



Council of the
European Union

Brussels, 4 September 2020
(OR. en)

9749/20

CATS 51
JAI 602
COPEN 206
CRIMORG 62
ENV 428
ENFOPOL 180

NOTE

From: General Secretariat of the Council
To: Delegations

Subject: 8th Round of Mutual Evaluations - 'The practical implementation and operation of European policies on preventing and combating Environmental Crime'
Follow-up to the Report on Poland.

As a follow-up to each Round of Mutual evaluations, each Member-State is requested to inform the General Secretariat of the Council of the actions it has taken on the recommendations given to it.

A follow-up report should be submitted within 18 months from the adoption of the report concerned.

Delegations will find in the Annex the follow-up report of Poland regarding the recommendations that were made in the report [15079/1/18 REV 1](#) for the Eighth Round of Mutual Evaluations.

EIGHTH ROUND OF MUTUAL EVALUATIONS ON 'THE PRACTICAL IMPLEMENTATION AND OPERATION OF EUROPEAN POLICIES ON PREVENTING AND COMBATING ENVIRONMENTAL CRIME'

FOLLOW-UP TO REPORT ON POLAND

In the context of the eighth round of Mutual Evaluations on 'the practical implementation and operation of the European policies on preventing and combating environmental crime'.

The evaluation report on **Poland** as set out in doc. 15079/1/18 REV 1, was adopted by the LEWP/COPEN WP on **13.12.2018**

We hereby submit, according the procedures set out in doc. 15538/4/15, our report on the follow-up to the recommendations made to **Poland** the above evaluation report.

Recommendations.

Poland should:

1. develop the National Strategy on the fight against environmental crime, which could help in setting priorities in protecting against and fighting environmental crime more effectively and in establishing a multi-agency approach that would agree on an operational action plan to implement the strategy;

In Poland combating environmental crime is handled by a dozen specialised services, including the Police, National Revenue Administration, Inspectorates of Environmental Protection, Forest Guard, Border Guard, Municipal Guard, Road Transport Inspection and Veterinary Inspection. Currently, there are several strategies of national activities related to environmental protection, among them: "National Waste Management Plan 2022", "National Air Protection Programme 2020", with main being "State Environmental Policy 2030".

For the purpose of raising priority of protection against environmental crime and more effective combating of such crime, the Department of Preliminary Proceedings of the National Prosecutor's Office developed a methodology of conduct of preliminary proceedings in the scope of environmental crime, which has been communicated to all units of the prosecution service for application. The methodology includes guidance on the proceedings from the moment of receipt of the first information on occurrence of an offense until passing of final judgment before a court. The methodology also contains guidance on the need for cooperation with all the departments responsible for combating environmental crime, with the use of newly established regulations regarding participation of the Environmental Protection Inspectorate in conducting criminal proceedings. These methodological guidelines also meet the requirements set out in recommendation 2. of the report, because they detail the necessity and method of maintaining regular cooperation, not only at the central level, aimed at combating environmental crime.

2. establish a permanent structure of cooperation at central level to handle the strategic plan and to provide a platform to coordinate joint efforts in fighting environmental and waste crime; (cf. 3.1, 3.2 and 3.6)

Police carries out substantive tasks related to combating economic crime, including threats related to illegal storage, transport and disposal of waste, conducts and coordinates number of activities aimed at preventing these threats. As part of extensive activities, ongoing cooperation is conducted with government and self-government administration bodies in the field of waste management as well as other institutions dealing with combating threats in this area. Field units of the Police received guidelines on the procedures of conducting cases in the field of environmental crime related to illegal landfilling and fires of landfills

The positions of CITES coordinators function with Economic Crime of the Voivodship Police Headquarters and the Capital Police Headquarters, whose task is to identify and detect crimes against wildlife and cooperation with coordinators of other services and cooperation with non-governmental organizations.

Noteworthy are also actions taken independently by individual garrisons, e.g. the organization of a series of trainings for police officers (CITES coordinators, PG division officers) and KAS in the field of CITES species protection by the Voivodship Police Headquarters in Kraków. One of the solutions is the creation by KWP Kraków of a mobile CITES application for police officers and citizens.

It should be noted that mechanisms are currently in place to provide a form of cooperation between entities involved in combating environmental crime. An example is the National Criminal Information Center, whose main task is to collect, process and transfer criminal information to prevent and combat crime. CIEP cooperates with the Head of the National Criminal Information Center to the extent necessary to carry out his statutory tasks.

3. build up a method for collecting comprehensive and integrated statistics comprising the number of reported crimes, investigations, prosecutions and convictions, in order to obtain an overall picture of the level of waste crime in Poland; (cf. 3.3.1, 3.3.2 and 3.6)

The Ministry of Justice collects statistical data on the functioning of the judiciary through various systems and tools on the basis of the Act of 29 June 1995 on public statistics (Journal of Laws of 2020, item 443). The main source of information on the activities of the common judiciary are statistical reports filled in by court employees on a cumulative, quarterly, semi-annual and annual basis by means of an IT system dedicated to statistical reporting. The reports are divided by areas of law and court instance. Additionally, an important source of data are statistical tables on adults sentenced for crimes penalized under the Penal Code and other special/sector laws related to the criminal law. The tables are obtained in annual cycles from the database of the National Criminal Register. These tables are very valuable sources of information on the phenomenon of crime in Poland, as they provide data in detailed sections, mainly based on the type and length of the sentence imposed in a given year, but also, inter alia, on the age, sex of the convicted person, place where the crime was committed or recidivism. Therefore, it should be noted that information on environmental crimes is collected in two ways:

- information on adults convicted of the above mentioned offences, which is collected on the basis of statistical tables from the National Criminal Register;

- information on persons judged and sentenced in first instance in regional and district courts obtained on the basis of court's reports on persons judged by the first instance court.

4. maintain the capacity of the Prosecution Service by prioritising the fight against environmental and waste crime and by making designated specialised prosecutors in this field fully operational and effective, and encourage them to play a more proactive role in that regard; (cf. 4.1 and 4.6)

During the eighth evaluation round, at the request of the Director of the Department of Preliminary Proceedings, coordinators were appointed in this regard at all Regional and Circuit Prosecutor's Offices, tasked among other things with providing support in the conduct of preliminary proceedings concerning environmental crime, data collection, allowing to determine possible subjective and objective links between various discovered crimes.

The prosecution service continues to conduct training in the scope of environmental crime. This training covers both trainee prosecutors and prosecutors. An agreement between the Chief Inspector of Environmental Protection and the National Prosecutor as to the conduct of joint training in this subject matter continues in effect.

5. prioritise the fight against environmental and waste crime by all LEAs involved (incl. the police, the Customs Service and the Border Guard), e.g. by the continued development of the already existing dedicated structure within the police, in particular at central level; (cf. 4.2.1 and 4.6)

The issue of crime against the environment in the country is under constant supervision of the Department on Combating Economic Crime of the Criminal Bureau of the National Police Headquarters, which includes the coordination of issues at the level of subordinate garrisons. In the Voivodship Police Headquarters there are coordinators of the above mentioned issue, whose task is to recognize, prevent, disclose prohibited acts from the area in question and coordinate activities of subordinate Police units in the field of preventing and combating environmental crime, in particular concerning illegal waste management and violations of the Washington Convention on the conservation of endangered species of fauna and flora.

The Police field units receive on an ongoing basis guidelines concerning procedures for conducting cases of environmental crime. Undertakings implemented on an ongoing basis have contributed to effective prevention of illegal waste disposal practices by fraudulent entrepreneurs.

The number of detected cases of illegal dumping, storage and utilization of waste has increased in the country, thus the actions taken have effectively prevented the negative effects of to the environment. In departments for Combating Economic Crime of the Regional Police Headquarters and in the Department on Combating Economic Crime of the Criminal Bureau of the National Police Headquarters there are positions of coordinators of Cross-Border Shipments of Waste, CITES coordinators, and in the future it is planned to create coordinators for illegal trade in plant protection products. The coordinators' task is to conduct ongoing cooperation with representatives of other services in order to identify and detect illegal acts against the environment.

Apart from activities within EMPACT, Police is engaged in project AMBITUS, which purpose is strengthening of the operational activities of the Member States.

Moreover it is important to remark, that actions of prosecutors office consisting a development of guidelines, appointment of prosecutors - coordinators, organization of training courses, also at the central level, is evidence of granting higher priority to combating environmental crime.

6. maintain focus on frequent training for judges and prosecutors, and encourage them to undergo training focused on environmental and waste crime; (cf. 4.1.1, 4.5 and 4.6)

Significant achievement of The Chief Inspectorate of Environmental Protection's is the nationwide unique initiative to conduct trainings on cross-border waste shipments for national services involved in inspections of transboundary shipments of waste. In 2019 CIEP during 4 training sessions on control of transboundary shipments of waste trained 320 officers of services, prosecutors and employees of the Inspectorate for Environmental Protection. CIEP has been organizing trainings since 2010.

Over ten years approximately 4,500 people have been trained. In 2019 the participation of representatives of the prosecutor's office and the Police in trainings significantly increased. Similarly during subsequent editions of trainings the Chief Inspectorate of Environmental Protection plans to reach the largest possible group of representatives of law enforcement authorities.

Between 2019 and 2020, the National School of the Judiciary and Public Prosecutor's Office organized one training course on the issue of environmental crimes entitled "Criminal aspects of environmental protection". The training was attended by 62 persons, including 8 judges and 18 prosecutors and prosecutors' assessors. Within the framework of international cooperation, the National School of the Judiciary and the Public Prosecutor's Office enabled two court assessors and one assistant public prosecutor to participate in the following training courses: the EJTN Catalogue Plus Seminar: Environmental Law in Brussels as well as EU Environmental Law and EU Waste Legislation and Protection of the Environment through Criminal Law in Trier. For the second half of 2020 The National School of the Judiciary and Public Prosecutor's Office has planned to organize another training course for judges and public prosecutors on criminal aspects of environmental protection. The training will mainly focus on current threats to the environment. The scale of the phenomenon, effects of pollution and degradation of the environment will be discussed, as well as modern detection methods in relation to the acts committed against the environment. Moreover, the issues of waste storage and landfill fire will be discussed from the point of view of crimes against the environment. Attention will also be paid to the issues of wild landfills, trade in illegal waste, as well as problems concerning Article 183 of the Polish Penal Code related to transport and storage of waste. Between November and December 2020, Polish judges and prosecutors will also have the opportunity to participate in the Legal Language Training in Cooperation in Environmental Law in Kroměříž.

7. consider revising the Act on the liability of collective entities for prohibited acts under penalty, with a view to combating the illegal use of legal entities for the purpose of committing environmental and waste crime more effectively; (cf. 5.1.1 and 5.5)

The governmental project of Collective Entities Liability Act was submitted to the Polish Parliament on 11 January 2019. The main aim of new provisions were to increase the effectiveness of tools used to impose sanctions on collective entities, especially in the case of combating serious economic and fiscal crime. However, work on the Act was not completed until autumn 2019, when the parliamentary elections were held in Poland. Currently, due to the crisis caused by the COVID-19 pandemic, the attention of the Polish Government and the Parliament is focused primarily on legislative work aimed at mitigating the social and economic consequences of the pandemic.

8. enhance the flow of information between the relevant authorities involved in combating environmental crime, so that the information received results in more cohesive actions being taken; (cf. 6.4.3, 6.5 and 7.3)

Act of 20 July 2018 amending the Act on the Environmental Protection Inspection and some other laws that have entered into force except for some provisions on 1st January 2019 introduced new legal regulations. The main purpose of the Act was to guarantee the ecological safety of citizens by increasing the efficiency and effectiveness of implementing the statutory tasks of the Inspection in particular activities related to monitoring (which are also the fulfilment of EU obligations) conducting inspections in the scope of using the environment by entrepreneurs and the work of research laboratories.

Articles of the Environmental Protection Inspection Act implements the recommendations regarding increasing the flow of information between authorities involved in combating environmental crime. According to Act authorities of Inspection of Environmental Protection may request any administrative bodies or Police to provide information or access to documents and data related to environmental protection and these authorities or Police are obliged to provide information, documents and data immediately, not later than within 14 days of submitting the application.

The introduced provisions allow access to documentation of cases conducted by law enforcement authorities in the field of illegal shipments of waste. Faster completion of case files accelerates the issuing of a settlement in a given case. In each case when the evidence available to the CIEP is insufficient to issue a decision the CIEP requests the files of a given proceedings conducted by law enforcement authorities. In light of the new provisions the law enforcement authorities provide documentation of the case. Evidence received under the new regulations contributes to faster identification of entities responsible for illegal waste shipments and thus to ending a given case.

In addition according to the new Articles of the Act on the Inspection of Environmental Protection a Voivodship Inspector of Environmental Protection may apply to the Police or public administration bodies including the National Tax Administration, the Road Transport Inspection, Mining Supervision Offices, the National Labour Inspection, the Trade Inspection, the State Sanitary Inspection, the Veterinary Inspection, State Inspectorate for Plant Protection and Seed Production, Border Guards, State Fire Service for assistance if it is necessary to carry out control activities.

Thanks among other things to the solutions introduced in 2019 in comparison with 2018 the number of detected cases of illegal shipments of waste more than doubled regarding export, import and transit of waste through Poland. In the year 2018 55 and in 2019 122 illegal case were detected. However a decrease of the amount of waste shipped illegally was recorded from 14 362 Mg in 2018 to 6 135 Mg in 2019. Also the number of illegal international shipments of end of life vehicles increased in 2019. In 2017 there were 174 cases of illegal shipment and in 2019 219 cases were detected.

The flow of information between relevant authorities involved in combating environmental crime from the Border Guard (BG) level is based on the Agreement between the Chief Inspector for Environmental Protection, the Head of the Customs Service and the Chief Commander of the Border Guard on cooperation in the field of international waste shipments. In accordance with the above agreement, cooperation consists on mutual assistance in the performance of control activities, including joint inspections with the participation of representatives of the Inspection of Environmental Protection, Customs and Tax Service and BG, as well as exchange of information and experience. As part of the above, environmental inspectors at the request of BG officers carry out assessment of goods that may constitute waste. At the same time, in the event of a justified suspicion of illegal international shipments of waste, Border Guard officers shall provide relevant information to the Chief Inspector of Environmental Protection on a specific form. In addition, the Border Guard has procedures in place that oblige to inform the relevant services and bodies in the case of illegal international shipments of waste, depending on the type of proceedings being conducted.

The Act of 6 July 2001 on the processing of criminal information defines the rules for proceeding with the processing of criminal information for the purpose of detecting and prosecuting perpetrators of crime as well as preventing and combating crime, as well as entities competent in these matters. In addition, it sets out the rules for processing criminal information for use in detecting and prosecuting perpetrators of crime, as well as preventing and combating crime. Thus, the Border Guard, the Police and the Environmental Protection Inspection have the basis for exchanging criminal information.

Notwithstanding the foregoing, the services concerned (e.g. the Police, the Border Guard), in accordance with their competences, may conclude relevant agreements regulating cooperation and exchange of information with other entities involved in combating this type of crime, including the Environmental Protection Inspection.

It is worth emphasizing that the bodies of the Environmental Protection Inspectorate may request any public administration authority or the Police to provide information or provide documents and data related to environmental protection.

9. strengthen target-focused controls both at borders and identified crucial points (such as waste producers/landfills, etc.) by conducting more focused risk analyses, use of guidelines, and checking of shipments during the entire life-cycle of waste; (cf. 5.1.2, 7.2.1 and 7.3)

The Chief Inspectorate of Environmental Protection in the guidelines for the activities of the Inspection for the years 2019 and 2020 in the section Cross-border Waste Shipment as a priority for the activities of Voivodship Inspectors of Environmental Protection included:

1. Conducting control of the shipments of waste including hazardous waste in particular by inspections of installations generating or processing this waste.
2. Implementation of joint control actions including participation in IMPEL Waste & TFS projects and cooperation with the National Tax Administration, Border Guard, Road Transport Inspection and Police in preventing illegal shipments of waste including the assessment of transported goods in terms of their classification as waste.
3. Taking actions to detect environmental crime in the field of international shipment of waste.

Statistics on detected cases of illegal shipments of waste indicate for a marked increase in the detection of illegal shipments of waste after entry into force of the provisions of the Act amending the Act on the Inspection of Environmental Protection. In 2019 there was an approx. 140% increase in the detection rate of the cases of illegal shipment of waste. Moreover it is worth pointing out that since 2018 a change in the nature of detected cases of illegal shipment of waste has been observed. In recent years there has been an increase in the number of cases detected during inspection of companies or inspections of the area where waste imported from abroad is already in Poland. Previously most illegal shipments were detected during inspections on roads or in seaports.

The change in the nature of the detected illegal cases intensified after the entry into force of the new provisions in the Act on Inspection of Environmental Protection. This enables to detect significant amounts of waste illegally shipped from abroad often stored in Poland contrary to the regulations. Then this wastes are sent to the country of dispatch or processed in accordance with applicable regulations.

Furthermore on 24 September 2019 the Chief Inspector for Environmental Protection issued Decision No. 95a / 2019 *on the establishment of the 'Team for Fighting Environmental Crime'*. *Substantive supervision over the implementation of the tasks of the Team is exercised directly by the Chief Inspector of Environmental Protection.*

The team's tasks include:

1. conducting and coordinating cooperation of the Chief Inspectorate of Environmental Protection and the voivodeship inspectorates of environmental protection with the Police, the Prosecutor's Office and other law enforcement authorities, as well as national control authorities in matters related to the prosecution of environmental crime;
2. participation in the development of guidelines, auxiliary materials, draft general directions of the Inspection, work plans of the Chief Inspectorate of Environmental Protection and other materials regarding the planning of the implementation of the tasks of the Inspection;
3. drafting, in cooperation with other organizational departments of the Chief Inspectorate of Environmental Protection, aggregate information; lists and materials regarding the actions of the Environmental Protection Inspection in the field of prosecuting environmental crime;
4. participation in the preparation of draft laws and other related legal acts with the scope of tasks of the Team and participation in the works related to the procedure of their reconciliation;
5. substantive advice provided to the employees of the Environmental Protection Inspection (CIEP and VIEP) in the field of issues within the Team's competence;
6. organizing and conducting trainings for employees of CIEP and VIEP in the scope of the Team's competence;
7. participation in inspections carried out in voivodship inspectorates of environmental protection and control teams appointed to art. 10c of the Act of July 20, 1991 on the Environmental Protection Inspection (Journal of Laws of 2019, item 1355, as amended);

8. organization of work of the Chief Inspector of Environmental Protection, in matters regarding the competence of the Team , with the authorities of the Member States of the European Union, competent authorities of other countries on the basis of concluded contracts and agreements, and international organizations, including the European Union Agency for Law Enforcement Cooperation (EUROPOL) and the International Criminal Police Organization (INTERPOL).

Tasks implemented by the ‘Team for Fighting Environmental Crime’:

1. The introduction of coordinators to fight environmental crime in Voivodeship Inspectorates of Environmental Protection and organization of a coordination meeting with chosen Inspectors of VEIP;
2. Initiating a nationwide action “STOP illegal waste”.

On 8 October 2019 the first edition of the operation "STOP illegal waste" took place consisting in controlling the shipment of illegal waste in Poland. The aim of the operation was to combat illegal transport and waste abandonment, and to strengthen communication and the ability of law enforcement and inspection authorities to combat environmental crime. The Police were invited to participate in the operation and ongoing cooperation was carried out. Joint activities consisted in intensifying the control of illegal transport shipments, storage, abandonment of waste, control of waste shipment routes by joint mobile patrols of the Environmental Protection Inspection and Police.

Obtained results:

A total of 260 vehicles were inspected, irregularities were found in the course of the operation, such as the lack of the required entry in the BDO (Waste Database), the lack of a waste transfer card, and incorrect labelling of the vehicle. 170 inspectors and police officers took part in the operation. Actions taken have contributed to increasing the effectiveness of combating crime in the field of environmental pollution with illegal waste.

- On 17 October 2019 Team for Fighting Environmental Crime organized workshops training for 60 Environmental Protection Inspectors in the field of tactics to combat crime against the environment. The course of the training discussed crimes associated with illegal waste management as well as emerging problems in the course of combating crime against the environment. The training was conducted in the form of workshops. Police officers participated as experts in the training, from departments of fighting economic crime and fighting corruption.
- From 26 to 27 February 2020, workshops were organized for 70 voivodship coordinators for environmental crime, the Police, Voivodeship Inspectors of Environmental Protection and CIEP. The purpose of the workshops was to discuss activities to improve the effectiveness of combating environmental crime as well as action related to improving performance and cooperation. The workshops contributed to supporting awareness and exchange of best practices in combating environmental crime. In the course of the workshop, principles of cooperation between services were prepared and discussed during the nationwide campaign "STOP illegal waste"
- On 4 March 2020 the second edition of operational activities was organized under the name "STOP illegal waste" consisting in controlling the shipment of illegal waste in Poland. The Chief Inspector of Environmental Protection invited the Police and the Chief Inspector of Road Transport to participate in the activities.

The activities involved intensifying the control of illegal transport, storage, abandonment of waste, control of waste transport routes through joint mobile patrols of the Environmental Protection Inspection, the Police and the Road Transport Inspection. 717 officers and inspectors from all over the country took part in the action.