skills of the personnel involved in monitoring activities.

There are also regular national and international exercises simulating incidents involving radioactive materials, with the implementation of specific training in the field of physical measures.

9.4. Conclusions

- Italy has specific sectorial legislation that identifies hazardous substances based on the chemical characteristics and concentrations of the substances contained therein; the waste is declared hazardous by ISPRA or ARPAs according to the chemical analysis.
- The main trend in the field of the illegal production or handling of dangerous materials is the incorrect classification and characterisation of materials.
- The detection of cases of illegal management must be reported to the competent prosecutor's office and can also be reported to the administrative authority, with an indication of the actions to be taken by the polluter.
- The costs of seizure are met by the State but they are recovered from the producer or operator in the event of a guilty verdict
- Financial investigations are usually carried out to detect cases of hazardous waste trafficking.
- The National Anti-Mafia and Anti-Terrorism Directorate has also started monitoring Banca d'Italia-FIU data emerging from suspicious transaction reports, in order to compare them with data emerging from waste monitoring activities and the customs authorities' prosecution of illegal waste exportation, reported to the judicial authority as violations under Article 259 of Legislative Decree No 152/06.
- Regular training courses are held for law enforcement officers, for example, simulating incidents involving radioactive materials.

10. FINAL REMARKS AND RECOMMENDATIONS

10.1. Suggestions from Italy

Italy considers that harmonising legislation in EU countries would bring better results in investigative and judicial cooperation.

10.1.1. Recommendations

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

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

The evaluation team saw fit to make a number of suggestions for the attention of the Italian authorities. Related recommendations to the EU, its institutions and agencies (Europol in particular), based on the various good practices, are also put forward.

10.1.2. Recommendations to Italy

- 1) The establishment of a mechanism for cooperation and coordination of the main actors involved in the fight against environmental crimes at strategic level should be encouraged (involving the Ministry of Justice, the Ministry of the Interior and the Ministry of the Environment and all main actors involved in enforcement, inspections, etc.).

- 2) Consideration should be given to establishing solutions for the administrative fragmentation that has led to fragmented structures which create opportunities for criminal groups and obstacles for the authorities; such solutions could involve laying down clear guidelines to be followed by all the ARPAs and enhancing coordination at central level.
- 3) Consideration should be given to establishing an effective follow-up system as regards the inspection role of the provincial authorities when it comes to recovering waste from disused vehicles.
- 4) The use of more informal international cooperation at judicial level should be encouraged (e.g. via direct contact with direct counterparts in other EU countries and/or making use of the tools offered by Eurojust).
- 5) Consideration should be given to developing a more strategic approach towards awareness prevention programmes involving companies and the general public.
- 6) Consideration should be given to setting up a national risk assessment on environmental crime, to be used as the basis for setting budget allocations and targeting the fight against environmental crime.
- 7) Solutions should be found for a quicker and more efficient response by the public administration in dealing with the demands and complaints of various actors (NGOs, etc.) and citizens, adopting an integrated approach.

- 8) Statistics compiled by each authority should then be collected by one authority, put together and should include all environmental violations, covering criminal offences as well as minor violations which are dealt with via administrative procedures.
- 9) It is recommended that the capacity of the judicial system be enhanced with specific reference to financial and human resources.

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

- 1) It is suggested to evaluate the convenience to work with non eu countries in order to enhance cross-border controls against illegal shipments.
- 2) It is suggested that inspections of cross-border waste shipments at exit points be coordinated.
- 3) It is suggested to study the different penalties between cross-border EU Member States and their consequences on the streams of illegal waste shipments.
- 4) It is recommended that laws be harmonised and that waste crime be defined as a serious crime in all MS.

10.1.4. Recommendations to Eurojust/Europol/Commission

- 1) Controls at exit and entry points for illegal cross-border trafficking should be strengthened and harmonised, for the MS and, more generally, the countries of destination of waste.
- 2) Investigation teams involving the competent inspection authorities of the countries concerned should be established.

**ANNEX A: PROGRAMME FOR THE ON-SITE VISIT AND PERSONS
INTERVIEWED/MET**



Eighth round of mutual evaluations

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

21 - 24 November 2017

21 NOVEMBER 2017

15.00

Ministry of Justice

Department of Judicial Affairs - DG for Criminal Justice

Rome – Via Arenula 70

Welcome speech

Introduction to the topics of the evaluation round and, especially, the Italian system of prevention
and repression of environmental crime - New relevant legislation

22 NOVEMBER 2017

9.30

Chief Prosecutor's Office at the Court of Cassation

(Procura generale presso la Corte di Cassazione)

Rome - Piazza Cavour, 1

Meeting with representatives of the Italian judicial authorities - experts in environmental crime

- *Pasquale Fimiani, magistrate – Chief Prosecutor's Office at the Court of Cassation*
- *Pietro Molino, magistrate – Chief Prosecutor's Office at the Court of Cassation*
- *Renato Nitti, magistrate - District Anti-Mafia Prosecutor's Office - Bari*
- *Roberto Pennisi, magistrate - National Anti-Mafia and Anti-Terrorism Directorate*

23 NOVEMBER 2017

9.30

Ministry of the Interior – CUTFAA

Unit for Forestry, Environmental and Agri-Food Protection

Rome – Via Giosuè Carducci, 5

Meeting with representatives of law enforcement agencies specialised in investigating environmental crime

15.30

ISPRA (*Istituto Superiore per la Protezione e la Ricerca Ambientale*)

National Institute for Environmental Protection and Research

Rome, Via Vitaliano Brancati, 48

Meeting with representatives of the National Network System for Environmental Protection
(*Sistema nazionale a rete per la protezione ambientale - SNPA*)

The administrative control system and the investigative police control entrusted to the Regional Environmental Protection Agencies (ARPAs)

24 NOVEMBER 2017

10.00

Ministry of Justice

Via Arenula, 70

Meeting with representatives of civil society

ANNEX B: PERSONS INTERVIEWED/MET

Meeting in the afternoon of 21 November

Venue: *Ministry of Justice*

Person interviewed/met	Organisation represented
Raffaele Piccirillo - Leonardo Circelli - magistrate - Deputy Head of Department of Judicial Affairs - Ministry of Justice	Ministry of Justice
Leonardo Circelli - Magistrate - Deputy Head of Department of Judicial Affairs -	Ministry of Justice
Zsuzsa Mendola - Magistrate responsible at the Department of Judicial Affairs -	Ministry of Justice
Tiziana Barzanti - Legal Officer - DG Criminal Justice - Department of Judicial Affairs -	Ministry of Justice

Meeting in the morning of 22 November

Venue: Chief Prosecutor's Office at the Court of Cassation

Person interviewed/met	Organisation represented
- Pasquale Fimiani - prosecutor - Chief Prosecutor's Office at the Court of Cassation	Chief Prosecutor's Office at the Court of Cassation
- Pietro Molino - prosecutor - Chief Prosecutor's Office at the Court of Cassation	Chief Prosecutor's Office at the Court of Cassation
- Renato Nitti - prosecutor - District Anti-Mafia Prosecutor's Office - Bari	District Anti-Mafia Prosecutor's Office
- Roberto Pennisi - prosecutor - National Anti-Mafia and Anti-Terrorism Directorate	Chief Prosecutor's Office at the Court of Cassation
Gastone Andreazza - judge - 3rd Chamber of the Court of Cassation	Court of Cassation
- Tiziana Barzanti - Legal Officer - DG Criminal Justice - Department of Judicial Affairs	Ministry of Justice

Meetings in the afternoon of 22 November

Venue: *Customs Agency*

Person interviewed/met	Organisation represented
- <i>Dott.</i> (Dr) Maurizio Montemagno	- <i>Direttore Centrale Antifrode e Controlli</i> (Central Director for fraud prevention and controls)
- <i>Dott.</i> (Dr) Daniele Greco	- – Intelligence Office
- <i>Dott.ssa</i> (Dr) Michela Prete	- – Intelligence Office
- <i>Dott.ssa</i> (Dr) Annamaria Diamante	- – Intelligence Office
- <i>Dott.ssa</i> (Dr) Antonina Ruggeri	- – Intelligence Office
- <i>Dott.</i> (Dr) Giancarlo Scatigna	- – Intelligence Office
- <i>Dott.</i> (Dr) Roberto Santi	- – Intelligence Office

Meeting in the morning of 23 November

Venue: **CUTEAA** (*Carabinieri*)

Person interviewed/met	Organisation represented
- <i>Ispettore Capo Polizia di Stato</i> (Chief Inspector, State police) Agata Flammini	Police
- <i>Generale B. CC</i> (General) Donato Monaco	<i>Carabinieri</i> (CC)
<i>Maggiore CC</i> (Major) Gianfranco Cannarile	<i>Carabinieri</i>
<i>Colonnello GdF</i> (Colonel) Massimiliano Di Lucia	<i>Guardia di Finanza</i> (GdF - Financial Police)
<i>Tenente Colonnello GdF</i> (Lieutenant Colonel) Salvatore Tramis	<i>Guardia di Finanza</i>

Person interviewed/met	Organisation represented
<i>Maggiore</i> GdF (Major) Vittorio Angelini	<i>Guardia di Finanza</i>

Meeting in the afternoon of 23 November

Venue: ISPRA OFFICE

Person interviewed/met	Organisation represented
Marco La Commare Executive Director of ISPRA	ISPRA
Vito BRUNO Executive Director of ARPA PUGLIA	ISPRA
Franco STURZI Scientific Director of ARPA FRIULI VENEZIA GIULIA	ISPRA
Mario CIRILLO (Head) Environmental Assessment and Control Department - ISPRA	ISPRA
Rosanna Laraia (Head), Marina Viozzi, Francesco Mundo, Waste Management National Centre - ISPRA	ISPRA
Antonio Guariniello (Head) Environmental Damage Assessment Area - ISPRA	ISPRA

Lamberto Matteocci (Coordinator) Nuclear Safety National Centre - ISPRA	ISPRA
Alfredo Pini (Head), Vincenzo Anglade, Fabio Ferranti Environmental Technical Regulation Area - ISPRA	ISPRA
Luca De Micheli (Head) International Affairs and Institutional Relations - ISPRA	ISPRA
Elvio Cipollone (Head) SNPA Relations - ISPRA	ISPRA

Meetings in the MORNING of 24 November

Venue: *MINISTRY OF JUSTICE*

Person interviewed/met	Organisation represented
Zsuzsa Mendola	(Magistrate responsible - Department of Judicial Affairs)
Tiziana Barzanti	(Legal Officer – Department of Judicial Affairs – Directorate-General for Criminal Justice)
Egle Pilla	(<i>GIP Napoli – advisor Commissione bicamerale ciclo rifiuti</i> - Investigating judge at the Naples Court - advisor to the bicameral commission on the waste cycle)
Alfredo Pini	(Engineer at ISPRA)
Fabio Ferranti	(Engineer at ISPRA)

Person interviewed/met	Organisation represented
Antonio Pergolizzi (<i>Legambiente</i>)	(WWF Italia)
Patrizia Fantilli	
Michela Prete	(Official - Customs Agency - Central Directorate for fraud prevention and controls -Intelligence Office)
Col. CC Marco Avanzo	(Min. of the Interior – <i>Carabinieri</i>)
Col. GdF Massimiliano Di Lucia	(Min. of the Interior – GdF)
Lt. Col. GdF Salvatore Tramis	(Min. of the Interior – GdF)
Maj. GdF Vittorio Angelini	(Min. of the Interior – GdF)
Insp. Agata Flammini	(Min. of the Interior - State police)

ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

List of acronyms, abbreviations and terms	Italy or acronym in original language
	<i>AIA</i>
	<i>CSM</i>
	<i>ELV</i>
	<i>IMPEL</i>
	<i>ISPRA</i>
	<i>ARPA</i>
	<i>SISTRIS</i>
	<i>SNPA</i>
	<i>CUTFAA</i>
	<i>NOE</i>

List of acronyms, abbreviations and terms	Italy or acronym in original language
	<i>OC</i>
	<i>CITES</i>
	<i>LEAs</i>
	<i>CCTA</i>
	OECD
	WEEE
	SPC
	CAD
	Registro AEE

List of acr ony ms, abb revi atio ns and ter ms	Italy or acronym in original language
	PG
	TUA
	CFS