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- Report on SLOVENIA

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**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 SLOVENIA**

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## 1. EXECUTIVE SUMMARY

The visit took place in an open and constructive atmosphere thanks to the excellent preparation by the Slovenian authorities.

The scheduled meetings with the main stakeholders exercising responsibilities in the field of preventing and combating environmental crime, as well as in the implementation and operation of European policies, could be held as planned and, in addition to the answers given to the questionnaire, the information provided during the visit of the evaluation team as regards the operational aspects of combating environmental crime, cross-border cooperation and cooperation with EU agencies was very useful.

Overall, Slovenia's natural environment is very well preserved (75 % of its territory is covered with woods and the country hosts many protected species due to its varied biotopes, which include the Karst Plateau, the Mura River and the Julian Alps biosphere reserves). This is one of its great assets in the tourism sector.

However, probably as a result of the comparatively favourable situation in Slovenia, both the administrative organisation and the existing tools concerning infringements of environmental legislation reveal that environmental crime has not yet been identified as a national issue.

There is no national enforcement strategy for management policies and other authorities dealing with environmental crime in the country have not yet adopted any action plan or similar strategic document dealing exclusively with environmental crime.

The relevant institutions keep their own statistics and the Statistical Office collects integrated data on criminal investigations and convictions for specific criminal offences, including waste crime. However, the statistical instruments are not sufficiently developed to give an exhaustive overview of the phenomena of environmental and, more specifically, waste crime, and thus to develop a strategy.

Overall, Slovenia exhibits the features of a transit country, therefore the main source of risk is international trafficking. This may have a strong impact on other countries if one considers the low rate of detection of illegal waste shipments. EU Member States have to rely on Slovenian implementation of the European waste classification and on the information provided in notification proceedings, that is risky when illegal classification is made but it is not detected. To this aim, improvement of controls to detect illegal classification would be desirable.

The police handle a very low number of criminal offences in the field of waste, amounting to less than 1 % of the total number of criminal offences dealt with.

The statistical fluctuations in the number of charges and convictions in the environmental field suggest that the visibility of breaches of the environmental regulations is closely linked to a policy being specifically set up to curb them, through regular targeted inspections, adequate tools to detect fraud and an effective data collection system, which means interoperability and interconnected databases.

Slovenia has adopted legislation in line with the standards set out by the EU Directives. However, after examining the legislation and the practical problems related to it, the team considers that the national legislation could be made more comprehensive and efficient instead of simply implementing the minimum standards set out by the EU legislation.

Waste crimes are provided for in the Criminal Code, while misdemeanours are included in other pieces of legislation.

The Slovenian Criminal Code contains 15 articles in the chapter on criminal offences against the environment, space and natural resources, and several provisions related to environmental violations can also be found in the chapter on criminal offences against the general safety of people and property.



The Environmental Protection Act, as well as the regulations adopted on that basis pertaining to the field of waste management, stipulates acts that are defined as minor offences which may also be considered as criminal offences if they meet the requirements of the Criminal Code.

In the field of cross-border shipments of waste, the Decree on the implementation of Regulation (EC) No 1013/2006 on shipments of waste defines acts that are considered offences in the cross-border shipment of waste.

The abovementioned legislation seems to be quite clear. Nevertheless but apparently to some administrative authorities. IRSOP claim that they are not able to distinguish between administrative and criminal behaviour. When conducting inspections, assessing the situation on-site with the help of a company representative can enable remedies to be put in place relatively promptly and helps to reduce the number of cases in which the content of the notification is challenged.

Criminal investigations are led by prosecutors and investigative judges. However, no specialised prosecution team or court has been established to deal with waste crime and no specialised prosecutor or judge is assigned specifically to the task. This is consistent with the fact that environmental crime has not been identified as a priority by the prosecution office.

On the other hand, the police has in theory identified environmental crime as a priority. Nevertheless, the specialised inspectors also deal with other crime and often do not give priority to environmental crime in practice.

Despite having identified environmental crime as a priority, neither the police nor any other law enforcement authority nor court has established any specialised units. However, two Senior Criminal Police Inspectors have been appointed in the General Criminal Police Directorate to deal with the field of environmental crime at national level and to act as coordinators of the directorate when dealing with environmental crime. At regional level, 16 staff are also involved in investigating environmental crime, while at local level no police have been assigned to this task and no environmental specialists are trained to detect this type of crime. However, the majority of road inspections are supposed to be implemented at local level.

Whenever the police effectively give priority to environmental crime, the lack of prioritisation by the prosecution office can lead to very ineffective cooperation. This is even more likely because there are no common guidelines for prosecutors and police officers.

Special means of investigation can be used only in a few specific circumstances, such as when there is a link to a criminal organisation.

In addition to the police, the Ministry of the Environment and Spatial Planning (MOP), the Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning (IRSOP) and Customs are also key players in the fight against waste crime.

The MOP issues permits and conducts the inspections of premises of undertakings prior to issuing the permits. It also has the power to draft and support new legislation, prepare policies in the field of the environment, prepare strategic documents and monitor and analyse the implementation of environmental policies.

After a permit has been granted, the IRSOP – which is a sub-department of the MOP – is in charge of carrying out inspections. These checks are held throughout the year. The IRSOP carries out planned and unplanned inspections at plants; both types are announced and unannounced, which is considered to contribute to their efficiency.

Municipalities are not involved in company inspections, except in rural areas, where they are involved if a permit may be granted.

Administrative authorities prosecute administrative (minor) offences. Environmental crimes are often handled administratively and when the damage has been repaired or compensated, the case is dropped by the prosecutor.

Customs is in charge of carrying out inspections at the Koper freeport and generally at the borders. However, the inspections are conducted with a very broad scope, mainly to collect taxes. In accordance with the agreement on cooperation in the implementation of controls over the shipment of waste across borders within the framework of the IMPEL project and the SWEAP FURS officials are involved in the implementation of joint coordinated actions for the control of cross-border shipments of waste. In addition to these activities, FURS staff also performs independent activities in the context of procedures for import, export and transit of cross-border shipments of waste (Customs Clearance Departments) and in carrying out financial supervision on the road network, border crossings with the Republic of Croatia and former border crossings (mobile departments) with guidelines and in accordance with the annual work plan.

Moreover, Customs provides administrative assistance for the IRSOP.

Slovenia's police, customs officials and inspectors use the 'WatchIt' application for mobile phones and tablets, which provides information on the basic legal framework as well as practitioners' tips and hints, such as on classification of waste and examples of waste. Moreover, the Waste Watch handbook has been translated into Slovenian.

Cooperation and the exchange of information among all the parties involved is carried out through regular consultations, ad hoc meetings – when it is necessary to obtain information and data on shipments of waste – and meetings of an interministerial working group. The latter is based on a written agreement. Though this working group can be considered a good practice, the evaluation team would point out that no representatives of prosecutors and judges take part in the working group even though they have an essential role to play in fighting environmental crime.

There is good informal cooperation at operational level between the police, the FURS and the IRSOP. Joint inspections in cooperation with Customs and the police include administrative and physical checks (on roads, railways, and at ports and border crossings) and are carried out about 20 to 25 times per year.

However, instances of good cooperation most often seem to be based on personal commitment and relationships rather than on structured models : part from in a very small number of concrete investigations or court proceedings, information exchange was reported not to be systematically organised or laid down in protocols..

Problems also arise in relation to working time, as IRSOP officials are not available outside office hours to provide expert assistance to police officers in more complicated cases. Emergency support is provided on a case-by-case basis and based on personal commitment. There should be a 24/7 emergency line available for the police, Customs and other authorities involved in the fight against waste crime to contact the IRSOP.

Slovenia has not established or defined specific forms of cooperation for cross-border cases of waste crime. In all cases, the authorities try to establish contacts with the competent police units in the location where an event occurs through international police cooperation. International cooperation with non-EU states can be challenging for the Slovenian authorities, above all with Eastern countries.

Cooperation with both Europol and Eurojust was reported to be very good. However, Slovenia has not cooperated with Europol specifically on waste crime cases.

Each state body organises and is responsible for its own training. A special training programme on waste crime is being prepared for police officers. As yet, police trainees only receive very little training on waste crime.

In the field of cross-border shipments of waste, the interministerial working group is also responsible for providing training for representatives of supervisory authorities (inspectors, police officers and staff of the Financial Administration of the Republic of Slovenia).

Training on waste crime is provided to customs officials once per year, together with police officers and members of mobile units.

Joint training and workshops in the field of cross-border shipments of waste are usually carried out twice a year for the participants of all these authorities. Two or more repetitions are usually carried out in one subject-based set of training, depending on the topic and the number of participants.

On the other hand, training for prosecutors and judges on waste crime is quite rare. In fact it has been reported that no training has been provided since 2008/2009, even after significant amendments to criminal law to align it with European Directives in 2011/2012. Prosecutors were also invited to training on waste crime for police officers, but did not attend. Neither have prosecutors provided training to police officers. Police forces plan to involve prosecutors more closely in their training.

As regards the involvement of the private sector, Slovenian authorities have provided an anonymous telephone line in order to receive tip-offs concerning waste crime as well as running a web application enabling the public to report environmental crime without disclosing the identity of the complainant. However, this number is rarely used to report environmental crime. Therefore, the Slovenian institutions aim to promote its use by the private sector.

Slovenian representatives met by the evaluation team are aware that NGOs might have access to useful information and that some organised cooperation could help to detect criminal offences. However, the representatives met during the evaluation showed some mistrust towards these organisations as some of them allegedly commit criminal offences themselves and therefore are not considered reliable partners for the public authorities.

## 2. INTRODUCTION

Following the adoption of Joint Action 97/827/JHA of 5 December 1997<sup>1</sup>, a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime was 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 that end, the evaluation round covers three specific areas: waste crime, illegal production or handling of dangerous materials and hazardous waste, and 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 Directives<sup>2</sup> (transposition date 12 December 2010), Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law<sup>3</sup> (transposition date 26 December 2010), and Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste<sup>4</sup> (entry into force 12 July 2007), are particularly relevant in this context.

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

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

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

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

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

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

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

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

Taking all the above elements into consideration, the evaluation aims to be broad and interdisciplinary and to focus not only on the implementation of various instruments for fighting environmental crime but also on the operational aspects in the Member States. Therefore, apart from the cooperation of prosecution services with Eurojust, this will also encompass how police authorities and Customs cooperate at the national level with Europol or Interpol and how information from the given actors 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.

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

The order of visits to the Member States was adopted by GENVAL on 5 May 2017. Slovenia was the 21st Member State to be evaluated during this round of evaluations. In accordance with Article 3 of the Joint Action, a list of experts prepared to participate in the evaluations was drawn up by the Presidency. Member States nominated experts with substantial practical knowledge in the field pursuant to a written request to delegations made on 28 January 2017 by the Chair of GENVAL.

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

The experts charged with undertaking the evaluation of Slovenia were Dr Marc Sotelsek (Germany), Mr Benjamin Thywissen (France), and Mr Wolter Vis (Netherlands). The following observers were also present: Ms Carmen Giuffrida and Mr Slawomir Buczma 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 Slovenia between 23 and 26 October 2018, and on Slovenia's detailed replies to the evaluation questionnaire together with its detailed answers to ensuing follow-up questions.



### 3. GENERAL MATTERS AND STRUCTURES

#### 3.1. National strategy or similar strategic documents against waste crime

Slovenia has not yet adopted any action plan or similar strategic document dealing exclusively with environmental crime, the only existing tool being a guide dedicated to the prevention of and fight against all types of crime, the 'Resolution on the national plan on the prevention and combating of crime 2012-2016' (Official Gazette of the Republic of Slovenia [Uradni list RS], No 83/12). Chapter 6.8 of this document, dedicated to environmental protection, lists some measures planned in the field of environmental crime.

Nevertheless, the police have developed their own strategy in the fight against environmental crime, in the form of a circular (n° 2310-8/2016/7 (2211-02) of 7 April 2016), available to all police units.

For its part, the State Prosecutor's Office (VDT) has defined its prosecution policy without explicitly taking into account environmental matters. However, it gives priority to environmental cases where this appears inescapable given the importance of the offence, or where it is possible to seize the proceeds of crime.

As a result, environmental investigations have to compete in daily practice with serious property crimes and/or crimes against life. Therefore, environmental investigations are not given priority and are too rarely carried out in practice, except when financial benefits deriving from the offence can be confiscated. However, no specific example could be given during the evaluation.

By choosing this method and not explicitly mentioning the importance of environmental investigations, they do not receive the attention the EU agrees they need.

Thus, at present, combating environmental crime is obviously not a strategic priority in Slovenia.

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

Currently, there are no particular national programmes or projects with regard to waste crime as far as investigation and prosecution are concerned.

An action called the 'Eco' Campaign, introduced with document no. 2310-953/2009/1 (2211-04), was implemented in 2009. The purpose of this campaign was to raise professionalism and awareness with regard to detecting, investigating and preventing environmental crime and collecting information about it. It was a targeted action with defined tasks for the police in the field of environmental crimes. It stressed the need for training at the regional and local level, strengthening interministerial cooperation with other organisations involved and implementing tighter controls.

As a result, an SOP (Standard Operating Procedure) for obtaining and sharing information on environmental crimes was drawn up.

### **3.3. Statistics**

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

In Slovenia there are several databases recording crimes: a national statistical office collects data at different stages of the criminal procedure (crime report, indictment, conviction) for every specific incrimination, including waste crime.

On their side, the police keep their own statistics on criminal offences relating to waste management, on the basis of Article 332 of KZ-1; these statistics are not public. The prosecution service has also developed its own follow-up tool. These databases are not interconnected.

Though the databases record crimes in different ways, trends can roughly be discerned. Despite companies are obliged, according to the Decree on waste, to report annually (through system IS ODPADKI) about quantities, type of waste, kind of operation (R, D), export, import of waste, it is almost impossible to ascertain how much waste Slovenia produces, what kind of waste, with whom the waste originates and where it goes.

At first sight, Slovenia would appear to be a transit country.

As for trends, the answers the questionnaire state that, although an increase in environmental crime over the past three years is apparent from the police statistics database, analysis of the ten-year period reveals constant fluctuations.

Thus, a positive shift seems to have occurred with the initiative by non-governmental organisations for an awareness-raising campaign '*Let's Clean Slovenia in One Day*', which not only had a positive effect in terms of cleaning up the environment, but also led to a significant increase in the reporting of environmental offences.

As regards the number of convictions, this is too low to discern a trend: according to the Slovenian authorities, there was only one conviction for waste crime each year in 2015, 2016 and 2017, while crime reports were lodged for waste crime in one case in 2013, in one case in 2015, in two cases in 2016 and in three cases in 2017. The number of criminal offences registered by the police dropped by half from 2016 to 2017.

In the last five years, the police have handled a very low number of criminal offences in the field of waste - less than 1% of the total number of criminal offences dealt with.

An explanation for this situation could be that Slovenia broadly appears as a country, which exports large amounts of waste, while the quantities of imported waste destined to remain on its territory are insignificant, so that is unlikely to have a strong self-interest in combating waste crime. For example in 2016, Slovenia exported nearly 247.000 tonnes of waste and imported nearly 37.000 tonnes of waste (quantities are for notified waste).

In addition, environmental crimes are often handled administratively and when the damage has been made good or compensated, the case is dropped by the prosecutor.



Though there has been a very low number of environmental cases in recent years, the aforementioned drop in the total number of crimes in Slovenia has not affected the number of environmental cases.



The evaluation team was not provided with enough information to ascertain the reasons for this change from 2016 to 2017.

The representative of the Ministry of Justice (MP) did not comment on the reasons for the drop in the figures and referred us to other authorities' representatives. The Police mentioned that the media explained the drop in the figures by three main causes: first, the law enforcement agencies had focused on more severe cases of organised crime, cybercrime, hate speech and so on; second, low wages for policemen and prosecutors could have affected their motivation; third, the detection rate may have decreased.

The police reported that its forces are occupied with the fight against illegal immigration at the border with Croatia.

The police as well as the Ministry of Justice stated that they have encountered more and more organised groups committing environmental crime within the last two years. They reported that detecting waste crime is difficult as there are no specialised teams for environmental crime at local level. The police's focus was on solving fewer, but major, cases.

Moreover, waste criminals have very quickly adapted their strategy to the new legislation and policies adopted by the authorities. For instance, the ban on the import of plastic waste to China has led waste criminals to bypass China by routing the waste streams through the special economic zone of Hong Kong or other Asian states.

Pending cases concern waste shipments from Italy to Slovenia and waste dumping due to the rise of recycling costs.

As regards the administrative sector, the IRSOP reported the following statistics for inspections, inspection measures and minor offence measures in the field of waste management.

<b>YEAR</b>	<b>NUMBER OF INSPECTIONS</b>	<b>NUMBER OF INSPECTION MEASURES</b>	<b>NUMBER OF MINOR OFFENCE MEASURES</b>
2013	6028	1153	263
2014	6185	1155	244
2015	4977	1027	193
2016	4991	1178	239
2017	4567	1060	288
2018 (1 January – 30 June)	2126	584	192
<b>TOTAL</b>	<b>28874</b>	<b>6157</b>	<b>1419</b>

Due to lack of proper registration, Slovenia is unable to produce a list of companies where hazardous waste is released. That is remarkable, because since Slovenia is a small country it would not be difficult to set up an organized system.

It is also unclear what information companies must provide to the MOP regarding waste produced and disposed of. Consequently, it is not possible to carry out a proper analysis.

Due to the issues reported with regard to road inspections, criminals could see Slovenia as an easy target to export (transport) illegal waste through Slovenia.

### *3.3.2. Number of registered cases of waste crime*

The Statistical Office collects integrated data on criminal investigations and convictions for specific criminal offences, including waste crime. Data is collected at different stages of the criminal procedure (crime report, indictment, conviction). Data is collected for every specific incrimination, that is, for every paragraph of the Criminal Code defining a particular criminal offence. Statistical data is available to the public at the following link:

[http://pxweb.stat.si/pxweb/Database/Dem\\_soc/Dem\\_soc.asp](http://pxweb.stat.si/pxweb/Database/Dem_soc/Dem_soc.asp)

Although both the police and the prosecution service keep statistics of cases, statistics of checks and enforcement, targeting waste crime specifically, are also needed; this situation is the natural consequence of the lack of a national strategy to combat environmental crime.

The police also keep their own statistics on criminal offences connected with waste. Statistics are kept on the basis of the primary offence: pollution and destruction of the environment, Article 332 of KZ-1. Their statistics are not made public.

The prosecutors' statistics show that there were 32 waste crime cases in 2017, with 19 taken to court and one resulting in a conviction. In 2018 to date, three cases are pending.

The representative of the judges reported that in 11 cases, the party indicted had confessed and had been convicted. He was not able to state about the period to which these cases related. The cases involved digging in illegal quarries and discharging waste (old cars, old batteries, oil, asbestos).

Acquittals occurred due to lack of evidence. In general, it was considered difficult to find the persons responsible, in particular in cases with several companies involved.

The IRSOP, being responsible for a wide range of working areas (for example air quality, industry pollution, nature conservation, waters, etc.), only keeps general statistics on the total number of inspections carried out. Moreover, these controls are not specifically directed at waste crime and mainly focus on compliance with the permit conditions. Violations can be handled administratively.

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

As for the means allocated to this purpose nationally, the proportion of the national budget allocated to preventing and combating waste crime does not seem to be available in accounting terms or even on the basis of cost accounting principles and therefore could not be provided.

As for the local municipalities, the evaluation team were not provided with information.

Like other Member States, according to the authorities interviewed, Slovenia does not receive European Union funding to tackle waste crime.

However, Slovenia is an associated beneficiary in the SWEAP (contribution with human resources and time) and WASTEFORCE (estimated budget is 49.442,56 €, most of this amount will cover training which will be organised in Slovenia in 2020 and costs of participants) projects.

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

Environmental crime is generally prevented by the regulatory set-up and ongoing supervision.

Supervision is carried out under the responsibility of the IRSOP. These checks are conducted throughout the year, following an inspection plan but also unplanned. Both planned and unplanned inspections are announced and unannounced, which helps to increase their effectiveness.

Companies engaged in the activity of collecting, transporting, recovering or disposing of waste require an environmental permit, which defines the criteria and standards the company has to meet, including for ensuring proper self-monitoring. It must be renewed if significant changes are made to the company's production methods.



This permit also ensures that a company can adhere to the legally prescribed standards and is self-regulating. If a company does not comply with the regulations, they can be enforced via administrative law. During the evaluation it was indicated that this method works well. Another important means is the waste transport inspections carried out by the police in cooperation with Customs and inspectors from the IRSOP.

With regard to waste shipments, waste crime is also prevented by the road inspections (30 a year) carried out by the police, in cooperation with Customs and the IRSOP, which complement the control actions of waste shipments on the road performed by the police and FURS on the base of each institution's plan of work.

Slovenia has run prevention programmes such as the event 'Let's clean Slovenia in one day'. These kinds of programmes aim at maintaining awareness of the urgency of protecting the environment and natural resources. As an additional effect, less severe waste crime may be prevented.

Slovenia has also laid down guidelines for the 'ECO' campaign.

### **3.6. Conclusions**

- Currently, Slovenia has no overarching plan enabling coordinated action to be taken against environmental crime. Besides the interministerial working group mentioned above, there is no structural consultation between the IRSOP, police, Customs and local government. Databases are not shared. This can pose a risk for the approach and the operational environment.
- Although no specific case was reported to the evaluation team, in concrete cases that a criminal offense requires a comprehensive approach to be investigated, the Public Prosecutor's Office in accordance with the Criminal Procedure Act and the Decree on the Cooperation of the State Prosecutor's Office, the Police and other competent state authorities and institutions in the detection and prosecution of offenders, could set up a specialized investigative team, involving representatives of various bodies operating under the direction of the Public Prosecutor's Office.

- Both the administrative organisation and the existing tools concerning infringements of environmental legislation reveal that environmental crime has not yet been identified as a national issue, probably as a result of a comparatively rather favourable context, characterised by a rather preserved environment and a low level of detected cases.
- Slovenia generally shows the features of a transit country, therefore the main source of risks is international trafficking. If establishing the order of priorities is a matter for the individual country concerned, that choice may have a strong impact on other countries if one considers the low rate of detection of illegal waste shipments. EU Member States have to rely on the Slovenian implementation of the European waste classification and on the information provided in notification proceedings, that is risky when illegal classification is made but it is not detected. It is therefore recommended that its surveillance measures be calibrated in accordance with this paradigm.
- In addition, establishing a national plan – as a strategic document on the prevention and sanctioning of environmental crime – for the fight against waste crime could help Slovenia to facilitate cooperation and communication between the national authorities involved in the fight against waste crime.
- From the statistics it could be inferred that some cases remain undetected and are not being investigated at present. Accordingly, the overall number of environmental crime cases is very low. The evaluation team was not informed as to how inspections are carried out, and therefore it has to be left to the Slovenian authorities to judge whether their inspections do not catch a significant number of perpetrators in relation to their frequency (effectiveness of the inspections carried out) or if – however effective they are – they are carried out too rarely.
- The impression of the evaluation team is that the pressure exerted on waste criminals is quite low. Consequently, waste criminals may regard Slovenia as a safe haven. Such an impression is strengthened in view of the fact that environmental crime (at least on an industrial scale) is committed at transnational level.
- As a first conclusion, the setting up of an overarching framework at national level, defining the main action taken to combat environmental crime, including the criteria, organisation and agenda for targeted controls, as well as capacity-building and training, would be helpful. It could also help to avoid the allocation of insufficient resources, which may, for instance, take the form of a lack of appropriate training for inspectors and investigators or cooperation between the authorities.

- To that end, it is also recommended that statistical instruments are developed in order to have an exhaustive overview of the phenomenon of environmental and, more specifically, waste crime and thus to develop a strategy. In fact, the establishment of a workable shared database among the police, the MOP services, Customs and municipalities seems inevitable. As a result, a proper risk assessment and measurement of the outcome of the public policies pursued in the field of preventing and combating environmental crime could be guaranteed. Based on significant statistics, effective follow-up could be set up.
- More specifically, targeted actions on the roads and vehicles identified as most relevant, including actions to prevent the deviation of traffic, could be helpful. Such checks should also be more frequent in order to be really effective. In order to increase the efficiency of the implementation of controls on cross-border shipments of waste, the employees of the mobile departments of the FURS, within the framework of plans, implementation plans and preparations, give the targeted guidelines. In 2018, mobile department employees carried out 387 controls of cross-border shipments of waste, where irregularities in the field of cross-border shipments of waste were detected in 21.4% of controls carried out.
- No budget has been made available for environmental crime. A recommendation is to make a separate budget for this. In that budget it can be determined how much capacity is to be devoted to environmental crime.

## 4. NATIONAL STRUCTURES

### 4.1. Judiciary (prosecution and courts)

#### 4.1.1. Internal structure

The evaluation team was not provided with information on the internal structure of the Slovenian judicial authorities and courts.

All courts in the Republic of Slovenia are regular courts and act in accordance with the principles of constitutionality, independence and the rule of law.

The unified system of courts consists of courts with general and specialised jurisdiction. Courts with general jurisdiction include 44 local, 11 district, and 4 higher courts and the Supreme Court. Specialised courts include 3 labour courts, 1 labour and social court and a higher labour and social court (which rule on labour-related and social insurance disputes), and the administrative court, which provides legal protection in administrative affairs and has the status of a higher court. No specialised court has been established to deal with waste crime.

The State Prosecutor's Office is an independent state authority but also part of the executive branch of power. The State Prosecutor General is appointed by the National Assembly.

The Constitutional Court is the highest judicial authority for the protection of constitutionality, legality, human rights and fundamental freedoms. It has the power to negate the actions of the legislature, by abrogating (putting aside) an Act or part of an Act.

Constitutional judges are appointed by the National Assembly, following a proposal by the President of the Republic. Nine judges are elected for a period of nine years, with no possibility of re-election. No state body has the authority to interfere in the work or judgments of judges in the constitutional, specialised and general courts. Judges are elected by the National Assembly upon proposal of the Judicial Counsel.

State prosecutors are appointed by the Government of the Republic of Slovenia on the Minister's proposal (Minister of Justice).

Before the Minister proposes the nomination, State Prosecutor Council and head of a state prosecutor's office provide their opinion on the candidate.

Criminal investigations are led by the prosecutors and investigative judges.

No specialised prosecution team or court has been established to deal with waste crime. In cases where organised crime is involved and the penalty provided for is more than 10 years' imprisonment, specialised courts are competent. Knowledge necessary to understand environmental law issues has to be acquired on a case-by-case basis.

The administrative authorities prosecute administrative (minor) offences.

In practice, there seems to be a certain overlap between administrative and judicial prosecution as the distinction between minor and criminal offences does not seem to be quite clear to the administrative authorities.

A lack of detailed guidelines clarifying the distinction between crimes and administrative offences was identified by the evaluation team.

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

The State Prosecutor Offices stated that cases of environmental crime are rarely prosecuted. One of the reasons is that some crime reports are dismissed due to the suspension of prosecution, a procedural institution used on the condition that the harmful consequences of an offence are eliminated, either by removing the waste, or by paying financial compensation.

The representative of the prosecutors stated that there is a link between waste crime and economic crime, as shell companies as well as chains of undertakings and brokers often appear in the waste flow. Waste crime cases are reportedly challenging for the prosecution office because the small number of cases does not allow them to acquire the necessary knowledge. Therefore, when dealing with a single environmental crime, prosecutors have to (and do) devote a lot of effort to dealing with them. Identifying the suspects is considered difficult as the (hazardous) waste in many cases only passes through Slovenia and is neither dispatched nor disposed of in Slovenia.

It has to be underlined that the lack of common guidelines for the police as well as for prosecutors can result in very ineffective cooperation. In fact, as waste crime cases are prioritised by the police (as well as any organised crime such as drug offences and trafficking in human beings and weapons), it may happen that many working hours are spent by the police on an environmental case which is then immediately dismissed by the prosecutor in charge.

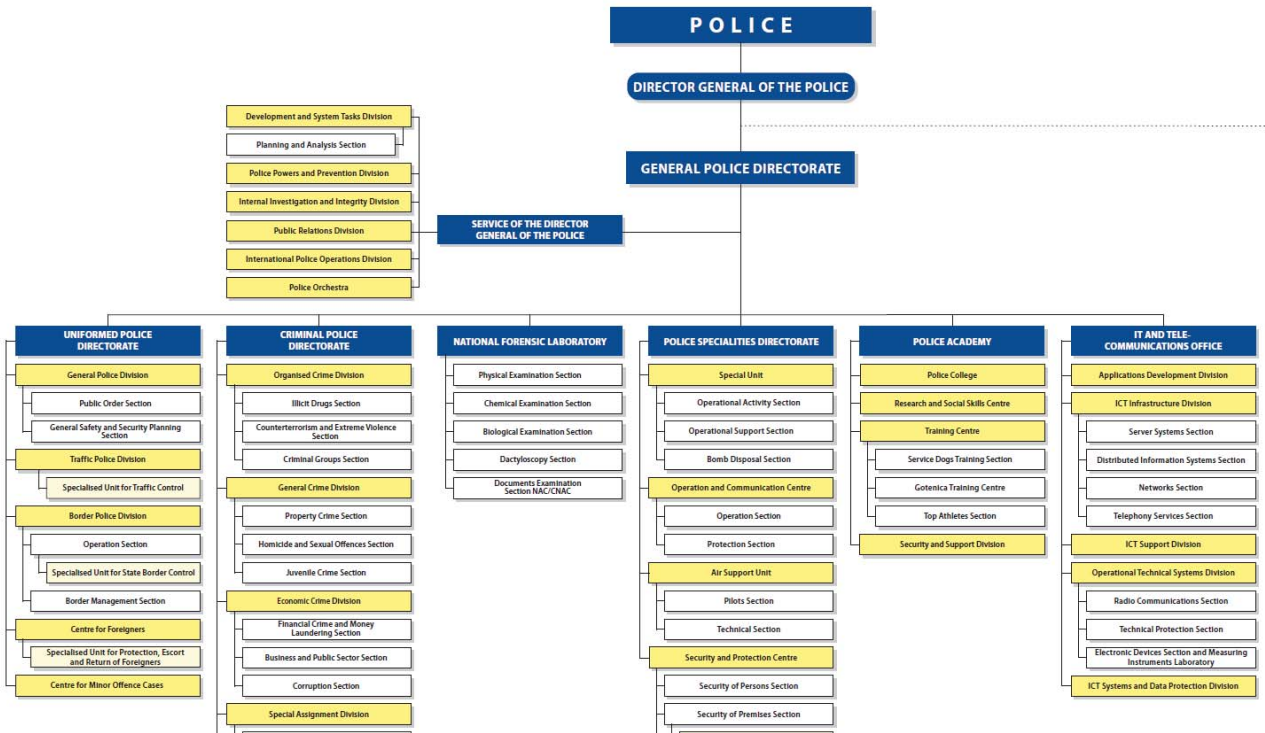
## **4.2. Law enforcement authorities**

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

Criminal investigations are carried out by the Slovenian police. The administrative authorities (the IRSOP, Customs and local municipalities) only have administrative (non-investigative) powers.

The police is a body within the Ministry of the Interior. The tasks of the police are defined in Article 4 of the Police Tasks And Powers Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 15/13, 23/15 – corr. and 10/17).

The Slovenian police employ 8 000 officers, 900 of them working in the criminal police. The Slovenian police has three working levels. There is the state level with the State General Police Directorate, the regional level with eight Police Directorates (Murska Sobota, Maribor, Celje, Kranj, Ljubljana, Novo Mesto, Koper and Nova Gorica) and finally the local level including 111 police stations. Though at present there is no specialisation for criminal police officers on waste crime apart from work on specific cases, it is planned for the future.



There are eight Police Directorates:



In the General Criminal Police Directorate there are two Senior Criminal Police Inspectors who primarily deal with environmental crime at the national level and also act as coordinators of the Directorates when dealing with environmental crimes. At regional level, 16 people are also involved in investigating environmental crime.

Despite the above, the Slovenian police does not have a dedicated unit dealing with environmental cases or a work specification for fighting environmental crime.

At local level no police are assigned to this task and no environmental specialists are trained in detecting this type of crime.

Due to the fact that no specific unit exists and that the specialised police usually have to give priority to other crimes they also deal with, environmental crime in fact never has priority. Consequently, the prioritisation of environmental crime is effectively meaningless.

The basis for the police's work in the field of prevention, detection and investigation of criminal offences against the environment are the 'Guidelines on the Implementation of the 'Eco' Campaign and the Strategy for Work in the Field of Environmental Crime 2016-2020' (Doc. No. 2310-81/2016/7 (2211-02), 2016). In 2009, the 'Eco' Campaign or Action was introduced with document no. 2310-953/2009/1 (2211-04). The purpose of conducting the 'Eco' campaign was to raise professionalism and awareness with regard to detecting, investigating and preventing environmental crime and collecting information about it. To that end, the police focus on protecting protected areas, drinking water and water protection areas, illegal shipments of waste, illegal landfills and protecting forests.



The Strategy for Work in the Field of Environmental Crime is based on priority treatment and focusing police tasks on the following areas:

- Protecting protected areas
- Protecting drinking water and water protection areas
- Illegal shipments of waste
- Illegal landfills
- Protecting forests

In the field of waste shipments the latest police document is 'Implementing control of shipments of waste, Rules of Procedure and Guidelines' Doc. No. 2310-175/2018/3 (2211-02), latest version, 2018.

#### 4.2.2. *Investigative techniques/tools*

When investigating environmental crime, on the basis of the provisions of the Criminal Procedure Act<sup>6</sup>, the police are enabled to take the following covert investigative measures in some specific cases:

- Article 149 a (Covert Surveillance) states that, when there are reasonable grounds to suspect that a certain person has committed, is committing, is preparing to commit or is organising the commission of the criminal offences of pollution and destruction of the environment under Article 332, pollution of sea or waters from vessels under Article 333, pollution of drinking water under Article 336, and tainting of foodstuffs or fodder pursuant to Article 337 of the Criminal Code, where it can be reasonably assumed that police officers cannot detect, prevent or prove this offence with other measures, or this would give rise to disproportionate problems, then covert surveillance can be ordered against that person.

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6 Official Gazette of the Republic of Slovenia [Uradni list RS], Nos 32/12 – official consolidated version, 47/13, 87/14, 8/16 – Decision of the Constitutional Court, 64/16 – Decision of the Constitutional Court, 65/16 – Decision of the Constitutional Court and 66/17 – ORZKP153,154.

- 1) Article 150 stipulates that if there are well-founded grounds to suspect that a particular person has committed, is committing or is preparing to commit or organising any of the criminal offences listed in the second paragraph of this Article, and if there exists a well-founded suspicion that such person is using a particular means of communication or computer system for communications in connection with this criminal offence or that such means or system will be used, where it is possible to reasonably conclude that other measures will not permit the collection of data or that the collection of data could endanger people's lives or health, the following may be ordered against such a person:
  - 2) monitoring electronic communications using listening and recording devices and the control and securing of evidence of all forms of communication transmitted by means of the electronic communications network;
  - 3) control of letters and other deliveries;
  - 4) control of the computer systems of a bank or other legal entity which performs financial or other economic activities;
  - 5) wiretapping and recording of conversations with the approval of at least one person participating in the conversation.

In the remaining cases, the investigative techniques/tools used for the purpose of waste crime investigations are the followings:

- Targeted checks
- Ad hoc checks
- General traffic control
- Targeted checks on information

The representative of the police forces reported to the evaluation team that in 2018 Slovenia's police used special measures in only one case.

It is not clear to the evaluation team if the more frequent use of special and/or covert investigation techniques could help to increase the detection rate and number of cases.

The support of financial units is generally needed to analyse business data.

The police forces also have their own forensic laboratory which meets ISO standards. It enables the police to act faster than they could when they had to use accredited private laboratories, as the IRSOP has to do. So far, the equipment of forensic units and the sampling of hazardous waste has not become a usual practice.

However, the work of forensic scientists is currently becoming increasingly standardised in Slovenia.

They can also use accredited private companies if necessary.

Slovenia's police, as well as Customs and inspectors, are open to new developments and technologies. They make use of the 'WatchIt' application available for cell phones and tablets. This application is a helpful knowledge base for inspectors, policemen and customs officers in charge of inspections of consignments of waste, POPs and chemicals. The application provides knowledge on the basic legal framework as well as practitioners' tips and hints, such as classification of waste and examples of waste. The Waste Watch handbook has also been translated into Slovenian.

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

A number of initiatives have been set up by the national police including regular waste controls on the national roads. There is indeed cooperation between Customs and the IRSOP.

Exchange of data on waste between the MOP and the IRSOP is a wish for the future which the police expressed. At present, data has to be requested from the MOP.

When investigating cases, the equipment of forensic units and financial units is used where necessary. The assistance of financial units is generally needed to analyse business data.

Investments have not been made in centralising information from the different authorities. There is therefore no sufficient analysis to be able to assess whether environmental crime is a problem in Slovenia. It is important that a budget is made available to connect the IT systems of the different parties, as having access to the different systems it is expensive but necessary to carry out proper analyses.

Despite environmental crime being identified as a priority and some policemen assigned to investigate it, this is not their exclusive competence and, in practice, other crimes such as immigration and other serious crime take the priority.

The main obstacle in combating environmental crime is the lack of a dedicated unit to deal exclusively with it or, at least, a unit for which it is a priority in practice and not just in theory.

A further obstacle to the prosecution of environmental crime is the lack of awareness on the part of other law enforcement authorities when dealing with criminal offences.

Other problems are an apparent absence of threat when it comes to detecting cases and a lack of awareness of the dangers posed by such acts. The fact that the legal concept of 'danger' is new to the Slovenian criminal law results in ineffective prosecution.

Generally, some key problems exist in the field of environmental protection in the Republic of Slovenia such as numerous undetected offenders, the lack of deterrent power of penalties for violators, staff issues in institutions, the general level of (un)awareness of environmental protection, and insufficient coordination or appropriateness of the functioning of competent institutions when dealing with issues in this field.

The Slovenian authorities consider that the causes may be:

- the absence of systematic detection and proactive prevention of criminal offences and other practices that pose a threat to the environment,
- too few legal entities that, according to the law, are allowed to detect and refer violators of environmental legislation to minor offence proceedings,
- an unduly low level of risk for violators of environmental protection regulations. In the Resolution on the National Plan for the Prevention and Combating of Crime 2007–2011, it was underlined that it is necessary to properly coordinate and improve the operation and protocols of all competent institutions in order to optimise the investigation of actions that cause a threat to the environment. The following solutions were then proposed:
  - increasing operational cooperation between the police, the IRSOP, competent self-governing local communities and other institutions,
  - increasing cooperation with non-governmental environmental organisations and applying measures of situational prevention of crime against the environment,
  - extending the circle of proposers for minor offence proceedings and ensuring an appropriate mechanism to motivate them to work.

With a view to prosecuting criminal offences and minor offences in the field of environmental protection and based on an analysis of the abovementioned Resolution, the Slovenian authorities have considered drawing up an operational cooperation plan between the following authorities: Ministry of the Interior – the police, the Ministry of Agriculture, the MOP, the Ministry of Defence, non-governmental environmental organisations, fishing clubs, hunting and forestry organisations.

This plan has been drafted and implemented, but the Prosecution Service is not included. That is probably because the Prosecution Service does not list environmental crime in its strategy and does not target the protection of the environment as a goal.

Another measure provided for by the Slovenian authorities is drawing up a programme to involve interested non-governmental organisations in exercising supervision of violators of environmental legislation by preparing appropriate legislative amendments oriented towards increasing the number of proposers and their sharing in the fines collected.

Nevertheless, although the deadline for implementation was 2013, it has never been drafted.

On the other hand their involvement seems to be important, as proved by the positive effect of the non-governmental organisations campaign 'Let's Clean Slovenia in One Day' and, above all its implementation, which contributed substantially to increasing the reporting of criminal offences in the field of environmental protection.

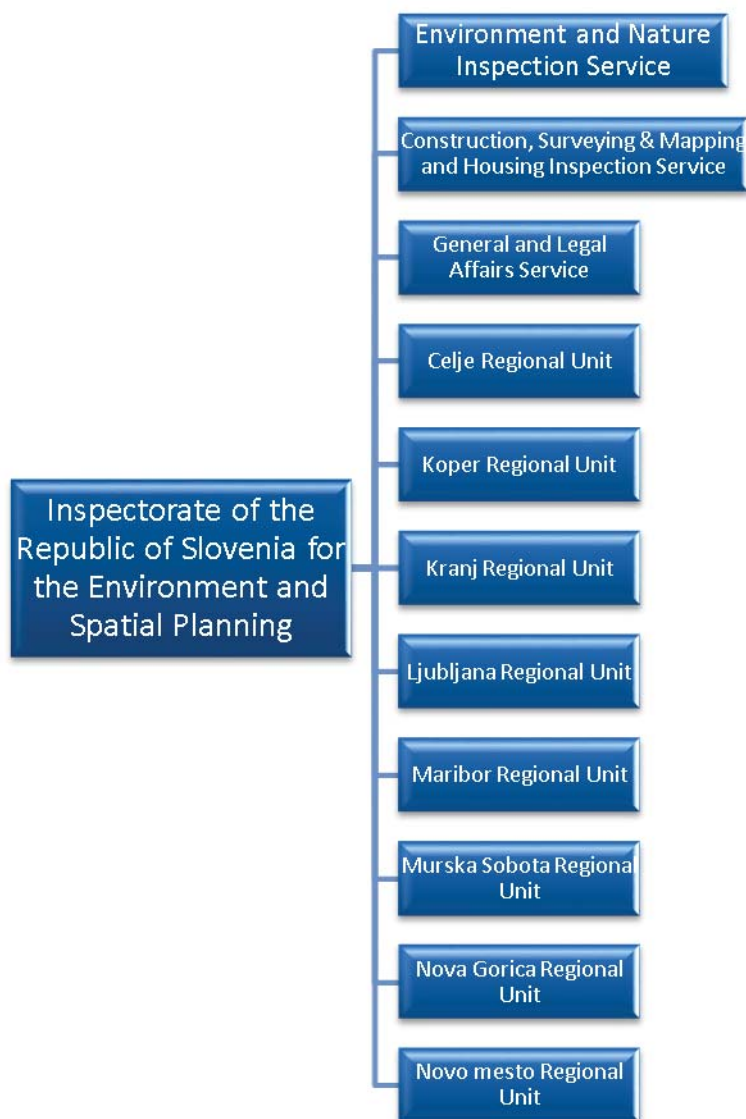
#### **4.3. Other authorities/institutions**

In addition to the police, the MOP, the IRSOP and Customs are key players in the fight against waste crime.

The MOP issues permits and it conducts inspections of undertakings' premises prior to issuing permits. It also has competence to draft and support new legislation, prepare policies in the field of the environment, prepare strategic documents and monitor and analyse the implementation of environmental policies. Its work is mainly based on the following laws: Environmental Protection Act, Criminal Code, Decree on waste, Decree on waste landfill and Regulation (EC) No 1013/2006.

Once a permit has been granted, the IRSOP is responsible for carrying out inspections, i.e. announced inspections and non-announced inspections.

The IRSOP is a sub-department of the MOP, and has eight offices located in Murska Sobota, Maribor, Celje, Kranj, Ljubljana, Novo Mesto, Koper and Nova Gorica.



The tasks and responsibilities of the IRSOP are set out in the Decree on bodies affiliated to ministries (Official Gazette of the Republic of Slovenia [*Uradni list RS*] No 35/15, as amended).

Its areas of work comprise around 400 different regulations concerning air quality, waste regulation and management, water quality, emissions of substances in water, protection of the environment and nature, ecological supervision at the national border, chemicals and genetically modified organisms, industrial pollution and risk, noise and electromagnetic radiation. Three out of four inspections are announced beforehand to the company inspected, and more than 6 500 inspections are carried out per year.

In general, the MOP and the IRSOP were said to cooperate quite well.

The IRSOP does not have staff specialised in waste crime. If waste crime is suspected, environmental inspectors cooperate with police representatives.

The IRSOP monitors trans frontier shipment activities in connection with waste and is responsible for a broad range of areas, such as waste management, water management, the water regime, industrial pollution and environmental risks, air quality, chemicals and GMOs, electromagnetic radiation and light pollution, spatial planning and settlements, the construction of facilities, energy insofar as concerns issued energy certificates, mining insofar as concerns illegal excavations on building land, the housing sector and geodetic activity and property registration. In addition, the IRSOP is responsible for the protection of the environment and nature and ecological supervision at the national border.

Substantive legislation for the work of the IRSOP includes the Environmental Protection Act, the Waters Act (ZV-1), the Nature Conservation Act (ZON) and the Management of Genetically Modified Organisms Act (ZRGSO), as well as other acts and their implementing regulations, currently comprising about 450 regulations.

Municipalities are involved in examining whether a permit may be granted. They are not involved in inspections of companies, but they are competent for minor offences (such as small-scale illegal dumping) in rural areas.

In Slovenia, a total of about 10 000 facilities have to be inspected, of which 210 are IED installations and 62 are Seveso installations (31 lower risk and 31 higher risk). The 55 IRSOP inspectors are entitled to conduct and take decisions in minor offence procedures, i.e. impose a fine on the offender, issue payment orders or offence decisions, admonitions and warnings.

No inspector could be interviewed about the exact form taken by these controls in practice. *Even it has been stated afterwards that the Environment agency has a list of companies producing and handling hazardous waste* no list of companies producing or handling hazardous waste could be provided.



Investigations are typically started by the police, but a few cases are initiated by the IRSOP. The IRSOP representative reported that there is only a small degree of cooperation between the IRSOP and the police and/or the prosecution office.

The evaluation team was told that there is severe uncertainty about the distinction between minor environmental offences and environmental crime. This means that the IRSOP mostly deals with waste offence cases by itself, not handing over many waste crime cases to the police and prosecutors.

As the IRSOP's penal authority is limited to the lowest fine of the penal range, this situation has to be considered a serious obstacle to an effective fight against waste crime.

To the evaluation team this seems a major issue as problems with the *ne bis in idem* principle can occur if the IRSOP treats waste crime as a minor offence. When inspector is in doubt if case is offence or crime, then usually police is asked about it. And also if offence procedure is started and no measure is still not issued it is possible to qualify action as waste crime and prosecute. In that case minor offence procedure temporarily stops. However that is only effective as long as information exchanged between police and IRSOP is working well. This raises concerns, as stated before, that there is no formal scheme of information exchange.

Guidelines should be laid down to facilitate legal equality when dealing with similar cases and to effectively fight against waste crime.

A risk assessment is not carried out prior to inspections. The proportion of planned inspections (mentioned in the inspection plan) to non-planned inspections (mainly initiated in response to complaints by the civil sector) is 50/50.

Slovenian inspectors or Customs may detain a means of transport carrying a cross-border shipment of waste suspected of illegal shipments of waste. The consignment is suspended until the competent inspectorate decides on its legality and takes further measures. In addition to the means of transport, transport documents are also retained. The shipment of waste shall be withheld until the receipt of the written notification by the inspectorate, or for a maximum of two hours, in accordance with the powers of the officials of the FURS defined in Articles 14 and 39 of the Financial Administration Act (Official Gazette of the Republic of Slovenia, No. 25/14). After that, the truck must be released unless evidence of a waste offence is found. This short period of time does not seem helpful, in particular in view of the limited working hours of the IRSOP, which could provide support in assessing a consignment. However, the two-hour rule does not apply in criminal cases, for which rules of criminal procedure are applicable that do not state fixed deadlines.

As regards obstacles to combating waste crime in order to prevent increasing pollution, dumping and storage of waste, including the cross-border shipment of hazardous waste, the MOP identified the following: the waste market situation and its complexity, non-reliable data and greatly varying data, statistical problems, a lack of expert knowledge, resources, difficulties in handling corporate crime, administrative performance, low penalties provided for in environmental laws determining investigation methods, a reluctance to report crime and the definition of organised crime in Slovenia, the complexity of handling organised crime cases, a general lack of availability of information, and enforcement and third-country issues.

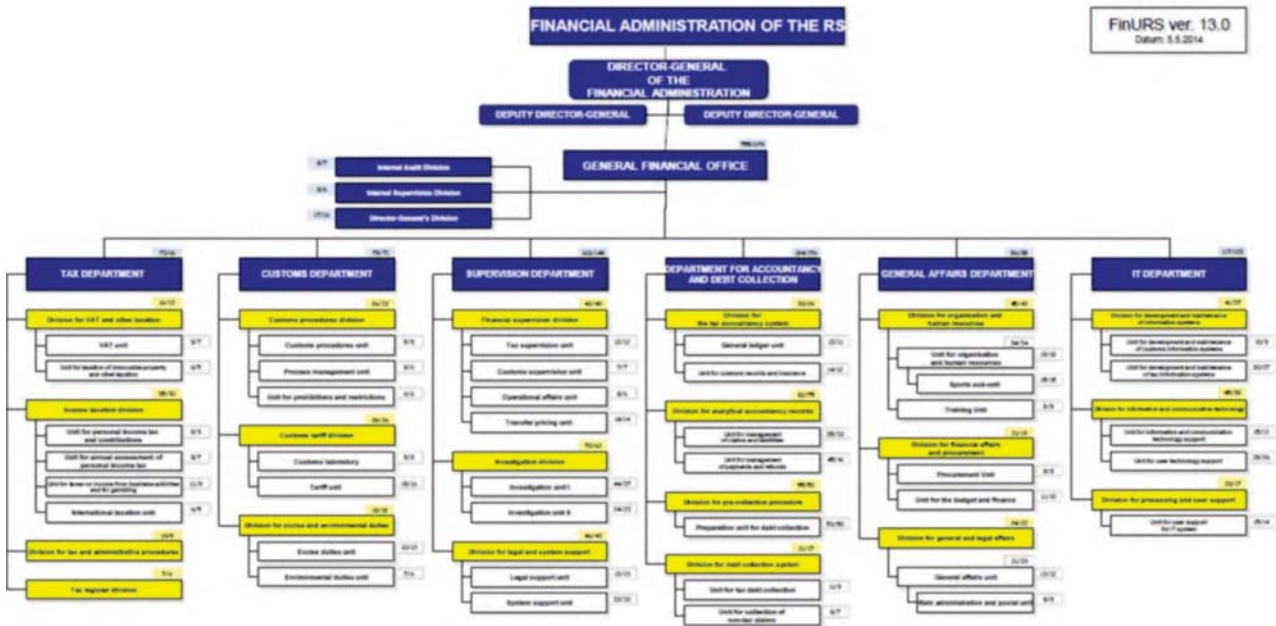
Administrative authorities are not involved in dealing with waste crime.

According to Article 134 of Regulation (EU) No 952/2013, the protection of the environment, among others, is a matter pertaining to customs supervision.

Customs is a branch of the financial administration (FURS) established in 2014. It deals with all kind of taxes ('financial supervision'): VAT, TMV, income tax, gambling tax, personal tax, customs and excise duty, environmental taxes, tax on property, social security and so on. The regional customs (10) and tax (16) directorates were merged into 16 Financial Offices on 1 January 2015.

The FURS Strategic Areas (2015-2020) include active cooperation with environmental authorities.

Customs is in charge of carrying out inspections in the Koper freeport (after a risk analysis using the loading lists transmitted by ships to the port prior to debarking, but additional inspections are also carried out) and generally at the borders.



FinURS ver. 13.0  
Datum: 5.5.2014

Customs has to conduct inspections with a very broad scope, mainly with a view to collecting taxes (i.e. 82 % of all taxes collected in Slovenia, such as VAT, TMV, income tax, gambling tax, personal tax, customs and excise duty, tax on property, social security, and eight environmental taxes), finding illegal objects and customs violations, and dealing with prohibitions and restrictions, but also in order to identify cross-border waste crime. This is done by mobile units and investigations. Moreover, Customs provides administrative assistance to the IRSOP. Each year, 800 inspections are carried out based on a risk analysis with the assistance of RIF and OLAF and helped by information exchange with other authorities. The role of Customs is particularly important as Slovenia has to be considered a transit country for (hazardous) waste. However, it has to be taken into consideration that since Croatia's accession to the EU, waste and goods pass more frequently through Slovenia without being inspected as the mobile units are not responsible for EU countries. However, the mobile units have conducted more inspections which have led to higher numbers of registered minor offences against the environment.

The Slovenian Financial Administration carries out control of cross-border shipments of waste at the entry and exit from the customs territory of the EU and in the territory of the Republic of Slovenia. When carrying out supervision, it checks the prescribed supporting documents and the compliance of waste with the information given in these documents. Supervisions over cross-border shipments of waste are carried out in the framework of the implementation of regular customs procedures (import, export, transit) and in the context of the implementation of financial controls on the road network, border crossings with the Republic of Croatia and former border crossings. In 2017, the FURS carried out 827 checks on the suitability of shipments of waste, while temporarily retaining 11 shipments due to suspicion of illegal shipments. For 3 consignments, the competent environmental inspector confirmed the suspicion of an illegal shipment. In 2018, the FURS carried out 842 checks on the relevance of shipments of waste, while temporarily retaining 27 consignments, which were also verified by the competent environmental inspector due to the suspicion of illegality of the consignment. In 11 shipments, the inspectorate confirmed the suspicion of an illegal shipment.

In 2017, mobile department employees (in all 827 surveys) carried out 405 controls on the relevance of shipments of waste, while in the course of the misdemeanour procedure, 67 infringements of Regulation (EC) No. No 1013/2006 on shipments of waste. In 2018, mobile department employees (within all 842 inspections) carried out 387 controls on the relevance of shipments of waste, while in the course of the misdemeanour procedure sanctions 83 infringements of the Regulation. Despite the number of controls, in 2017, only one case of waste crime was detected and, in such a case, the prosecutor indicted the allegedly responsible party for falsification of documents only.

Customs cooperates with both the police and the IRSOP.

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

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

Participation and the exchange of information among all the involved parties is carried out through regular consultations, meetings of an interministerial working group and ad hoc meetings when it is necessary to obtain information and data on shipments of waste. However, no specific body has been established with the statutory task of managing such activities, and in most cases, the police request data and information from other state authorities.

The interministerial working group is based on a written agreement signed by all the parties involved. Its legal basis is a decree of the MOP; a memorandum of understanding was subsequently agreed on. The main actions agreed on in the working group's action plan for the fight against environmental crime are: at least two joint training courses per year, two joint actions per month, information sharing (if one party involved gets information about illegal shipments of waste, it will inform all others), and the drafting of documents, rules and guidelines. However, conclusions of the working group are non-binding, unless an authority in charge issues instructions on how to implement them.

Despite the reportedly fruitful and effective cooperation at the higher administrative level of the ministries, the evaluation team underlines that representatives of prosecutors and judges do not take part in the working group. Joint meetings of representatives of the MOP, the IRSOP, the police and the prosecution office do not take place.

In addition, the interinstitutional cooperation at operational level appeared as rather scares and insufficiently organised, being implemented case by case. When working on concrete cases, this being facilitated by personal contacts between the authorities and persons involved . Information exchange was said not to happen, apart from in a very small number of concrete investigations or court proceedings. The same applies to support for financial investigations carried out in connection with criminal investigations by the prosecution office. Only in concrete cases is support given by the tax authorities. The MOP has no direct automated contact with the Chamber of Commerce, which should be essential for the granting of an environmental permit.

Regarding cooperation between IRSOP and police, there seem to be two different perceptions. The IRSOP reported not to receive support from the police apart from the issue of trans frontier shipments (TFS). To the contrary, the police reported to cooperate with IRSOP also on wildlife crime, illegal dumping of waste, driving in natural environment and related matters.

The legislation seems to be quite unclear to the IRSOP.

Specifically, they claim that they are not able to distinguish between administrative and criminal. This may be due to a lack of clarity in the legislation itself or to the low specialisation of the competent authority. On the contrary, the Customs are well instructed when a crime is committed and they distinguish between crime and administrative offence.

Consequently, the representative of the IRSOP concluded that the IRSOP was left to deal alone with the prosecution of environmental offences of any severity, even though its penal authority offers only a very limited range of sentences.

If necessary, the police connect with the IRSOP and FURS and coordinate on further activities and objectives. As necessary, the police obtain the data and information required for criminal prosecution.

As good practice, it has to be underlined that two joint actions involving the police, Customs and the IRSOP take place each month. These actions tackle illegal shipments of waste on roads and – less often – railways (once or twice a year), and once every two months inspections are carried out in the Port of Koper.

However, the police face difficulties with controlling shipments of waste and verifying the legality of shipments. Inspectors of the IRSOP who are responsible for confirming that a shipment of waste is illegal are not available outside office hours, which are Monday to Friday, 07.00 to 15.00. Outside these hours, it is the responsibility of the police to decide whether to seize shipments, although the Decree on the implementation of the Regulation on shipments of waste (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 78/16) stipulates that they are obliged to issue a decision regarding the legality of a shipment within two hours. Likewise, inspectors are not available outside office hours to provide expert assistance to police officers in more complicated cases. An on-call service line unofficially exists as authorities are provided with an officer's private phone number, but a formal hotline is not operated.

Another challenge is the different priority given to the issue by the police and the prosecution office. The police, who consider environmental crime a priority, may spend many hours investigating waste crime cases, though the prosecutors will often drop the case. This is inefficient and could frustrate the police officers involved. As Slovenia is a small country, the mutual exchange of perspectives/policies should be relatively easy to facilitate. Informing prosecutors at a very early stage could be helpful, though whether or not prosecutors will pursue a case always depends on the offence.

It was reported that prosecutors are obliged to notify the police and other competent authorities of how proceedings end. However, the evaluation team understood that such notifications never reach the person in charge of the investigation.

The prosecutors do not have contact lists for the environmental authorities, though aspects of environmental administrative law are transposed into criminal law.

Though the cooperation between all supervisory authorities (IRSOP, police, FURS) is regulated on a high level, whereby the initiative for joint control actions may be submitted by each supervisory authority to the IRSOP, customs stated that there is little cooperation in the fight against smuggling of waste on operational level. Future will show if the Slovenian initiative to establish a contact point with the competent authorities (MOP, IRSOP) in order to provide expert assistance to supervisory authorities (police, FURS) also outside the normal working place will succeed and be helpful to solve this problem. At present, it has to be considered an issue. Cooperation, if it exists, can take place on individual initiative and can therefore be informal and ad hoc. As a rule, customs officers do not have a contact person to call at the IRSOP outside normal working hours.

The FURS and the Police cooperate on the basis of the signed Cooperation Agreement. The latter, in addition to other forms of cooperation, also envisages a liaison officer who, with his work, seeks to increase the efficiency of both services, reduce administrative barriers and effectively and directly exchange information, data and documents between the two services. Since 2007, the liaison officer of FURS has been placed at the General Police Directorate, the Criminal Police Directorate in the Sector for International Police Cooperation. The FURS staff members are also assisted by FURS Operational and Communication Center (hereinafter referred to as OKC FURS) in the implementation of operational activities, through the acquisition of data from databases and applications that staff members need when performing control tasks on the ground. In performing the tasks, the OKC directly participates and communicates with the OKC Police at the General Police Directorate and other police administrations.



In 2016, EnviCrime proposed setting up a sort of task force on the environment to improve the exchange of information and to promote cooperation. However, this has not yet been formally arranged and cooperation is still based on informal contacts.

There is no formal action plan for major incidents; instead, ad hoc groups of members of the different authorities are to be set up.

As an example of good practice, it has to be pointed out that from 2011 to 2017, the IRSOP issued a revised handbook for all supervisory authorities and translated the Waste Watch handbook into Slovenian.

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

In Slovenia, information exchange is arranged informally and is not recorded in procedures. This does not seem to be a problem in ad hoc situations and, in view of the low number of environmental incidents, keeping records does not appear to be necessary. However, the evaluation team considers that enhancing the exchange of information would allow for a proper analysis of environmental crime.

In general terms, the IRSOP's work is dependent on information from the MOP. However, the IRSOP does not have direct access to the MOP's (Environment Agency) database. To that end, the IRSOP is provided with the documents necessary to carry out an inspection of the premises of a particular undertaking. Initially, the IRSOP did not have a database on the permits of the approximately 10 000 Slovenian-based undertakings to be inspected – despite being a sub-directorate of the MOP – but it has begun to build up such a database. Work on that is still in progress. The same applies for Customs and the police.

The police do have access to the databases of other state bodies dealing with waste policy.

Information exchange between the police and the IRSOP is carried out at the request of the police. There is no possibility for the police to access the MOP (Environment Agency) or IRSOP databases directly. But, of course, data on permits can also be obtained by house searches.

Moreover, at the IRSOP, doubts have arisen as to whether the MOP (Environment Agency) database is complete and sufficiently updated.

Slovenia does not have a national focal point on intelligence for waste crime.

#### **4.5. Training**

Each state body organises and is responsible for its own training.

A special training programme on waste crime is being prepared for police officers. At present, police trainees receive very little training on waste crime.

On a non-regular basis, the police attend lectures given by representatives of state-owned companies dealing with waste and by lecturers from the Slovenian University in Ljubljana.

Training on waste crime is provided to Customs once a year, together with police officers and the members of the mobile units.

Training for prosecutors and judges on waste crime has not been provided since 2008/2009, not even after significant amendments were made to criminal law, aligning it with European Directives, in 2011/2012. Prosecutors were invited to training on waste crime for the police, but did not attend. Prosecutors have not given lectures to the police either. The police plan to involve prosecutors more closely in their training.

As far as the IRSOP is concerned, it has been conducting workshops (legislation, case studies, reports) either for all supervisory authorities or on a separate basis every year since 2010 (except 2016). In 2017, there were two workshops for representatives of all enforcement authorities as well as the competent authority. Themes varied from legislation to case studies and the Chinese import ban. In 2018, three workshops for smaller groups were conducted, including some practical training in the field (safety at work).

Training is provided by lecturers invited by the respective authority. There are no exchanges between the authorities involved with regard to training. Lecturers from other authorities are not invited to speak, nor do staff from one authority attend lectures hosted by another authority.

In the field of cross-border shipments of waste, an interministerial working group was established which, among other things, is also responsible for conducting training for representatives of supervisory authorities (inspectors, police officers and FURS staff). Joint training is provided to the police, Customs and the IRSOP at least twice a year.

This training is organised annually, usually in the form of a one-day event covering various topics. Its aim is to update participants about developments in the field of cross-border shipments of waste, through a presentation of global trends and the analysis of illegal waste shipment cases.

However, these activities only take place thanks to the personal commitment of some members of the respective administrations.

#### 4.6. Conclusions

- The interministerial cooperation is an excellent example of cooperation and the efforts made by the parties involved in detecting and investigating. However, this cooperation should also involve the MP, prosecutors and judges.
- The prosecution office does not target environmental crimes in its strategy and, in a broader sense, protection of the environment is not identified as a specific goal. Hence, it is recommended that this issue be included among its priorities.
- In this sense, the specific environmental knowledge of judges and public prosecutors should be reinforced through adequate training programmes.
- Common guidelines should be drafted for law enforcement agencies and prosecutors, and cooperation between the latter and the IRSOP should be enhanced.
- Specialised police exist only at central and regional level, but not at local level, while the majority of road inspections are implemented at local level.
- Moreover, even specialised police deal with several different types of crime (non-environmental cases), which they often have to give priority to.
- There is good informal cooperation at operational level between the police and the IRSOP, but it seems to be most often based on personal will and relationships.
- The legislation seems to be quite unclear to the administrative authorities. Specifically, they claim that they are not able to distinguish between administrative and criminal offences. This may be due to a lack of clarity in the legislation itself or to the low specialisation of the competent authority. Guidelines should be drafted in order to clarify the distinction between waste crimes and administrative offences.
- When conducting inspections, assessing the situation on site with the involvement of the person responsible for the company allows remedies to be implemented quite quickly and helps to reduce the number of cases in which the content of the notification is challenged.

- Inspectors of the IRSOP are not available outside office hours to provide expert assistance to police officers in more complicated cases as no on-call official is appointed. In case of emergency, support is offered on a case-by-case and voluntary basis. The IRSOP should have a 24/7 emergency line available for the police, Customs and other authorities involved in the fight against waste crime.
- Carrying out inspections only during official working hours allows for illegal activities at other times; thus, inspections should be carried out at less predictable times.
- Customs seems not to have a list of the companies exporting waste, in particular hazardous waste, even though having this could foster more targeted inspections.
- The use of the 'Watch it' application set up by IMPEL is good practice that should be extended to other relevant authorities (e.g. the prosecution service).
- The web application enabling anonymous reporting of crime is also good practice. Awareness-raising campaigns encouraging citizens to use it are recommended.
- The use of the letter 'A' on trucks transporting waste facilitates inspections, is a good way to facilitate controls and should be widespread in other Member States.
- As good practice, it has to be underlined that two joint actions involving the police, Customs and the IRSOP take place each month.

## 5. LEGAL ASPECTS

### 5.1. Substantive criminal law

#### 5.1.1. Description of national legislation concerning waste crime

The acts in Slovenian legislation that criminalise 'waste crime' offences are as follows:

- The Decree on waste (see Articles 61 to 71)  
<http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED7011>
- The Environmental Protection Act (see Articles 161, 162, 162a and 162b)  
<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1545>
- The Decree on the implementation of the Regulation (EC) on shipments of waste (see Articles 18 to 25) <http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED6518>

Waste crimes are covered in the Criminal Code while misdemeanours are covered by other pieces of legislation.

The Slovenian Criminal Code , comprises 15 articles under the chapter entitled 'criminal offences against the environment, space and natural resources'. Several provisions relating to breaches of environmental law can also be found in the chapter covering criminal offences against the general safety of people and property.

The relevant articles are as follows:

#### Article 332 – Degradation and Destruction of the Environment

(1) Whoever by breaching regulations:

1) through discharges, emissions or the introduction of quantities of substances or ionising radiation into the air, soil or water, endangers the life of one or more persons or causes the risk of grievous bodily harm or actual damage to the quality of air, soil or water or to animals or plants;

2) collects, transports, processes or disposes of waste or supervises such operations or activities after the waste disposal process is complete, or trades in waste or forwards waste in a way that endangers the life of one or more persons or causes the risk of grievous bodily harm or actual damage to the quality of air, soil or water or to animals or plants;

3) sends non-negligible amounts of waste in one or several shipments that are covered by Article 2(35) of Regulation (EC) of the European Parliament and of the Council of 14 June 2006 on shipments of waste;

4) manages a facility in which a dangerous activity takes place or dangerous substances or preparations are stored, that outside the facility could cause the death of one or more persons or grievous bodily harm or actual damage to the quality of air, soil or water or to animals or plants;

5) causes a risk of a significant deterioration of the habitat within a protected area;

6) manufactures, imports, exports or uses substances that deplete the ozone layer

shall be sentenced to imprisonment for a period of not more than five years.

(2) If the offence under points 1, 2, 4 or 5 of the paragraph 1 causes grievous bodily harm or actual damage to the quality of air, soil or water or to animals or plants, the perpetrator shall be sentenced to imprisonment for a period of not more than eight years.

(3) If the offence under points 1, 2 or 4 of paragraph one of this Article causes the death of one or more persons, the perpetrator shall be sentenced to imprisonment for a period of not less than one and not more than twelve years.

(4) If the offence is committed through negligence, the perpetrator of the offence referred to in paragraph one of this Article shall be subject to a fine or be sentenced to imprisonment for a period of not more than two years, the perpetrator of the offence of the offence referred to in paragraph two of this Article shall be sentenced to imprisonment for a period of not more than three years, and the perpetrator of the offence referred to in paragraph three of this Article shall be sentenced to imprisonment for a period of not less than one and not more than eight years.

(5) If an offence under paragraphs one, two or three of this Article is committed by a criminal organisation, a perpetrator shall be sentenced to imprisonment for a period of not less than one and not more than twelve years.

In addition, Article 332 relates to the degradation and destruction of the environment and Article 319 to the illegal transport of explosive and dangerous materials.

The latest amendments to the Criminal Code were made in 2011 and 2012, when Slovenia implemented the EU Directive in Article 323 of its Criminal Code. The authorities responsible for environmental protection have not yet made further suggestions or proposals. The current definition of an environmental risk is in line with the Directive.

Waste crimes often involve fraud and involvement in or the running of a criminal organisation.

Minor offences against the environment are subject to sector-specific legislation. The MOP (not the MP, which is responsible for criminal law) is responsible for drawing up legislation in this area.

Important pieces of environmental legislation are:

- the Resolution on a National Plan for Preventing and Combating Crime for 2012–2016 (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 83/12),
- the new Resolution for the period 2018 – 2022, which is currently being implemented,
- the Decree on the implementation of the Regulation (EC) on shipments of waste (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 78/16),
- the Decree on the implementation of the Regulation (EC) on shipments of waste (Official Gazette of the Republic of Slovenia , in particular covering the A sign on waste trucks.

The Environmental Protection Act, as well as the regulations adopted on this basis in the waste management field, refer to actions that are defined as minor offences and which may also be considered as criminal offences if they meet the criteria set out in the Criminal Code<sup>7</sup>.

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<sup>7</sup> Decree on Waste (see Articles 61 to 71)

<http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED7011>

Environmental Protection Act (see Articles 161, 162, 162a and 162b)

<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1545>



In the field of cross-border shipments of waste, the Decree on the implementation of the Regulation (EC) on shipments of waste<sup>8</sup> defines acts that are considered offences in the cross-border shipment of waste.

After reviewing the Slovenian legislation and discussing it with practitioners, the evaluation team concluded that, despite the fact that the legislation adopted is in line with the standards laid down in the EU Directives, there is a need for the legislation to include more breadth and specific detail so that it is more in line with criminal law traditions in Slovenia.

#### *5.1.2. Other rules or judiciary instructions*

The police authorities have drawn up their own guidelines, which they provide to all police units. The FURS has also prepared its instructions for the work of its staff in case of overseeing cross-border shipments of waste. They are available on the website.

#### *5.1.3. Determination of the gravity of waste crime*

The Criminal Code contains general rules on the reduction of sentences.

Article 49 provides that the perpetrator of an offence shall be sentenced for a criminal offence that is proportionate to the gravity of the offence and his/her culpability.

In determining the sentence, the court considers the circumstances that have an influence on the nature of the sentence (mitigating and aggravating circumstances). These include, in particular: the degree of the perpetrator's criminal liability; the motives behind the offence; the nature of the risk or damage caused to property protected by law; the circumstances in which the offence was committed; the perpetrator's past behaviour; his/her personal and financial circumstances; his/her conduct after the commission of the offence; and other factors relating to the personality of the perpetrator.

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<sup>8</sup> Decree on the implementation of the Regulation (EC) on shipments of waste (see Articles 18 to 25) <http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED6518>

In determining the penalty sentence, the court must take into account the question whether the perpetrator had committed a criminal offence after he/she had already been convicted or had served his/her sentence, or had done so after his/her sentence had been remitted (recidivism).

There are no specific guidelines on how the gravity of the waste crime may be determined; this seems to be an obstacle to the effective combating of waste crime in Slovenia. The Slovenian authorities lack clear definitions in this regard.

The principle of what constitutes an environmental risk appears to be determined by the courts. In this regard, judges reported that, in this regard, there needs to be a specific and actual risk, and that abstract risks are not sufficient. At the same time, Slovenian courts do not appear to have resolved the problem of long-term effects. This problem arises if an activity poses a risk to the environment in such a way that is likely to cause damage to the environment over the long term. Besides Article 314 of the Criminal Code, and given that there is no tradition in Slovenian criminal law of sanctioning risks concerning legally protected goods, the practical implementation of this principle appears to be difficult. The MOP stated that the wording of the current legislation was less adequate than a criminal law provision that Slovenia had before the amendment was made. The reason is that there was a stronger focus on the illegal deed or activity itself with less focus on its effect. The IRSOP considered that the former law was better suited to the prosecutors, too. This led to significant uncertainty as regards criminal law sanctioning waste crime.

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

Waste crime is often driven by tax evasion and fraud. This explains why joint financial and organised crime units may be established to carry out investigations in such cases. However, as a rule, there are no joint investigation teams.

Over the past three years, the police have found two cases concerning organised criminal groups that were involved in illegal shipments of waste. The groups had sent waste from Italy through brokers in Slovenia to third countries.

In recent years, there has been an increasing incidence of fraud linked to cross-border shipments of waste. In particular, in respect of Annex XII, there has been a particularly large number of cases concerning shipments of so-called green-listed waste. The monitoring and supervision of such types of waste is very difficult for the police owing to the lack of adequate registration and records.

#### *5.1.5. The role of the NGOs*

As for their legal capacity, NGOs are not a civil party at criminal court procedures. However, they may take part in the hearings as interested members of the public.

The evaluation team noted a degree of mistrust among the representatives of the Slovenian Authorities towards NGOs. Some of these organisations are thought to be responsible for a number of criminal offences and are therefore not always considered to be reliable.

Nevertheless, the Slovenian representatives that met the evaluation team are aware that NGOs do have useful information and that there is scope for a degree of cooperation and that this could help detect criminal offences.

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

### *5.2.1. Difficulties encountered with regard to the admissibility of evidence*

It is sometimes difficult to determine the identity of perpetrators especially in cases of illegal waste disposal owing to the involvement of more than one company. This makes it difficult to identify the company responsible.

However, the Slovenian authorities did not report particular problems with regard to the admissibility of evidence.

In respect of coordinated road inspections, the evaluation team could not determine whether the police takes actual samples of suspicious waste being shipped or whether it collects photographic evidence only: it is almost impossible to establish physical, chemical or other characteristics of waste on the basis of photographic evidence alone.

The investigative measures imposed are proportional to the degree of suspicion and gravity of the suspected offence. Consequently, wiretapping may not be used in environmental crime cases that are not related to other serious crimes (see Article 149 A criminal procedural act).

#### *5.2.2. Measures other than criminal or administrative sanctions*

In Slovenia, confiscation is possible under criminal and civil law and may be applied in cases of environmental crime.

The revocation of a permit is also possible.

#### *5.2.3. Treatment of seized objects*

Pending a decision by the competent authorities, seized cross-border shipments of waste are temporarily stored in rented premises. The costs of storing items are borne by the offender.

The number of cases is very small.

### **5.3. Environmental restoration**

At EU level, environmental restoration was regulated in 2004 by Directive [2004/35/EC](#) on environmental liability with regard to the prevention and remediation of environmental damage. The requirements were fully transposed into Slovenian legislation by the amended Environmental Protection Act (ZVO-1) in 2008, by the rules on the content defining environmental damage and by the Decree on types of measures for the remediation of environmental damage in 2009. The amending Act ZVO-1I, which was passed two years ago in line with the Directive, describes in more detail the measures that need to be taken as soon as an accident occurs.

The fundamental principle established in Article 9 of ZVO-1 is the liability of the polluter as regards preventing and remediating environmental damage. The polluter, who can be either a natural or a legal person, is objectively (irrespective of fault) responsible for remediating environmental damage that may arise in connection with the performance of his/her activity if this activity is one of the activities referred to in paragraph two of Article 110a of ZVO-1 (licenses have to be obtained from the competent authorities for most of these activities, and are specifically regulated). However, if a polluter causing environmental damage does not carry out an activity referred to in paragraph two of Article 110a of ZVO-1, he/she is liable only for environmental damage to protected species (for example, certain species of fish) and habitat types (for example, marshes and swamps) if he/she caused the damage deliberately or through negligence. If several polluters are involved and the responsibility of an individual polluter cannot be established, they are jointly and severally liable.

If environmental damage occurs, the polluter must first inform the MOP of the relevant facts and circumstances of the case. At the same time, the polluter must take all necessary measures to limit the damage caused, including all feasible measures to control, remove or otherwise deal with pollutants in order to limit or prevent further environmental damage and any harmful effects on human health and the environment. The owner or other holder of the land, in which environmental damage has occurred, must allow the polluter to take remedial action to remediate the damage. Thereafter, the polluter must send to the MOP a proposal for remedial measures together with data on the damage caused. The set, type and method for selecting the most appropriate remedial measures for remediating environmental damage are defined in the Decree. This defines various types of remedial measures and forms of remediation, such as primary, complementary and compensatory remediation. The choice depends on whether the damage was caused to soil, waters, protected species or habitats.

On the basis of the proposal for remedial measures sent by the polluter, the MOP investigates the type, extent and gravity of environmental damage and the possibility of natural restoration. Thereafter, the MOP informs the polluter of its decision. This decision sets out the most appropriate measures that need to be implemented. The polluter does not have the right to appeal against the MOP's decision. However, the polluter may register his/her disagreement. If the polluter does not comply with instructions, the MOP may launch a procedure whereby it requests that the polluter provide information on the damage and orders the implementation of remedial measures.

The start of the remediation process may also be initiated by a legal or a natural person who has been affected, or could be affected, by the damage, or by an NGO. The above persons/entities have the right to inform the MOP of cases of environmental damage and request action to remediate the damage. In addition, as regards a decision instructing the implementation of remedial measures, the NGO has the status of a third-party participant. This means that the NGO has the same rights and obligations in the procedure as the other parties.

According to the polluter pays principle, the polluter is obliged to cover all the costs of remedial measures that are implemented on the basis of ZVO-1, as well as the costs of determining the existence or extent of environmental damage, the costs of conducting an administrative procedure at the MOP, the costs of collecting data on the damage and the costs of monitoring and supervising the implementation of remedial measures. There is a need to ensure that the stated obligations of the polluter are fulfilled, or to prevent the polluter from avoiding the payment of remediation costs. For this reason, when issuing a decision on remedial measures, the MOP also proposes the a guarantee in the form of the polluter's property and requires a bank guarantee or other type of insurance from the polluter. The sum in question corresponds to the estimated costs of remedial measures in the event that the MOP has to implement these measures. This means that the state takes additional measures to ensure that that costs are covered.

The polluter's liability for environmental damage is covered by a statute of limitations once 30 or more years have elapsed from the date of the damage arising and if the procedure to determine the occurrence of damage is not initiated against him/her during that time. In addition, the polluter is not obliged to cover remediation costs if it is proven that the environmental damage was caused by a third party and that the damage occurred despite appropriate measures being taken or if the environmental damage was caused by the fulfilment of a binding order or instructions from the state or a municipal authority or a person representing a public authority.

As stated above, environmental restoration can cause the prosecutor to drop the case as provided for by the law.

#### *5.3.1. Principles applicable to the investigation of waste crimes*

The Articles 10 – 14 in the Criminal Code determines the territorial jurisdiction for dealing with criminal offences. In certain cases, the jurisdiction covering criminal offences committed outside the territory of the Republic of Slovenia is also specified.

#### *5.3.2. Rules in case of conflicts of jurisdiction*

Besides FD 2009/948/JHA, the provision of Article 14 of the Criminal Code should be also mentioned as regards the prevention and settlement of conflicts concerning jurisdiction in criminal proceedings. This provision sets out the conditions for prosecution in specific cases where criminal prosecution was launched or completed under another jurisdiction. In addition, individual bilateral agreements between Slovenia and other Member States could also be used in procedures involving the transfer of prosecution.

#### 5.4. Conclusions

- Slovenia adopted the legislation in line with the standards laid down by the EU Directives. However, given that only minimum standards are set, national legislation could be more comprehensive, more specific and more in line with criminal law traditions in Slovenia.
- Criminal prosecution is waived in nearly all cases where environmental damage has been remediated and all costs incurred are met. In order to deter (possible) criminals from environmental crime, the Slovenian authorities, at least, should bring the most serious cases before a court.
- Guidelines should be brought to the attention of the IRSOP so that there is a distinction made between minor offences and waste crime. The IRSOP's uncertainty about the threshold seems to be an obstacle to the prosecution of a significant part of (at least minor) waste crimes. It may cause friction in respect of the *ne bis in idem* principle.
- The use of tracking, such as the tapping of a telephone, is not applied when environmental crimes are not linked to serious crimes such as organized crime. The advice of the evaluation team is to apply this in the case studies.
- The role of the NGOs could be enhanced by giving them more scope for legal action. This is particularly relevant given that they often have useful specialist knowledge. To ensure that such legal action is effective, they could be subject to accreditation by the state.
- There is a need for additional human, financial and technical resources to detect environmental crime.



## 6. COOPERATION

### 6.1. International cooperation

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

In cross-border cases of waste crime, Slovenia has not developed or defined specific provisions or guidelines for cooperation. As a rule, the authorities try to establish contact through international police cooperation and specifically with the competent police units in the location where an incident occurs. International cooperation with non-EU states can be challenging for the Slovenian authorities. It appears that there is no proper or adequate cooperation with Eastern countries. This was, in particular, the case with the Ukrainian and Belarussian authorities.

The police reported that they cooperate with neighbouring countries through work shadowing initiatives in such countries as Austria and Germany. However, this is rare. A cross-border cooperation case with Italy dates back three or four years. This concerned waste transit from Italy that was routed via Slovenia (Koper freeport) to China. More often, foreign states file cases with the IRSOP.

The prosecutors' representative stated that the EPPO project could facilitate mutual cooperation in waste crime cases with other Member States.

Rogatory letters on mutual assistance in criminal matters were believed to be reasonably effective. However, representatives of the judges and prosecutors did not provide the evaluation team with statistics.

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

Slovenia does not have a special contact point that deals exclusively with waste.

When handling cases, police use routine channels for international police cooperation, i.e. the Interpol I/24 channel or Europol SIENA. They use various databases when investigating criminal offences. These include the Europol EIS database and other to monitor corporate entities.

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

The VDT did not report any specific issues as regards offences of an international nature. Consequently, it is not possible to highlight specific practical difficulties in this area regarding waste crime.

The police reported difficulties in solving cases involving waste brokerage agencies located in other states. The same applied to chains of waste companies or shell companies.

With regard to ELVs sent to Slovenia and destined for African countries, there were tightened controls in the Koper freeport. However, in the past it was not possible to cooperate with governments in Africa in this regard, as rogatory letters sent by Slovenian LEAs were not answered, for instance, in a case concerning Nigeria. However, the Slovenian authorities declared that in recent years Customs did not have to deal with such cases.

### *6.1.4. Operational performance of JITs in waste crime*

To date, Slovenia has not participated in JITs in the field of cross-border shipments of waste.

## 6.2. Cooperation with EU Agencies and networks

### 6.2.1. Cooperation with Europol and Eurojust

Cooperation with both Europol and Eurojust was considered to be very good. However, Slovenia has not cooperated with Europol in waste crime cases.

Slovenian police is an active Europol EMPACT EnviCrime platform member as well as an EnviCrime-net member. Slovenia is a regional cooperation partner in this area and takes part in Life Smart Waste Project (toolkit Horizon Scanning).

As regards Eurojust, Slovenia has referred two operational environmental crime cases to Eurojust since 1 January 2004. Both cases are already closed. The cases were bilateral, i.e. between Slovenia and another country (in one case a Member State and in the other case a third State).

The case with the Member State concerned illegal waste trafficking. The case with the third state concerned illegal trafficking of protected animal species.

The cases were referred to Eurojust so as to enhance cooperation, coordination and the exchange of information between the countries concerned on any ongoing investigations and prosecutions, including the transfer of proceedings, the execution of an MLA request and resolution of the double criminality issue.

As the requested party, Slovenia was involved in seven operational environmental crime cases over the same period. Five cases are currently ongoing and the other two are already closed. All the cases, except one, are multilateral.

Most of the cases (five) concern air pollution. One case concerns trafficking in protected plant species, and another one (the bilateral case) concerns illegal waste trafficking.

The cases were referred to Eurojust so as to enhance cooperation, coordination and the exchange of information between the Member States and third states concerned. In one case, OLAF was involved in relation to ongoing investigations and prosecutions.

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

The police are involved as a member of the Environmental Crime Network (EnviCrimeNet), but the role of EnviCrimeNet has become less important over the past year, owing to the prioritisation of environmental crimes within the Policy Cycle and the establishment of the Analytical Project EnviCrime in Europol.

The IRSOP is the coordinator for the Republic of Slovenia in the IMPEL network. Representatives of the IRSOP are active members of individual expert groups (e.g. deputy head of the expert group for nature conservation, member of the administrative board of the expert group on waste and TFS) and in other projects. They also participate in various workshops and conferences.

In addition, representatives of the MOP and the Slovenian Environment Agency also attend seminars and workshops, and are involved in other bodies initiatives, depending on the topic that is dealt with at these events. Within these projects and workshops, they acquire a great deal of knowledge and experience that they transfer to their colleagues and use in their work.

### **6.3. Cooperation between the Slovenia and Interpol**

Cooperation with Interpol is mainly with third countries. No additional information was provided.

### **6.4. Cooperation with the private sector**

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

There is an anonymous telephone line that the private sector can use to report incidents involving waste crime. In addition, a web application is also available enabling members of the public to report anonymously incidents involving environmental crime.

The police reported that there is a need to improve cooperation with the private sector in this regard.

As far as the questions in the questionnaire are concerned, the evaluation team did not learn of any follow-up on NGOs. Where NGOs can be trusted and could help the IRSOP which works under time constraints, evidence gathered by NGOs cannot always be used in court.

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

The private sector is not necessarily liable in the event that information is not passed on to law enforcement agencies. Legislation does not place the private sector under an obligation to pass on data, unless this is requested by law enforcement authorities.

#### *6.4.3. Experience of cooperation with the private sector*

Slovenia did not report any specific difficulties as regards cooperation with the private sector. However, the police authorities stated that they intend to enhance cooperation with the private sector.

### **6.5. Conclusions**

- Slovenia appears as a transit country for waste shipments, that requires a high level of international cooperation, in order to avoid that criminals may consider Slovenia an easy gateway for illegal waste transfer.
- The evaluation team suggests that closer cooperation with EU agencies and networks could help identify and risk-assess transit routes of hazardous waste through Slovenia. Such cooperation could help detect many more cases and combat the phenomenon more effectively.
- There is a need for greater cooperation between the authorities and the private sector. Such cooperation works very effectively in other Member States.
- The provision of an anonymous telephone line enabling the private sector to report on instances of waste crime and the running of a web application enabling members of the public to report anonymously instances of environmental crimes are to be considered best practices.

## 7. ILLEGAL TRAFFICKING OF WASTE

### 7.1. National structure

#### *7.1.1. Authorities involved in preventing and combating illegal waste shipments*

In accordance with the Decree transposing the Waste Shipment Regulation, the IRSOP, the police and the Financial Administration of the Republic of Slovenia are responsible for supervising cross-border shipments of waste (<http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED6518>). The tasks of individual bodies are defined in Article 15 of the Decree. The inspection of facilities and businesses is carried out by the IRSOP in accordance with its competences, and all supervisory authorities participate in coordinated control actions.

The IRSOP does not have inspectors specialised in this area, but an expert group on cross-border shipments of waste has been set up informally. A member of the Service is a National Contact Point (NCP) within the IMPEL in the field of cross-border shipments of waste.

The IRSOP manages the coordination of the enforcement authorities and the coordination of joint inspections with the police and the Customs. It facilitates cooperation in preventing and investigating illegal shipments of waste on a bilateral or multilateral level in accordance with Art. 50(5) of the Waste Shipment Regulation and the adoption of inspection measures based on the requirements of other EU Member States in accordance with Art. 50(7) of the Waste Shipment Regulation.

### *7.1.2. Detection of illegal shipments of waste*

In order to fight illegal trafficking of waste, the IRSOP carries out on-site inspections in entities/companies in accordance with Art. 50(2) of the Waste Shipment Regulation and random checks on shipments of waste or on the related recovery or disposal. When doing so, the IRSOP has to decide whether the shipment is illegal according to the regulations.

However, as previously mentioned, only the police carry out 24/7 supervision while the IRSOP can only be reached during office hours.

In addition to the Police, FURS staff at the border crossings (port of Koper, Brnik Airport) and mobile department employees carry out work tasks all year round. Employees of mobile departments perform work in an unevenly distributed working time, depending on the specific implementation of the planned activities at different time periods and / or at different locations. However, as mentioned before, IRSOP's expert knowledge is only available to the Police and FURS during its working times.

Consultations with neighbouring countries are held at least once a year to exchange information and data. Individual cases are also discussed as needed.

What is experienced as a problem is that, when an inspection is carried out, by law, only two hours from notification of suspicion of illegal shipment are allowed to decide if a shipment is illegal or not, and if no clear evidences were found within this timeframe, the shipment must be released.

A dilemma often arises as to whether waste is or is not dangerous, whether a certain thing is or is not waste, whether the companies actually involved are included in the shipment of waste as per the documentation etc.

The police, with their 24/7 presence in the field, detect possible illegal shipments of waste. Slovenia also cooperates well with neighbouring countries in the field of illegal waste shipments, and has contacts with all neighbouring countries experiencing this type of crime. They meet at least once a year to exchange information and data and present current cases under investigation.

### *7.1.3. Specificity of the illegal shipments of waste*

The route through Slovenia from East to West, i.e. from Italy to Eastern Europe and to the Balkans, seems to be a typical transit route for (il)legal waste shipments. In particular, scrap metals for reuse are transported through this route, but also plastic waste, which is exported to Eastern Europe through Croatia. The latter is considered by the police to be a result of China's ban on imports of plastic waste.

Generally, illegal shipments of waste are organised by groups or individuals within companies that want to dispose (recycle) of waste in the simplest possible and least expensive way.

The general procedure for illegal shipments of waste is that illegal consignments transported via road, waterways, rail and air freight are opened and inspected. Violations can only be detected by proactive inspections.

During these inspections, the transport documents are checked. The most common violations can be detected from these documents. Waste flow numbers sometimes do not match. Whether that is done consciously or unconsciously is difficult to ascertain. Detecting violations is not always easy because a check has to be completed within two hours

Generally, companies' documents are in order in accordance with the law. The problem is if a single illegal shipment is encountered, but then no other shipments, because it is difficult to prove that waste was shipped illegally in the past when you have a certain amount of waste in a certain place but data no longer exists.

The lack of adequate records for green waste was identified as an issue. In recent years, brokers sending shipments of waste have been organised in chains, and there is a problem with obtaining documents in the chain to locate the initiator. To mask the source of the waste, several brokers from a number of countries, purporting to trade waste, are involved in waste shipments. The documents change, but in reality the waste is transported from the producer to the destination without stopping and without the interim recovery or recycling which is indicated in the documentation. Slovenia has also encountered the emergence of mailbox companies and fictitious persons sending waste. Determining the source of waste in such cases is very difficult.



The IRSOP prepares and updates a handbook in order to facilitate the joint inspection work and cooperation. It also implements other activities to prevent illegal activity in the field of trans frontier shipments.

#### *7.1.4. Measures on shipment of waste*

The Waste Directive (2008/98/EC) provides the guiding policy principles for achieving effective and environmentally friendly waste management. The IRSOP reviews notifications and, in particular, assesses whether they comply with the rules laid down in the Waste Shipment Regulation. The IRSOP supervises shipments by means of regular inspections. The IRSOP carries out routine on-site inspections covering producers or holders of waste, collectors, brokers, dealers, carriers and all other entities dealing with waste. Additionally, the IRSOP carries out non-routine inspections. These inspections are initiated by reports received from market participants and the public. They include information from other national enforcement authorities and from foreign enforcement authorities as well.

Compliance with the rules for the transport of hazardous substances is then assessed. The transport documents are also checked to see if the physical load, the processing method and the final destination correspond with the documents.

The shipments are accompanied by the relevant documentation according to the recovery/disposal operation and depending on the type of waste (non-hazardous, hazardous). Before issuing consents, it is verified that the plants have appropriate environmental permits; sometimes the competent authorities are also requested to verify whether the consignment has been recovered in the facility named in the documentation.

The IRSOP has an agreement on cooperation in the supervision of cross-border waste shipments. A departmental working group has been set up to combat waste crime.

Joint inspections in cooperation with Customs and the police include administrative and physical checks (on roads, railways, ports and border crossings) and are carried out about 20 – 25 times per year.

Domestic authorities also carry out joint inspections with the authorities of neighbouring countries such as Austria, Croatia and Hungary.

Inspections generally focus on trucks and containers.

## **7.2. Inspections**

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

Supervision and inspection by the IRSOP focuses on waste prevention, sustainable production, recovery and collection and processing of waste streams including hazardous waste. Companies that want to transfer or import waste report to the MOP. The IRSOP, police and Customs check whether carriers have these certificates. Inspections are carried out throughout the country. The inspections take place mainly in the seaport of Koper and on the national roads. Customs can also use the Export Control System (ECS) for waste shipments. They also benefit from other customs systems (ICS, SICIS, risk analysis system) There is an agreement to improve cooperation, such as exchanging data.

Sampling is done by the MOP. In the event of non-compliance with the rules, the MOP may carry out administrative interventions.

The methods used during the inspections are verification of documentation for cross-border shipments of waste, verification of waste received/sent etc.

Joint inspections typically start with a notification from the IRSOP of its intention to carry out a joint inspection. Police and Customs then send back information on contact persons and their participation. Before the joint inspection is carried out, an initial meeting is held to agree the objective and how to conduct the inspection. Then the inspection takes place. Subsequently, in a final meeting, the findings are discussed and the operation is evaluated. Lastly, a report on the inspection is drafted and sent to the participants.

The detailed method of conducting an inspection follows the Waste(s) Watch handbook and the principles laid down in the WatchIT application, to which reference is made.

The FURS currently has only a mobile scanner (x-ray scanner Nuctech THscan) that has been in use in Koper since 2009. The scanner carries out reviews of goods in the context of product reviews based on systemic risk analysis, risk analysis for security purposes, as well as upon the initiation of a transit, import or export declaration, on the occasion of the initiation of a transit, import or export declaration, on the basis of a decision of the competent customs officials. Mobile departments used the Heimann Silhouette Scan 300 kV scanner during the period from 2010 to 2018 to carry out control of freight vehicles on the road network and at the border crossings, which was taken off use last year.

When conducting inspections, persons may be held in detention for not more than six hours. However, this limitation does not apply to those suspected of criminal offences.

If the inspection authorities detect irregularities, the shipment is temporarily detained until the competent authorities decide. Cooperation takes place at the national level through the provision and exchange of information. The procedure is described in the Rules of Procedure for the Control of Transboundary Shipments of Waste, which was revised last year and is used by the supervisory authorities for assistance when implementing controls.

The IRSOP, which is the competent authority for the field of cross-border shipments of waste, cooperates with foreign competent bodies.

In 2016, 217 inspections were conducted; 26 inspection measures were issued and four minor offence procedures were initiated; in 2017, 178 inspections were conducted; 25 inspection measures were issued and six minor offence procedures were initiated; in the first half of this year 114 inspections were conducted, six inspection measures were issued and three minor offence procedures were initiated.

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

Slovenia does not have specific inspection activities and analysis on WEEE. Companies that deal with WEEE are obliged to report annually to the Slovenian Environment Agency on the quantities recovered and the quantities sent for recovery abroad.

Slovenia has recorded some illegal shipments of waste in recent years, and cases of illegal treatment include in particular natural persons treating end-of-life vehicles without proper permits. Specifically, in 2017 Slovenia detected 16 illegal shipments, in 2018 11 illegal shipments. IRSOP also has some cases of illegal dismantling of ELV.

Companies or legal entities that have acquired environmental permits largely comply with the provisions of the permits or regulations.

### *7.2.3. First inspection plan*

The IRSOP is in charge of preparing the inspection plan for the enforcement authorities in accordance with Art. 50(2a) of the Waste Shipment Regulation, which must be reviewed every three years and updated as necessary.

When drawing up an inspection plan, the interministerial working group collects data and exchanges information in the field of TFS of waste.

The first inspection plan was adopted on 14 December 2016 ([http://www.iop.gov.si/fileadmin/iop.gov.si/pageuploads/5\\_O\\_INSPEKTORATU/Porocila\\_in\\_nacr\\_dela/Letni\\_nacrt\\_dela\\_2018.pdf](http://www.iop.gov.si/fileadmin/iop.gov.si/pageuploads/5_O_INSPEKTORATU/Porocila_in_nacr_dela/Letni_nacrt_dela_2018.pdf)).

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

The main challenges encountered with regard to the taking back of illegal waste shipment to the state of origin are the responsiveness of competent authorities of other countries and the responsiveness of entities responsible for illegal shipments.

### 7.3. Conclusions

- The evaluation team identified the lack of a strategic approach involving all the authorities, which could be more effective in preventing, detecting and fighting waste crime.
- The multi-agency practical approach to carrying out inspections on the road is a good practice.
- The absence of a formal procedure for cooperation among the relevant authorities was identified, as well as problems related to the different, unshared databases.
- As regards the waste disposal sector, the level of controls on waste exports and waste transiting could be improved.
- The evaluation team takes the view that cross-border waste crime could be tackled more effectively by enhancing the quantity of training provision, the number of routine road inspections and the number of available inspectors in all the authorities.
- A problem was identified with regard to the lack of IRSOP officials on duty outside of working hours, as the IRSOP has no on-call service.
- Koper is a seaport where considerable effort is devoted to export inspections. This is not sufficiently focused on the export of waste. There is a problem with illegal export of waste (AEEE) and discarded cars and of course other waste. It is therefore important that on-the-spot checks are carried out with an emphasis on the export of such types of waste.
- Since Customs is an important player in this area, training with regard to suspicious transfers is necessary in order for the responsible inspectors to acquire the knowledge to carry out this task.

## 8. MANAGEMENT OF HAZARDOUS WASTE

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

Dangerous chemicals are defined in the Chemicals Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 110/03 – official consolidated version, 47/04 – ZdzPZ, 61/06 – ZBioP, 16/08, 9/11 and 83/12 – ZFfS-1).

Hazardous chemicals are substances or mixtures which meet the criteria for physical hazards, health hazards or environmental hazards as defined in Annex I of Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on the classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1 (hereinafter: Regulation (EC) No 1272/2008)).

In cases of uncertainty in determining the hazards of a substance, the Slovenian authorities use established laboratories, either the National Forensic Laboratory or other relevant laboratories.

The IRSOP supervises the processing of waste. The IRSOP as competent authority is responsible for issuing permits to companies that want to export their waste abroad. The IRSOP inspects companies (targeted inspections) to ensure that waste is treated according to the rules. There are regular discussions about whether or not materials are waste. The burden of proof lies with the inspectors. In many cases, incorrect waste designations - intentional and unintentional - are detected.

In order to ensure traceability from production to final destination and the control of hazardous waste, electronic records of internal traffic (waste IS) are kept. In the case of cross-border shipments of waste, consents must be obtained for the shipment of waste and the relevant documents on the recovery/disposal of hazardous waste must be approved.

The Slovenian authorities mentioned in their answers to the questionnaires that illegal shipments of hazardous waste, as well as other environmental crimes in connection with hazardous waste, facilitate work for the police since the danger of such offences is greater and, therefore, it is also easier to prove the threat to the environment and human health.

On the contrary, the evaluation team points out that great danger provoked by hazardous waste does not imply necessarily obvious evidence of the damage. In fact, the Slovenian authorities also stated that it is difficult to prove a danger if the damage to the environment will occur in distant future, though the waste is hazardous.

There have been examples of cross-border shipments of waste when waste that exhibited hazardous characteristics was shipped without properly obtained consents for cross-border shipments of waste.

Although it seems that the Slovenian authorities act according to EU law, no proper risk analysis based on the waste disposal codes and on the dangerous substances codes is carried out.

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

The IRSOP is responsible for periodic inspections in Slovenia that are planned in advance with the annual work programme.

The overall number of installations inspected is about 10 000.

Companies which have possible impact on the environment are classified into three categories, one including two subcategories. Those which pollute the environment more or/and potentially pose a serious risk to the environment are inspected every year:

- 1) IED: 200 installations (inspected from one to three years, depends on risk assessment);
- 2) SEVESO:
  - a) upper tier: 31 installations (every year);
  - b) lower tier: 31 installations (every three years).

To place entities into categories, the IRSOP uses the IRAM (Integrated Risk Assessment Method) tool developed by IMPEL.

The frequency of inspections is determined in accordance with the provisions of the IED Directive and the Waste Shipment Directive.

Where a waste crime has been committed, the IRSOP does not take samples since the police is the only responsible authority.

Though both are branches of the MOP, there is no common or shared database of permit documents for the IRSOP and the MOP department (Environment agency) which issues permits. However, there is an obligation to exchange data between the two departments.

The MOP reported that it is facing problems with inadequate reporting of hazardous waste. Inter alia, postponement of required reporting, non-reporting and inaccurate reports all occur. To date, there is no risk assessment concerning companies handling hazardous waste.

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

All companies involved in recovery/disposal of both non-hazardous and hazardous waste must obtain environmental permits from the Slovenian Environment Agency, which defines the conditions and methods for the recovery of waste in a manner that is safe for both health and the environment. Collectors, dealers, brokers and carriers of waste also must be registered in the appropriate waste management registers at the Slovenian Environment Agency. The conditions for registration and obligations are laid down in the Decree on waste. The IRSOP, within the framework of periodic and non-periodic inspections, supervises stakeholders dealing with waste.

Electronic records of internal traffic (waste IS) are kept, and in the case of cross-border shipments of waste, consents obtained for the shipment of waste and approved movement documents on the recovery/disposal of hazardous waste.

In case of major incidents the IRSOP provides initial expert input and lists the threats and (if required and necessary) the evacuation perimeter; data is exchanged between the Ministry of Defence's civil protection board and a joint task force.

Additionally, prevention measures are suggested and a mobile ecological unit can be provided.



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

The police state that they have the technical resources to analyse and secure hazardous waste.

No specific trend was reported except the problem of trading in spent car batteries. The difference in the purchase price in different EU countries encourages perpetrators to send hazardous waste across the EU for a few thousand euros of profit.

#### **8.5 Conclusions**

- Although it seems that the Slovenian authorities act according to EU law, no proper risk analysis based on the waste disposal code and on the dangerous substances code is carried out. Developing and executing a proper risk analysis based on the codes is recommended.
- There are no guidelines that distinguish between different types of waste in order to facilitate the work of all the authorities involved.
- In the absence of a standardised procedure for cooperating, the evaluation team consider that the cooperation among all relevant authorities could be improved.
- Currently no common database for the IRSOP and the MOP department (Environment Agency) which issues permits exists.
- The police do not have direct access to the IRSOP's database.

## 9. ILLEGAL PRODUCTION OF HANDLING OF HAZARDOUS MATERIALS

### 9.1. The concept of hazardous materials

Hazardous chemicals are defined in the Chemicals Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 110/03 – official consolidated version, 47/04 – ZdZPZ, 61/06 – ZBioP, 16/08, 9/11 and 83/12 – ZFfS-1).

Hazardous chemicals are substances or mixtures which meet the criteria for physical hazards, health hazards or environmental hazards as defined in Annex I of Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on the classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1; hereinafter: Regulation (EC) No 1272/2008).

The criminal offences related to hazardous substances are:

#### ***Transporting or Carrying Explosive or Dangerous Substances contrary to Regulations – Article 319***

Whoever, contrary to regulations on the transportation of explosive and other highly-inflammable substances or other hazardous substances or waste, transports such materials and substances, or hands them over for shipment by any means of public transport, or carries them himself by using any means of public transport shall be fined or sentenced to imprisonment for not more than one year.

#### ***Causing Public Danger – Article 314***

(1) Whoever endangers human life or property of substantial value by means of fire, flood, explosion, poison or poisonous gas, ionising radiation, mechanical force, electricity or other forms of energy, or by other means of causing public danger, or by an act capable of causing public danger, or by the omission of an act he was obliged to perform in order to protect the general safety of people and property shall be sentenced to imprisonment for not more than five years.

(2) Whoever plans, tries to carry out, or carries out a dangerous act whereby human safety or property of considerable value is or would be endangered, by using explosive materials or by other dangerous act and means, with the intention of blackmailing, intimidating, inducing to perform or to omit to perform another act, for the purpose of revenge, or procuring any tangible or intangible benefit for himself or another shall be sentenced to imprisonment for not less than one and not more than eight years.

(3) If the offence under paragraph one is committed through negligence, the perpetrator shall be fined or sentenced to imprisonment for not more than one year.

(4) If the offence under paragraphs one, two or three of this Article causes grievous bodily harm to one or more persons, or a substantial damage to property, the perpetrator shall be sentenced to imprisonment for not more than ten years for the offence under paragraphs one and two, while for the offence under paragraph three, he shall be sentenced to imprisonment for not more than five years.

(5) If the offence under paragraphs one, two or three of this Article causes the death of one or more persons, the perpetrator shall be sentenced to imprisonment for not less than one and not more than fifteen years for the offence under paragraph one, and for the offence under paragraph two to imprisonment for not less than fifteen years, while for the offence under paragraph three, he shall be sentenced for not more than eight years.

### ***Unlawful Handling of Nuclear or Other Dangerous Radioactive Substances – Article 334***

(1) Whoever breaches regulations or technical rules on safety measures by accepting, possessing, using, passing on, modifying, disposing of, discarding, making available to obtain, spreading, producing, treating, storing, transporting, importing, exporting or removing nuclear substances or other dangerous radioactive substances, which could result in death or grievous bodily harm, or significant damage to property, or substantial actual harm to the environment shall be sentenced to imprisonment for not more than five years.

(2) If the offence under the preceding paragraph causes grievous bodily harm or significant damage to property, or substantial actual harm to the environment, the perpetrator shall be sentenced to imprisonment for not less than six months and not more than eight years.

(3) If the offence under paragraph one of this Article causes the death of one or more persons, the perpetrator shall be sentenced to imprisonment for not less than one and not more than twelve years.

(4) Whoever acquires nuclear substances by means of larceny, robbery, concealment, misappropriation, fraud, abuse of position or authorisation, threat or the use of force, or other method of intimidation shall be sentenced to imprisonment for not less than one and not more than ten years.

(5) If an offence targeting a nuclear facility or an offence that interferes with the operation of a nuclear facility causes grievous bodily harm or the death of one or more persons, or significant damage to property, or substantial actual harm to the environment as a result of exposure to radiation or the release of radioactive substances, the perpetrator of these offences or whoever causes the risk of any of these consequences occurring shall be sentenced to imprisonment for not less than one and not more than fifteen years.

(6) Whoever threatens to use nuclear substances in such a way as to cause grievous bodily harm or the death of one or more persons, or significant damage to property, or substantial actual harm to the environment, or to commit an offence referred to in paragraph four or five of this Article in order to compel any natural or legal person to perform or omit to perform any act shall be sentenced to imprisonment for not more than fifteen years.

(7) If the offence is committed out of negligence, the perpetrator of the offence referred to in paragraph one of this Article shall be sentenced to imprisonment for not more than three years, for the offence referred to in paragraph two of this Article, to imprisonment for not less than six months and not more than five years, and for the offence referred to in paragraph three of this Article, to imprisonment for not less than one and not more than eight years.

(8) If an offence under paragraphs one, two, three, four, five or six of this Article is committed in a criminal organisation for the commission of these offences, the perpetrator shall be sentenced to imprisonment for not less than one and not more than fifteen years.

### ***Terrorism – Article 108***

(1) Whoever with the intention of destroying or severely jeopardising the constitutional, economic, social, or political foundations of the Republic of Slovenia or another country or international organisation, to arouse severe fright among the population or to force the Government of the Republic of Slovenia or another country or international organisation to do or stop doing something, acts or threatens to act in one or more of the following ways:

- assault on life or body or human rights and freedoms,
- taking hostages,
- considerable destruction of state or public facilities or representations of foreign states, transport system, infrastructure, public places or private property,
- unjustified interference with the information system, which seriously impedes or interrupts its operation by entering, transmitting, damaging, deleting or modifying data or by preventing or disabling access to data, causing serious damage or having been carried out by using a computer software, passwords or access codes designed or adapted for the purpose of committing an offence, or unjustified interference with the critical infrastructure information system which constitutes a serious impediment to, or interruption to, its operation by entering, transmitting, damaging, deleting or modifying data or preventing or disabling access to data,
- unjustifiably deleting, damaging or modifying data in critical infrastructure information system, or preventing or disabling access to such data,

- capturing or taking control of a fixed platform in the continental shelf by force or threat or other form of intimidation, or violently behaving against a person on the platform if such action threatens that person's safety, or by destroying a fixed platform in the continental shelf or causing damage thereto which can threaten its safety, or installing a device to destroy a fixed platform or endanger safety thereon, or injuring or causing the death of a person in connection with any of the aforementioned offences,
- hijacking of an aircraft, vessel, means of freight transport or public transport,
- production, possession, acquisition, transport, supply or use of weapons, explosives, nuclear, biological or chemical weapons,
- research and development of nuclear, biological or chemical weapons,
- endangering safety by releasing hazardous substances or causing fires, floods or explosions,
- disturbance or termination of supply of water, electricity or other basic natural resources for people which could endanger human life

shall be sentenced to imprisonment for not less than three and not more than fifteen years.

(2) Any person who wishes to achieve the purpose referred to in the preceding paragraph by using or threatening to use a nuclear or other radioactive substance or device, by damaging a nuclear facility to release radioactive substance or enable its release, or who by threatening or using force, demands nuclear or other radioactive substance, device or nuclear facility shall be sentenced to imprisonment for not more than fifteen years.

(3) Whoever prepares for, or helps to prepare for, the commission of the criminal offences referred to in the preceding paragraphs by unlawfully acquiring or making available the required material means to commit these criminal offences, or by blackmailing coerces someone else into participating in these criminal offences, or whoever falsifies official or public documents required to commit these criminal offences or uses such documents shall be sentenced to imprisonment for not less than one and not more than eight years.

(4) If the offence under paragraph one or two of this Article causes the death of one or more persons, the perpetrator shall be sentenced to imprisonment for not less than eight and not more than fifteen years.

(5) If the perpetrator in committing an offence under paragraph one or two of this Article intentionally takes the life of one or more persons, he shall be sentenced to imprisonment for not less than fifteen years.

(6) If the offence under paragraph one or two of this Article is committed by a criminal organisation or group which intends to commit the criminal offences (hereinafter, terrorist criminal organisation or group) specified in these paragraphs, the perpetrator shall be sentenced to imprisonment for not less than eight and not more than fifteen years.

(7) Whoever participates in a terrorist criminal organisation or group which intends to commit the criminal offences under paragraphs one two, four or five of this Article shall be sentenced to imprisonment for not more than eight years.

(8) Whoever establishes or leads a criminal organisation as referred to in the preceding paragraph shall be sentenced to imprisonment for not less than fifteen years.

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

The Criminal Code defines the criminal offences concerning hazardous substances.

The Slovenian police have dealt with several cases of unauthorised possession of hazardous chemical, biological, radiological and nuclear (CBRN) substances, incorrect storage and causing a danger to the public with such substances.

### 9.3. Procedural aspects

#### 9.3.1. *Means of collecting evidence and of handling dangerous materials*

The cases are recorded in the same way as other criminal offences. All evidence required to properly prosecute the perpetrator of the criminal offence is collected. If a case relates to foreign countries, Slovenia notifies the countries concerned and Europol via the Secure Information Exchange Network Application (SIENA). The Slovenian Nuclear Safety Administration, in accordance with its own authorisations, informs the International Atomic Energy Agency (IAEA) via the Incident and Trafficking Database (ITDB) at the end of the criminal investigation.

The seizure of hazardous substances is regulated in the penal code. Seized dangerous materials are stored or destroyed according to the hazard. The costs related to the execution of pre-trial investigations are borne by the police. Depending on the substance, analyses are performed by the National Forensic Laboratory and/or other institutions. Slovenia has agreements with various institutions for the analysis of substances. The pre-trial investigation is conducted by the police. Measures to prevent hazards are taken by the Administration for Civil Protection and Disaster Relief, based on national response plans for dealing with threats.

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

See paragraph 6.3.1.

#### 9.3.3. *Techniques of investigation*

The main investigation techniques used are inspections. These inspections are carried out by Customs because explosives and radioactive material fall under its remit. The same applies to hazardous chemicals, ozone-depleting substances and genetically modified organisms. Additional control measures include research on the Customs intranet site, drafting instructions and guidelines, information exchange, particularly on statistics, and research in the database, risk assessment (by the risk management system, based on intelligence) and cooperation with national and international working groups.



In cases of uncertainty in determining the hazards of a substance, the relevant authorities use previously identified laboratories, which may be either the National Forensic Laboratory or another appropriate laboratory.

If a financial or cyber investigation is needed, police experts in these fields are included in the investigation.

#### *9.3.4. Main obstacles to successful investigation and prosecution*

The Slovenian authorities reported that they had not encountered major problems in dealing with such cases. This is probably due to the very low number of cases. The greatest challenge is to safely dispose of hazardous substances, which is usually done by the explosive ordnance disposal (EOD) department of the Special Unit.

However, the evaluation team considers that problems could arise due to insufficient cooperation between supervisory and enforcement authorities. There must be more of an integrated approach. Knowledge and information about (hazardous) waste and its transport are essential for combating environmental crime.

#### *9.3.5. Training*

The police, as the operator in the field, organises training events every year on the topics of prevention, detection, response and investigation of cases of illegal use, possession and sale of CBRN materials.

However, the evaluation team considers that training for enforcement authorities could be enhanced by making it mandatory.

#### 9.4. Conclusions

- The officials in charge of the supervision, enforcement and detection of environmental violations are insufficiently specialised.
- There is insufficient training related to illegal production and handling of dangerous materials.
- Within the various authorities there are no specialists in environmental tracing such as analysts, technical and legal specialists, digital specialists, forensic accountants, or strategic advisors in the area of collecting and processing information.
- There is insufficient information exchange between different agencies.

## **10. FINAL REMARKS AND RECOMMENDATIONS**

### **10.1. Suggestions from Slovenia**

The shipment of green listed waste within the EU is a problem. The green listed shipments are used to mask the transport of waste that must fulfil prior written notification.

It's also impossible to track the green listed waste shipments and the procedure could be easily abused. Slovenia Authorities propose to set up an integral EU portal for collecting data on green listed shipments of waste that must be filled when a shipment start.

### **10.2. Recommendations**

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

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

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

### *10.2.1. Recommendations to Slovenia*

1. Waste crime should be clearly identified as a national priority at political level, leading to the establishment of a national enforcement strategy involving all relevant authorities.
2. Interministerial cooperation should also involve the Ministry of Justice, prosecutors and judges, which are - as yet - not involved.
3. Prosecutor offices should prioritise the fight against waste crime as it is a priority for the EU and for the Slovenian police.
4. Common guidelines should be drafted for law enforcement agencies and prosecutors in order to avoid the ineffectiveness caused by the different priorities of the authorities involved in the fight against waste crime.
5. More formalised and systematic cooperation should be achieved at operational level.
6. Regular meetings of prosecutors and investigative judges with representatives of the IRSOP as well as their involvement in joint training should be ensured.
7. Central guidelines should be issued to resolve any difficulties in interpreting the waste classification system.
8. The establishment of a workable shared database, or at least of a better system for sharing information, is recommended. Exhaustive statistics including all relevant information should be kept by all the relevant authorities.
9. It is recommended that each authority provide more training to its staff and build on cross-cutting training established through close cooperation between the IRSOP, the police and Customs, as well as some prosecutors and judges involved in this sector.
10. It is recommended to set up a specialist environmental unit at the police or, at least, to ensure that the officials assigned to this task, even if dealing with different crimes, give priority to environmental crime.

11. Specialised police should also be established at local level, while the majority of inspections on the road could be implemented by local police.
12. Special investigative measures should be used for waste crime offences.
13. It is recommended to enhance the number of legal advisors working in the IRSOP and to provide more legal training to officials.
14. An on-call service should be established at the IRSOP.
15. Guidelines should be drafted in order to clarify the distinction between waste crimes and administrative offences. In the meantime, inspectors are encouraged to report the case to the police whenever they are not able to assess if it is a crime or an administrative offence.
16. Systematic inspection schemes for plants and facilities handling hazardous waste should be established on the basis of a prior risk assessment.
17. It is strongly recommended to enhance controls on waste transit through Slovenia in the interest of the single market.
18. Border controls and harbour inspections should be implemented more systematically.
19. Deeper cooperation should be achieved with the neighbouring countries' authorities, as well as with countries in western Africa and the Far East directly concerned by waste trafficking.
20. The role of NGOs could be strengthened, in particular by giving them more possibilities for jurisdictional actions and a more substantial role in shaping public policies.

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

1. Other Member States should consider establishing a register of environmental liability cases to prevent infringements of environmental law.
2. The application 'Watch it' developed by the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) should be more widely used.
3. The obligation to affix the letter A to lorries freighting waste should be generalised as a standard.

*10.2.3. Recommendations to Eurojust/Europol/the Commission*

Europol should have multiple contact points for each country given that contact is needed not only with the police but also with other government organisations responsible for combating environmental crime.

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

**23 October 2018, visit to the police**

Location: Litostrojska cesta 54, 1000 Ljubljana

09.00	Address by the Director of the Criminal Police Directorate
09.15	Presentation of the participants
09.30	Police work in the field of environmental crime
13.00	Lunch
14.00	Police work in the field of environmental crime
15.30	Departure for the hotel
16.00	Evaluation team meeting

**24 October, visit to MOP and IRSOP**

Location: Dunajska cesta 48, Ljubljana

09.00	Presentation of the participants
09.15	MOP tasks in the system of combating the illegal trade in waste
10.00	Presentation of the IRSOP's work
13.00	Lunch
14.00	Continuing with the work of the IRSOP
15.30	Closing of the visit to the MOP and the IRSOP, departure for the hotel
16.00	Evaluation team meeting

## 25 October 2018, visit to MP, VDT and FURS

Location: Litostrojska cesta 54, 1000 Ljubljana

09.00	Presentation of the participants
09.15	Tasks of the MP in the fight against the illegal waste trade
09.30	Presentation by the prosecutor's offices and courts for the prosecution of environmental crime; meeting with a judge from the Supreme Court
12.30	Lunch
13.30	Meeting with FURS
14.30	Departure for the hotel
15.30	Evaluation team meeting

## 26 October 2018, conclusions of the evaluation

Location: Litostrojska cesta 54, 1000 Ljubljana

09.00	Final meeting with all the participants
11.30	Departure



## ANNEX B: PERSONS INTERVIEWED/MET

*Venue: Ministry of the Interior – Police – General Police Directorate*

<b>Person interviewed/met</b>	<b>Organisation represented</b>
Benjamin Franca	Criminal Police Directorate
Ursula Belaj	Criminal Police Directorate
Bostjan Lindav	Criminal Police Directorate
Alojz Sladic	Uniformed Police Directorate

*Venue: Ministry of Environment and Spatial Planning*

<b>Person interviewed/met</b>	<b>Organisation represented</b>
Bernarda Podlipnik	Ministry of environment
Vladimir Kaiser	Inspectorate for Environment and Spatial Planning
Erika Kompara	Inspectorate for Environment and Spatial Planning

*Venue: Ministry of justice*

<b>Person interviewed/met</b>	<b>Organisation represented</b>
David Spornjak	Supreme Court
Tanja Trtnik	Ministry of Justice
Robert Golobinek	Ministry of Justice
Goran Vejnovic	Supreme State Prosecutor Office

*Venue: Ministry of finance – Financial administration - Customs*

<b>Person interviewed/met</b>	<b>Organisation represented</b>
Tomaz Susa	Financial Administration - Customs
David Piskanec	Financial Administration - Customs
Boris Kastelic	Financial Administration - Customs
Selena Rauter Razboršek	Financial Administration - Customs
Petra Jeglič	Head of the Sector for Legal and System Support at the Directorate for Supervision, also attended the working meeting as part of the evaluation exercise.

ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

<b>List of acronyms, abbreviations and terms</b>	<b>Slovenian or acronym in original language</b>	<b>Slovenian or acronym in original language</b>	<b>English</b>
EU			European Union
EC			European Commission
IRSOP	Inšpektorat RS za okolje in prostor		The Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning
NGOs			Non Governmental Organizations
GENVAL			Working Party on General Matters including Evaluations
SOP			Standard Operational Procedures
ZV-1	Zakon o vodah		Waters Act

ZON	Zakon o ohranjanju narave		Nature Conservation Act
ZRGSO	<i>Zakon o ravnanju z gensko spremenjenimi organizmi</i>		Management of Genetically Modified Organisms Act
IED	-	-	Industrial Emissions Directive
VAT			Value Added Tax
TMV			Tax on Motor Vehicles
FARS			Financial Administration of the Republic of Slovenia
RIF			Risk Information Form
OLAF			European antifraud office
TFS			transfrontier shipment
FURS	<i>Financna Uprava Republike Slovenije</i>		Financial Administration of the Republic of Slovenia

<b>IMPEL</b>			European Union Network for the Implementation and Enforcement of Environmental Law
EIS			Europol Information System
JIT			Joint investigation team
MLA			Multilateral Agreement
PPP			Public Private Partnership
NCP			National Contact Point
EVOA	Europese Verordening Overbrenging Afvalstoffen (Dutch)		Waste Shipment Regulation
ECS			Export Control System
WEEE			Waste Electrical and Electronic Equipment

ELV			End of Life Vehicles
IAEA			International Atomic Energy Agency
ITDB			Incident and Trafficking Database
CBRN			Chemical, biological, radiological and nuclear

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