



Council of the
European Union

Brussels, 21 June 2019
(OR. en)

9180/1/19
REV 1

ENFOPOL 235
COPEN 203
ENV 474

REPORT

Subject: 8th Round of Mutual Evaluations - 'The practical implementation and operation of European policies on preventing and combating Environmental Crime'
Report on Bulgaria

**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 BULGARIA

Table of Contents

1.	EXECUTIVE SUMMARY	7
2.	INTRODUCTION	15
3.	GENERAL MATTERS AND STRUCTURES.....	18
3.1.	Action Plan or similar strategic documents against environmental crime	18
3.2.	National programmes/projects with regard to waste crime.....	18
3.3.	Statistics.....	20
3.3.1.	Main trends with regard to waste crime	20
3.3.2.	Number of registered cases of waste crime.....	21
3.4.	Domestic budget allocated to prevent and fight against waste crime and support from EU funding	24
3.5.	Prevention of waste crime	25
3.6.	Conclusions	28
4.	NATIONAL STRUCTURES	30
4.1.	Judiciary (prosecution and courts)	30
4.1.1.	Internal structure	30
4.1.2.	Capacity of and obstacles for prosecution and sanctioning of waste crime	34
4.2.	Law enforcement authorities	36
4.2.1.	The structure and cooperation between investigative authorities involved in preventing and combating waste crime	36
4.2.2.	Investigative techniques/tools	39
4.2.3.	Capacity of and obstacles to successful investigation of waste crime	41
4.3.	Other authorities/institutions	42
4.4.	Cooperation and exchange of information among national authorities	44
4.4.1.	Cooperation and coordination	44
4.4.2.	Access to information and focal points on intelligence	47
4.5.	Training	49
4.6.	Conclusions	53

5.	LEGAL ASPECTS	56
5.1.	Substantive criminal law	56
5.1.1.	Description of national legislation pertaining to waste crime.....	56
5.1.2.	Other rules or judicial instructions	102
5.1.3.	Determination of the seriousness of waste crime.....	104
5.1.4.	Links with other serious criminal offences	106
5.1.5.	The role of the NGOs	106
5.2.	Procedural, jurisdictional and administrative issues.	107
5.2.1.	Difficulties encountered with regard to evidence	107
5.2.2.	Measures other than criminal or administrative sanctions	107
5.2.3.	Treatment of seized objects.....	111
5.3.	Environmental restoration	114
5.4.	Jurisdiction	115
5.4.1.	Principles applicable to the investigation of waste crime	115
5.4.2.	Rules in the event of conflicts of jurisdiction	116
5.5.	Conclusions	118
6.	COOPERATION	120
6.1.	International cooperation.....	120
6.1.1.	Forms of cooperation in cross-border cases.....	120
6.1.2.	Channels for the exchange of information and the use of EU databases ...	120
6.1.3.	Difficulties faced in judicial cooperation relating to waste crime	121
6.1.4.	Operational performance of JITs in waste crime	121
6.2.	Cooperation with EU Agencies and networks	121
6.2.1.	Cooperation with Europol and Eurojust.....	121
6.2.2.	Experience resulting from the use of various environmental networks	122
6.3.	Cooperation between Bulgaria and Interpol.....	123
6.4.	Cooperation with the private sector.....	123
6.4.1.	The involvement of the private sector / public private partnership (PPP) .	123
6.4.2.	Liability regarding the obligation to pass on information to competent authorities	123
6.4.3.	Experience of cooperation with the private sector	125
6.5.	Conclusions	126

7.	ILLEGAL TRAFFICKING OF WASTE	128
7.1.	National structure	128
7.1.1.	Authorities involved in preventing and combating illegal shipment of waste	128
7.1.2.	Detection of illegal shipment of waste	129
7.1.3.	Specificity of illegal shipment of waste	130
7.1.4.	Measures on shipments of waste	130
7.2.	Inspections	132
7.2.1.	Methodology of inspections and follow-up	132
7.2.2.	Specific inspections with regard to waste electrical and electronic equipment (WEEE) and end-of-life vehicles (ELV).....	134
7.2.3.	First inspection plan	135
7.2.4.	Challenges with regard to the taking back of illegal waste shipment	135
7.3.	Conclusions	136
8.	MANAGEMENT OF HAZARDOUS WASTE.....	138
8.1.	The classification of hazardous waste and the challenges in its management	138
8.2.	The system of inspections and the authorities involved.....	139
8.3.	Measures for the protection of the environment and human health in the treatment of hazardous waste.....	139
8.4.	Trends in illegal hazardous waste management	141
8.5.	Conclusions	141
9.	ILLEGAL PRODUCTION OR HANDLING OF DANGEROUS MATERIALS	143
9.1.	The concept of dangerous materials.....	143
9.2.	Types of illegal activities related to illegal production and handling of dangerous materials and current trends in that field	143
9.3.	Procedural aspects	146
9.3.1.	The means of collecting evidence and of handling dangerous materials ...	146
9.3.2.	The cooperation with European and international partners	149
9.3.3.	Investigation techniques.....	149
9.3.4.	Main obstacles to successful investigation and prosecution	149
9.3.5.	Training	150
9.4.	Conclusions	150

10.	FINAL REMARKS AND RECOMMENDATIONS.....	152
10.1.	Suggestions from Bulgaria.....	152
10.2.	Recommendations.....	152
10.2.1.	Recommendations to Bulgaria.....	152
10.2.2.	Recommendations to the European Union and its institutions, and to other Member States.....	154
10.2.3.	Recommendations to Eurojust/Europol/Commission.....	155
	Annex A: Programme for the on-site visit.....	156
	Annex B: Persons interviewed/met.....	162
	Annex C: List of abbreviations/glossary of terms.....	166

1. EXECUTIVE SUMMARY

The visit was very well prepared by the Bulgarian authorities and included meetings with the relevant authorities with responsibilities in the field of preventing and combating environmental crime, as well as in the implementation and operation of European policies in the field. These included the Ministry of the Interior (National Police General Directorate), the Ministry of Justice, the National Institute for Justice, the Prosecutor's Office, the Sofia City Court, the Ministry of Environment and Water, the Regional Inspectorate of Blagoevgrad, the Customs Agency and the Border Police.

During the on-site visit the Bulgarian authorities did their utmost to provide the evaluation team with complete information and clarifications on the legal and operational aspects of preventing and combating environmental crime, cross-border cooperation and cooperation with EU agencies, with remarkable support provided by the Ministry of the Interior, which coordinated the exercise.

As a general remark, the evaluation team wishes to highlight that Bulgaria has a wide range of legislative instruments giving adequate priority to safeguarding the environment, and that the institutional set-up for environmental management is well structured and fairly comprehensive.

There are two important laws in Bulgaria, the Environmental Protection Act and the Waste Management Act, which contain provisions on the roles of the different enforcement bodies in the prevention, control and punishment of unlawful waste-related activities. The main criteria for determining the seriousness of waste crime is the danger it poses to people and the environment. Liability for remedying the damage caused and for paying all the expenses incurred is based on the 'polluter pays' principle, which is supplemented by the principle of extended producer responsibility.

Though acknowledging that this legislation is quite comprehensive, the evaluation team is of the opinion that there might be room for improving its implementation as regards environmental violations, in particular by differentiating more clearly, on the basis of precise pre-defined criteria, between criminal offences and administrative infringements.

Strategic and guidance documents are also in place in Bulgaria, such as the Waste Management Act covering the requirements of Directive 2008/98/EC, the Waste Shipment Inspection Plan 2017-2019 pursuant to the requirements of the Waste Shipment Regulation (Regulation (EC) No 1013/2006), the National Waste Prevention Programme 2014-2020, the Waste Classification Manual, the Guidelines for Waste Control and a pocket manual for inspections of transboundary shipments of waste.

However, Bulgaria does not have a comprehensive strategic document relating to the management of environmental, including waste-related, crime, and the evaluation team recommends that one be adopted, together with an action plan for its implementation, in order to define priorities as well as responsibilities in this area.

Statistics are kept by the Ministry of the Interior on current and concluded investigations and on convictions related to environmental crime, whereas the Ministry of Environment and Water (MOEW) collects information from the Regional Environmental and Water Inspectorates (REWIs) on the number of inspections performed, violations established, sanctions imposed, and coercive administrative measures applied. The judicial statistics are produced by the Prosecutor's Office, based on the provisions of the Criminal Code, and are not public or linked to the statistics of the national police, given the very small number of cases that have so far been brought to prosecution.

An annual report on the activity of the Prosecutor's Office is published at the its official internet website and comprises "inter alia" summarized statistical data on each Chapter of the Penal Code, including Chapter 11 "Common dangerous crimes", which includes environmental crimes. The evaluation team noted that, in the absence of a centralised database on environmental crime and of any connection between databases, the systems are independent from each other. The statistics come from different sources and are collected on the basis of different criteria, and therefore do not allow for an overall picture of the environmental crime situation. The experts shared the view that an integrated system of statistics, similar to the common platform that is being developed between the police and the Prosecutor's Office, should be developed in Bulgaria and made available on a need-to-know basis to all the relevant stakeholders.

In Bulgaria, there are no dedicated national budget allocations for the prevention of and fight against waste crime, but the MOEW has a special fund – the Enterprise for Management of Environmental Protection Activities (EMEPA) – which is fed by administrative fines imposed for environmental violations, and a percentage of which goes to municipalities.

The MOEW is the main actor in this field, exercising state supervision, ensuring coordination and also playing an administrative role when it comes to appeals. The REWIs carry out regular inspections and impose a significant number of sanctions for environmental violations.

Other law enforcement authorities in this area are the National police, the Border Police and the Customs Agency. The location of the national police's specialised central environmental unit within the economic crime department is viewed positively by the evaluation team, but this unit is currently understaffed and should be reinforced with additional resources. On the other hand, within the Bulgarian judicial system there are no courts or prosecutors specialising in environmental crime, as the principle of a random distribution of cases within the judicial system is applied.

Furthermore, the Prosecutor's Office does not have specialised laboratories for environmental crime. According to the Bulgarian authorities, there is also a shortage of independent and qualified external experts in environmental crime that in the opinion of the evaluation team should be remedied in order to adequately support the work of the Prosecutor's Office.

In this respect, following the evaluation visit, the Bulgarian authorities have informed that in order to fill this gaps, a project was recently launched that would result in the delivery of 10 mobile forensic technical laboratories.

In order to enforce environmental legislation, all these authorities assist each other within their respective remit, but currently their cooperation takes place on an ad hoc and informal basis. Due to the high number of bodies responsible for environmental control, all of which have the power to impose administrative sanctions, the evaluation team is of the opinion that it would be advisable to establish more structured and formal cooperation, to implement a more systematic exchange of information and to establish shared databases for environmental, including waste-related, crime.

Administrative action includes pecuniary fines and the ability of the control authorities to impose some coercive administrative measures intended to force the liable person to take immediate action to restore the negative impact of an illegal activity on the environment.

In order to fight serious environmental crime, the Prosecutor's Office and the police have a wide range of instruments: charges can be brought against natural persons, while legal persons could be imposed with pecuniary fines and other coercive measures according to the general principles of the national legislation; the illegally obtained proceeds of crime may be confiscated; and special investigative techniques (SITs) can be used (including observation, infiltration, telephone tapping, etc.).

The Bulgarian legislation in force provides for the possible imposition of both administrative and criminal law sanctions for environmental offences, including waste offences. However, in Bulgaria most cases of non-compliance with legal requirements in the area of waste management detected up to now, do not contain the legally stipulated level of public danger and fall into the administrative category, and the number of prosecutions is statistically irrelevant. The evaluation team is of the opinion that Bulgaria should ensure that in the implementation of both the administrative and criminal approaches every single case of environmental violation is addressed in the most appropriate way and judicial follow-up is ensured when the legislation so requires.

Extensive basic and specialist training is provided by all the law enforcement bodies involved in tackling environmental, including waste-related, crime: the MOEW for its own inspectorates, as well as for customs and the Border Police; the Academy of the Ministry of the Interior for the police and the National Institute of Justice (NIJ) for the judiciary. The Prosecutor's Office also runs regular workshops for investigators on crimes against the public and the environment. However, the evaluation team is of the opinion that, in spite of the wide range of training activities, the small number of environmental crime cases in Bulgaria actually results in a lack of practical experience in the field.

The evaluation team believes that the Bulgarian authorities are making good efforts at all levels of education in the area of the environment. The MOEW regularly promotes awareness campaigns, in the form of information/education initiatives targeting different groups of the public and within the framework of the annual national campaigns. Information on inspections performed and sanctions imposed are publicly available through monthly reports on inspections performed by the REWIs.

The evaluation team noted that in Bulgaria there could be more active involvement of the private sector in the cooperation on preventing and combating environmental, including waste-related, crime. Nevertheless, the current legislation provides for the possibility for NGOs to participate in criminal proceedings, to the extent that they can provide any relevant information on cases of waste crime to the law enforcement authorities and the Prosecutor's Office, and that their representatives could be witnesses or just to be present during the criminal proceeding. The evaluation team encourages the Bulgarian authorities to take appropriate action to improve this situation.

The various law enforcement bodies involved in tackling environmental, including waste-related, crime in Bulgaria seem to be familiar with working in an international context, make use of the available products and tools at EU level and take part in the major EU initiatives to combat these forms of crime.

There seems to be a clear distribution of responsibilities and a good level of informal cooperation among all the Bulgarian authorities involved in the prevention of illegal waste trafficking, within the scope of their powers. Most controls, however, take the form of documentary checks, whereas the evaluation team believes that the Bulgarian authorities could also consider carrying out more frequent physical inspections, which are currently performed systematically only for waste electrical and electronic equipment (WEEE) and end-of-life vehicles (ELVs), for all categories of waste.

According to art. 194 (2) of Criminal Procedural Code some of the offenses related to waste (art. 353c of Penal code) are investigated only by the National Investigative Service within the structure of the Prosecutor's Office. The Regional Health Inspectorates also have a role in this field. There is also a special department for the investigation of hazardous (not necessarily waste) materials (e.g. nuclear material). Cooperation with the fire service is key in this area.

In the opinion of the evaluation team, as regards the production and handling of dangerous substances, in respect of which illegal activities may have a significant impact not only on the environment, but also on public health, it is of utmost importance that cooperation among the competent authorities can ensure an appropriate coordinated response to the threats posed by chemical, biological, radiological and nuclear materials. The evaluation team therefore points out the particular importance of structured forms of cooperation in this field.

The evaluation team identified a number of best practices in the Bulgarian environmental protection system, for instance:

- the location of the national police service responsible for countering environmental crime within the economic crime department, which also deals with criminal activity such as financial and tax offences and corruption;
- the MOEW's monthly collection of information from the REWIs on the number of inspections performed, violations established, sanctions imposed and coercive administrative measures applied in all environmental sectors, and the publication of that information on its own website;
- the ongoing project to collate all the data from the Prosecutor's Office and the police;
- the Border Police's system of establishing a risk profile which outlines the risk factors for transboundary waste shipments, based on data and variables derived from practical experience;
- the valuable efforts to train staff at different levels working in the entities that deal with environmental matters;
- the 'Environmental Crimes' handbook produced by the Bulgarian Prosecutors' Association (with financial support from the 'Security' thematic fund of the Swiss-Bulgarian Cooperation Programme).

In the light of the above, the evaluation team considers that, overall, Bulgaria has the capacity to achieve good management of environmental matters. The police representatives pointed out that Bulgaria is an important final destination for treating and recycling of waste in Europe due to the already established infrastructure and the relatively lower prices for this service. However, according to the Bulgarian Police this fact does not necessarily mean that these activities are carried out illegally, but that more inspections are required in the future in order to prevent possible risks.

The number of prosecutions in this area is currently very low; the experts underline in this respect that environmental crime in all its forms is often ‘invisible’ and, if it is not tackled proactively, there is a risk that certain criminal offences in this area could remain undetected.

The evaluation team therefore believes that, by making further efforts to use the potential of the law enforcement and criminal law systems to their full extent, in particular by involving all of the stakeholders at the same level, and by using all the tools in a more efficient way, Bulgaria might accomplish the complex and multi-agency task of preventing and fighting waste crime more effectively.

2. INTRODUCTION

Following the adoption of Joint Action 97/827/JHA of 5 December 1997¹, a mechanism was established for evaluating the application and implementation at national level of international undertakings in the fight against organised crime. In line with Article 2 of the Joint Action, the Working Party on General Matters including Evaluations (GENVAL) decided on 14 December 2016 that the eighth round of mutual evaluations should be dedicated to the practical implementation and operation of European policies on preventing and combating environmental crime.

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

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

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives² (date of transposition: 12 December 2010), Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law³ (date of transposition: 26 December 2010), and Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste⁴ (date of entry into force: 12 July 2007), are particularly relevant in this context.

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

² OJ L 312, 22.11.2008, p. 3.

³ OJ L 328, 6.12.2008, p. 31.

⁴ OJ L 190, 12.7.2006, p. 1.

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

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

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

Moreover, the Council conclusions of 8 December 2016 on countering environmental crime⁵ recognise that combating environmental crime requires a comprehensive multidisciplinary approach at all levels, better cooperation and exchange of information between the competent authorities, including third countries, and enhanced dialogue and cooperation with relevant international organisations. Also, the Council conclusions of 18 May 2017 on setting the EU's priorities for the fight against organised and serious international crime between 2018 and 2021⁶ establish the fight against environmental crime as the one of the EU's priorities.

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

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

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

The order of visits to the Member States was adopted by GENVAL on 5 May 2017. Bulgaria was the 24th Member State to be evaluated during this round of evaluations. In accordance with Article 3 of Joint Action 97/827/JHA, a list of experts with substantial practical knowledge in the field and prepared to participate in the evaluations, designated by the Member States, has been drawn up by the Presidency.

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

The experts charged with undertaking the evaluation of Bulgaria were Mr Faustino Gudin Rodríguez-Magariños (Spain), Ms Maria de Fátima Baptista Russo (Portugal), and Mr Frans Geysels (Belgium). Ms Giovanna Giglio from the General Secretariat of the Council was also present.

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 Bulgaria between 20 and 23 November 2018, and on Bulgaria's detailed replies to the evaluation questionnaire, together with its detailed answers to ensuing follow-up questions.

3. GENERAL MATTERS AND STRUCTURES

3.1. Action Plan or similar strategic documents against environmental crime

Though there is no single strategic document in Bulgaria dedicated to the national policy on the fight against environmental crime, a comprehensive environmental policy framework to tackle this form of crime is provided for in a set of legislative, strategic and guidance documents. These documents include the Waste Management Act covering the requirements of Directive 2008/98/EC, the Waste Shipment Inspection Plan adopted in December 2016 pursuant to the requirements of the Waste Shipment Regulation (Regulation (EC) No 1013/2006), the National Waste Prevention Programme 2014-2020, the Waste Classification Manual, the Guidelines for Waste Control and a pocket manual for inspections of transboundary shipments of waste.

However, the evaluation team is of the opinion that a more strategy-oriented approach, with the adoption by Bulgaria of a single strategic document accompanied by an action plan for its implementation, would be very useful in more effectively tackling the phenomenon of environmental crime in all its forms. The document should outline the objectives and the priorities of the Bulgarian state in this area of crime, the related roles and responsibilities of all the competent authorities, and the procedures and mechanisms for regularly monitoring the results achieved.

3.2. National programmes/projects with regard to waste crime

In Bulgaria there are a number of programmes and projects dealing with waste crime, which have been undertaken or are being undertaken by the different law enforcement agencies and other authorities.

The National Police General Directorate (NPGD) is participating in the EMPACT priority 'combating environmental crime' under the EU policy cycle 2018-2021.

In 2014, the MOEW was a participant, and provided the necessary support to the national police forces, in a Europol project aimed at preventing illegal waste trafficking. In 2017, the NPGD was involved in the TECUM international project on tackling environmental crime through standardised methodologies, organised by the Italian Carabinieri. As part of this project, the MOEW and the REWIs participated in joint waste shipment inspections.

Currently, the NPGD is applying for funding under the Internal Security Fund Annual Working Programme 2018 for a project on tackling environmental crime, especially illegal waste trafficking. The project will be carried out with the participation of the Italian Carabinieri, who have significant experience in this field. The project, which has a budget of EUR 100 000, will be implemented in 2019-2021 and provide two training courses for a total of 70 officials from the Ministry of the Interior, with the participation of trainers from the Italian Carabinieri.

The Bulgarian Customs Agency participated in the DEMETER III operation from 7 to 16 October 2013, targeting illegal waste shipments from Europe and other waste-exporting regions/countries to the Asia-Pacific Region. The Customs Agency has also participated in other operations, such as CLEAN EARTH (26 January to 6 February 2015) and ENIGMA III (18 to 24 May 2015).

The MOEW participates in projects organised by the IMPEL network aimed at strengthening the administrative capacity of and the exchange of best practices between enforcement agencies in the fields of waste management, transboundary waste shipment and the fight against illegal waste trafficking.

A project on increasing enforcement of and compliance with the rules set out in the legislation on environmental protection and risk management has been implemented by the Bulgarian Prosecutors' Association with financial support from the 'Security' thematic fund of the Swiss-Bulgarian Cooperation Programme to reduce economic and social disparities in the enlarged European Union.

As part of different international projects, several manuals and guidelines have been drafted in order to support the efforts of the Bulgarian institutions in tackling environmental crime (see point 5.1.2).

Following the evaluation visit, the Bulgarian authorities have informed that since the beginning of 2019, Bulgaria (National Police General Directorate) has launched a project on “Improving the capacity of police and forensic activity dealing with material evidence in pre-trial investigation process”.

The project should be implemented until October 2021 and is aimed at improvement of the crime scene investigation, including improvement of the crime scene inspection for finding and collecting evidence and improvement of the system for storing of evidence. The successful accomplishing of the project will provide for collection of evidence of high quality for laboratory analysis.

The project will result in: the delivery of 10 mobile forensic technical laboratories to perform site inspections to help fix and seize traces and gather evidence on the spot; training for police officers; upgrading 10 premises for storing material evidence up to the EU standards; establishing IT system for registering and tracking seized material evidence.

The abovementioned laboratories could be also used for environmental evidence.

3.3. Statistics

3.3.1. Main trends with regard to waste crime

On the basis of the figures submitted by the Bulgarian authorities (see point 3.3.2), environmental crime seems to be statistically irrelevant in Bulgaria, and the benchmarking of statistics shows a downward trend in waste crime. The Bulgarian police stated, that they deem Bulgaria to be an important final destination for treating and recycling of waste in Europe due to the already established infrastructure and the relatively lower prices for this service. However, according to the Bulgarian Police, this fact does not necessarily mean that these activities are carried out illegally, but that more inspections are required in the future in order to prevent possible risks.

Apart from the above considerations, these elements are not sufficient for the evaluation team to evaluate the actual extent and seriousness of this form of crime in Bulgaria, or to assess related general trends.

3.3.2. *Number of registered cases of waste crime*

The Bulgarian authorities reported a low number of cases involving pre-trial proceedings, prosecutions filed with the courts or convictions under Articles 353b-353e of the Criminal Code (crimes against the environment), with no breakdown according to the type of crime.

The Bulgarian authorities provided the following figures:

2013

16 pre-trial proceedings initiated

7 prosecutions filed with the courts

11 convictions

2014

15 pre-trial proceedings initiated

11 prosecutions filed with the courts

10 convictions

2015

13 pre-trial proceedings initiated

4 prosecutions filed with the courts

5 convictions

2016

11 pre-trial proceedings initiated

no prosecutions filed with the courts

2 convictions

2017

11 pre-trial proceedings initiated

2 prosecutions filed with the courts

1 conviction

The Bulgarian authorities also reported the following figures for crimes under Article 356k of the Criminal Code⁷:

- 3 pre-trial proceedings (in 2013 and 2017),
- 2 prosecutions filed with the courts (in 2013 and 2014),
- 1 conviction (in 2014).

Judicial statistics from the Prosecutor's Office of the Republic of Bulgaria are based on the Criminal Code and are not public. However, a report on the implementation of the law and on the activity of the Prosecutor's Office and the investigative authorities is drafted annually and presented by the Prosecutor General to the national parliament. This report is also published on the website of the Prosecutor's Office. It includes a summary of statistical data on the chapter of the Criminal Code relating to 'generally dangerous crimes', which includes environmental crimes. A variety of indicators are included in these statistics, such as the number of pre-trial proceedings initiated, the number of prosecutions filed with the courts, the number of convicted and sanctioned persons and the number of acquitted persons.

⁷ Article 356k: 'Whosoever, without a due permit, produces, processes, changes, neutralises, receives, acquires in any way, keeps, uses, disseminates, destroys, buries, transports, carries, moves, sends, or gives to someone else nuclear material or sources of ionising radiation or components thereof, shall be punished by imprisonment of one to six years.'

The Ministry of the Interior keeps statistics on current and concluded investigations and on the number of convictions under the different provisions of the Bulgarian Criminal Code related to environmental crime. The Ministry of the Interior's system is not currently interlinked with that of the Prosecutor's Office, but the Bulgarian authorities reported that a common platform is being developed between these two authorities, which the evaluation team considers a valuable initiative.

Regarding established illegal waste shipments and infringements of Regulation (EC) No 1013/2006, information on the cases dealt with by the inspectorates themselves or by the prosecution, including information on finalised court cases, is also provided to the MOEW for the purpose of annual reporting in accordance with the Regulation.

The evaluation team also considers a good practice that the MOEW collects information from the REWIs on the number of inspections performed, violations established, sanctions imposed, and coercive administrative measures applied in the environmental sector.

The MOEW also provides information on cases dealt with by its REWIs or by the prosecution involving illegal waste shipments and infringements of Regulation (EC) No 1013/2006. This information, including a summary of the inspection activities, the number and the amount of sanctions imposed and the number of coercive measures applied, etc., is published on a monthly basis on the website of the MOEW: <https://www.moew.government.bg/bg/ministerstvo/kontrolna-dejnost/riosv/mesechni-otcheti/>.

In the light of the above, it is evident that the majority of detected violations are dealt with administratively. In exceptional cases, a criminal file is opened and dealt with by the police and transferred to the Prosecutor's Office (see also point 4.1.2).

The experts noted that the statistics systems are independent from each other and not connected in any way, with the data coming from different sources and collected on the basis of different criteria. The Bulgarian authorities informed the evaluation team that there is a plan to collate all the national statistics but, as yet, they have not achieved this goal.

Noting the absence of a centralised database on environmental crime and the lack of connection between databases, the experts shared the view that the Bulgarian authorities should develop an integrated system, available on a need-to-know basis to all the relevant stakeholders (Ministry of the Interior, the MOEW at national and regional level, Customs Agency and Border Police), and covering data relating to all reported environmental violations, and disaggregated data on waste crime, investigations, convictions, sanctions, administrative offences and fines applied in this area.

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

In Bulgaria there are no dedicated national budget allocations for the prevention of and fight against waste crime; activities in the area of waste crime are financed by the budget of the relevant authorities.

Bulgaria makes use of EU funding to tackle waste crime by implementing several projects. Information on some of these projects is provided in point 3.5.

The evaluation team was informed that in Bulgaria the administrative fines imposed on offenders, in particular those for pollution or damage to individual environmental sectors, are fed into a special fund to deal with environmental issues. Under Article 58 of the Waste Management Act, the fines and pecuniary penalties referred to in Chapter 6 of the Act – where the penalty orders were issued by the MOEW or officials authorised by it – are credited to the Enterprise for Management of Environmental Protection Activities (EMEPA) under the MOEW.

A percentage of these fines go to the municipalities, though the Bulgarian authorities could not specify the percentage allocated to each municipality. The evaluation team considers that part of this fund could be also be used by the Bulgarian authorities to take effective remedial action and to provide financial support for furthering the fight against environmental crime, for instance by providing the law enforcement authorities with additional staff and proper equipment.

3.5. Prevention of waste crime

The effective prevention of waste crime is a complex and multi-agency task.

The existing comprehensive environmental legislative and policy framework allows the relevant enforcement authorities to operate at different levels to prevent waste crime.

The main areas in which the MOEW is involved in preventing environmental crime and/or non-compliance with environmental rules include the organisation and performance of inspections by REWIs at waste treatment sites and during waste shipments or at the places of dispatch and destination, and the provision of training and guidelines to other enforcement bodies.

Regular inspections are performed in accordance with the inspection plans of the REWIs and the Waste Shipment Inspection Plan 2017-2019. Sanctions are imposed for unlawful activities in accordance with the Waste Management Act.

The policy on preventing and controlling pollution of the environment also comprises a set of preventive tools used by the MOEW:

- The Environmental Impact Assessment (EIA) is a preventive tool for identifying and evaluating the potential environmental and human health impact of the construction and operation of proposed investment projects in all sectors of the economy and infrastructure development from the early stages of their design and development, before a decision is taken to implement them in a specific place using specific technology, methods of construction, etc.
- The Ecological Assessment is a preventive tool for evaluating the possibility of a considerable impact on the environment due to the implementation of plans and programmes being prepared at national, regional and local level.
- The integrated pollution prevention and control (IPPC) permit is a preventive tool used to regulate the construction and operation of new or existing plants and facilities for categories of industrial activities listed in Annex 4 to the Environmental Protection Act.
- Voluntary environmental tools fall under the eco-management and audit scheme (EMAS) and the European ecolabel scheme.

- Environmental liability is a preventive tool for remedying environmental damage caused by past action or inaction, and the prevention and removal of imminent threats of environmental damage on the basis of the ‘polluter pays’ principle.
- Management of chemicals is a preventive tool for managing the risks related to the manufacture, use, storage, marketing, import and export of chemicals on their own, in mixtures and in products.
- Prevention of major accidents is a preventive tool for reducing the occurrence and consequences of major accidents when using certain hazardous substances.

The MOEW also takes action to increase public awareness of environmental matters and environmentally friendly behaviour through the coordinated implementation of national information campaigns and educational activities and initiatives throughout the country.

In particular, the MOEW regularly promotes awareness campaigns in the form of information/education initiatives aimed at different groups of the public, within the framework of the annual national campaigns that take place according to the international ecological calendar⁸.

In particular, the MOEW and its divisions throughout the country organise roundtables, conferences for students and young people, open lessons, competitions, exhibitions, nature conservation camps, cleaning and afforestation action, quizzes, training seminars and various forums. These initiatives involve tens of thousands of young people throughout the country and are an example of partnership with local authorities, institutions, businesses and non-governmental organisations at regional level. In the campaigns and educational initiatives carried out by the MOEW and its divisions, an average of over 30 000 children and students from over 650 schools in the country participate annually.

⁸ World Wetlands Day on 2 February, World Water Day on 22 March, Forest Week on 7-13 April, Earth Day on 22 April, Climate Change Day on 15 May, World Biodiversity Day on 22 May, World Environment Day on 5 June, Danube Day on 29 June, European Mobility Week on 16-22 September, International Day for the Preservation of the Ozone Layer on September 16, Bird Day on 1 October, World Water Monitoring Day on 18 October, Black Sea Day on 31 October, and more.

The Green Olympiad, under the ‘Environment’ Operational Programme, is a major initiative held simultaneously in Sofia, Stara Zagora, Pleven and Montana, in which more than 1 200 students compete in live environmental quizzes, and more than 5 000 people participate online. It can be considered a best practice.

All regional branches of the MOEW (REWIs, National Parks Directorate and River Basin Directorates) and the Executive Environment Agency have employees responsible for providing information to the public, organising environmental education and raising public awareness about environmental protection and environmentally friendly behaviour.

Within the Ministry of the Interior, the National Police General Directorate (NPGD) works on preventing and combating waste crime.

A project on increasing enforcement of and compliance with the rules set out in the legislation on environmental protection and risk management has been implemented by the Bulgarian Prosecutors’ Association with financial support from the ‘Security’ thematic fund of the Swiss-Bulgarian Cooperation Programme to reduce economic and social disparities in the enlarged European Union. A manual entitled ‘Environmental Crimes’ was developed and published under this programme.

A pocket manual on inspections of transboundary shipments of waste has been developed by the MOEW and distributed to enforcement bodies (REWIs, customs and the Border Police).

3.6. Conclusions

- Currently Bulgaria does not have a comprehensive strategic policy document for preventing and combating environmental, including waste-related, crime. There are, however, a number of programmes and plans dealing with waste management.
- The evaluation team encourages Bulgaria to adopt a more strategic overall approach encompassing monitoring and law enforcement activities to target violations of and failure to comply with environmental legislation and, for this purpose, to develop a comprehensive strategic document, possibly accompanied by an action plan for its implementation. This document should outline the priorities, the roles of all the competent authorities, and the procedures and mechanisms for regularly monitoring the results achieved in this area of crime.
- The figures submitted by the Bulgarian authorities, which show that environmental crime is currently statistically irrelevant, do not enable the evaluation team to have an overall view of the actual environmental crime situation in Bulgaria. The experts share the opinion that, notwithstanding the low number of prosecuted cases, this form of crime is often ‘invisible’ and there is a risk that certain criminal offences in this area could remain undetected. Therefore, the evaluation team encourages the Bulgarian authorities to proactively use risk analysis tools in order to increase the effectiveness of the fight against environmental crime in all its forms.
- Each Bulgarian authority – the MOEW, the REWIs, the police, the Customs Agency and the Prosecutor’s Office – has its own system for collecting and providing statistics on environmental, including waste-related, crime. No overall, consolidated figures for reported environmental crime are available and there is no analysis of the complete set of data.

- The evaluation team therefore encourages the Bulgarian authorities to develop an integrated system for the collection and analysis of statistics covering all reported environmental violations, with disaggregated data on waste crime, investigations, convictions, sanctions, administrative offences and fines applied, as well as coordinated clusters and analysis of metadata, and to make it available to all the relevant stakeholders. This would make it possible both to acquire an overall picture of this type of crime and to more easily assess the effectiveness of the national system in this field.
- In that respect, the evaluation team finds that the ongoing project to collate the statistics from the Prosecutor's Office and the police, which is expected to be finalised within the next two years, is a very good initiative that could be extended to the systems of the other authorities involved in the fight against environmental crime.
- The MOEW is already committed to increasing public awareness of environmental matters and environmentally friendly behaviour through the coordinated implementation of national information campaigns and educational activities throughout the country. The evaluation team encourages the Bulgarian authorities to further develop these initiatives, targeting them both at the public s and/or at risk groups, risk behaviours and high-risk waste streams.
- Several manuals and guidelines have been drafted to support the efforts of the Bulgarian authorities in countering environmental crime, which the evaluation team considers to be very useful tools for helping to tackle this form of crime efficiently.
- The experts were informed that in Bulgaria there is a special fund – EMEPA – under the MOEW, which is fed by administrative fines imposed for environmental violations, and a percentage of which goes to municipalities. The evaluation team is of the opinion that this fund is a valuable tool, and that the Bulgarian authorities could consider using it as a financial source for taking effective remedial action in the area of the environment and for providing financial support for furthering the fight against environmental crime.

4. NATIONAL STRUCTURES

4.1. Judiciary (prosecution and courts)

4.1.1. Internal structure

The organisation and activities of the judiciary in Bulgaria are governed by the Judicial System Act, which lays down the structure and the operating principles of the judicial bodies and governs their interaction with each other and with the legislative and executive bodies.

The Bulgarian judiciary is independent of the other branches of government and is composed of two separate systems: the system of the courts and the system of the public prosecution, which comprises the investigative officers from the National Investigative Service.

Under the Judicial System Act, the Supreme Judicial Council is the highest administrative authority, responsible for managing the judiciary and ensuring its independence. Its 25 members are all legal practitioners of high reputation, 11 of whom are elected by the judiciary itself, 11 by the national assembly and the other 3 Members are the chairman of the Supreme Court of Cassation, the chairman of the Supreme Administrative Court and the Chief Prosecutor.

The courts are independent state bodies that administer justice in civil, criminal and administrative cases. As a matter of principle, legal proceedings in Bulgaria are conducted at three instances, although there are several exceptions to this rule.

The courts have no jurisdiction to investigate crimes. The criminal courts have the power to impose the respective punishment in the context of court proceedings based on the sanctions established for each crime under the relevant Special Part of the Criminal Code and taking into account all the evidence submitted during the court proceedings. The courts can also impose remedial sanctions and other measures based on the respective provisions in the specialised laws.

The Bulgarian courts system is decentralised, i.e. courts of various levels are distributed throughout the country. The following courts exist in Bulgaria:

- district courts
- regional courts
- administrative courts
- Specialised Criminal Court
- courts of appeal
- Specialised Criminal Court of Appeal
- military courts
- Military Court of Appeal
- Supreme Court of Cassation
- Supreme Administrative Court.

All criminal cases, except those which are under the jurisdiction of the district courts, the Specialised Criminal Court and the military courts, are under the jurisdiction of the regional courts. There are no specific rules for the establishment of jurisdiction for environmental crimes.

During the visit, the experts were able to meet criminal judges from the regional court in Sofia, who informed the team that as yet this court has not encountered waste crime at all and has dealt with only a few environmental cases.

The role of the Prosecutor's Office is to investigate crimes, acting for the state in criminal cases and defending the public interest in many administrative and civil cases. The Prosecutor's Office has three branches: the Supreme Administrative Prosecution Office, the Supreme Cassation Prosecution Office and the National Investigation Service, District, Regional, Military, Specialized and Prosecution of Appeal.

According to Article 127 of the Bulgarian constitution, the Prosecutor's Office oversees compliance with the law by:

1. bringing to justice individuals who have committed crimes and prosecuting criminal cases of a general nature;
2. supervising the execution of punitive and other coercive measures;
3. taking steps to rescind illegal laws;
4. in cases stipulated by law, participating in civil and administrative trials.

The structure of the Prosecutor's Office mirrors the structure of the courts and is stipulated in the Judicial System Act as follows:

Article 136

(1) The prosecution authority in the Republic of Bulgaria shall be unitary and its structure shall correspond to the structure of the courts. The prosecution authority shall consist of a Prosecutor General, a Supreme Cassation Prosecution Office, a Supreme Administrative Prosecution Office, a National Investigation Service, appellate prosecution authorities, an appellate specialised prosecution authority, a military appellate prosecution authority, regional prosecution authorities, a specialised prosecution authority, military regional prosecution authorities and district prosecution authorities.

The structure of the regional and specialised prosecution authorities shall include investigating departments.

(2) Administrative departments shall be established within the regional prosecution authorities, the prosecutors of which shall participate in proceedings in administrative cases.

(3) Prosecutors and investigators shall be under the direction of the administrative heads of the corresponding prosecution authority.

(4) In exercising their functions under paragraph 3, each administrative head shall be subordinate to the Prosecutor General and the superior administrative heads.

(5) The Prosecutor General shall exercise supervision as to legality and provide methodological guidance regarding the activities of all prosecutors and investigators to ensure the correct and uniform implementation of the law and the protection of the legal rights and interests of citizens, legal persons and the state.

(6) Military prosecutors and investigators shall be independent of the military authorities in the performance of their duties.

Article 137

The Prosecution Authority is a legal person benefiting from budgetary support with its seat Sofia.

In accordance with Article 128 of the Bulgarian constitution, the investigative authorities are part of the legal system. They carry out preliminary investigations in criminal cases.

Environmental, including waste-related, crime cases are dealt with by the general prosecution and courts. Bulgaria has a representative with an observer status and even a focal point in the European Network of Prosecutors for the Environment (ENPE), but does not have any prosecutors specialising in environmental crime at national level. The evaluation team is of the opinion that the level of specialisation of the judiciary in Bulgaria should be increased by establishing specialised prosecutors and a national network of expertise for environmental judges.

If the offence is committed by an organised criminal group, the specialised Prosecutor's Office/specialised courts have jurisdiction to deal with the case. Given the small number of environmental crime cases, there are no specially trained environmental prosecutors and judges.

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

The main challenges or obstacles experienced in prosecuting and punishing domestic and cross-border cases that relate specifically to waste crime are linked to the practitioners' lack of sufficient practical experience, due to the small number of waste crime cases that are reported to the Prosecutor's Office.

In principle, data on environmental crime or incidents can come from different sources. The information collected during checks is summarised and analysed by the REWIs (see also point 4.2.1). Theoretically, if there is any doubt that the violation of the law in connection with the requirements of Regulation (EC) No 1013/2006, within the meaning of the first paragraph of Article 131, represents a crime under Article 353b of the Criminal Code, the Minister for Environment and Water or a duly authorised official will immediately inform the competent bodies of the prosecution and the Ministry of the Interior and send copies of all relevant documents.

In the event that constituent elements of an offence under the abovementioned provisions are established, the supervising prosecutor initiates pre-trial proceedings. If there are data regarding unlawful acts committed by an official, the supervising prosecutor should act in accordance with Article 353c(4) of the Criminal Code. Conversely, if the supervising prosecutor concludes that the act does not constitute a crime, he or she does not initiate pre-trial proceedings and sends the materials back to the competent administrative authority (the director of the REWI), with a view to enforcing administrative liability.

Furthermore, everyone, including ordinary citizens, can and should report environmental infractions to the Prosecutor's Office and, under the law, all public bodies and services are required to report any crime that they become aware of in the performance of their duties to the Prosecutor's Office.

Under these procedural rules, prosecutors in Bulgaria appear to play a key role in distinguishing, on a case-by-case basis, between misdemeanours and administrative infringements, although the courts make the final decision in this respect.

However, in practice most of the detected environmental, including waste-related, cases in Bulgaria do not contain the legally stipulated level of public danger and therefore are considered as administrative violations. There is no systematic and standardized exchange of data between the administrative authorities and the Prosecutor's Office. The REWIs make numerous inspections to detect irregularities and impose significant fines. When it is found that an administrative violation constitutes a crime, the materials are sent to the Prosecutor's Office. Nevertheless as only few cases detected up to now have fallen within this hypothesis the Prosecutor's Office has been involved in a small number of environmental violations representing a criminal cases: according to the statistics for the whole of Bulgaria, there were five convictions in 2015, two in 2016 and one in 2017.

The Bulgarian authorities highlighted that the Bulgarian system for fighting waste crime provides for the possibility both for administrative and penal approaches and that the more frequent use of the administrative approach is due to the specifics of the reported cases.

The evaluation team believes that, in the absence in Bulgaria of a protocol (between the REWIs and the Prosecutor's Office) stipulating when the established facts have to be followed up administratively and when judicially, the criteria to distinguish between administrative infringements and minor criminal offences should be better clarified.

The Bulgarian authorities informed the evaluation team of certain measures that had been or were being taken to strengthen the capacity to prosecute and punish waste crime.

In particular, from 2012 to 2016, many prosecutors at all levels of the Prosecutor's Office were trained as part of a project on increasing enforcement of and compliance with the rules set out in the legislation on environmental protection and risk management. They were trained in the effective management of investigations and prosecution of environmental crimes, including those related to waste.

The project on increasing enforcement of and compliance with the rules set out in the legislation on environmental protection and risk management was implemented by the Bulgarian Prosecutors' Association with financial support from the 'Security' thematic fund of the Swiss-Bulgarian Cooperation Programme to reduce economic and social disparities in the enlarged European Union.

The evaluation team considers the ‘Environmental Crimes’ handbook, issued as part of the above project, to be a very practical tool for providing general information about this topic.

The Bulgarian judicial authorities stated that they experience some difficulties in obtaining evidence in relation to environmental crime in general. The opinions of certified experts are the most important means of evidence in court, in particular in waste crime cases, but there are currently not enough such experts. The Prosecutor’s Office representatives therefore pointed out the need to increase the availability of independent and qualified experts in this field.

The MOEW, however, declared that they have access to relevant expertise.

In the evaluation team’s opinion, the Bulgarian authorities could consider establishing a central laboratory, with a group of experts specialising in criminal matters.

4.2. Law enforcement authorities

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

Within the Ministry of the Interior, the National Police General Directorate (NPGD) works on the prevention of and fight against environmental, including waste-related, crime. Two officers within the economic crime department are responsible for investigating and combating waste crime in all cases, except those assigned to the National Investigation Service.

According to the Waste Management Act, control over waste-related activities is also exercised by the following law enforcement authorities:

1. The bodies within the Ministry of the Interior exercise control with a view to verifying compliance with the rules and procedures for operations involving ferrous and non-ferrous metal waste (Article 118 of the Waste Management Act). There is an NGPD focal point of intelligence for waste crime within the economic crime department who is responsible for these tasks.

2. The bodies within the Border Police Chief Directorate and the units of the Road Police within the regional directorate of the Ministry of the Interior carry out checks on cross-border shipments of waste pursuant to the Waste Management Act and to Regulation (EU) No 1013/2006, within the scope of their powers (Article 122 of the Waste Management Act).

According to Bulgarian law, when the REWIs carry out checks on waste sites, they may request assistance from the authorities of the Ministry of the Interior, which must provide that assistance immediately (Article 116(4) of the Waste Management Act).

The information collected during the checks is summarised and analysed by the relevant REWI (see also point 4.1.2). If there is any doubt as to whether a crime has been committed under Article 353b or 353c of the Criminal Code, the cases are reported to the competent District Prosecutor's Office.

If the supervising prosecutor concludes that the act does not constitute a crime, he or she does not initiate pre-trial proceedings and refers the case back to the competent administrative authority (the director of the REWI), with a view to enforcing administrative liability.

In cases of illegal trafficking of hazardous waste (Article 353c of the Criminal Code) the competent investigative entity is a separate service within the Prosecutor's Office – the National Investigative Service (see also point 8.2). This is stipulated in paragraph 1 of Article 194(1) of the Code of Criminal Procedure, which reads as follows:

Allocation of cases in pre-trial proceedings to the investigative bodies

Article 194

(1) The investigation shall be conducted by investigators in cases of:

1. (amend. - SG 33/11, in force from 27.05.2011; suppl. - SG 42/15) crimes of general nature under Art. 95 – 110, Art. 123, Art. 212, Para 5, Art. 286 - 289, Art. 295, Art. 299, Art. 334, Para 2, Art. 335, Para 2, Art. 341a, Art. 341b, Art. 342, Para 3, in relation to Para 1, option first, second and fourth option, Art. 343, Para 3, in relation to Art. 342, Para 1, first, second and fourth option, Art. 349a, Art. 353c, Art. 356d - 356j, Art. 357 – 360 and Art. 407 – 419a of the Penal Code;

1a. (new - SG 42/15) severe intentional crimes under Chapter Two, Sections I, IV, V and VIII of the Special Part of the Penal Code, committed by juveniles;

2. (suppl. – SG 109/07, in force from 01.01.2008; suppl. – SG 93/11, in force from 01.01.2012; amend. - SG 42/15, suppl. - SG 7/18) crimes perpetrated by judges, prosecutors and investigators and other persons enjoying immunity, members of the Council of Ministers or by state officials under Art. 142, Para 1, Item 1 of the Ministry of Interior Act or under Art. 43, Para 1, Item 1 of the Act on the State Agency "National Security" as well as the officers from the Customs Agency in their capacity as investigating authorities and by the bodies under Art. 16, Para. 2 of the Act On Counteracting Corruption And On Seizure Of Illegally Acquired Property;

2a. (new – SG 7/18) for crimes under Art. 201 - 205, 212, 212a, 219, 220, 224, 225b, 226, 250, 251, 253-253b, 254a, 254b, 256, 282-283a, 285, 287-289, 294, 295, 299. 301 - 307, 310, 311 and 313 of the Penal Code, committed by persons holding senior public positions, in accordance with the Act On Counteracting Corruption And On Seizure Of Illegally Acquired Property;

3. crimes committed abroad;

4. (new – SG 32/10, in force from 28.05.2010) of factual and legal complexity that have been assigned to them by the administrative head of the corresponding regional prosecution authority.

(2) (new - SG 42/15) The investigation of crimes under Art. 334, Para 2, Art. 335, Para 2, Art. 341a, Art. 341b, Art. 342, Para 3, in relation to Para 1, first, second and fourth option, Art. 343, Para 3, in relation to Art. 342, Para 1, first, second and fourth option, Art. 349a, Art. 353c, Art. 356d - 356j of the Penal Code shall be carried out by an investigator of the National Service of Investigation. The Chief Prosecutor or a deputy authorised by him may assign the investigation of other crimes under Para 1 to investigators of the National Service of Investigation.

(3) (amend. - SG 69/08; suppl. – SG 93/11, in force from 01.01.2012; prev. text of Para 02 - SG 42/15; suppl. - SG 60/15) Beyond the cases under Para 1 the investigation shall be conducted by investigating police officers; in the event of crimes under Art. 234, 242, 242a and Art. 251 from the Penal Code, as well as under Art. 255 from the Penal Code as regards to VAT liabilities from import and excise duties – also by investigating customs inspectors, except in those cases where an official of the Customs Agency was involved in the crime.

(4) (new – SG 32/10, in force from 28.05.2010; prev. text of Para 03 - SG 42/15) The police authorities at the Ministry of Interior may act as referred to in Art. 212, Para. 2, as well as in investigations assigned to them by a prosecutor, investigator or investigating policeman.

(5) (new – SG 93/11, in force from 01.01.2012; prev. text of Para 04 - SG 42/15; suppl. - SG 60/15) Customs authorities may perform actions under Art. 212, para 2 in cases of crimes under Art. 234, 242, 242a, and 251 of the Penal Code, under Art. 255 from the Penal Code as regards to VAT liabilities from import and excise duties, as well as actions related to the investigation assigned to them by a prosecutor, an investigator or investigating customs inspector.

In all of the abovementioned cases, the investigative authorities perform their duties under the supervision of a prosecutor; according to the Code of Criminal Procedure, the prosecutor also has the right to investigate or to undertake certain action related to the investigation on his or her own initiative.

4.2.2. *Investigative techniques/tools*

When investigating waste crimes, the investigative authorities implement the general methods of gathering evidence under Article 136(1) of the Code of Criminal Procedure, namely interrogations, expert examinations, inspections, searches, investigative experiments, identification of persons and objects and special intelligence techniques.

The police can use special intelligence techniques under the Special Intelligence Techniques Act to investigate serious waste crimes only, i.e. crimes that are punishable by imprisonment of more than five years. The use of special intelligence techniques is subject to the authorisation of a judge except in an emergency, in which case a judge should at any rate approve the use of these tools within 24 hours. However, most environmental violations are minor crimes, and therefore the use of such special techniques is not allowed.

The Code of Criminal Procedure contains special provisions on material evidence gathered using special intelligence techniques:

Article 172

(1) The bodies involved in pre-trial proceedings may use special intelligence means: technical means – electronic and mechanical devices and substances which serve to document the activity of the monitored persons and objects – and operational means – surveillance, tapping, following, infiltration interception and inspection of correspondence and computerised information, controlled deliveries, trust transactions and undercover investigations.

(2) Special intelligence means shall be used where necessary for the investigation of a serious and intentional criminal offence under Chapter One, Sections I, II, IV, VIII and IX of Chapter Two, Section III of Chapter Three, Sections I–VII of Chapter Five, Sections II–IV of Chapter Six, Chapter Eight, Chapter Eight A, Chapter Nine A, Sections I–IV of Chapter Eleven [environmental crimes are covered by this chapter], Chapter Twelve, Chapter Thirteen and Chapter Fourteen, as well as the crimes under Article 219(4), Article 220(2), Article 253, Article 308(2), (3) and (5), Article 321, Article 321a, Article 356k and Article 393 of the Special Part of the Criminal Code, if the respective circumstances cannot be established in any other way or their establishment gives rise to particular difficulties.

The Bulgarian authorities indicated that they are well aware of the possibility of using the capacities of the forensic, financial and cybercrime units to investigate waste crime. Nevertheless, the actual use of these units depends on the specific case and on its objective circumstances.

The customs authorities reported that a number of technological solutions making it possible to verify the contents of containers and vehicles – in particular an X-ray container scanner – are used on a regular basis during border inspections. The experts did not have the opportunity to witness a practical demonstration of the use of these surveillance or inspection tools on site.

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

The Environmental Protection Act provides specific definitions in section 1 of its additional provisions:

5. ‘Pollution of the environment’ means a change to its qualities due to the occurrence and introduction of physical, chemical or biological factors from natural or anthropogenic sources either inside or outside the country, regardless of whether the standards in effect in the country are exceeded.

6. ‘Damage to the environment’ means a change to one or more of its components that leads to degradation of the people’s quality of life, decreased biological diversity, or impaired recovery of the natural ecosystems.

In this respect the Bulgarian authorities noted that one difficulty experienced in investigating domestic and cross-border cases of waste crime is that it is not always possible to legally foresee all circumstances influencing the quality of the environment, or that expert examinations could be required for this purpose and also in all cases when the content and the nature of the substance shall be identified.

Another significant difficulty is linked to the lack of police personnel: in the central unit there are only two officers responsible (and not on a full-time basis) for investigating environmental crime cases, which in the opinion of the evaluation team is an insufficient number to deal with this complex form of crime and should be reinforced.

In cases involving dangerous or hazardous materials, the unit responsible for the investigation may need to hire experts.

The evaluation team is not in a position to assess the accuracy of the customs authorities' claim that they actually do not encounter any particular obstacles in this complex area of crime, there are no shortages of equipment or staff in this respect, everything is working properly and no changes of any kind are required.

4.3. Other authorities/institutions

There are other administrative authorities empowered to control waste-related activities and to perform inspections. The relevant provisions are laid down in Section V – Waste Management Control (Articles 112-125) of the Waste Management Act.

The MOEW is responsible for developing, implementing and drafting the national waste management policy, as well as for regulating activities in the public and private sectors. The MOEW performs some of its tasks through the Executive Environment Agency and through a network of 16 REWIs.

The Executive Environment Agency is an administration within the MOEW, which carries out management, coordination and information tasks in relation to environmental protection and monitoring in Bulgaria. It has designed and manages the National Environmental Monitoring System which monitors and gathers information on environmental components and factors throughout the country. The Executive Environment Agency is a national reference centre under the European Environment Agency (EEA).

The REWIs are specialised control bodies under the MOEW, and have the general responsibility of supervising the waste management and control system in relation to all waste-related activities in their region. The REWIs are responsible for administrative procedures, play a key role in waste inspections and are empowered by the law to establish violations, impose administrative sanctions and execute coercive administrative measures. When REWI inspectors identify a serious case involving waste, they can inform the police.

Under the Waste Management Act, the task of registering and granting permission for waste-related operations is the responsibility of the director of the relevant Regional Inspectorate for the Protection and Control of Public Health or the Minister of Environment and Water, depending on the territorial scope of the activity.

There are annual plans for inspections to be performed by the REWIs in accordance with the Waste Management Act. The officials conducting the on-site inspections have the right to:

1. access the premises where the controlled operation takes place;
2. require presentation of the documents which, according to the regulatory requirements, must be available for inspection at the place of the inspection;
3. require written and oral explanations from any person employed by the person being inspected;
4. recruit experts in the relevant field, where the inspection is complicated or requires specialised knowledge.

If violations are established during an inspection, the REWI will issue mandatory instructions and set a deadline for compliance, and/or draw up written statements of administrative violations. Statements of administrative violations are followed by the issuing and enforcement of penalty decrees in accordance with the Waste Management Act (Articles 157-160).

If it is found that the administrative violation for which the administrative penalty proceedings have been launched may constitute a criminal offence, the proceedings are halted and the case has to be sent to the relevant prosecutor (see also points 4.1.2 and 4.2.3).

In cases where the prosecutor concludes that the act does not constitute a criminal offence, he or she terminates the pre-trial proceedings and returns the file to the competent administrative body (the director of the REWI) so that administrative punishment may be imposed.

In accordance with the Waste Management Act, the Minister for Environment and Water, the Minister for the Interior, the Minister for Transport, Information Technologies and Communications and the Director of the Customs Agency exercise control over transboundary shipments of waste pursuant to the Waste Management Act and Regulation (EU) No 1013/2006, each within their own remit.

The above authorities may ask for assistance from the REWIs if they have any doubts regarding the compliance of the waste with the accompanying documents or the type of the waste. In such cases the director of the REWI or a duly official authorised will provide assistance.

At local level, the mayor is responsible for organising waste management, in particular the management of household and construction and demolition waste, within the boundaries of the respective municipality.

The Minister for Environment and Water, the director of the respective REWI, the municipal mayor of the municipality where the site is located, or officials authorised by them, and bodies within the Ministry of the Interior, exercise control with a view to verifying compliance with the rules and procedures for operations involving ferrous and non-ferrous metal waste.

The Regional Health Inspectorates, which are part of the Ministry of Health, are also empowered to exercise control over hazardous waste treatment operations in medical and healthcare establishments.

4.4. Cooperation and exchange of information among national authorities

4.4.1. Cooperation and coordination

The experts were informed that in Bulgaria, inter-institutional cooperation exists between the various actors involved in preventing and combating environmental crime - the environmental authorities, Police forces and Customs - based on the provisions laid down in the Waste Management Act and within their functional powers.

At central level, the Ministry of the Interior cooperates with the MOEWs, and an agreement is in place between the Prosecutor's Office and the Ministry of the Interior regulating access to the automated information databases of the Ministry of the Interior.

In order to enforce environmental legislation, the MOEW and its REWIs also perform joint enforcement activities with the police and customs; in particular, at the request of the NPGD, the MOEW or its regional structures participate in joint inspections at waste storage and/or treatment sites. At regional level, the REWIs have developed a high level of ad hoc coordination with the Police, Customs and the Border Police by performing joint inspections at border areas during waste shipments.

During waste shipments, the Border Police or customs can require the assistance of the REWIs within whose territory the inspection is taking place, where technical expertise is required in case of doubt as to compliance with legal requirements.

However, according to the Bulgarian authorities, the REWI cannot always react immediately because their inspections are carried out according to a weekly, preliminary schedule and it can be difficult to schedule extraordinary inspections immediately. Therefore, it can take up to two days for the REWI to react.

At the same time, if during waste inspections the REWI need the assistance of the Police forces, the authorities of the Ministry of the Interior shall render such assistance immediately (Article 116(4), Waste Management Act).

Cooperation between the Police and the Prosecutors' Offices in investigating waste crime cases is effected according to the general rules of the Criminal Procedure Code. An investigation is launched if there are enough data to justify a decree of the Prosecutor (or approval by the Prosecutor within 24 hours, in cases where the investigation has been launched by a police officer with his first investigative action, in accordance with the Criminal Procedure Code).

According to Article 212(2), the pre-trial procedure shall be considered initiated when the protocol of the first investigative action has been drawn up, where inspection, including examination of persons, search, seizure and interrogation of witnesses has been carried out, if their immediate execution is the only opportunity to collect and preserve evidence, as well as in cases of body searches under the conditions and provisions of Article 164.

The evaluation team is of the opinion that regular channels of information between the Prosecutor's Office and the MOEW and effective focal points in each competent authority should be established. In particular, the Bulgarian authorities could consider putting into practice a system whereby the Prosecutor could receive information from the MOEW related to administrative cases which could potentially involve waste crimes. Finally, it should be pointed out that the criminal courts have the last word and that they can refuse a case if they do not perceive a potential environmental crime.

In Bulgaria, cooperation and coordination between the different authorities as described above most frequently take place on an informal and "ad hoc" basis, based on personal contacts. According to the Bulgarian authorities, although no written, standardised procedures are in place, the network of informal contacts among relevant actors is efficient and allows such cooperation to work quite well.

However, due to the high number of bodies responsible for environmental control, all of which have the power to impose sanctions, the experts are of the opinion that in Bulgaria there is a need for solid structures and written rules to facilitate such cooperation. On this basis, the evaluation team recommends that standard operational procedures be laid down in the form of a cooperation agreement, clearly establishing the competences of each actor, mutual cooperation, exchange of information, shared databases and training sessions, as well as joint operations in the area of environmental, including waste-related, crime.

For this purpose, the evaluation team also recommends setting up a formal network at national level with representatives of all law enforcement services (REWIs, national police, Border Police, customs and prosecution authorities), with a view to enhancing inter-institutional cooperation in the prevention of and fight against environmental, including waste-related, crime.

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

Information on inspections is exchanged between the inspection authorities and the MOEW as a competent authority for implementing Regulation (EC) 1013/2006, following the rules laid down in the Waste Management Act.

These rules are as follows:

Article 118 (2)

The municipal mayor and the authorities of the Ministry of the Interior shall, within 14 days, notify the director of the relevant REWI of all violations inspected during the inspections - carried out to verify compliance with the terms and operating procedures applicable to activities involving ferrous and non-ferrous metal waste - by sending all relevant documents.

Article 130

(1) If it is established that violations and/or illegal shipments of waste have taken place as set out under Article 2(35) of Regulation (EC) No 1013/2006, the customs authorities, the bodies of the General Directorate for Border Police, the bodies of the Road Police units within the regional directorates of the Ministry of the Interior, the Executive Agency for Vehicle Administration, the Executive Agency for Railways Administration and the Executive Agency for Maritime Administration shall immediately, within 14 days, notify in writing the director of the REWI for the place in which the violation and/or the illegal shipment was established, and shall send all documents.

(2) The REWI directors shall inform the Minister of Environment and Water in writing of violations of Regulation (EC) No 1013/2006 and of the measures taken.

Article 131

Where it is established that an administrative violation, in respect of which administrative proceedings have been commenced, is a crime, the proceedings shall be stayed and the materials sent to the relevant prosecutor.

Effectively countering environmental crime, which is often invisible and difficult to detect, requires efficient forms of cooperation based on a multidisciplinary and strategic, intelligence-led approach.

While investigating waste crimes, Bulgarian law enforcement and judicial authorities have access to all relevant databases on criminals and objects. The law on access to information is contained in several ordinances, namely:

- Ordinance № 1 of 4.06.2014 on the procedures and templates relating to the provision of information on activities related to waste as well as on the keeping of public registers;
- Ordinance № 2 of 23.07.2014 on the classification of waste;
- Ordinance on the packaging and waste packaging , adopted by Council of Ministers Decree N 271 of 30.10.2012, in force from 06.11.2012;
- Ordinance № 1 of 9.02.2015 on the requirements for activities related to the gathering and treatment of waste at medical and health facilities.

In order to allow easier and faster access to information by all the competent authorities involved in the investigation of waste crimes, according to the evaluation team, the Bulgarian authorities could consider interconnecting all the existing databases and systems on criminals and objects.

The evaluation team appreciates that in Bulgaria there is a focal point responsible for the exchange of information in everybody competent to counter waste crime, as well as a national focal point coordinating the other focal points is also established.

The focal point on intelligence for waste crime in Bulgaria is based in the Economic Police Department of the National Police.

4.5. Training

The Academy of the Ministry of the Interior has a module on environmental crime as part of its bachelor degree for all police cadets; it is also included in all initial training courses for the Economic Police and the service for countering organized crime in Bulgaria.

This training is based on the multi-dimensional nature of environmental crime and is focused on how particular environmental offences, such as the illegal disposal of waste and trafficking in wildlife, can also simultaneously be associated with other criminal offences or illegal activities, from bribery and corruption to failure to have the required permits. The training is also highly focused on prevention, in order to protect the environment and preserve ecological integrity. The lectures are also integrated with the economic crime lectures on document fraud, since the documentation accompanying waste movements and deliveries in Bulgaria is still in paper form, making it easier for traffickers to counterfeit data through the ‘invoice switch’ technique.

Training in the above Bachelor program is made up of eight academic hours, and in the courses for economic policemen and officers from the service for countering organized crime, six hours are devoted to environmental crime.

Thematically, the training includes the following:

- Environmental crime: an overview of the phenomenon and legal framework;
- Environmental crime: an organized crime business;
- Study of documentation in cases of criminal pollution or acts causing an environmental or human hazard;
- Objects of operational interest in cases of criminal pollution or the creation of an environmental and human hazard;
- Natural persons contributing to criminal pollution or causing an environmental or human hazard;
- Items of operational interest as regards criminal or environmental hazards and human dangers.

The pocket manual for inspections of transboundary shipments of wastes (see point 3.5) is distributed to law enforcement bodies (although not to the ordinary Police) to support this training.

Training on tackling the multi-dimensional nature of environmental crime is also given in all other courses for policemen.

The Academy of the Ministry of the Interior is the national contact point of the European Union Agency for Law Enforcement Training (CEPOL) in Bulgaria and trainers and professors actively participate in CEPOL residential training and webinars on waste crime and environmental crime.

In 2018, officials from the NPGD participated in training on the investigation of environmental crime as part of the activities organized under the EMPACT Operational Action Plan 2018.

The MOEW, as competent authority for implementing Regulation (EC) No 1013/2016, provides training for the inspection authorities tasked with control of transboundary shipments of waste, including REWIs, customs and Border Police. The training focuses on waste shipment legislation, waste classification issues and other related topics.

Newly-assigned customs officers undergo compulsory training, which includes topics related to cross-border shipments of waste. Customs officers regularly take part in seminars and trainings on the issue.

The National Institute of Justice (NIJ) is in charge of the training of judges, prosecutors, investigating magistrates, court staff and other judicial bodies: it develops curricula and organises training sessions in the field of environmental protection, both on its own and in partnership with other judicial training institutes and European institutions. The NIJ can invite experts to provide training according to the needs of the target audience (environment, finance, etc.). However, due to the small number of environmental cases, there are no specially trained environmental magistrates or judges.

The last international training course, ‘European Environmental Assessment Law’ under this programme was held at NIJ on 22-24 October 2018. It focused on the scope of and judicial control under EIA/SEA directives and on the environmental impact assessment of certain public and private projects and of the future impact of some plans and programmes on the environment.

In November 2018, the National Institute of Justice hosted an international conference on environmental law organized by the European Union Forum of Judges for the Environment, the Supreme Administrative Court and the Association of Bulgarian Administrative Judges, The forum was attended by 80 judges and prosecutors from 20 European countries, India and Australia. Among the participants in the conference were Robert Conrad, DG Environment of the European Commission, Farah Bukel, professor at Gent University with professional experience as a judge at the West Flanders District Court, Belgium, Brian Preston of the Specialized Environmental Court, Australia and Ragnhild Noer from the Global Judicial Institute on the Environment.

The National institute of Justice in cooperation with the Academy of European Law (ERA) in Trier, Germany, organizes every year international trainings on topics related to environmental protection, in which Bulgarian judges participate jointly with their counterparts from other EU member states. These trainings take place under EU programme “*Co-operation with national judges in the field of environmental law*”.

All training materials developed as part of the project of the Academy of European law (ERA), where NIJ is a project partner, are available on the secure internal network of the NIJ (virtual reading room), which is available to Bulgarian magistrates registered on the platform.

Content on environmental violations was included in the seminar held in November 2017 under the programme ‘Court Proceedings Invoking Non-Compliance with EU Nature Protection Law’. The target groups were judges and prosecutors dealing with such cases.

The NIJ attaches great importance to training on the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention). In this context, from 3 to 13 December 2018, an e-learning module on the topic ‘Challenges of the Aarhus Convention in the law enforcement’ was carried out under the project ‘Innovation products and services’ as part of the training provided by the National Institute for Justice. 16 officials participated in the training, including six judges, one judicial assessor, two prosecutors, three newly appointed judges, one legal assistant and three judicial officers. This training will be repeated in the second half of 2019.

In addition to the above initiatives, the NIJ coordinates the participation of Bulgarian magistrates in international training organized by similar European schools and institutions.⁹

⁹ Bulgarian magistrates and judicial assistants have participated in:

1. *'How to Handle Court Proceedings Invoking Non-Compliance with EU Waste Law'*, 21-23 September 2016, Barcelona. Participants from Bulgaria: 1 Judge and 2 prosecutors.
2. *'How to Handle Court Proceedings Invoking Non-Compliance with EU Waste Law'*, 17-19 October 2016, Trier. Participants from Bulgaria: 1 Judge and 1 prosecutor.
3. *'How to Handle Court Proceedings Invoking Non-Compliance with EU Waste Law'*, 30 November-2 December 2016, Thessaloniki. Participants from Bulgaria: 1 Judge and 1 prosecutor.
4. *How to Handle Court Proceedings Invoking Non-Compliance with EU Water Law*, 22-24 February 2017, Trier. Participants from Bulgaria: 2 judges and 2 prosecutors.
5. *How to Handle Court Proceedings Invoking Non-Compliance with EU Water Law*, 5-7 April 2017, Warsaw. Participants from Bulgaria: 2 judges and 2 prosecutors.
6. *EU Environmental law*, 12-13 June 2017, Trier. Participants from Bulgaria: 5 judges, including 2 administrative judges.
7. *How to Handle Court Proceedings Invoking Non-Compliance with EU Nature Protection Law (Birds and Habitats directives)*, 18-20 September 2017, Sofia. Participants from Bulgaria: 3 Judges and 3 court assistants.
8. *How to Handle Court Proceedings Invoking Non-Compliance with EU Nature Protection Law, (Birds and Habitats directives)*, 4-6 October 2017, Trier. Participants from Bulgaria: 2 judges and 2 prosecutors.
9. *How to Handle Court Proceedings Invoking Non-Compliance with EU Nature Protection Law (Habitats directives)*, 27-29 November 2017, Barcelona. Participants from Bulgaria: 2 judges.
10. *How to Handle Court Proceedings Invoking Non-Compliance with EU Nature Protection Law (Species diversity)*, 23-25 April 2018, Trier. Participants from Bulgaria: 2 Judges and 2 prosecutors.
11. *Focus on Environmental Impact Assessment & Strategic Environmental Assessment Directive*, 11-13 June 2018, Warsaw. Participants from Bulgaria: 1 judge.

Moreover, the Prosecutor's Office conducts internal training courses on different topics on an annual basis. According to the 2018 training calendar, there were three workshops entitled 'Crimes against public health and the environment'; 70 investigators received training.

The Prosecutors' Association has put together and published an environmental crime handbook.

4.6. Conclusions

- The institutional set-up for environmental management in Bulgaria is well structured and fairly comprehensive: the Waste Management Act provides for a hierarchical structure, with the Ministry of the Environment and Water being the main actor in this field. When it comes to the enforcement of waste legislation in Bulgaria, there are four services responsible for supervision and/or fact-finding: the REWIS, the national police, the Border Police and the Customs Agency.
- The Bulgarian authorities stated that, in the organisational structure of the national Police, waste-related crime is considered to be a priority. As a matter of fact, to deal with it they have a specialised, central environmental unit belonging to the economic crime department within the national police, which also includes the services responsible for tackling financial and tax-related crime and corruption. As environmental crime is chiefly motivated by financial gain, this structure, with its capacity to optimise environmental investigations from a financial viewpoint, may be seen as logical.
- However, at the same time, the police staff currently assigned to dealing with environmental crime in the above unit - two part-time police officers - is insufficient to tackle this form of crime. Therefore, the evaluation team recommends further developing this unit with additional resources, so that it can act as a platform to support and promote a multidisciplinary approach to environmental crime, and also become an even more active partner at international level (Interpol, Europol and the EU).

- The evaluation team, noting that Bulgaria does not have specialised prosecutors and judges in the area of environmental crime, as cases are distributed randomly within the judicial system, recommends that the Bulgarian authorities take measures to increase the level of specialisation of the judiciary in this area, by establishing specialised prosecutors as well as a national network of expertise for environmental prosecutors and judges.
- The Bulgarian legislation in force provides for the possible imposition of both administrative and criminal law sanctions for environmental offences, including waste offences. However, according to the Bulgarian authorities, most cases of non-compliance with the legal requirements in the area of environmental, including waste management, do not contain the constituent elements of a criminal offence and therefore fall into the administrative category.
- The evaluation team is of the opinion that the distinction between administrative infringements and criminal offences in Bulgaria is not sufficiently clear. It encourages therefore the Bulgarian authorities to define clearer criteria distinguishing between environmental violations requiring administrative enforcement or judicial follow-up, in order to address every single case in the most appropriate way and to ensure that information on environmental violations is regularly provided to the Prosecutor's Office.
- Inter-institutional cooperation between the different actors involved in tackling environmental crime in Bulgaria proceeds mainly on an ad hoc and informal basis. Although this does not seem to give rise to any problematic issues in practice, in order to ensure that such cooperation is equal to the challenges posed by this particularly complex type of crime, involving a multiplicity of actors, the evaluation team encourages the Bulgarian authorities to put in place a more formal and structured framework for cooperation, based on protocols or memoranda of understanding and a formal network established at national level with representatives of all law enforcement services.

- The evaluation team appreciates the significant and valuable efforts made by Bulgaria in providing extensive training - both basic and specialised - at all levels of the different authorities to the various categories of staff involved in the prevention of and fight against environmental crime, and encourages it to maintain a focus on continuous training, including by targeting specific categories of staff.
- According to the Bulgarian authorities there is a shortage of independent and qualified experts in the area of environmental crime. In the opinion of the evaluation team, this situation could affect the proper functioning of the Prosecutor's Office. Therefore, the Bulgarian authorities are encouraged to take appropriate measures in order to provide expertise and technical assistance to the Prosecutor's Office in this field, including with the possible establishment of a central laboratory.

5. LEGAL ASPECTS

5.1. Substantive criminal law

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

On the whole, Bulgaria has transposed 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 into its Criminal Code. The transposing act was passed by the National Assembly on 13 April 2011, promulgated in the State Gazette on 26 April 2011 and entered into force one month after publication, i.e. on 27 May 2011.

The relevant provisions that criminalize offences that fall within the definition of ‘waste crime’ in the Criminal Code can be found in Chapter 11 ‘Generally Dangerous Crimes’, Section III, ‘Offences against National Health and the Environment’.

A full list of relevant provisions of the Criminal Code is listed below.

Article 349

(1) A person who intentionally puts or admixes a substance hazardous to human life or health in a well, spring, water mains or other installation intended for public use, wherefrom or whereby potable water is supplied, shall be punished by a term of imprisonment of between two and eight years.

(2) (Supplemented, SG No. 50/1995, amended, SG No. 153/1998) If the act has resulted in severe bodily injury, the punishment shall be a term of imprisonment of between three and ten years, and if the act results in death, the punishment shall be a term of imprisonment of between ten and twenty years, a life sentence or a whole life sentence.

(3) (Amended, SG No. 41/1985) Subject to the variations under the preceding paragraphs, persons who, for the purpose of infecting people, spread epidemic diseases shall also be punished.

Article 352

(1) (Amended, SG No. 95/1975, SG No. 86/1991, SG No. 85/1997, SG No. 26/2004, SG No. 33/2011, effective 27.05.2011) A person who pollutes or allows the pollution of soil, air, water sources, basins, ground water and the territorial or sea waters in areas designated by an international agreement to which the Republic of Bulgaria is a party and thereby renders them hazardous to people or animals and plants, or makes them unfit for use for cultural, every day, health, agricultural or other national or economic purposes, shall be punished by a term of imprisonment of between one and five years and a fine of between BGN 5 000 and 30 000.

(2) (Amended, SG No. 26/2004) The same punishment shall also be imposed on officials who fail to design, construct or operate drainage or irrigation systems to take the necessary measures to prevent the hazardous pollution of potable water supply zones, or for the raising of ground water levels in residential and resort areas.

(3) (Amended, SG No. 10/1993, SG No. 33/2011, effective 27.05.2011) Where the acts under Paragraph 1 or 2 cause:

1. death or severe bodily injury to one or more individuals, the punishment shall be a term of imprisonment of between five and twenty years and a fine of between BGN 10 000 and 50 000;
2. substantial damage to the environment, the punishment shall be a term of imprisonment of between two and eight years and a fine of between BGN 10 000 and 50 000.

(4) (New, SG No. 95/1975, amended, SG No. 28/1982, SG No. 10/1993, SG No. 33/2011, effective 27.05.2011) Where the act under paragraph 1 or 2 results from negligence, the culpable party shall be punished by a term of imprisonment of up to three years and a fine of between BGN 2 000 and 20 000.

Article 352a (New, SG No. 95/1975)

(1) (Amended, SG No. 86/1991, SG No. 85/1997, amended and supplemented, SG No. 33/2011, effective 27.05.2011) A person who pollutes or allows the pollution by petrol products or derivatives of territorial and inland sea waters in areas designated by an international agreement to which the Republic of Bulgaria is a party shall be punished by a term of imprisonment of between one and six years and a fine of between BGN 10 000 and 50 000. Where the act is committed by the captain of a vessel, the court shall also rule on forfeiture of entitlement under Article 37(1)(7).

(2) (Amended, SG No. 10/1993, SG No. 33/2011, effective 27.05.2011) The punishment under paragraph 1 shall also be imposed on a person who pollutes or allows the pollution of the waters designated in an international agreement to which the Republic of Bulgaria is a party, as referred to in paragraph 1, with large amounts of noxious liquid substances.

(3) (Supplemented, SG No. 28/1982, amended, SG No. 10/1993, SG No. 33/2011, effective 27.05.2011) Where the act under paragraph 1 or 2 results from negligence, the culpable party shall be punished by a term of imprisonment of up to three years and a fine of between BGN 2 000 and 15 000.

(4) (Amended, SG No. 10/1993) The master of a ship or another vessel who fails to inform immediately the nearest port about the dumping of petrol products or derivatives, or of other substances hazardous to people, animals or plants into the waters indicated in paragraph 1 shall be punished by a fine of up to BGN 500.

(5) (Supplemented, SG No. 28/1982, amended, SG No. 10/1993) The master or another commanding officer of a vessel who fails in his obligation to enter into the vessel's documentation operations involving substances hazardous to people, animals or plants, or who enters therein untrue information about such operations, or who refuses to present such documentation to the relevant officials, shall be punished by a fine of between BGN 100 and 300, imposed by administrative procedure.'

Article 353

(1) (Amended, SG No. 95/1975, SG No. 86/1991) An official who orders an enterprise or thermal power station to be put into operation, before putting into operation the necessary water-treatment equipment, shall be punished by a term of imprisonment of up to three years and a fine of between BGN 100 and 300.

(2) The same punishment shall be imposed on officials who fail to fulfil their obligations as regards the construction of water-treatment equipment, ensuring the good condition and uninterrupted, proper functioning of such equipment, as a result of which the latter is unable to start operations, fully or in part, or ceases to operate.

(3) (Amended, SG No. 10/1993) For acts under the preceding paragraphs committed as a result of negligence, the punishment shall be probation or a fine of between BGN 100 and 300.

(4) (New, SG No. 95/1975, amended and supplemented, SG No. 28/1982, amended, SG No. 10/1993) For minor cases the punishment shall be: under paragraphs 1 and 2, a fine of between BGN 100 and 300, and under paragraph 3, a fine of between BGN 100 and 300 imposed by administrative procedure.

Article 353a

An official who, within the sphere of his official duties, conceals or distributes untrue information about the state of the environment and the components thereof - atmospheric air, water, soil, sea areas - thereby causing significant damage to the environment, human life and health, shall be punished by a term of imprisonment of up to five years and a fine of between BGN 100 and 1 000.

Article 353b

(1) A person who manages waste improperly and thereby poses a threat to the life or health of other people or poses a risk of substantial damage to the environment shall be punished by a term of imprisonment of between one and five years and a fine of between BGN 5 000 and 30 000.

(2) Where the act under paragraph 1 causes:

1. death or severe bodily injury to one or more individuals, the punishment shall be a term of imprisonment of between five and twenty years and a fine of between BGN 10 000 and 50 000;

2. substantial damage to the environment, the punishment shall be a term of imprisonment of between two and eight years and a fine of between BGN 10 000 and 50 000.

(3) A person who violates or fails to meet their obligations to ensure the good working order and proper operation of a plant or facility for the disposal or recovery of waste and thereby causes death or severe bodily injury to one or more individuals shall be punished by a term of imprisonment of between five and twenty years and a fine of between BGN 10 000 and 50 000. If substantial damages have been caused to the environment, the punishment shall be a term of imprisonment of between two and eight years and a fine of between BGN 10 000 and 50 000.

(4) Where the acts under paragraphs 1-3 result from negligence, the culpable party shall be punished by imprisonment of up to three years and a fine of between BGN 2 000 and 15 000.

Article 353c (New, SG No. 62/1997, amended, SG No. 33/2011, effective 27.05.2011)

(1) A person who manages hazardous waste improperly shall be punished by a term of imprisonment of up to five years and a fine of between BGN 2 000 and 20 000.

(2) Where the act under paragraph 1 poses a threat to the life or health of other people or poses a risk of substantial damage to the environment, the punishment shall be a term of imprisonment of between one and six years and a fine of between BGN 10 000 and 30 000;

(3) Where the act under paragraph 1 causes death or severe bodily injury to one or more individuals, the punishment shall be a term of imprisonment of between ten and twenty years and a fine of between BGN 15 000 and 50 000; if substantial damage has been caused to the environment, the punishment shall be a term of imprisonment of between three and ten years and a fine of between BGN 20 000 and 50 000.

(4) An official who violates or fails to meet their obligations as regards the management of hazardous waste shall be punished by a term of imprisonment of up to three years.

(5) Where the acts under paragraphs 1-3 result from negligence, the culpable party shall be punished by a term of imprisonment of up to three years and a fine of between BGN 3 000 and 20 000.

Article 353d (New, SG No. 33/2011, effective 27.05.2011)

(1) A person who, in breach of established procedures, carries waste across the border of Bulgaria, unless the amounts of waste are negligible, shall be punished by a term of imprisonment of up to four years and a fine of between BGN 2 000 and 5 000.

(2) A person who, in breach of international agreements to which the Republic of Bulgaria is a party, carries across the border of Bulgaria hazardous waste, toxic chemical substances, biological agents, toxins or radioactive substances shall be punished by a term of imprisonment of between one and five years and a fine of between BGN 5 000 and 20 000.

(3) Where the acts under paragraph 1 or 2 result from negligence, the culpable party shall be punished by a term of imprisonment of up to two years, or probation.

Article 353e (New, SG No. 33/2011, effective 27.05.2011)

(1) A person who stores hazardous substances or mixtures in breach of established procedures and thereby poses a threat to the life or health of other people or poses a risk of substantial damage to the environment shall be punished by a term of imprisonment of up to four years and a fine of between BGN 2 000 and 5 000.

(2) A person who unduly commissions or causes the commissioning of a plant or facility which requires the use of hazardous substances or mixtures for its operation and thereby poses a threat to the life or health of other people or poses a risk of substantial damage to the environment shall be punished by a term of imprisonment of between one and five years and a fine of between BGN 5 000 and 20 000.

(3) The punishment under paragraph 2 shall also be imposed on a person who unduly commissions or causes the commissioning of a plant or facility whose operation is likely to pose a threat to the life or health of other people or pose a risk of substantial damage to the environment.

(4) If the cases referred to in paragraphs 2 and 3 cause death or severe bodily injury to one or more individuals, the punishment shall be a term of imprisonment of between eight and fifteen years and a fine of between BGN 10 000 and 30 000; if substantial damage is caused to the environment, the punishment shall be a term of imprisonment of between two and eight years and a fine of between BGN 15 000 and 30 000.

(5) Where the acts under paragraphs 1 - 4 result from negligence, the culpable party shall be punished by a term of imprisonment of up to two years or probation.

Criminal liability for legal persons is set out in Articles 6 and 7 of 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. Also, recital 45 of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain directives states that Member States should provide for effective, proportionate and dissuasive penalties to be imposed on legal persons responsible for waste management.

According to Art. 83(a) of the Act of Sanctions, in Bulgaria such liability involves that legal persons can be punished with fines of up to [EUR 500 000]. Representatives of these entities and people involved in the decision-making process could also be found liable. Under the Bulgarian Code of Criminal Procedure, the legal entities cannot be prosecuted.

Sanctions for administrative offences are set out under the Law on administrative violations and penalties, Chapter IV, ‘Administrative punitive sanctions on legal persons and sole entrepreneurs’ (title amended sg 790/05).

A full list of the relevant provisions is provided below:

Article 83a. (new – SG 79/05)

(1) (amend. – SG 27/09; amend. – SG 33/11, in force from 27.05.2011; suppl. – SG 60/11; amend. – SG 19/12; suppl. - SG 107/14, in force from 01.01.2015; amend. and suppl. – SG 81/15, in force from 21.11.2015, suppl. - SG 101/17)

A legal person that has enriched itself or would enrich itself as a result of a crime under Art. 108a, 109, 110 (preparation for terrorism), 142 – 143a, Article 152(3), item 4, Article 153, 154a, 155, 155a, 156, 158a, 159-159d, Article 162(1) and (2), Article 164(1), Article 171(3), Articles 172a – 174, 209 – 212a, 213a, 214, 215, Article 216(3), 225c, 227(1) – (5), 242, 243, 244, 244a, 246(3), 248a, 250, 252, 253, 254b, 255, 255a, 255b, 256, 260a - 260c, 278c – 278e, 280, 281, 282, 283, 301 – 307, Articles 307b, 307c, 307d, Article 308(3), Article 319a-319f, 320 – 321a, 352, 352a, 353b – 353f, 354a-354c, 356j or 419a of the Criminal Code, or as a result of crimes committed under assignment or in execution of a decision of an organised criminal group, where they are committed by:

1. a person authorised to formulate the will of the legal person;
2. a person, who represents the legal person;
3. a person elected to a body exercising control or supervision over the legal person; or

4. (amend. - SG 81/15, in force from 21.11.2015) a worker or employee to whom the legal person has assigned certain work, where the offence is committed at or in connection with this work, shall be subject to a financial penalty of an amount up to BGN 1 000 000, but which shall not be less than the value of the benefit gained, where the benefit is of a property nature; a penalty of BGN 1 000 000 shall be imposed where the benefit is not of a property nature or its amount cannot be evaluated.

(2) (new - SG 81/15, in force from 21.11.2015) A financial penalty shall also be imposed on a legal person, which does not have a main office in the Republic of Bulgaria, provided that the offence set out under paragraph 1 was committed in the Republic of Bulgaria.

(3) (prev. para. 2 - SG 81/15, in force from 21.11.2015) A financial penalty shall also be imposed on a legal person where the persons under paragraph 1, subparagraphs 1, 2 and 3 abetted or assisted with the commission of the envisaged acts, or if the acts were only attempted.

(4) (prev. para. 3, amend. - SG 81/15, in force from 21.11.2015) A financial penalty shall be imposed irrespective of the establishment of criminal liability on the part of the accomplices to the criminal act under paragraph 1.

(5) (prev. para. 4, amend. - SG 81/15, in force from 21.11.2015) A benefit directly or indirectly gained by a legal person as a result of the offence under paragraph 1 shall be confiscated in favour of the state, unless it is subject to restitution or compensation, or to confiscation pursuant to the Criminal Code. Where the object or the property that is the subject of the criminal act is missing or has been alienated, its equivalent value in Bulgarian leva (BGN) shall be awarded.

(6) (prev. para. 5 - SG 81/15, in force from 21.11.2015) The financial penalty under paragraph 1 shall not be imposed on the state, state bodies, local government bodies or on international organisations.'

Administrative provisions for waste-related offences are set out in the Waste Management Act, Chapter Six, 'Coercive Administrative Measures and Administrative Penalty Provisions'. Section I sets out the coercive administrative measures, while Section II sets out the administrative violations and related sanctions. A full list of the relevant provisions is provided below.

Article 126

In order to prevent and stop the administrative breaches set out under this act and Regulation (EC) N 1013/2006, and to prevent and remove any hazardous consequences resulting therefrom, the competent body or officials authorised by it shall apply compulsory administrative measures.

Article 127

The Minister of Environment and Water or officials authorised by them shall:

1. stop:

- a) activities related to the collection, storage, transportation, recovery or disposal of waste;
- b) the operation of facilities used for the disposal or recovery of waste;
- c) the carrying out of activities involving ferrous and non-ferrous waste at specific sites in case of non-removal of the violation within seven days of its finding, with the exception of the cases set out under Article 75(3);

2. order the carrying out of:

- a) the environmentally sound treatment of waste in the cases set out under Article 24(3) of Regulation (EC) No 1013/2006 in cases of import or transport to the Republic of Bulgaria;

b) take-back of the waste in the Republic of Bulgaria and the subsequent environmentally sound treatment thereof in the cases set out under Article 22(2) or Article 24(2) of Regulation (EC) No 1013/2006 in cases of export or transport from the Republic of Bulgaria.

Article 128

The REWI director, or an official authorised by them, shall:

1. issue instructions for the removal of waste on behalf of the perpetrator and for reclamation of the quality of the environment;
2. stop activities related to the collection, storage, transportation, recovery or disposal of waste;
3. stop the operation of facilities used for waste treatment.

Article 129

(1) Compulsory administrative measures shall be implemented by a motivated order by the body specified under Article 127 or 128.

(2) The order shall define the type of compulsory administrative measure and the procedure for its implementation.

(3) The order shall be delivered to the perpetrator pursuant to the Code of Civil Procedure.

(4) Pursuant to Article 127(2)(a), the order implementing the measure shall be sent to the recipient of the waste, in accordance with the Code of Civil Procedure; pursuant to Article 127(2)(b), the order shall be sent to the person responsible for dispatching the waste and accompanying the shipment of waste to its final destination. A copy of the order shall be sent immediately to the relevant body or person pursuant to Article 116(2), (3) and (4).

(5) (suppl. - SG 77/18, in force from 01.01.2019) The order implementing the compulsory administrative measure may be appealed before the relevant administrative court in accordance with the Administrative Procedure Code. The appeal shall not stop execution of the order.

(6) Within seven working days of receipt of the order implementing the measure under Article 127(2), the person upon whom the measure is imposed shall submit to the competent body a certificate stating that the waste has been accepted for environmentally sound treatment.

(7) The persons in respect of whom the measures are implemented shall be liable to meet all costs related to the execution of the compulsory administrative measures.

Article 130

(1) If it is established that violations and/or illegal shipments of waste have taken place as set out under Article 2(35) of Regulation (EC) No 1013/2006, the customs authorities, the bodies of the General Directorate for Border Police, the bodies of the Road Police units within the regional directorates of the Ministry of the Interior, the Executive Agency for Vehicle Administration, the Executive Agency for Railways Administration and the Executive Agency for Maritime Administration shall immediately, within 14 days, notify in writing the REWI director of the place in which the violation and/or the illegal shipment was established, and shall send all documents.

(2) The REWI directors shall inform the Minister of Environment and Water in writing of violations of Regulation (EC) No 1013/2006 and of the measures taken.

Article 131

Where it is established that an administrative violation, in respect of which administrative proceedings have been commenced, is a crime, the proceedings shall be stayed and the materials sent to the relevant prosecutor.

Article 132

The competent body, or officials authorised by them pursuant to Article 125, shall take measures pursuant to and as outlined in the relevant law.

Article 133

(1) A fine of BGN 300 to 1 000 shall be imposed on a natural person who:

1. (suppl. - SG 88/17, in force from 01.01.2020) throws out waste in places not permitted for this purpose or in containers or bags other than those designated by the municipality for measuring the quantity of household waste under Article 67(8) of the Law on local taxes and charges;
2. delivers waste to persons, who do not hold a permit, complex permit or registration document pursuant to Article 35, in cases where such documents are required;
3. fails to deliver an ELV to a storage facility or a centre for dismantling;
4. throws out mass disseminated waste, marked for separate collection pursuant to Article 13(1), in containers for mixed household waste and in waste collection receptacles, placed in publicly-owned or municipal properties, or mixes them with other materials or waste in a way that complicates the subsequent recycling or recovery thereof, where in the relevant populated place there is a system for separate collection of the relevant mass disseminated waste;
5. fails to comply with the provisions on second use, recycling and recovery of construction waste;
6. throws out household waste in receptacles for separate collection;
7. (new - SG, 105/16) turns over, violates the integrity or aesthetic of and/or sets fire to waste collecting receptacles.

(2) For administrative violations that are clearly of minor importance pursuant to para. 1, subparagraphs 1 and 4, established while they were being carried out, the bodies in charge at the place of the violation shall impose a fine of between BGN 10 and 50, for which a slip shall be issued pursuant to the Law on administrative violations and penalties.

(3) A fine of between BGN 1 400 and 4 000 shall be imposed on a natural person who:

1. delivers household ferrous and non-ferrous metal waste without a declaration of origin pursuant to Article 39(2) or refuses to fill in a declaration, or has entered false information therein;

2. delivers household ferrous and non-ferrous metal waste to a person without a permit or complex permit pursuant to Article 35(1);

3. (suppl. -SG, 105/16) carries out activities with ferrous and non-ferrous metal waste, WEEE, waste batteries and accumulators (WBA) and/or ELVs without registration pursuant to the Commercial Code or without a permit, if the act does not represent a crime;

4. delivers non-household ferrous and non-ferrous metal waste, including pursuant to Article 39(1);

5. (new - SG, 105/16) receives payment in cash for delivering ferrous and non-ferrous metal waste, where the total value of the transactions during the relevant calendar year exceeds BGN 100.

(4) A fine of between BGN 2 000 and 5 000 shall be imposed on a natural person who:

1. burns waste in an unregulated way or carries out another form of unregulated waste treatment;

2. infringes the requirements of Article 7 of Regulation (EC) N 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC.

(5) In case of repeated violations, a fine shall be imposed as follows:

1. pursuant to para. 1 – in the amount of BGN 600 to 2 000;
2. pursuant to para. 3 – in the amount of BGN 2 800 to 8 000;
3. pursuant to para. 4 – in the amount of BGN 4 000 to 10 000.

Article 134

(1) A financial penalty of between BGN 1 400 and 4 000 shall be imposed on a sole trader or a legal person, who:

1. (suppl. - SG 88/17, in force from 01.01.2020) throws out non-hazardous waste at a place not permitted for this purpose or in containers or bags other than those designated by the municipality for measuring the quantity of household waste under Article 67(8) of the Law on local taxes and charges;
2. burns non-hazardous waste in an unregulated way or carries out another form of unregulated waste treatment.

(2) A financial penalty of between BGN 10 000 and 50 000 shall be imposed on a sole trader or a legal person, who:

1. throws out hazardous waste at a place not permitted for this purpose;
2. burns hazardous waste in an unregulated way or carries out another form of unregulated waste treatment.

(3) In case of repeated violations, a fine shall be imposed as follows:

1. pursuant to para. 1 – in the amount of BGN 2 800 to 8 000;
2. pursuant to para. 2 – in the amount of BGN 20 000 to 100 000.

Article 135

(1) A financial penalty of between BGN 2 000 and 6 000 shall be imposed on a sole trader or a legal person, with the exception of the persons cited in Article 14(2), who:

1. fails to keep accounts of the waste or fails to produce documents on the account or information for management of the waste activities pursuant to the requirements of this act or the requirements of Article 48(1);
2. (suppl. - SG, 105/16) fails to produce information and/or fails to keep accounts pursuant to the requirements of Article 13(1) or Article 59(1);
3. (suppl. - SG, 105/16) produces false information and/or keeps false accounts within the meaning of this act or the provisions of Article 13(1) or Article 48(1), or Article 59(1);
4. fails to produce documents, upon request by the competent bodies, on the accounts or information about the waste management activity.

(2) A financial penalty of between BGN 5 000 and 15 000 shall be imposed on a sole trader or a legal person who:

1. fails to carry out classification of waste produced as a result of their activity, in case pursuant to the provisions of Article 3;

2. fails to carry out further classification of waste produced as a result of their activity, in case of a change of the raw materials and/or the technological processes, which leads to change of the waste composition and properties, pursuant to the provisions of Article 3.

(3) A financial penalty of between BGN 5 000 and 10 000 shall be imposed on a sole trader or a legal person who:

1. produces false data, requested upon registration or following a change and/or addition;
2. fails to declare in time a change of circumstances, pursuant to Article 79(2).

(4) A financial penalty of between BGN 5 000 and 15 000 shall be imposed on a sole trader or a legal person, with the exception of the persons cited at Article 14(2), who fails to provide access to grounds or premises or to documents by an official carrying out an inspection.

(5) In case of a repeated violation of the provisions of paragraphs 1 - 4, the financial penalty imposed shall be doubled.

Article 136

(1) A financial penalty of between BGN 3 000 and 10 000 shall be imposed on a sole trader or a legal person who:

1. infringes the provisions on collection, separation, storage, transportation or treatment of household or construction waste;
2. infringes the requirements for separate collection, transportation or treatment of waste according to the type, properties and compatibility of the waste;

3. infringes the requirements of the normative acts for packaging and labelling of hazardous waste;
4. allows the dilution or mixing of industrial and hazardous waste with other waste or substances to achieve the criteria for acceptance of waste of a specific landfill site.

(2) A financial penalty of between BGN 7 000 and 20 000 shall be imposed on a sole trader or a legal person who:

1. delivers or accepts waste without a written contract in the cases under Article 8(1) or infringes the requirements of Article 7(1);
2. infringes the requirements of Article 8(2);
3. (suppl. - SG, 105/16) collects, transports and/or treats waste, or recycles ships within the meaning of Regulation (EU) No 1257/2013 without a permit or registration document, where such documentation is required;
4. (suppl. - SG, 105/16) fails to fulfil the conditions, determined in the permit pursuant to Article 35(1)(1) and/or in the registration document under Article 35(3) and (5);
5. infringes the requirements for building up and operating facilities and installations for waste recovery or disposal;
6. accepts waste at a ground or facility for storage of hazardous waste without arranging separate storage for other materials, or allows uncontrolled spillage;
7. fails to undertake actions for the disposal or recovery of waste within the term established by law;
8. infringes the requirements for the treatment and shipment of industrial and hazardous waste;

9. delivers industrial and/or hazardous waste to persons who do not hold a permit, complex permit or registration document pursuant to Article 35, or fails to dispose of or utilize them within the term established law;
10. collects and stores hazardous waste in receptacles, which do not meet the requirements for firm closure, labelling of the waste they contain or which are made of materials that interact with the waste;
11. accepts hazardous or industrial waste without a description of the properties, composition, adaptability for treatment, hazardous properties and safe measures for treatment, or fails to carry out the required check-ups, samples and analyses upon acceptance;
12. mixes hazardous waste with non-hazardous waste, and with other substances and materials, including dilute hazardous waste, except where this is part of recovery and disposal technology and the person holds a permit or complex permit pursuant to Article 35;
13. provides false data, required upon issuance, change and/or addition to a permit pursuant to Article 35(1)(1);
14. fails to declare within the term a change in the circumstances pursuant to Article 73(1);
15. fails to provide details of the quantities of waste entering the ground in the cases where this is required;
16. (new - SG, 105/16) performs waste-related activities as a trader or broker without registration or without the relevant document under Article 35;
17. (new - SG, 105/16) performs activities related to the recycling of ships in violation of the requirements of Articles 7 and 13 of Regulation (EU) No 1257/2013.

(3) In case of repeated infringements a financial penalty shall be imposed, as follows:

1. pursuant to para. 1 – in the amount of BGN 6 000 to 20 000;
2. pursuant to para. 2 – in the amount of BGN 14 000 to 40 000.

Article 137.

(1) A financial penalty of between BGN 7 000 and 20 000 shall be imposed on a sole trader or a legal person who builds up and/or operates waste incineration facilities, which:

1. infringe the technical requirements for the mass of organic compounds in the bottom ash and slag, the temperature in the incineration chamber and/or the duration of the homogeneous gas mixture;
2. fail to provide the required measurement of emissions of hazardous substances and/or operational parameters.

(2) In case of repeated violations pursuant to para. 1, a financial penalty shall be imposed of between BGN 14 000 to 40 000.

Article 138

(1) Any sole trader or legal person which:

1. accepts for depositing any waste which has had no prior treatment, does not correspond to the landfill site class and/or fails to meet the criteria for depositing;
2. allows the improper exploitation of a landfill site or the incineration of waste in it;
3. fails to carry out controls on:
 - a) waste entering the disposal's facilities and installations;

- b) the disposal technology;
 - c) the pollution of the components of the environment during the exploitation of the facility or after a waste disposal operation has ended;
 - d) the closure of the waste disposal facilities and installations;
4. fails to implement the programme for the control and monitoring of landfill sites or waste treatment facilities and installations, for the closure and recultivation of a waste disposal facility or for post-operational monitoring and control;
5. fails to implement within the time-limits the measures contained in the plan for bringing the landfill site into compliance with the requirements of the ordinance pursuant to Article 43(1);

shall be punishable by a financial penalty in the amount of BGN 7 000 to 20 000,

(2) In the event of repeated violations pursuant to paragraph 1, a financial penalty shall be imposed in the amount of BGN 14 000 to 40 000.

(3) Any landfill site owner which:

- 1. exploits the landfill site without having at their disposal a certain amount of the sums for one tonne of deposited waste pursuant to subparagraphs 1 or 2 of Article 60(2), thereby failing to comply with the requirements of this act or of the ordinance pursuant to Article 43(2);
- 2. fails to deposit two successive monthly sums pursuant to subparagraphs 1 or 2 of Article 60(2), or fails to produce a bank guarantee pursuant to subparagraph 3 of Article 60(2);

3. deposits a monthly sum pursuant to Article 60(1) or (2), or produces a bank guarantee pursuant to subparagraph 3 of Article 60(2), which do not meet the requirements of this act or of the ordinance pursuant to Article 43(2);
4. fails to update the amount of the sum pursuant to subparagraphs 1 or 2 of Article 60(2), or fails to produce a bank account statement pursuant to Article 61(1);
5. fails to extend or renew the bank guarantee in compliance with the requirements of this act or of the ordinance pursuant to Article 43(2);
6. fails to deposit two monthly sums pursuant to Article 64(1) or uses false information in order to reduce their amount;
7. allows prohibited waste to be deposited;

shall be punishable by a financial penalty in the amount of BGN 30 000 to BGN 100 000.

(4) In the event of repeated violations pursuant to paragraph 3, a financial penalty shall be imposed in the amount of BGN 60 000 to 200 000.

(5) Any landfill site owner which, within the time-limits set out in Article 62(2), fails to take measures to close the site in compliance with the closure plan shall be punishable by a financial penalty in the amount of BGN 5 000 for a landfill site with non-hazardous waste, and by a financial penalty in the amount of BGN 10 000 for a landfill site for hazardous waste.

(6) Any landfill site owner which fails to take the measures for the technical reopening of the landfill site within the time-limits set by the closure plan, shall be punishable by a financial penalty in the amount of BGN 2 000 for non-hazardous waste, and by a financial penalty in the amount of BGN 5 000 for hazardous waste for each acre of the landfill site grounds for which technical recultivation has not been carried out.

(7) (new - SG 53/18 in force since 26.06.2018)

Any sole trader or legal entity which violates the requirements of Articles 11 and 13 Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008, hereinafter referred to as ‘Regulation (EC) 2017/852’ shall be punishable by a financial penalty in the amount of BGN 30 000 to 100 000.

(8) (new - SG 53/18 in force since 26.06.2018) In the event of repeated violations under paragraph 7, a financial penalty in the amount of BGN 60 000 to BGN 200 000 shall be imposed.

Article 139

(1) Any sole trader or legal person which:

1. fails to undertake measures for the separate collection of waste from medical establishments, and to take the necessary steps for the proper storage, shipment and disposal of such waste;
2. disposes of hazardous waste from medical establishments at not-regulated sites and/or in containers for the collection of household or widespread common waste;
3. stores hazardous waste from medical establishments in the open or in such a way which leads to pollution of the components of the environment or to the spread of contamination or sickness, or creates the conditions for outbreaks of epidemics;
4. allows hazardous waste from medical activities to be mixed with other hazardous waste, substances and materials, and obstructs any follow-up technology for disposal and/or recovery;
5. provides for depositing any non-treated hazardous waste from medical establishments;
6. treats waste from medical establishments in violation of the requirements of the ordinance pursuant to Article 43(3).

shall be punishable by a financial penalty in the amount of BGN 7000 to 20 000,

(2) In the event of repeated violations pursuant to paragraph 1, a financial penalty shall be imposed in the amount of BGN 14 000 to 40 000.

Article 140

(1) Any sole trader or legal person which:

1. fails to undertake the necessary measures to ensure the separate collection and treatment of WBA generated by their placing on the market of batteries and accumulators;
2. carries out sales of portable and/or automotive batteries and accumulators to end -users at a commercial site where there are no containers for collection by end-users, or where the containers provided do not meet the legal requirements;
3. fails to accept without payment from end-users any unfit-for-use portable and/or automotive batteries and accumulators of the same kind during the site's working hours;
4. places WBA in containers intended for household waste or mixes it with other waste;
5. disposes of accumulators that are unfit for use or are leaking electrolyte at unauthorised sites;
6. collects and keeps at the collection points a quantity of unfit-for-use accumulators without electrolyte that is 5% above the total quantity of accumulators collected;
7. fails to ensure the recovery, or the delivery for recovery, of the batteries and accumulators it has collected within the time-limits laid down by law;
8. provides for depositing or incineration any unfit-for-use automotive and/or industrial batteries and accumulators;
9. provides for depositing or incineration any unfit-for-use portable batteries and accumulators, containing mercury, lead or cadmium;

10. disposes of WBA, or any parts or materials thereof, that may be recycled and/or recovered;
11. carries out sales of portable and/or automotive batteries and accumulators to end-users at a commercial site which has no clearly visible signs providing information on the possibilities for the take-back of unfit-for-use portable and/or automotive batteries and accumulators in compliance with the requirements of the ordinance pursuant to Article 13(1);
12. carries out sales of portable and/or automotive batteries and accumulators to end-users and has failed to sign a contract guaranteeing a service whereby the containers for the take-back of unfit-for-use portable and/or automotive batteries and accumulators are shipped and delivered for recycling to persons with the required authorisation;
13. carries out sales of batteries and accumulators which do not have a capacity label pursuant to the requirements of Regulation (EC) No 1103/2010;

shall be punishable by a financial penalty in the amount of BGN 3 000 to 10 000.

(2) In the event of repeated violations pursuant to paragraph 1, a financial penalty shall be imposed in the amount of BGN 6 000 to 20 000.

Article 141

(1) Any sole trader or legal person which:

1. fails to take the necessary measures to ensure the separate collection and treatment of WEEE, generated from their placing on the market of EEE;
2. deliberately violates the integrity of end-of-life gas-discharge lamps and electric-ray tubes, unless they hold a permit or complex permit pursuant to Article 35 for this activity;
3. collects and keeps in the open, or in open containers, WEEE, including gas-discharge lamps;

4. places WEEE in containers intended for household waste or mixes it with other waste;
5. disposes of WEEE, or any parts or materials thereof, that can be recycled and/or recovered;
6. provides for depositing WEEE that has been collected separately;
7. fails to dispose of waste from WEEE that has undergone prior treatment and is not subject to repeated use, recycling and/or recovery, pursuant to the requirements of this act and to the acts of secondary legislation on its implementation;
8. carries out sales of EEE to end-users at a collection site where there are no containers for the collection by end-users of WEEE from households, or where the containers provided do not meet the legal requirements;
9. fails to accept without payment from end-users any WEEE from households in the same quantity, of the same kind or fulfilling the same functions, as that bought by the end-user during the site's working hours;
10. carries out sales of EEE to end-users at a commercial site which has no clearly visible signs providing information on the possibilities for the take-back of WEEE in compliance with the requirements of the ordinance pursuant to Article 13(1);
11. carries out sales of EEE to end-users and has failed to sign a contract guaranteeing a service whereby the containers for the take-back of EEE from households are shipped and delivered for recycling to persons with the required authorisation;
12. places on the market EEE intended for household use without instructions on the use of the device, including the necessary information in Bulgarian, in compliance with the requirements of the ordinance pursuant to Article 13(1);

shall be punishable by a financial penalty in the amount of BGN 3 000 to 10 000.

(2) In the event of repeated violations pursuant to paragraph 1, a financial penalty shall be imposed in the amount of BGN 6 000 to 20 000.

Article 142

(1) Any sole trader or legal person which:

1. uses sewage sludge for agricultural purposes, where:

a) the concentration of one or more heavy metals and arsenic in the soil or in the sludge exceeds the maximum admitted concentration;

b) the sludge constitutes hazardous waste within the meaning of Section 1, point 12 of the Additional Provisions;

c) fails to ensure the prior treatment of sludge from septic tanks or from similar facilities for treating waste water;

d) does not have the land owner's consent;

2. uses or provides for use sewage sludge on:

a) pastures or fodder crops where the pastures will be used for grazing, and the fodder crops will be harvested within a period of less than 45 days after the use of the sludge;

b) soils on which fruit and vegetable crops and vines are grown, with the exception of fruit trees;

c) soils intended for the cultivation of fruit and vegetable crops which are in direct contact with the soil and are eaten in a raw state - for a period of 10 months prior to and during harvesting;

3. uses sewage sludge without having tests carried out on the soil by accredited laboratories before the initial use of the sewage sludge, and thereafter every five years until its final use.

shall be punishable by a financial penalty in the amount of BGN 3 000 to 10 000.

(2) In the event of repeated violations pursuant to paragraph 1, a financial penalty shall be imposed in the amount of BGN 6 000 to 20 000.

Article 143

(1) Any sole trader or legal person which:

1. carries out activities of collection, storage, dismantling, recovery and/or disposal of ELVs, or any parts or materials thereof, at unauthorised sites or on premises that do not meet the requirements of this act or of the acts of secondary legislation on its implementation;
2. fails to set up an information system for accounting and control in relation to the certificates issued on the dismantling of ELVs;

shall be punishable by a financial penalty in the amount of BGN 3 000 to 10 000.

(2) Any sole trader or legal person which:

1. carries out sales or changes of tyres but does not accept without payment any end-of-life tyres (ELTs) from end-users;
2. carries out sales or changes of tyres and has failed to set up a place for end-users to return ELTs on the site where the sale was conducted;
3. carries out sales or changes of tyres but has failed to sign a contract guaranteeing the collection and delivery of ELTs for recovery;

4. carries out sales or changes of tyres but has not provided information at an obvious place on the site on possibilities for accepting ELTs from end-users in compliance with the requirements of the ordinance pursuant to Article 13(1);

5. provides for depositing ELTs - whole and/or cut, with the exception of bicycle tyres or tyres with an outer diameter above 1 400 mm deposited or used as material for the construction of landfill sites;

6. carries out activities of collection, storage, recovery and/or disposal of ELTs at - unauthorised sites or on premises that do not meet the requirements of this act or of the acts of secondary legislation on its implementation;

shall be punishable by a financial penalty in the amount of BGN 3000 to 10 000.

(3) Any sole trader or legal person which:

1. carries out sales of packaged goods but does not accept without payment any used packaging and/or waste packaging of the same type from end-users, for which there is an organised landfill site or other system for multiple use;

2. fails to organise a separate collection of waste from commercial sites, manufacturing, agricultural or administrative buildings and/or has failed to deliver it to the persons pursuant to Article 33(4);

3. (amend. - SG 105/16) offers to end-users free plastic shopping bags that have a thickness below 50 microns and offers and/or sells to end-users plastic shopping bags for which no product fee has been paid under Article 59(7);

shall be punishable by a financial penalty in the amount of BGN 3 000 to 10 000.

(4) In the event of repeated violations pursuant to paragraphs 1 to 3, a financial penalty shall be imposed in the amount of BGN 6 000 to 20 000.

Article 144

(1) Any sole trader or legal person which:

1. stores waste oils or waste oil products on premises that do not meet the requirements of this act or of the acts of secondary legislation on its implementation;
2. carries out changes of waste oils at sites which have not been equipped for this purpose, or in containers that do not comply with the requirements;
3. mixes oils containing polychlorinated biphenyls and terphenyls with other waste oils;
4. mixes waste oil and waste oil products with fuels, cooling liquids, brake fluid or solvents;
5. carries out sales of oils but has not provided information at an obvious place on the site on places where oil can be changed, or on the possible dangers for human health in the event of improper handling, or on the risk for the environment;
6. carries out changes of oils but has failed to sign a contract guaranteeing the collection and delivery of waste oils or waste oil products for recovery;

shall be punishable by a financial penalty of BGN 3 000 to 10 000.

(2) Any sole trader or legal person which:

1. fails to produce information on any equipment it owns that contains polychlorinated biphenyls and terphenyls;
2. fails to comply with the time-limits laid down in the plan for the cleaning and/or disposal of any equipment it owns containing polychlorinated biphenyls, as confirmed by an order by the REWI director on whose territory the equipment is located.

shall be punishable by a financial penalty in the amount of BGN 7 000 to 10 000.

(3) In the event of repeated violations, a financial penalty shall be imposed as follows:

1. pursuant to paragraph 1 – in the amount of BGN 6 000 to 20 000;
2. pursuant to paragraph 2 – in the amount of BGN 14 000 to 40 000.

Article 145

(1) Any sole trader or legal person which:

1. carries out activities involving ferrous and non-ferrous metal waste without a permit;
2. (amend. - SG 105/16) transmits ferrous and non-ferrous metal waste, received as technological waste from its own production or depreciation, to persons without a permit;
3. accepts ferrous and non-ferrous metal waste from a legal person or sole trader without a certificate of origin or written contract;
4. (amend. - SG 105/16) immediately after a transaction for the receipt and/or dispatch of ferrous and non-ferrous metal waste fails to enter the details thereof in the accounting documents;
5. fails to admit the control bodies to the sites where the activity is carried out, or fails to produce the accounting documents for any ferrous and non-ferrous metal waste accepted, imported, delivered or imported, or any other documents that it is obliged to keep within the time-limits set by the control bodies;
6. signs a contract, or accept a certificate or a declaration which lacks the data needed to identify the persons or the waste purchased;
7. within three months of the cessation of the activity fails to produce the quantities of ferrous and non-ferrous metal waste available and/or fails to take the action needed to clean the relevant site;

8. violates the requirements of Article 39(4), (5) or (6);
9. accepts ferrous and non-ferrous metal waste of a household nature from natural persons;
10. accepts from natural persons ferrous and non-ferrous metal waste which is of not of a household nature, including waste pursuant to Article 39 (1);
11. (suppl. SG 105/16) has made payments in waste transactions in violation of the requirements pursuant to Article 38 (4) and (5);
12. (amend. - SG 105/16) submits a declaration of compliance with false content in violation of the European Commission acts adopted in accordance with Article 6(2) of Directive 2008/98/EC;
13. (amend. - SG 105/16) fails to ensure that the competent body under Article 5(4) has access to the system referred to in Article 80a(2);
14. (new – SG 105/16) is not entered in the register under subparagraph 10 of Article 45(1);
15. (new – SG 105/16) has not met the condition in the decision under Article 4(2);

shall be punishable by a financial penalty.

(2) (amend. - SG 105/16) For violations pursuant to paragraph 1, subparagraphs 1 to 3, 5, 6, and 8 to 11, financial penalties in the amount of BGN 15 000 to 50 000 shall be imposed, and financial penalties in the amount of BGN 3 000 to 10 000 in the remaining cases pursuant to paragraph 1.

(3) (amend. - SG 105/16) In the event of repeated violations pursuant to paragraph 1, subparagraphs 1 to 3, 5, 6, and 8 to 11, financial penalties shall be imposed in the amount of BGN 30 000 to 100 000, and financial penalties in the amount of BGN 6 000 to 20 000 in the remaining cases pursuant to paragraph 1.

Article 146

Any sole trader or legal person which:

1. assigns or carries out construction or installation works, or removes constructions, without a management plan on construction waste in cases where such a plan is required pursuant to Article 11(1);
2. fails to meet the objectives for the recovery and recycling of construction waste in accordance with the requirements and within the time-limits set forth in the ordinance pursuant to Article 43(4);
3. (new - SG, 105/16) fails to achieve its objectives for the recycling of construction materials in accordance with the requirements and within the time-limits set forth in the ordinance pursuant to Article 43(4).

shall be punishable by a financial penalty in the amount of BGN 5 000 to 10 000.

Article 147

(1) Any sole trader or legal person which:

1. (amend. - SG 105/16) violates the requirements of Article 47 and/or fails, within the time-limits, to make a declaration for entry in the registers pursuant to Article 45(1), subparagraphs 2 to 5, 8 and 10;
2. (amend. – SG 105/16) fails, within the time-limits, to declare any change in circumstances subject to entry in the registers pursuant to Article 45(1), subparagraphs 2 to 5, 8 and 10;

shall be punishable by a financial penalty in the amount of BGN 5 000 to 10 000.

(2) Any sole trader or legal person which:

1. places on the market batteries and accumulators which:

a) contain mercury or cadmium above the values determined in accordance with the ordinance referred to in Article 13(1);

b) are not marked in accordance with the requirements set out in the ordinance pursuant to Article 13(1);

c) are not marked by a capacity label pursuant to the requirements of Regulation (EC) No 1103/2010;

2. places on the market parts and components of motor vehicles which:

a) contain lead, mercury, hexavalent chromium and cadmium above the values determined in accordance with the requirements of this act and of the ordinance referred to in Article 13(1);

b) are not marked in view of their date of expiry for multiple use and recovery, or for the possibility of being dismantled prior to treatment;

3. (amend. - SG 105/16) places and circulates on the market packaging which is not in compliance with the requirements of the ordinance referred to in Article 13(1);

4. places and disseminates on the market packaging which contain heavy metals - lead, cadmium, mercury and hexavalent chromium above the maximum admissible limits and/or which fails to meet the other requirements as determined in accordance with the ordinance referred to in Article 13(1);

5. places on the market EEE which is not marked in compliance with the requirements of the ordinance referred to in Article 13(1);

6. places on the market other products which do not meet the requirements of this act and/or the ordinance referred to in Article 13(1);

shall be punishable by a financial penalty in the amount of BGN 10 000 to 50 000.

(3) In the event of a repeated violations pursuant to paragraph 1, a financial penalty shall be imposed in the amount of BGN 10 000 to 20 000 and - pursuant to paragraph 2 – a financial penalty in the amount of BGN 20 000 to 100 000.(4) Any person pursuant to paragraph 2 or 3 shall also be obliged to pay the costs for recovery and/or disposal of the products pursuant to paragraph 2(1)(a) and (2)(a), and subparagraphs 4 and 5.

Article 148

(1) Any recovery organisation or person pursuant to Article 14(1) which, in fulfilling their obligations individually:

1. fails to implement instructions issued by competent bodies in relation to a failure to fulfil a condition of the permit pursuant to Article 18(1);
2. fails to provide information and does not keep accounts pursuant to this act and/or the ordinances pursuant to Article (1);
3. provides false information and/or keeps false accounts pursuant to this act or to the ordinances referred to in Article 13(1);
4. fails to provide access to grounds, premises and/or documents for an official carrying out a check and/or the auditors pursuant to Article 18(2) and (3);
5. fails to fulfil the population coverage requirements for the systems for the separate collection of packaging waste from packaging pursuant to Article 33(1) and the ordinances referred to in Article 13(1);

6. fails to fulfil the obligations for the separate collection and treatment of waste pursuant to Article 14(1) and/or for creating a system pursuant to Article 15, and/or where the requirements pursuant to Article 14(3) are not met by a person fulfilling their obligations individually;

7. refund within the time-limits the costs pursuant to Article 18(5);

8. (repealed – SG 105/16);

9. fails to provide information to users in compliance with the requirements of the ordinances referred to in Article 13(1);

10. provides false data in cases where the validity of a permit pursuant to Article 81(1) is issued, amended, supplemented or extended;

shall be punishable by a financial penalty.

(2) In the event of violations pursuant to subparagraphs 1, 3, 4 and 6 of paragraph 1, financial penalties in the amount of BGN 50 000 to 150 00 shall be imposed, and financial penalties in the amount of BGN 10 000 to 20 000 in all other cases pursuant to paragraph 1.

(3) In the event of repeated violations pursuant to subparagraphs 1, 3, 4 and 6 of paragraph 1, financial penalties in the amount of BGN 100 000 to 300 000 shall be imposed, and financial penalties in the amount of BGN 20 000 to 40 000 in all other cases pursuant to paragraph 1.

(4) Any person pursuant to Article 14(1) which, in fulfilling his/her obligations individually, fails to take back or has not provided for waste to be taken back in compliance with Article 14(3), shall be punishable by a financial penalty in the amount of BGN 20 000 to 40 000.

(5) In the event of repeated violations pursuant to paragraph 4, a financial penalty in the amount of BGN 40 000 to 80 000 shall be imposed.

Article 149

(1) Any recovery organisation which infringes some of the prohibitions pursuant to Article 16 or 17 shall be punishable by a financial penalty in the amount of BGN 30 000 to 100 000.

(2) Any legal person or a sole trader which fails to pay a product charge pursuant to Article 59 where such a charge is required, shall be punishable by a financial penalty in the amount of BGN 30 000 to 500 000.

(3) (amend. - SG 105/16) Any person which places on the market products following the use of which widespread common waste is formed, and which fulfils their obligations by means of a collective system pursuant to subparagraph 2 of Article 14(2), shall be punishable by a financial penalty in the amount of BGN 10 000 to 30 000 if they refuse to allow a check or audit of the product data for products placed on the market pursuant to the requirements of Article 14(6).

(4) In the event of repeated violations a financial penalty shall be imposed as follows:

1. pursuant to paragraph 1 – in the amount of BGN 60 000 to 200 000;
2. pursuant to paragraph 2 – in the amount of BGN 60 000 to 1 000 000;
3. pursuant to paragraph 3 - in the amount of BGN 20 000 to 60 000.

Article 150

(1) For carrying out shipments of non-hazardous waste defined as illegal pursuant to Article 2(35) of Regulation (EC) No 1013/2006, or for infringing a prohibition pursuant to Article 98, natural persons shall be punishable by a fine of BGN 1 000 to 5 000, and legal persons and sole traders shall be punishable by a financial penalty in the amount of BGN 10 000 to 25 000.

(2) (amend. - SG 53/18 in force since 26.06.2018) For carrying out shipments of hazardous waste defined as illegal pursuant to Article 2(35) of Regulation (EC) No 1013/2006, for infringing the ban on the export of mercury waste under Article 3 of Regulation (EC) 2017/852 or for infringing a prohibition pursuant to Article 98, natural persons shall be punishable by a fine of BGN 3 000 to 15 000, and legal persons and sole traders shall be punishable by a financial penalty in the amount of BGN 50 000 to 250 000.

(3) Any natural person shall be punishable by a fine of BGN 1 000 to 5 000, or any sole trader or legal person shall be by a financial penalty in the amount of 2 000 to 20 000 if they:

1. fail to produce a document or information or to certify facts in compliance with the requirements of points (c), (d) or (e) of Article 15, or of Article 16 of Regulation (EC) No 1013/2006;

2. fail to produce a document or information, or to send a new notification in the cases pursuant to Article 17 of Regulation (EC) N 1013/2006;

3. infringe a prohibition on mixing waste during shipment pursuant to Article 19 of Regulation (EC) No 1013/2006;

4. fail to observe the requirements concerning the shipment of waste pursuant to Article 18 of Regulation (EC) No 1013/2006;

5. fail to send a copy of a shipment document in compliance with the provisions of point (c) of Article 35(3), point (b) of Article 38(2) or point (c) Article 42(3) of Regulation (EC) No 1013/2006;

(4) For failure to observe the compulsory administrative measures pursuant to Article 127(2) or Article 129(6), natural persons shall be punishable by a fine of BGN 1 000 to 5 000, while legal persons and sole traders shall be punishable by a financial penalty in the amount of BGN 5 000 to 10 000.

(5) Any sole trader or legal person which fails to fulfil their obligation pursuant to Article 103 shall be punishable by a financial penalty in the amount of BGN 1 000,.

(6) For failure to observe the compulsory administrative measures pursuant to Article 127(1) or Article 128, natural persons shall be punishable by a fine of BGN 5 000 to 10 000, while legal persons and sole traders shall be punishable by a financial penalty in the amount of BGN 10 000 to 20 000.

(7) For repeated violations, a fine or financial penalty shall be imposed as follows:

1. pursuant to paragraph 3 - in the amount of BGN 2 000 to 10 000 for natural persons, or in the amount of BGN 4 000 to 40 000 for legal persons;

2. pursuant to paragraph 4 - in the amount of BGN 2 000 to 10 000 for natural persons and in the amount of BGN 10 000 to 20 000 for legal persons;

3. pursuant to paragraph 5 – in the amount of BGN 2 000;

4. pursuant to paragraph 6 – in the amount of BGN 2 000 to 20 000 for natural persons and in the amount of BGN 20 000 to 40 000 for legal persons.

Article 151

(1) A mayor of a municipality and/or an official who:

1. fails to fulfil their obligations to organise the implementation of the measures set out in the waste management programmes;

2. fails to carry out update of the waste management programme pursuant to this act and to the acts of secondary legislation on its implementation;

3. fails to carry out the necessary actions in cases where the producers of waste are not known;
4. fails to carry out controls on the waste management pursuant to Article 112;

shall be punishable by a fine of BGN 1 400 to 4000 – provided they are not subject to a more severe punishment.

(2) A mayor of a municipality and/or an official who:

1. fails to provide containers for the collection of household waste;
2. fails to provide for the collection of household waste and the shipment thereof to landfill sites or to other installations and facilities for recovery and/or disposal;
3. fails to provide for the cleaning of streets, squares, alleys, parks or other land in populated areas intended for public use;
4. fails to provide for the organisation and application of a system for the separate collection of hazardous waste from the household waste flow pursuant to subparagraph 9 of Article 19(3);
5. fails to organise the exploitation of a site for waste treatment within six months of the date of issuance of the permit on the use of the building;
6. fails to undertake measures to prevent discards of waste at unauthorised sites and/or the creation of illegal landfills and/or to organise the cleaning thereof;
7. fails to carry out within the time-limits the necessary actions relating to the selection of a site, the construction, exploitation, closure and monitoring of landfill sites for household waste or other installations or facilities for recovery and/or disposal of household waste;
8. fails to organise the collection, recovery or disposal of construction waste from maintenance works, formed by households on the territory of the corresponding municipality;

9. fails to organise within the time-limits the separate collection of household waste on the territory of the municipality for at least the following waste materials: paper and cardboard, metals, plastics and glass;
10. fails to organise activities for the separate collection of common widespread waste or fails to determine the places for the necessary elements of the systems for the separate collection of and/or the places for the delivery of common widespread waste;
11. fails to take the necessary action to meet the objectives of the preparation for multiple use and recycling pursuant to Article 3(1) in compliance with the decision pursuant to subparagraph 6 of Article 26(1);
12. fails to take the necessary action for preparation and decision-taking pursuant to Article 26(1) or for its implementation;
13. fails to organise the separate collection and storage of biodegradable household waste, including determining the places for the necessary elements of the systems for the separate collection of waste and its delivery for composting or anaerobic degradation in those cases where this is required by the ordinance pursuant to Article 43(5);
14. fails to provide, within the time-limits, sites for the free delivery of separately collected waste by households, including large-size waste, hazardous waste, waste from ferrous and non-ferrous metals etc., in areas with a population above 10 000 inhabitants;
15. fails to organise the clearing of waste from municipal roads in compliance with Article 12;
16. fails to provide information for the general public pursuant to subparagraph 13 of Article 19(3);
17. fails to keep a register of the sites for waste delivery pursuant to subparagraph 14 of Article 19(3);

18. fails to take the necessary action for measuring and/or establishing the quantities and/or composition of the waste in cases where this is required;

shall be punishable by a fine of BGN 3 000 to 10 000, provided they are not subject to a more severe punishment.

(3) An official who:

1. permits the commissioning of sites which form waste, without observing the requirements for acceptance of the site;
2. determines a site for waste treatment facilities without carrying out the necessary research, or where the results of the research show that the construction of the site would pose a danger to human health and the environment and/ or infringe the requirements of this act and of the acts of secondary legislation on its implementation;
3. fails to fulfil his/her obligations to define the requirements for the safe liquidation of activities and the restoration of the terrain in the event that the waste treatment activity is terminated;
4. permits the commissioning of installations and facilities for the recovery or disposal of hazardous waste in cases where the requirements of this act have not been met;
5. removes from customs control any waste shipped across the State border in violation of the legislation in force;
6. fails to take timely measures for the prevention of an illegal shipment of waste, for the temporary suspension of a shipment, or for the removal of a shipment from other consequences of the violations;
7. (amend. - SG 13/17) approves a plan for the management of construction of demolition waste without providing any measures therefore, or where the measures provided do not fulfil the objectives for the recovery and recycling of construction waste;

8. fails to undertake the necessary action to fulfil, and/or fails to fulfil, the objectives for the recovery and recycling of construction waste determined by the ordinance pursuant to Article 43(4).

shall be punishable by a fine of BGN 7 000 to 20 000, provided he/she is not subject to a more severe punishment.

(4) An official who fails to observe the prohibition pursuant to Article 9(1) shall be punishable by a fine in the amount of BGN 1 000 to 5 000.

(5) An official shall be punishable by a fine of BGN 5 000 to 15 000, provided he/she is not subject to punishment, who:

1. issues a permit or registration document for the collection storage, shipment, recovery or disposal of waste in violation of the requirements of this act;

2. fails to take the necessary measures for establishing violations of the requirements of this act or of the acts of secondary legislation on its implementation, and/or for imposing sanctions;

3. in the event that a violation is established, fails to take the actions needed to remove it.

(6) For repeated violations, a fine shall be imposed as follows:

1. pursuant to paragraph 1 – in the amount of BGN 2 000 to 8 000;
2. pursuant to paragraph 2 – in the amount of BGN 6 000 to 20 000;
3. pursuant to paragraph 3 – in the amount of BGN 14 000 to 40 000;
4. pursuant to paragraph 4 – in the amount of BGN 2 000 to 10 000;
5. pursuant to paragraph 5 – in the amount of BGN 10 000 to 30 000.

Article 152

(1) For violations pursuant to Article 23(1), mayors of municipalities and/or officials shall be punishable by a fine in the amount of BGN 5 000 to 10 000.

(2) A president of a regional association who fails to fulfil their obligation to call a general meeting shall be punishable by a fine in the amount of BGN 5 000 to 10 000.

Article 153

A mayor of a municipality who fails to take the actions pursuant to Article 21(1) or who fails, within the time-limits established by law, to take actions for the preparation, construction, closure and after-care of the landfill site or other facilities for the treatment of household and/or construction waste, shall be punishable by a fine in the amount of BGN 20 000.

Article 154

In cases where producers of waste pursuant to Article 55(1) are established, natural persons shall be punishable by a fine of BGN 3 000 to 10 000, while legal persons and sole traders shall be punishable by a financial penalty of BGN 6 000 to 20 000.

Article 155

(1) For other violations of this act which are not offences, natural persons, mayors of municipalities or officials shall be punishable by a fine of BGN 500 to 3 000, while legal persons or sole traders shall be punishable by a financial penalty of BGN 1 000 to 6 000.

(2) In the event of repeated violations, the amount of the fine or financial penalty pursuant to paragraph 1 shall be doubled.

Article 156

(1) In cases of non-compliance pursuant to Article 113(3) or Article 120, natural persons shall be punishable by a fine of BGN 2 000 to 10 000, while legal persons shall be punishable by a financial penalty in the amount of BGN 10 000 to 40 000.

(2) In the event of a repeated violation, natural persons shall be punishable by a fine in the amount of BGN 4 000 to 20 000, while legal persons shall be punishable by a financial penalty in the amount of BGN 20 000 to 80 000.

Article 157

(1) (amend. - SG 105/16) Violations pursuant to subparagraphs 1 to 3 of Article 133(1) and (2), Article 134(1) and (2) and Article 146 shall be established by an act of the REWI director or of officials authorised by him/her, or of officials authorised by the mayor of a municipality, and violations pursuant to subparagraphs 4, 6 and 7 of Article 133(1) shall be established by an act of officials authorised by the corresponding mayor of the municipality.

(2) (amend. - SG 105/16) Violations pursuant to Article 133(4), Articles 135 to 138, 140, 144, 147(1), 149, 151(1) to (4) and Articles 152 to 156 shall be established by an act of the REWI director or of officials authorised by him/her, and violations pursuant to Article 147(2) by an act of the relevant control body pursuant to Article 125 or of officials authorised by him/her.

(3) Violations pursuant to Article 148 and Article 151(5) shall be established by an act of the Minister of the Environment and Water or of officials authorised by him/her.

(4) (Amend. - SG 105/16) Penal decrees pursuant to paragraphs 1 and 2 shall be issued by the REWI Director, as well as by the mayor of the municipality or by officials authorised by him/her in the cases referred to in paragraph 1.

(5) (New - SG 105/16) Penal decrees pursuant to paragraph 3 shall be issued by the Minister of Environment and Water or by officials authorised by him/her.

(6) (Former Para. 5 - SG 105/16) Violations pursuant to Article 133(3) and Article 145 shall be established by an act of the bodies of the Ministry of the Interior or officials authorised by the REWI director or by the mayor of the municipality, while penal decrees shall be issued by the Minister of Environment and Water or by officials authorised by him/her.

(7) (New - SG, 105/16) Violations pursuant to subparagraph 3 of Article 136(2), 16 and 17 shall be established by an act of the bodies of the Maritime Administration Executive Agency or of officials authorised by the REWI director, while penal decrees shall be issued by the REWI director.

Article 158

Violations pursuant to Article 150 shall be established by an act of the control bodies pursuant to Article 116(2), while penal decrees shall be issued by the Minister of Environment and Water or by officials authorised by him/her.

Article 159

Violations pursuant to Article 139 shall be established by an act of officials authorised by the Regional Health Inspectorate or by the REWI Director, while penal decrees shall be issued by the Director of the Regional Health Inspectorate or by the REWI Director.

Article 160

The establishment of violations, and the issuance of, appeals against and execution of penal decrees shall be done in accordance with the Act on Administrative Breaches and Punishments.’

5.1.2. Other rules or judicial instructions

Under Bulgarian legislation, the interpretative decisions of the Supreme Court of Cassation and of the Supreme Administrative court have the power of binding rules for the judicial and executive authorities.

The Judiciary System Act provides that:

Article 124

(1) in cases of conflicting or erroneous practice in the interpretation and application of the law, an interpretative ruling shall be adopted by the general assembly of:

1. the criminal, civil or commercial colleges of the Supreme Court of Cassation;
2. the civil and commercial colleges of the Supreme Court of Cassation;
3. (new - SG 62/16, in force since 09.08.2016) the criminal, civil and commercial colleges of the Supreme Court of Cassation;
4. (previous subparagraph 3 - SG 62/16, in force since 09.08.2016) a college of the Supreme Administrative Court;
5. (previous subparagraph 4 - SG 62/16, in force since 09.08.2016) all colleges of the Supreme Administrative Court.

(2) (suppl. - SG 62/16, in force since 09.08.2016), in cases of conflicting or erroneous case-law between the Supreme Court of Cassation and the Supreme Administrative Court, the general assembly of the judges of the relevant colleges of both courts, including any seconded judges, shall jointly adopt an interpretative decree.

Article 130

(1) (suppl. - SG 62/16, in force since 09.08.2016) interpretative rulings and decrees shall be adopted and announced within three months of submission of the request, and in cases of considerable legal complexity - within six months.

(2) interpretative rulings and decrees shall be binding on the judicial and executive authorities, on the local government authorities, and on all authorities which issue administrative acts.'

Regarding investigations into environmental crimes, the national investigation service of the Republic of Bulgaria has developed a methodology for investigating the crime of 'waste management that is not in accordance with the established procedure' (Article 353c of the Criminal Code), and a methodology for investigating crimes against the use of atomic energy for peaceful purposes. They are available on the Prosecutor's Office website and can be used by all prosecutors and investigators.

Non-binding rules and instructions are also set out in the manual entitled 'environmental crimes', which was developed and published under a project to 'Strengthen the control and respect of the rules set out in the environmental protection and risk management legislation', that was implemented by the Bulgarian Association of Prosecutors with the financial support of the thematic fund on security, under the Swiss-Bulgarian cooperation programme aimed at reducing economic and social disparities within the enlarged European Union.

The evaluation team appreciates that a number of guidelines have been developed by the MOEW aimed at strengthening the administrative capacity of the law enforcement agencies and facilitating the implementation of inspections at waste management sites and of transboundary waste shipments. These guidelines include a waste classification manual (part 1 and part 2) and guidelines for waste control, and are published on the website of the MOEW [HTTPS://WWW.MOEW.GOVERNMENT.BG/BG/OTPADUCI/TRANSGRANICHEN-PREVOZ-NA-OTPADUCI/RUKOVODSTVA/](https://www.moew.government.bg/bg/otpaduci/transgranichen-prevoz-na-otpaduci/rukovodstva/)

Besides the abovementioned guidelines, a pocket manual for inspections of transboundary shipments of wastes was developed by the MOEW and distributed to the enforcement bodies (REWIs, customs and Border Police) (see point 3.5).

5.1.3. Determination of the seriousness of waste crime

Bulgarian legislation sets forth criteria for determining the seriousness of waste crime. Article 93(7) of the Criminal Code provides a general legal definition of ‘serious crime’, which means any crime punishable by deprivation of liberty for more than five years. This provision is also applied to waste crime.

The Bulgarian legislation transposing Directive 2008/99/EC defines criminal offences related to waste by reference to the seriousness of the consequences/impacts rather than the volume/quantity of the waste shipment. The main criteria used to determine the seriousness of waste crime is the threat it poses to people and the environment. The provisions of Article 353b – 353f of the Criminal Code use the term ‘significant damage to the environment’¹.

According to Article 353b, anyone who manages waste improperly and thereby poses a threat to the life or health of people, or poses risks of significant damage to the environment shall be punishable by imprisonment from one to five years and a fine from BGN 5 000 to 30 000. The handbook 'Crimes against the environment' states that the term 'significant damage to the environment' should be interpreted on the basis of Section 1, point 6 of the Additional Provisions to the Environmental Protection Act, which provides that 'Damage to the environment' is a change in one or more of the components comprising it, which leads to degradation of the quality of life of the people, to a decrease in the biologic diversity or to an impaired restoration of the natural ecosystems'.

According to Article 353d(1) of the Criminal Code, anyone who, in breach of the established procedures, carries waste across the border of Bulgaria, unless the act is negligible, shall be punishable by imprisonment for up to four years and a fine in the amount of BGN 2 000 to 5 000.

This provision requires that 'the act is not negligible. Article 93, point 9 of the Criminal Code refers to Article 353d of the Criminal Code, which requires that the case should not be a minor case; according to point 9 of Article 93, a minor case is one where the crime committed, in view of the lack of harmful consequences or the insignificance thereof, or in view of other attenuating circumstances, represents a lower level of social danger compared with the common cases of crime of the corresponding type.

According to Article 9 of the Criminal Code: (1) a crime is a socially dangerous act (activity or inactivity), that is culpable and declared by the law as punishable. (2) an act is not criminal which, while formally containing the elements of a crime provided for by law, does not pose a risk to society on account of its insignificance, or whose risk to society is manifestly insignificant.

In the opinion of the evaluation team, in Bulgarian legislation the differentiation made between criminal offences and administrative infringements in the area of waste crime on the basis of mitigating or attenuating circumstances is not sufficiently clear. As a consequence, on the one hand, prosecutors may have doubts when tackling environmental crime cases. On the other hand, the administrative authorities do not have any formal limitations or restrictions regarding when they can intervene or refer a case to the prosecutor. According to the evaluation team, there could be a more precise distinction between cases of environmental violations to be dealt with in administrative proceedings and those to be dealt with in criminal proceedings on the basis of more precisely defined criteria.

5.1.4. Links with other serious criminal offences

The Bulgarian authorities have indicated that so far they have not encountered any cases showing links between waste crime and other forms of serious criminal offences, such as organised crime, corporate-related offences or corruption.

5.1.5. The role of the NGOs

According to the Bulgarian legislation, the general provisions on who can constitute a "parte civile" in criminal proceedings may also be applied to NGOs. Nevertheless, in practice it is difficult to establish that a non-profit organization may have suffered any kind of direct damage in concrete cases.

In Bulgaria NGOs can participate in the criminal procedure, only to the extent that they can provide data/information on the time and place of alleged crimes as well as any further details on the case to the law enforcement authorities and to the Prosecutor's Office, and that their representatives could be witnesses or participate in hearings; however, they cannot receive information or make allegations in court. At present, there is a constitutional legitimacy question being examined by the Constitutional Court, regarding the right to appear before the administrative court. This is linked to a recent reform which increased the fees of NGOs, and which the latter are contesting.

5.2. Procedural, jurisdictional and administrative issues.

5.2.1. Difficulties encountered with regard to evidence

In relation to difficulties encountered with regard to evidence in court and in administrative proceedings, the Bulgarian authorities have indicated that waste crimes are often committed within entities, which makes it difficult to detect the responsible person(s) and to prove negligence or intent.

Furthermore, the Bulgarian authorities have indicated that it is difficult to assess whether an unlawful activity related to waste constitutes an administrative offence or a crime because the legal provisions are very similar.

5.2.2. Measures other than criminal or administrative sanctions

While the most commonly imposed measure is a fine, according to Chapter Six, Section I of the Waste Management Act, coercive administrative measures can also be imposed by the administrative enforcement bodies, as described below.

Article 126

The competent authority or officials authorised thereby shall apply coercive administrative measures for the prevention and cessation of administrative violations under this Act and Regulation (EU) No 1013/2006, as well as for the prevention and elimination of the detrimental consequences of any such violations.

Article 127

The Minister of Environment and Water or officials authorised thereby:

1. shall suspend:

a) operations related to the collection, storage, transport, recovery or final disposal of waste;

- b) the operation of waste disposal or recovery facilities;
- c) operations with ferrous or non-ferrous metal waste at a specific site in cases where the violation is not eliminated within seven days of establishment, with the exception of the cases referred to in Article 75(3);

2. shall issue an order for:

- a) environmentally sound waste treatment in the cases referred to in Article 24(3) of Regulation (EU) No 1013/2006 for imports or shipments of waste to the Republic of Bulgaria;
- b) take-back of waste in the Republic of Bulgaria and its subsequent environmentally sound treatment in the cases referred to in Article 22(2) or Article 24(2) of Regulation (EU) No 1013/2006 for exports or shipments from the Republic of Bulgaria.

Article 128

The REWI director or an official authorised by him/her:

- 1. shall issue instructions for the elimination of the waste at the expense of the offender and for environmental restoration;
- 2. shall suspend the operations for waste collection, storage, transport, recovery or disposal;
- 3. shall suspend the operation of waste treatment facilities.

Article 129

- (1) A coercive administrative measure shall be applied by a reasoned order of the authority referred to in Articles 127 or 128.
- (2) The order shall specify the type of coercive administrative measure and the manner of implementation thereof.

(3) The order shall be served on the offender according to the procedure established by the Civil Procedure Code.

(4) The order to apply the measure referred to in subparagraph (a) of Article 127(2) shall be sent to the consignee in accordance to the procedure established by the Civil Procedure Code, and the order to apply the measure referred to in subparagraph (b) of Article 127(2) shall be sent to the person responsible for dispatching the waste; it shall also accompany the shipment of waste to its final destination. A copy of the order shall be sent immediately to the relevant authority or person referred to in subparagraphs 3 and 4 of Article 116(2).

(5) The order to apply the coercive administrative measure shall be appealable in accordance with the procedure established by the Administrative Procedure Code. The appeal of the order shall not stay its enforcement.

(6) Within seven working days of receipt of the order to enforce a measure referred to in subparagraph 2 of Article 127, the person to which the measure is applied shall submit to the competent authority a certificate verifying that the waste has been accepted for environmentally sound treatment.

(7) All costs relating to the enforcement of coercive administrative measures shall be covered by the persons to whom the measures are applied.

Article 130

(1) In case of violations and/or illegal shipments of waste referred to in Article 2(35) of Regulation (EU) No 1013/2006, the customs authorities, the bodies within the Border Police Directorate-General, the bodies of Traffic Police units within the regional directorates of the Ministry of the Interior, the Executive Agency for Automobile Administration, the Executive Agency for Railway Administration and the Executive Agency for Maritime Administration shall immediately notify in writing within 14 days the REWI director within whose territory the violation and/or illegal shipment was established, and shall attach all documents to the notification.

(2) REWI directors shall inform the Minister of Environment and Water in writing of any violations of Regulation (EU) No 1013/2006 that have been established and of the measures taken.

Article 131

Where it is found that the administrative violation for which administrative criminal proceedings were launched constitutes a criminal offence, the proceedings shall be stayed and the materials shall be sent to the relevant prosecutor.

Article 132

The competent authority or officials authorised thereby pursuant to Article 125 shall take measures in a manner and following a procedure laid down in the relevant law.

Bulgarian legislation – both the Administrative Violations and Sanctions Act and the Criminal Code – provides for the confiscation/forfeiture of the direct or indirect enrichment acquired as a consequence of the commission of an environmental violation. In particular:

- The Administrative Violations and Sanctions Act (Article 83a(5)) provides that the direct or indirect enrichment acquired by the legal person as a consequence of the crime committed shall be confiscated by the state, if not subject to return or restitution, or to forfeiture under the Criminal Code. Where the item or property that was the subject of the crime is missing or has been transferred, its equivalent in BGN is awarded.

In the context of criminal proceedings, notwithstanding criminal responsibility, according to the Criminal Code (Article 53):

- Confiscation by the state shall be imposed for:

- a) objects belonging to the offender that were used or intended to be used to commit an intentional crime;
- b) objects belonging to the offender that were the subject of an intentional crime – in the cases expressly provided for in the Special Part of this Code.

- Confiscation in favour of the state shall also be imposed for:

- a) articles that were the subject or means of the crime, the possession of which is prohibited, and
- b) objects acquired through the crime, if they do not have to be returned or restored. Where the acquired objects are not available or have been disposed of, an equivalent amount shall be adjudged.’

The MOEW has the power to detain materials, but cannot seize them. According to the evaluation team, it could be very useful if this ministry could be empowered to seize materials as well.

The evaluation team underlines the importance of forfeiture as a useful tool to combat environmental violations.

5.2.3. *Treatment of seized objects*

The seizure of objects is regulated in the Code of Criminal Procedure as follows:

Safekeeping of material evidence

Article 111

- (1) Material evidence shall be kept until the end of the criminal proceedings.
- (2) Objects seized as material evidence, with the prosecutor’s permission, may be returned to their owners before the criminal proceedings are over only if this will not mislead the clarification of the circumstances of the case and the objects do not appear to be the subject of an administrative offence.
- (3) The refusal of the prosecutor under paragraph 2 may be subject to appeal by the owner before the respective court of first instance. The court shall rule on the appeal in a closed sitting with a single judge whose ruling shall be final.

(4) Objects seized as material evidence that are perishable and cannot be returned to their owners with the prosecutor's permission shall be delivered to the respective establishments or legal persons to be used in accordance with their designation, or shall be sold and the received sum deposited in a commercial bank serving the state budget.

(5) Drugs, precursors and plants containing drugs may be destroyed before the end of the criminal proceedings, in accordance with the procedure and conditions of the Drugs and Precursors Control Act. In such cases, only the seized representative samples shall be kept until the end of the proceedings.'

According to Article 111 of the Code of Criminal Procedure, material evidence shall be kept until the end of the criminal proceedings. According to the rules on the administration of the Prosecutor's Office, the keeping of evidence, including in special cases related to waste and hazardous waste, is carried out in compliance with the rules of the relevant legal acts. It is done in a way that not only protects the environment, but also guarantees the safety of the persons involved in the process of keeping this evidence.

The handling of material evidence is regulated by the Code of Criminal Procedure as indicated below:

Types of material evidence

Article 109

Objects that were used or intended to be used to commit the offence or that were the subject of the offence, as well as any other objects that may be used to clarify the circumstances of the case, shall be collected and checked as material evidence.

Listing, photographing and attaching material evidence to the case file

Article 110

- (1) The material evidence must be carefully checked, listed in detail in an appropriate record and, where possible, photographed.
- (2) The material evidence shall be attached to the case file, with measures taken to ensure that it is not damaged or altered.
- (3) When the case file is passed from one body to another, the material evidence shall be delivered together with it.
- (4) Material evidence which, because of its dimensions or for other reasons, cannot be attached to the file, must, where possible, be sealed and stored in places specified by the relevant authority.
- (5) Cash and other valuables shall be transferred for safekeeping to a commercial bank serving the state budget or to the Bulgarian National Bank.

Disposal of material evidence

Article 112

- (1) Except in the cases provided for in Article 53 of the Criminal Code, objects seized as material evidence shall be seized in favour of the state, where their owner has not been identified and they have not been sought within one year after the end of the criminal proceedings.
- (2) Objects seized as material evidence, the possession of which is prohibited, shall be delivered to the relevant establishments or be destroyed.

(3) (new – SG 109/08) Apart from the cases provided for in Article 53 of the Criminal Code, motor vehicles seized as material evidence shall be confiscated in favour of the state, where their owner has not been identified and they have not been sought within five years after their seizure. In the pre-trial proceedings, the seizure shall be ordered by prosecutor's decree, and in the court proceedings, by court order.

(4) (prev. par. 3 – SG 109/08) Letters, papers or other writings seized as material evidence shall be left with the case file or transferred to the relevant establishments, both legal and physical persons.'

5.3. Environmental restoration

The common legal act on liability for environmental damages in Bulgaria is the Liability for the Prevention and Remediation of Environment Damage Act. The relevant provisions determine:

1. the environmental damage or the imminent risk of such damage occurring;
2. the powers of the executive bodies and the rights and obligations of operators;
3. the procedures for choosing and taking preventive and remedial measures, including consultations with the public;
4. the property liability of operators and the financial and economic arrangements for activities to prevent and remedy environmental damage;
5. the requirements for cooperation and exchange of information with other states and with the European Commission in relation to environmental damage.

According to Article 37(1) of the Liability for the Prevention and Remediation of Environmental Damage Act, 'the costs of applying preventive and remedial measures, as well as measures referred to in item 1 of Article 26(1) herein, including the costs of commissioning additional analyses, shall be borne by the operators whose activity caused an imminent threat of environmental damage or caused environmental damage, with the exception of the cases covered under paragraph 2'.

In general, waste management in Bulgaria is based on the ‘polluter pays’ principle, supplemented by the extended producer responsibility principle. On this basis, the Waste Management Act provides that the enforcement bodies impose coercive administrative measures aimed at forcing the liable persons to take immediate action to remedy negative effects on the environment.

Article 55(1) of the Waste Management Act also provides that ‘where the producers of the waste are unidentified, the environmental remediation costs shall be borne by the persons in possession of the waste’. Under paragraph 2 of the same Article, ‘all environmental remediation costs and costs of identifying the actual producer of the waste shall be recovered therefrom’.

5.4. Jurisdiction

5.4.1. Principles applicable to the investigation of waste crime

According to Article 4 of the Bulgarian Criminal Code, the following principles regarding jurisdiction apply to investigating waste crime:

Article 4

(1) The Criminal Code shall also apply to Bulgarian citizens for crimes committed by them abroad.

(2) (Amended, SG No. 75/2006) No citizen of the Republic of Bulgaria may be transferred to another state or an international court for the purposes of prosecution, unless this has been provided for in an international agreement that has been ratified, published and has entered into force for the Republic of Bulgaria.

Article 5

The Criminal Code shall also apply to foreign citizens who have, while abroad, committed crimes of a general nature whereby the interests of the Republic of Bulgaria or of Bulgarian citizens have been affected.

Article 6

(1) The Criminal Code shall also apply to foreign citizens who have, while abroad, committed crimes against peace and humanity whereby the interests of another state or of foreign citizens have been affected.

(2) The Criminal Code shall also apply to other crimes committed by foreign citizens abroad where this is stipulated in an international agreement to which the Republic of Bulgaria is a party.'

5.4.2. Rules in the event of conflicts of jurisdiction

In the event of conflicts of jurisdiction with other Member States concerning cross-border waste crime cases, the standard Bulgarian procedural rules apply. There are no specific rules provided for on addressing crimes related to hazardous waste.

The matter is dealt with in the Liability for the Prevention and Remediation of Environment Damage Act as follows:

Article 49

(1) Where environmental damage or an imminent threat thereof has been caused by activities performed within the territory of the Republic of Bulgaria, which affect or are likely to affect one or several other states, the competent body under items 2 to 4 of Article 6 herein shall immediately notify the Minister of Environment and Water, providing the information covered under Article 20(3) or Article 26(2) herein.

(2) In the cases under paragraph 1 where the affected state or states are EU Member States, the Minister of Environment and Water shall immediately notify the affected EU Member State or States, providing the information under paragraph 1 and information regarding the procedures according to the law, and:

1. upon request by the competent bodies of the other EU Member State or States, shall provide additional information;
2. shall represent the Republic of Bulgaria should an EU Member State claim recovery of the costs incurred by the competent bodies of that Member State by performing preventive or remedial measures on its territory.

Article 50

Where environmental damage or an imminent threat thereof on the territory of the Republic of Bulgaria has been caused by activities performed on the territory of another EU Member State, the Minister of Environment and Water:

- (1) shall request from the competent body of that Member State information related to the environmental damage and to the relevant national procedures of that State;
- (2) shall submit to the competent body of that State an opinion regarding the information under paragraph 1, including recommendations for adopting preventive and remedial measures;
- (3) shall order the application of preventive and remedial measures on the territory of the Republic of Bulgaria in compliance with the procedures provided for by the law;
- (4) may take the necessary actions in respect of the other Member State to recover the costs incurred by applying preventive or remedial measures on the territory of the Republic of Bulgaria.’

5.5. Conclusions

- Bulgaria transposed into its national legal framework Directive 2008/99/EC on the protection of the environment through criminal law in 2011, and has set up a comprehensive legal framework to safeguard the environment. There are, in particular, two important laws, the Environmental Protection Act and the Waste Management Act, which contain provisions on the roles of the different enforcement bodies in the prevention, control and punishment of unlawful activities related to waste.
- The Bulgarian legislation defines criminal offences related to waste based on the seriousness of their consequences or impact, rather than the volume or quantity of the waste shipment. The main criterion used to determine the seriousness of waste crime is the danger that it creates for people and the environment.
- Under the Bulgarian legal framework, only natural persons can be criminally liable for committing environmental crimes. This essentially means that legal entities cannot currently be prosecuted and can only be subject to fines. The evaluation team recalls that it is important to fully implement the relevant provisions providing for pecuniary fines and other coercive measures against legal persons.
- The Prosecutor's Office and the police have a wide range of legal instruments for dealing with environmental crime: charges can be brought against natural persons, although not against legal persons; the illegally obtained proceeds of crime may be confiscated; and SITs (including observation, infiltration, telephone tapping, etc.), can be used – though only for serious crimes, which environmental violations do not usually constitute.

- Legal and natural persons are responsible for remedying environmental damage and for paying all the expenses incurred, based on the ‘polluter pays’ principle, supplemented by the extended producer responsibility principle. On this basis, enforcement bodies may impose coercive administrative measures aimed at forcing the liable persons to take immediate action to remedy negative effects on the environment.
- In the evaluator’s view, Bulgaria should be encouraged to fully use the possibilities of NGOs active in the area of environmental protection to participate in criminal proceedings, since they are recognised by the Aarhus Convention, of which Bulgaria is a party, as having a ‘sufficient interest’.

6. COOPERATION

6.1. International cooperation

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

All available cooperation instruments are used in cross-border waste crime cases in Bulgaria.

At regional level, the Bulgarian authorities have some experience of cooperating with other countries in cross-border waste crime cases, and the Border Police plays an important role in the organisation of joint teams, in particular with the Greek authorities.

Cooperation with the competent authorities of other Member States regarding transboundary shipments of waste is based on the provisions of Regulation (EC) No 1013/2006.

The Customs Agency cooperates with the customs authorities of other states through the World Customs Organization (WCO).

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

In accordance with Articles 53 and 54 of Regulation (EC) No 1013/2006, Bulgaria has established a competent authority responsible for implementing the Regulation and a national correspondent, within the Ministry of the Environment and Water, responsible for informing persons or undertakings making enquiries. One of the tasks of the competent authority for implementing Regulation (EC) No 1013/2006 is to facilitate the exchange of information concerning cases of illegal shipments of waste or other violations of the Regulation.

The Ministry of the Interior coordinates the information exchange conducted through EU and international channels such as Europol, Interpol, etc. As regards the police, international cooperation depends primarily on the NPGD, as this body is the main interlocutor between Bulgaria and Europol.

The Bulgarian authorities use the EU and international information databases of Europol and Interpol respectively.

6.1.3. Difficulties faced in judicial cooperation relating to waste crime

As Bulgaria deals with only a small number of cases related to waste crime, the Bulgarian authorities indicated that they have not encountered any specific practical problems related to judicial cooperation in criminal matters.

6.1.4. Operational performance of JITs in waste crime

The Bulgarian authorities underlined that they regularly participate in joint investigation teams (JITs) working on different types of crime and that they consider this form of cooperation to be very useful and beneficial in combating cross-border crime. However, they have no experience of participating in JITs on cross-border waste crime cases.

6.2. Cooperation with EU Agencies and networks

6.2.1. Cooperation with Europol and Eurojust

The Bulgarian authorities stated that they greatly appreciate the role of the EU agencies in combating crime and that they maintain active cooperation with those agencies in all priority crime areas, including waste crime.

The police is the national contact point for Europol.

Since environmental crime became one of the priorities of the new policy cycle on combating serious and organised crime for the period 2018-2021, Bulgaria – principally through the NPGD – has been participating in activities dealing with the EMPACT priority ‘Combating environmental crime’ and in the activities included in the Operational Action Plan for 2018. This includes the ‘Europol Analysis Project’, which seeks to enhance operational information exchange at international level and facilitate data analysis.

Bulgaria also uses Europol’s strategic-analysis products, including the SOCTA report, which contains a section on environmental crime.

The Prosecutor's Office of the Republic of Bulgaria has a national representative at Eurojust and the Bulgarian authorities consider their coordination with Eurojust to be very good. At present, however, Bulgaria has not cooperated with any other countries with the support of Eurojust in relation to waste crime.

6.2.2. Experience resulting from the use of various environmental networks

The Bulgarian authorities pointed out that all networks and other similar formats contribute to the country’s overall level of cooperation in combating environmental crime. Bulgaria’s experience relates mainly to the enforcement authorities using the available cooperation channels in the framework of the IMPEL network, e.g. regular participation in annual meetings and in workshops for the exchange of practical experience and knowledge, and participation in conferences and joint border inspections.

The Bulgarian police also has a focal point for exchange of information with EnviCrimeNet.

Currently, even though there is no specialised prosecutor in environmental matters, the Bulgarian Prosecutors' Association has been an observer of the European Network of Prosecutors for the Environment (ENPE) since 2013. The contact point is a prosecutor from the Sofia Prosecutor's Office. He is also a member of the Working Group on the EU Life project, financed by the European Commission and implemented by ENPE. The aim of the project is to improve compliance with EU environmental legislation by overcoming its uneven application by the Member States, to improve the effectiveness of prosecutors and judges in the fight against environmental crime.

6.3. Cooperation between Bulgaria and Interpol

At international level, Bulgaria also actively uses the possibilities offered by Interpol to conduct swift information exchange with third countries.

The police is also the national contact point for Interpol.

6.4. Cooperation with the private sector

6.4.1. The involvement of the private sector / public private partnership (PPP)

The evaluation team observes that the involvement of the private sector in environmental crime issues in Bulgaria is currently limited and that PPPs are not sufficiently used in this area.

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

The Bulgarian legislation places a general obligation on citizens to inform the competent authorities of crimes that have been committed. This obligation refers to all citizens, and to public officials, when they come across information on crimes of a general nature.

According to the Liability for the Prevention and Remediation of Environment Damage Act:

Article 20

(1) Operators whose activity has resulted in an imminent threat of environmental damage shall be obliged to take preventive measures immediately.

(2) Where the imminent threat of environmental damage continues to exist in spite of the measures taken under paragraph 1, the operator shall be obliged to immediately inform the relevant competent body under items 2 to 4 of Article 6, in writing, of the threat.

(3) The information under paragraph 2 shall contain:

1. data regarding the operator;
2. the location, territorial scope and type of the environmental damage of which there is an imminent threat;
3. data from reports on analyses and measurements that have been conducted and that prove that the applicable emission norms and restrictions have been breached;
4. the causes of the imminent threat of environmental damage;
5. the preventive measures under paragraph 1 taken so far by the operator;
6. proposals for other preventive measures;
7. financial statement of the costs of implementing the aforementioned measures.'

Under Article 61(2), any operator who fails to provide the competent body with information under Article 20(3) and Article 26(2) shall receive a fine or pecuniary penalty of between BGN 2 000 and 6 000.

However, the evaluation team has the impression that Bulgarian citizens are not sufficiently involved in this field.

6.4.3. *Experience of cooperation with the private sector*

According to Article 109 of the Bulgarian Administrative Procedure Code, any individual or organisation, as well as the Ombudsman, may submit proposals or alerts to the competent authorities.

According to the Environmental Protection Act, one of the principles on which environment protection is to be based is public participation in the decision-making process in the environmental field.

However, as the Bulgarian authorities did not present any concrete or tangible examples of cooperation with private entities, it seems that in practice there is a lack of cooperation with the private sector and that the public are not active in this field.

The evaluation team underlines that a sense of environmental responsibility on the part of the private sector and the involvement of business, local authorities, schools and NGOs is crucial for successful awareness-raising. It therefore encourages Bulgaria to take appropriate measures to extend the existing forms of cooperation with the private sector, including NGOs (see also points 4.1.5 and 4.5).

6.5. Conclusions

- The various law enforcement bodies in Bulgaria seem to be sufficiently familiar with working in an international context. They are making use of the available products and tools at EU level and taking part in major EU initiatives to combat environmental crime, including in the EMPACT priority ‘Combating environmental crime’.
- Over the last few years, Bulgaria has been making valuable efforts to be actively involved in different networks, such as IMPEL (MOEW) and ENPE (Sofia Prosecutor’s Office), and the Bulgarian police has a focal point for exchange of information with EnviCrimeNet.
- Europol and Interpol are the main channels used by the Bulgarian authorities for cross-border information exchange. Up until now, there has been no need for cooperation with other countries with the support of Eurojust in relation to waste crime, but the Bulgarian Prosecutor’s Office does have a national representative at Eurojust.
- Due to the lack of cases responding to the requirements on establishing of JIT up-to-date, Bulgaria has not yet participated in any JITs in the area of environmental crime and is encouraged by the evaluation team to consider this possibility for cooperation and exchange of information and evidence in future cross-border cases of environmental (including waste-related) crime, when applicable.
- Bulgaria conducts some forms of cooperation with other countries, in particular Greece, in cross-border cases of waste crime. The evaluation team believes, however, that the Bulgarian authorities’ limited experience in the fight against environmental (including waste-related) crime at national level is preventing them from participating more actively in cross-border investigations and prosecutions of this type of offence.

- The Bulgarian authorities did not provide any examples of cooperation with the private sector in preventing and combating waste crime. The evaluation team therefore encourages them to establish partnerships with the private sector, to allow regular collaboration and exchange of information in the field of the environment.

7. ILLEGAL TRAFFICKING OF WASTE

7.1. National structure

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

The REWIs perform inspections at the places of dispatch and destination of waste shipments.

The customs authorities, the competent bodies within the Border Police General Directorate and the Traffic Police units within the regional directorates of the Ministry of the Interior, as well as the Executive Agency for Automobile Administration, the Executive Agency for Railway Administration and the Executive Agency for Maritime Administration, exercise control over transboundary shipments of waste pursuant to the Waste Management Act and Regulation (EC) No 1013/2006, each within the scope of the powers vested therein.

In particular, the Customs Agency, the Border Police and the Traffic Police perform inspections at the EU borders, and the Border Police, the Traffic Police and the executive transport agencies – road, sea and railway administrations – are empowered to perform inspections during shipments within the territory of the EU.

There seems to be a good level of cooperation between the Border Police and the Customs Agency and between the latter and the other authorities involved in the control of waste shipments.

When the Customs Agency identifies a waste shipment, it informs the REWI, which can then investigate the case further.

According to the Waste Management Act, if, during waste inspections, the REWIs need the assistance of police forces, the authorities of the Ministry of the Interior shall render such assistance immediately. Similarly, on request of the NPGD, the MOEW – or one of its regional bodies – should participate in joint inspections at waste storage and/or treatment sites.

If doubts arise about the classification of the material shipped and its conformity with its accompanying documents, the police, customs and transport agencies have the right to request assistance from a REWI.

The consignment shipped is to be considered waste until an official statement is provided by the REWI or by the MOEW. In cases where the inspection authorities establish that there has been a violation of Regulation (EC) No 1013/2006 or of the Waste Management Act, they are empowered by law to ascertain the administrative violations. The penalty decree is then issued by the director of the REWI.

According to the law, the means of transport and the material/waste shipped may be released after:

- a statement from the REWI/MOEW has been received stating that the material shipped is NOT waste;
- it has been confirmed that the detained shipment is illegal, a repatriation procedure has been organised by the MOEW and the waste can be sent back to the country of dispatch;
- a decision regarding the environmentally sound management of the waste has been issued (by the MOEW or the REWI).

7.1.2. Detection of illegal shipment of waste

Usually, illegal shipments in Bulgaria are detected during routine inspections or during joint inspections performed by more than one authority at borders or at waste treatment sites. However, there seems to be no active reporting by citizens or the private sector of environmental violations.

7.1.3. Specificity of illegal shipment of waste

The Waste Shipment Inspection Plan 2017-2019 has been developed based on a risk assessment and data about past illegal shipments, including sources, kinds of waste, etc. According to the inspection plan, the priority waste streams to be inspected include WEEE, ELVs, RDF, spent lead-acid batteries and plastic waste.

According to the Bulgarian police, Bulgaria is a major waste destination in Europe; however, the number of detected cases of illegal waste shipment is low. The police representatives pointed out that Bulgaria is an important final destination for treating and recycling of waste in Europe due to the already established infrastructure and the relatively lower prices for the service. However, according to the Bulgarian Police this fact does not necessarily mean that these activities are carried out illegally, but that more inspections are required in the future in order to prevent possible risks.

7.1.4. Measures on shipments of waste

According to the Waste Management Act, the inspection authorities have a number of rights and obligations.

At least once a year, the inspection authorities shall conduct an examination of the documents required under the Waste Management Act and the secondary legislation for its implementation, of waste dealers and brokers, and of persons whose operations involve the generation of waste and/or persons carrying out waste-related operations.

Additionally, an on-site inspection shall be performed at least once a year at the premises where the waste management operations take place and in the presence of the inspected person or of persons employed thereby. In the absence of any such persons, the examination shall be conducted in the presence of at least one witness. Inspections concerning collection and transport operations shall cover the origin, nature, quantity and destination of the waste.

The procedure of prior written notification and consent is in place to guarantee that the competent authorities concerned have checked and verified that the destination facility is fully authorised by the relevant national authorities to accept and appropriately treat the waste in question. The established channels (email, phone) for direct exchange of information between the competent authorities can be used if necessary for further enquiries related to the notified shipments. Inspections are also performed during the shipments to ascertain whether the conditions for the shipments as stipulated by the competent authorities are fully complied with. Additional inspections at the place of dispatch can also be performed to check the shipments' compliance with the stipulated conditions.

For shipments of waste which do not require prior written consent and notification, physical inspections may be carried out to verify that the waste shipped is in conformity with the accompanying documents. According to Art. 116, par. 3 of the Waste Management Act in the cases of doubt for the compliance of the shipment with the accompanying documents, doubt for the classification of the load as waste or the type of the waste, the bodies pursuant to Para. 2, p. 3 and 4 shall immediately notify the relevant RIEW on whose territory the check-up is carried out, for taking a decision on the classification of the shipment and waste.

According to Art. 116 (6) of the Waste Management Act, the waste owner shall produce the whole needed information and documents for the classification of the shipment.

There is a register of dealers and brokers of waste. All activities related to waste trafficking are subject to a licence requirement such as export, transit and brokering. The evaluation team believes that the Bulgarian authorities could consider establishing connections between the computer networks of the police and the Customs Agency on which this information is stored.

7.2. Inspections

7.2.1. Methodology of inspections and follow-up

Officials conducting an on-site inspection have the right:

- to access the premises where the operation under inspection takes place;
- to require presentation of the documents which, according to the regulatory requirements, must be available for inspection at the place of the inspection;
- to require written and oral explanations from any person employed by the person being inspected;
- to recruit experts in the relevant field, where the inspection is complicated or requires specialised knowledge.

If any documents certifying compliance with the established requirements are found to be missing during an on-site inspection, the inspected person shall be given a seven-day time limit to present said documents.

Although they are empowered, as mentioned above, to both check the documents accompanying the shipment and, if necessary, perform physical inspections of the consignment to verify whether the available documents match the transported waste, most of the time the inspecting authorities only check the cargo documentation. In the event of doubts, the inspecting authority has the right to detain the means of transport with the material/waste loaded onto it and to withdraw the document certifying the registration of the means of transport.

Depending on the outcome of the administrative inquiry, physical checks of the consignment may or may not be necessary to compare the actual load and composition of the waste with the information indicated in the accompanying documents. Where appropriate, pictures of the shipment of the waste, the vehicle and the waste shipment are taken.

The inspecting authorities also have the right to take samples and/or to refer to the REWI for further expertise.

During inspections the following questions must be answered:

- Is the cargo carried waste or non-waste?
- Do the classification and composition of the waste correspond to the information given in the accompanying documents?
- Does the actual transport route match the one specified in the documents?
- What are the requirements for the shipment of such waste?
- Is notification required?

According to the Waste Management Act, in cases where the Border Police, customs and transport agencies have doubts during waste shipment inspections as to the conformity of the shipment with its accompanying documents, as to the classification of the shipment as waste or as to the type of waste, they should request assistance from the REWI. Following such a request, the REWI performs a second inspection of the detained shipment or provides a statement based on information/pictures from the initial check.

The consignment shipped is to be considered waste until an official statement is provided by the REWI or by the MOEW. In cases where the inspection authorities establish that there has been a violation of Regulation (EC) No 1013/2006 or of the Waste Management Act, they are empowered by law to ascertain the administrative violations. The penalty decree is then issued by the director of the REWI.

Following an inspection, the inspection authorities draw up a statement of their findings. If any violations have been established, the control authorities must order the elimination of the violations, with a time limit, in the statement of their findings and/or draw up written statements establishing the administrative violations.

If discrepancies are detected, the environmental authorities have to be informed or consulted, and if there is a suspicion of a crime, the process has to be referred to the Prosecutor's Office.

According to the law, the means of transport and the material/waste shipped may be released after:

- a statement from the REWI/MOEW has been received stating that the material shipped is NOT waste;
- it has been confirmed that the detained shipment is illegal, a repatriation procedure has been organised by the MOEW and the waste can be sent back to the country of dispatch;
- a decision regarding the environmentally sound management of the waste has been issued (by the MOEW or by the REWI).

Based on the information received, the evaluation team considers it very positive that the Border Police draw up accurate risk profiles which outline the risk factors for transboundary waste shipments, taking into account many variables, such as type of vehicle, origin of waste, the number of times vehicles cross the border, etc.

The Border Police use a highly explanatory brochure to deal with the basic information related to illegal waste; the evaluation team finds this brochure to be a very useful tool for tackling waste crime.

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

As mentioned in section 7.1.3, according to the Waste Shipment Inspection Plan 2017-2019, the priority waste streams to be inspected include WEEE and ELVs.

In practice, this means that shipments of used electrical and electronic equipment declared for re-use, shipments of WEEE, shipments of used cars declared for re-use, and shipments of ELVs or used spare parts are subject not only to documentary checks, but to detailed physical inspections by the relevant authorities, unlike other classes of waste.

Action 7.1 of the Operational Action Plan for 2018 for this EMPACT priority is devoted to countering illegal online trade of ELVs and their parts. One of the aims is to identify websites where ELVs are purchased and second-hand parts are sold, as well as the traders and persons involved in these activities and the addresses of the places used for storage, disassembly and sale. Other aims include analysing incoming information, planning on-the-spot checks and taking the necessary measures to block illegal websites involved in these activities.

7.2.3. *First inspection plan*

In accordance with Article 50(2) of Regulation (EC) No 1013/2006 on shipments of waste, Bulgaria adopted its Waste Shipment Inspection Plan in December 2016.

This document indicates the competencies and tasks of the authorities involved in the inspections of transboundary shipments of waste and related facilities, and provides risk assessments for different waste streams. It also emphasises the administrative approach to the control of waste shipments and provides for regular checks on transboundary shipments of waste. In addition, it outlines the priorities to be tackled and the risk factors that characterise the environmental impact of waste.

The evaluation team is of the opinion that in order to be effective, this valuable document should be made accessible to all stakeholders involved in dealing with waste shipments, especially to the police.

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

According to the Bulgarian authorities, one of the main challenges in cases of illegal shipments is to determine the person responsible for organising the shipment in the country of dispatch.

The Bulgarian authorities also indicated that in some cases, the investigation that forms part of the pre-trial proceedings can take up to several months, which leads to a delay in fulfilling the send-back obligations under Regulation (EC) No 1013/2006.

7.3. Conclusions

- The national structure for preventing and combating illegal shipment of waste in Bulgaria, established according to the Waste Management Act and comprising a high number of control bodies, seems to be comprehensive and well organised.
- The Bulgarian REWIs play the most important role in inspecting shipments of waste and facilities and companies in the field of waste management. The MOEW is also entitled to perform checks of facilities and companies. The Customs Agency and the Border Police mainly play a supporting role (stopping heavy goods vehicles, mainly at border crossing points). The ordinary police are not involved in inspections of waste shipments.
- During inspections of waste shipments, the competent authorities, depending on their powers, have the right to:
 - stop means of transport;
 - open and check containers and means of transport;
 - ask for necessary information;
 - inspect all necessary documents;
 - detain the means of transport with the material/waste loaded on it/them;
 - withdraw the document certifying the registration of the means of transport;
 - take samples.
- There seems to be a good level of informal cooperation among all the Bulgarian authorities involved in tackling illegal waste trafficking, within the scope of their functional powers based on the Waste Management Act. Where appropriate, the environmental authorities, police forces, Border Police and Customs Agency assist each other and perform joint inspections.

- The evaluation team also noted some good practices performed by the Border Police – for instance, combining scheduled inspections with sampling when they received additional information regarding illegal activities, and drawing up accurate risk profiles taking into account several relevant variables, which the evaluation team considers to be very useful tools in the fight against waste crime.
- According to the Waste Shipment Inspection Plan 2017-2019, WEEE and ELVs are considered priority waste streams and are subject to specific inspection activities and analysis, involving not only documentary checks, but also detailed physical inspections by the relevant authorities.
- Other illegal flows of waste are, by contrast, generally only subject to documentary checks. In the evaluators' view, the Bulgarian authorities could consider carrying out physical inspections of these other categories of waste more often, including by using electronic surveillance or other technical solutions.
- According to the Bulgarian police, Bulgaria is a major waste destination in Europe; however, the number of detected cases of illegal waste shipment is low. This suggests there may be room for enhancing the Bulgarian system to efficiently tackle illegal trafficking of waste.

8. MANAGEMENT OF HAZARDOUS WASTE

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

Article 3(b) of Directive 2008/99/EC has been transposed into the Bulgarian Criminal Code (Articles 352 and 353) with the amendments adopted on 13 April 2011. Section III of the Criminal Code, ‘Crimes against public health and the environment’, includes separate provisions concerning criminal activities related to ordinary waste, namely Article 353b, and to hazardous waste, namely Article 353c (see point 5.1.1).

The criteria for classifying waste as hazardous are set out in Commission Regulation (EU) No 1357/2014 of 18 December 2014. According to the Waste Management Act and the secondary legislation for its implementation, producers of waste have a legal obligation to classify the generated waste according to the European List of Waste. The MOEW has published on its website a Manual on Waste Classification (<https://www.moew.government.bg/bg/otpaduci/klasifikaciya-na-otpaducite/>), which includes information on the classification of hazardous waste.

The Bulgarian authorities pointed out that the risk of misclassification is very real and can pose very big problems for the environment. In the evaluators’ opinion, in order to tackle these problems, there is a clear need for waste management operators to be properly trained, as they are the first line of defence in the waste management system. In light of this, training could be provided to any person who collects or transports waste on a professional basis, such as dealers, brokers and waste treatment operators.

According to the Bulgarian authorities, establishing the gravity of an offence can be a considerable challenge. In this context, they referred to a case currently under investigation involving the illegal dumping of batteries in the Sofia region in 2017. Two lorries were carrying the batteries; one of them was unloaded and samples were sent to the MOEW. The Prosecutor’s Office was also informed. The MOEW then carried out a successful hazardous material analysis.

The evaluation team highlights the importance of the availability of portable instruments for analysing waste in real time during physical inspections. This allows the contents of containers to be identified quickly, in order to determine the composition of the waste and establish its classification and how dangerous it is. This in turn makes it possible to quickly establish the veracity (and legality) of the declaration stating whether the waste is dangerous or not.

8.2. The system of inspections and the authorities involved

The inspections involved in hazardous waste management are the same as those for ordinary waste (see points 7.1.1. and 7.1.4).

The competent entity for investigating cases involving illegal trafficking of hazardous waste (Article 353c of the Criminal Code) is a separate service within the structure of the Prosecutor's Office called the National Investigative Service. This is stipulated in Article 194(1) of the Criminal Procedure Code (see also point 4.2.1). According to the Bulgarian authorities, as the investigators in this service have more professional expertise and experience and usually deal with more complex cases, they ensure that the investigations of crimes posing the greatest threat to society, such as illegal activities involving hazardous waste, are of a higher quality.

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

All the requirements of Directive [2008/98/EC](#) on waste are transposed in Bulgaria's Waste Management Act and the secondary legislation for its implementation.

To ensure the protection of the environment and human health, the Waste Management Act provides that the storage and treatment of hazardous waste shall be carried out on the basis of permits issued by the REWIs or an integrated permit issued in accordance with the Environmental Protection Act.

Obtaining a permit for hazardous waste storage and treatment requires specific conditions aimed at guaranteeing environmentally sound management to be met. Generators of hazardous waste are obliged to hand over the generated waste only on the basis of a written contract with persons holding a permit or an integrated permit. All persons dealing with hazardous waste are also obliged to keep record books certified by the competent authority.

Specific measures are taken to ensure the traceability (from production to final destination) and control of hazardous waste, in particular by record keeping, pursuant to Article 35 of Directive 2008/98/EC, and the proper labelling of hazardous waste.

According to the Waste Management Act (Article 44), persons whose operations involve the generation, collection, transport and/or treatment of industrial and/or hazardous waste, as well as persons holding a permit, an integrated permit or a registration document for activities involving waste, are obliged to keep record books certified by the competent authority. Waste dealers and brokers are also obliged to keep record books certified by the director of the REWI within whose territory their registered office is located.

These record books must contain a chronological record of the quantity, nature and origin of the waste, and, where required, the intended destination, frequency of collection, mode of transport and treatment method. Waste-related record books and documentation must be kept for a period of five years, including after the operation is discontinued.

The persons referred to above must, upon request from the control authorities, submit the documents evidencing that the waste management operations have been completed, and draw up and submit annual waste reports to the Executive Environment Agency.

In order to ensure traceability from production to final destination and to control hazardous waste, operators must ensure that each single consignment of hazardous waste is accompanied by a transport document, which is to be submitted to the relevant REWIs prior to dispatch and upon arrival of the consignment.

8.4. Trends in illegal hazardous waste management

The challenges related to hazardous waste management are linked to the fact that storing hazardous waste during investigations and pre-trial proceedings is expensive, and appropriate technical facilities and licensed sites for such storage cannot easily be found. Furthermore, the necessary laboratory analysis and technical expertise are also expensive.

Another challenge is that used goods (WEEE or ELVs) that are waste – because they are non-functional or are destined for dismantling – are often shipped under the pretext of being ‘used goods destined for re-use’.

8.5. Conclusions

- The Bulgarian Waste Management Act contains specific provisions and envisages higher fines for unlawful activities related to hazardous waste than for those related to ordinary waste, whereas inspections related to hazardous waste are carried out by the Bulgarian authorities in the same way as those related to all other types of waste.
- Special entities have been set up in Bulgaria for dealing with hazardous waste: the National Investigative Service within the structure of the Prosecutor’s Office. The Regional Health Inspectorates also have a role in this field.
- The evaluation team wishes to underline that cooperation with the fire service is key in this area, as this service has the knowledge, expertise and resources needed to detect, neutralise and treat hazardous waste.

- The Bulgarian authorities reported that the main problems with hazardous waste were linked to the possibility of this waste being mixed with other waste or materials during transportation, and to the risk of misclassification of hazardous waste as non-hazardous and/or inaccurate declarations in this respect.
- Taking this into account, the evaluation team encourages the Bulgarian authorities to provide specialised training focused on the classification of waste for all waste management operators, including dealers, brokers and any person who collects or transports waste on a professional basis.
- The evaluation team encourages the Bulgarian authorities to use portable instruments during physical inspections of waste of, as these would allow the waste to be analysed in real time and its classification and dangerousness to be determined more easily.

9. ILLEGAL PRODUCTION OR HANDLING OF DANGEROUS MATERIALS

9.1. The concept of dangerous materials

According to Article 3 of Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures (CLP Regulation), a substance or a mixture fulfilling the criteria relating to physical hazards, health hazards or environmental hazards laid down in Parts 2 to 5 of Annex I to the Regulation is hazardous and shall be classified in relation to the respective hazard classes provided for in that Annex.

According to Article 4 of the CLP Regulation, manufacturers, importers and downstream users shall classify substances or mixtures in accordance with Title II of the Regulation before placing them on the market. If consultation with the competent Bulgarian authorities is needed in order to properly classify the substances, this is possible via the website of the MOEW.

According to paragraph 1 of the Additional Provisions of the Bulgarian Protection against the Harmful Impact of Chemical Substances and Mixtures Act, ‘dangerous chemical substances and mixtures’ are the chemical substances and mixtures which are classified as dangerous in one or more hazard categories under Annex I to the CLP Regulation.

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

The manufacture, placing on the market and use of certain dangerous substances, mixtures and articles are prohibited and/or restricted according to specific conditions laid down in Annex XVII to Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH Regulation).

Article 353f of the Bulgarian Criminal Code provides that:

(1) Anyone who illegally manufactures, uses, distributes, imports or exports across the border of Bulgaria substances that deplete the ozone layer shall be punishable by imprisonment for up to four years and a fine of BGN 1 000 to 5 000.

(2) When the act under paragraph 1 results from negligence, the culpable party shall be punishable by imprisonment for up to one year or by probation.'

According to Article 356k of the of the Bulgarian Criminal Code, 'Anyone who manufactures, processes, disposes of, acquires, holds, transports or smuggles radioactive substances, sources of ionising radiation or components thereof shall be punishable by imprisonment for one to six years'.

According to Article 4b of the Bulgarian Protection against the Harmful Impact of Chemical Substances and Mixtures Act:

- procedures for and methods of storing dangerous chemical substances and mixtures are determined by an ordinance of the Council of Ministers; and
- procedures for and methods of restricting the manufacturing, use and placing on the market of certain dangerous chemical substances, mixtures and articles laid down in Annex VII of Regulation (EC) No 1907/2006 (REACH) are determined by an ordinance of the Council of Ministers.

In addition, special provisions for the enforcement of the REACH and CLP Regulations are laid down in the Protection against the Harmful Impact of Chemical Substances and Mixtures Act.

In cases of non-compliance with the general provisions for enforcement of the environmental legislation in Bulgaria, inspectors are empowered to give written advice with a concrete deadline and to identify a responsible person for restoring compliance.

In cases of breaches of the Protection against the Harmful Impact of Chemical Substances and Mixtures Act, according to Article 33 thereof, the enforcement authorities may impose administrative orders to suspend the manufacturing, placing on the market, use and/or export of chemical substances, mixtures and/or products until the reason for the implementation of the administrative order is eliminated.

The enforcement authorities may also impose penalties pursuant to Article 35 (3) of Section II, ‘Administrative Violations and Penalties’, of Chapter VIII of the Protection against the Harmful Impact of Chemical Substances and Mixtures Act.

The Bulgarian enforcement authorities indicated that they have encountered the following illegal activities:

- manufacturing, use and placing on the market of substances on their own, in mixtures and in articles without the required registration under the REACH Regulation;
- inappropriate methods of storing dangerous chemical substances and mixtures that do not observe the provisions of the Council of Ministers’ ordinance regarding the procedures for and methods of storing dangerous chemical substances and mixtures;
- manufacture, placing on the market and use of certain dangerous substances, mixtures and articles that are restricted according to Annex XVII of the REACH Regulation;
- placing on the market of hazardous substances and mixtures that are incorrectly classified or labelled according to the CLP Regulation.

The representatives of the MOEW informed the evaluation team that they have not encountered any problems with asbestos or lead in Bulgarian territory.

Due to the abovementioned small number of crimes involving hazardous materials, the Bulgarian authorities could not provide information on specific trends in this area.

9.3. Procedural aspects

The illegal production and handling of hazardous materials in Bulgaria is tackled by the competent administrative services, the police service and the Customs Agency, as is the case for non-hazardous materials.

The MOEW has no competence for nuclear waste. The management of radioactive waste outside its place of generation is carried out by the Radioactive Waste State Enterprise, which is established pursuant to Article 78(1) of the Safe Use of Nuclear Energy Act. The evaluation team underlines the importance of cooperation with the fire and/or specialist services in this field, in order to safely identify, analyse and treat hazardous materials.

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

The methods for documenting illegal production and handling of dangerous materials are the same as for other crimes, as stipulated in the Code of Criminal Procedure: witness interrogations, experts' opinions, eyewitness accounts and relevant documents.

According to the general provisions for the enforcement of the environmental legislation in Bulgaria, after conducting an inspection, inspectors have to document their findings, including possible breaches/instances of non-compliance. All relevant supporting documents shall be annexed to the record of these findings. Documents that can be used as evidence include safety data sheets, declarations, contracts, invoices, labels and analysis certificates.

The Code of Criminal Procedure provides for the rules on handling material evidence, as indicated in point 5.2.1.

Analyses of substances, mixtures and articles are conducted at the expense of the responsible national enforcement authorities. In the event of a breach and when the final conviction has entered into force, the manufacturer/importer/downstream user must reimburse the enforcement authorities for any costs borne by them.

As regards cross-sectoral response, the Bulgarian Customs Agency and the MOEW have signed a Cooperation Agreement and an Instruction for Interaction, both of which regulate their cooperation in relation with:

1. REACH Regulation;
2. Regulation (EC) No 649/2012 (PIC);
3. Regulation (EC) No 850/2004 (PoPs); and
4. Protection against the Harmful Impact of Chemical Substances and Mixtures Act.

The Cooperation Agreement also regulates the exchange of information between the abovementioned authorities. The Customs Agency provides the Ministry with access to the customs database of goods within the scope of the REACH Regulation, including substances listed in Annex XIV and Annex XVII.

The Instruction for Interaction regulates the coordination and cooperation between the Customs Agency, the MOEW and the national enforcement authorities with regard to the enforcement of the abovementioned legislation.

In addition, the Customs Agency and the national enforcement authorities evaluate the available information about waste management companies and can create risk profiles for those that pose high risks by breaching the provisions of the REACH Regulation.

Where there are doubts as to whether a certain product may be dangerous, the customs authorities can suspend the free circulation of that product. The responsible national enforcement authority is required to give its opinion about the compliance of the product in question within three days.

According to the Instruction for Interaction mentioned above, there are two procedures for communication between the national enforcement authorities and customs:

1. Customs has doubts regarding whether a certain product complies with REACH.
2. Customs notifies the responsible national enforcement authorities and suspend release of the product for free circulation.
3. The responsible national enforcement authorities take a decision regarding the compliance of the product within three days of notification and inform customs.
4. Follow-up activities depend on the type of non-compliance and could include requiring presentation of the relevant documentation, sampling and analysis, destruction or sending the product back.

Or

1. National enforcement authorities discover an instance of non-compliance and notify customs.
2. Customs monitors the company in question for a given period of time.

In the course of pre-trial proceedings, the investigative authorities may request the relevant expertise (including from experts from the National Forensic Institute) regarding the materials they suspect could be dangerous. They then leave the materials in custody or assess the necessity to transport and store them in a safe place. The expenses incurred by the authorities for storage, transportation, etc. are reimbursed by the perpetrator, when found guilty for committing the crime under investigation.

9.3.2. The cooperation with European and international partners

The following systems are used for the exchange of information between the national enforcement authorities and the European Chemicals Agency: the Portal Dashboard for National Enforcement Authorities (PD-NEA) and the Information and Communication System for Market Surveillance (ICSMS).

The relevant information is shared with other countries through the relevant channels, such as Europol and Interpol.

9.3.3. Investigation techniques

The Bulgarian authorities stated that their use of financial and cyber investigative techniques depends on the specifics of the case under investigation. Up until now, these techniques have not been used in the field of illegal production or handling of dangerous substances in Bulgaria.

See also point 7.1.

9.3.4. Main obstacles to successful investigation and prosecution

Due to the abovementioned small number of such crimes reported, the Bulgarian authorities were not in a position to provide information on concrete obstacles to successful investigation and prosecution of cases of illegal production or handling of dangerous substances.

9.3.5. Training

No regular specialised training is provided for Bulgarian law enforcement authorities on how to conduct investigations and respond to an incident involving dangerous materials, such as chemical, biological, radiological or nuclear materials. However, a module in environmental crime, which includes criminal and environmental hazards and dangers to human life, is offered by the Academy of the Ministry of the Interior in its bachelor programme open to all police cadets, and also in all initial training courses for members of the economic crime department and the service for countering organised crime.

9.4. Conclusions

- According to paragraph 1 of the Additional Provisions of the Bulgarian Protection against the Harmful Impact of Chemical Substances and Mixtures Act, ‘dangerous chemical substances and mixtures’ are the chemical substances and mixtures which are classified as dangerous in one or more hazard categories under Annex I to Regulation (EU) No 1272/2008 (CLP Regulation).
- Illegal activities related to the illegal production and handling of dangerous materials are criminalised under Article 353f and Article 356k of the Bulgarian Criminal Code. In the event of a breach, the enforcement authorities may impose an administrative order until the reason for the implementation of said administrative order is eliminated, and may also impose fines or pecuniary penalties.
- The illegal production and handling of hazardous materials is tackled by the competent administrative services, the police and the Customs Agency, as is the case for non-hazardous materials. Investigations of hazardous materials (e.g. nuclear matter) are the responsibility of a special department of the Prosecutor's Office that deals with this type of dangerous substance. The evaluation team underlines the importance of cooperation with the fire and/or specialist services that play a key role in this field.

- There is also some informal inter-institutional cooperation on tackling the illegal production and handling of dangerous materials. In the opinion of the evaluation team, it is particularly important in this area, where illegal activities may have a significant impact not only on the environment but also on public health, to formalise such cooperation on the basis of standard operational procedures, in order to ensure that the competent authorities are able to react to the threats posed by chemical, biological, radiological and nuclear materials swiftly and in a coordinated manner.

10. FINAL REMARKS AND RECOMMENDATIONS

10.1. Suggestions from Bulgaria

No comments.

10.2. Recommendations

The expert team involved in the evaluation was able to satisfactorily review the system in place in Bulgaria for the practical implementation and operation of the Directives and the Regulation.

Bulgaria follow up on the recommendations given in this report and inform the Working Party concerned of the progress made within 18 months after.

The evaluation team thought it fit to make a number of suggestions to the Bulgarian authorities. Furthermore, based on the various good practices observed in Bulgaria, the team has also put forward related recommendations to the other Member States and EU institutions

10.2.1. Recommendations to Bulgaria

To enhance the Bulgarian system in the areas covered by this evaluation, the evaluation team recommends that Bulgaria:

1. is encouraged to further develop a strategically oriented approach to preventing and combating environmental (including waste-related) crime, in particular by drawing up a national strategic document setting out the priorities of its national policy in this area and clearly laying down the roles and responsibilities of all the authorities involved in countering this type of crime;

2. should consider developing an integrated system that collates all the relevant statistics collected by all the authorities involved in tackling environmental crime in a comprehensive, systematic and reliable way, in order to acquire a more global picture of this criminal phenomenon and to facilitate assessing the effectiveness of the national system in this area;
3. is encouraged to ensure that, by implementing both the administrative and the criminal approach to environmental crime, every single case of environmental violation is addressed in the most appropriate way and that judicial follow-up is ensured when the legislation so requires;
4. should ensure the effective application of its national legislation as regards environmental violations, by differentiating more clearly between minor crimes and administrative infringements in the area of environmental (including waste-related) crime, and by fully implementing the relevant provisions providing for pecuniary fines and other coercive measures against legal persons;
5. should consider further developing the national police's central environmental unit, in particular by increasing the number of staff, so that it could act both as a platform to support and promote a multidisciplinary approach to environmental crime and as an active partner at international level (Interpol, Europol and EU);
6. is recommended to increase the capacity of the judiciary to deal with environmental crime by placing specialised prosecutors in charge of environmental matters, and establishing a national network of expertise for environmental judges and prosecutors;
7. could consider the idea of establishing a central laboratory specialised in criminal environmental matters that could provide expertise and technical assistance to the Prosecutor's Office in this field, to remedy the shortage of independent and qualified experts;
8. should maintain a focus on continuous specialised training, including for specific categories of staff, with a view to improving detection of environmental (including waste-related) crime, both at national and local level;

9. should consider setting up a more formal and structured framework for inter-institutional cooperation on preventing and fighting environmental (including waste-related) crime, based on protocols or memoranda of understanding and on the establishment of formal networks of representatives from all law enforcement services;
10. is encouraged to promote more proactive information exchange between the competent environmental administrations (environmental inspectors), the police services, the Customs Agency and the judiciary (prosecutors and courts);
11. should consider extending the partnerships with the private sector;
12. is encouraged to further collaborate and exchange information regularly with national NGOs operating in the field of the environment, in accordance with the relevant criminal procedure rules;
13. is recommended to conduct more physical inspections and scans of containers transporting waste;
14. should consider highlighting the links between serious environmental crime and other forms of serious crime (organised crime, forgery, use of false documents, fraud, corruption, money laundering, etc.), where applicable.

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

The evaluation team also identified a number of good practices in Bulgaria that could be shared with the other Member States, such as:

1. the location of the national police's central service responsible for countering environmental crime within the economic crime department, which also deals with criminal activity such as financial and tax offences and corruption;

2. the Border Police's system of establishing risk profiles which outline the risk factors for transboundary waste shipments, based on data and variables derived from practical experience;
3. the 'Environmental Crimes' handbook produced by the Bulgarian Prosecutors' Association (with financial support from the 'Security' thematic fund of the Swiss-Bulgarian Cooperation Programme).

10.2.3. Recommendations to Eurojust/Europol/Commission

The European Commission could consider:

1. developing recommendations/guidelines on the criteria for the criminalisation of violations of environmental law;
2. establishing rules or guidelines for Member States on the designation of focal points for environmental matters in all relevant authorities with competence for environmental crime.

ANNEX A: PROGRAMME FOR THE ON-SITE VISIT

PROGRAMME

EIGHTH ROUND MUTUAL EVALUATION IN LINE WITH ARTICLE 2 OF JOINT ACTION 97/827/JHA OF 5 DECEMBER 1997

THE PRACTICAL IMPLEMENTATION AND OPERATION OF EUROPEAN POLICIES ON

PREVENTING AND COMBATING ENVIRONMENTAL CRIME

EVALUATION VISIT TO THE REPUBLIC OF BULGARIA, 20 – 23 NOVEMBER 2018

The evaluation visit will take place in Sofia and Blagoevgrad and will include meetings with representatives of the Ministry of the Interior (MoI), the Ministry of Justice (MJ), the Ministry of Environment and Water (MOEW), the Regional Inspectorates of Environment and Water (REWI), the Supreme Cassation Prosecutor's Office (SCPO), the National Institute of Justice (NIJ), the National Investigative Service (NIS) within SCPO, the Sofia City Court (SCC) and the Customs Agency (CA).

Consecutive interpretation from and to English will be provided during all meetings in the programme.

Evaluation team:

1. Ms Giovanna GIGLIO
2. Mr Faustino GUDIN
3. Mr Frans GEYSELS
4. Ms Fátima RUSSO

19 November 2018			
	Arrival at Sofia Airport		
	Venue	Topics	Participants
19.30	Reception hall of the Intercontinental Sofia Hotel	Internal meeting of the evaluation team	Evaluation team
20 November 2018			
	Venue	Topics	Participants
8.45		Transfer from Intercontinental Sofia Hotel (4 Narodno Sabranie Square, 1000) to MoI (29, Shesti Septemvri Str., Sofia 1000)	
9.00		Arrival at MoI	
9.00	MoI Conference hall	Meeting with the Deputy Minister of the Interior Introductory meeting: Presentation of the objectives of the visit and of the evaluation team by Ms Giovanna Giglio Presentation of the competent institutions in Bulgaria and main aspects of preventing and fighting environmental crime	Representatives of: MoI, MJ, MOEW, NIJ, SCPO, NIS, SCC and CA
10.00		Transfer to NPGD (1, Alexander Malinov Bul.)	
10.30	MoI – National Police General Directorate (NPGD)	Main activities of the economic crime unit of the NPGD and the practice of investigating environmental crimes	Representatives of: NPGD
12.00		Lunch	

13.30		Transfer to MJ (<i>1, Slayyanska Str.</i>)	
14.00	Ministry of Justice (MJ) and National Institute for Justice (NIJ)	Legal framework for combating environmental crime – working meeting with experts from MJ Training activities – presentation by the NIJ	Representatives of: MJ and NIJ
15.30		Transfer to CA (<i>47 G.S. Rakovski Blvd.</i>)	
16.00	Customs Agency (CA)	Presentation of activities	Representatives of: CA
17.00		Transfer to hotel	
18.00	Reception hall of hotel	Internal meeting of the evaluation team	Evaluation team
21 November 2018			
8.45		Transfer from hotel to SCPO (<i>2, Vitosha Blvd.</i>)	
9.00		Arrival SCPO	
9.00	Supreme Cassation Prosecutor's Office (SCPO)	Investigation and prosecution of environmental crime. Presentation of all prosecution services involved in the investigation of environmental crimes	Representatives of: SCPO, NIS, specialised prosecutors

10.45		Coffee break	
11.00	Sofia City Court (SCC) The meetings with SCPO and SCC will be held in the same building	Investigation and prosecution of environmental crime. Presentation of all prosecution services involved in the investigation of environmental crimes	Representatives of: SCC
12.00		Lunch	
13.30		Transfer to MOEW (22 Mariya Luiza Blvd.)	
14.00	MOEW (MOEW)	Prevention and administrative measures against environmental crimes	Representatives of : MOEW
16.00		Transfer to hotel	
18.00	Reception hall of the hotel	Internal meeting of the evaluation team	Evaluation team
19.00		Transfer for dinner	
19.30		Dinner on behalf of the Deputy Minister of the Interior	Representatives of: MoI, MJ, MOEW, NIJ, SCPO, NIS, SCC and CA
21.30		Transfer to hotel	

22 November 2018			
	Venue	Topics	Participants
09.00		Departure to Blagoevgrad <i>The distance between Sofia and Blagoevgrad is approx. 100 km.</i>	
10.30	Regional Directorate of the MoI – Blagoevgrad	Prevention, investigation and prosecution of environmental crime	Representatives of: Regional Directorate of the MoI (incl. Border Police), REWI, CA, District Prosecutor's Office - Blagoevgrad and its investigative unit
12.00		Lunch	
13.30	Regional Directorate of the MoI – Blagoevgrad (continuation)	Prevention, investigation and prosecution of environmental crime	Representatives of: Regional Directorate of the MoI (incl. Border Police), REWI, CA, District Prosecutor's Office - Blagoevgrad and its investigative unit
15.00		Departure to Sofia	
17.00		Arrival in Sofia	
18.00	Reception hall of hotel	Internal meeting of the evaluation team	Evaluation team

23 November 2018			
08.45		Transfer from hotel to MoI	
09.00-11.00	MoI conference hall	Closing session: Q&A session with all actors involved – presentation of the preliminary conclusions by the evaluation team	Representatives of: MoI, MJ, MOEW, NIJ, SCPO, NIS, SCC and CA
		Departure to Sofia Airport	

ANNEX B: PERSONS INTERVIEWED/MET

Venue: National Police General Directorate, MoI

Person interviewed/met	Organisation represented
Miroslav Petrov - inspector	National Police General Directorate, Economic Crime Department, Industry and Trade Unit
Valeri Vachev - inspector	National Police General Directorate, Economic Crime Department, Industry and Trade Unit
Velizar Zhulev – inspector	National Police General Directorate, Economic Crime Department, Industry and Trade Unit
Iordan Serafimov – inspector	National Police General Directorate, Economic Crime Department, Industry and Trade Unit

Venue: Blagoevgrad

Person interviewed/met	Organisation represented
Krasimir Katsarov – chief inspector	Regional Police Directorate Blagoevgrad
Atanas Georgiev – chief inspector	Regional Border Police Department Petrich
Bilyana Galabova – prosecutor	District Prosecutor’s Office Blagoevgrad
Dimitar Draganchev – investigator	District Prosecutor’s Office Blagoevgrad
Svetlana Vuchkova	Regional Environment and Waters Inspectorate

Biser Topchiev	Regional Environment and Waters Inspectorate
Maya Georgieva	Regional Customs Department “South-western Bulgaria”

Venue: National Institute for Justice

Person interviewed/met	Organisation represented
Lyuba Raynova	Director of Ongoing Training of Magistrates and International Exchange Directorate of the National Institute for Justice

Venue: Ministry of Environment and Waters

Person interviewed/met	Organisation represented
Slaveya Stoyanova	Director of Waste Management and Soil Protection Directorate
Galya Kostova	Head of Department
Lina Patarchanova	State expert
Diana Baleva	Chief expert
Atanas Dishkelov	Junior expert
Daniel Yankov	Junior expert

Meetings on

Venue: Supreme Prosecutor`s Office of Cassation

Person interviewed/met	Organisation represented
Vanya Nestorova – prosecutor	Supreme Prosecutor`s Office of Cassation, Analytical Department
Stanislav Stoykov- prosecutor	Sofia City Prosecutor`s Office
Georgi Asenov - prosecutor	Specialized Prosecutor`s Office
Ventsislav Ferdinandov - prosecutor	Specialized Prosecutor`s Office
Biserka Stoyanova - investigator	Head of Specialized Department of the National Investigative Service
Stefan Petrov - investigator	Head of Analytical Unit of the National Investigative Service
Daniela Borisova - judge	Deputy Head of Sofia City Court

Venue: Ministry of Justice

Person interviewed/met	Organisation represented
Milen Georgiev	Chief expert at International Legal Cooperation and EU Affairs Directorate

Meetings on

Venue: Customs Agency

Person interviewed/met	Organisation represented
Veselin Petkov	Head of Department at Customs Intelligence and Investigation Directorate
Bela Grigorova	Chief expert at Customs Intelligence and Investigation Directorate
Maya Georgieva	Senior Legal Advisor at Customs Intelligence and Investigation Directorate
Nina Ignatova	Senior expert at Prohibitions and Restrictions Unit, Customs Activity and Methodology Directorate

Venue: Introductory and concluding meeting

Person interviewed/met	Organisation represented
Krasimir Tsipov	Deputy Minister of Interior
Dora Zgurovska	Head of Department at EU and International Cooperation Directorate
Nikolay Danovski (participating at all meeting of the programme)	Head of Unit at EU and International Cooperation Directorate and main Coordinator of the visit

ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

List of acronyms, abbreviations and terms	X-landish or acronym in original language	X- Landish or acronym in original language	English
MOEW	Ministry of Environment and Water		
REWIs	Regional Environmental and Water Inspectorates		
EMEPA	Enterprise for Management of Environmental Protection Activities		
NIJ	National Institute of Justice		
NPGD	National Police General Directorate		
EMPACT	European multidisciplinary platform against criminal threats		
SOCTA	Serious and Organised Crime Threat Assessment		

EIA	Environmental Impact Assessment		
IPPC	Integrated pollution prevention and control		
EMAS	Eco-management and audit scheme		
ENPE	European Network of Prosecutors for the Environment		
IMPEL	European Union Network for the Implementation and Enforcement of Environmental Law		
ENVICRIMENET	European Network for Environmental Crime		
EEA	European Environment Agency		
JITs	Joint Investigation Teams		

WBA	Waste batteries and accumulators		
WEEE	Electrical and electronic equipment		
ELVs	End-of-life vehicles		
RDF	Refuse-Derived Fuel,		
CLP Regulation	Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures		
REACH Regulation	Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals		
Pops Regulation	Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC		