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Delegations will find attached Commission document SWD(2020) 259 final - PART 2/2.

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Brussels, 28.10.2020
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PART 2/2

COMMISSION STAFF WORKING DOCUMENT

EVALUATION

**of the
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
(ENVIRONMENTAL CRIME DIRECTIVE)**

{SEC(2020) 373 final} - {SWD(2020) 260 final}

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Annex 1: PROCEDURAL INFORMATION

The Commission started the ex-post evaluation of the Directive in accordance with the Better Regulation requirements in summer 2019, based on the evaluation criteria effectiveness, efficiency, coherence, relevance and EU-added value.

Lead DGs and Interservice Steering Group

The evaluation of the environmental crime directive has been coordinated by the European Commission's Directorate-General (DG) Justice and Consumers supported by an Interservice Steering Group (ISG) involving representatives of DG ENV, DG HOME, DG OLAF, DG MOVE, DG MARE, DG CLIMA, DG ENER, DG SANTE, DG DEVCO, the Legal Service and the Secretariat-General. The group steered and monitored the evaluation's progress, the contracting of an external contractor, the progress made by the contractor, the drafting of the Staff Working Document (SWD) and ensured that it met the necessary standards for quality, impartiality and usefulness.

Roadmap

The roadmap was published on 8 March 2019 and feedback on this roadmap was received until 5 April 2019. The Commission received 6 statements: European Environmental Bureau (BE); NGO Shipbreaking Platform (BE); WWF European Policy Office (BE); Norwegian Environment Agency; BirdLife Europe (BE), WCS EU (BE), ZERO - Associação Sistema Terrestre Sustentável (PT).

External contractor

The Commission commissioned an external contractor – a consortium by ICF/Milieu – to support the evaluation (request for service JUST/2019/JACC/FW/CRIM/0050 (2019/04) under Framework contract n° JUST/2015/PR/01/0003 on Supply of Impact Assessment, Evaluation and Evaluation related services in the policy areas - Lot 1). The contract was concluded on 26 July 2019. The contractor delivered a study, which was finalised in April 2020.

The contractor had to collect, screen, assess and extract relevant information from existing material, studies, surveys and reports done by the Commission, stakeholders, academic and other research institutions, Member States and international or Union bodies in the field of environmental crime and offences. As data, where it exists, is often not complete (e.g. not covering or not covering in the same quality all Member States) or might only be available for certain geographical and/or environmental areas (such as wildlife or waste crime), the contractor was to analyse the available data and draw appropriate conclusions from them. Data gaps had to be clearly identified. Collection of new data, through surveys, meetings and interviews with stakeholders and other actors was required where useful and necessary to supplement existing incomplete data and/or to confirm conclusions drawn from available data.

Public consultation

On 10 October 2019, the Commission opened a 12-week public consultation, running until 2 January 2020. The consultation covered all evaluation criteria. To maximise the response

rate, permanent representations of the Member States and a number of stakeholders and stakeholder organisations were also contacted directly and provided with the link to the questionnaire. In total, the Commission received 142 replies. A short summary of the results was published soon after closure of the public consultation on the European Commission's public consultation website (https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-4981980/public-consultation_en). A full assessment of the results can be found in the synopsis report (see Annex V).

The Interservice Steering Group was set up and met at the inception and interim stages of the evaluation work and provided guidance and comments on draft reports.

By 19 March, the Interservice Steering Group provided written comments to the draft Staff Working Document. A meeting could not be held due to the Corona-exceptional circumstances.

Workshop

A workshop with experts was held by the contractor to test the results of the evaluation as set out in the SWD. A meeting could not be held, due to the exceptional circumstances of the Corona crisis. Instead, participants were asked to provide written comments by 25 March 2020.

Information report by the European Economic and Social Committee (EESC)

In accordance with the Protocol on Cooperation between the European Commission and the European Economic and Social Committee (EESC), the Commission invited the EESC to contribute to the Commission's evaluation of the Directive by preparing an information report. In its plenary assembly on 11 December 2019 the EESC adopted the information report and its related recommendations focus on the effectiveness, relevance and EU-added value of the Directive as well as on the way forward based on its findings.

The information report covers the criteria of effectiveness, relevance and the added value of involving civil society. The information report draws on: (1) reports compiled during fact-finding missions to a sample of five EU Member States (France, the Czech Republic, Hungary, Portugal and Finland); (2) a questionnaire targeted at civil society organisations in the same five Member States.

Joint Research Center (JRC)

The JRC was contacted several times to explore possibilities to support the evaluation with information/data, particularly with regard to the efficiency criterion and the development of environmental crime across the EU. Representatives of the Joint Research Center (Ispra) participated in the ISSG meeting on 13 September 2019 - by video, giving advice on methodology in the absence of sufficient, coherent and robust data.

Consultation of Regulatory Scrutiny Board (RSB or Board)

The RSB is an independent body within the Commission which scrutinises the quality of impact assessments, evaluations and fitness checks. The Board provides quality assurance to the political level of the Commission. The RSB selected the evaluation of the environmental crime directive for scrutiny. Before the evaluation started, an early upstream meeting was held with the Board on 26 February 2019, which was supported and prepared by a background paper sent to the Board upfront. The meeting served mainly to discuss issues relating to the

limitations of data availability and the broad and complex scope of the evaluation of the Directive.

The draft SWD and accompanying documents were sent to the Board on 24 March 2020. The meeting with the Board took place on 22 April 2020 (to be updated after the meeting). On 24 April 2020, Board issued a positive opinion with recommendations to improve the document. The recommendations were incorporated into the SWD.

RSB opinion	Changes in SWD	Workplan
1		
a) The report should better explain the background of the evaluation and why it is undertaken now, 10 years after the Directive's implementation.	a) Under more information added under section 1 – "Introduction" subheading "political context".	
b) The intervention logic should better account for how the Directive works to deliver better outcomes, and what sort of evidence would signal success. The report should clarify what should have been achieved at this point in time. The report should explain, in particular, the objective of achieving a level playing field, including why it is important and what a level playing field would look like in practice. Given that the Directive allows quite some leeway for Member States' implementation, the report should explain what degree of harmonisation was to be expected and whether this has been achieved.	b) Information added under section 2.3 – "Intervention Logic" .	
c) The report should also present actions and formal procedures undertaken by the Commission to ensure Member States' compliance, including with requirements on deterrent sanctions.	c) Information added under section 5.1. subheading "Description of the current situation" and under section 6.1.2. - "Deterrent Sanctioning System" – subheading "Interplay with other Sanctioning Systems" and "Commission action".	
2		
a) The analysis should clarify the notion of safe havens and present any available evidence that they do or do not exist and have resulted in unfair competition.	Information added under section 6.1.1.- "Level Playing Field" under subheading "safe havens".	
b) The report should present business views, if necessary drawing on other sources than the consultation and interviews undertaken.		
b) The report should detail why the failure to meet minimum sanction levels has not resulted in safe havens. It should explain what role civil and administrative law played in this respect.		

3		
<p>a) The report should assess the Directive's relevance comprehensively and objectively, taking into account the lack of evidence that it has had and any direct effect on the level of environmental crime.</p> <p>b) In particular, the analysis should expand on the added value of this Directive to sectoral legislation. Similarly, the report should elaborate on the extent to which environmental crime cases are currently dealt with under the Directive, or rather tend to fall under other criminal offences (as demonstrated in some of the case studies).</p>	<p>a)b) Section 6.4.1 – "Continued relevance of the Directive". It was made clearer that the Directive's effectiveness and thus relevance depends on the practical implementation,</p>	
4		
<p>The report could better explain how and to what extent the Directive has contributed to reducing environmental crime. It should better explain its deterrent role and how it can strengthen investigation and enforcement by police and prosecutors. The Directive may have an indirect impact, which the report so far neglects.</p>	<p>More explanations added to section 2.3. – "Intervention logic". In particular, the limited influence of the Directive alone on the reduction of crime and the role of the Directive as an element in an overarching approach of the Commission to combat environmental crime is better explained.</p> <p>New section 6.1.5 – "General Objective – reduction of environmental crime" added.</p> <p>Information added under section 6.1.3. - Reduction of illegal trade, explaining indirect impacts of the Directive stemming from the creation of an EU-framework of environmental crime facilitating cross-border cooperation</p>	
5		
<p>The report should clearly present the gaps in the evidence base. It should better explain what steps it took to try to collect data and why they were only partially successful.</p> <p>It should explain the consequences for understanding how the Directive affected environmental crime. The report could include conclusions on the lack of evidence and ,possibly, how to overcome it.</p>	<p>Information added under section 3 – "Methodology". The starting point is a description of the lack of data-situation, and what it means for an informed policy making in the field of environmental crime.</p> <p>The approach taken to overcome the information gap, was to rely on existing studies, report, and documents in the field.</p>	
6		
<p>The report should, as much as possible, present stakeholder views differentiated by groups, such as businesses, law enforcers and</p>	<p>Information was added throughout the SWD, where reference was made to stakeholder views.</p>	

prosecutors, NGOs, citizens, etc. .As one of the objectives is to protect compliant companies from unfair competition from safe havens, it is important to include business views on this. Similarly, for national and EU law enforcers and prosecutors (including Europol/Eurojust), it is important to have their separate expert views on the effectiveness of the Directive. The report should take care to interpret correctly the results of some questions in the public consultation.	Overall, it can be said that were no significant differences in opinions between stakeholder groups.	
7		
Some conclusions are not presented in the same way across the report. All conclusions and recommendations must build directly on the analysis and findings. In areas where insufficient evidence is available, the report needs to draw cautious conclusions.	Findings have been harmonised throughout the text. Recommendations/lessons learned under section 7 have been reviewed, and formulated more carefully.	

Annex 2: METHODOLOGY

This section describes the evaluation framework and methodology that guided the design and implementation of the evaluation study. It presents the evaluation questions, the data collection methods and consultation strategy, as well as the analysis methods. It also provides an overview of the challenges and limitations of the study. The methodology was developed in line with the Better Regulation principles and guidelines.

The work on the study took place from July 2019 to March 2020 and consisted of four overlapping phases: inception (i.e. refining the methodology, workplans and designing consultation tools), evidence gathering (desk research and consultation activities), analysis and synthesis, and report drafting.

The Commission was assisted by a contractor who did a targeted consultation for key stakeholders, interviews with selected stakeholders, and helped with desk-research.

1. Evaluation framework

The purpose of this evaluation study is to determine the extent to which the Environmental Crime Directive is fit for purpose, by examining its effectiveness, efficiency, relevance, coherence and EU added value.

Effectiveness considers the extent to which objectives of the ECD have been achieved. It assesses the extent to which progress has or has not been achieved, and the significant factors that have contributed towards or inhibited progress.

Efficiency considers the relationship between the resources used to implement the ECD and the changes generated by the Directive. It aims to provide an understanding of the extent to which the benefits of having and implementing the Environmental Crime Directive justify the costs.

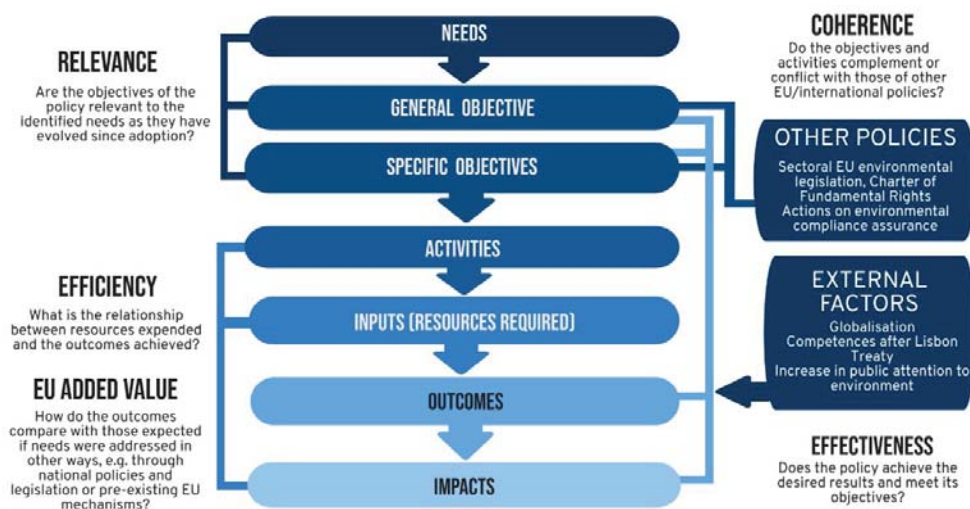
Relevance assesses whether the original objectives of the ECD continue to correspond to current and future needs. It looks at whether or not the objectives of the legislation remain necessary and appropriate, and if the objectives and requirements set out in the Directive are still valid in protecting the environment by reducing environmental crime.

Coherence considers how the ECD interacts with other relevant areas of EU policy and whether there are significant contradictions or conflicts that stand in the way of their effective implementation or which prevent the achievement of their objectives.

EU added value assesses the value of the Directive in comparison with Member State action alone.

The interactions between the five criteria are illustrated in the figure below.

Figure: Interactions between the five criteria and the intervention logic



The Directive was evaluated using the 20 questions listed in the Evaluation Matrix. These are listed below.

Evaluation questions

Baseline

1. What was the approach to environmental criminal offences in Member States before the transposition of the Directive 2008/99/EC?

Effectiveness

2. To what extent has the Directive created a level playing field as regards the offences criminalised at national level across the EU?

3. To what extent has the Directive created a level playing field as regards sanctioning systems at national level across the EU?

4. Has the Directive produced a level playing field in relation to environmental enforcement in the Member States and thus avoided safe havens?

5. To what extent has the Directive resulted in a sufficiently deterrent criminal sanctioning system in the Member States in practice and a more effective tackling of environmental crime?

6. Has the Directive reduced illegal trade?

7. Has the Directive facilitated judicial cooperation?

8. To what extent can achievements be credited to the Directive? What other factors have influenced possible achievements observed? Which factors hamper or reduce the Directive's effectiveness?

Efficiency

9. What are the costs and the benefits of the Directive – in the individual Member States and overall?

10. What have Member States done as a result of the Directive to prevent and tackle environmental crime?

11. Are the costs justified and proportionate?

12. Is there potential for the EU and Member States to simplify or reduce the administrative burden without undermining the intended objectives of the intervention?

Relevance

13. To what extent have the (original) general and specific objectives proven to be appropriate in view of the needs?

14. To what extent are the general and specific objectives of the Directive still appropriate?

Coherence

15. To what extent is the Directive coherent with other criminal legislation and policy such as financial crime, terrorism, organised crime, confiscation or freezing of proceeds of crime, Charter of Fundamental Rights, market abuse, counterfeiting and ship-source pollution?

16. To what extent is the Directive coherent with other environmental legislation and policy? To what extent is the Directive and its horizontal approach coherent with the otherwise sectoral approach in the area of environmental legislation?

17. To what extent is the Directive coherent with the international obligations of the EU and/or Member States?

EU Added value

18. What has been the added value of the Directive compared to what could be achieved by Member States at national and/or regional levels, and to what extent do the issues addressed by the Directive continue to require action at EU level?

19. To what extent is EU action (still) necessary to stimulate, complement, leverage and create synergies with national actions?

20. What would be the consequences of stopping targeted EU action on environmental crime?

These questions were developed into an evaluation framework, including sub-questions, judgment criteria and indicators, and outlining the information to be gathered for each question, together with the data collection and analysis methods to be used. All of this information was compiled in an evaluation matrix, which was established at the inception stage, following discussions with the Inter-service group on the scope and understanding of the evaluation questions, initial desk research and the development of the Public and Targeted consultation questionnaires.

Evaluation Framework

- **Sub-questions:** These reformulate the questions in an operational way.
- **Judgment criteria:** These clearly define the actual issues that need to be objectively assessed to effectively answer the evaluation question.
- **Indicators:** These specify the (quantitative and qualitative) data that need to be collected in order to assess the judgment criteria.
- **Required information and analysis:** This sets out the information to be gathered, both quantitative (e.g. data) and qualitative (e.g. legal provisions, programme results, experiences and perspectives), together with the analysis required to answer the question. It guides the content of the data collection and analysis tasks.
- **Data collection tools and analysis methods:** This sets out the exact method to be used to collect and analyse the data. It guides the identification of the type and scope of data collection and analysis tasks to be carried out, while the analysis methods define the means of synthesising, triangulating and interpreting data and information from

various sources in order to develop sound, evidence-based conclusions.

2. Data collection

2.1 Documentary review

The literature review is building on previous work on the implementation of the ECD and includes recent publications from the European institutions, relevant networks and organisations such as EnviCrimeNet¹ (Environmental Criminal Network), EUFJE² (European Union Forum of Judges for the Environment), ENPE³ (European Network of Prosecutors for the Environment), Eurojust⁴ (European Union Agency for Criminal Justice Cooperation), Europol⁵ (European Union Agency for Law Enforcement Cooperation), ENEC⁶ (European Network against Environmental Crime), Interpol⁷ (International Criminal Police Organisation), UNEP⁸ (United Nations Environment Programme), environmental NGOs, as well as academic literature. To ensure that all evaluation questions were covered, the Commission has expanded the search strings to issues related to costs or coherence with other EU legislation. Search strings are focused separately on Europe and/or individual Member States. To collect, organise and share documentary information sources a reference database tool, Mendeley, was used. All references have been imported in Mendeley, tagged and annotated so that they can be searched and sorted more easily. The Commission created tags such as baseline, coherence, effectiveness, efficiency, EU added value, recommendations or relevance. The sources can also be filtered by authors, key words (such as academic article, country report, dataset, position paper, study) and publications (such as Crime, law and social change, Environmental Crime in Europe, Environmental Policy and Law, etc.). Some references are relevant to multiple criteria/questions and hence have multiple tags.

In addition, desk research has been completed at national level by a team of national legal experts, who are native speakers. On the basis of a common template to record the data to be collected for the application of each of the relevant indicators in the evaluation, the national experts have carried out:

- Research on relevant legislation in the Member States (taking into account the compliance assessment studies carried out by Milieu);
- Research case-law within the Member States;
- Search for relevant national-language websites and documents; and
- Completion of the template Member State reports to produce country fact sheets for each Member State.

2.2 Public and targeted consultation

Consultation activities had a two-fold objective – collecting the evidence to answer the evaluation questions and provide opportunities to all interested parties to provide input. The consultation strategy therefore consisted of a public and a targeted consultation, targeting different audiences and using different consultation tools. The target group included stakeholders responsible for the implementation of the Directive, stakeholders

¹ <http://www.envicrimenet.eu/>

² <https://www.eufje.org/index.php?lang=en>

³ <https://www.environmentalprosecutors.eu/>

⁴ <http://www.eurojust.europa.eu/pages/home.aspx>

⁵ <https://www.europol.europa.eu/>

⁶ <https://lawyersfornature.org/>

⁷ <https://www.interpol.int/>

⁸ <https://www.unenvironment.org/>

who are responsible for investigating and prosecuting environmental crimes, as well as all citizens, groups or organisations that have a stated interest in the issue.

The following stakeholder groups were consulted:

- EU and international organisations including Europol, Eurojust and Interpol;
- European Parliament – ENVI and LIBE Committees⁹ – as well as relevant DGs of the Commission represented in the Steering Group;
- Ministries responsible for justice in all Member States, who are the main competent authority responsible for implementing the Directive;
- Ministries responsible for environment in all Member States, who are associated to the implementation of the Directive;
- Member State's ministries responsible for finance in all Member States, who have information on the budget allocated in each Member State;
- Environmental regulators other than ministries (i.e. environmental agencies);
- Professional networks of practitioners involved in the investigation and prosecution of environmental crimes (i.e. IMPEL¹⁰ - European Union Network for the Implementation and Enforcement of Environmental Law, EUFJE¹¹, ENPE¹², NEPA¹³ - Network of the Heads of Environmental Protection Agencies, EnviCrimeNet);¹⁴
- Environmental inspectors in all Member States;
- Prosecutors in all Member States;
- Judges in all Member States;
- Police officers in all Member States;
- Customs officers in all Member States;
- Criminal defence lawyers in all Member States;
- Environmental NGOs at EU and national level;
- Academics and experts working in the field of environmental criminal law;
- Organisations representing industry at EU and national level;
- Businesses;
- Members of the public.

To achieve the objectives of the consultation, to complement the information collected via desk-research and make sure all groups of stakeholders are given the opportunity to provide input, the Commission has followed the consultation strategy consisting of different consultation tools:

- A 12-week **Public Consultation**;

⁹ ENVI Committee is in charge of Environment, Public Health and Food Safety; LIBE Committee is in charge of Civil Liberties, Justice and Home Affairs.

¹⁰ <https://www.impel.eu/>

¹¹ <https://www.eufje.org/index.php?lang=en>

¹² <https://www.environmentalprosecutors.eu/>

¹³ <https://epanet.eea.europa.eu/>

¹⁴ <http://www.envicrimenet.eu/>

- A **targeted consultation** of a wide range of stakeholders including Member State authorities, practitioners, EU, international and national organisations and academic experts. This consultation included the following tools:
 - A **targeted consultation questionnaire**, mainly aimed to collect stakeholders' opinions on the performance of the Directive in a standardised way;
 - A separate **consultation of Member States' authorities** (hereafter, statistical data survey), by email, aimed at collecting statistical information on investigation and prosecution of environmental crime, as well as some factual information such as financial and human resources dedicated to environmental crime;
 - **Interviews** to collect more in-depth information and opinion or fill in gaps in information collected. Interviews were organised with European networks of practitioners to collect information on their activities in relation to environmental crime, with EU and international organisations including Eurojust, Europol, and Interpol. Ad hoc **follow-up interviews** were also organised to fill in gaps in information collected. These interviews were based on specific needs to respond to the evaluation questions.

2.2.1 Public consultation

A 12-week public consultation (including each of the five mandatory evaluation criteria) ran from 10 October 2019 to 2 January 2020 and was available in all 23 official EU languages. The public consultation was accessible to every citizen and ensured that all interested parties had the opportunity to provide their input.

DG Justice prepared the public consultation questionnaire and took care of launching and managing the online consultation. The analysis of the questionnaire was carried out by the contractor. The questionnaire was divided into five sections, each focused on one evaluation criterion and included questions on the implementation of the Directive and its performance. Respondents also had the possibility to join a position paper or other documents to their response. A total of 142 responses were received. Table 1 shows the respondents to the public consultation broken down by stakeholder group.

Table 1: Respondents to the public consultation by stakeholder group

Stakeholder groups	Number of responses
Private individual	79
Non-governmental organisation (NGO)	17
Business/industry association	8
Other public authority	7
Academic/research institution	6
Government authority in charge of environmental policy	6
Business/industry	4
Local/regional authority	4
Professional networks (judges, prosecutors, environmental inspectors, police etc.)	4
National judicial authority (judge/prosecutor)	3
National public enforcement authority (environmental supervisory authority/police)	2
National public enforcement authority (sector specific)	2
Total	142

A full report on the public consultation is available in Annex 5.

2.2.2 Targeted consultation

The targeted consultation addressed a narrower group of stakeholders than the public consultation and focused on those stakeholders with responsibility for the implementation of the Directive and the prosecution of environmental crimes. The targeted consultation was carried out in three stages:

- An online questionnaire disseminated to a wide range of stakeholders (targeted consultation questionnaire);
- A datasheet, disseminated to the national Ministries responsible for justice in all Member States (statistical data survey);
- Semi structured follow-up interviews.

2.2.2.1 Targeted consultation questionnaire

Using an online questionnaire allowed the contractor to reach a wide range of stakeholders in an efficient way and to collect standardised information and opinions. The questionnaire was disseminated to lawyers, EU/International organisations such as Eurojust, Europol and Interpol, EU and national NGOs, academic experts and business organisations. Although the target audience is very diverse, a single questionnaire was drafted for all stakeholders, which allowed respondents to skip the questions where they felt they could not provide input. This guaranteed that all stakeholder groups were provided with an equal opportunity to participate in the targeted consultation and ensured the comparability of the information collected.

To reach Member States' justice authorities, the questionnaire was disseminated to the permanent representations of all Member States and in most cases to the Ministries of Justice, through the justice and home affairs mailing list of the Council. Environmental authorities were contacted through the Environmental Compliance and Governance Forum, managed by DG Environment. As practitioners are a very large and diverse group and identifying individuals for all Member States was not possible, practitioners were targeted through their networks – IMPEL, EUFJE, ENPE, ENCA, the EPA Network and EnviCrimeNet. Each network was contacted with the request to disseminate the questionnaire to their members, with a view to collecting at least one and maximum five answers by Member State for each type of practitioners. Criminal defence lawyers were targeted through EU and national associations.

The list of academics and EU NGOs was established largely from desk research. Academics belonging to the Avosetta Group¹⁵, as well as identified through the literature review were contacted. The main EU environmental NGOs working in the field of wildlife and waste crimes were contacted. National NGOs were reached through the intermediary of WWF (World Wildlife Fund)¹⁶ and Birdlife¹⁷, which disseminated the questionnaire to their national members. Businesses were contacted through Business Europe¹⁸, and industry associations were mainly identified through desk research. The main associations working in sectors impacted by the ECD or important sectors for the questions on relevance (waste, oil and gas, shipping, hunting) and Business Europe, were contacted. Given the method chosen to target the different stakeholder groups – i.e. mainly through the intermediary of associations and networks – it is not possible to estimate the size of the sample of stakeholders contacted.

The targeted questionnaire was structured according to evaluation criteria and was based on the evaluation questions. It contained a combination of closed and open questions to

¹⁵ <https://avosetta.jura.uni-bremen.de/>

¹⁶ <https://www.worldwildlife.org/>

¹⁷ <http://www.birdlife.org/>

¹⁸ <https://www.besnesseurope.eu/>

allow some quantification of responses, while enabling the collection of more detailed and substantiated opinions, examples and evidence. As the questionnaire targeted diverse stakeholder groups, and the questions covered many different aspects of the implementation of the Directive, respondents were asked to respond only to the questions for which they had sufficient expertise or experience to provide an informed answer. Respondents were also encouraged to provide concrete examples and evidence to support their answers in the open questions. Respondents also had the possibility to upload documents to complement their answers.

The questionnaire was available online from 30 October 2019 to 10 January 2020. **Fifty-one responses were received.** The following table shows the respondents broken down by stakeholder groups.

Table 2: Respondents to the targeted consultation questionnaire by stakeholder group

Stakeholder groups	Number of Responses	Member State
A national ministry responsible for justice	3	RO, LT, PT
A national ministry responsible for environment	3	CY, FI, SI
A national environmental regulator	3	PT (2) SE (1)
A judge	9	CY (3) HU (3) BE (2) ES (1)
A criminal defence lawyer	2	FR (1) IE (1)
A prosecutor	11	CZ (1) EL (1) FI (1) HR (1) IE (1) IT (1) LV (1) NL (1) PL (1) PT (1) SK (1)
A police officer	7	HR (10) PL (1) PT (4) SE (1)
An environmental inspector	3	HR (2) LT (1)
An academic	3	BE (1), NL (1), SI (1)
An environmental NGO	4	2 EU / 2 national (ES/PT)
An organisation representing industry	2	1 EU / 1 national (FR)
A business	1	FR/DE
Total	51	

2.2.2.2 Consultation of Member States authorities - statistical data survey

A datasheet was prepared for the Member State's authorities to provide statistical data on the prosecution of environmental crimes in their country. The datasheet requested the following:

- Number of investigations into environmental crime in the Member State for the period 2008-2018;
- Number of criminal trials for breaches of environmental law in the Member State for the period 2008-2018;
- Number of convictions for environmental crime in the Member State for the period 2008-2018;
- The level of sanctions imposed as a result of prosecutions of environmental crime (i.e. total fines, highest fine, lowest fine and average fine) the Member State for the period 2008-2018;
- Sentences of imprisonment imposed as a result of prosecutions of environmental crime (i.e. total number of people sentenced, highest sentence, lowest sentence and average sentence) in the Member State for the period 2008-2018;
- Number of sanctions imposed on legal persons in relation to breaches of environmental law in the Member State for the period 2008-2018;

- Level of sanctions imposed on legal persons for breaches of environmental law (i.e. total fines, highest fine, lowest fine and average fine) in the Member State for the period 2008-2018;
- Financial and human resources available for investigation and prosecution of environmental crimes (i.e. total budget, number of FTE working in this area) in the Member State for the period 2008-2018.

The datasheet was disseminated to the permanent representations of all Member States and in most cases to the Ministries of Justice, through the justice and home affairs mailing list of the Council (together with the link to the targeted consultation questionnaire).

Eleven Member States filled in the datasheet, with at least some of the data requested, depending on the data collected at national level. Another Member State (Hungary) sent statistical data but did not follow the format of the datasheet.

Table 3: Member States that provided a filled in datasheet

Member States	
Bulgaria	Germany
Croatia	Latvia
Czechia	Lithuania
Finland	Portugal
France	Sweden
Romania	

2.2.2.3 Interviews

Practitioners networks (EUFJE, ENPE, EnviCrimeNet, and IMPEL) and EU/international organisations were contacted for interviews with the aim of collecting information on their activities in relation to environmental crime since 2008 (i.e. before and after the adoption of the Directive), as well as their expert opinion on the performance of the ECD since its adoption. EnviCrimeNet also sent a position paper – drafted together with Europol – providing their official position for the evaluation of the Directive.

Follow-up or additional interviews were also organised to fill in gaps in the information collected. These interviews were carried out based on needs, during the analysis and triangulation¹⁹ of evidence collected to complement or substantiate some of the findings. In particular, follow up interviews related to costs and benefits of the Directive were organised with stakeholders who had provided cost data in the targeted consultation questionnaire.

In total, 64 stakeholders were contacted for interview. **Twenty-one** were interviewed and **four** sent a written answer.

Table 4: Interviews carried out by Member State

Member State	Interviewees contacted	Interviews completed	Written answers	Declined interviews	No response
Belgium	4	3: 1 judge, 1 academic, 1 police officer			1
France	3	2: 1 lawyer, 1 organisation representing			1

¹⁹ Triangulation - looking at multiple (ideally at least three) sources of evidence from different perspectives.

		industry			
Germany	4	1: 1 Ministry for Environment		1	2
Ireland	2	1: 1 Environmental Protection Agency		1	1
Lithuania	1	0			1
Netherlands	1				1
Poland	1	1: prosecutor			
Portugal	10	2: 1 police officer, 1 judge	1 national environment regulator	1	6
Slovakia	1	1: prosecutor			
Spain	6	3: judge, NGO, prosecutor	1: Internal information sent	1	1
Sweden	4	1: prosecutor			3
UK	17	1: academic	1: 1 policy advisor prosecution office	3	12
EU LEVEL	9	5: Europol, EUFJE, ClientEarth, ENPE, EnviCrimeNet	Eurojust	1	3
TOTAL	64	21	3 written response + 1 internal information sent	8	32

The table below provides a more detailed overview of interviews conducted by stakeholder groups.

Table 5: Interviews carried out by stakeholder groups

Stakeholder group	Interviewed stakeholders
EU / International organisations	Senior Specialist (environmental crime and related areas), Europol Written feedback from Eurojust
EU networks of practitioners	Vice-President of ENPE
EU networks of practitioners	President of EUFJE
EU networks of practitioners	Chair of EnviCrimeNet
Member State authority	Federal Ministry for the Environment, Nature Conservation and Nuclear Safety Division, Germany, Environmental Protection Agency, Ireland
Practitioner	Chief police officer of federal police unit in charge of environmental crime, Belgium
Practitioner	Judge, Belgium
Practitioner	Delegate Prosecutor for the Environment, Madrid, Spain
Practitioner	prosecutor, Poland
Practitioner	Chief Police Inspector, Portugal
Practitioner	Chief Public Prosecutor, Sweden
Practitioner	Prosecutor, Slovakia
Practitioner	Judge, Spain
Academic	Director of Environmental Law department, Ghent University
Academic	Professor of Criminology, Cardiff University
NGO	fisheries expert, ClientEarth
NGO	Head of Legal Unit, Spanish Society of Ornithology (SEO/BirdLife)
NGO	Chairman of the environmental law committee, IUCN
Company	Head of Environmental Law, Legal Affairs Department, Veolia Environnement, European Affairs, Waste specialist, Veolia

A series of stakeholders opted to provide written answers to the questionnaire instead of taking part in an interview. Written answers were received from a Senior Policy Advisor at the Crown Prosecution Service (CPS) (England, UK), and an official of the General Inspectorate for Agriculture, the Sea, the Environment and Spatial Planning (Portugal) (Spain). Additional official documents were sent to us by a Coordinator of the General Prosecutor's Office for the Environment (Spain). Eurojust also provided written feedback.

Finally, a panel of experts was organised to provide feedback to validate the findings of the study. However, due to the covid-9 crisis, it could not take place physically and the experts only provided written feedback.

Annex 3 – CASE STUDIES

Case Study 1

Glass eels trafficking in France

Wildlife organised crime

Background

Glass eels have been subject to extensive poaching in Asia in the past decades. In order to address the decrease in the glass eel population, the species has been placed under different protection regimes. Glass eels are listed in Annex II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) since 13 March 2009²⁰, but also classified on the red list of the IUCN as critically endangered²¹, and are subject to a European safeguarding plan which includes a ban on the export of glass eels outside of the EU since 2010²². The price for glass eels on the black market is high as a result of this ban, this has led to poaching of the species in areas such as the Loire Region in France, in breach of the existing glass eels' fishing quotas.

The case

Checks on glass eel fishing activities between 2014 and 2015 led by the Interregional Directorate for the North Sea Atlantic - West Channel (DIRM NAMO) and the French Biodiversity Agency (AFB) revealed significant differences between the quantity of glass eels captured and the quantity sold (which amounted to around 600 to 800 kilograms of glass eels illegally sold)²³.

An inquiry was therefore opened and led by the DIRM NAMO, the AFB and the Departmental Directorate of Territories and the Sea (DDTM) of Loire-Atlantique and Vendée concerning glass eel trafficking networks operating between the Spanish Basque Country to Asia²⁴.

Charges were brought against nine persons (sea fishermen, river fishermen and poachers) for the following infractions: trafficking protected species in organised groups (Articles L. 415-3 and L. 415-6 of the French Environmental Code), work concealment (Article L. 8224-1 of the French Work Code), money laundering (Article 324-1 of the French Criminal Code), money concealment (Article 321-1 of the French Criminal Code),

²⁰ https://www.cites.org/eng/news/pr/2009/090313_eel.shtml

²¹ <https://www.iucnredlist.org/species/60344/45833138>

²² https://eur-lex.europa.eu/resource.html?uri=cellar:d77e3ffd-5918-11e4-a0cb-01aa75ed71a1.0006.03/DOC_1&format=PDF

²³ <http://www.affaires-maritimes.pays-de-la-loire.developpement-durable.gouv.fr/un-traffic-international-de-civelles-en-bande-a967.html>

²⁴ <http://www.affaires-maritimes.pays-de-la-loire.developpement-durable.gouv.fr/un-traffic-international-de-civelles-en-bande-a967.html>

breach of trust (Article 314-1 of the French Criminal Code) and misuse of company assets (Article L. 241-3 of the French Commercial Code).

By a decision of 7 February 2019, the Regional High Court of Nantes (*Tribunal de Grande Instance de Nantes*, "TGI") sentenced the traffickers to prison sentences of up to two years' imprisonment, to fines from EUR 5,000 to EUR 30,000.

Articles L. 415-3 to L. 415-8 of the environmental code were subject to a reform in 2016²⁵ which augmented the original sanction of one-year imprisonment to three years and from a fine of EUR 15,000 to EUR 150,000.

In the decision of the TGI of Nantes, the facts were subject to the pre-existing regime which established lower sanctions, but the TGI still applied the aggravating circumstance of organised crime. Under the previous regime, the sanction could go up to seven years' imprisonment and EUR 150,000 for organised crime. The current monetary sanction has also been increased as it is now possible to sanction such an offence for up to EUR 750,000 (the imprisonment sanction did not change).

With the new applicable legal framework, the French judge would have more severe sanctioning tools today for the same offences.

Moreover, eight of the guilty parties were sentenced to pay damages to victims (professional organisations and associations) up to an amount of EUR 230,000 to compensate for moral and ecological damage²⁶. The amount of the damage was calculated as follows by the Court: disorganisation of the fishing industry for glass eels (EUR 50,000) and for the traffic itself which was considered to be 600 kilos of glass eels sold at EUR 300 per kilo in Asia (EUR 180,000)²⁷.

The Court also sentenced certain offenders to a five-year ban on carrying out a professional activity related to fishing glass eels. Property, assets and bank accounts up to an amount of EUR 700,000 were confiscated²⁸ (notably the following items: a boat, a motorbike, a car, a luxury watch and more than EUR 300,000²⁹). Compared to the main applicable sanction which only went up to EUR 30,000 (as ordered by the Court), these additional sanctions give the possibility to the Criminal judge to reinforce the financial and imprisonment sanctions.

The illegal fishing of glass eels also has a transborder dimension. In the case precited, the glass eels were fished in the West of France and then shipped to the Spanish Basque Country to then be again shipped to Asia³⁰. Other international traffic detected could go from France, Spain, Portugal and then to Asia³¹.

²⁵ Law n°2016-1087 of 8 August 2016 for the recovery of biodiversity, nature and landscapes.

²⁶ <http://www.affaires-maritimes.pays-de-la-loire.developpement-durable.gouv.fr/un-traffic-international-de-civelles-en-bande-a967.html>

²⁷ <https://www.ouest-france.fr/pays-de-la-loire/nantes-44000/nantes-traffic-international-de-civelles-9-condamnations-et-de-lourdes-amendes-53b757cf-40d5-3a05-9592-d1b17450e724>

²⁸ <https://www.lpo.fr/actualites/trafic-de-civelles-des-peines-exemplaires-prononcees-par-le-tribunal-de-nantes> ; <http://www.affaires-maritimes.pays-de-la-loire.developpement-durable.gouv.fr/un-traffic-international-de-civelles-en-bande-a967.html>

²⁹ <https://www.ouest-france.fr/pays-de-la-loire/nantes-44000/nantes-traffic-international-de-civelles-9-condamnations-et-de-lourdes-amendes-53b757cf-40d5-3a05-9592-d1b17450e724>

³⁰ <http://www.dirm.nord-atlantique-manche-ouest.developpement-durable.gouv.fr/un-traffic-international-de-civelles-en-bande-a967.html>

³¹ <https://france3-regions.francetvinfo.fr/nouvelle-aquitaine/gironde/arcachon/trafic-civelles-filiere-demantelee-du-medoc-au-portugal-passant-espagne-1644404.html>

Europol has put in place extensive operations to coordinate the fight against glass eels trafficking³². For instance, under the LAKE and ABAIA operations initiated since 2015 within the framework of the EU Action Plan against wildlife trafficking, Europol supported Member States' authorities to dismantle international criminal trafficking networks of glass eels in several EU Member States³³. Throughout the years, enforcement agencies from several Member States (France, Greece, Italy, Portugal, Spain and the UK) participated in this operation, alongside other EU agencies such as Eurojust INTERPOL and the EU Wildlife / CITES Enforcement Group. In 2018-2019, the LAKE operation resulted in several arrests in Czechia, Germany, France, Portugal, Spain and also Switzerland. For example, in Spain, the Spanish Civil arrested 16 individuals from four different organised crime groups. The seized species represented a value of EUR 600,000 and the Spanish authorities estimate that the four criminal organisations under investigation may have made more than EUR 6 million a year from their illegal activities.

The impact of Europol's and Member States' involvement in the fight against glass eels' trafficking seems to be very positive as the European population has shown signs of recovery with the decreasing trend in the number of eels entering European waters reversing in the period 2011-2019³⁴.

There are still developments regarding the illegal fishing of glass eels. Various recent decisions from the Misdemeanor Tribunal of Dunkerke (Tribunal Correctionnel de Dunkerke) condemned a fisher to a EUR 400 fine³⁵, by the Misdemeanour Tribunal of Bobigny to 10 months conditional imprisonment sentence³⁶, or even two years imprisonment for the Misdemeanour Tribunal of Bordeaux³⁷.

Conclusion

The decision of the TGI of Nantes illustrates how the applicable law to glass eels' trafficking has been applied in France. Under the previous regime, (before the increase in sanction levels of the Law n°2016-1087 of 8 August 2016 for the recovery of biodiversity, nature and landscapes) the principal sanctions of fines and imprisonment were not extremely high; however, the amounts and types of sanctions, coupled with compensation and confiscation, were very deterrent in this particular case. Finally, in practice, the actual sanctions may increase in the future considering that higher financial sanctions are now applicable. Finally, judicial cooperation has proved effective in the fight against glass eel trafficking (see the Europol investigation).

³² <https://www.europol.europa.eu/newsroom/news/over-5-tonnes-of-smuggled-glass-eels-seized-in-europe-year>

³³ <https://www.europol.europa.eu/newsroom/news/eu-law-enforcement-step-efforts-to-protect-environment-%E2%80%93-48-arrested-for-trafficking-endangered-species>

³⁴ <https://thefishsite.com/articles/eel-be-back-hope-for-european-anguillids> and <http://www.ices.dk/sites/pub/Publication%20Reports/Advice/2019/2019/ele.2737.nea.pdf>

³⁵ <https://www.lavoixdunord.fr/678255/article/2019-12-10/peche-aux-anguilles-illegales-peine-d-amende-pour-le-patron-pecheur-dunkerquois>

³⁶ <https://www.francebleu.fr/infos/faits-divers-justice/trafic-de-civelle-deux-mules-condamnees-a-de-la-prison-avec-sursis-1572517440>

³⁷ <https://www.ouest-france.fr/pays-de-la-loire/lile-delle-85770/vendee-trafic-de-civelles-un-mareyeur-de-l-ile-d-elle-condamne-deux-ans-de-prison-ferme-6431988>

Case Study 2

Dieselgate in Germany

Liability of legal persons

Background

The Dieselgate scandal started in September 2015 when the US Environmental Protection Agency (EPA) revealed that the emissions' tests on diesel cars had been manipulated by the Volkswagen Group. The EPA announced that the Volkswagen Group 'was breaching its federal emissions legislation by fitting illegal software (defeat device) to cheat emissions tests'³⁸.

The NGO Transport and Environment, which uncovered the scandal in the EU, specified that 'the device recognised that a vehicle was undergoing a laboratory test and lowered the emissions of nitrogen oxides (NOx) so that the vehicle achieved the strict US regulatory limit. On the road, the same vehicle produced up to 40 times more NOx emissions.'³⁹

In the US, the company has been sentenced to 4.3 billion dollars in criminal and civil fines and also agreed to pay 17.5 billion dollars to compensate dealers and owners of Volkswagen's cars and for environmental clean-up⁴⁰.

The case

In Germany, Volkswagen was sanctioned for a breach of supervisory duties to pay EUR 1 billion. The fine imposed was of EUR 5 million based on Section 30 (for negligent conduct) of the Administrative Offences Act (hereafter OWiG) and the other EUR 995 million were imposed based on Section 17(4) of the OWiG which provides that "the fine should exceed the economic benefit derived by the offender from the infringement. If the legal maximum is not sufficient for this purpose, it may be exceeded"⁴¹.

Daimler had to pay a fine of EUR 870 million, Audi EUR 800 million, and BMW 8.5 million. As companies are not liable under criminal law under German law, no criminal sentences were issued against them; however, in April 2018, the State Prosecution Office in Braunschweig pressed charges against the former CEO of Volkswagen and four more top managers of the company. The trial is pending.

³⁸

https://www.transportenvironment.org/sites/te/files/publications/2016_09_Dieselgate_report_who_what_how_FINAL_0.pdf

³⁹

https://www.transportenvironment.org/sites/te/files/publications/2016_09_Dieselgate_report_who_what_how_FINAL_0.pdf, see also, ICCT website: <https://theicct.org/news/road-tested-sep2017-press-release>

⁴⁰

<https://www.euractiv.com/section/transport/news/dieselgate-how-and-where-it-all-started/>

⁴¹

The press release of the administrative decision does not specify the legal basis for the accompanying sanction, available at: <https://staatsanwaltschaft-braunschweig.niedersachsen.de/startseite/aktuelles/presseinformationen/vw-muss-bugeld-zahlen-174880.html>.

As previously mentioned, German law does not allow the imposition of criminal sanctions on legal persons. For the purpose of punishing environmental crime committed by legal persons, quasi-criminal/administrative sanctions are foreseen which include the imposition of a fine or the confiscation of the financial benefits gained from the illegal activity.

The level of the quasi-criminal/administrative sanctions applicable to legal persons had already been questioned in the past⁴². As a result, in 2013, the sanctions were increased from EUR 1 million up to EUR 10 million.

Nevertheless, even these levels were subject to criticism as they were considered too low for the types of offences at stake⁴³. The OWiG has been considered as an inefficient tool when it comes to complex cases of white-collar crime⁴⁴. When comparing the amounts that were imposed on the same company in the US, the administrative fine of EUR 1 billion does not seem to be effective or dissuasive for these types of crimes⁴⁵. Moreover, the fine itself was capped at a maximum of EUR 5 million pursuant to Section 30 of the OWiG. The rest of the calculation for the fine derived from a complementary way on sanctioning based on the economic benefit derived from the offence (Section 17(4) of the OWiG).

As a result, a draft bill has been presented on Corporate Sanctions Act in 2019 by the German Ministry of Justice and Consumer Protection, which would result in the establishment of a criminal liability for legal persons in certain cases in Germany⁴⁶. This draft bill notably contains the introduction of an obligation to prosecute, an increase of corporate fines and detailed sanctioning guidelines⁴⁷.

Class actions have been introduced in different Member States (Germany, France, the UK⁴⁸). Following the German class action, Volkswagen very recently offered a settlement of EUR 830 million⁴⁹.

Conclusion

Overall, even if the amount of the administrative fine imposed on Volkswagen in Germany seems at first quite substantial, when compared with what has been imposed in the same scandal in the US, it seems to be quite low. There is a clear consensus as to the lack of effectiveness and dissuasiveness of the administrative financial sanctions.

The Dieselgate case revives the debate on the need to introduce criminal liability of legal persons⁵⁰ and with other recent white-collar cases, led the Government to propose a core reform of the German legal system to introduce criminal corporate liability.

⁴² See for example, a report from the OECD: <https://www.oecd.org/daf/anti-bribery/anti-briberyconvention/48967037.pdf>.

⁴³ Stephan Sina, "Environmental Criminal Law in Germany," in *Environmental Crime in Europe*, ed. Andrew Farmer, Michael Faure, and Grazia Maria Vagliasindi (Oxford: Hart Publishing, 2017), 95–118, <https://doi.org/http://dx.doi.org/10.5040/9781509914005.ch-005>. p. 115. See also, <https://www.lexology.com/library/detail.aspx?g=cedfd252-3f96-47ea-ab2b-700e15ae6d50>.

⁴⁴ <https://criminal-law-germany.lawyer/administrative-offences/>; <http://www.bos-cbscsr.dk/2017/11/06/corporate-criminal-liability-germany-idea-whose-time-come/>.

⁴⁵ Gilles Bouvaist, "Allemagne : Le « Dieselgate » Ravive Le Débat Sur La Responsabilité Pénale Des Entreprises," 2020, 1–2.

⁴⁶ <https://www.jonesday.com/en/insights/2019/09/germanys-corporate-sanctions-act>

⁴⁷ <https://www.lexology.com/library/detail.aspx?g=cedfd252-3f96-47ea-ab2b-700e15ae6d50>

⁴⁸ https://www.lemonde.fr/planete/article/2020/01/23/dieselgate-une-action-collective-europeenne-lancee-contre-volkswagen_6026899_3244.html

⁴⁹ <https://economictimes.indiatimes.com/news/international/business/volkswagen-offered-830-mn-euro-settlement-for-german-diesel-cases/articleshow/74137299.cms>

⁵⁰ Sina, "Environmental Criminal Law in Germany." p. 115.

This case illustrates the limits of a system of the lack of criminal liability for legal persons to handle white-collar crimes and the impact of the discretion left on Member States when transposing the ECD into their national law regarding legal persons.

The Dieselgate case also illustrates how a similar offence can be apprehended through environmental criminal or consumer law, as multiple 'class actions' were introduced against Volkswagen across the EU, which raises the question of coherence of the ECD with other legal instruments such as EU legislation on consumer's legal actions.

Case Study 3

Waste offences in Ireland

Landfill nuisance odours and pollution offences

Background

The Irish Environmental Protection Agency initiated an investigation into the operation of a landfill at Kerdiffstown, Co. Kildare as a result of significant concerns about odours⁵¹. The licensee operating the landfill, Neiphin Trading Limited went into liquidation in 2010 and was therefore not able to manage the landfill site anymore⁵². The 30 hectare site, including the landfill, was controlled by Jenzsoph Limited, which granted Neiphin Trading Limited a licence to use the site for commercial purposes⁵³. Jenzsoph Limited was prosecuted by the Director of Public Prosecutions on foot of the investigation by the Environmental Protection Agency.

The case

On 27 October 2015, at Dublin Circuit Court, Jenzsoph Limited was convicted of:

- 'holding or disposing of waste in a manner that caused environmental pollution in the form of nuisance through odours between 1 February 2007 and 25 November 2008 at Kerdiffstown, County Kildare, contrary to section 32(1) and section 6(a) of the Waste Management Act 1996'; and
- 'holding or disposing of waste by accumulating a large mound of waste in the North West area of a waste facility at Kerdiffstown, between 22 October 2003 and 25 November 2008, in a manner that caused or was likely to cause environmental pollution in that it, to a significant extent, harmed the environment by: creating a risk to waters; creating a risk to the atmosphere; creating nuisance through odours; and adversely affecting the countryside, contrary to section 32(1) and section 6(a) of the Waste Management Act 1996'⁵⁴.

The company was sentenced to fines of EUR 10,000,000 for each charge (so EUR 20,000,000 overall)⁵⁵.

Conclusion

The Irish case of landfill at Kerdiffstown is an example of strict sanctions imposed on a legal person for an environmental offence. In this case, the sanctions can be considered

⁵¹ <https://www.independent.ie/irish-news/courts/20m-fine-for-firm-at-centre-of-dump-probe-34147986.html>

⁵² <https://www.independent.ie/irish-news/courts/20m-fine-for-firm-at-centre-of-dump-probe-34147986.html>

⁵³ <https://www.irishtimes.com/news/crime-and-law/courts/circuit-court/company-fined-20m-for-nuisance-odours-at-naas-landfill-1.2407984>

⁵⁴ <http://www.epa.ie/enforcement/prosecute/2015/name.58845.en.html>

⁵⁵ <http://www.epa.ie/enforcement/prosecute/2015/name.58845.en.html>

deterrent as they reached EUR 20,000,000. It also shows how the ECD has been used in the national caselaw, as there is a limited amount of cases available for analysis across the Member States.

Case Study 4

Illegal waste trade to Romania

Cross border and organised crime

Background

Significant illegal waste transfers from Italy (Campania) to Romania due to suspected mafia activities have been reported since 2010⁵⁶. Most waste would be dumped in the city of Glina, near Bucharest, where a waste disposal site was installed, and in the southern part of the country ending in legal and illegal landfills⁵⁷.

In 2011, the mafia was already suspected of laundering money through these activities in Romania using waste management shell companies (about a hundred waste treatment companies)⁵⁸. The two managers of the Glina landfill were arrested in Romania at the request of the Italian authorities in 2014⁵⁹. A European arrest warrant was issued by the Italian authorities in order to bring the Romanian citizen in front of the Italian Courts⁶⁰.

The case

The managers of the Glina dump site along with other business partners were recently convicted by an Italian Court (Ninth Section of the Rome Tribunal) for being part of a network of money laundering through landfills.

By a decision of the 31 January 2019, the Italian Court decided to sentence Sergio Pileri (owner of 37.5% of Ecorec SA, which manages the Glina landfill) and Romano Tronci (a person involved in mafia), to five years' imprisonment, along with Victor Dombrowschi (owner of 40% of the Glina landfill) and Raffaele Valente, sentenced for four years and six months and Nunzio Rizzi, sentenced to three years and six months' imprisonment, on the grounds of attempted money laundering⁶¹.

Judges established that the Romanian company Ecorec actually belonged to Massimo Ciancimino, who used the company to invest money derived from the mafia activities of

⁵⁶ <https://www.courrierinternational.com/article/2011/01/20/naples-constanza-des-croisieres-qui-puent>
https://adevarul.ro/news/eveniment/mafia-italiana-ascunde-gunoaiele-romania-1_50ae6bbc7c42d5a6639c9092/index.html

⁵⁷ <https://www.courrierinternational.com/article/2011/01/20/naples-constanza-des-croisieres-qui-puent>
⁵⁸ <https://www.courrierinternational.com/article/2011/01/20/naples-constanza-des-croisieres-qui-puent>

⁵⁹ <https://www.antena3.ro/en/romania/the-italian-mafia-dirty-money-laundered-in-romania-through-landfills-administration-262282.html>

⁶⁰ <https://newsweek.ro/investigatii/condamnari-la-roma-pentru-banii-mafiei-italiene-spalati-la-groapa-de-gunoi-glina>

⁶¹ <https://newsweek.ro/investigatii/condamnari-la-roma-pentru-banii-mafiei-italiene-spalati-la-groapa-de-gunoi-glina>; Ansamed, *Tentarono di riciclare Tesoro Ciancimino, 5 condanne a Roma* http://www.ansamed.info/ansamed/it/notizie/stati/europa/2019/01/31/tentarono-riciclare-tesoro-ciancimino-5-condanne-a-roma_fe75d3da-54a3-4d22-811a-e9dda776933e.html. The recording of the trial's hearing are available at <https://www.radioradicale.it/processi/1179/processo-ecorec>.

his father, Vito Ciancimino. The subsequent investigation prevented the sale of Ecorec to a Luxembourg company operating in the field of alternative and renewable energy⁶².

Conclusion

The case of the Glina landfills illustrates how an environmental offence in one Member State can be prosecuted under another legal basis in another Member State. Infractions that could fall under the scope of environmental crime are prosecuted under another legal basis such as money laundering in this case (here the environmental offence committed in Romania was treated under a money laundering offence in Italy). This can lead to misleading statistical data as cases might not be listed as environmental even if it was partly an environmental offence. Some respondents to the interviews confirmed that point⁶³ and indicated that large scale cases often contain various types of crimes⁶⁴.

This case also illustrates the successful cross border cooperation between Italy and Romania in this instance as through a European arrest warrant a Romanian national and an Italian national residing in Romania were judged in Italy.

Finally, it should be noted that this case occurred in the context of the decision of the ECJ of 18 October 2018 (C-301/17)⁶⁵ which found that Romania failed to comply with obligations related to Directive 1999/31/EC regarding 68 landfill sites⁶⁶. According to the press, 48 of these landfills are still operating today⁶⁷.

⁶² « Inauguration of the judicial year », Procura generale della Repubblica presso la Corte d'Appello di Roma (Prosecutor General's Office in the Rome Court of Appeal), 2019, http://www.giustizia.lazio.it/appello.it/proc_gen/Intervento2019.pdf, p. 69, footnote 2; « Inauguration of the judicial year », Procura generale della Repubblica presso la Corte d'Appello di Roma (Prosecutor General's Office in the Rome Court of Appeal), 2016, http://www.unitademocraticagiudicidipace.it/wp-content/uploads/2016/01/Procura-Generale_-Relazione_AG_2015_2016.pdf, p. 55.

⁶³ Interview with a Belgian police officer.

⁶⁴ Interview with a Belgian Judge and a Polish prosecutor.

⁶⁵ <http://curia.europa.eu/juris/document/document.jsf?jsessionid=2FC7192FF5064AAD5C5ED99DCBDF0256?text=&docid=206897&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=510658>

⁶⁶ <https://business-review.eu/business/legal/ecj-finds-romania-guilty-for-failing-to-comply-with-eu-directive-on-illegal-landfills-188219>

⁶⁷ <https://it.euronews.com/2020/02/14/romania-dove-si-brucia-illegalmente-la-spazzatura-d-europa>

Case Study 5

Plant protection products - Netherlands

Effectiveness, dissuasiveness and proportionality of sanctions and scope of ECD

Background

Regulation (EC) n°1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC provides for the rules applicable to authorisations of plant protection products in commercial form and their placing on the market within the EU.

The current case concerns the importation of plant protection products without a product authorisation pursuant to Regulation n°1107/2009 in 2014 from China and India into the EU. Six containers in total (five containing fungicides and one containing insecticide) were transported in several shipments through Rotterdam, Poland being the final destination.

The case

By a decision from the District Court of Rotterdam (*Rechtbank Rotterdam*) of the 29 October 2019 n°10/994514-17, the defendant, a British owner and managing director of the singular legal person who arranged the imports, was sentenced to a fine of EUR 40,000 and a suspended prison sentence of six months. The legal person could not be prosecuted as they were subject to bankruptcy.

The ECD in its Annex A refers to Council 79/117/EEC of 21 December 1978 prohibiting the placing on the market and use of plant protection products containing certain active substances which was effectively replaced and repealed by Regulation (EC) n°1107/2009. However, infringement of Regulation 1107/2009 as such is outside the scope of the ECD since it is not mentioned in Article 3. None of the behaviours mentioned in Article 3 of the ECD cover the use or import of illegal pesticides.

Regulation (EC) n°1107/2009 also refers in its recital 50 and Article 73 to general criminal liability in the Member States of the manufacturer and of the persons responsible for placing the plant protection product, that should remain possible:

'The granting of authorisation and any other measures in conformity with this Regulation shall be without prejudice to general civil and criminal liability in the Member States of the producer and, where applicable, of the person responsible for placing the plant protection product on the market or using it.' (Article 73 of Regulation (EC) n°1107/2009).

Article 72 of the same Regulation provides for penalties applicable for the infringements under the Regulation:

*'The Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take the measures necessary to ensure that they are implemented. The penalties provided for shall be **effective, proportionate and dissuasive**.'*

The violation of the Regulation (EC) n°1107/2009 is a criminal offence in the Netherlands. This is not, however, due to the ECD but to a three steps approach followed in national law. The Regulation (EC) n°1107/2009 lays down the material rules for the placing on the market of plant protection products. These rules are directly applicable in the Netherlands; however, the Dutch Act on Plant Protection Products and Biocides prohibits conduct in violation of the Regulation. Finally, it is the Dutch Economic Offences Act which makes the previously mentioned prohibition a criminal offence and formulates the maximum criminal sanctions.

In any case, pursuant to the wording of the Regulation, the penalty provided should, however, be effective, proportionate and dissuasive.

In the case at hand, the sanctions were deemed to be too low by the Prosecution office compared to the scale of the offence. The sanctions amounted to a fine of EUR 40,000 and a suspended prison sentence of six months, while the shipment was evaluated at a cost price of around EUR 92,000 per container. The materials in this case were confiscated but would have amounted to around EUR 2,000,000⁶⁸. This, however, remains a hypothetical estimation as the materials were seized.

The prosecutor in charge of the case therefore decided to appeal the decision from the District Court of Rotterdam alleging that the sanctions were not effective, dissuasive and proportionate⁶⁹.

Conclusion

This case illustrates how sanctions are being implemented in Member States and how they have been perceived as low by the Prosecutor working on the case compared to the scale and profits of the offence. Even though the Netherlands has in principle quite satisfactory sanctioning tools (like life imprisonment and fines for natural persons of up to EUR 87,000 per violation, which therefore can be multiplied if there are various violations and for legal persons of up to EUR 870,000), in practice, the national judges have a lot of discretion, which may result in a low level of sanction. The recourse brought in by the Prosecutor makes direct reference to the requirement of EU legislation to set effective, proportionate and dissuasive sanctions.

Moreover, this case shows an issue relating to the scope of the ECD, which in this particular case does not cover the activity of the use or import of illegal pesticides as even if Regulation Council 79/117/EEC (which was replaced and repealed by Regulation (EC) n°1107/2009) is cited in Annex A of the ECD, the behaviour at stake is not covered by Article 3 of the ECD. Therefore, even when instruments are enumerated in the Annex,

⁶⁸ Interview of a Prosecutor from the Netherlands.

⁶⁹ Interview of a Prosecutor from the Netherlands.

their main breaches might not be subjected to the ECD if they do not fall within one of the behaviours mentioned in Article 3. The two-step approach of the ECD therefore limits its scope, which can be a hindrance at national level to criminalise certain environmental illegal activities.

Annex 4 – SYNOPSIS REPORT

1. INTRODUCTION

In line with the Better Regulation guidelines on stakeholder consultation, the synopsis report provides an overview of the consultation strategy, documents each consultation activity undertaken for the study, including the methodology followed to design the consultation tools and process the results, the response rate and profile of respondents. It also describes the results of the consultation activities and compares them highlighting similarities and differences across the different consultation tools and in relation to stakeholder groups.

This report presents the key issues raised in the consultation activities. The detailed overview of quantitative and qualitative results of the public consultation is presented in Annex 5.

2. CONSULTATION STRATEGY

Consultation activities had a two-fold objective – collecting the evidence to answer the evaluation questions and provide opportunities to all interested parties to provide input. The consultation strategy therefore consisted of a public and a targeted consultation, targeting different audiences and using different consultation tools. The target group included stakeholders responsible for the implementation of the Directive, stakeholders who are responsible for investigating and prosecuting environmental crimes, as well as all citizens, groups or organisations that have a stated interest in the issue. The following stakeholder groups were consulted:

Target groups

EU and international organisations including Europol, Europol and Interpol
Ministries responsible for justice in all Member States, who are the main competent authority responsible for implementing the Directive
Ministries responsible for the environment in all Member States, who are associated to the implementation of the Directive
Member State's ministries responsible for finance in all Member States, who have information on the budget allocated in each Member State
Environmental regulators other than ministries (i.e. environmental agencies)
Professional networks of practitioners involved in the investigation and prosecution of environmental crimes (i.e. IMPEL, EUFJE, ENPE, NEPA, EnviCrimeNet)
Environmental inspectors in all Member States
Prosecutors in all Member States
Judges in all Member States
Police officers in all Member States
Customs officers in all Member States
Criminal defence lawyers in all Member States
Environmental NGOs at EU and national level
Academics and experts working in the field of environmental criminal law
Organisations representing industry at EU and national level
Businesses
Members of the public

3. CONSULTATION METHODS

To achieve the objectives of the consultation, complement the information collected via desk-research and make sure all groups of stakeholders were given the opportunity to provide input, we have followed different consultation methods:

- A 12-week online **open public consultation (OPC)** organised by DG JUST;
- A **targeted consultation** of a wide range of stakeholders including Member States' authorities, practitioners, EU, international and national organisations and academic experts. This consultation included the following tools,
 - a targeted consultation **questionnaire** mainly aiming to collect stakeholders' opinions on the performance of the Directive in a standardised way,
 - **interviews** to collect more in-depth information and opinion or fill in gaps in information collected. Interviews were conducted with European networks of practitioners to collect information on their activities in relation to environmental crime, with EU and international organisations including Eurojust, Europol, and Interpol, and based on specific needs to respond to the evaluation questions with national authorities, practitioners and academics.
 - a **statistical data survey**, which was a separate consultation of Member States' authorities, by email, to collect statistical information on investigation and prosecution of environmental crime, as well as some factual information such as financial and human resources dedicated to environmental crime.

3.1. Open Public Consultation

Questionnaire and target group

A 12-week OPC ran from 10 October 2019 to 2 January 2020 and was available in all 23 official EU languages. The public consultation was accessible to every citizen and aimed to collect the views of a wide range of stakeholders and the general public. This consultation ensured that all interested parties had the opportunity to provide their input.

The OPC questionnaire was prepared by DG Justice that also took care of launching and managing the online consultation. The questionnaire was divided into five sections, each focused on one evaluation criterion and included questions on the implementation of the Directive and its performance. Respondents also had the possibility to join a position paper or other documents to their response.

Response rate and profile of respondents

A total of **142 responses** from 26 Member States were received. **Table 1** shows the respondents to the public consultation broken down by stakeholder group. Two-thirds of these respondents declared being familiar with the Environmental Crime Directive (although that proportion falls to 50% among individuals).

Table 1 – Respondents to the OPC by stakeholder group

Stakeholder groups	Number of responses
Private individual	79
Non-governmental organisation (NGO)	17
Business/industry association	8
Other public authority	7
Academic/research institution	6
Government authority in charge of environmental policy	6
Business/industry	4

Stakeholder groups	Number of responses
Local/regional authority	4
Professional networks (judges, prosecutors, environmental inspectors, police etc.)	4
National judicial authority (judge/prosecutor)	3
National public enforcement authority (environmental supervisory authority/police)	2
National public enforcement authority (sector specific)	2
Total	142

There were no campaigns identified in the results of the OPC.

Analysis and use of responses

The analysis of the results was carried out by the contractor, which drafted a summary report presenting the distribution of respondents by stakeholder group, the general results of the closed questions, as well as results by stakeholder groups where relevant, and summaries of responses to open-ended questions. This report is available in Annex III and has been published on the OPC webpage⁷⁰. Full results were shared with the whole study team, for integration into the analysis of each evaluation criterion. Uploaded documents were included in the database of literature and documents.

3.2. Targeted consultation

The targeted consultation addressed a narrower group of stakeholders than the public consultation and focused on those stakeholders with responsibility for the implementation of the Directive and/or a higher degree of expertise on the prosecution of environmental crimes. The targeted consultation was carried out in three stages:

- An online questionnaire disseminated to a wide range of stakeholders;
- A datasheet, disseminated to the national Ministries responsible for justice in all Member States;
- Semi structured interviews and follow-up interviews.

3.2.1. Targeted consultation questionnaire

Questionnaire and target group

Using an online questionnaire allowed the project team to reach a wide range of stakeholders in an efficient way and to collect standardised information and opinions. Although the target audience was very diverse (national authorities, International/EU organisations, practitioners, academics, NGOs, industry associations and businesses), a single questionnaire was drafted for all stakeholder groups, with, however, specific questions only addressed to practitioners, authorities and businesses. Respondents were allowed to skip the questions for which they felt they could not provide input. Having a single questionnaire guaranteed the comparability of the information collected.

The questionnaire was disseminated to stakeholder groups through different means and intermediaries:

Target groups	Dissemination method
EU and international organisations including Europol, Europol and Interpol	Contacts provided by DG JUST / Found on organisation's websites.
Ministries responsible for justice in all Member	Contacted through the justice and home affairs

⁷⁰ Environmental crime - reviewing the EU rules: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-4981980_en last accessed 17.02.2020.

Target groups	Dissemination method
States	mailing list of the Council.
Ministries responsible for the environment in all Member States, who are associated to the implementation of the Directive	Contacted through the Environmental Compliance and Governance Forum, managed by DG Environment.
Environmental regulators other than ministries (i.e. environmental agencies)	Contacted through the European Network of the Heads of Environment Protection Agencies (NEPA) and the European Nature Conservation Agencies Heads (ENCA).
Professional networks of practitioners (i.e. IMPEL, EUFJE, ENPE, NEPA, EnviCrimeNet)	Contacts found on organisation's websites.
Environmental inspectors in all Member States	Contacted through European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL)
Prosecutors in all Member States	Contacted through the European Network of Prosecutors for the Environment (ENPE)
Judges in all Member States	Contacted through the European Union Forum of Judges for the Environment (EUFJE)
Police officers in all Member States	Contacted through EnviCrimeNet
Customs officers in all Member States	Contacted through EnviCrimeNet
Criminal defence lawyers in all Member States	Contacted through the European Criminal Bar Associations and the European Environmental Law Forum.
Environmental NGOs at EU level	Contacts found on organisation's websites.
Environmental NGOs at national level	Contacted through EU NGOs' networks in Member States (WWF, Birdlife)
Academics and experts working in the field of environmental criminal law	Contacted through the Avosetta Group, the European Environmental Law Forum and based on desk research.
Organisations representing industry at EU level (mainly waste, oil and gas, shipping, hunting)	Contacts found on organisation's websites and contacted through Business Europe
Businesses and national industry associations	Contacted through Business Europe and other EU level industry associations (e.g. European Federation representing the European waste management industry)

Given the method chosen to target the different stakeholder groups – i.e. mainly through the intermediary of associations and networks – it is not possible to estimate the size of the sample of stakeholders contacted.

The targeted questionnaire was structured according to evaluation criteria and was based on the evaluation questions. It contained a combination of closed and open questions to allow some quantification of responses, while enabling the collection of more detailed and substantiated opinions, examples and evidence. Respondents also had the possibility to upload documents to complement their answers.

The questionnaire was available online from 30 October 2019 to 10 January 2020.

Response rate and profile of respondents

51 responses were received from 20 Member States and three EU level organisations. The following table shows the respondents broken down by stakeholder groups and Member States.

Stakeholder groups	Number of Responses	Member State
A national ministry responsible for justice	3	RO, LT, PT
A national ministry responsible for	3	CY, FI, SI

Stakeholder groups	Number of Responses	Member State
environment		
A national environmental regulator	3	PT (2) SE (1)
A judge	9	CY (3) HU (3) BE (2) ES (1)
A criminal defence lawyer	2	FR (1) IE (1)
A prosecutor	11	CZ (1) EL (1) FI (1) HR (1) IE (1) IT (1) LV (1) NL (1) PL (1) PT (1) SK (1)
A police officer	7	HR (10) PL (1) PT (4) SE (1)
An environmental inspector	3	HR (2) LT (1)
An academic	3	BE (1), NL (1), SI (1)
An environmental NGO	4	2 EU / 2 national (ES/PT)
An organisation representing industry	2	1 EU / 1 national (FR)
A business	1	FR/DE
Total	51	

Analysis and use of responses

Results from the targeted consultation questionnaire were downloaded in Excel format from EU Survey. General results from all the closed questions and results by stakeholder group were computed and provided in a readable format to the entire study team. Some of these results are presented in graphical form in the report. Responses to open-ended questions were analysed by team members, for their own criterion, taking into account their inter-relationship with the closed questions. Uploaded documents were included in the database of literature and documents. Results of this analysis were integrated into the analysis of the evaluation criteria, according to the evaluation framework.

It was generally difficult to see major differences across stakeholder groups, in particular as groups were too small to see clear trends. However, some constant trends were that Justice Ministries were more positive about the effectiveness of the Directive than the Environmental authorities. Practitioners were often quite divided – and could not be considered as a group. Judges and prosecutors were often slightly more negative about the performance of the Directive in achieving its objectives than the inspectors and police officers. NGOs tended to consider that the Directive had a minimal impact. For other criteria than effectiveness, clear trends across stakeholder groups could not be identified.

3.2.2. Interviews

Interview questions and guidelines

Interviews with stakeholders were semi-structured, relying on a pre-established interview guide covering common themes and questions, adapted to the specifics of each interview (type of stakeholder, Member State context, etc.) by the interviewer. When an interview was a follow-up to a written contribution (e.g. response to the targeted consultation questionnaire), questions were drafted on a case by case basis by the interviewer.

Stakeholders interviewed

Practitioner networks (EUFJE, ENPE, EnviCrimeNet, and IMPEL) and EU/international organisations were contacted for interviews with the aim of collecting information on their activities in relation to environmental crime since 2008 (i.e. before and after the adoption of the Directive), as well as their expert opinion on the performance of the ECD since its adoption. Follow-up or additional interviews were also organised to fill in gaps in the information collected. In particular, follow up interviews relating to costs and benefits of the Directive were organised with stakeholders who had provided cost data in the targeted consultation questionnaire.

In total, 64 stakeholders were contacted for interview. Twenty-one were interviewed and three sent a written answer.

	Number of stakeholders
Total number of stakeholders contacted	64
Total number of interviewed stakeholders	21
Written responses / information sent	3
Declined interviews	8
No response received	32

The table below provides a more detailed overview of interviews conducted by stakeholder groups.

Stakeholder group	Interviewed stakeholders
EU / International organisations	Senior Specialist in environmental crime and related areas, Europol
EU networks of practitioners	Vice-President of ENPE
EU networks of practitioners	President of EUFJE
EU networks of practitioners	Chair of EnviCrimeNet
Member State authority	Federal Ministry for the Environment, Nature Conservation and Nuclear Safety Division, Germany
Practitioner	Member of Federal police unit in charge of environmental crime, Belgium
Practitioner	Judge, Belgium
Practitioner	Prosecutor, Spain
Practitioner	Prosecutor, Poland
Practitioner	Police officer, Portugal
Practitioner	Judge, Portugal
Practitioner	Prosecutor, Sweden
Practitioner	Prosecutor, Slovakia
Practitioner	Judge, Spain
Academic	Director of Environmental Law department, Ghent University
Academic	Professor of Criminology, Cardiff University
NGO	Fisheries expert, ClientEarth
NGO	Head of Legal Unit, Spanish Society of Ornithology (SEO/BirdLife)
NGO	Lawyer and Chairman of the environmental law committee, IUCN France
Company	Legal Affairs Department, Veolia Environnement; European Affairs, Waste specialist, Veolia.

A series of stakeholders opted to provide written answers to the questionnaire instead of taking part in an interview. Written answers were received from a Senior Policy Advisor at the Crown Prosecution Service (CPS) (England, UK), and the General Inspectorate for Agriculture, the Sea, the Environment and Spatial Planning (Portugal). Additional official documents were sent to us by the General Prosecutor's Office for the Environment (Spain).

Analysis and use of responses

Transcripts were drafted for each interview. These were circulated to the whole project team and analysed by all criterion leads for their own criterion. Input from interviews was then integrated into the analysis of the evaluation criteria.

3.2.3. Statistical data survey

Questionnaire and target group

The project team prepared a datasheet for the Member State's authorities to provide statistical data on the prosecution of environmental crimes in their country. The datasheet requested the following information.

Member States datasheet

Number of investigations into environmental crime in the Member State for the period 2008-2018

Number of criminal trials for breaches of environmental law in the Member State for the period 2008-2018

Number of convictions for environmental crime in the Member State for the period 2008-2018

The level of sanctions imposed as a result of prosecutions of environmental crime (i.e. total fines, highest fine, lowest fine and average fine) the Member State for the period 2008-2018

Sentences of imprisonment imposed as a result of prosecutions of environmental crime (i.e. total number of people sentenced, highest sentence, lowest sentence and average sentence) in the Member State for the period 2008-2018

Number of sanctions imposed on legal persons in relation to breaches of environmental law in the Member State for the period 2008-2018

Level of sanctions imposed on legal persons for breaches of environmental law (i.e. total fines, highest fine, lowest fine and average fine) in the Member State for the period 2008-2018

Financial and human resources available for investigation and prosecution of environmental crimes (i.e. total budget, number of FTE working in this area) in the Member State for the period 2008-2018

The datasheet was disseminated to the permanent representations of all Member States and in most cases to the Ministries of Justice, through the justice and home affairs mailing list of the Council (together with the link to the targeted consultation questionnaire).

Responses

Ten Member States filled in the datasheet, with at least some of the data requested, depending on the data collected at national level. Another Member State (Hungary) sent statistical data, not following the format of the datasheet.

Member States that provided a filled in datasheet

Bulgaria

Croatia

Czechia

Finland

France

Germany

Latvia

Lithuania

Portugal

Sweden

Analysis and use of responses

The data received were included in the compilation of statistical data on the investigation and prosecution of environmental crime in all Member States. It was used to identify trends in the prosecution of environmental crime since the adoption of the Directive, together with data coming from other sources.

4. OVERVIEW OF CONSULTATION RESULTS

4.1. Effectiveness

Regarding the general objective of the Directive, it was difficult to identify a clear trend in the public and targeted consultations. Respondents to the targeted consultation questionnaire were divided on the overall contribution of the Directive to the protection of the environment. Slightly less than half of the respondents to the targeted consultation questionnaire considered that the Directive at least partly contributed to improving the protection of the environment by reducing environmental crime – while roughly the same number of respondents considered that no or a minimal contribution could be observed. In the OPC, a majority of respondents indicated that the protection of the environment had improved in the past ten years in the EU, although no clear link was made with the

specific impacts of the Directive. When asked if the protection of the environment had improved in the past ten years in their Member States, respondents were, however, more critical, with only a slight majority who thought it had improved.

According to consultation results, the Directive partially achieved its specific objective to establish a level playing field as regards the offences criminalised and sanctioning systems in the EU. Respondents to the targeted consultation questionnaire considered that the Directive produced, at least to a moderate extent, a level playing field in relation to environmental offences and sanctions in the Member States and thus contributed to avoiding safe havens. Respondents also indicated that the Directive resulted, at least to a moderate extent, in more deterrent criminal sanctions. However, respondents were more divided regarding the dissuasiveness of sanctions for legal persons, especially for wildlife offences, and still considered that sanctions are generally too low to take account of the profit made from the committed crime.

Respondents to the OPC also indicated that the Directive contributed, at least to a small extent, to the prevention of safe havens for criminals in the EU and to a more deterrent sanction system for environmental crime (however, as mentioned before, respondents are more negative when asked the same question about their own Member State). They did, however, recognise that the sanctions at national level might not be sufficiently deterrent, and that the different levels of sanctions across Member States is an incentive for criminals to move their activities to countries where sanctions are lower. As in the targeted consultation, respondents indicated that there is currently no effective criminal liability system for legal persons in the EU.

Although interviewed stakeholders recognised that the sanctions in the law are generally sufficient, some pointed out the discrepancy across Member States in the available sanctions, which can impede the effective investigation of cross-border cases.

If consulted stakeholders indicated that the legal framework improved overall, at least in some Member States, with the ECD, they did not believe, however, that the Directive succeeded in establishing a sufficiently effective criminal sanctioning system for environmental offences in practice.

Respondents to the targeted consultation questionnaire considered that the Directive had a minimal impact on the numbers of investigations, prosecutions and convictions for environmental crime, as well as a minimal impact on the level of sanctions imposed in practice or the imposition of liability for environmental crime on legal persons. A similar tendency can be observed in the OPC, where respondents indicated that they generally saw an increase in the detection of environmental crime, but on the contrary saw fewer prosecutions and convictions for environmental crime. The data on convictions for environmental crimes in the Member States, which were gathered partially by consultation of Member States authorities and partially through desk research, also did not show significant changes in the number of convictions since the ECD came into force, which suggests that there was no significant change in the number of prosecutions either.

Interviews with practitioners underlined that the implementation of the Directive on the ground is still largely insufficient, in particular as too few cases of environmental crime are going to trial. Interviewees also stressed that judges do not use the full range of sanctions provided in the law and that, in general, low sanctions are applied for environmental crimes. A reason put forward in several interviews is that the judges' reluctance to apply high criminal sanctions comes from the low awareness of the seriousness of environmental crime among practitioners.

Regarding the specialisation of practitioners, there was a division in the targeted consultation questionnaire between police officers, customs officers, and inspectors, who indicated that specialisation tended to happen, at least moderately, and judges and prosecutor, who considered that little or no specialisation had occurred. Several interviewees indicated that neither investigation or prosecution services had specialised –

although this was not in all cases driven by the ECD – and underlined that specialisation significantly contributes to increased prosecutions and better sanctioning.

Respondents to the OPC considered that the Directive had contributed to the reduction of illegal trade. Respondents to the targeted consultation questionnaire confirmed that having a common regulatory framework is likely to contribute to reduced illegal trade.

Respondents to the targeted consultation questionnaire considered that the Directive resulted in a moderate increase in the cooperation between Member States in relation to cross-border environmental offences. Responses to the OPC also indicated that the Directive led to more cross-border cooperation between law enforcement and judicial authorities in the Member States, but considered, however, that cross-border cooperation is still insufficient and is one of the barriers to the establishment of a level playing field at EU level. Interviewees, however, were often more of the opinion that cross-border cooperation was driven by other instruments, such as the Directive on the European Investigation Order in criminal matters, or the EU Action Plan against Wildlife Trafficking. Several interviewees stressed the need to increase cooperation and information exchange across Member States.

Finally, there was a consensus in the OPC and the targeted consultation on the fact that public awareness of environmental crime has increased since the adoption of the Directive.

4.2 Efficiency

According to the targeted consultation questionnaire (N = 29), a majority of respondents felt the ECD had an impact on the workload of practitioners (judges, prosecutors, defence lawyers, police officers and customs officers, inspectors) specialised in environmental crime – this impact was due to the ECD to a “minor” and “moderate” extent for six (21%) and 13 (46%) respondents, respectively. Only one respondent, from Portugal, indicated that the entry into force of the ECD increased their workload to a major extent. Nine respondents (32%) indicated the entry of the ECD has had no impact at all.

When analysed to determine the opinion of just judges, prosecutors and criminal defence lawyers (19 respondents), the proportion of responses stating that the ECD had no impact on workloads increases from 32% to 47%. The remainder suggests the impact ECD had affected workloads to a minor (26%) or moderate (26%) extent.

A small number of interviewed environmental crime practitioners suggested that an increase in absolute numbers of environmental crime cases dealt with is the most important factor impacting practitioners’ workload; however, this viewpoint was not universal across the interviewed sample. Evidence from the targeted consultation questionnaire found a majority of respondents (76% for wildlife offences, 62% for waste offences) thought the ECD had had little or no impact on the number of trials of environmental crime. A majority of these respondents (66% for wildlife offences, 73% for waste offences) also felt workloads had “not increased at all” or only “increased to a minor extent”.

Evidence from the OPC found that 58% of respondents had the impression that the detection of environmental crime had increased, 67% felt that prosecutions had decreased and 75% that convictions had decreased during the same period.

A majority of respondents to the targeted consultation questionnaire indicate that the ECD did not impact the typical cost of investigation nor the typical cost of criminal trials of environmental crime in their country. However, a meaningful minority of respondents indicated that the ECD did have an impact on typical costs – from a minor to major extent – with the impact stronger on the typical cost of criminal trials than on the typical cost of environmental crime investigations.

Despite a majority indicating the ECD has, to some extent, increased workloads, this does not appear to have translated into an increase in staff involved in addressing environmental crime. According to the targeted consultation questionnaire, nearly 70%

of respondents indicated that there had been no increase in the number of staff in their country involved in enforcing environmental crime following the ECD. Overall, 18% (ES, PL, PT, SK) mentioned there had been an increase, but these respondents also indicated that the contribution of the Directive was minimal. Only 3 respondents (14%, two police officers from Portugal, and one Irish criminal defence lawyer) indicated that the ECD had resulted in an increase in staff and that it was partly attributed to the ECD.

Targeted requests for information on budgets and staffing did not provide any comprehensive data. Anecdotal data was received through the interview programme, especially on the costs of training in Belgium, Portugal, Spain and Slovakia. Whilst the data received provides a very limited picture, it indicates that training costs per individual involved in environmental crime enforcement are not significant (ranging from 50 EUR to 428 EUR per year). And further, that only a proportion of those costs can be attributed to the ECD.

Interviewees suggested the ECD may have improved the conditions within which Member States tackle environmental crime, but they were unable to identify any concrete benefits following the transposition in their country. In many countries (e.g. BE, ES, PT, SE, SK), public authority representatives and practitioners interviewed indicated that the ECD strengthened the political willingness to prosecute environmental crimes. Where the number of prosecutions may have gone up (e.g. ES, PT, SK), there was no evidence to indicate whether this had stopped an ongoing environmental crime being carried out or if it had deterred another environmental crime from being carried out.

According to the targeted consultation questionnaire, there is no clear trend as to whether the ECD resulted in a decrease (or reduced growth) in illegal activity in wildlife offences, waste offences and other environmental crimes. Across the three environmental crime types, the majority of respondents stated that the ECD has not led to a decrease (or reduced growth) 'at all' (51%, 54% and 56% for wildlife offences, waste offences, and other environmental offences, respectively). Among those indicating that the ECD resulted in a decrease (or reduced growth) in illegal activity in wildlife crime, a majority argued that this has resulted in benefits that are more environmental and societal than economic.

Most (78%) of respondents to the targeted consultation questionnaire agreed or strongly agreed that the costs of applying criminal sanctions to environmental crimes in Member States are proportionate and justified given the expected benefits of increased environmental protection derived from the implementation of the ECD. Only 22% disagreed or strongly disagreed. Similarly, when asked whether the benefits of the ECD outweighed the costs, the majority (74%) of respondents to the OPC 'strongly agreed' (46%) or 'agreed' (27%). Only 13% disagreed or strongly disagreed.

A vast majority of respondents to the targeted consultation questionnaire (71%, N = 15) indicated that it is not possible to simplify or reduce the costs deriving from the ECD, without undermining its intended objectives. Asked about examples of opportunities to simplify or reduce costs, many respondents to the targeted consultation questionnaire have referred to the specialisation of judiciary actors on environmental crime.

4.3. Relevance

The majority of respondents to the targeted consultation questionnaire indicated that environmental crime still needs to be addressed in the EU, and that the objectives of the Directive (i.e. creating a level playing field regarding the offences criminalised and sanctioning systems at national level across the EU, ensuring a sufficiently deterrent criminal sanctioning system for environmental offences, protecting fair playing business, reducing illegal trade, and improving judicial cooperation) are still relevant objectives. In addition, respondents to the targeted consultation questionnaire and the OPC clearly stated that criminalisation for breaches of environmental law – and therefore the ECD – is a relevant instrument to address environmental crime because it results in a more effective enforcement regime.

Consulted stakeholders considered that the Directive could better take into account the new areas of environmental crimes. Respondents to the targeted consultation questionnaire indicated that some areas of environmental crimes – that are not covered by the Directive – have become somewhat more prominent since the adoption of the Directive, such as illegal logging, fisheries' crime, or emissions' trading fraud. Several interviewees confirmed this and indicated that the Directive needs to be updated, in particular to cover illegal timber trade and fisheries. The OPC asked respondents directly whether breaches of fisheries' legislation should be criminalised. The majority of the respondents replied that they should be criminalised, at least for certain serious breaches.

Consulted stakeholders also indicated that new challenges could be better taken into account in the Directive. Respondents to the targeted consultation questionnaire indicated that the involvement of legal persons in environmental crime, the involvement of organised crime and the number of crimes with cross-border dimension have somewhat increased since the adoption of the Directive. The OPC asked whether the Directive was sufficient to address the challenges posed by the involvement of organised crime. The large majority of respondents considered that the Directive lacked provisions to address this issue. Only 12% of respondents considered that the provisions of the Directive are sufficient. The interview with Europol confirmed that the Directive would need to be updated in relation to the crimes covered (and include timber and fisheries' crimes as part of wildlife offences) and to better tackle the involvement of organised crime.

Almost half of the respondents to the OPC also considered that intentional or negligent actions that caused serious environmental damage, even though these actions do not constitute breaches of environmental law should be criminalised. In addition, a quite large group of respondents (35%) indicated that all environmental offences, regardless of whether they actually caused serious damage, should be criminalised.

4.4. Coherence

Few questions related to coherence of the Directive with other EU and international law were asked in the targeted consultation questionnaire and in the OPC as this criterion was mostly based on desk research and comparison of legal frameworks.

Respondents were asked, in the targeted consultation questionnaire about the coexistence of administrative and criminal regimes for environmental crimes. Respondents to the targeted consultation questionnaire considered that administrative and criminal law can work effectively together. They mostly believed that administrative law is not sufficient to address environmental crimes and that the criminalisation of breaches of environmental law leads to a more effective system. Generally, respondents see the criminalisation of specific breaches of environmental law as complementary to non-criminal enforcement instruments, or at least they do not see any conflicts. Interviewees often confirmed that administrative and criminal sanctions are complementary in their Member State.

4.5. EU added value

Consulted stakeholders believed that an EU legal framework on the criminalisation of environmental offences is necessary and that at least some of the benefits could not have been achieved through legislation at national level. Respondents indicated that the criminalisation of breaches of environmental law and the liability of legal persons in relation to breaches of environmental law would have taken place in the Member States to a moderate extent if the Directive had not been adopted. However, the same respondents considered that the establishment of a level playing field in relation to environmental crime, the reduction of illegal trade, cross-border cooperation in investigation and prosecution of environmental crime, and the specialisation of environmental practitioners would only have occurred to a minor extent. In the OPC, 44% believed Member States could not have reached the same result by national

criminal legislation if there was no EU action on environment crime, or only to a small extent (24%).

Respondents to the targeted consultation questionnaire and the OPC recognised the benefits of having an EU instrument in relation to environmental crime. In the OPC, nearly all respondents considered that EU action is important to have a framework for effective cross-border cooperation with regard to environmental crime. In the targeted consultation questionnaire, respondents stated that a common legal framework at EU level is beneficial for providing a level playing field for honest operators and prevent safe havens for breaches of environmental law, protecting fair playing businesses, reducing illegal trade, enabling cross-border cooperation in investigation and prosecution of environmental crime, and that in addition, it provides opportunities for the exchange of good practice and collaboration in areas such as training and guidance. The importance of having a common legal framework at EU level was confirmed in several interviews. Europol in particular underlined that a common legal framework is necessary for coordinated action across Member States.

Annex 5 – PUBLIC CONSULTATION REPORT

Summary report of the public consultation on the evaluation of Directive 2003/109/EC on the protection of the environment through criminal law (Environmental Crime Directive)

Summary report – detailed analysis

INTRODUCTION

The public consultation on the evaluation of Directive 2008/99/EC on the protection of the environment through criminal law (Environmental Crime Directive (ECD)) ran between 10 October 2019 and 2 January 2020.

The objective of this consultation was to obtain the views of citizens and relevant stakeholders on the effectiveness of the ECD from all Member States for the time the Directive has been applicable, from 2011 to 2018. These views feed into the evaluation of the Directive, which started in August 2019 and which will be finalised in March 2020. The public consultation questionnaire was tailored to two main categories of stakeholders: the general public, and stakeholders who are involved in the implementation of the Directive or who have detailed knowledge of the functioning of the different elements of the Directive and their impact on environmental crime.

The consultation was available on the European Commission's website and respondents could reply in any of the 24 official EU-languages.

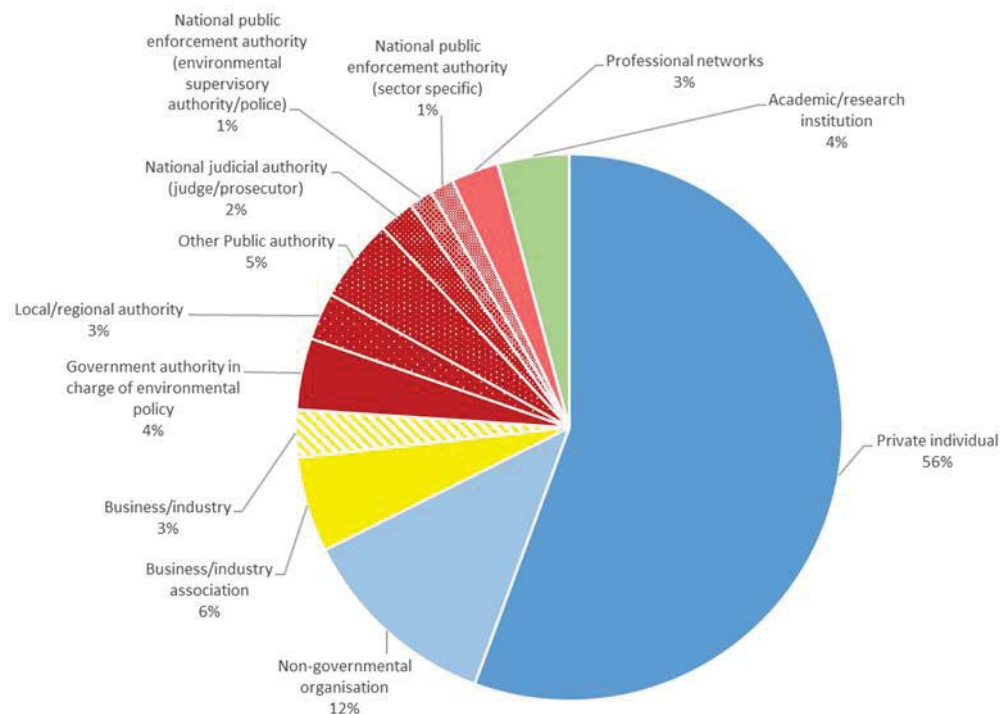
This document provides a question-by-question analysis of the responses received to the public consultation.

1 NUMBER OF RESPONDENTS

In total, 142 individuals have responded to the Public Consultation. The majority of responses came from private individuals (79), followed by national or regional/local public authorities (24 in total), including government authorities in charge of environmental policy (6), local/regional authorities (4), national judicial authorities (3), national public enforcement authorities (environmental supervisory authority/police) (2), national public enforcement authority (sector specific) (2) and other public authorities (7). Other stakeholders included businesses (4) and business/industry associations (8), academic/research institutions (6), and professional networks (judges, prosecutors, environmental inspectors, police etc.) (4).

1.1 TYPES OF RESPONDENTS TO THE OPC

Figure 1.1 Question: “I am giving my contribution as...” (N = 117)



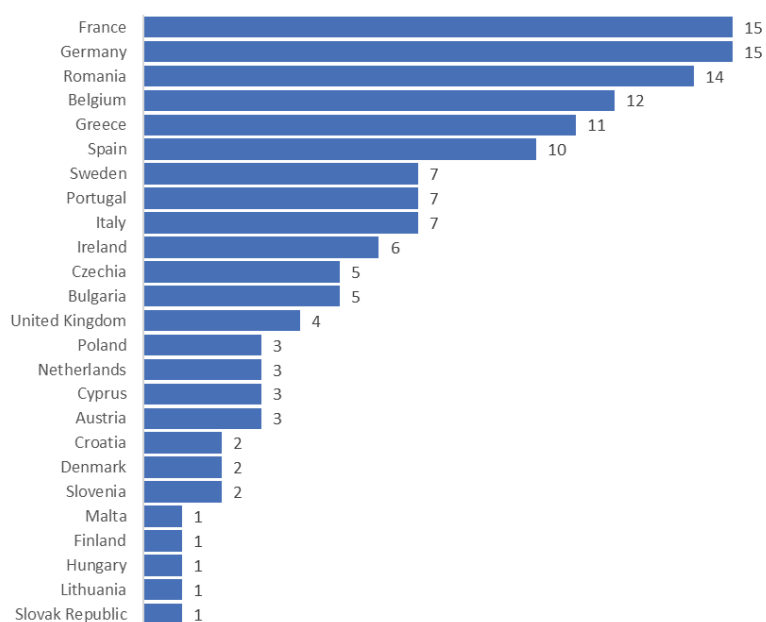
Full responses:

I am giving my contribution as...	Total
Private individual	79
Non-governmental organisation (NGO)	17
Business/industry association	8
Business/industry	4
Government authority in charge of environmental policy	6
Other Public authority	7
Local/regional authority	4
National public enforcement authority (environmental supervisory authority/police)	2
National public enforcement authority (sector specific)	2
National judicial authority (judge/prosecutor)	3
Professional networks (judges, prosecutors, environmental inspectors, police etc.)	4
Academic/research institution	6
Grand Total	142

1.2 NATIONALITY

In total, participants from 26 Member States contributed to this public consultation. Most answers were received from France, Germany, Romania, Belgium, Greece and Spain.

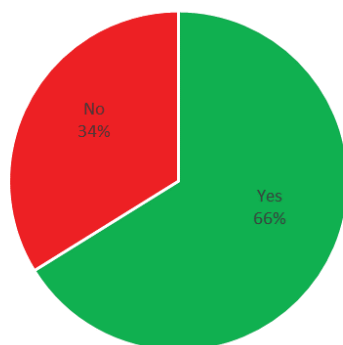
Figure 1.2 Question: “Your country of residence...” (N = 141)



1.3 FAMILIARITY

Two third of respondents declared being familiar with the Environmental Crime Directive against one third being unfamiliar with it.

Figure 1.3 Question: “Are you familiar with the Environmental Crime Directive?” (N = 138)

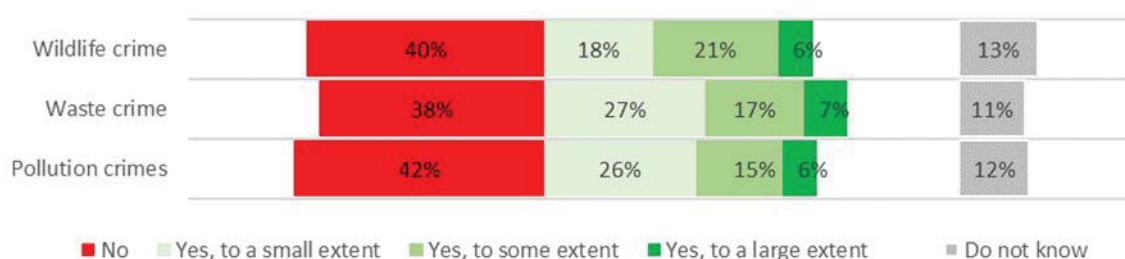


2 ANALYSIS OF PUBLIC CONSULTATION QUESTIONS BY EVALUATION CRITERIA

2.1 EFFECTIVENESS

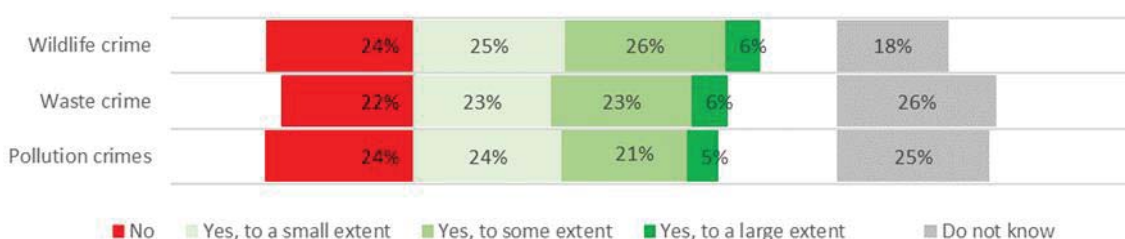
A majority of respondents suggest that the protection of the environment against environmental crime has improved in the EU and their Member State over the last ten years. In total, 45% of respondents consider that the protection of the environment from **wildlife crime** improved over the last ten years in their Member State against 57% at EU level. With regard to **waste crime**, a majority of respondents reported an improvement over the period (51% at national level and 52% in the EU overall). Similarly, the protection of the environment from **pollution crimes** has improved at national level according to 47% of respondents; as well as at EU level (50%) (Figure 2.1 and Figure 2.2).

Figure 2.1 *Question 1a. "In your view, did the protection of the environment improve over the last ten years in your Member State of residence?" (N =137)*



Examples of the specific illegal activities where an improvement has been observed were highlighted. Among respondents who answered "Yes, to a large extent", one referred to crimes against the Black sea and the last wild beaches in Bulgaria, crime against the Pirin mountains and the Kresna gorge. Other examples include illegal fishing in marine areas, metal theft. One stakeholder mentioned that while the state of the environment has improved in France in recent years, it is difficult to establish a link between criminal sanctions and improved environment protection and that other factors (e.g. raising awareness about environmental problems, voluntary commitments, improvements in technological performance and prevention policies) contribute to far greater extent to improvement of environment protection.

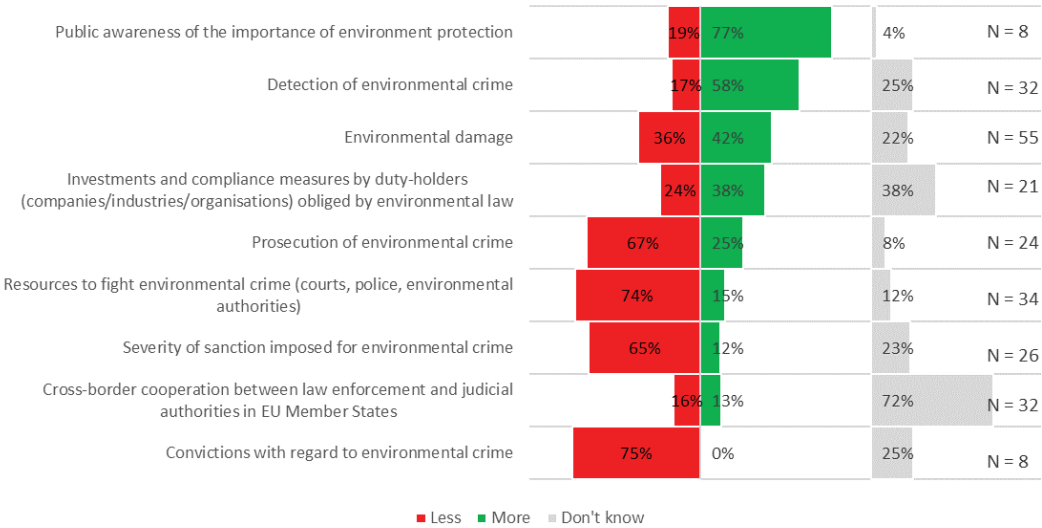
Figure 2.2 *Question 1b. "In your view, did the protection of the environment improve over the last ten years in the European Union overall" (N = 136):*



As illustrated in Figure 2.3, the most notable positive changes observed with regards environmental protection over the last ten years were increasing **public awareness of the importance of the environment protection**, followed by increasing **detection of environmental crime**. By contrast, respondents have generally observed less **convictions with regard to environmental crime** (75% of them think this has decreased), less **severe sanctions imposed for environmental crime** (65% of respondents argue this has gone down) and less **resources to fight environmental crime** (74%) over the last ten years. The number of

respondents suggesting that environmental damage has increased is fairly similar to the number of respondents indicating that it has decreased over the last ten years.

Figure 2.3 *Question 2. What kind of changes did you observe in your Member State of residence with regard to the protection of the environment over the last 10 years?*



Among the 17 duty-holders (businesses or business representatives) or respondents working for a duty-holder who answered the survey almost one in two businesses (47%) states that the criminalisation of environmental offences lead to their organisation taking measures to ensure compliance with environmental law requirements.

29% of business respondents highlight that environmental compliance measures were taken independently of the criminalisation of environmental offences while 18% indicate that the criminalisation of environmental offenses did not lead to take measures.

Figure 2.4 *Question 3. “Do you work for a duty-holder (for example; company/industry/organisation) obliged by environmental law? Are you a duty-holder with regard to environmental law yourself?” (N = 138)*

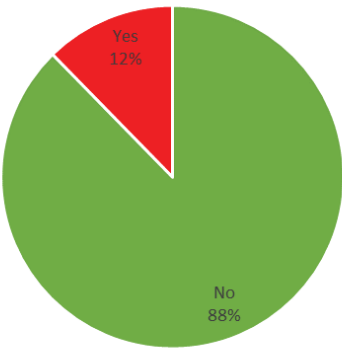
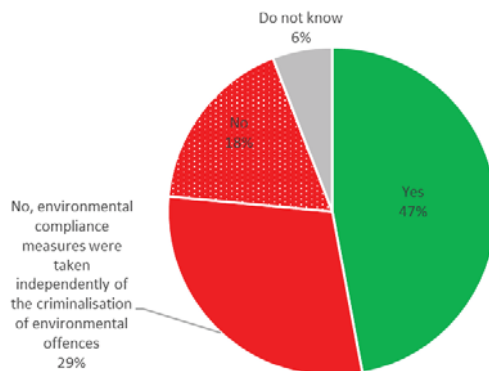


Figure 2.5 *Question 3a. “Did you observe that the criminalisation of environmental offences lead to your company/industry/organisation taking measures to comply with environmental law requirements? If you are a duty holder yourself, did you take such measures?” (N = 17)*



All businesses reporting that they have taken measures due to the criminalisation of environmental offences, have improved **monitoring/controls/compliance measures** (8) and adopted **compliance training/awareness-raising measures for staff** (8).

Figure 2.6 *Question 3b. “If the answer to the above question is yes, which additional measures have been taken in your company/industry/organisation (several answers are possible)” (N = 8)*



As illustrated by Figure 2.7, when asked why the protection of the environment through criminal law as provided in the EU Directive might not be fully effective at the EU overall, a large proportion of respondents point to **insufficient cross-border cooperation between Member State authorities** and the fact that **different criminal sanction levels across the EU makes criminals move their activities to EU Member States with low criminal sanctions or with low risk of detection**.

At the national level, **difficulties in finding the criminally liable perpetrator** stand out as one of the main reasons why the protection of the environment through criminal law as provided in the EU Directive might not be fully effective. **Insufficient coordination and cooperation** is also reported as particularly notable reason.

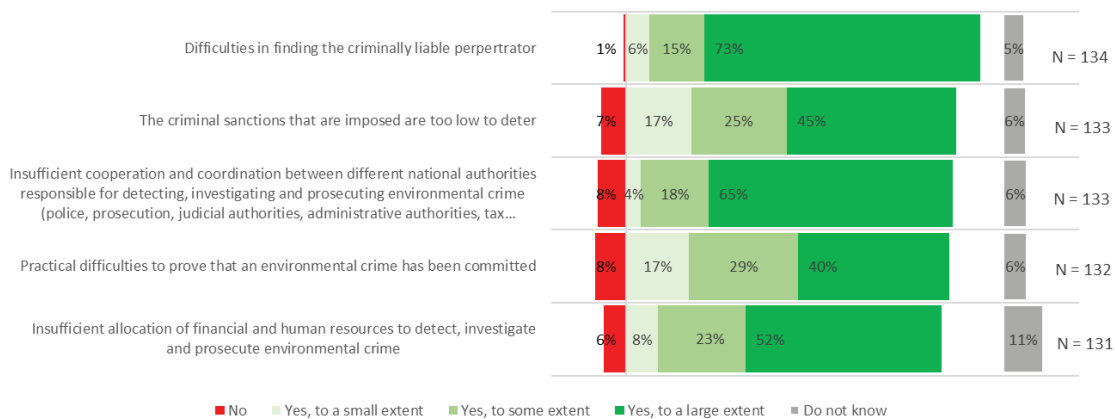
At legislative level, respondents highlight the **complexity of enforcement of environmental law** (interplay between criminal, civil and administrative law), the **lack of an effective system for criminal liability for legal persons** and the **lack of deterrent effect of criminal sanctions and the levels provided for in the national criminal code** as the main sources of ineffectiveness of the protection of the environment through criminal law as provided in the EU Directive.

Figure 2.7 *Question 4. “If you think that the protection of the environment through criminal law as provided in the EU Directive, might not be fully effective in your Member State of residence or the EU overall, what are in your view the main reasons?”*

a. At EU level



b. At national law enforcement/judicial level

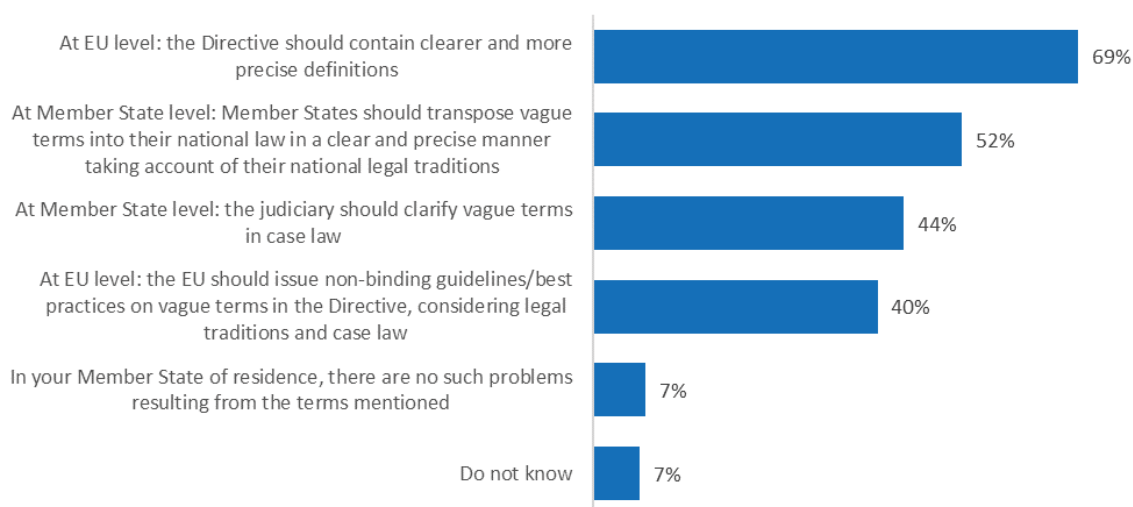


c. At legislative level



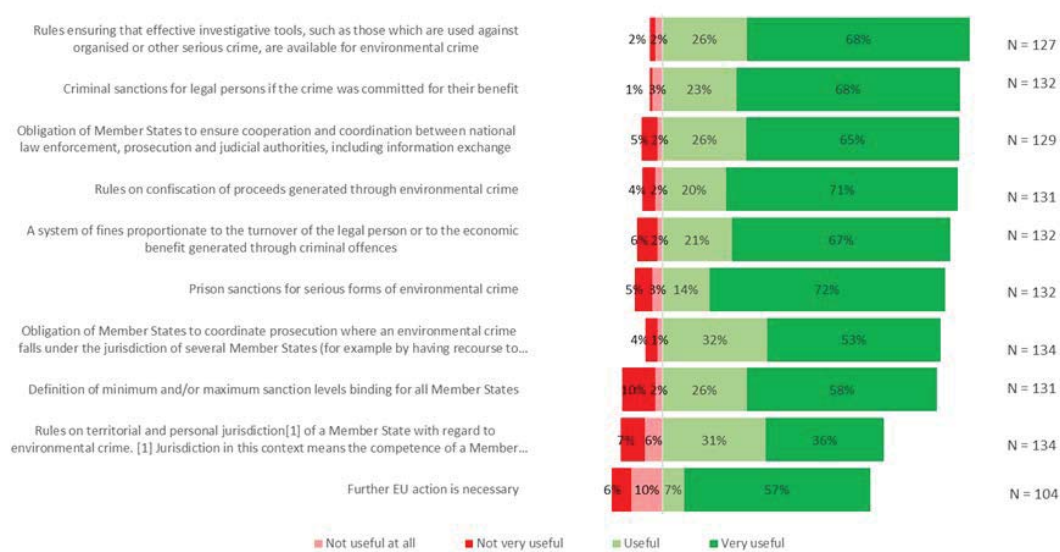
To improve the effectiveness of the ECD at EU level, respondents advocate including clearer and more precise definitions in the Directive (this opinion was supported by 62% of respondents) against issuing non-binding guidelines/best practices on vague terms in the Directive, considering legal traditions and case law (this was supported by only 40% of respondents). At Member State level, respondents make the case for transposing vague terms into their national law in a clear and precise manner taking account of their national legal traditions (supported by 52% of respondents) more than clarifying vague terms in case law by the judiciary (supported by 44%). (Figure 2.8)

Figure 2.8 *Question 5. If terms such as “substantial damage”, “dangerous activity or substances”, “negligible/non-negligible impact” in the legislation negatively affect the effectiveness of the Directive, how could legal clarity be improved? (Several answers are possible) (N = 134)*



As illustrated by Figure 2.9, respondents strongly support the proposed rules on particular issues to improve the effectiveness of the Directive including the need for further EU action.

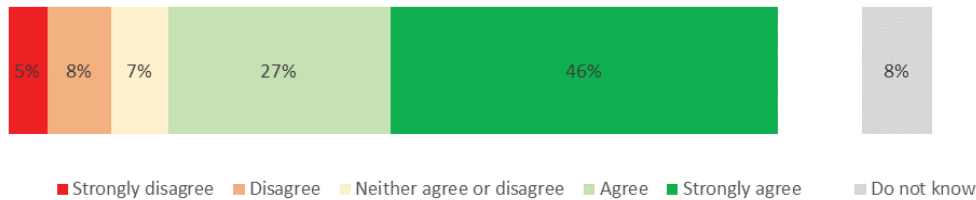
Figure 2.9 *Question 6: If you consider that the Directive might not be fully effective, please consider whether the following rules on particular issues could have been useful to improve the effectiveness of the Directive? (N = 134)*



2.2 EFFICIENCY

When asked to assess whether the benefits of increased environmental protection derived from the Directive outweigh the costs linked to its implementation, 73% of respondents answered agreed that they did (see Figure 2.10).

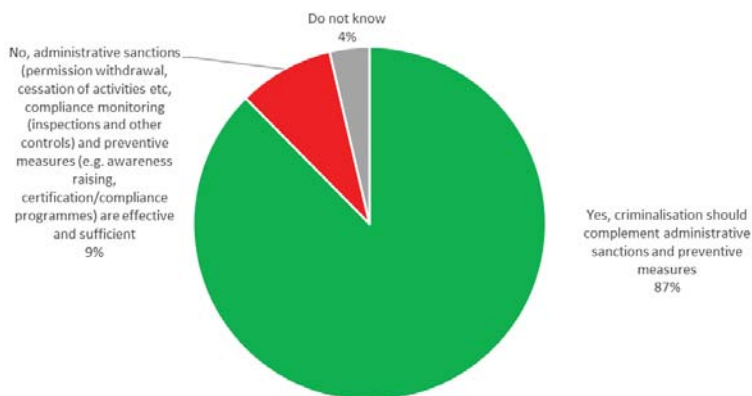
Figure 2.10 *Question 7: “To what extent would you agree or disagree with the following statement? “The benefits of increased environmental protection derived from the implementation of DIRECTIVE 2008/99/EC on the protection of the environment through criminal law largely outweigh the costs of applying criminal sanctions on environmental crimes in Member States.” (N = 132)*



2.3 RELEVANCE

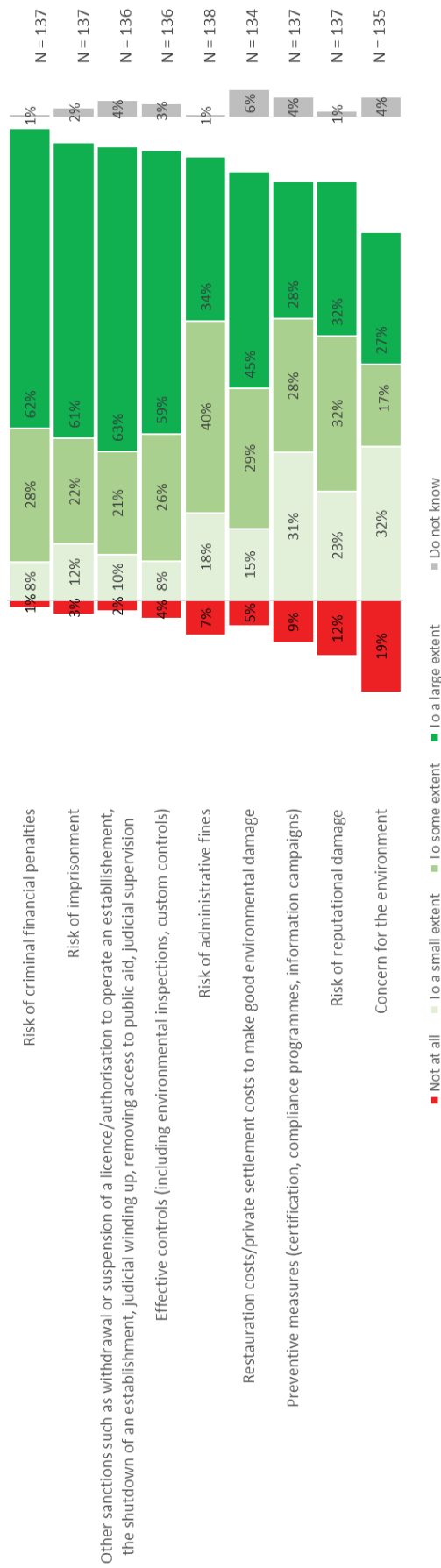
According to the public consultation, 87% of respondents **agree that criminalisation of environmental offences is an effective way to ensure compliance with environmental law** and that **criminalisation should complement administrative sanctions and preventive measures**. Only 9% of respondents think that criminalisation of environmental offences is ineffective, and that administrative sanctions and preventive measures are effective and sufficient. (see Figure 2.11)

Figure 2.11 *Question 8. “In your view, is criminalisation of environmental offences an effective way to ensure compliance with environmental law?” (N = 137)*



According to respondents, the sanctions and measures that motivate a duty holder (company/industry/organisation, natural person) to take measures to comply with environmental law the most include: the risk of criminal penalty and imprisonment, other sanctions (e.g. withdrawal or suspension of a licence/authorisation to operate an establishment, the shutdown of an establishment, judicial winding up, removing access to public aid, judicial supervision), effective controls (including environmental inspections, custom controls) and the risk of administrative fines. (Figure 2.12)

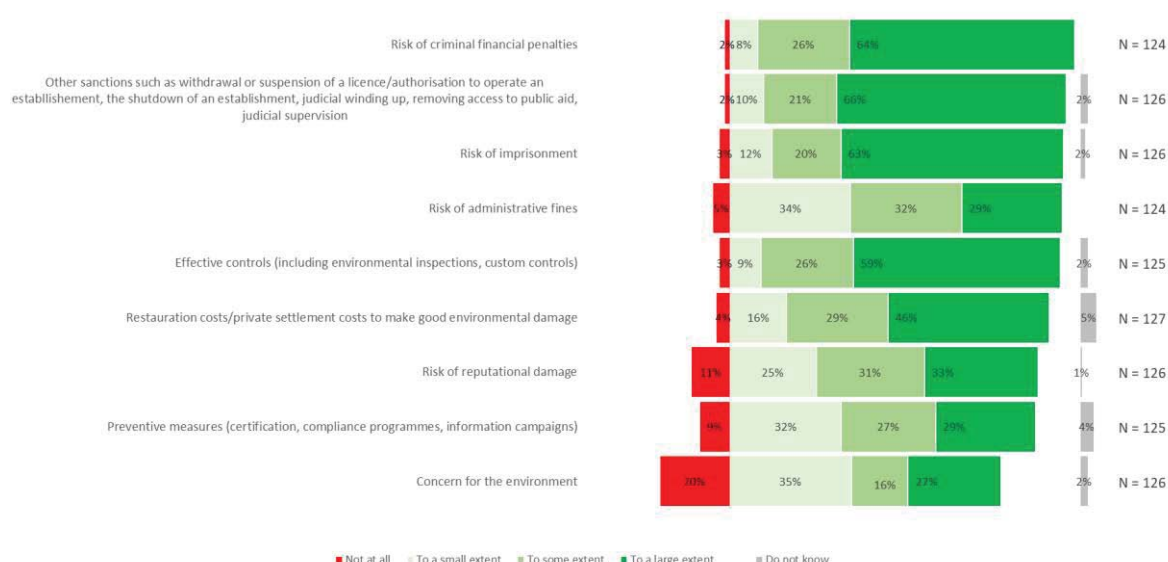
Figure 2.12 **Question 9. “In your view, to what extent do the following sanctions and measures motivate a duty holder (company/industry/organisation, natural person) to take measures to comply with environmental law? (N = 138)”**



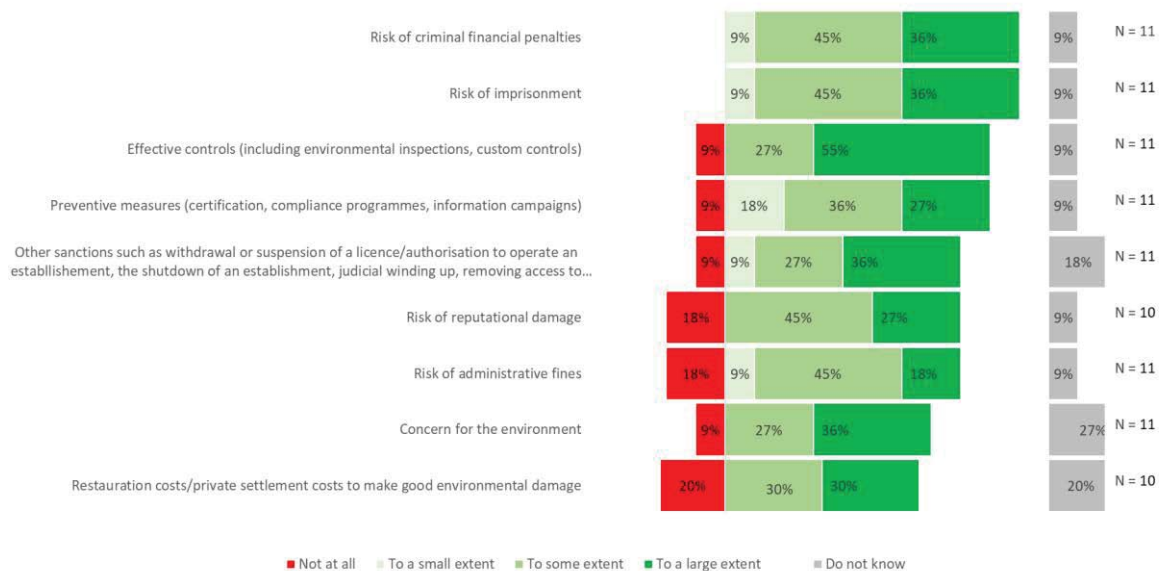
The top five sanctions and measures that motivate a duty holder (company/industry/organisation, natural person) to take measures to comply with environmental law the most are similar for businesses and non-businesses.

Figure 2.13 *Question 9. “In your view, to what extent do the following sanctions and measures motivate a duty holder (company/industry/organisation, natural person) to take measures to comply with environmental law? (N = 138)*

a. Non-businesses

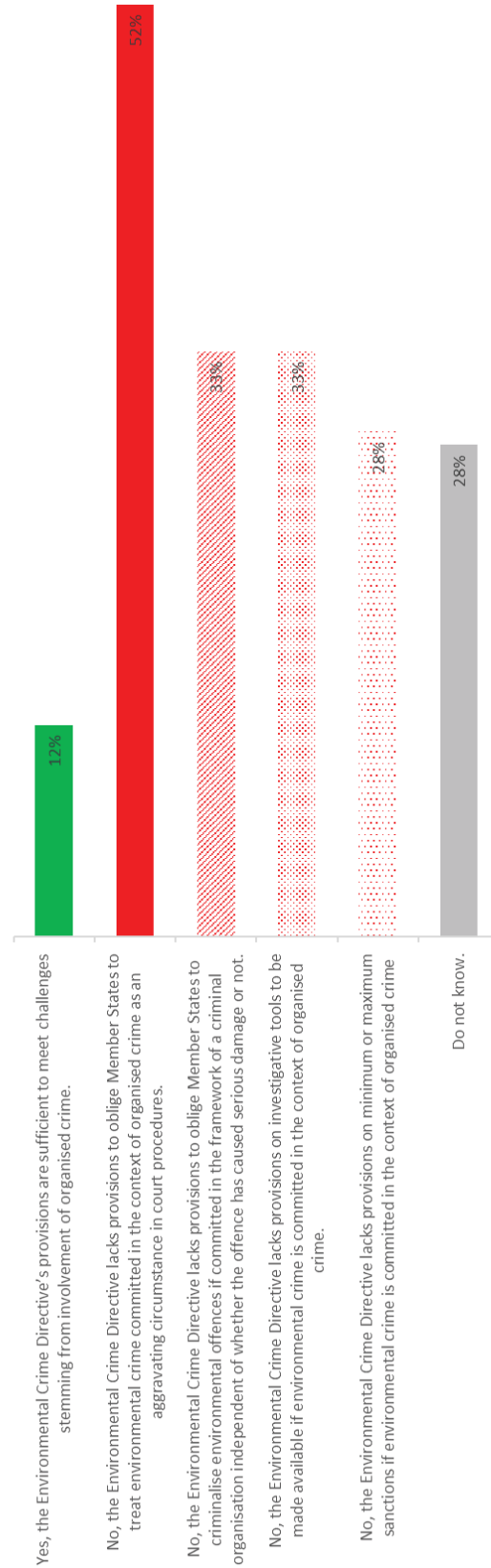


b. Businesses



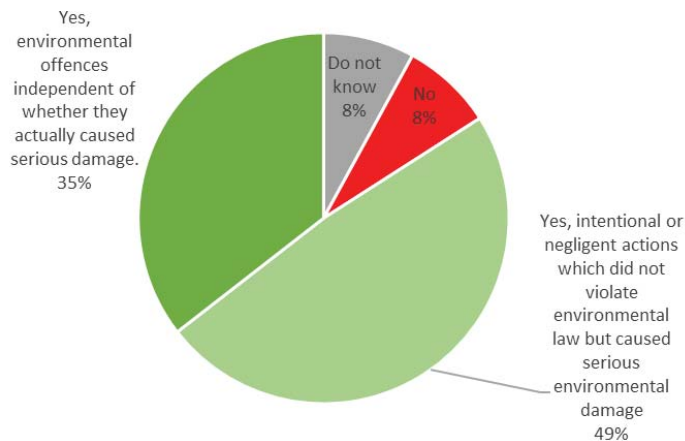
Only 12% of respondents believe that the Directive ensures that challenges of tackling the involvement of organised crime are met. 55% of respondents believe that the Directive lacks provisions to oblige Member States to treat environmental crime committed in the context of organised crime as an aggravating circumstance in court procedures.

Figure 2.14 **Question 10. “The EU Agenda on Security (2015) highlighted the link between environmental crime and organised crime. In your view, does the Directive ensure that challenges from the involvement of organised crime are met? (Several answers are possible.)” (N = 134)**



Out of 138 responses received, 67 (49%) think that the Directive should criminalise intentional or negligent actions which did not violate environmental law but caused serious environmental damage, and 49 (36%) that it should criminalise environmental offences independent of whether they actually caused serious damage. Only 11 respondents (8%) consider that further conducts should not be criminalised.

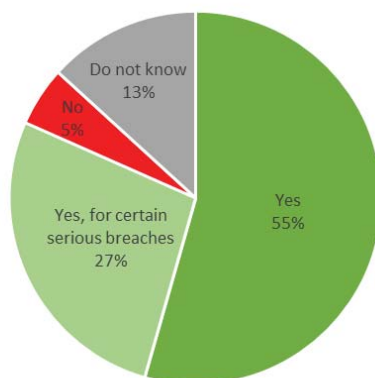
Figure 2.15 *Question 11. “In your view, should further conducts be criminalised that are currently not criminalised by the Environmental Crime Directive (Art. 3)?” (N = 138)*



2.4 COHERENCE

According to Figure 2.16, a majority (55%) respondents think that it would be both justified and coherent for breaches of fisheries legislation to be criminalised. A further 27% think this is the case, but only for certain serious breaches

Figure 2.16 *Question 12. “Currently, breaches against EU fishing legislation are not criminalised. Do you find it justified and coherent that breaches of fisheries legislation should be criminalised?” (N = 136)*



2.5 EU-ADDED VALUE

According to respondents, the strongest influence of the Directive, both at EU and Member State level, comes from its contribution to increasing awareness of the importance of environmental

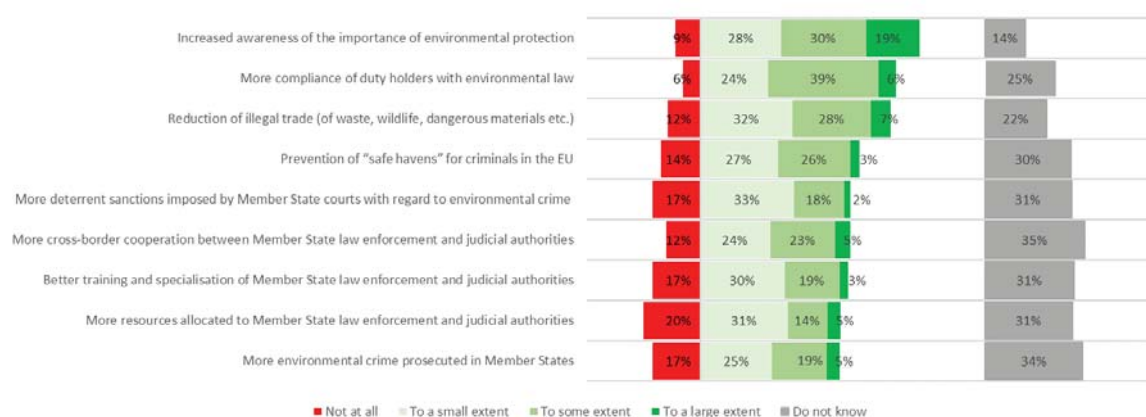
protection. This position is more strongly felt when considering the Directive's contribution to the EU as a whole (77%) compared to individual Member States (68%).

The next greatest contributions of the Directive, at both EU and Member State level, are its contribution to improving duty holders' compliance with environmental law, and reducing illegal trade.

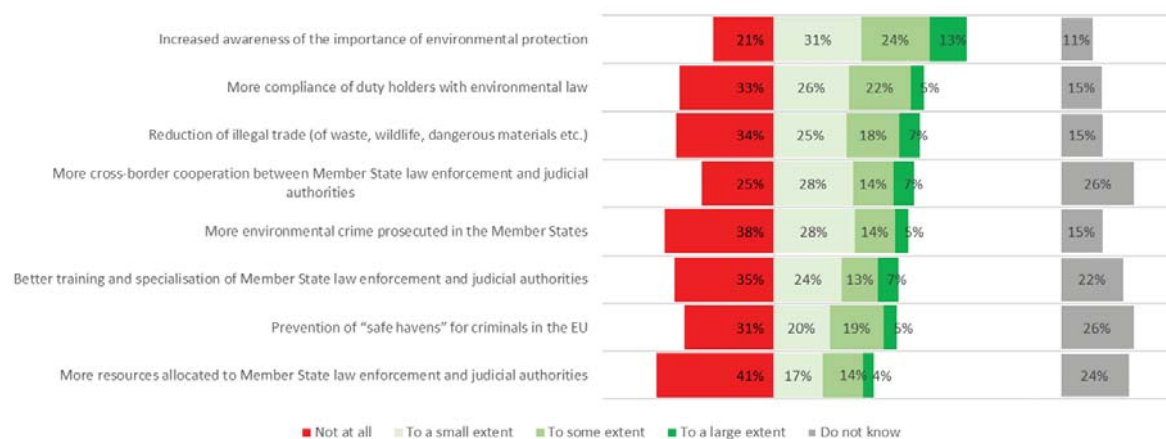
In general, respondents were more positive on the contribution of the Directive in the EU as a whole, as opposed to in their Member State. At the Member State level, for all the issues asked about, a meaningful proportion (between 21% and 41%) of respondents stated that the Directive had had no contribution. An area where the Directive has been the least successful at national level, according to respondents, relates to its contribution to increasing resources allocated to Member States law enforcement and judicial authorities. (See Figure 2.17)

Figure 2.17 "Question 13: "In your view, has the Directive contributed to: "

In the EU as a whole

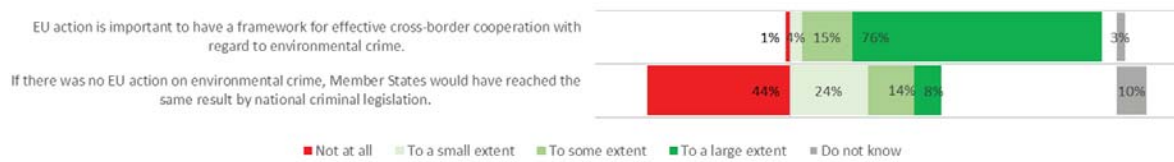


In your Member State of residence



Nearly all (95%) respondents consider that EU action is important to have a framework for effective cross-border cooperation with regard to environmental crime (96%) and 75% agree to a large extent with that statement. Furthermore, 44% believe Member States could not have reached the same result by national criminal legislation if there was no EU action on environment crime, or only to a small extent (24%).

Figure 2.18 *Question 14. “To what extent do you agree with the following: i) EU action is important to have a framework for effective cross-border cooperation with regard to environmental crime. ii) If there was no EU action on environmental crime, Member States would have reached the same result by national criminal legislation.” (N = 136)*



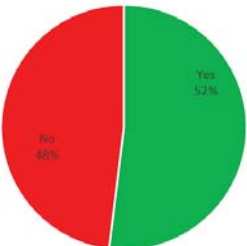
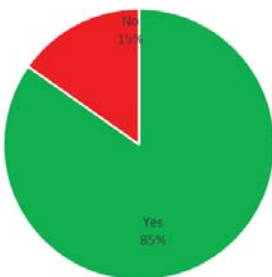
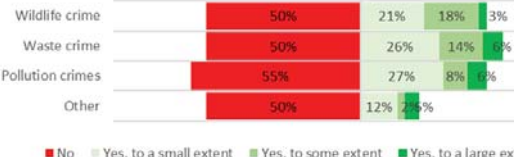



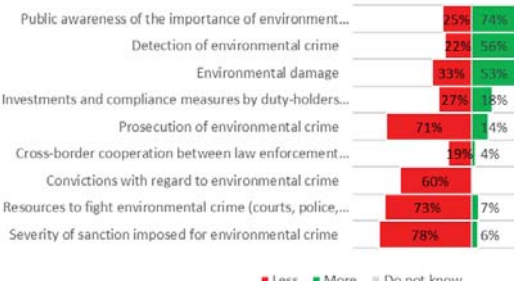

2.6 OTHER ISSUES RELATED TO THE ECD

To conclude, stakeholders were asked to mention any other issues with regard to the Directive to which they would like to draw the European Commission’s attention (Question 15). Issues mentioned across the different groups of stakeholders include:

- The need to impose stronger criminal liability and serious financial penalties.
- The need for further concrete action at EU level in the field of environmental protection in the Member States to combat organised crime.
- The need to allocate adequate resources to the issue of environmental crime, and to provide training and information to law enforcement personnel, prosecutors and judges.
- The need to address inconsistencies in the application of the Directive in the EU, including different sanctions Member States can impose.
- The need to increase awareness about environmental legislation among citizens.

ANNEX - 5A - RESPONSES OF "PRIVATE INDIVIDUALS" VS ALL OTHER STAKEHOLDERS

Annex 5a provides a comparative analysis of some of the public consultation questions between the private individuals and the other stakeholders.

Question n°	Private individuals	All other stakeholders																																																																																
Familiarity																																																																																		
1a - In your view, did the protection of the environment improve over the last ten years in your Member State of residence?	 <table><thead><tr><th></th><th>No</th><th>Yes, to a small extent</th><th>Yes, to some extent</th><th>Yes, to a large extent</th></tr></thead><tbody><tr><td>Wildlife crime</td><td>50%</td><td>21%</td><td>18%</td><td>3%</td></tr><tr><td>Waste crime</td><td>50%</td><td>26%</td><td>14%</td><td>6%</td></tr><tr><td>Pollution crimes</td><td>55%</td><td>27%</td><td>8%</td><td>6%</td></tr><tr><td>Other</td><td>50%</td><td>12%</td><td>2%</td><td>0%</td></tr></tbody></table>		No	Yes, to a small extent	Yes, to some extent	Yes, to a large extent	Wildlife crime	50%	21%	18%	3%	Waste crime	50%	26%	14%	6%	Pollution crimes	55%	27%	8%	6%	Other	50%	12%	2%	0%	 <table><thead><tr><th></th><th>No</th><th>Yes, to a small extent</th><th>Yes, to some extent</th><th>Yes, to a large extent</th></tr></thead><tbody><tr><td>Wildlife crime</td><td>28%</td><td>16%</td><td>26%</td><td>11%</td></tr><tr><td>Waste crime</td><td>22%</td><td>29%</td><td>20%</td><td>8%</td></tr><tr><td>Pollution crimes</td><td>25%</td><td>24%</td><td>24%</td><td>5%</td></tr><tr><td>Other</td><td>20%</td><td>12%</td><td>13%</td><td>13%</td></tr></tbody></table>		No	Yes, to a small extent	Yes, to some extent	Yes, to a large extent	Wildlife crime	28%	16%	26%	11%	Waste crime	22%	29%	20%	8%	Pollution crimes	25%	24%	24%	5%	Other	20%	12%	13%	13%																														
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<p>5 - If terms such as “substantial damage”, “dangerous activity or substances”, “negligible/non-negligible impact” in the legislation negatively affect the effectiveness of the Directive, how could legal clarity be improved?</p>	<p>At EU level: the Directive should contain clearer and more precise definitions</p> <p>At Member State level: the judiciary should clarify vague terms in case law</p> <p>At Member State level: Member States should transpose vague terms into their national law...</p> <p>At EU level: the EU should issue non-binding guidelines/best practices on vague terms in...</p> <p>In your Member State of residence, there are no such problems resulting from the terms... 5%</p> <p>Do not know 5%</p>	<p>At EU level: the Directive should contain clearer and more precise definitions</p> <p>At Member State level: Member States should transpose vague terms into their national law...</p> <p>At EU level: the EU should issue non-binding guidelines/best practices on vague terms in...</p> <p>At Member State level: the judiciary should clarify vague terms in case law 33%</p> <p>In your Member State of residence, there are no such problems resulting from the terms... 11%</p> <p>Do not know 7%</p>
<p>8 - In your view, is criminalisation of environmental offences an effective way to ensure compliance with environmental law?</p>	<p>No, administrative sanctions (permission withdrawal, cessation of activities etc, compliance monitoring (inspections and other controls) and preventive measures (e.g. awareness raising, certification/compliance programmes) are effective and sufficient 12%</p> <p>Do not know 4%</p> <p>Criminalisation of environmental offences is an effective way to ensure compliance with environmental law 84%</p>	<p>No, administrative sanctions (permission withdrawal, cessation of activities etc, compliance monitoring (inspections and other controls) and preventive measures (e.g. awareness raising, certification/compliance programmes) are effective and sufficient 5%</p> <p>Do not know 3%</p> <p>Criminalisation of environmental offences is an effective way to ensure compliance with environmental law 92%</p>

ANNEX - 5B - DUTY HOLDERS VS. JUDGES AND PROSECUTORS

Annex 5B provides a comparative analysis of some of the public consultation questions between the **duty holders**⁷¹ and **judges and prosecutors**⁷².



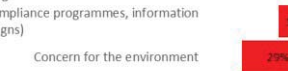
Question n°	Duty holders	Judges and prosecutors
1a - In your view, did the protection of the environment improve over the last ten years in your Member State of residence?	<p>N = 11</p>	<p>N = 7</p>
1b - In your view, did the protection of the environment improve over the last ten years in the European Union overall?	<p>N = 10</p>	<p>N = 7</p>
2 - What kind of changes did you observe in your Member State of residence with regard to the protection of the environment over the last 10 years?	Sample too low to compare.	
4 - If you think that the protection of the environment through criminal law as provided in the EU Directive might not be fully effective in your Member State of residence or the EU overall, what are in your view the main reasons? Please assess below.	<p><i>EU level (N = 9):</i></p> <p><i>At national law enforcement/judicial level (N = [8, 12])</i></p>	<p><i>EU level (N = 7):</i></p> <p><i>At national law enforcement/judicial level (N = 7):</i></p>

⁷¹ Including the following categories: Business/industry (Please specify sector), Business/industry association (please specify sector), Business association

⁷² Including categories “National judicial authority (judge/prosecutor)” and “Professional networks (judges, prosecutors, environmental inspectors, police etc.)”.

Question n°	Duty holders	Judges and prosecutors
	<p>Difficulties in finding the criminally liable perpetrator</p> <p>Practical difficulties to prove that an environmental crime has been committed</p> <p>The criminal sanctions that are imposed are too low to deter</p> <p>Insufficient cooperation and coordination between different national authorities responsible for detecting, investigating and prosecuting environmental crime</p> <p>Insufficient allocation of financial and human resources to detect, investigate and prosecute environmental crime</p> <p>Lack of specialisation and training of law enforcement authorities and judiciary</p> <p>Lack of information sharing between different relevant authorities</p> <p>■ No ■ Yes, to a small extent ■ Yes, to some extent ■ Yes, to a large extent</p> <p><i>At legislative level (N = 8):</i></p> <p>The criminal sanctions and the levels provided for in the national criminal code do not have enough of a deterrent effect</p> <p>Lack of an effective system for criminal liability for legal persons</p> <p>The complexity of enforcement of environmental law (interplay between criminal, civil and administrative law)</p> <p>■ No ■ Yes, to a small extent ■ Yes, to some extent ■ Yes, to a large extent</p>	<p>Difficulties in finding the criminally liable perpetrator</p> <p>Practical difficulties to prove that an environmental crime has been committed</p> <p>The criminal sanctions that are imposed are too low to deter</p> <p>Insufficient cooperation and coordination between different national authorities responsible for detecting, investigating and prosecuting environmental crime</p> <p>Insufficient allocation of financial and human resources to detect, investigate and prosecute environmental crime</p> <p>Lack of specialisation and training of law enforcement authorities and judiciary</p> <p>Lack of information sharing between different relevant authorities</p> <p>■ No ■ Yes, to a small extent ■ Yes, to some extent ■ Yes, to a large extent</p> <p><i>At legislative level (N = 7):</i></p> <p>The criminal sanctions and the levels provided for in the national criminal code do not have enough of a...</p> <p>Lack of an effective system for criminal liability for legal persons</p> <p>The complexity of enforcement of environmental law (interplay between criminal, civil and administrative law)</p> <p>■ No ■ Yes, to a small extent ■ Yes, to some extent ■ Yes, to a large extent</p>
5 - If terms such as “substantial damage”, “dangerous activity or substances”, “negligible/non-negligible impact” in the legislation negatively affect the effectiveness of the Directive, how could legal clarity be improved?	Sample too low to compare	
6 - If you consider that the Directive might not be fully effective, please consider whether the following rules on particular issues could have been useful to improve the effectiveness of the Directive?	N = [7, 9]	N = [4, 7]

Question n°	Duty holders	Judges and prosecutors
	<div><div>Further EU action is not necessary</div><div>38%</div></div> <div><div>Obligation of Member States to ensure cooperation and coordination between national law enforcement, prosecution and judicial...</div><div></div></div> <div><div>Rules ensuring that effective investigative tools, such as those which are used against organised or other serious crime, are available for...</div><div>2%</div></div> <div><div>Obligation of Member States to coordinate prosecution where an environmental crime falls under the jurisdiction of several Member...</div><div></div></div> <div><div>Rules on territorial and personal jurisdiction of a Member State with regard to environmental crime.</div><div></div></div> <div><div>Obligation for Member States to criminalise the attempt to commit environmental crime</div><div></div></div> <div><div>Criminal sanctions for legal persons if the crime was committed for their benefit</div><div></div></div> <div><div>A system of fines proportionate to the turnover of the legal person or to the economic benefit generated through criminal offences</div><div></div></div> <div><div>Rules on confiscation of proceeds generated through environmental crime</div><div></div></div> <div><div>Prison sanctions for serious forms of environmental crime</div><div></div></div> <div><div>Definition of minimum and/or maximum sanction levels binding for all Member States</div><div></div></div> <div><div>Not useful at all</div><div>Not very useful</div><div>Useful</div><div>Very useful</div></div>	<div><div>Further EU action is not necessary</div><div>25%</div><div>25%</div></div> <div><div>Obligation of Member States to ensure cooperation and coordination between national law enforcement, prosecution...</div><div>33%</div><div>33%</div></div> <div><div>Rules ensuring that effective investigative tools, such as those which are used against organised or other serious crime, are...</div><div>17%</div><div>50%</div></div> <div><div>Obligation of Member States to coordinate prosecution where an environmental crime falls under the jurisdiction of several...</div><div>71%</div></div> <div><div>Rules on territorial and personal jurisdiction[1] of a Member State with regard to environmental crime. [1] Jurisdiction in this...</div><div>17%</div><div>50%</div></div> <div><div>Obligation for Member States to criminalise the attempt to commit environmental crime</div><div>33%</div><div>0%</div></div> <div><div>Criminal sanctions for legal persons if the crime was committed for their benefit</div><div>17%</div><div>17%</div><div>50%</div></div> <div><div>A system of fines proportionate to the turnover of the legal person or to the economic benefit generated through criminal...</div><div>17%</div><div>67%</div></div> <div><div>Rules on confiscation of proceeds generated through environmental crime</div><div>14%</div><div>71%</div></div> <div><div>Prison sanctions for serious forms of environmental crime</div><div>80%</div></div> <div><div>Definition of minimum and/or maximum sanction levels binding for all Member States</div><div>17%</div><div>17%</div></div> <div><div>Not useful at all</div><div>Not very useful</div><div>Useful</div><div>Very useful</div></div>
7 - To what extent would you agree or disagree with the following statement? “The benefits of increased environmental protection derived from the implementation of DIRECTIVE 2008/99/EC on the protection of the environment through criminal law largely outweigh the costs of applying criminal sanctions on environmental crimes in Member States”	<div>N = 10</div> <div><div>11%</div><div>11%</div><div>33%</div><div></div></div> <div><div>Strongly disagree</div><div>Disagree</div><div>Neither agree or disagree</div><div>Agree</div></div>	<div>N = 7</div> <div><div>57%</div><div>29%</div></div> <div><div>Strongly disagree</div><div>Disagree</div><div>Neither agree or disagree</div><div>Agree</div></div>
8 - In your view, is criminalisation of environmental offences an effective way to ensure compliance with environmental law?	<div>N = 10</div> <div></div>	<div>N = 7</div> <div><div>Criminalisation should complement administrative sanctions and preventive measures</div><div>100%</div></div>

Question n°	Duty holders	Judges and prosecutors
	<div><p>No, administrative sanctions (permission withdrawal, cessation of activities etc, compliance monitoring (inspections and other controls) and preventive measures (e.g. awareness raising, certification/compliance programmes) are effective and sufficient</p><p>30%</p></div> <div><p>Do not know</p><p>10%</p></div> <div></div>	
9 - “In your view, to what extent do the following sanctions and measures motivate a duty holder (company/industry /organisation, natural person) to take measures to comply with environmental law?”	<p>N = [10, 11]</p> <div><p>Risk of criminal financial penalties</p><p>Risk of imprisonment</p><p>Effective controls (including environmental inspections, custom controls)</p><p>Preventive measures (certification, compliance programmes, information campaigns)</p><p>Other sanctions such as withdrawal or suspension of a licence/authorisation to operate an establishment, the shutdown of an establishment, judicial winding up, removing access to...</p><p>Risk of reputational damage</p><p>Risk of administrative fines</p><p>Concern for the environment</p><p>Restoration costs/private settlement costs to make good environmental damage</p></div> <div></div> <div><p>■ Not at all ■ To a small extent ■ To some extent ■ To a large extent</p></div>	<p>N = 7</p> <div><p>Other sanctions such as withdrawal or suspension of a licence/authorisation to operate an establishment, the shutdown of an...</p><p>Effective controls (including environmental inspections, custom controls)</p><p>Risk of reputational damage</p><p>Risk of imprisonment</p><p>Risk of criminal financial penalties</p><p>Risk of administrative fines</p><p>Restoration costs/private settlement costs to make good environmental damage</p><p>Preventive measures (certification, compliance programmes, information campaigns)</p><p>Concern for the environment</p></div> <div></div> <div><p>■ Not at all ■ To a small extent ■ To some extent</p></div>
10 - The EU Agenda on Security (2015) highlighted the link between environmental crime and organised crime. In your view, does the Directive ensure that challenges from the involvement of organised crime are met? (Several answers are possible.)”	Sample too low to compare	
11 - In your view, should more acts be criminalised by the Directive (Art. 3)?	<p>N = 10</p>	<p>N = 7</p>

Question n°	Duty holders	Judges and prosecutors																																																																																																																																																																									
	<div><p>Yes, environmental offences independent of whether they actually caused serious damage. 10%</p><p>Yes, intentional or negligent actions which did not violate environmental law but caused serious environmental damage 30%</p><p>Do not know 20%</p><p>No 40%</p></div>	<div><p>Yes, environmental offences independent of whether they actually caused serious damage. 57%</p><p>No 14%</p></div>																																																																																																																																																																									
13 - “In your view, has the Directive contributed to:	<div><div><p>In the EU as a whole (N = [8,9])</p><table><tr><td>More environmental crime prosecuted in Member States</td><td>11%</td><td>11%</td><td>22%</td><td></td></tr><tr><td>More deterrent sanctions imposed by Member State courts with regard to environmental crime</td><td>11%</td><td>22%</td><td></td><td></td></tr><tr><td>Better training and specialisation of Member State law enforcement and judicial authorities</td><td></td><td>25%</td><td></td><td>13%</td></tr><tr><td>More resources allocated to Member State law enforcement and judicial authorities</td><td>11%</td><td>11%</td><td></td><td>11%</td></tr><tr><td>More cross-border cooperation between Member State law enforcement and judicial authorities</td><td>11%</td><td>11%</td><td></td><td>11%</td></tr><tr><td>Increased awareness of the importance of environmental protection</td><td>11%</td><td>11%</td><td>22%</td><td></td></tr><tr><td>Reduction of illegal trade (of waste, 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Reduction of illegal trade (of waste, wildlife, dangerous materials etc.)	13%	25%																																																																																																																																																																									
Prevention of “safe havens” for criminals in the EU		38%																																																																																																																																																																									
More compliance of duty holders with environmental law	11%		33%																																																																																																																																																																								
More deterrent sanctions imposed by Member State courts with regard to environmental crime	17%	17%																																																																																																																																																																									
Better training and specialisation of Member State law enforcement and judicial authorities	14%	14%																																																																																																																																																																									
More resources allocated to Member State law enforcement and judicial authorities	14%	14%																																																																																																																																																																									
More cross-border cooperation between Member State law enforcement and judicial authorities	25%		13%																																																																																																																																																																								
Increased awareness of the importance of environmental protection	22%		33%																																																																																																																																																																								
Reduction of illegal trade (of waste, wildlife, dangerous materials etc.)	14%	14%																																																																																																																																																																									
Prevention of “safe havens” for criminals in the EU	29%		29%																																																																																																																																																																								
More compliance of duty holders with environmental law		43%																																																																																																																																																																									
More environmental crime prosecuted in Member States	14%		50%																																																																																																																																																																								
More deterrent sanctions imposed by Member State courts with regard to environmental crime		50%																																																																																																																																																																									
Better training and specialisation of Member State law enforcement and judicial authorities	20%	20%																																																																																																																																																																									
More resources allocated to Member State law enforcement and judicial authorities	20%	40%																																																																																																																																																																									
More cross-border cooperation between Member State law enforcement and judicial authorities		33%																																																																																																																																																																									
Increased awareness of the importance of environmental protection	29%	29%																																																																																																																																																																									
Reduction of illegal trade (of waste, wildlife, dangerous materials etc.)	0%	71%																																																																																																																																																																									
Prevention of “safe havens” for criminals in the EU	20%	20%																																																																																																																																																																									
More compliance of duty holders with environmental law	14%																																																																																																																																																																										
More environmental crime prosecuted in the Member States		33%																																																																																																																																																																									
Better training and specialisation of Member State law enforcement and judicial authorities																																																																																																																																																																											
More resources allocated to Member State law enforcement and judicial authorities	25%	25%																																																																																																																																																																									
More cross-border cooperation between Member State law enforcement and judicial authorities	17%	33%																																																																																																																																																																									
Increased awareness of the importance of environmental protection	29%	29%																																																																																																																																																																									
Reduction of illegal trade (of waste, wildlife, dangerous materials etc.)	29%																																																																																																																																																																										
Prevention of “safe havens” for criminals in the EU	17%	17%																																																																																																																																																																									
More compliance of duty holders with environmental law	14%																																																																																																																																																																										

Annex 6 – TARGETED CONSULTATION QUESTIONNAIRE

Targeted consultation as part of the evaluation of Directive 2008/99 on the protection of the environment through criminal law

ABOUT THE SURVEY

This consultation is part of the evaluation of [Directive 2008/99/EC](#) on the protection of the environment through criminal law (the ‘Environmental Crime Directive’). This evaluation is the first one since the adoption of the Directive in 2011. The study to support the Commission’s evaluation is being carried out by a team of consultants from Milieu and ICF.

With this evaluation, the European Commission (Directorate General for Justice) will assess the results achieved by the Environmental Crime Directive with regard to its objectives. The main objective of this Directive is to improve the protection of the environment by reducing environmental crime. Its specific objectives are to:

- Create a level playing field as regards the offences criminalised and sanctioning systems at national level across the EU
- Establish a sufficiently deterrent criminal sanctioning system for environmental offences
- Protect fair playing businesses
- Reduce illegal trade
- Improve judicial cooperation

Concretely, the Environmental Crime Directive requires Member States to criminalise unlawful conduct that causes or is likely or presumed to cause damage to the environment or wildlife or death or serious injury to persons (see Article 3 of the Directive). The conduct is defined as ‘unlawful’ when it infringes the EU environmental legislation listed in the Annexes A and B to the Directive, or national acts based on this EU legislation. It obliges Member States to criminalise inciting, aiding and abetting such offenses. The Directive also requires Member States to ensure that legal persons can be held liable for offences committed for their benefit – this responsibility can be of criminal or other nature – and to ensure effective, proportionate and dissuasive criminal penalties for environmental crimes, without providing for more detailed requirements on the types and levels of penalties.

The evaluation will assess the results achieved by the Environmental Crime Directive since the adoption of the Directive in 2011. The focus is mainly on waste crime (the illegal storage, disposal or recovery of waste and the illegal collection, transport (including shipment) of waste) and wildlife crime (i.e. the killing, destruction, possession or taking of wildlife; illegal wildlife trade; any conduct which causes the significant deterioration of a habitat within a protected site), although other areas of environmental crime will be considered – although less thoroughly – in the evaluation such as water, air, or soil pollution. The evaluation will specifically consider the:

- Effectiveness (the extent to which objectives have been achieved);
- Efficiency (consideration of the resources required to achieve the objectives in

- comparison to the benefits);
- Relevance (the extent to which the Directive continues to meet the needs of the EU and its citizens);
- Coherence (how the Directive interacts with other relevant areas of EU policy); and,
- EU Added Value (the value of the Directive in comparison to Member State action alone).

The different parts of the questionnaire address each of these evaluation criteria.

RESPONDING TO THE SURVEY

This targeted consultation aims to gather information and the views of stakeholders on how the Environmental Crime Directive has performed since 2011.

The European Commission has launched the [public consultation](#) linked to the evaluation of Directive 2008/99/EC on 10 October 2019. The results of both questionnaires will feed in the evaluation study and the final Staff Working document adopted by the Commission. The public consultation covers the same evaluation criteria, but is shorter and directed towards a wider audience. This questionnaire is sent to a smaller audience of experts.

The questionnaire is being sent to:

- Ministries responsible for justice in all Member States
- Ministries responsible for environment in all Member States
- Environmental regulators other than ministries (i.e. environmental agencies), selected based on membership of NEPA).
- Environmental inspectors in all Member States (selected based on membership of IMPEL)
- Prosecutors in all Member States (selected based on membership of ENPE)
- Judges in all Member States (selected based on membership of EUFJE)
- Police officers in all Member States (selected based on membership of EnviCrimeNet)
- Customs officers in all Member States
- Criminal defence lawyers in all Member States
- Environmental NGOs at EU and national level
- Organisations representing industry
- Businesses

As the consultation targets a diverse range of stakeholders, and the evaluation questions cover many different aspects of the Environmental Crime Directive, **respondents are asked to respond to the questions for which they feel they have the expertise or experience to enable them to provide an informed answer. If you do not know or do not have an opinion, simply do not provide an answer.** Only questions marked with a red asterisk are mandatory.

It is also important that answers are substantiated to the extent possible. The open text fields provide the possibility to explain answers, and also to provide concrete evidence to support the answers. Wherever possible, we ask you to identify and describe real-life examples, specific cases of environmental crimes or other situations that can concretely illustrate the response. You can provide links in all open questions and/or upload documents at the end of the questionnaire to support these examples.

You may interrupt your session at any time and continue answering at a later stage. **If you do so, please remember to save the link to your answers as this is the only way to access**

them. Once you have submitted your answers online, you will be able to download a copy of the completed questionnaire.

We kindly ask you to fill in the questionnaire by **30 November**. If you have any questions regarding the consultation, please contact: ecocrimeevaluation@milieu.be

PERSONAL DATA AND PRIVACY STATEMENT

No responses to the survey will be published. All personal data gathered for this survey is subject to the conditions laid down in the [privacy statement](#). Please read this carefully before you reply to the following questions. Your consent can be withdrawn any time by contacting the data controller, as outlined in the privacy statement.

☐ I consent to include my name and any contact details provided by me in this survey in a database for the purposes of the project.

ABOUT THE RESPONDENT

***Are you replying as:**

- ☐ A national ministry responsible for justice
- ☐ A national ministry responsible for environment
- ☐ A national environmental regulator
- ☐ A regional/local environmental regulator
- ☐ An environmental inspector
- ☐ A prosecutor
- ☐ A judge
- ☐ A police officer
- ☐ A customs officer
- ☐ A criminal defence lawyer
- ☐ An academic
- ☐ An environmental NGO
- ☐ An organisation representing industry
- ☐ A business
- ☐ Other

***If other, please specify:**

***Do you have experience in or knowledge of these areas of environmental crime (please select all that apply)**

- ☐ Waste crime
- ☐ Wildlife crime
- ☐ Other environmental crime
- ☐ None of the above

***At what level is your organisation primarily active?**

- ☐ EU level
- ☐ National level
- ☐ Regional / local level

***If you are replying on behalf of an organisation, please state the name of the organisation, and the name and position of the respondent. If you are replying as an individual expert, please state your name.**

***In which country(ies) do you have experience with prosecution of environmental crime? (Please mark all that apply)**

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden
- ☐ United Kingdom
- ☐ EU level
- ☐ Other

***If other, please specify:**

If you agree to be contacted for further clarifications or for a follow-up interview, please provide an email address

EFFECTIVENESS

Assessing the effectiveness of the Ecocrime Directive means analysing the extent to which its objectives have been met and identifying any significant factors that may have contributed to or inhibited progress towards meeting those objectives.

IMPROVING THE PROTECTION OF THE ENVIRONMENT THROUGH THE REDUCTION OF ENVIRONMENTAL CRIME

1. In your opinion, has the Ecocrime Directive contributed to improving the protection of the environment by reducing environmental crime? And if so, to what extent can this be attributed to the Directive?

- ☐ Yes, and it can be significantly attributed to the Directive
- ☐ Yes, and it can be partly attributed to the Directive
- ☐ Yes, but the contribution of the Directive was minimal
- ☐ No contribution has been observed

Please explain your answers to Question 1 above, based on your experience and including examples (where possible).

CREATING A LEVEL PLAYING FIELD AS REGARDS THE OFFENCES CRIMINALISED AND SANCTIONING SYSTEMS AT NATIONAL LEVEL ACROSS THE EU

2. Has the public attitude to breaches of environmental law changed since the adoption of the Directive?

	To a major extent	To a moderate extent	To a minor extent	Not at all
More concerned about the serious impact on health	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
More concerned about the serious impact on the environment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
More aware of potential links with organised crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answers to Question 2 above, based on your experience and including examples (where possible).

CREATING A LEVEL PLAYING FIELD AS REGARDS THE OFFENCES CRIMINALISED AND SANCTIONING SYSTEMS AT NATIONAL LEVEL ACROSS THE EU

3. In your opinion, has the Directive produced a level playing field in relation to environmental offences and sanctions in the Member States and thus avoided safe havens?

	To a major extent	To a moderate extent	To a minor extent	Not at all
Wildlife offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Waste offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other environmental offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answers to Question 3 above, based on your experience and including examples (where possible).

4. In your opinion, has the Directive resulted in sufficiently effective, proportionate and dissuasive criminal sanctions?

	To a major extent	To a moderate extent	To a minor extent	Not at all
Wildlife offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Waste offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other environmental offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answers to Question 4 above, based on your experience and including examples (where possible).

5. In your opinion, has the Directive resulted in sufficiently effective, proportionate and dissuasive sanctions for legal persons?

	To a major extent	To a moderate extent	To a minor extent ^a	Not at all
Wildlife offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Waste offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other environmental offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answers to Question 5 above, based on your experience and including examples (where possible).

6. In your opinion, have the following factors supported or inhibited the establishment of a level playing field as regards the offences criminalised and the sanctioning systems across the EU?

	Strongly supported	Slightly supported	Neither supported nor inhibited	Slightly inhibited	Strongly inhibited
Inconsistent interpretation of 'effective, proportionate and dissuasive sanctions'	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sanctions imposed do not take account of profit made from commission of offence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The absence of criminal sanctions for legal persons in all Member States	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Poor enforcement of EU environmental legislation at national level in some Member States	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of prioritisation of enforcement of EU environmental legislation and/or environmental crime in some Member States	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insufficient human and financial resources to enforce EU environmental legislation and address environmental crime in some Member States	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insufficiently specialised human resources to enforce EU environmental legislation and address environmental crime in some Member States.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Training and guidance at EU level	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Establishment of networks of EU practitioners	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If other, describe these factors below and explain how they inhibited the creation of a level playing field for environmental offences in the EU.

Please explain your answers to Question 6 above based on your experience and including examples (where possible).

7. **(Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers)** In your opinion, have practitioners (judges, prosecutors, defence lawyers, police officers and customs officers, inspectors) specialised in environmental crime since the adoption of the Environmental Crime Directive?

	To a major extent	To a moderate extent	To a minor extent	Not at all
Judges	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Prosecutors	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Defence lawyers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Police officers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Customs officers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Inspectors	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

(Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers) Please explain your answers to Question 7 above, based on your experience and including examples (where possible).

8. **(Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers)** In your opinion, in what areas of environmental crime have practitioners specialised?

	To a major extent	To a moderate extent	To a minor extent	Not at all
Wildlife offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Waste offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other environmental offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

(Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers) Please explain your answers to Question 8 above, based on your experience and including examples (where possible).

9. **(Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers)** Has the number of training events on environmental crime for practitioners (judges, prosecutors, defence lawyers, police officers, customs officers and inspectors) increased since the adoption of the Environmental Crime Directive?

	Yes	No
Judges	<input type="radio"/>	<input type="radio"/>
Prosecutors	<input type="radio"/>	<input type="radio"/>
Defence lawyers	<input type="radio"/>	<input type="radio"/>
Police officers	<input type="radio"/>	<input type="radio"/>

	Yes	No
Customs officers	<input type="radio"/>	<input type="radio"/>
Inspectors	<input type="radio"/>	<input type="radio"/>

10. (Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers) In your opinion, in what areas of environmental crime have the number of training events increased?

	Yes	No
Wildlife offences	<input type="radio"/>	<input type="radio"/>
Waste offences	<input type="radio"/>	<input type="radio"/>
Other environmental offences	<input type="radio"/>	<input type="radio"/>

ESTABLISHING AN EFFECTIVE CRIMINAL SANCTIONING SYSTEM FOR ENVIRONMENTAL OFFENCES

11. In your opinion, has the Directive resulted in an overall increase of investigation of environmental crimes in the Member States?

	Yes, and it can be significantly attributed to the Directive	Yes, and it can be partly attributed to the Directive	Yes, but the contribution of the Directive was minimal	No contribution has been observed
Wildlife offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Waste offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other environmental offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

12. In your opinion, has the Directive resulted in an overall increase of criminal trials of environmental crimes in the Member States?

	Yes, and it can be significantly attributed to the Directive	Yes, and it can be partly attributed to the Directive	Yes, but the contribution of the Directive was minimal	No contribution has been observed
Wildlife offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Waste offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other environmental offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

13. In your opinion, has the Directive overall resulted in an increase in the level of sanctions imposed for environmental crimes in the Member States?

	Yes, and it can be significantly attributed to the Directive	Yes, and it can be partly attributed to the Directive	Yes, but the contribution of the Directive was minimal	No contribution has been observed
Wildlife offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	Yes, and it can be significantly attributed to the Directive	Yes, and it can be partly attributed to the Directive	Yes, but the contribution of the Directive was minimal	No contribution has been observed
Waste offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other environmental offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

14. In your opinion, has the Directive overall resulted in the increased imposition of liability for environmental crime on legal persons?

	Yes, and it can be significantly attributed to the Directive	Yes, and it can be partly attributed to the Directive	Yes, but the contribution of the Directive was minimal	No contribution has been observed
Wildlife offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Waste offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other environmental offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

15. In your opinion, have the following factors contributed to observed trends in the investigation, criminal trials and sanctioning of environmental crime? (internal factors)

	Yes, but it was attributable to the Directive	Yes, and it was independent of the Directive	No, it has not contributed	No, it did not happen
Increased human and financial resources dedicated to enforcement of EU environmental legislation and fighting environmental crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increased training of environmental practitioners	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increased specialisation of environmental practitioners	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increased prioritisation by national governments of enforcement of EU environmental legislation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Guidance by government (such as sentencing guidelines)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Changes in national legislation in relation to environmental crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If other in Questions 15, describe these factors below and explain how they have contributed to trends in the investigation, criminal trials and sanctioning of environmental crime.

16. In your opinion, have the following factors contributed to observed trends in the investigation, criminal trials and sanctioning of environmental crime? (external factors)

	To a major extent	To a moderate extent	To a minor extent	Not at all
Increased involvement of organised crime in environmental crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
New areas of environmental crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increased public pressure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>		

If other in Questions 16, describe these factors below and explain how they have contributed to trends in the investigation, criminal trials and sanctioning of environmental crime.

IMPROVING JUDICIAL COOPERATION

17. (Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers) Has the Directive resulted in increased cooperation between law enforcement and environmental practitioners within Member States?

- ☐ To a major extent
- ☐ To a moderate extent
- ☐ To a minor extent
- ☐ Not at all

(Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers) Please explain your answers to Question 17 above, based on your experience and including examples (where possible).

18. Has the Directive resulted in increased cooperation between Member States in relation to cross-border environmental offences?

- ☐ To a major extent
- ☐ To a moderate extent
- ☐ To a minor extent
- ☐ Not at all

Please explain your answers to Question 18 above, based on your experience and including examples (where possible). Please indicate which factors, in your opinion, supported or inhibited judicial cooperation.

EFFICIENCY

Assessing the efficiency of the Environmental Crime Directive means assessing whether the costs involved in the implementation of the Directive are reasonable and in proportion to the changes or effects achieved. For that purpose, it is important to get an understanding of the type and magnitude of the costs and benefits of the Directive.

COSTS OF THE DIRECTIVE

19. (Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers – businesses and organisation representing industry) To what extent has the entry into force of the Directive at national level increased your work as practitioner (judges, prosecutors, defence lawyers, police officers and customs officers, inspectors) specialised in environmental crime, or in your business (or businesses you represent)?

- ☐ To a major extent
- ☐ To a moderate extent
- ☐ To a minor extent
- ☐ Not at all

(Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers – businesses and organisation representing industry) Please explain your answers to Question 19 above, based on your experience and including examples (where possible). Please indicate which factors, in your opinion, have influenced workloads

20. (Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers – ministries responsible for justice, ministries responsible for environment, and environmental regulators) In your opinion, has the Directive had an effect on the typical cost (staff time and resources) of investigating an environmental crime in your country?

	Major increase	Moderate increase	Minor increase	No change	Minor decrease	Moderate decrease	Major decrease
Wildlife offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Waste offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other environmental offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers – ministries responsible for justice, ministries responsible for environment, and environmental regulators) Please explain your answer to Question 20 above, by stating the reasons why typical investigation costs have or have not increased.

21. (Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers – ministries responsible for justice, ministries responsible for environment, and environmental regulators) In your opinion, has the Directive had an effect on the typical cost (staff time and resources) of criminal trials of environmental crime in your country?

	Major increase	Moderate increase	Minor increase	No change	Minor decrease	Moderate decrease	Major decrease
Wildlife offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Waste offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other environmental	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	Major increase	Moderate increase	Minor increase	No change	Minor decrease	Moderate decrease	Major decrease
offences							

(Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers – ministries responsible for justice, ministries responsible for environment, and environmental regulators) Please explain your answers to Question 21 above, by stating the reasons why typical prosecuting costs have or have not increased.

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- 22. (Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers – ministries responsible for justice, ministries responsible for environment, and environmental regulators)** Which capacities, structures and resources have been improved or stepped up in your organisation as a result of the Directive and what have been the associated costs? Please provide estimated costs for your organisation.

	Cost (EUR) (please indicate if one-off or recurring)
Training	
Specialisation of staff	
New staff	
Establishment of specialised units	
Monitoring and reporting process	
Cooperation structures and process	
New equipment	
Legal advice	
Other	

If other, please specify the action and its cost.

--

- 23. (Only for businesses and organisation representing industry)** What capacities, structures and resources have been allocated by your business (or businesses you represent), as result of the Directive, to ensure crimes are not committed?

Compliance training / awareness raising
Additional legal advice
Improvement of monitoring/controls/compliance measures/work flows
Investments in equipment/assets/production sites/specialised staff etc.
External consultancy/advice
Other

(Only for businesses and organisation representing industry) Please provide details to support your response to Question 23. If you ticked 'other', please specify.

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- 24. (Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers – ministries responsible for justice, ministries responsible for environment, and environmental regulators)** Could you provide an estimate of the resources you or your team/department/organisation allocate(s) on an annual basis to addressing environmental crime? Please indicate whether these costs relate to you/your team/department/organisation.

	Time/year (days/year)	Resources/year (EUR/year)
Me as practitioner		
My team		
My department		
My organisation		

25. (Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers – ministries responsible for justice, ministries responsible for environment, and environmental regulators) Could you provide an estimate of the number of staff in your country involved in addressing environmental crime?

	Estimated number of staff involved in the investigation, prosecution, and litigation of environmental crime in your country (number of individuals)
Judges	
Prosecutors	
Defence lawyers	
Police officers	
Customs officers	
Inspectors	
Other (please specify)	

26. (Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers – ministries responsible for justice, ministries responsible for environment, and environmental regulators) In your opinion, has the Directive resulted in an increase in the number of staff in your country involved in enforcing environmental crime?

	Yes, and it can be significantly attributed to the Directive	Yes, and it can be partly attributed to the Directive	Yes, but the contribution of the Directive was minimal	No increase has been observed
Overall	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Wildlife offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Waste offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other environmental offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

27. (Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers – ministries responsible for justice, ministries responsible for environment, environmental regulators, businesses and organisations representing industry) Is there potential for the EU and Member States to simplify or reduce the costs deriving from the Directive, without undermining its intended objectives?

- ☐ Yes
☐ No

(Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers – ministries responsible for justice, ministries responsible for environment, environmental regulators, businesses and organisations representing industry) Please explain your answer and provide examples of opportunities to simplify or reduce costs, relating to Question 27 above.

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28. (Only for practitioners – environmental inspectors, prosecutors, judges, police officers, customs officers. Criminal defence lawyers – ministries responsible for justice, ministries responsible for environment, environmental regulators, businesses and organisations representing industry)

representing industry) Do you know of examples of best practices that can help to improve efficiency i.e. the costs relative to the benefits?

- ☐ Yes
☐ No

If you responded 'yes' to Question 28 above, please provide details of best practices including details of how and to what extent they can improve efficiency.

BENEFITS OF THE DIRECTIVE

29. In your opinion, has the Directive resulted in a decrease (or reduced growth) in illegal activity in the following areas?

	Yes, to a major extent	Yes, to a moderate extent	Yes, to a minor extent	Not at all
Wildlife	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Waste	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other environmental areas	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you responded 'yes' to Question 29 above, please provide details of the types of illegal activity that have seen a reduction (or reduced rate of growth)

30. If you responded 'yes' to a decrease (or reduced growth) in illegal activity in relation to wildlife, what benefits do you think have occurred as a result of a decrease in illegal wildlife activity?

	To a major extent	To a moderate extent	To a minor extent	Not at all
Environmental benefits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Economic benefits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Societal benefits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answers to Question 30 above, including examples (where possible).

31. If you responded 'yes' to a decrease (or reduced growth) in illegal activity in relation to waste, what benefits do you think have occurred as a result of a decrease in illegal waste activity?

	To a major extent	To a moderate extent	To a minor extent	Not at all
Environmental benefits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Economic benefits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Societal benefits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answers to Question 31 above, including examples (where possible).

32. If you responded ‘yes’ to a decrease (or reduced growth) in illegal activity in other environmental areas, what benefits do you think have occurred as a result of a decrease in other types of illegal environmental offence activity?

	To a major extent	To a moderate extent	To a minor extent	Not at all
Environmental benefits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Economic benefits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Societal benefits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answers to Question 32 above, including examples (where possible).

COMPARING THE COSTS AND BENEFITS OF THE DIRECTIVE

33. To what extent would you agree or disagree with the following statement? “The costs of applying criminal sanctions on environmental crimes in Member States are proportionate and justified given the expected benefits of increased environmental protection derived from the implementation of Directive 2008/99/EC on the protection of the environment through criminal law.”

- ☐ Strongly agree
- ☐ Agree
- ☐ Disagree
- ☐ Strongly disagree

RELEVANCE

Relevance concerns the extent to which the original objectives of the Environmental Crime Directive are consistent with the current needs. It relates to whether the objectives of the legislation are still necessary and appropriate and whether the objectives and requirements set out in the Directive are still valid.

NEEDS

34. Do we still need to address environmental criminality on the basis that it still has an adverse effect on the following areas?

	To a major extent	To a moderate extent	To a minor extent	Not at all
Water	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Air	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Soil	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Habitats	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Flora and fauna	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer to Question 34 based on your experience and including examples (where possible).

35. In addition to the areas covered by the Directive, are there new areas of environmental crime or areas that have become more significant since the adoption of the Directive?

	To a major extent	To a moderate extent	To a minor extent	Not at all
Illegal logging	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Fisheries crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Emissions trading fraud	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer to Question 35 based on your experience and including examples (where possible) and, if you selected other, please specify the areas of environmental crime and indicate whether you think that they should be added to the Directive.

36. Has the nature of environmental crime changed since the adoption of the Directive?

	To a major extent	To a moderate extent	To a minor extent	Not at all
Increase in the involvement of legal persons	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase in the involvement of organised crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase in the number of crimes with cross-border dimension	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer to Question 36 based on your experience and including examples (where possible).

37. If you answered that there is an increase in the involvement of organised crime, in which areas of environmental crime have you noticed this increase?

38. Is the Directive, in its current form, sufficiently addressing the involvement of organised crime in environmental crime? If not, how should the Directive be improved in that regard?

39. Are there other conducts currently not criminalised by the Directive (Article 3) that should be covered by the Directive?

40. Are you aware of examples of specific cases of environmental damage that fell outside the scope of the Directive and could not be prosecuted from 2011 to 2018? If yes, please describe these examples below. You can provide links to documents and/or articles to support your description. If you wish to upload documents, you can do so at the end of the questionnaire.

OBJECTIVES

41. Based on the current needs in relation to environmental crime, are the following specific objectives of the Directive still relevant?

	To a major extent	To a moderate extent	To a minor extent	Not at all
Create a level playing field as regards the offences criminalised and sanctioning systems at national level across the EU	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensure a sufficiently deterrent criminal sanctioning system for environmental offences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Protect fair playing business	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduction of illegal trade	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Improve judicial cooperation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

42. Based on current needs in relation to environmental crime, should the Directive adopt any new objectives?

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COHERENCE

Evaluating the coherence of the Environmental Crime Directive means assessing how well it works in conjunction with other relevant laws and EU policies. The breaches of environmental law criminalised by the Directive also be subject to administrative sanctioning regimes. It is important to understand how the criminal offences work with other sanctioning regimes.

43. Is administrative law sufficient to address breaches of environmental law/environmental crimes?

- ☐ Yes
- ☐ No

Please explain your answers to Question 43 above, based on your experience.

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44. Does the criminalisation of specific breaches of environmental law complement or frustrate non-criminal enforcement instruments?

- ☐ Significantly complements
- ☐ Complements
- ☐ Neither complements nor frustrates
- ☐ Frustrates
- ☐ Significantly frustrates

Please explain your answers to Question 44 above, based on your experience.

--

45. Does the existence of criminal offences for breaches of environmental law result in a more effective enforcement regime?

- ☐ Yes

☐ No

Please explain your answers to Question 45 above, based on your experience and including examples (where possible).

46. Is administrative law and/or administrative sanctions sufficient to address environmental crimes committed by legal persons?

☐ Yes

☐ No

Please explain your answers to Question 46 above, based on your experience and including examples (where possible).

EU ADDED VALUE

EU Added Value is defined as the additional value resulting from EU legislation compared to what would have been achieved by Member States acting in isolation. EU added value questions ask whether EU action was needed and is still needed. To support the assessment of EU Added Value, it is important to try to envision what might have happened with regard to environmental crime if the Environmental Crime Directive had not been adopted. The questions below aim to look at what might have happened, as well as better understand the overall benefits of having common EU legislation across all Member States.

47. In your opinion, would the following have taken place in your Member State if the Directive had not been adopted?

	To a major extent	To a moderate extent	To a minor extent	Not at all
The criminalisation of breaches of environmental law	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The liability of legal persons in relation to breaches of environmental law	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A level playing field with other Member States in relation to environmental crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduction of illegal trade	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cross-border cooperation in investigation and prosecution of environmental crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Specialisation of environmental practitioners	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer to Question 47 above, based on your experience and judgement.

48. Is it likely that the following would continue in your Member State if targeted EU action on environmental crime stopped?

	To a major extent	To a moderate extent	To a minor extent	Not at all

	To a major extent	To a moderate extent	To a minor extent	Not at all
The criminalisation of breaches of environmental law	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The liability of legal persons in relation to breaches of environmental law	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A level playing field with other Member States in relation to environmental crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduction of illegal trade	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cross-border cooperation in investigation and prosecution of environmental crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Specialisation of environmental practitioners	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

49. How important are the following benefits of having the same legislation in relation to environmental crime in all EU Member States?

	Very important	Moderately important	Of minor importance	Not important
Providing a level playing field for honest operators and prevent safe havens for breaches of environmental law	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Protecting fair playing businesses	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduction of illegal trade	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cross-border cooperation in investigation and prosecution of environmental crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Opportunities for exchanges of good practice and collaboration in areas such as training and guidance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If other, please list below.

Please explain your answer to Question 49 above, based on your experience and judgement.

ADDITIONAL INPUT AND FILE UPLOADS

If you wish to provide any additional input on the implementation and performance of the Environmental Crime Directive, please provide it below.

If you wish to submit additional documentation in support of your responses, please upload your files here.

The maximum file size is 1 MB

Select file to upload.

Annex 7 – PUBLIC CONSULTATION QUESTIONNAIRE

Public consultation on the evaluation of Directive 2008/99/EC on the protection of the environment through criminal law (Environmental Crime Directive)

Introduction

According to the UN and Interpol, environmental crime is the fourth largest criminal activity in the world after drug smuggling, counterfeiting and human trafficking. It is worth between USD 91 billion and 259 billion and is rising by 5-7 per cent annually⁷³. Serious forms of environmental crime often have a cross-border dimension and involve organised crime groups or corporate actors. The EU is directly affected by environmental crime as an origin (for example for waste trafficking) or destination market (for example for illegal logging) or as a transit point between two regions of the globe (for example between Africa and Asia for wildlife products).

In 2008, the EU adopted Directive 2008/99/EC on the protection of the environment through criminal law⁷⁴ ("the Directive").

The Directive sets out obligations for Member States to

- criminalise unlawful conduct that causes or is likely or presumed to cause damage to the environment or wildlife or death or serious injury to persons. The conduct is defined as 'unlawful' when it infringes the EU environmental legislation listed in the Annexes A and B to the Directive, or national acts based on this EU legislation.
- It also obliges Member States to criminalise inciting and aiding and abetting such offenses;
- ensure that legal persons can be held liable for offences committed for their benefit;
- ensure effective, proportionate and dissuasive criminal penalties for environmental crimes.

In this context, the Commission is evaluating the Environmental Crime Directive with a view to establishing whether the Directive has achieved its objectives to contribute to better protection of the environment. The evaluation will assess results for the time the Directive has been applicable, 2011 to 2018, and from all Member States. The focus will be on waste and wildlife crimes, as these are the areas that Member States are most concerned by, and where most data and information exists in the public domain.

The evaluation will look at the criteria of effectiveness, relevance, efficiency, coherence/complementarity and EU-added value.

This public consultation is an opportunity for all to provide their views on the Directive. Where questions are addressed to certain stakeholders only, this is clearly indicated.

You may answer the open questions in this questionnaire in any official EU language, except Gaelic.

⁷³ INTERPOL-UN Environment (2016). Strategic Report: Environment, Peace and Security – A Convergence of Threats. Available at www.interpol.int and www.unep.org.

⁷⁴ 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.

The results of this public consultation along with a synopsis report will be published on the public consultation website of the Commission, soon after its closure.

About you:

My background:

- Private individual
- Business/industry association (please specify sector)
- Business/industry (please specify sector)
- National judicial authority (judge/prosecutor)
- National public enforcement authority (environmental supervisory authority/police)
- National public enforcement authority (sector specific)
- Local/regional authority (please specify)
- Government authority in charge of environmental policy
- Environmental NGOs
- Other interest organisations (hunters, farmers etc)
- Professional networks (judges/prosecutors, environmental inspectors, police etc.)
- Other public bodies and institutions (please specify)
- Academia
- Other (please specify)

Please specify business sector (if applicable) or if other:

What is your country of residence? (In case of legal entities, please select the primary place of establishment of the entity you represent)

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- The Netherlands

- United Kingdom
- Other

If other, please specify:

Are you familiar with the Environmental Crime Directive?

Yes

No

Questionnaire

Questions on effectiveness: This section treats the progress of the Directive towards a better protection of the environment.

Question 1a. In your view, did the protection of the environment improve over the last ten years in your Member State of residence with regard to:

	Yes, to a large extent	Yes, to some extent	Yes, to a small extent	No	Do not know
Wildlife crime (illegal hunting/logging/trafficking and killing of protected species/damage to habitats)					
Waste crime (dumping, trafficking, illegal handling of waste)					
Pollution crimes (air/water/soil)					
Other (please specify)					

Question 1b. In your view, did the protection of the environment improve over the last ten years in the European Union overall with regard to:

	Yes, to a large extent	Yes, to some extent	Yes, to a small extent	No	Do not know
Wildlife crime (illegal hunting/logging/trafficking and killing of protected species/ damage to habitats)					
Waste crime (dumping, trafficking, illegal handling of waste)					
pollution crimes (of air/water/soil)					
Other (please specify)					

Question 2. What kind of changes did you observe in your Member State of residence with regard to the protection of the environment over the last 10 years? (multiple answers possible).

- Less environmental damage (for example: less pollution [of water/air/soil], less illegal waste dumping/trafficking, less illegal hunting, less illegal logging)
- More environmental damage (for example: more pollution, more waste crime, more wildlife crime)
- More resources to fight environmental crime (courts, police, environmental authorities)
- More investment/compliance measures taken by duty holders/companies/industries/organisations obliged by environmental law
- More detection of environmental offences
- Less detection of environmental offences
- More prosecution of environmental criminal offences
- Less prosecution of environmental criminal offences
- More cross-border cooperation between law enforcement and judicial authorities
- More criminal convictions with regard to environmental crime
- Less criminal convictions with regard to environmental crime
- Higher sanctions imposed with regard to environmental crime
- More awareness of the public of the importance of environment protection.
- No changes
- Do not know

If other, please specify:

Question 3. Are you a duty-holder with regard to environmental law, or do you work for a duty-holder (for example company/industry/organisation) obliged by environmental law?

- ☐ Yes
- ☐ No

If your answer is "no", please skip to question 4.

Question 3a. Did you observe that the criminalisation of environmental offences led to duty-holders taking measures to comply with environmental law requirements?

- ☐ Yes
- ☐ No
- ☐ No, environmental compliance measures were taken independently of the criminalisation of environmental offences.
- ☐ Do not know.

Question 3b. If the answer to the above question is yes, which additional measures have been taken in your company/industry/organisation (several answers are possible):

- ☐ compliance training/awareness-raising measures
- ☐ additional legal advice
- ☐ improvement of monitoring/controls/compliance measures/
- ☐ investments in equipment/assets/production sites/specialised staff etc.
- ☐ external consultancy/advice
- ☐ other, please specify:

Question 4. If you think that the protection of the environment through criminal law as provided in the EU Directive might not be fully effective in your Member State of residence or the EU overall? What are in your view the main reasons? Please assess in the table below.

	Yes, to a large extent	Yes, to some extent	Yes, to a small extent	No, not at all	Do not know
At EU level					
Different criminal sanction levels across the EU result in criminals moving their criminal activities to EU Member States with low criminal sanctions.					
Insufficient cross-border cooperation between EU Member State authorities.					
Insufficient support at EU level (e.g. by bodies such as OLAF, Eurojust) for cross-border cooperation between Member States.					
At national law enforcement/judicial level					
Lack of specialisation and training of law enforcement authorities and judiciary.					
Insufficient allocation of financial and human resources to detect, investigate and prosecute environmental crime.					
Difficulties in practice to prove that an environmental crime has been committed.					
The criminal sanctions that are imposed are too low to deter.					
Insufficient cooperation and coordination between different national authorities responsible for detecting, investigating and prosecuting environmental crime (police, prosecution, judicial authorities, administrative authorities, tax authorities).					
Lack of systematic data collection and information sharing between different relevant authorities.					

	Yes, to a large extent	Yes, to some extent	Yes, to a small extent	No, not at all	Do not know
Lack of specialisation and tailored training of law enforcement authorities and judiciary.					
At legislative level					
Criminal sanction levels in the national criminal code do not have enough of a deterrent effect.					
Lack of criminal liability for legal persons.					
Complexity of enforcement of environmental law (interplay between criminal, civil and administrative law).					

Other, please specify:

Question 5. If you consider that terms in the legislation such as “substantial damage”, “dangerous activity or substances”, “negligible/non-negligible impact” are too vague, how could legal clarity be improved? (Several answers are possible)

- At EU level: the Directive should contain clearer and more precise definitions.
- At EU level: the EU should issue non-binding guidelines/best practices on vague terms in the Directive, considering legal traditions and case law.
- At Member State level: Member States should transpose vague terms into their national law in a clear and precise manner taking account of their national legal traditions.
- At Member State level: the judiciary should clarify vague terms in case law.
- In your Member State of residence, there are no such problems resulting from the terms mentioned.
- Do not know.
- Any other comments, please specify:

Question 6: If you consider that the Directive might not be fully effective, please consider whether the following rules on particular issues could have been useful to improve the effectiveness of the Directive:

	Very useful	Useful	Not very useful	Not useful at all	Do not know
Definition of minimum and/or maximum sanction levels binding for all Member States.					
Prison sanctions for serious forms of environmental crime.					
Rules on confiscation of proceeds generated through environmental crime.					
A system of fines proportionate to the turnover of the legal person or to the economic benefit generated through criminal offences.					
Criminal sanctions for legal persons if the crime was committed for their benefit.					
Obligation for Member States to criminalise the attempt to commit environmental crime.					
Rules on confiscation of proceeds generated through environmental crime.					
Rules on territorial and personal jurisdiction ⁷⁵ of a Member State with regard to environmental crime.					
Obligation of Member States to coordinate prosecution where an environmental crime falls under the jurisdiction of several Member States (for example by having recourse to Eurojust).					
Rules ensuring that effective investigative tools,					

⁷⁵ Jurisdiction in this context means the competence of a Member State to apply and enforce its national law in a defined geographic area (e.g. the Member State’s territory) and with regard to particular persons (e.g. its nationals independent of where the criminal act is committed).

such as those which are used against organised or other serious crime, are available for environmental crime.

Obligation to collect statistical data on environmental crime.

Obligation of Member States to ensure cooperation and coordination between national law enforcement, prosecution and judicial authorities including information exchange and exchange of statistical data.

Further EU action is not necessary

Other, please specify:

Question on efficiency: This section treats the analysis of the relationship between the costs and benefits generated by the Directive.

Question 7: To what extent would you agree or disagree with the following statement?

"The benefits of increased environmental protection derived from the Environmental Crime Directive on the protection of the environment through criminal law largely outweigh the costs of applying criminal sanctions on environmental crimes in Member States."

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree
- ☐ Do not know.

Questions on relevance: This section treats the relevance of the Directive and more specifically if it still corresponds to the needs to improve the protection of the environment.

Question 8. In your view, is criminalisation of environmental offences an effective way to ensure compliance with environmental law?

- ☐ No, administrative sanctions (permission withdrawal, cessation of activities etc, compliance monitoring (inspections and other controls) and preventive measures (e.g. awareness raising, certification/compliance programmes) are effective and sufficient.
- ☐ Criminalisation should complement administrative sanctions and preventive measures.
- ☐ Do not know.
- ☐ Other, please specify:

Question 9. In your view, to what extent do the following sanctions and measures motivate a duty holder (company/industry/organisation, natural person) to take measures to comply with environmental law?

	To a large extent	To some extent	To a small extent	Not at all	Do not know
Risk of criminal financial penalties					
Risk of Administrative fines					
Risk of imprisonment					
Risk of reputational damage					
Restoration costs/private settlement costs to make good environmental damage.					

To a large extent To some extent To a small extent Not at all Do not know

Other sanctions such as withdrawal or suspension of a licence/authorisation to operate, shutdown of an establishment used for environmental crime, judicial winding up, removing access to public aid, judicial supervision
Preventive measures (certification, compliance programmes, information campaigns)
Effective controls (including environmental inspections, custom controls)
Concern for the environment

Question 10. The EU Agenda on Security (2015) highlighted the link between environmental crime and organised crime. In your view, does the Environmental Crime Directive ensure that challenges from the involvement of organised crime are met? (several answers are possible):

- Yes, the Directive's provisions are sufficient to meet challenges stemming from involvement of organised crime.
- No, the Directive lacks provisions
- No, the Directive lacks provisions to oblige Member States to treat environmental crime committed in the context of organised crime as an aggravating circumstance in court procedures.
- No, the Directive lacks provisions on minimum or maximum sanctions if environmental crime is omitted in the context of organised crime.
- No, the Directive lacks provisions on investigative tools to be made available if environmental crime is committed in the context of organised crime.
- No, the Directive lacks provisions to oblige Member States to criminalise environmental offences if committed in the framework of a criminal organisation independent of whether the offence has entailed serious damage or not.
- Do not know.
- Other, please specify:

Question 11. In your view, should more acts be criminalised by the Environmental Crime Directive (Art. 3)?

- Intentional or negligent actions which did not violate environmental law but caused serious environmental damage.
- Environmental offences independent of whether they actually caused serious danger/damage.
- None.
- Do not know.

Other, please specify:

Questions on coherence: Coherence treats the relationship between a legislative instrument and other European/national instruments in the same area.

Question 12. Currently, breaches of EU fisheries legislation are generally not criminalised. Do you find it justified and coherent that breaches of fisheries legislation should be criminalised?

- Yes
- No
- Yes, for certain serious breaches
- Do not know

Questions on EU added-value: This section treats the question whether EU action is necessary to stimulate and complement national action

Question 13: In your view, has the Directive contributed to

	To a large extent		To some extent		To a small extent		Not at all		Do not know	
	In your country	In the EU overall	In your country	In the EU overall	In your country	In the EU overall	In your country	In the EU overall	In your country	In the EU overall
More compliance of duty holders with environmental law										
Prevention of “safe havens” for criminals in the EU										
Reduction of illegal trade (of waste, wildlife, dangerous materials etc.)										
Increased awareness of the importance of environmental protection										
More cross-border cooperation between Member State law enforcement and judicial authorities										
More resources allocated to Member State law enforcement and judicial authorities										
Better training and specialisation of Member State law enforcement and judicial authorities										
More deterrent sanctions imposed by Member State courts with regard to environmental crime										
More environmental crime prosecuted in Member States										

Question 14:

To what extent do you agree with the following:

	To a large extent	To some extent	To a small extent	Not at all	Do not know
If there was no EU action on environmental crime, Member States’ would have reached					

To a large extent

To some extent

To a small
extent

Not at all

Do not
know

the same result by national criminal
legislation
EU action is important to have a framework
for effective cross-border cooperation with
regard to environmental crime.

Question 15. Are there any other issues with regard to the Directive to which you would like to draw our attention?

Please feel free to upload a relevant document, such as additional evidence supporting your responses or a position paper. The maximum file size is 1MB.

Please note that the uploaded document will be published alongside your response to the questionnaire which is the essential input to this open public consultation. The document is an optional complement and serves as additional background reading to better understand your position.

Annex 8 – TABLE ON CHANGES IN MS legislation to transpose the Directive

MS Main changes introduced

- AT
- New offences for 3 (f), (g), (h) and (i)
 - Amendment in 2015 introducing definition of serious negligence and harmonising the punitive frame (introduction of fines alternative to imprisonment)
- BE
- 2014 Change in the structure of legal act transposing the ECD in BR where criminal sanctions for environmental offences have been included into one single chapter.
 - WR adopted the Decree on environmental offences in 2019
 - 2018 amendment, introducing joint criminal convictions of both natural persons and a legal person
 - Some increase in fines applicable to natural persons and significant increase in penalties for legal persons for 3(a), (b) and (c). Increase for 3(g) offences for natural and legal persons (post transposition).
 - Introduction of a new offence for Article 3(f) in the French version of the transposing law to cover possession of specimens of protected species (post transposition).
- BG
- For natural persons increase in penalties in general although the maximum level remains low
 - Additional offences for 3(b), (c) and (d), and new offences for 3(i)
 - For legal persons for all offences (new penalties for (i) and substantial increase for the others ((a), (b), (c) and (h))
- CY
- Change in structure as adopted a new specific act, although the criminal offences already existed in previous legislation
 - Increase in penalties for 3(b), (c), (h) and (i) for both natural and legal persons
- CZ
- Adoption of a new Criminal Code in 2009, influenced by the Directive
 - Introduction of new offences for Articles 3(e) and (i) (post transposition).
 - Introduction of criminal liability of legal persons
 - Significant increase in 3(a), (b), (c) and (h) penalties
- DE
- Stricter sanctions in particular 3(a), (b), (c), (h) for natural persons and in general for legal persons as part of an overall increase of administrative sanctions applicable to legal persons
 - Introduction of new offences for Articles 3(f) and (g) to include criminalisation of certain offences with regard to all relevant protected species and to the inclusion of serious negligence (post transposition).
- DK
- No specific transposing act adopted
 - Introduction of new offences to cover the liability of legal persons in the area of use of unsealed radioactive sources in hospitals and laboratories (post transposition).
- EE
- Introduction of negligence in 2015
 - New offences introduced for 3(b) (post-transposition), (c), (d), (i) for natural and legal persons
 - Increase in sanctions for Article 3(c) and (i) (post transposition).
- EL
- Change in structure as, although most environmental crimes were already regulated in the 1986 Framework Law on Environment, the 2012 Act set a corpus of horizontal catch-all provisions, transposing in a literal fashion the Directive. It also

- MS Main changes introduced
amended the 1986 Law to harmonise the level of sanctions.
- General increase of sanctions
- ES
- Introduction of criminal liability of legal persons
 - Introduction of offences for 3(c), (d), (h) and (i)
 - Introduction of amendments to include criminalisation of serious negligence of Article 3(e) to (h) and to cover explicitly the destruction and possession of specimens of flora and fauna (post transposition).
- FI
- No specific transposing act adopted – reliance on existing legislation
- FR
- Change in structure of the framework legislation by the inclusion of a new specific chapter on criminal sanctions in the environmental code
 - Increase in sanctions for both natural and legal persons
 - Introduction of amendments to criminalise offences under Article 3(e) ‘likely to cause’ substantial damage to the quality of air, soil or water or to animals and plants and to criminalise actions of aiding and abetting the intentional conduct of Article 3 for contraventions (post transposition).
- HR
- Additional/improved offences for 3(a), (b), (d), (h) and (i)
 - Introduction of amendments to include (simple) negligence for the offences of Article 3(c) (post transposition).
- HU
- Change in the structure of the framework legislation as the new 2012 Criminal Code brought all environmental crimes into one specific chapter
 - Some significant increases in sanctions for natural persons
 - No changes in sanctions for legal persons
- IE
- No specific transposing act adopted – reliance on existing legislation
- IT
- Change in the structure of the framework legislation as before transposition, environmental crimes fell outside the criminal code, while the criminal code now includes environmental crimes and has a specific title on environmental serious crimes (felonies)
 - Introduction of criminal liability of legal persons
 - amendments made for Article 3(a), (d) and (e) relating to the risk of detrimental effects (post transposition).
 - Introduction of new offences for 3(e), (f) and (h)
 - Introduction of new offences for Article 3(a) relating to the risk of detrimental effects (post transposition).
 - Increase in penalties for some offences
- LT
- Increase for some offences, in particular significant increase of sanctions applicable to legal persons
- LU
- Introduction of criminal liability of legal persons
- LV
- Introduction of offences for Article 3 (b), (c), (d), (f), and (i) (post transposition).
 - General increase in the level of sanctions for natural persons
 - More severe quasi-criminal sanctions applicable to legal persons
- MT
- Change in the structure of the framework legislation with the adoption of a new Crimes against the environmental act, although most of the offences were already criminalised in sectoral environmental legislation
 - Introduction of new offences for 3(d) and (e)
 - Increase in sanctions
- NL
- No specific transposing act adopted – reliance on existing legislation
- PL
- No significant changes

MS Main changes introduced

- PT
- Some increase in penalties applicable to natural persons
 - A 2015 law amended the Criminal Code and increased the imprisonment and fine sanctions set out for most of the criminal offences transposing the Directive
 - Introduction of new offences to include for Article 3(a) ionizing radiation, for Article 3(d) dangerous mixtures and for Article 3(h) a change on the scope (post transposition).
- RO
- Change in the structure of the framework legislation with the adoption of the Law no. 101/2011 on the prevention and sanctioning of certain acts regarding environmental degradation, although most of the offences were already criminalised in sectoral environmental legislation and the Criminal Code
 - Introduction of new offences for 3(a) for serious negligence for water pollution (post transposition) and for 3(h) and (i)
 - Some increases in penalties although the maximum levels remain low
- SE
- No specific transposing act adopted – reliance on existing legislation
 - Introduction of new offences under Article 3(b) for the disposal of waste and all handling of waste that may cause pollution (post transposition).
- SI
- No significant changes
 - Introduction of a small change for Article 3(b) transposition to include a new offence - after-care activities on waste disposal installations (post transposition).
- SK
- The transposing Act only introduced the concept of indirect liability of legal persons, as the legislator considered that the national legislation was already in conformity with Directive 2008/99/EC on all other points.
 - Introduction of direct criminal liability of legal persons in 2015
 - Introduction of new offences for 3(a) and (i) only in 2015 and for 3(b) and (d) and for serious negligence (post transposition).

Annex 9 - INFORMATION REPORT OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE (EESC) AND ITS TECHNICAL ANNEX



NAT/767
Evaluation on the Environmental Crime Directive

INFORMATION REPORT

Section for Agriculture, Rural Development and the Environment

Evaluation on the Environmental Crime Directive
(information report)

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Document date

03/01/2020

Referral	European Commission, 20/11/2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Plenary Assembly decision	19/02/2019
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	27/11/2019

Introduction

- 1.1 The objectives of the Environmental Crime Directive (ECD) are to contribute to a more effective protection of the environment and full application of the existing Union environmental legislation through criminal law, to ensure a level playing field in the Member States by approximating the criminal offenses, and to ensure deterrent sanctions and overall effective sanctioning systems in all Member States⁷⁶.
- 1.2 The Environmental Crime Directive criminalises serious violations of more than 60 legal instruments in the environmental field which are listed in two annexes to the Directive (environmental areas covered are for example illegal waste trade, producing and handling of hazardous materials, pollution of water, air, ground water, agricultural area, wildlife)⁷⁷.
- 1.3 This information report assesses the results over the Environmental Crime Directive's whole lifetime from 2011 to 2018 and with respect to five Member States. The information report covers the criteria of effectiveness, relevance and the added value of involving civil society.
- 1.4 The information report draws on:
 - reports compiled during fact-finding missions to a sample of five EU Member States (France, the Czech Republic, Hungary, Portugal and Finland);
 - a questionnaire targeted at civil society organisations in the same five Member States.
- 1.5 The views and experiences of civil society organisations are used to assess the effectiveness and relevance of the Directive, as well as the added value of involving civil society in the transposition and implementation of the ECD, with the aim of identifying possible room for improvement of the Directive. Secondary data collection draws on the EESC's past work on the subject, such as EESC opinions, reports of conferences, missions and public hearings.

Conclusions

The findings from the analysis from the fact-finding missions, questionnaire and other materials have led to the following conclusions and recommendations (for further details, see the technical appendix):

A. Relevance of the directive

- 1) An overwhelming majority of stakeholders consulted via the questionnaire stated that the Environmental Crime Directive (ECD) is still relevant, either to a large extent (57%), or to some extent (35%). This was generally confirmed by meetings with participants in the Member States visited.

⁷⁶ EC Evaluation Roadmap - Evaluation and Fitness Check Roadmap - Ares(2019)1580742

⁷⁷ EC Evaluation Roadmap - Evaluation and Fitness Check Roadmap - Ares(2019)1580742

- 2) Many of the survey respondents believe environmental protection in some Member States was already relatively strong before the introduction of the ECD, with the result that around one third (32%) of stakeholders consulted via the questionnaire do not think that the ECD resulted in more effective protection of the environment in their Member States.
- 3) Nevertheless, all categories of stakeholders consulted (employers, workers and other civil society organisations) think the ECD should be revised and could be improved, for example based on:
 - the most recent EU treaties that allow the application of sanctions,
 - new types of criminal conduct,
 - a scale of minimum sanctions for natural and legal persons.

B. Effectiveness of the directive

- 1) 64% of questionnaire respondents consider that the transposition of the Directive into national law has resulted in more effective protection of the environment in their Member State. On the other hand, interviews with participants show that the Directive's transposition has been rather unequal in the Member States visited by the EESC.
- 2) Although transposition of the ECD can be considered quite successful, the practical implementation appears to be lagging behind. This may result from administrative sanctions considered insufficiently effective to fight and prevent crimes, as the Directive does not provide for effective, proportionate and dissuasive sanctions.
- 3) The level of knowledge of the Directive seems to be very uneven from one Member State to another, but also between national and local organisations or big and small enterprises.
- 4) Training of judiciary actors has been pointed out as a real and urgent need, as has the strengthening or creation of specialised bodies for environmental crimes.
- 5) A call for more effective cross-border cooperation to prevent and fight against cross-border environmental crime was also made by the participants.

C. Inclusion of civil society and added value

- 1) 50% of the questionnaire's respondents stated that they were not directly or indirectly consulted on the transposition of the Directive. As in the case of some other questions, the consultation of civil society on this matter was unequal across the Member States visited. For example, in Portugal there was no consultation, while in Finland civil society organisations are generally consulted on environmental issues.
- 2) The consulted civil society organisations highlighted that the relevant public authorities have not systematically involved them in the fight against environmental crime. Therefore,

civil society organisations have made suggestions aimed at improving the cooperation between public authorities and civil society organisations.

EESC recommendations

Taking note of the data collected, the EESC considers that the prevailing suggestion is to improve the implementation of the existing Directive, starting with a comparative analysis of the implementation of the Directive in all Member States, even if there are also good reasons to update it.

The EESC points out that all categories of stakeholders (employers, workers and other civil society organisations) think the ECD should be revised and could be improved, for example based on:

- the most recent EU treaties that allow the application of sanctions,
- new types of criminal conduct, in particular environmental cyber-criminality,
- measures addressing criminal proceeds and environmental damage,
- creation of a general offence of endangering the environment,
- more cross-border cooperation,
- a permanent dialogue between public authorities and civil society organisations,
- the same level of responsibility applying to businesses in all countries in which they operate,
- a scale of minimum sanctions for natural and legal persons.

The EESC believes that it would be useful to have a police force specialised in environmental crime in every EU Member State. In order to be effective, these forces should conduct independent investigations. They could also assist the courts with environmental expertise, particularly in defining and monitoring remedial measures.

The EESC also believes it would be useful to have specialised prosecutors and judges. Specialisation of the courts is a cost-effective solution to allow magistrates to increase their competence and to be able to deal with files and understand stakeholders.

The EESC maintains that Member States should improve the conditions under which the victims of environmental damage may take collective legal action. Therefore, the EESC would have welcomed seeing environmental issues being taken into account by the European New Deal offered for Consumers.

The EESC calls upon the European Commission to propose a methodology for dealing with or prosecuting perpetrators of environmental crimes that have particularly adverse effects in terms of the cumulative consequences of the crime in more than one Member State (along the lines of the "Dieselgate" scandal). This proposal is made with the aim of punishing wrongdoings that could otherwise potentially go unpunished, or result in only small fines, if such cases were reviewed separately in individual Member States. This methodology could allow for joint prosecution simultaneously in several countries. It could also allow for a single prosecution procedure in several Member States involving similar or identical crimes where the effects in each country or in each case may be small, but viewed together could amount to a significant single case.

The EESC expects the Commission to take on board its recommendations for the next steps towards better implementation and/or revision of the ECD, as well as ad hoc conclusions and recommendations adopted in previous EESC opinions (see appendix).

Brussels, 27 November 2019

Maurizio REALE

The president of the Section for Agriculture, Rural Development and the Environment

Evaluation on the Environmental Crime Directive

Technical Appendix

1. Evaluation question

This information report assesses whether the EU Directive 2008/99/EC, or Environmental Crime Directive (ECD) on environmental crime is relevant and effective, and what is the added value of involving civil society. It also analyses civil society organisations' (CSOs) views across the EU concerning the implementation of the Directive.

2. Data collection

The members of the EESC study group collected the points of view of civil society organisations through a questionnaire and five fact-finding missions.

- The **questionnaire** asked civil society organisations how they perceive the practical implementation of the ECD. The questionnaire was created on the EU Survey online portal, using a combination of question formats (filter questions, closed, open-ended, grid and most- significant-change method). The consultation via the questionnaire was open during the period July - September 2019.
- The **fact-finding missions** included semi-structured interviews with local civil society organisations (and other stakeholders in some cases), generally following the structure of the questionnaire.

Secondary data collection drew on the EESC's past work on the subject, such as EESC opinions, reports of conferences, missions and public hearings.

3. Sampling

3.1 Fact-finding missions

The selection of fact-finding mission countries was made by the study group and based on the criteria adopted by the EESC Bureau on 22 January 2019. The selection of Member States to be visited was also coordinated with the European Commission.

The countries were selected on the basis of:

- *political spread* e.g. high/low level of implementation, application success rates, most/least affected by the legislative proposal/programme, etc.;
- *geographical spread* e.g. by setting up five groups of Member States and choosing one from each group.

The sample of EU Member States chosen for this information report were: **France (9 July 2019), Portugal (15 July 2019), Czech Republic (23 July 2019), Finland (24 July 2019) and Hungary (9 September 2019).**

3.2 Questionnaire

The aim of the questionnaire is to complement the findings of the fact-finding missions. Composed of 16 questions, it was sent to organisations from the Member States selected for the fact-finding missions (not only to the organisations participating in the mission meetings, but also to other relevant organisations).

3.3 Respondent breakdown

During the five fact-finding missions, the EESC delegations consulted **40 civil society organisations and a number of representatives of public authorities**. In addition, **28 civil society organisations and public authorities** responded to the questionnaire, which included **10** representatives of environmental organisations (**36%**), **7** representatives of employers (**25%**), **4** representatives of workers (**14%**), and **7** respondents stating "other" (**25%**). **25%** of the questionnaire respondents come from France, **21%** from Portugal, **14%** from the Czech Republic, **22%** from Finland, and **14%** from Hungary. One reply (less than **4%**) was received from "other" Member States (Croatia).

Figure 1. Represented organisations

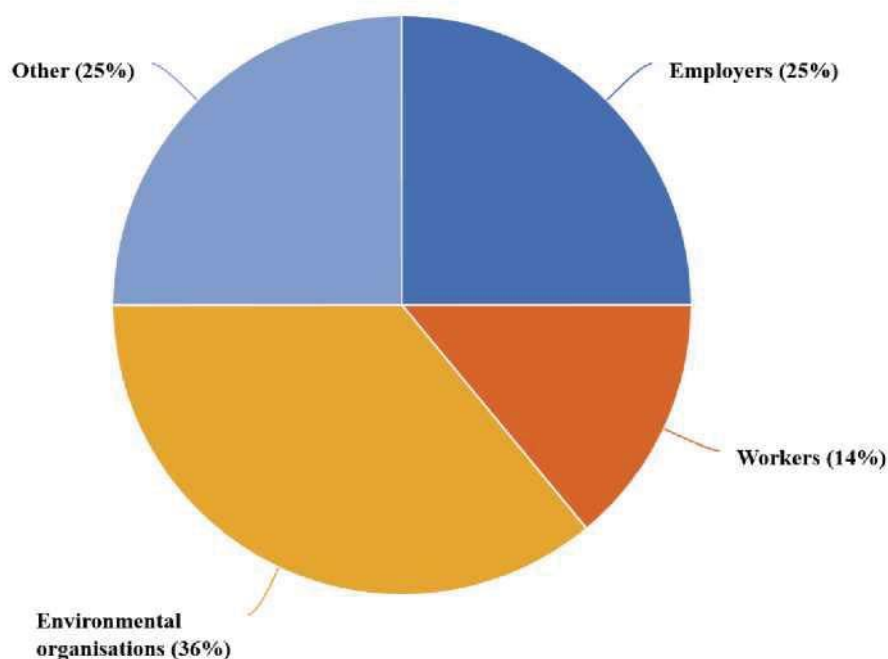
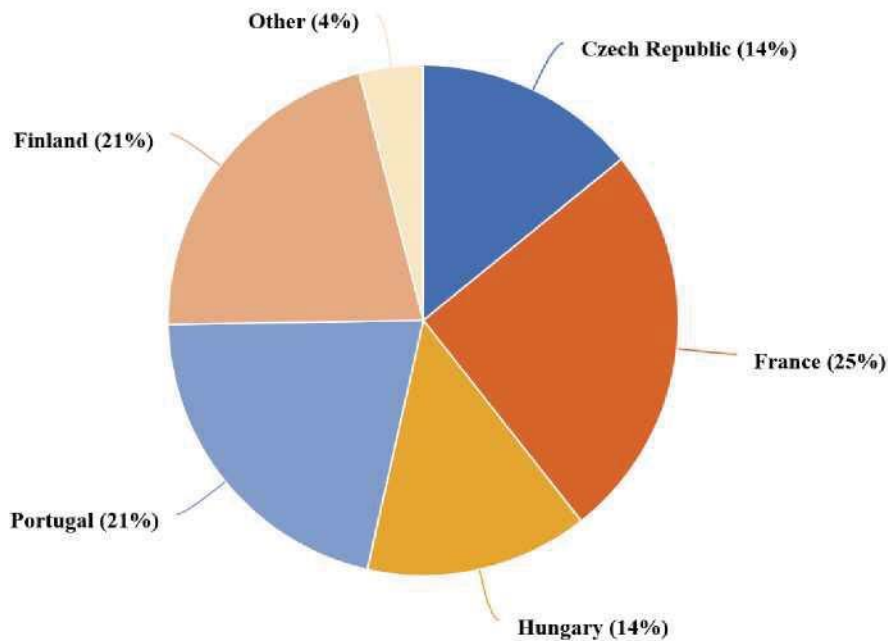


Figure 2. Represented Member States



4. Primary data: findings and analysis

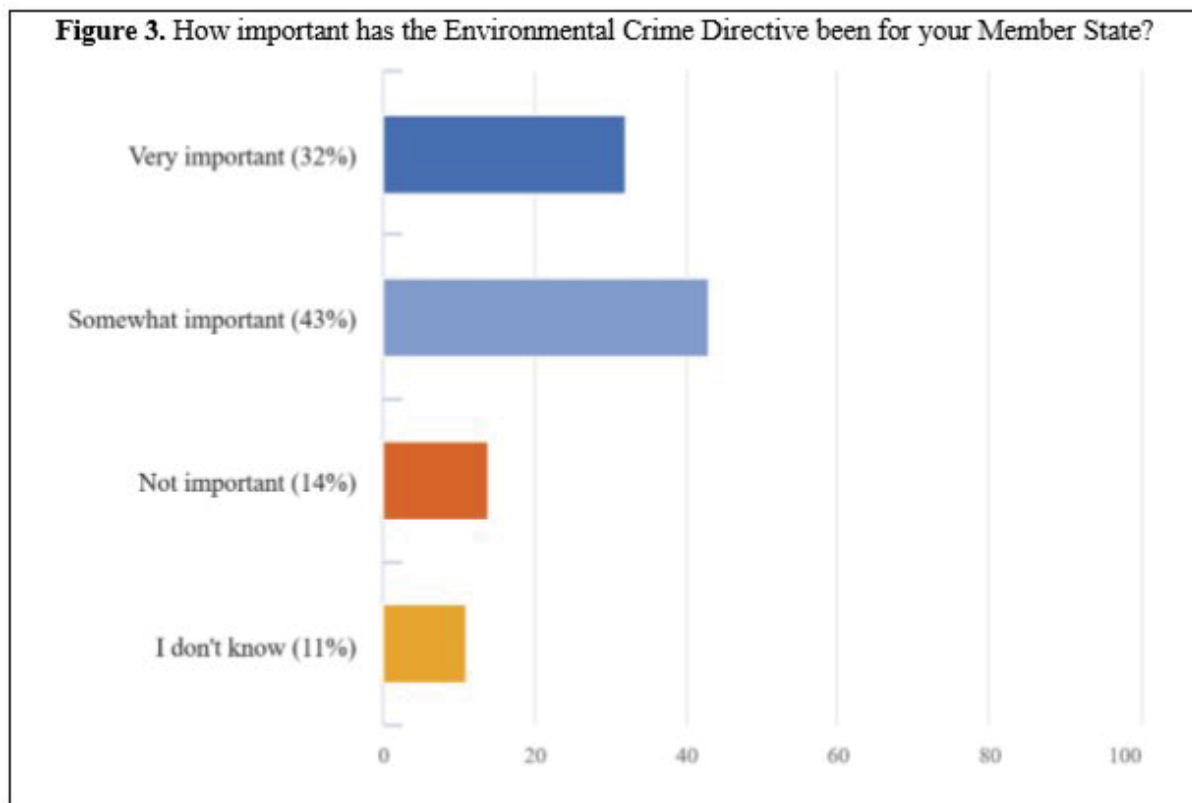
4.1 Relevance

According to the European Commission Better Regulation toolbox, the criteria of relevance "looks at the relationship between the needs and problems in society and the objectives of the intervention and hence touches on aspects of design. Relevance analysis also requires a consideration of how the objectives of an EU intervention (...) correspond to wider EU policy goals and priorities." ⁷⁸

4.1.1 Importance of the Environmental Crime Directive

The Environmental Crime Directive has not had the same impact in the five different Member States visited. Therefore, civil society organisations were asked how important the Directive has been for their Member State. Results (see graph below) show that a majority of respondents considered the Environmental Crime Directive as being **very important (32%)** or **somewhat important (43%)** for their Member State. On the other hand, **14% considered it not important** and **11% did not know**.

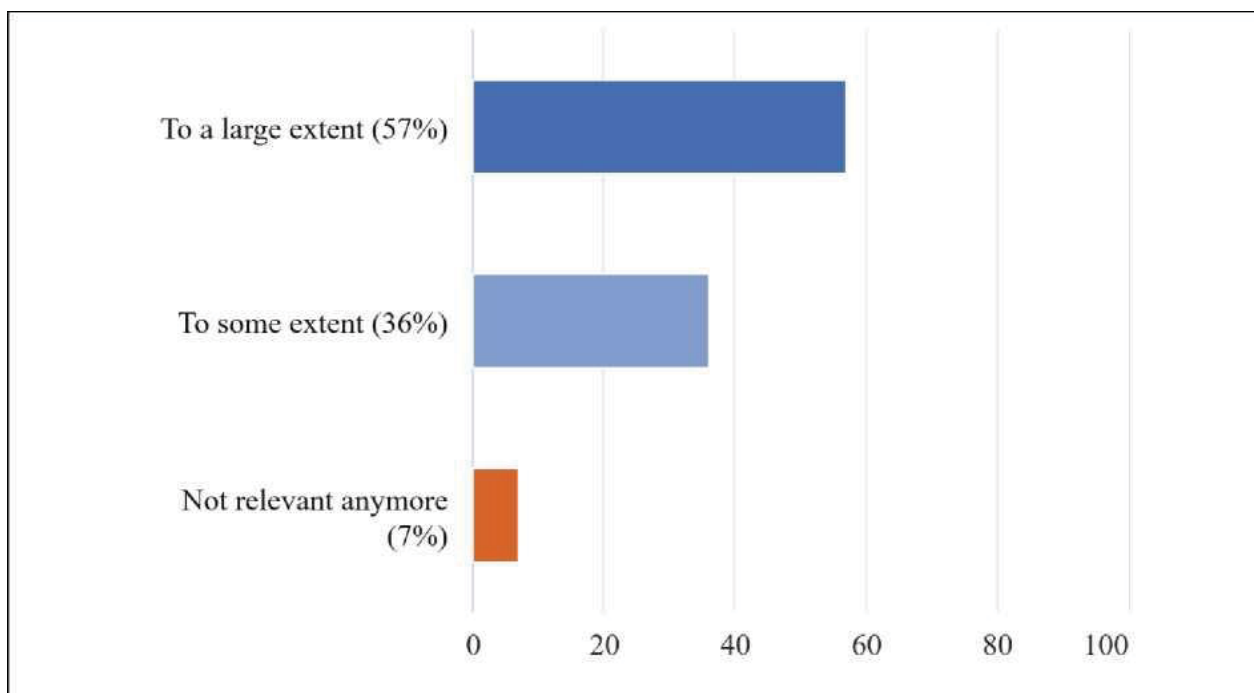
https://ec.europa.eu/info/sites/info/files/file_import/better-regulation-toolbox-47_en_0.pdf



4.1.2 Relevance of the Environmental Crime Directive

Adopted in 2008, the Environmental Crime Directive was drafted more than a decade ago, within a context that might not be the same any longer. It therefore appeared necessary to evaluate the current relevance of the Directive. According to the consultation (see graph below), the respondents believe that the Directive is **still relevant to a large extent (57%)**, and **36%** of them felt that it is **still relevant to some extent**. Only a small minority of respondents (**7%**) rated the Directive as **no longer relevant**.

Figure 4. To what extent is the Environmental Crime Directive still relevant?



During meetings in the Member States, the consulted participants underlined the **positive impact** of the Directive over the last ten years². Public authorities dealing with environmental crime also stressed that the adoption of the Directive was a **great support for their work**, despite some **deficiencies in terms of practical implementation**³. In addition, French employers stressed that the Directive was still relevant, as it allows for a **minimum harmonisation**, independently of the national sanctions that individual Member State decide to implement. In Finland, all participants agreed that the Directive has been **relevant and useful**. In particular, representatives of both trade unions and environmental organisations highlighted that the Directive has helped **raise awareness of environmental crime** in Finland.

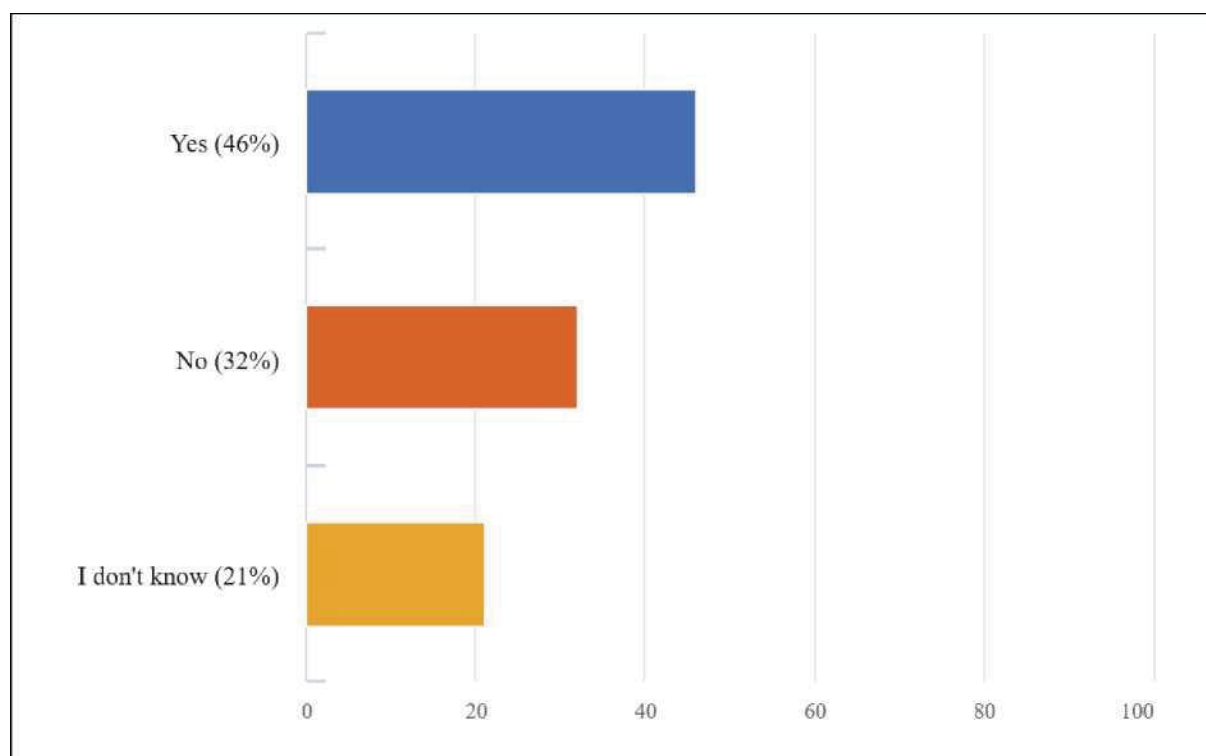
4.1.3 Protection of the environment

According to the European Commission, *"the Environmental Crime Directive has as an objective to contribute to a more effective protection of the environment and full application of the existing Union environmental legislation through criminal law (...)."*⁴ As a matter of fact, the Directive requires the Member States to provide for criminal sanctions for the most serious environmental offences. The information available (see graph below) shows that nearly half of the respondents (**46%**) feel that the Directive resulted in **more effective protection of the environment** in their Member State. Around one third (**32%**) of the respondents think the opposite, while nearly one quarter (**21%**) replied that they do not know if this is indeed the case.

² Czech Republic, Finland, France - environmental organisations

³ Finland - public authorities

Figure 5. Has the Environmental Crime Directive resulted in more effective protection of the environment in your Member State?

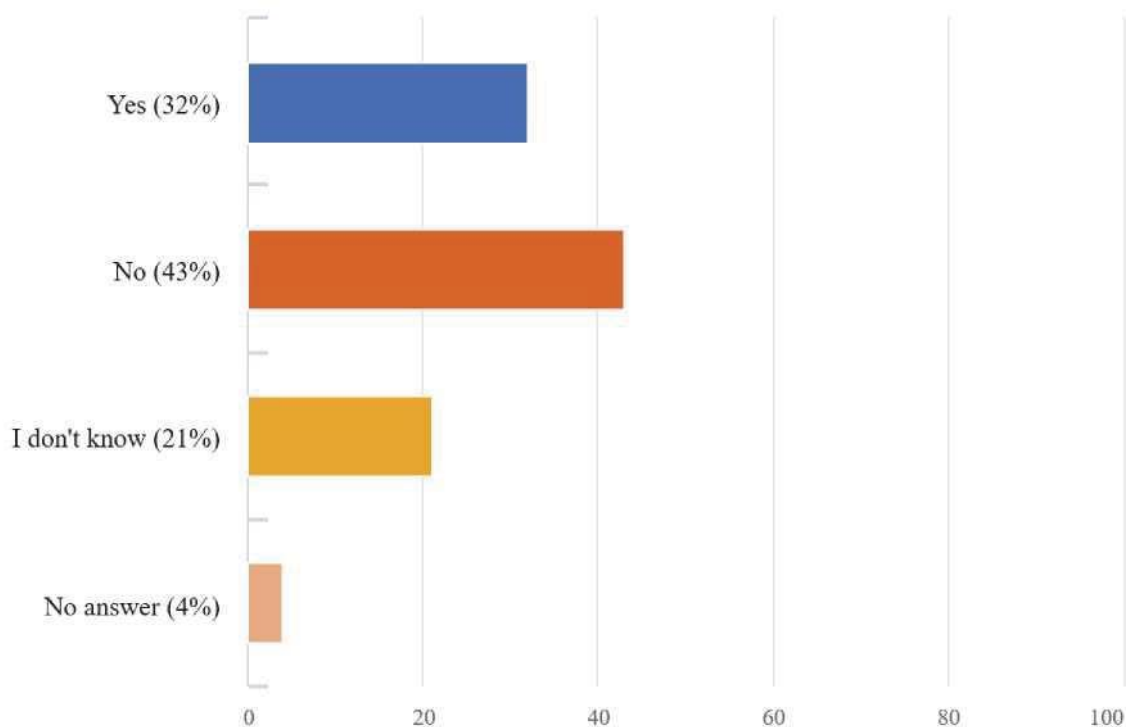


4.1.4 Updating the objectives and revising parts of the Environmental Crime Directive

*The objectives of the Environmental Crime Directive are multiple. Apart from aiming to protect better the environment through criminal law, the Directive also aims "to ensure a level playing field in the Member States by approximating the criminal offenses, and to ensure deterrent sanctions and overall effective sanctioning systems in all Member States." In order to achieve this objective, the Directive "establishes a common set of offenses that Member States must criminalize", "approximates the scope of liable perpetrators", "requires that Member States extend criminal liability", and "approximates criminal sanctions by requiring all Member States to ensure effective, proportionate and dissuasive criminal penalties for environmental crimes."*⁷⁹

When asked whether the objectives of the Environmental Crime Directive need to be updated, participants consulted via the questionnaire were divided (see graph below): **32%** of the respondents considered that there is a **need to update the objectives**, while **43%** maintained that there is **no need to revise the objectives** and **21%** of the respondents replied that they did not know.

Figure 6. Do the objectives of the Environmental Crime Directive need to be updated?



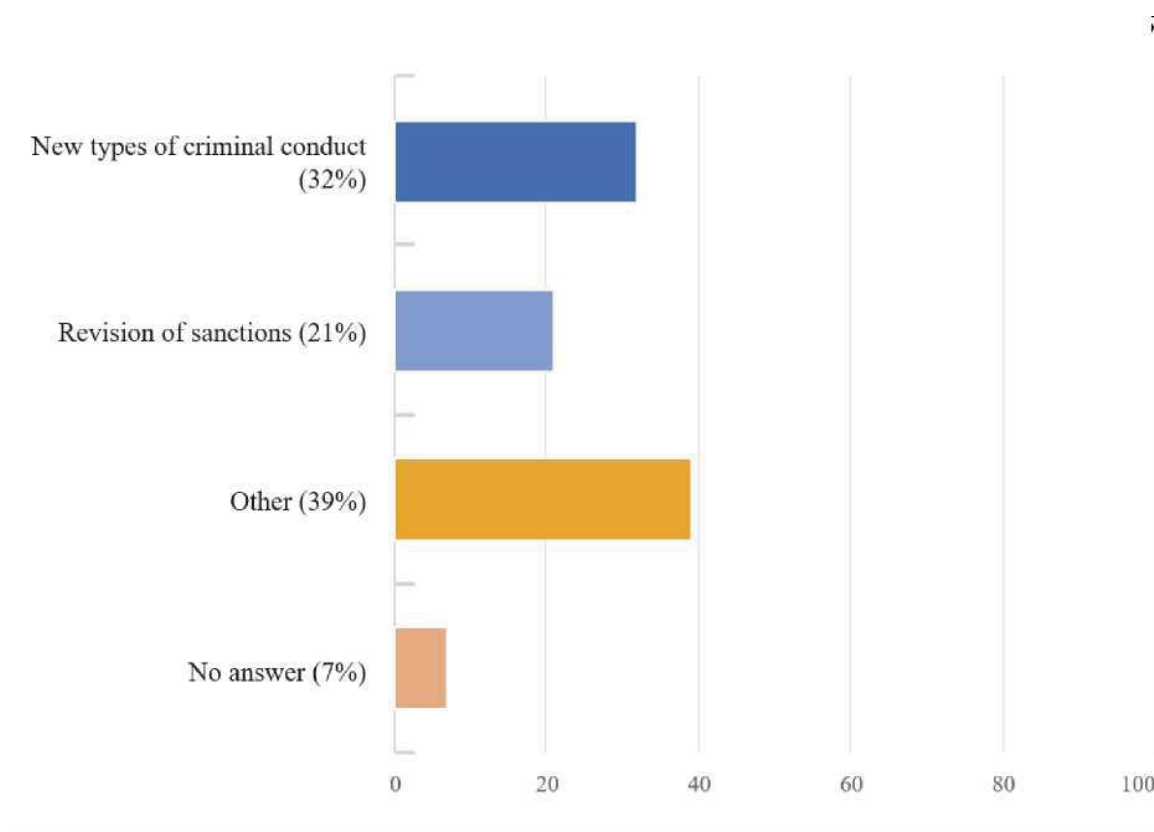
Consultations in the visited Member States revealed that most participants did not feel an urgent need to revise the Directive and considered the current context appropriate. For example, in France, employers agreed that the Directive did not need to be revised as it provides for extensive protection of the environment through criminal law, while representatives of public authorities suggested that **the** Directive could be updated based on the last EU treaties that allow the application of sanctions.

However, participants put forward some suggestions in case the Directive would be updated in the near future. In the Czech Republic, trade union representatives considered that **the Directive (especially its annexes) should be simplified**. In addition, they suggested that **the Directive should take into account farmers**, who are sometimes blamed for environmental crimes for which they are not responsible. Czech employers' representatives highlighted the need to ensure that if an individual employee causes environmental damage, the responsibility for such damage should be borne by this employee and not the company, if it is proven that the company had introduced the necessary measures to prevent the damage. Representatives of environmental organisations maintained that the priority should be **to improve the practical implementation of the current Directive, rather than trying to update the legal text**. In Finland, participants suggested that the issues of **criminal proceeds and environmental damage should be addressed in the Directive, if the latter is revised**. In addition, the courts should be able **to adopt a decision imposing on the liable person to restore the environment to its original state, i.e. the state before the damage was caused**. In Hungary, public authorities and environmental organisations suggested that **more EU harmonised legislation** would be welcome. The interlocutors also stated that **key distinctions should be made between non-compliance and crime**,

both in the Directive and in national legislation.

In case of a decision to revise of the Directive, respondents to the questionnaire were asked to specify the focus of such revision. According to **32%** of the respondents (see graph below), **the focus of a possible revision should be on new types of criminal conduct**. Respondents highlighted particularly environmental cyber-criminality. For **21%** of the respondents, a possible revision of the Directive should focus on **revising the sanctions**. Employers in Czech Republic recommended that the range of environmental crimes **should not be unreasonably expanded**, and could perhaps be based on an analysis of the frequency of such behaviours on the one hand, and the benefits of the punishment on the other hand. They also suggested that the Directive should take into account the existence of other instruments, which are also of a preventative character. Finally, French respondents suggested to adopt a **scale of minimum sanctions for natural and legal persons**.

Figure 7. If the Environmental Crime Directive is revised, where should be the focus of the revision?



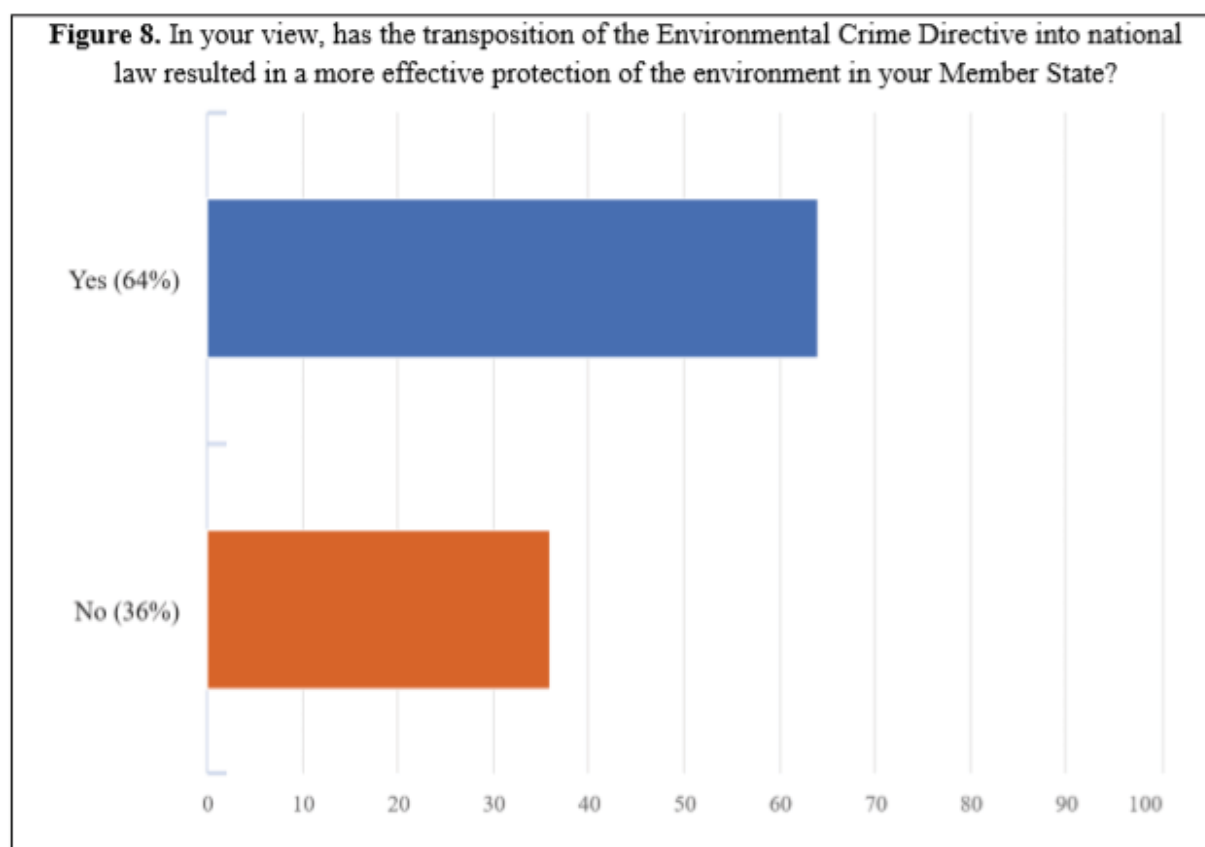
The **weak implementation of the Directive** is a serious matter in several Member States. Respondents from Portugal highlighted that **courts are not used to adjudicate stringent penalties for environmental crimes, or even to categorise an environmental offense as a crime**. Similarly, Finnish environmental organisations pointed out that the implementation of the Directive has been deficient in Finland. Indeed, in Finland there are no police units specialised in environmental crimes, which in practice means that, if an environmental offence is reported to the police, the latter must contact the environmental authorities of the State or the municipality, even if the environmental problem may partly be caused by their negligent behaviour. The lack of a centralised environmental crime unit may also be considered an obstacle for investigating international environmental crime incidents.

4.2 Effectiveness

According to the European Commission Better Regulation toolbox, the criteria of effectiveness *"considers how successful EU action has been in achieving or progressing towards its objectives."*⁸⁰

4.2.1 Transposition of the Environmental Crime Directive

Questionnaire results (see graph below) show that **64%** of respondents considered that the transposition of the Directive into national law resulted in a more effective protection of the environment in their Member State, while **36%** believe the contrary.



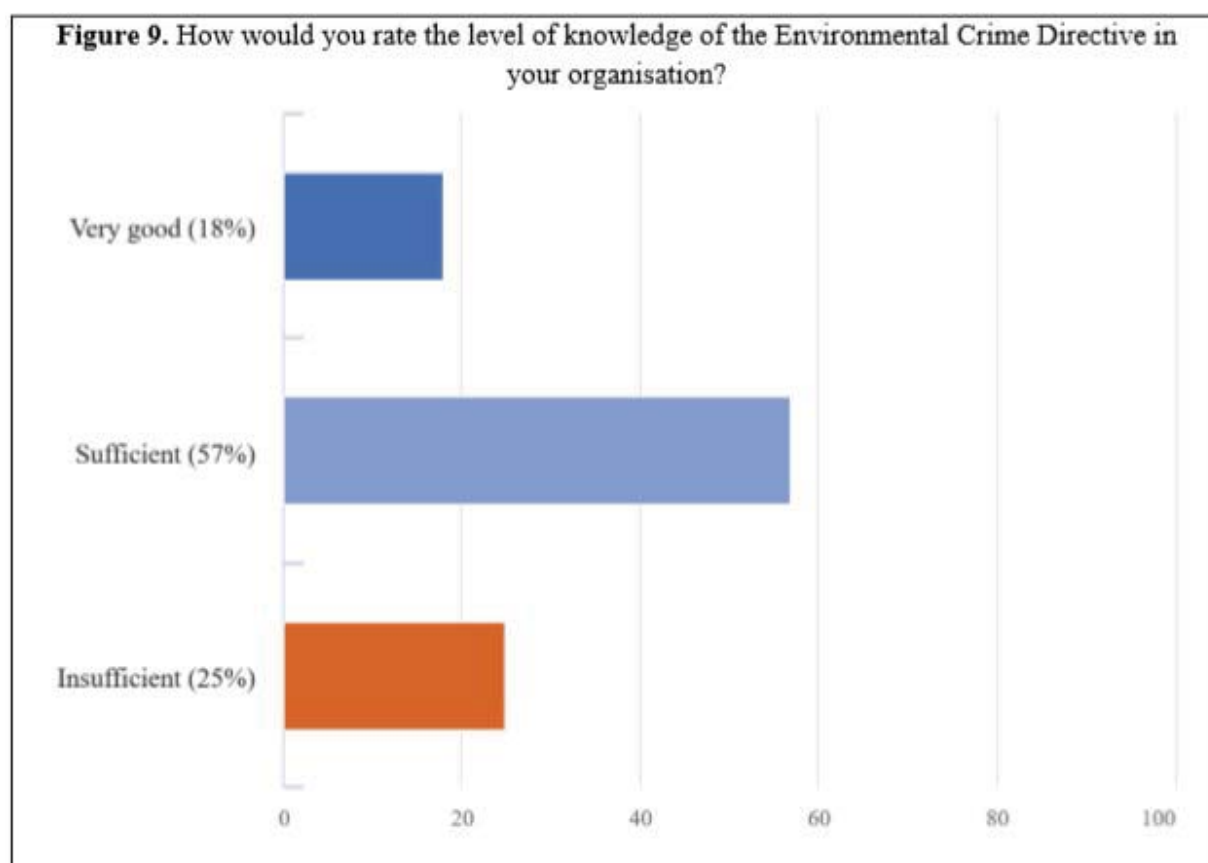
Nonetheless, the interviews with participants showed that the transposition of the Directive has been quite uneven in the represented countries.

On the one hand, all Czech interlocutors were **generally satisfied with the transposition of the Directive**, where some elements introduced by the Directive had been already part of the national legal system before the transposition. Czech representatives of environmental organisations and public authorities underlined that it is more important to **focus on how to improve the implementation**

⁸⁰ https://ec.europa.eu/info/sites/info/files/file_import/better-regulation-toolbox-47_en_0.pdf

of the Directive at national level, rather than to discuss its transposition. Employers' representatives stressed the need to avoid an excess of transposition at national level, as this could result in imbalances among Member States. Portuguese authorities transposed the Directive via two laws in 2011 and 2015, meaning that the implementation of the Directive was delayed by almost five years. All Finnish participants generally agreed that **the Directive was successfully transposed in Finland**, and that the relevant changes to Finnish criminal legislation were completed in 2010. Public authorities stressed that transposition of the Directive was quite easy, with a good cooperation between the ministries, NGOs and other stakeholders. All other participants agreed that cooperation was good with public authorities in this context.

On the other hand, **the French government decided not to transpose the Directive, as it considered that the French judiciary system was already fulfilling the requirements of the Directive**. However, not all participants agreed with this statement. Indeed, some participants have pointed at a certain **lack of criminal justice protection and sanctions**, in particular in the area of air pollution. One of the participants, an environmental crime lawyer, considered that the simplification of the French environmental legislation was aimed at deregulation.



4.2.2 Familiarity with the Environmental Crime Directive

The level of knowledge of the Directive was **generally rated as sufficient** by **57%** of the consulted organisations (see graph above). However, answers from participants consulted during missions slightly depart from the questionnaire's main trend. For instance, Czech participants believed that the

Directive was **not very well known among national organisations**. Social partners have not produced specific surveys or evidence analysing the level of awareness of the Directive among their members, though it was mentioned that national organisations are usually more familiar with the national rules derived from the Directive, and large companies have usually more knowledge on the Directive than small companies. In Portugal, participants highlighted that **the Directive was not well known**, and that there have not been many environmental crime cases recorded. French employers' organisations admitted that they have **little knowledge of the Directive**, as their activities are mostly focused on improving working and living conditions of workers. Nonetheless, they are still trying to tackle environmental crime and implement environmental criminal justice from the perspective of worker protection. In Finland, the **level of knowledge of the Directive is relatively high among specialised trade unions, while environmental organisations are generally very familiar with the Directive**. The same evidently applies to the Finnish public authorities, especially the Ministry of Environment, the Ministry of Justice, and the Public Prosecutor's Office, who are very much familiar with the national law resulting from the transposition of the Directive.

4.2.3 Application of effective, proportionate and dissuasive criminal sanctions

Responses to whether the Directive enables Member States to apply effective, proportionate and dissuasive criminal sanctions have been various. Czech trade unions' and employers' representatives considered that **administrative procedures in place have been effective**. On the other hand, representatives of environmental organisations were less positive and expressed their concern about the extended feeling of impunity among perpetrators. Environmental organisations' representatives believed that it is necessary to **better adapt sanctions to the severity of the crime**. They considered administrative **sanctions not to be sufficiently effective to fight and prevent committing crimes**, and suggested to introduce **more proportionality in prosecution and sentencing through gravity factors**. Public authorities' representatives also recognised that the current sanction system is not sufficiently clear and that certain aspects could be improved. In particular, national law should **define better what constitutes an environmental offence**.

In France, the view of employers' representatives on the subject was different from the views of other participants. Representatives of employers stated that **French legislation is effective, proportionate and dissuasive**, but also believed that no matter how dissuasive legislation is, some perpetrators of environmental crimes will never be dissuaded. Employers' representatives also explained that industries are suffering a lot of social pressure regarding pollution, and are constantly exposed to criminal sanctions. They are therefore in favour of **decriminalisation of penalties for minor offences**. On the other hand, a French environmental lawyer felt that **the Directive did not provide for effective, proportionate and dissuasive sanctions**. The view of public authorities was in the middle ground between the previous two standpoints. They stated that in France the environmental criminal system is very effective in the field of water and sea pollution. France also has in place the "*compensation for environmental damage principle*" which contributes to more dissuasion. However, public authorities explained that French legislation should be updated with **more proportionate sanctions and a system of evaluation of legislation**.

All actors in Finland agreed that the Directive is a **good legislative tool**, whose provisions have been correctly transposed in Finnish law. However, their **practical implementation is lagging significantly behind**. Trade union representatives stressed that in most cases, courts impose only low penalties or fines, where perpetrators of criminal offences are only very rarely imprisoned. In addition, the risk of

getting caught is very low. Moreover, the number of verdicts is generally very low, where only 25% of perpetrators receive a prison sentence, and even that applies to major criminal offences. Even if perpetrators receive a prison sentence, the length of imprisonment is only 2 to 3 months. The police are responsible for an initial investigation, followed by the work of a prosecutor, followed by a court ruling. However, the gap is huge: only 4% of all alleged crimes are prosecuted. It appears that **environmental crime is not taken sufficiently seriously**, given that the number of convictions is very low, and punishment is very lenient. There are around 70 cases a year that end up in court. Since the rate of prosecution is very low, the sanctions do not really function as deterrents, and are therefore not very effective. For example, someone that caused damage worth millions, received a punishment of only 7 month imprisonment.

In Hungary, representatives of environmental organisations mentioned that the legal framework is only in theory acceptable, since the practical implementation of the legislation is very unsatisfactory and needs to be much more effective. They also suggested that only higher conviction rates can change the general behaviour of the public.

4.2.4 Environmental crime education and specialisation of judiciary actors

The specialisation and education of judiciary actors on environmental crime was a recurrent topic during fact-finding missions. For example, participants in Finland highlighted that there are no police units specialised in environmental crime in their Member State, and that there are only a handful of appropriately qualified prosecutors. Interlocutors in all meetings generally agreed that specialisation of police forces would be welcome in Finland. Indeed, environmental organisations pointed out that it would be useful to have a **police force specialised in environmental crime in every EU Member State. Specialist prosecutors would be also very useful.** Another solution would be to provide prosecutors with appropriate training. The police are generally **not familiar with the Directive and do not have the required technical knowledge.** This applies even more to local police units operating in smaller localities. For example, when a police report is received, it is almost impossible to follow up on it, because of lack of relevant information. Among the problematic issues is the lack of qualified human resources. Similarly, in Hungary, during consultation with representatives of environmental organisations and public authorities, it was mentioned that there was a need to raise the awareness among judges and public prosecutors of issues relating to environmental crimes and preventative measures.

Furthermore, Czech interlocutors considered it **difficult to collect sufficient evidence for a criminal court case**, because the police lacks resources to collect and analyse evidence. For this, there is a **need for expert and specialised laboratories.** In addition, environmental crime is not among the key priorities of the police. Environmental organisations recognised that the police are increasingly more committed to addressing the issue, but they **lack resources and expert knowledge.** When apprehended and if convicted, the perpetrator is generally punished with an administrative sanction, rather than with a criminal sanction. Environmental organisations highlighted the **feeling of impunity** among perpetrators of these offences.

4.2.5 Specialised bodies for environmental crimes

Following the issue of education and specialisation of judiciary actors, many participants advocated for specialised bodies dedicated to environmental crime. For example, in the Czech Republic there is no specialised body in the police or in the judiciary system dealing with environment crime. Participants gave different opinions on the benefits/drawbacks of having a more specialised system. Environmental organisations supported the **need to introduce specialised police units/teams and courts**. Currently, environmental crime is only one of many tasks of the police and is not among their top priorities. Generally, they believe that this is not because of a lack of willingness, but simply because the police does not have the resources to deal with everything. Specialised tribunals would take this matter more seriously and with more knowledge, expertise and commitment than generalist judges. The creation of specialised bodies would **contribute to raising awareness about environmental crime**. This could also address the feeling of impunity among criminals. Other participants were not so convinced by the specific benefits of creating specialised bodies. Employers and trade unions representatives mentioned that this would be difficult because the Czech Republic does not have a culture/tradition of specialised courts (for example, trade union representatives highlighted that there are no special courts dealing with social/employment matters as this is the case in other Member States).

Moreover, Hungarian employers mentioned that there was a need for investigative units specialised in environmental crime, consisting of well-trained prosecutors, judges and police. Also, in addition to the creation of specialised investigative units and courts, the need for increasing financial resources and allocation of human resources was also highlighted.

4.2.6 Cross-border environmental crime and cross-border cooperation

During country missions, many participants brought up the topic of **cross-border environmental crime**, highlighting the need for more cooperation between Member States' authorities. Some Member States are already working together, such as France, which collaborates intensively with Hungary, the Czech Republic, Portugal and Finland.

Czech public authorities' representatives mentioned that a potentially revised Directive should focus more on how to improve coordination and communication between Member States authorities. They felt that organised crime abuses the EU's freedom of movement. Indeed, large criminal networks normally operate in several countries. On the other hand, **national public authorities face barriers to cooperation to fight these criminal groups**. It was mentioned that these barriers are in many occasions linked to communication issues due to the different legal systems in individual countries. Employers' representatives supported this idea of **improving the approach towards trans-border and crossborder environmental crime**. Similarly, in Hungary, environmental organisations and public authorities stressed that in the field of cross-border cooperation there was a real need for cross-border information exchange.

In Portugal, employers' representatives suggested **more cooperation between Member States**. According to them, as no boundary exists for environmental crime, **all Member States should detain the same procedures, and business should have the same responsibility in all countries they operate** (as the business environment in EU countries can be very different). Environmental connection between countries should be taken into account as well (such as rivers going through several countries for example), and participants suggested to improve cross-border relations in this respect.

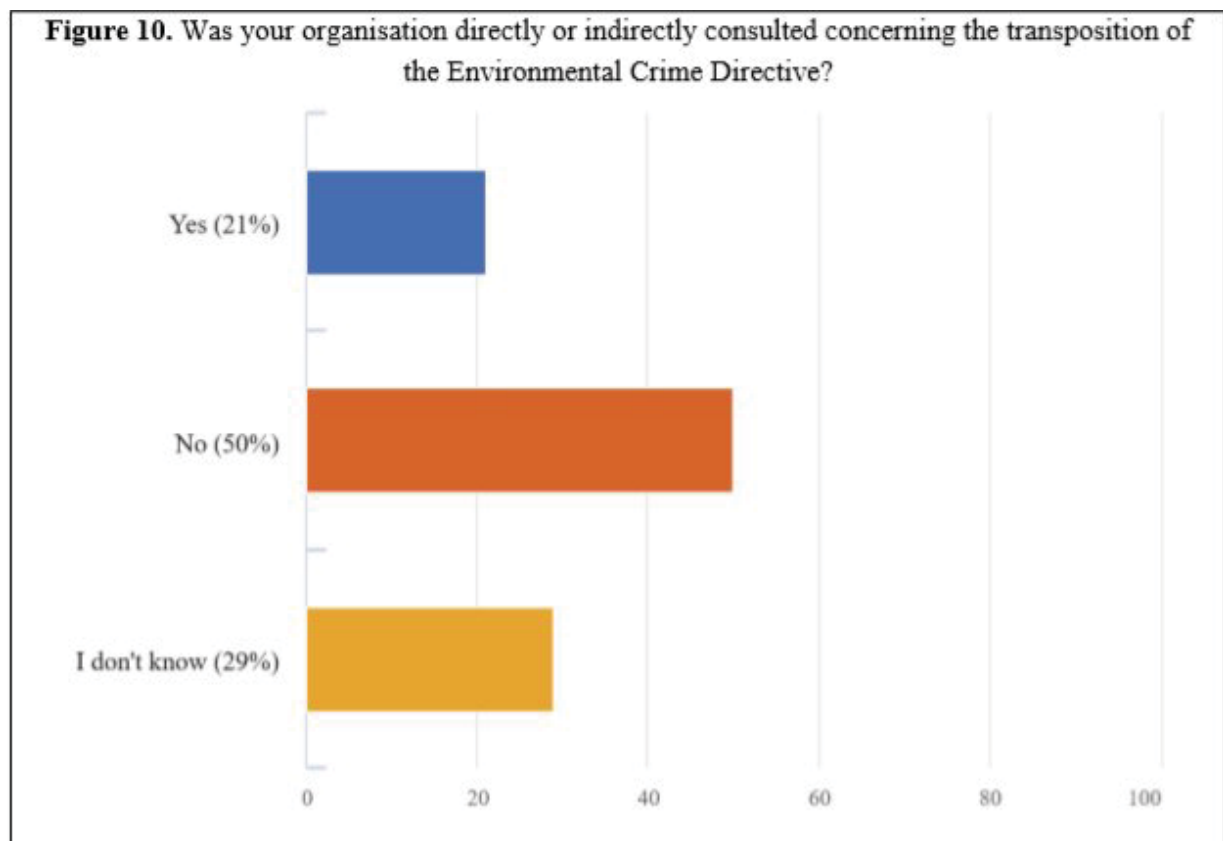
In Finland, international cases are within the competence of the Finnish Environmental Institute, but there are not many cases of cross-border environmental crime. In particular, Finland has good cooperation with Swedish authorities, while its cooperation with Russian authorities is not very effective. In the case of international or cross-border environmental crime, participants suggested to have a **higher level of harmonisation within the EU, especially in cases of cross-border evaluations.**

4.3. Inclusion of civil society and added value

According to the European Commission Better Regulation toolbox, EU-added value "looks for changes which it can reasonably be argued are due to the EU intervention, over and above what could reasonably have been expected from national actions by the Member State"⁶¹

4.3.1 Consultation of civil society in transposition

Consultation of civil society is an important topic assessed in this information report. As is evident in the graph below, half of the questionnaire's respondents stated that they were not directly or indirectly consulted regarding the transposition of the Directive (**50%**), while **21%** declared that they were consulted. Less than one third (**29%**) replied that they do not know whether their organisations were consulted.

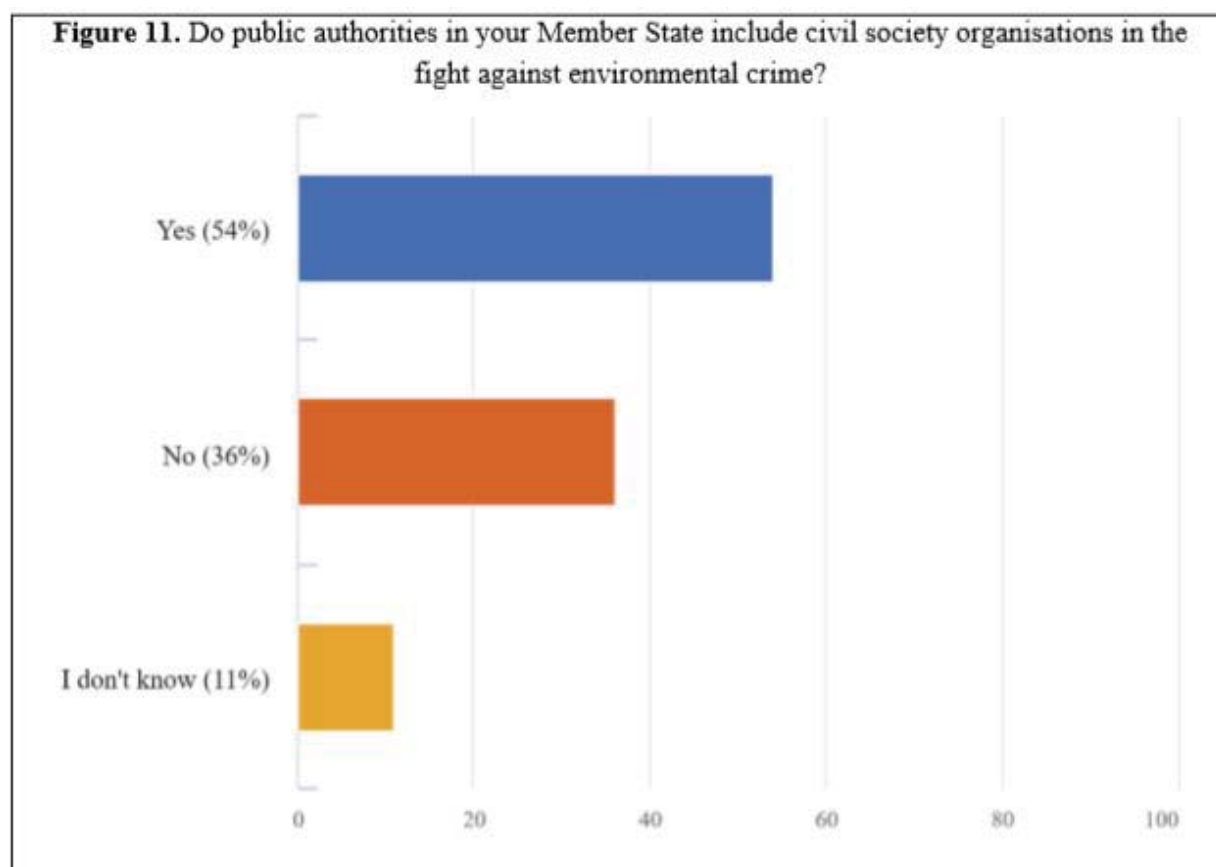


https://ec.europa.eu/info/sites/info/files/file_import/better-regulation-toolbox-47_en_0.pdf

The results of the questionnaire match the opinions gathered during fact-finding missions. In Portugal and in Hungary, social partners declared that they were **never involved in any public hearing** regarding the transposition of the Directive. On the contrary, most participants in Finland agreed that transposition of the Directive was smooth, with a **good cooperation between the ministries, non-governmental organisations (NGOs) and other stakeholders**. Most participants agreed that civil society organisations are generally consulted by the government on these matters. In France, civil society organisations were not consulted only because the Directive was not transposed. However, there is a **permanent dialogue between public authorities and civil society organisations**, in particular thanks to the French Biodiversity Agency (AFB) which is in continuous contact with all stakeholders.

4.3.2 Involvement and improvement of civil society in the fight against environmental crime

Similarly, civil society organisations were also consulted on whether they were involved in the fight against environmental crime. The results (see graph below) show that most of the respondents (**54%**) were indeed involved, while **36%** were not. **11%** of the respondents do not have an answer to this question.



Consulted civil society organisations highlighted that public authorities in charge of implementing the Directive did **not systematically involve them in the fight against environmental crime**. Therefore, participants put forwards some suggestions aimed at improving cooperation between public authorities and civil society organisations.

In the Czech Republic, most participants agreed that civil society organisations (CSOs) are generally consulted by the government. Nonetheless, participants suggested a few ideas for improving the

involvement of civil society in the fight against environmental crime. A Czech employers' representative mentioned that a **systematic and regular consultation process** could be introduced, based on the current stakeholder involvement processes existing at EU level. Environmental organisations suggested that **public authorities should reinforce collaboration with civil society organisations, and support them more in carrying out their mission of pursuing better protection the environment**. Additionally, they should establish **more collaboration with hunter associations** (which are not always very committed to fighting certain environmental crimes). Finally, public authorities need to **better promote the Directive** and to ensure that all actors comply with it.

In Portugal, participants stressed that cooperation with civil society organisations is largely neglected, **especially at municipal level**. Municipal authorities mostly side with the government and do not meaningfully carry out public consultations. In addition, **civil society organisations are still regarded as "a necessary evil"** and they are not being invited to discuss proactively and participate in the public debate on important issues. Thus, giving voice to civil society is a particularly important subject in Portugal.

5. Secondary data: Literature review of EESC work

In NAT/748, on the **LIFE Programme for the Environment and Climate Action (2018)**, the EESC stated that nature and the environment in the EU are undergoing a major crisis, and that the level of funding of the LIFE programme is insufficient in the context of the contemporary environmental crisis.

- The EESC emphasized that there needs to be much more consistency between all EU policies, as it already repeatedly criticised this inconsistency, which has a negative impact on nature and the environment.
- The EESC stated that in recent decades, the mainstreaming approach favoured by the Commission has proved to be unsuited to the funding of biodiversity protection.

In NAT/744, on the **implementation of EU environmental legislation in the areas of air quality, water and waste (2018)**, the EESC underlines that in some cases, environmental investments, awareness raising of the public or strong enforcement chains are needed, and even if environmental inspectors already exist, Europe and its Member States also need specialized judges and prosecutors.

- The EESC also urges the EU to involve civil society in the ongoing monitoring and evaluating of the implementation of environmental legislation.
- The EESC states that the majority of citizens think that the EU and national governments are not doing enough to protect the environment and that the Council, Parliament and Commission should consequently work together more closely with the EESC's help to meet people's expectations.
- The EESC considers that the Commission should not only propose legislation, but also facilitate and support the application of law, and also make existing texts more consistent with each other and bring them more into line with scientific advances and international commitments intended to protect public health and restore the proper functioning of ecosystems.

In NAT/743, on the **alignment of environmental reporting obligations (2018)**, the EESC welcomes the European Commission's proposal for aligning reporting obligations in environmental policy and expects it to result in increased transparency of reports and their drafting, the provision of an empirical basis for gauging the efficacy of environmental policies, simplified procedures and a lesser administrative burden for both the Commission and the Member States.

- The EESC calls on environmental organisations to be more active in fostering public awareness of the environmental situation in their countries or regions, and also urges the Commission to encourage and finance them in this.

In NAT/730, on **EU actions to improve environmental compliance and governance (2018)**, the EESC stated that the European Commission's action plan to improve compliance with environmental legislation and environmental governance is severely lacking in both ambition and resources, given the current level of environmental degradation.

- The EESC also emphasises that more efforts need to be made to prevent environmental damage from arising in the first place and that a prevention strategy should always be preferred over a cure.
- The EESC mentioned that consistent and strict enforcement of environmental law by Member States and the Commission are essential for this aim, as they serve as a strong

deterrent to future damage.

- In this context of environmental compliance, the EESC stresses the essential role of civil society organisations in particular in their capacity as watchdogs for the rule of law, the common good and the protection of the public.

In NAT/716, on **access to justice at national level related to measures implementing EU environmental law (2017)**, the EESC welcomes the Commission issued Interpretative Communication as it was providing a valuable overview of EU Court of Justice case law regarding Access to Justice at a national level in environmental cases.

- The EESC mentions that for the Communication to have real effect, it needs to be complemented by training and education at Member State level across the intended audiences, and in particular for the judiciary, administrative review bodies, and citizens.
- The EESC states that in a global context of harassment and persecution of environmental defenders, the EU should lead in facilitating Access to Justice.

In NAT/708, on the **EU Environmental Implementation Review (2017)** the EESC concludes that EU Environmental Implementation Review (EIR) reveals that poor, fragmented and uneven implementation of the EU environmental legislation is a serious problem in many EU Member States.

- The EESC states that political will, integration of environmental and other policies, and active involvement of civil society in the decision-making and review processes are the key prerequisites for the successful implementation of environmental legislation at Member-State level.
- The EESC points out that effective implementation of environmental protection measures hinges partly on civil society - employers, workers and other representatives of society - being granted an active role, by enabling the general public to monitor the proper implementation of environmental legislation through free access to environmental information, participation in the environmental policy-shaping process and access to justice.

In NAT/686, on an **action plan against wildlife trafficking (2016)** the EESC welcomes the Commission's proposal and its holistic approach.

- It recommends increasing dialogue and cooperation, launching awareness raising campaigns for business and consumers, training of judges to ensure that there is consistency and proportionality in sentencing, and in relation to criminal organisations, enforcing a system of common, effective, proportional and dissuasive controls and sanctions, and providing the resources for the policing efforts.
- It underlines the need for a labelling and traceability system to guarantee that trade in wildlife is lawful and sustainable.
- It regrets the absence in the Commission proposal of any reference to the threat represented by wildlife trafficking to public health and to native animal and plant species.
- The Committee proposes that the Commission should place much greater importance on the impact of e-commerce on wildlife trafficking and implement specific measures.

In NAT/643 on **Wildlife trafficking (2014)**, the EESC recognises the recent upsurge in wildlife trafficking as a new threat and supports the initiative by the Parliament and the Commission to draw up a holistic and coordinated strategy to tackle this crime more effectively.

- The EESC considers that the current legislative framework in the EU Member States is not yet capable of effectively tackling environmental crime, in part due to the laxity of existing

penalties.

- The EESC would highlight the need to include wildlife trafficking among crimes that are relevant for the purposes of anti-money laundering and anti-corruption measures, and calls for the introduction of genuinely effective, proportionate and dissuasive sanctions such as maximum imprisonment of not less than four years.
- The EESC considers crucial to raise awareness among all the authorities involved in combating wildlife trafficking and to inform and alert civil society and consumers to the extremely serious environmental damage caused by trafficking.

6. List of organisations consulted

Organisation name	Country	Group	Consultation via
WWF Adria	Croatia	Group III	Questionnaire
Czech Chamber of Commerce	Czech Republic	Group I	Fact-finding mission
ESTO Cheb Ltd	Czech Republic	Group I	Questionnaire
DEZA, a.s.	Czech Republic	Group I	Questionnaire
Confederation of Industry of the Czech Republic	Czech Republic	Group I	Questionnaire
Association of Independent Trade Unions (ASO)	Czech Republic	Group II	Fact-finding mission & questionnaire
BirdLife / Zelený kruh	Czech Republic	Group III	Fact-finding mission
Friends of the Earth CZ / Zelený kruh	Czech Republic	Group III	Fact-finding mission
Czech Environmental Inspectorate	Czech Republic	Public authority	Fact-finding mission
Finnish SMEs	Finland	Group I	Fact-finding mission
Transport Workers' Union (AKT)	Finland	Group II	Fact-finding mission & questionnaire
Union of Professionals in Natural, Environmental and Forestry Sciences	Finland	Group II	Fact-finding mission
BirdLife Suomi	Finland	Group III	Fact-finding mission & questionnaire
Finnish Association for Nature Conservation	Finland	Group III	Fact-finding mission & questionnaire
Tapiola Association for Nature Conservation	Finland	Group III	Questionnaire
Ministry of the Environment	Finland	Public authority	Fact-finding mission & questionnaire
Prosecutor's Office of Salpausselkä	Finland	Public authority	Fact-finding mission
Ministry of Justice, Department for Criminal Policy and Criminal Law	Finland	Public authority	Fact-finding mission
University of Eastern Finland	Finland	Other	Questionnaire
Association Générale des Producteurs de Blé (AGPB)	France	Group I	Questionnaire
Mouvement des Entreprises de France (MEDEF)	France	Group I	Fact-finding mission & questionnaire
Fédération nationale des syndicats d'exploitants agricoles (FNSEA)	France	Group I	Fact-finding mission
Confédération générale du travail (CGT)	France	Group I	Fact-finding mission
France Nature Environnement	France	Group III	Fact-finding mission & questionnaire

Greenpeace France	France	Group III	Questionnaire
Agence Française pour la Biodiversité (AFB)	France	Public authority	Fact-finding mission & questionnaire
Office central de lutte contre les atteintes à l'environnement et à la santé publique	France	Public authority	Fact-finding mission
SCP Faro et Gozlan (lawyers' cabinet specialized in environmental law)	France	Other	Fact-finding mission & questionnaire
Confederation of Hungarian Employers and Industrialists	Hungary	Group I	Fact-finding mission
Hungarian Chamber of Commerce and Industry	Hungary	Group I	Fact-finding mission
Association of Environmental Manufacturers and Services	Hungary	Group I	Fact-finding mission
Hungarian Chemical Industry Association	Hungary	Group I	Questionnaire
LIGA	Hungary	Group I	Fact-finding mission
Hungarian Trade Union Confederation	Hungary	Group II	Fact-finding mission
"Clean Air"	Hungary	Group III	Fact-finding mission
WWF Hungary	Hungary	Group III	Fact-finding mission
Life+	Hungary	Group III	Questionnaire
Ombudsman's Office	Hungary	Public authority	Fact-finding mission
Office of the Prosecutor General of Hungary	Hungary	Public authority	Fact-finding mission
Office of the Commissioner for Fundamental Rights, Deputy Commissioner for the Protection of the Interests of Future Generations	Hungary	Public authority	Questionnaire
Municipality of Tolna County	Hungary	Public authority	Questionnaire
Lawyer's office	Hungary	Other	Fact-finding mission
Portuguese Business Confederation (CIP)	Portugal	Group I	Fact-finding missions & questionnaire
Business Council for Sustainable Development (BCSD)	Portugal	Group I	Fact-finding mission
General Union of Workers (UGT)	Portugal	Group II	Fact-finding mission & questionnaire
General Confederation of Portuguese Workers (CGTP-IN)	Portugal	Group II	Fact-finding mission
Order of Engineers	Portugal	Group III	Fact-finding mission & questionnaire
Sustainable Earth System Association (ZERO)	Portugal	Group III	Fact-finding mission & questionnaire
Associação dos Amigos da Arrábida	Portugal	Group III	Fact-finding missions & questionnaire
SOS Sado	Portugal	Group III	Fact-finding mission
Associação Portuguesa para a Defesa do Consumidor (DECO)	Portugal	Group III	Fact-finding mission
Conselho Nacional das Ordens Profissionais (CNOP)	Portugal	Group III	Fact-finding mission

Annex 10 – TABLE OF SANCTIONS AND BASELINE

Comparative overview of sanctions

Tables 1 and 2 provide a comparison of the criminal sanctions in the Member States for each of the offences of Article 3 for natural persons. The tables depict minimum and maximum imprisonment sentences and fines foreseen for negligence and intent (in case such a distinction is made in the transposing national legislation) per Member State and per criminal offence as stipulated in the Directive. Table 1 presents the information in relation to the conducts described in Article 3(a) to (e), while Table 2 provides the same information for Article 3(f) to (i). This analysis is complemented by Tables 3 and 4 which present a comparative overview of the maximum levels of fines and imprisonment for each Article 3 offence. Finally, Table 5 compares sanctions applicable to legal persons across the 28 Member States. The values presented in Tables 3 and 4 intend to reflect the highest penalties available for each type of penalty (imprisonment and fines). For that reason the values presented for each type of penalty in relation to each offence do not necessarily correspond to the one and same situation (e.g. the maximum imprisonment can be for death, while the maximum fine is for endangerment of the environment). The tables present the penalties for offences as close as possible to those described in the Directive and thus do not include special aggravating or mitigating circumstances such as recidivism, minor cases, large-scale damages, or occurrence in protected areas.

The tables do not indicate accessory criminal sanctions and administrative sanctions.

These tables have been updated with the current values as to November 2019.

The “Before transposition” sections are based on: HUGLO LEPAGE & Partners. (2007). Study on environmental crime in the 27 Member States. The study (and thus the information included in the tables below) only considers the following offences: unlawful discharge of hazardous substances into water (below under letter a); unlawful dumping of waste (below under letter b); illegal shipment of waste (below under letter c); unlawful significant deterioration of a protected habitat (below under letter h); unlawful trade in or use of Ozone Depleting Substances (below under letter i).

Table 1 Sanctions for conducts according to Articles 3(a) to (e) applicable to natural persons

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)
AT⁸²	<p><u>Intent</u></p> <p>- up to 20 years</p> <p><u>Negligence</u></p> <p>- up to 5 years</p> <p>- a fine (up to 720 daily units i.e. EUR 8 – EUR 3,600,000)</p>	<p><u>Intent</u></p> <p>- up to 20 years</p> <p><u>Negligence</u></p> <p>- up to 5 years</p> <p>- a fine (up to 720 daily units i.e. EUR 8– EUR 3,600,000)</p>	<p><u>Intent</u></p> <p>- up to 1 year</p> <p>- a fine (up to 720 daily units i.e. EUR 1,440 – EUR 1,800,000)</p> <p><u>Negligence</u></p> <p>- up to six months</p> <p>- a fine (up to 360 daily units i.e. EUR 8 – EUR 3,600,000)</p>	<p><u>Intent</u></p> <p>- up to 20 years</p> <p><u>Negligence</u></p> <p>- up to 5 years</p> <p>- a fine (up to 720 daily units i.e. EUR 8 – EUR 3,600,000)</p>	<p><u>Intent</u></p> <p>- up to 20 years</p> <p><u>Negligence</u></p> <p>- up to 5 years</p> <p>- a fine (up to 720 daily units i.e. EUR 8 – EUR 3,600,000)</p>
Before transposition ⁸³	<p>-1 day – 3 years for misdemeanour</p> <p>-6 months – 5 years for misdemeanour under aggravating circumstances</p>	<p>-1 day – 2 years for misdemeanour</p> <p>-up to 3 years for misdemeanour under aggravating circumstances</p>	<p>-1 day – 2 years for misdemeanour</p> <p>-up to 3 years for misdemeanour under aggravating circumstances</p>		
BE⁸⁴	Partial regional competence	Partial regional competence	Partial competence	Partial competence	Federal competence
FED	<p><u>Intent</u></p> <p>- 10 days – 10 years</p> <p>- a fine (EUR 8,000 – EUR 56,000,000)</p> <p><u>Negligence</u></p> <p>- 8 days – 1 year</p> <p>- a fine (EUR 2,000 – EUR 40,000,000)</p>	N/A ⁸⁵	<p><u>Intent and Negligence</u></p> <p>- 8 days – 3 years</p> <p>- a fine (EUR 320 – EUR 32,000,000)</p>	N/A	<p><u>Intent and Negligence</u></p> <p>- 3 months – 2 years</p> <p>- a fine (EUR 8,000 – EUR 8,000,000)</p>

⁸² The court decides on fines in terms of a number of daily units. A fine shall not be less than 2 daily units. One daily fine unit spans between EUR 4 and EUR 5 000.

⁸³ The “Before transposition” sections are based on HUGLO LEPAGE & Partners. (2007). Study on environmental crime in the 27 Member States. The study (and thus the information included in the table) only considers the following offences: unlawful discharge of hazardous substances into water (here under letter a); unlawful dumping of waste (here under letter b); illegal shipment of waste (here under letter c); unlawful significant deterioration of a protected habitat (here under letter h); unlawful trade in or use of Ozone Depleting Substances (here under letter i).

⁸⁴ Fines are corrected for inflation by so-called “additional decimes”. For example, the court inflicts to X fine of EUR 200. X will have to pay 1,600 (X x 8) If the offence was committed at the latest on 31 December 2011, and 1,200 (X x 6) if the offence was committed on 1 January 2012. The fines in the table above have been multiplied by the current additional decimes value – that is 8.

⁸⁵ N/A is used for cases where the corresponding jurisdiction is not competent to set a criminal sanction.

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)
FL	<u>Intent</u> - 1 month – 5 years; - fine (EUR 800 – EUR 4,000,000) <u>Negligence</u> - 1 month – 3 years; - fine (EUR 800 – EUR 2,800,000)	<u>Intent</u> - 1 month – 5 years; - fine (EUR 800 – EUR 4,000,000) <u>Negligence</u> - 1 month – 3 years; - fine (EUR 800 – EUR 2,800,000)	<u>Intent</u> - 1 month – 5 years; - fine (EUR 800 – EUR 4,000,000) <u>Negligence</u> - 1 month – 3 years; - fine (EUR 800 – EUR 2,800,000)	<u>Intent and Negligence</u> - 1 month – 2 years; - fine (EUR 800 – EUR 2,000,000)	N/A
WR	<u>Intent and negligence</u> - 8 days – 3 years; - fine (EUR 800 – EUR 8,000,000)	<u>Intent and negligence</u> - 8 days – 3 years; - fine (EUR 800 – EUR 8,000,000)	<u>Intent and negligence</u> - 8 days – 3 years; - fine (EUR 800 – EUR 8,000,000)	<u>Intent and negligence</u> - 8 days – 3 years; - fine (EUR 800 – EUR 8,000,000)	N/A
BR	<u>Intent and Negligence</u> - 8 days – 2 years - fine (EUR 400 – EUR 4,000,000)	<u>Intent and Negligence</u> - 8 days – 2 years - fine (EUR 400 – EUR 4,000,000)	<u>Intent and Negligence</u> - 8 days – 2 years - fine (EUR 400 – EUR 4,000,000)	<u>Intent and Negligence</u> - 8 days – 2 years - fine (EUR 400 – EUR 4,000,000)	N/A
Before transposition FL	8 days – 6 months	1 month – 5 years	1 month – 5 years		
WR	8 days – 6 months	- Illegal dumping: 8 days – 3 years - Intentional offence: 1 month – 5 years - Illegal dumping causing harm to human health: 6 months – 5 years - Intentional illegal dumping causing harm to human health: 6 months – 5 years	- Shipment without prior notification and/or consent or without financial guarantee: 8 days – 3 years - Intentional offence: 1 month – 5 years - Shipment without prior and/or consent and/or financial guarantee causing harm to human health: 6 months – 5 years - Intentional offence: minimum 5 years		
BR	8 days – 6 months	1 – 6 months	- Shipment without a prior notification or consent: 3 – 12 months - Intentional false notification: 1 – 6 months		

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)
BG	<u>Intent</u> - 1 - 20 years - a fine (EUR 2,500 – EUR 25,000) <u>Negligence</u> - up to 3 years - a fine (EUR 1,000 – EUR 10,000)	<u>Intent</u> - 1 - 20 years - a fine (EUR 50 – EUR 25,000) <u>Negligence</u> - up to 3 years - a fine (EUR 1,500 – EUR 7,500)	<u>Intent</u> - up to 4 years - a fine (EUR 1,000 – EUR 2,500) <u>Negligence</u> - up to 2 years	<u>Intent</u> - up to 15 years - a fine (EUR 1,000 – EUR 15,000) <u>Negligence</u> up to 2 years	<u>Intent</u> - 1 - 15 years - a fine (EUR 5,000 – EUR 10,000) <u>Negligence</u> up to 3 years
Before transposition	up to 5 years	up to 5 years (if danger for the people, the animals and the plants or unfit for using for cultural and household, health, agricultural and other economic needs)	1 – 5 years		
CY	<u>Intent and Negligence</u> - up to 10 years - a fine (up to EUR 500,000)	<u>Intent and Negligence</u> - up to 10 years - a fine (up to EUR 500,000)	<u>Intent and Negligence</u> - up to 10 years - a fine (up to EUR 500,000)	<u>Intent and Negligence</u> - up to 10 years - a fine (up to EUR 500,000)	<u>Intent and Negligence</u> - up to 10 years - a fine (up to EUR 500,000)
Before transposition	N/A	up to 3 years	up to 3 years		
CZ⁸⁶	<u>Intent</u> - up to 3 years - a fine (EUR 80- EUR 1,460,000) <u>Negligence</u> up to 6 months	<u>Intent and Negligence</u> - up to 2 years - a fine (EUR 80- EUR 1,460,000)	<u>Intent and Negligence</u> - up to 1 year - a fine (EUR 80- EUR 1,460,000)	<u>Intent:</u> - up to 3 years - a fine (EUR 80- EUR 1,460,000) <u>Negligence:</u> up to 6 months	<u>Intent and Negligence</u> - 1 - 16 years - a fine (EUR 80- EUR 1,460,000)
Before transposition	<u>Intent</u> -prison, up to 3 years -very aggravating circumstances: 2 – 8 years <u>Negligence</u> - up to 6 months	-up to 2 years -very aggravating circumstances: 6 months – 5 years	-up to 2 years -very aggravating circumstances: 6 months – 5 years		

⁸⁶ A monetary penalty can be imposed but only where the offender sought to secure or secured for themselves or for another person any material benefit by committing an intentional criminal offence. The penalty is based on daily rates. The total number of daily rates imposed shall be at least 20 and at most 730 full daily rates. A daily rate amounts to at least EUR 4 and at most EUR 2,000 per day, leading to a maximum fine of EUR 1,460,000.

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)
	- very aggravating circumstances, 6 months – 5 years				
DE	<u>Intent</u> - up to 15 years - a fine (EUR 5 – EUR 10,800,000) <u>Negligence</u> - up to 3 years - a fine (EUR 5 – EUR 10,800,000)	<u>Intent</u> - up to 15 years - a fine (EUR 5 – EUR 10,800,000) <u>Negligence</u> - up to 3 years - a fine (EUR 5 – EUR 10,800,000)	<u>Intent</u> - up to 15 years - a fine (EUR 5 – EUR 10,800,000) <u>Negligence</u> - up to 3 years - a fine (EUR 5 – EUR 10,800,000)	<u>Intent</u> - up to 15 years - a fine (EUR 5 – EUR 10,800,000) <u>Negligence</u> - up to 3 years - a fine (EUR 5 – EUR 10,800,000)	<u>Intent</u> - up to 15 years - a fine (EUR 5 – EUR 10,800,000) <u>Negligence</u> - up to 3 years - a fine (EUR 5 – EUR 10,800,000)
Before transposition	-up to 5 years -especially serious crime: up to 10 years	-up to 5 years	-up to 5 years -very serious crime: up to 10 years		
DK⁸⁷	<u>Intent</u> - up to 6 years - a fine <u>Negligence</u> a fine	<u>Intent</u> - up to 6 years - a fine <u>Negligence</u> a fine	<u>Intent</u> - up to 6 years - a fine <u>Negligence</u> a fine	<u>Intent</u> - up to 6 years - a fine <u>Negligence</u> a fine	No sanction available
Before transposition	-up to 2 years -serious offence and damage to environment or imminent danger: up to 4 years	-up to 2 years -serious offence and damage to environment or imminent danger: up to 4 years	-up to 2 years -serious offence and damage to environment or imminent danger: up to 4 years		
EE⁸⁸	<u>Intent</u> - up to 5 years - a fine <u>Negligence</u> - up to 5 years - a fine	<u>Intent</u> - up to 5 years - a fine <u>Negligence</u> - up to 5 years - a fine	<u>Intent</u> - up to 2 year - a fine <u>Negligence</u> - up to 1 years - a fine	<u>Intent</u> - up to 5 year - a fine <u>Negligence</u> - up to 5 years - a fine	<u>Intent</u> -up to 5 years - a fine <u>Negligence</u> - up to 5 years - a fine
Before transposition	<u>Intent</u> up to 2 years <u>Negligence</u>	<u>Intent</u> up to 3 years <u>Negligence</u>	-up to 5 years - aggravating circumstances: up to 10		

⁸⁷ There is no minimum or maximum level of fines prescribed by law. The increase in sanctions is due to a methodology issue: the increase is not due to a particular legislative amendment creating a stricter sentence but to the broader scope of the ECD than of the offences analysed in the Huglo Lepage Study.

⁸⁸ The fine is calculated by the court on the basis of the average daily income of the convicted offender and imposed in 30 to 500 daily rates.

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)
EL	up to 1 year <u>Intent</u> - up to 20 years - a fine (EUR 3,000 – 500,000) <u>Negligence</u> - up to 5 years - a fine (up to EUR 150,000)	up to 1 year <u>Intent</u> - up to 20 years - a fine (EUR 3,000 – 500,000) <u>Negligence</u> - up to 5 years - a fine (up to EUR 150,000)	years <u>Intent</u> - up to 20 years - a fine (EUR 3,000 – 500,000) <u>Negligence</u> - up to 5 years - a fine (up to EUR 150,000)	<u>Intent</u> - up to 20 years - a fine (EUR 3,000 – 500,000) <u>Negligence</u> - up to 5 years - a fine (up to EUR 150,000)	<u>Intent</u> - up to 20 years - a fine (EUR 3,000 – 500,000) <u>Negligence</u> - up to 5 years - a fine (up to EUR 150,000)
Before transposition	<u>Intent</u> 3 months – 2 years <u>Negligence</u> up to 1 year Danger of death or bodily injury: minimum 1 year and a fine Death or bodily injury: up to 10 years	<u>Intent</u> 3 months – 2 years <u>Negligence</u> up to 1 year Danger of death or bodily injury: minimum 1 year and a fine Death or bodily injury: up to 10 years	<u>Intent</u> 3 months – 2 years <u>Negligence</u> up to 1 year Danger of death or bodily injury: minimum 1 year and a fine Death or bodily injury: up to 10 years		
ES⁸⁹	<u>Intent</u> 6 – 12 years <u>Negligence</u> 3 – 6 years	<u>Intent</u> - 6 months – 5 years - a fine of 8 to 24 months (EUR 480 – EUR 288,000) <u>Negligence</u> - 3 to 6 months - a fine of 4 months to 10 months (from EUR 240 – EUR 120,000)	<u>Intent</u> - 3 months to 1 year - fine of 6 to 18 months (EUR 360 – EUR 216,000) <u>Negligence</u> - 1 month – 3 months - fine of 3 to 6 months (EUR 180 – EUR 72,000)	<u>Intent</u> - 6 months – 5 years - a fine of 8 to 24 months (EUR 480 – EUR 288,000) <u>Negligence</u> - 3 to 6 months - a fine of 4 months to 10 months (from EUR 240 – EUR 120,000)	<u>Intent</u> - 1 – 5 years - a fine of 6 to 18 months (EUR 360 – EUR 216,000) <u>Negligence</u> - 3 to 6 months - a fine of 3 to 6 months (EUR 180 – EUR 72,000)
Before transposition	-6 months – 4 years - periodic payment penalty of 8 – 24 months - professional disqualification from 1 to 3	- 6 months – 4 years - periodic payment penalty of 8 – 24 months - professional disqualification from 1 to 3 years	- 6 months – 4 years - periodic payment penalty of 8 – 24 months - professional disqualification from 1 to 3		

⁸⁹ The fine is expressed in daily units. The monetary fine per day varies from EUR 2 to 400 for natural persons.

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)
	years		years		
FI⁹⁰	<u>Intent</u> - up to 10 years - a fine <u>Negligence</u> - up to 4 years - a fine Åland <u>Intent and negligence</u> - up to 4 years - a fine	<u>Intent</u> - up to 6 years - a fine <u>Negligence</u> - up to 1 year - a fine Åland <u>Intent and Negligence</u> - up to 2 years - a fine	<u>Intent and Negligence</u> - up to 2 years - a fine Åland <u>Intent and Negligence</u> Fine	<u>Intent</u> - up to 10 years - a fine <u>Negligence</u> - up to 4 years - a fine Åland <u>Intent and Negligence</u> - up to 2 years - a fine	<u>Intent</u> - up to 10 years - a fine <u>Negligence</u> - up to 4 years - a fine Åland <u>Intent and negligence</u> - up to 4 years - a fine
Before transposition	-up to 2 years -aggravated impairment: up to 6 years	-up to 2 years -aggravated impairment: up to 6 years	-up to 2 years -aggravated impairment: up to 6 years		
FR	<u>Intent and Negligence</u> - up to 3 years - a fine (up to EUR 150,000)	<u>Intent and Negligence</u> - up to 3 years - a fine (up to EUR 150,000)	<u>Intent and Negligence</u> - 2 years - a fine (EUR 75,000)	<u>Intent and Negligence</u> - up to 3 years - a fine (up to EUR 150,000)	<u>Intent and Negligence</u> - up to 2 years - a fine (up to EUR 75,000)
Before transposition	up to 2 years	up to 2 years	up to 2 years		
HR⁹¹	<u>Intent</u> - 6 months to 15 years and/or a fine <u>Negligence</u> - up to 8 years and/or a fine	<u>Intent</u> - 6 months to 15 years and/or a fine <u>Negligence</u> - up to 8 years and/or a fine	<u>Intent</u> - Up to 15 years and/or a fine <u>Negligence</u> - up to 8 years and/or a fine N/A	<u>Intent</u> - 6 months to 15 years and/or a fine <u>Negligence</u> - up to 8 years and/or a fine	<u>Intent</u> - 6 months to 15 years and/or a fine <u>Negligence</u> - up to 8 years and/or a fine
Before transposition	N/A	N/A	N/A		
HU⁹²	Intent	Intent	Intent	<u>Intent</u>	<u>Intent</u>

⁹⁰ The fine is determined as a number (1 to 120) of fixed day fines, depending on the economic and social situation of the offender. One sixtieth of the average monthly income of the person fined, less the taxes and fees defined by a Decree and a fixed deduction for basic consumption, is deemed to be a reasonable amount of a day fine. The increase in sanctions is due to a methodology issue: the increase is not due to a particular legislative amendment creating a stricter sentence but to the broader scope of the ECD than of the offences analysed in the Huglo Lepage Study.

⁹¹ The fine must be between 30 and 360 daily incomes, except for criminal offences committed for personal gain when the maximum fine may amount to 500 daily incomes.

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)
	- up to 20 years - a fine (EUR 90 – EUR 809,000) Negligence - up to 5 years - a fine (EUR 90 – EUR 809,000)	- up to 20 years - a fine (EUR 90 – EUR 809,000) Negligence - up to 5 years - a fine (EUR 90 – EUR 809,000)	- up to 5 years - a fine (EUR 90 – EUR 809,000) Negligence - up to 2 years - a fine (EUR 90 – EUR 809,000)	- up to 20 years - a fine (EUR 90 – EUR 809,000) Negligence - up to 5 years - a fine (EUR 90 – EUR 809,000,106)	
Before transposition	- up to 3 years - up to 8 years (if damage is such that environment cannot be restored)	up to 8 years	up to 8 years		
IE	<u>Conviction on indictment</u> - up to 5 years - a fine (up to EUR 15,000,000) <u>Summary conviction</u> - up to 12 months - a fine (up to EUR 3,000)	<u>Conviction on indictment</u> - up to 5 years - a fine (up to EUR 15,000,000) <u>Summary conviction</u> - up to 12 months - a fine (up to EUR 3,000)	<u>Conviction on indictment</u> - up to 3 years - a fine (up to EUR 500,000) <u>Summary conviction</u> - up to 3 months - a fine (up to EUR 3,000)	<u>Summary conviction</u> - up to 12 months - a fine (up to EUR 3,000)	<u>Conviction on indictment</u> - up to 3 years - a fine (up to EUR 500,000) <u>Summary conviction</u> - up to 3 months - a fine (up to EUR 5,000)
Before transposition	<u>Conviction on indictment</u> up to 5 years <u>Summary conviction</u> up to 6 months	<u>Conviction on indictment</u> up to 10 years <u>Summary conviction</u> up to 1 year	<u>Conviction on indictment</u> Prison penalty up to 10 years <u>Summary conviction</u> Prison penalty up to 1 year		
IT	<u>Intent</u> - up to 10 years - a fine (up to EUR 100,000) <u>Negligence</u> - up to 4 years - up to EUR 66,667	<u>Intent</u> - 3 months - 10 years - a fine (EUR 2,600 – EUR 100,000) <u>Negligence</u> - 3 months - 4 years - a fine (EUR 2,600 – EUR 66,667)	<u>Intent and Negligence</u> - up to 6 years - a fine (EUR 1,550 – EUR 26,000)	<u>Intent</u> - up to 10 years - a fine (EUR 10,000 – EUR 120,000) <u>Negligence</u> - up to 4 years - a fine (up to EUR 120,000)	<u>Intent</u> - up to 10 years - a fine (EUR 516.46 – EUR 100,000) <u>Negligence</u> - up to 4 years - a fine (EUR 516.46 – EUR 66,667)
	3 months – 3 years	up to 1 year (dangerous waste: if	Transnational shipment of		

⁹² The fine is minimum 30 daily units and maximum 540. The amount of the daily unit depends on the perpetrator's financial and personal circumstances, but should be at least EUR 3 and not more than EUR 1,500. Fines can only be imposed instead of imprisonment, if the length of imprisonment foreseen by the relevant offence provision does not exceed 3 years. The sanctions included in the table are the minima and maxima for damage to/endangerment of the environment.

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)
Before transposition		the offender does not repair the damages to the environment and does not remove the waste)	waste: up to 2 years Organized activity of unlawful shipment of waste: 1 – 6 years		
LT⁹³	<u>Intent</u> - up to 10 years - a fine (EUR 3,900 – EUR 156,000) <u>Negligence</u> - a fine (EUR 780 – EUR 29,250)	<u>Intent</u> - up to 6 years - a fine (EUR 3,900 – EUR 156,000) <u>Negligence</u> - a fine (EUR 780 – EUR 29,250)	<u>Intent</u> - up to 3 years - a fine (EUR 1,950 – EUR 78,000)	<u>Intent</u> - up to 6 years - a fine (EUR 3,900 – EUR 156,000) <u>Negligence</u> - a fine (EUR 780 – EUR 29,250)	<u>Intent</u> - up to 10 years - a fine (EUR 1,950 – EUR 156,000) <u>Negligence</u> - a fine (EUR 780 – EUR 29,250)
Before transposition ⁹⁴	-up to 3 years -up to 6 years in case of major harm to fauna and flora or other consequences	-up to 3 years -up to 6 years in case of major harm to fauna and flora or other consequences	-up to 3 years -up to 6 years in case of major harm to fauna and flora or other consequences		
LU	<u>Intent and Negligence</u> - 8 days - 5 years - a fine (EUR 25 – EUR 750,000)	<u>Intent and Negligence</u> - 8 days - 5 years - a fine (EUR 25 – EUR 750,000)	<u>Intent and Negligence</u> - 8 days - 6 months - a fine (EUR 251 – EUR 100,000)	<u>Intent and Negligence</u> - 8 days - 1 year - a fine (EUR 251 – EUR 500,000)	<u>Intent and Negligence</u> - 8 days - 5 years - a fine (EUR 251 – EUR 500,000)
Before transposition	8 days – 6 months	8 days – 6 months	8 days – 6 months		
LV⁹⁵	<u>Intent and Negligence</u> - up to 8 years - a fine (10 up to 2000 times the minimum monthly wage – EUR 4,300 to EUR 860,000)	<u>Intent and Negligence</u> - up to 5 years - a fine (10 up to 2000 times the minimum monthly wage – EUR 4,300 to EUR 860,000)	<u>Intent and Negligence</u> - up to 5 years - a fine (10 up to 2000 times the minimum monthly wage – EUR 4,300 to EUR 860,000)	<u>Intent and Negligence</u> - up to 2 years - a fine (3 up to 1000 times the minimum monthly wage – EUR 1,290 to EUR 430,000)	<u>Intent and Negligence</u> - up to 8 years - a fine (10 up to 2000 times the minimum monthly wage – EUR 4,300 to EUR 860,000)
Before	up to 4 years	Repeated violations of provisions on	up to 6 years		

⁹³ The Criminal Code refers to the minimum and maximum sanction. Final sanction is imposed by the Court taking into account individual circumstances of the particular case. The sum of the fine is linked with the Basic social income (equals EUR 39 as of January 1, 2020).

⁹⁴ The information in this section is based on a reform project presented on 14 April 2005 by the Lithuanian Government to the Parliament. However, the Huglo Lepage study stressed that the Lithuanian authorities had not confirmed if the project had been adopted (see HUGLO LEPAGE & Partners. (2007). Study on environmental crime in the 27 Member States, Annex II, p. 45).

⁹⁵ Fines are expressed as the minimum monthly wage which usually changes every year (EUR 430 in 2019). The maximum level of the fine depends on the gravity of the offence (criminal violation, less serious, serious or especially serious crime). Offences under this Directive are either less serious or serious crimes.

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)
transposition		elimination of hazardous waste: up to 2 years Repeated violation of provisions regarding elimination of hazardous waste causing substantial harm to the environment; unauthorized burial of hazardous substances in waters: up to 4 years			
MT	<u>Intent</u> - up to life imprisonment - a fine (EUR 12,000 - EUR 2,500,000) <u>Negligence</u> - up to 6 years - a fine (up to EUR 11,647)	<u>Intent</u> - up to life imprisonment - a fine (EUR 12,000 - EUR 2,500,000) <u>Negligence</u> - up to 6 years - a fine (up to EUR 11,647)	<u>Intent</u> - up to life imprisonment - a fine (EUR 12,000 - EUR 2,500,000) <u>Negligence</u> - up to 6 years - a fine (up to EUR 11,647)	<u>Intent</u> - up to life imprisonment - a fine (EUR 12,000 - EUR 2,500,000) <u>Negligence</u> - up to 6 years - a fine (up to EUR 11,647)	<u>Intent</u> - up to life imprisonment - a fine (EUR 12,000 - EUR 2,500,000) <u>Negligence</u> - up to 6 years - a fine (up to EUR 11,647)
Before transposition	up to 2 years (in case of re-offending)	up to 2 years (in case of re-offending)	up to 2 years (in case of re-offending)		
NL	<u>Intent</u> - up to life imprisonment - a fine (up to EUR 87,000) <u>Negligence</u> - up to 2 years - a fine (up to EUR 21,750)	<u>Intent</u> - up to 15 years - a fine (up to EUR 87,000) <u>Negligence</u> - up to 2 years - fine (up to EUR 21,750)	<u>Intent</u> - up to 15 years - a fine (up to EUR 87,000) <u>Negligence</u> - up to 2 years - fine (EUR 21,750)	<u>Intent</u> - up to 15 years - a fine (up to EUR 87,000) <u>Negligence</u> - up to 2 years - fine (up to EUR 21,750)	<u>Intent</u> - up to life imprisonment - a fine (up to EUR 87,000) <u>Negligence</u> - up to 2 years - fine (up to EUR 21,750)
Before transposition	<u>Felony</u> up to 6 years <u>Misdemeanour</u> up to 1 year	<u>Felony</u> up to 6 years <u>Misdemeanour</u> up to 1 year	<u>Felony</u> up to 6 years <u>Misdemeanour</u> up to 1 year		
PL	<u>Intent</u> 3 months - 5 years <u>Negligence</u> - up to 2 years	<u>Intent</u> 3 months - 5 years <u>Negligence</u> - up to 2 years	<u>Intent</u> 3 months - 5 years <u>Negligence</u> - up to 2 years	<u>Intent</u> 6 months to 8 years <u>Negligence</u> - up to 3 years	<u>Intent</u> 3 months - 5 years <u>Negligence</u> - up to 2 years

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)
	- a fine (EUR 25 - EUR 270 000)	- a fine (EUR 25 - EUR 270 000)	- a fine (EUR 25 - EUR 270 000)		- a fine (EUR 25 - EUR 270 000)
Before transposition	3 days – 5 years	5 days – 5 years	3 months – 5 years		
PT⁹⁶	<u>Intent</u> - 1 - 128 months - a fine (10 - 600 days, i.e. (EUR 50 – EUR 300,000)) <u>Negligence</u> - 1 - 96 months - a fine (10 - 360 days, i.e. EUR 50 – EUR 180,000)	<u>Intent</u> - 1 - 128 months - a fine (10 - 600 days, i.e. (EUR 50 – EUR 300,000)) <u>Negligence</u> - 1 - 96 months - a fine (10 - 360 days, i.e. EUR 50 – EUR 180,000)	<u>Intent</u> - 1 month – 3 years - a fine (10 - 600 days, i.e. (EUR 50 – EUR 300,000)) <u>Negligence</u> - 1 month - 1 year - a fine (10 - 360 days, i.e. EUR 50 – EUR 180,000)	<u>Intent</u> - 1 - 128 months - a fine (10 - 600 days, i.e. (EUR 50 – EUR 300,000)) <u>Negligence</u> - 1 - 96 months - a fine (10 - 360 days, i.e. EUR 50 – EUR 180,000)	<u>Intent</u> - 1 - 128 months - a fine (10 - 600 days, i.e. (EUR 50 – EUR 300,000)) <u>Negligence</u> - 1 - 96 months - a fine (10 - 360 days, i.e. EUR 50 – EUR 180,000)
Before transposition	-1 - 3 years or periodic penalty payment up to 600 days (if damage to nature or pollution) -1 - 5 years (dol but not danger) -1 - 8 years (dol and danger)	1 - 8 years	No criminal sanction		
RO⁹⁷	<u>Intent</u> - three months – 15 years imprisonment - a fine (EUR 180 – EUR 31,500) <u>Negligence</u> - 6 months – 7 years - a fine (EUR 240 – EUR 31,500)	<u>Intent</u> - three months – 15 years imprisonment - a fine (EUR 180 – EUR 31,500) <u>Negligence</u> - three months to 2.5 years - a fine (EUR 240 – EUR 31,500)	<u>Intent</u> 2 years – 15 years <u>Negligence</u> - 1 year – 7.5 years - a fine (EUR 240 – EUR 31,500)	<u>Intent</u> - 3 months – 5 years - a fine (EUR 180 – EUR 31,500) <u>Negligence</u> - 3 months – 2.5 years - a fine (EUR 240 – EUR 31,500)	<u>Intent</u> - 6 months – 20 years imprisonment - a fine (EUR 240 – EUR 31,500) <u>Negligence</u> - 6 months – 7 years - a fine (EUR 240 – EUR 31,500)
	<u>Intent</u>	-1 – 7 years	-2 – 7 years		

⁹⁶ The daily fine unit is set by the court and ranges between EUR 5 – EUR 500.

⁹⁷ Under Romanian legislation, different punishment ranges are foreseen if the illicit behavior falls under specific legislation pertaining water, waste, customs, nuclear activities, generic environmental protection legislation, generic criminal legislation or any other legislation with harsher punishments. The minimal/maximum punishments listed refer to the minimal possible (smallest crime identified that could be taken into account) and the maximal possible (for example, an eco-crime following which a disaster occurred, due to which more than two people died or were grievously wounded).

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)
Before transposition	1 – 5 years <u>Negligence</u> 1 – 3 years or by days/fine Corporal injury to a person or <u>significant material</u> <u>damage</u> : 5 – 10 years <u>Death</u> : 15 – 20 years	-15 – 20 years if death or major damage to economy	-15 – 20 years if death or major damage to economy		
SE	<u>Intent</u> up to 6 years or a fine (up to EUR 14,220 ⁹⁸) <u>Negligence</u> Up to 2 years or a fine (up to EUR 14,220)	<u>Intent</u> up to 6 years or a fine (up to EUR 14,220) <u>Negligence</u> Up to 2 years or a fine (up to EUR 14,220)	<u>Intent and Negligence</u> up to 2 years or a fine (up to EUR 14,220)	<u>Intent and Negligence</u> up to 2 years or a fine (up to EUR 14,220)	<u>Intent and Negligence</u> up to 2 years or a fine (up to EUR 14,220)
Before transposition	-up to 2 years -up to 6 years if the offence leads to pollution and is serious	-up to 2 years -up to 6 years if the offence leads to pollution and is serious	-up to 2 years -up to 6 years if the offence leads to pollution and is serious		
SI⁹⁹	<u>Intent</u> 30 days – 12 years and a fine <u>Negligence</u> 30 days – 2 years or a fine	<u>Intent</u> 30 days – 12 years and a fine <u>Negligence</u> 30 days – 2 years or a fine	<u>Intent</u> 30 days – 12 years and a fine <u>Negligence</u> 30 days – 2 years or a fine	<u>Intent</u> 30 days – 12 years and a fine <u>Negligence</u> 30 days – 2 years or a fine	<u>Intent</u> 30 days – 8 years and a fine <u>Negligence</u> 6 months – 3 years
Before transposition	up to 1 year	-up to 1 year -up to 2 years in case of pollution and destruction of the environment	up to 5 years		
SK¹⁰⁰	<u>Intent</u> up to 10 years or a fine (EUR 160 and EUR 331,930) <u>Negligence</u> up to 8 years	<u>Intent and Negligence</u> up to 8 years or a fine (EUR 160 and EUR 331,930)	<u>Intent and Negligence</u> up to 8 years or a fine (EUR 160 and EUR 331,930)	<u>Intent</u> up to 10 years or a fine (EUR 160 and EUR 331,930) <u>Negligence</u>	<u>Intent and Negligence</u> 1 year - life imprisonment or a fine (EUR 160 and EUR 331,930)

⁹⁸ The amounts in SEK remain the same, SEK 150,000. The revised amounts reflect the current exchange rate (on 14 January 2020)

⁹⁹ The fine imposed must be an amount of between 30 and 360 times the daily wage of the perpetrator.

¹⁰⁰ The court may impose a fine between EUR 160 and EUR 331,930 on the offender of an intentional criminal offence whereby he gained or tried to gain material benefit.

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)
Before transposition	-1 – 5 years -3 – 8 years in case of large scale harm to the environment	-minor offence: up to 2 months -more important offence: 6 months – 3 years -important offence: 1 – 5 years -large scale offence: 4 – 8 years	-minor offence: up to 2 months -more important offence: 6 months – 3 years -important offence: 1 – 5 years -large scale offence: 4 – 8 years	up to 8 years	
UK¹⁰¹	<u>Conviction on indictment</u> - up to 5 years - unlimited fine <u>Summary conviction</u> - 6 - 12 months - fine (up to EUR 58,679, 102 EUR 46,000 and EUR 34,507 in E&W, Scotland and NI respectively)	<u>Conviction on indictment</u> - up to 5 years - unlimited fine <u>Summary conviction</u> - 6 - 12 months - fine (up to EUR 58,679 E&W and NI) ¹⁰³ and EUR 46,000 (Scotland))	<u>Conviction on indictment</u> - up to 2 years - unlimited fine <u>Summary conviction</u> - up to 3 months - fine (up to EUR 5,867) ¹⁰⁴	<u>Conviction on indictment</u> - up to 2 years - unlimited fine <u>Summary conviction</u> - up to 12 months (6 months in NI) - fine (up to EUR 23,475) ¹⁰⁵	<u>Conviction on indictment</u> - up to 5 years - unlimited fine <u>Summary conviction</u> - up to 12 months (E&W); 6 months (Scotland and NI) - fine (up to EUR 58,679 (E&W); EUR 23,475 (Scotland and NI)) ¹⁰⁶
Before transposition	England and Wales: <u>Conviction on indictment</u> up to 2 years <u>Summary conviction</u> up to 3 months Scotland: <u>Conviction on indictment</u>	England, Scotland, Wales: <u>Conviction on indictment</u> up to 2 years <u>Summary conviction</u> up to 6 months Northern Ireland: <u>Conviction on indictment</u>	<u>Conviction on indictment</u> up to 2 years and/or fine unlimited <u>Summary conviction</u> No criminal offence		

¹⁰¹ Summary convictions and convictions on indictment are selected for less serious and more serious cases respectively. The revised amounts reflect the current exchange rate (on 14 January 2020).

¹⁰² However, see 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 on Removal of limit on certain fines on conviction by magistrates' court (1) Where, on the commencement day, a relevant offence would, apart from this subsection, be punishable on summary conviction by a fine or maximum fine of £5,000 or more (however expressed), the offence is punishable on summary conviction on or after that day by a fine of any amount.

¹⁰³ Ibid

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)
up to 5 years <u>Summary conviction</u> up to 6 months Northern Ireland: <u>Conviction on indictment</u> up to 2 years <u>Summary conviction</u> up to 3 months	up to 2 years <u>Summary conviction</u> up to 6 months			

Table 2 Sanctions for conducts according to Articles 3(f) to (i) applicable to natural persons

	Article 3(f)	Article 3(g)	Article 3(h)	Article 3(i)
AT¹⁰⁷	<u>Intent</u> - up to 2 years <u>Negligence</u> - up to 1 year - a fine (up to 720 daily units)	<u>Intent</u> - up to 5 years - a fine (up to 360 daily units i.e. EUR 8 – EUR 1,800,000) <u>Negligence</u> - up to 1 year - a fine (up to 180 daily units)	<u>Intent</u> - up to 2 years <u>Negligence</u> - up to 1 year - fine (up to 720 daily units)	<u>Intent</u> - up to 1 year - a fine (up to 720 daily units i.e. EUR 8 – EUR 1,800,000) <u>Negligence</u> - up to 6 months - a fine (up to 360 daily units) No criminal offence.
Before transposition			Prison from 1 day to 2 years for misdemeanour	
BE¹⁰⁸	Partial regional competence	Partial regional competence	Partial regional competence	Partial regional competence
FED	<u>Intent and Negligence</u> Fine (EUR 4,000 – EUR 800,000)	<u>Intent and Negligence</u> - 15 days – 3 months - fine (EUR 200 – EUR 16,000)	<u>Intent and Negligence</u> Fine (EUR 4,000 – EUR 800,000)	<u>Intent and Negligence</u> - 8 days – 3 years - fine (EUR 416 – EUR 32,000,000)
FL	<u>Intent</u> - 1 month – 5 years; - fine (EUR 800 – EUR 4,000,000) <u>Negligence</u> - 1 month – 3 years; - fine (EUR 800 – EUR 2,800,000)	<u>Intent</u> - 1 month – 5 years; - fine (EUR 800 – EUR 4,000,000) <u>Negligence</u> - 1 month – 3 years; - fine (EUR 800 – EUR 2,800,000) No criminal sanction	<u>Intent</u> - 1 month – 5 years; - fine (EUR 800 – EUR 4,000,000) <u>Negligence</u> - 1 month – 3 years; - fine (EUR 800 – EUR 2,800,000)	<u>Intent and Negligence</u> - 1 month – 2 years; - fine (EUR 800 – EUR 2,000,000)
WR	<u>Intent and Negligence</u> - 8 days – 6 months - fine (EUR 800 – EUR 800,000)		<u>Intent and Negligence</u> - 8 days – 6 months - a fine (EUR 800 – EUR 800,000)	<u>Intent and negligence</u> - 8 days – 3 years - fine (EUR 800 – EUR 8,000,000)
BR	<u>Intent and Negligence</u> - 8 days – 2 years - fine (EUR 400 – EUR 4,000,000)	<u>Intent and Negligence</u> - 8 days – 2 years - fine (EUR 400 – EUR 4,000,000)	<u>Intent and Negligence</u> - 8 days – 2 years - fine (EUR 400 – EUR 4,000,000)	<u>Intent and Negligence</u> - 8 days – 2 years - fine (EUR 400 – EUR 4,000,000)
Before transposition				
FED				illegal uses, imports and illegal exports of goods containing ODS 8 days – 3 years illegal exports of ODS 8 days – 1 year
FL			8 days – 3 years	illegal uses 8 days – 6 months

¹⁰⁷ The court decides on a number of daily units. One daily fine unit spans between EUR 4 and EUR 5 000.

¹⁰⁸ Fines are corrected for inflation by so-called “additional decimes”. For example, the court inflicts to X fine of EUR 200. X will have to pay 1,100 (X x 5.5) If the offence was committed at the latest on 31 December 2011, and 1,200 (X x 8) if the offence was committed on 1 January 2012. The fines in the table above have been multiplied by the current additional decimes value – that is 8.

	Article 3(f)	Article 3(g)	Article 3(h)	Article 3(i)
WR				illegal trade in waste from ODS 1 month – 5 years No penalties for breaches falling under regional competence
BR			1 month – 6 months fine EUR 0.25 – EUR 125	No penalties for breaches falling under regional competence
BG	<u>Intent</u> - up to 5 years - a fine (EUR 1,000 – EUR 10,000) <u>Negligence</u> Fine (EUR 500 – EUR 2,500)	<u>Intent</u> - up to 5 years - a fine (EUR 1,000 – EUR 10,000) <u>Negligence</u> Fine (EUR 500 – EUR 2,500)	<u>Intent</u> - up to 3 years - a fine (EUR 1,000 – EUR 5,000) <u>Negligence</u> Fine (EUR 500 – EUR 2,500) up to 2 years	<u>Intent</u> - up to 4 years - a fine (EUR 500 – EUR 2,500) <u>Negligence</u> up to 1 year No penalties identified
Before transposition CY	<u>Intent and Negligence</u> - up to 10 years - a fine (up to EUR 500,000)	<u>Intent and Negligence</u> - up to 10 years - a fine (up to EUR 500,000)	<u>Intent and Negligence</u> - up to 10 years - a fine (up to EUR 500,000) up to 3 years	<u>Intent and Negligence</u> - up to 10 years - a fine (up to EUR 500,000) up to 1 year
Before transposition CZ ¹⁰⁹	<u>Intent</u> - up to 3 years - a fine (EUR 80- EUR 1,460,000) <u>Negligence</u> up to 1 year	<u>Intent</u> - up to 3 years - a fine (EUR 80- EUR 1,460,000) <u>Negligence</u> up to 1 year	<u>Intent and Negligence</u> - up to 3 years - fine (EUR 80- EUR 1,460,000)	<u>Intent and Negligence</u> - up to 1 year - a fine (EUR 80- EUR 1,460,000)
Before transposition			<u>Intent</u> - up to 3 years - 2 – 8 years under very aggravating circumstances <u>Negligence</u> - up to 6 months - 6 months – 5 years under very aggravating circumstances	No specially provided criminal sanctions, but: <u>Criminal code</u> Article 124: violation on statutory provisions on the circulation of goods in trade with foreign countries Penalties: - up to 2 years - 1 – 5 years under aggravating circumstances Article 118: unlawful business activity Penalties:

¹⁰⁹ A monetary penalty can be imposed but only where the offender sought to secure or secured for themselves or for another person any material benefit by committing an intentional criminal offence. The penalty is based on daily rates. The total number of daily rates imposed shall be at least 20 and at most 730 full daily rates. A daily rate amounts to at least EUR 4 and at most EUR 2,000 per day, leading to a maximum fine of EUR 1.460.000.

	Article 3(f)	Article 3(g)	Article 3(h)	Article 3(i)
DE	<u>Intent</u> - up to 5 years - a fine (EUR 5 – EUR 10,800,000) <u>Negligence</u> - up to 1 year - a fine (EUR 5 – EUR 10,800,000)	<u>Intent</u> - up to 5 years - a fine (EUR 5 – EUR 10,800,000) <u>Negligence</u> - up to 2 years - a fine (EUR 5 – EUR 10,800,000)	<u>Intent</u> - up to 15 years - a fine (EUR 5 – EUR 10,800,000) <u>Negligence</u> - up to 3 years - a fine (EUR 5 – EUR 10,800,000) up to 5 years	- up to 1 year - 6 months – 3 years under aggravating circumstances <u>Intent</u> - up to 5 years - a fine (EUR 5 – EUR 10,800,000) <u>Negligence</u> - up to 2 years - a fine (EUR 5 – EUR 10,800,000) No specific criminal offence
Before transposition DK¹¹⁰	<u>Intent</u> - up to 6 years - a fine <u>Negligence</u> a fine	<u>Intent</u> - up to 6 years - a fine <u>Negligence</u> a fine	<u>Intent</u> - up to 6 years - a fine <u>Negligence</u> a fine up to 2 years	<u>Intent</u> - up to 6 years - a fine <u>Negligence</u> a fine - fine - up to 2 years if the offence results in an environmental damage or a profit
Before transposition EE¹¹¹	<u>Intent</u> - up to 5 years - a fine <u>Negligence</u> - up to 1 year - a fine	<u>Intent</u> - up to 5 years - a fine <u>Negligence</u> - up to 1 year - a fine	<u>Intent</u> - up to 5 years - a fine <u>Negligence</u> - up to 3 years - a fine up to 3 years	<u>Intent</u> - up to 2 years - a fine - fines for unlawful uses - up to 10 years for illegal traffic and illegal imports or exports of goods
Before transposition EL	<u>Intent</u> - up to 20 years - a fine (EUR 3,000 – 500,000) <u>Negligence</u> - up to 5 years - a fine (up to EUR 150,000)	<u>Intent</u> - up to 20 years - a fine (EUR 3,000 – 500,000) <u>Negligence</u> - up to 5 years - a fine (up to EUR 150,000)	<u>Intent</u> - up to 20 years - a fine (EUR 3,000 – 500,000) <u>Negligence</u> - up to 5 years - a fine (up to EUR 150,000) <u>Intent</u> 3 months – 2 years	<u>Intent</u> - up to 20 years - a fine (EUR 3,000 – 500,000) <u>Negligence</u> - up to 5 years - a fine (up to EUR 150,000) No penalties identified
Before transposition				

¹¹⁰ There is no minimum or maximum level of fines prescribed by law. The increase in sanctions is due to a methodology issue: the increase is not due to a particular legislative amendment creating a stricter sentence but to the broader scope of the ECD than of the offences analysed in the Huglo Lepage Study.

¹¹¹ The fine is calculated by the court on the basis of the average daily income of the convicted offender and imposed in 30 to 500 daily rates.

	Article 3(f)	Article 3(g)	Article 3(h)	Article 3(i)
ES¹¹²	<u>Intent</u> - 6 months – 2 years - a fine (8-24 months i.e. EUR 480 – EUR 288,000) <u>Negligence</u> - 3 months to 1 year - a fine of 4-8 months (EUR 240 – EUR 96,000)	<u>Intent</u> - 6 months – 2 years - a fine (8-24 months i.e. EUR 480 – EUR 288,000) <u>Negligence</u> - 3 months to 1 year - a fine of 4-8 months (EUR 240 – EUR 96,000)	<u>Negligence</u> up to 1 year Danger of death or bodily injury: minimum 1 year and a fine Death or bodily injury: up to 10 years <u>Intent</u> - 6 months – 2 years - a fine (8-24 months i.e. EUR 480 – EUR 288,000) <u>Negligence</u> - 3 months to 1 year - a fine of 4-8 months (EUR 240 – EUR 96,000)	<u>Intent</u> - 6 months – 3 years - a fine (12-24 months i.e. EUR 720 – EUR 288,000)
Before transposition			6 months – 4 years	Criminal sanctions (prison or fine) only apply if the value of the goods is above EUR 18,000
FI¹¹³	<u>Intent and Negligence</u> - up to 4 years - a fine Aland <u>Intent and Negligence</u> - up to 2 years - a fine	<u>Intent and Negligence</u> - up to 4 years - a fine Aland <u>Intent and Negligence</u> - up to 2 years - a fine	<u>Intent and Negligence</u> - up to 4 years - a fine Aland <u>Intent and Negligence</u> - up to 2 years - a fine up to 2 years	<u>Intent and Negligence:</u> - up to 6 years - a fine Aland <u>Intent and Negligence</u> - up to 2 years - a fine - up to 2 years - up to 6 years in case of aggravating impairment
Before transposition				
FR	<u>Intent and Negligence</u> - up to 6 years - a fine (up to EUR 300,000)	<u>Intent and Negligence</u> - up to 6 years - a fine (up to EUR 300,000)	<u>Intent and Negligence</u> - up to 6 years - a fine (up to EUR 300,000) up to 6 months	<u>Intent and Negligence</u> - up to 2 years - a fine (EUR 75,000) up to 2 years
Before transposition				
HR¹¹⁴	<u>Intent</u>	<u>Intent</u>	<u>Intent</u>	<u>Intent</u>

¹¹² The fine is expressed on number of days, with each day carrying with it a monetary fine. The monetary fine per day varies from EUR 2 to 400 for natural persons.

¹¹³ The fine is determined as a number (1 to 120) of fixed day fines, depending on the economic and social situation of the offender. One sixtieth of the average monthly income of the person fined, less the taxes and fees defined by a Decree and a fixed deduction for basic consumption, is deemed to be a reasonable amount of a day fine. The increase in sanctions is due to a methodology issue: the increase is not due to a particular legislative amendment creating a stricter sentence but to the broader scope of the ECD than of the offences analysed in the Huglo Lepage Study.

¹¹⁴ The fine must be between 30 and 360 daily incomes, except for criminal offences committed for personal gain when the maximum fine may amount to 500 daily incomes.

	Article 3(f)	Article 3(g)	Article 3(h)	Article 3(i)
	- 6 months to 8 years and/or a fine <u>Negligence</u> - up to 3 years and/or a fine	- 6 months to 8 years and/or a fine <u>Negligence</u> - up to 3 years and/or a fine	- 6 months to 8 years and/or a fine <u>Negligence</u> - up to 3 years and/or a fine N/A	- up to 3 years and/or a fine <u>Negligence</u> - up to 1 year and/or a fine N/A
Before transposition HU115	<u>Intent</u> - up to 5 years - a fine (EUR 90 up to 809,000) <u>Negligence</u> - up to 2 years - a fine (EUR 90 up to 809,000)	<u>Intent</u> - up to 5 years - a fine (EUR 90 up to 809,000) <u>Negligence</u> - up to 2 years - a fine (EUR 90 up to 809,000)	<u>Intent</u> - up to 5 years - a fine (EUR 90 up to 809,000) <u>Negligence</u> - up to 2 years - a fine (EUR 90 up to 809,000)	<u>Intent</u> - up to 3 years - a fine (EUR 90 up to 809,000) <u>Negligence</u> - up to 1 year - a fine (EUR 90 up to 809,000)
Before transposition			- up to 3 years - up to 8 years if damage to the environment is such that the environment cannot be restored	Illicit trade in ODS: - up to 3 years for serious cases - up to 8 years (if damage to the environment is such that the environment cannot be restored) Otherwise: fines
IE	<u>Conviction on indictment</u> - up to 3 years - a fine (up to EUR 500,000) <u>Summary conviction</u> - up to 6 months - a fine (up to EUR 5,000)	<u>Conviction on indictment</u> - up to 2 years - a fine (up to EUR 63,486.90) <u>Summary conviction</u> - up to 12 months - a fine (up to EUR 1,904.61)	<u>Conviction on indictment</u> - up to 3 years - a fine (up to EUR 500,000) <u>Summary conviction</u> - up to 6 months - a fine (up to EUR 5,000) <u>Wildlife Act 1976-2000, Section 74</u> (amended), Protection of flora	<u>Conviction on indictment</u> - up to 3 years - a fine (up to EUR 500,000) <u>Summary conviction</u> - up to 12 months - a fine (up to EUR 5,000) up to 1 year
Before transposition			Penalties: <u>Conviction on indictment</u> up to 2 years <u>Summary conviction</u> up to 1 year <u>European Communities (natural habitats) Regulations 1997/1998, Section 39</u> , Protection of protected animals and habitats Penalties: <u>Conviction on indictment</u> up to 2 years	

¹¹⁵ The fine is minimum 30 daily units and maximum 540. The amount of the daily unit depends on the perpetrator's financial and personal circumstances, but should be at least EUR 3 and not more than EUR 1,500. Fines can only be imposed instead of imprisonment, if the length of imprisonment foreseen by the relevant offence provision does not exceed 3 years.

	Article 3(f)	Article 3(g)	Article 3(h)	Article 3(i)
IT	<u>Intent and Negligence</u> - 1 – 6 months - a fine (up to EUR 4,000)	<u>Intent and Negligence</u> - 6 months – 2 years - a fine (EUR 15,000 – EUR 200,000)	<u>Summary conviction</u> up to 1 year	<u>Intent and Negligence</u> - up to 2 years - a fine (up to EUR 120,000)
Before transposition LT¹¹⁶	<u>Intent</u> - up to 4 years - a fine (EUR 1,950 – EUR 156,000) <u>Negligence</u> - a fine (EUR 780 – EUR 29,250)	<u>Intent</u> - up to 4 years - a fine (EUR 1,950 – EUR 156,000) <u>Negligence</u> - a fine (EUR 780 – EUR 29,250)	No criminal sanction	up to 2 years and a fine
Before transposition ¹¹⁷			<u>Intent</u> - up to 5 years - a fine (EUR 3,900 – EUR 156,000) <u>Negligence</u> - a fine (EUR 780 – EUR 29,250) - up to 2 years (illegal hunting and fishing) - up to 3 years (anyone who kills, wounds, captures, obtains, keeps, or transports illegally wild animals, in particular protected species; or for damage and illegal exploitation and picking of protected flora) - up to 4 years (Anyone who kills, wounds, captures, obtains, keeps, transports illegally wild animals, in particular those which are listed in the Lithuanian red book or which belongs to protected species according to international conventions, and who causes serious damage to fauna)	<u>Intent</u> - up to 2 years - a fine (EUR 1,950 – EUR 78,000) 2 years, or fine, or detention or restriction of liberty
LU	<u>Intent and Negligence</u> - 8 days – 1 year - a fine (EUR 251 – EUR 750,000)	<u>Intent and Negligence</u> - 8 days – 1 year - a fine (EUR 251 – EUR 750,000)	<u>Intent and Negligence</u> - 8 days – 1 year - a fine (EUR 251 – EUR 750,000) 8 days – 6 months	<u>Intent and Negligence</u> - 8 days – 3 years - a fine (EUR 251 – EUR 500,000) A criminal fine
Before transposition				

¹¹⁶ The Criminal Code refers to the minimum and maximum sanction. Final sanction is imposed by the Court taking into account individual circumstances of the particular case. The sum of the fine is linked with the Basic social income (equals EUR 39 as of January 1, 2020).

¹¹⁷ The information in this section is based on a reform project presented on 14 April 2005 by the Lithuanian Government to the Parliament. However, the Huglo Lepage study stressed that the Lithuanian authorities had not confirmed if the project had been adopted (see HUGLO LEPAGE & Partners. (2007). Study on environmental crime in the 27 Member States, Annex II, p. 45).

	Article 3(f)	Article 3(g)	Article 3(h)	Article 3(i)
LV¹¹⁸	<u>Intent and Negligence</u> - up to 5 years - a fine (10 up to 2000 times the minimum monthly wage - EUR 4,300 to EUR 860,000)	<u>Intent and Negligence</u> - up to 2 years - a fine (3 up to 1000 times the minimum monthly wage - EUR 1,290 to EUR 430,000)	<u>Intent and Negligence</u> - up to 5 years - a fine (10 up to 2000 times the minimum monthly wage - EUR 4,300 to EUR 860,000) - up to 5 years (natural sites under protection) - up to 6 years (animals and plants under special protection of the State)	<u>Intent and Negligence</u> - up to 4 years - a fine (10 up to 2000 times the minimum monthly wage - EUR 4,300 to EUR 860,000) No specific penalty
Before transposition				
MT	<u>Intent</u> - up to life imprisonment and/or a fine (EUR 12,000 - EUR 2,500,000) <u>Negligence</u> up to 6 years or a fine (up to EUR 11,646.87)	<u>Intent</u> - up to life imprisonment and/or a fine (EUR 12,000 - EUR 2,500,000) <u>Negligence</u> up to 6 years or a fine (up to EUR 11,646.87)	<u>Intent</u> - up to life imprisonment and/or a fine (EUR 12,000 - EUR 2,500,000) <u>Negligence</u> up to 6 years or a fine (up to EUR 11,646.87) - up to 2 years in case of re-offending	<u>Intent</u> - up to life imprisonment and/or a fine (EUR 12,000 - EUR 2,500,000) <u>Negligence</u> up to 6 years or a fine (up to EUR 11,646.87) - up to 2 years in case of re-offending
Before transposition				
NL	<u>Intent</u> - up to 6 years - a fine (EUR 87,000) <u>Negligence</u> - up to 2 years - fine (EUR 21, 750)	<u>Intent</u> - up to 6 years - fine (EUR 87,000) <u>Negligence</u> - up to 2 years - fine (EUR 21, 750)	<u>Intent</u> - up to 6 years - a fine (EUR 87,000) <u>Negligence</u> - up to 2 years - fine (EUR 21,750) <u>Felony</u> up to 6 years <u>Misdemeanour</u> up to 1 year	<u>Intent</u> - up to 6 years - a fine (EUR 87,000) <u>Negligence</u> - up to 2 years - fine (EUR 21,750) <u>Felony</u> up to 2 years
Before transposition				
PL	<u>Intent</u> - up to 5 years <u>Negligence</u> - up to 2 years - a fine (EUR 25 - EUR 270,000) - restriction of freedom: 1-24 months	<u>Intent</u> - 3 months to 5 years <u>Negligence</u> - up to 2 years - a fine (EUR 25 - EUR 270,000) - restriction of freedom: 1-24 months	<u>Intent</u> - up to 2 years - a fine (EUR 25 - EUR 270,000) - restriction of freedom: 1-24 months <u>Negligence</u> - fine (EUR 25 - EUR 270,000) - restriction of freedom: 1-24 months Violation of the prohibitions and /or restrictions in force in a protected	<u>Intent</u> - up to 2 years - a fine (EUR 25 - EUR 270,000) - restriction of freedom: 1-24 months <u>Negligence</u> A fine (EUR 25 - EUR 270,000) - restriction of freedom: 1-24 months up to 2 years
Before transposition				

¹¹⁸ Fines are expressed as the minimum monthly wage which usually changes every year (EUR 430 in 2019). The maximum level of the fine depends on the gravity of the offence (criminal violation, less serious, serious or especially serious crime). Offences under this Directive are either less serious or serious crimes.

	Article 3(f)	Article 3(g)	Article 3(h)	Article 3(i)
			area and/or species: 5 – 30 days Destroying or damaging of plants and/or animals in a protected area: 3 months – 2 years	
PT¹¹⁹	<u>Intent</u> - 1 month – 5 years - a fine (10 - 240 days, i.e. EUR 50 – EUR 120,000) <u>Negligence</u> - 1 month - 2 years - a fine (10 - 360 days, i.e. EUR 50 – EUR 180,000)	<u>Intent</u> - 1 month – 2 year - a fine (10 - 360 days, i.e. EUR 50 – EUR 180,000) <u>Negligence</u> fine (10 - 240 days, i.e. EUR 50 – EUR 120,000)	<u>Intent</u> - 1 month – 5 years - a fine (10 - 240 days, i.e. EUR 50 – EUR 120,000) <u>Negligence</u> - 1 month - 2 years - a fine (10 - 360 days, i.e. EUR 50 – EUR 180,000) up to 3 years	<u>Intent</u> - 1 month – 1 year - a fine (10 - 240 days, i.e. EUR 50 – EUR 120,000) <u>Negligence</u> - 1 – 6 months - a fine (10 - 120 days, i.e. EUR 50 – EUR 60,000) no prison; fine up to EUR 3,740.98
Before transposition RO¹²⁰	<u>Intent</u> - 3 months – 5 years - a fine (EUR 240 – EUR 31,500) <u>Negligence</u> - 1.5 months – 6 months - a fine (EUR 240 – EUR 25,200)	<u>Intent</u> - 3 months – 15 years - a fine (EUR 240 – EUR 25,200) <u>Negligence</u> - 1.5 months – 6 months - a fine (EUR 240 – EUR 25,200)	<u>Intent</u> - 3 months – 15 years - a fine (EUR 240 – EUR 25,200) <u>Negligence</u> Imprisonment of 1.5 months to six months fine (EUR 240 – EUR 25,200) No criminal offence	<u>Intent</u> 6 months – 3 years <u>Negligence</u> 3 months – 1.5 years
Before transposition SE	<u>Intent</u> - up to 6 years - a fine (up to EUR 14,220 ¹²¹) <u>Negligence</u> - up to 2 years - a fine (up to EUR 14,220)	<u>Intent</u> - up to 4 years - a fine (up to EUR 14,220) <u>Negligence</u> - up to 2 years - a fine (up to EUR 14,220)	<u>Intent and Negligence</u> fine (up to EUR 14,220)	No specific criminal sanction <u>Intent and Negligence</u> - up to 2 years - a fine (up to EUR 14,220)
Before transposition SI¹²²	<u>Intent</u>	<u>Intent</u>	-up to 2 years -up to 6 years if the offence leads to pollution and is serious <u>Intent</u>	No specific criminal sanction identified <u>Intent</u>

¹¹⁹ The daily fine unit is set by the court and ranges between EUR 5 – EUR 500.

¹²⁰ Under Romanian legislation, different punishment ranges are foreseen if the illicit behavior falls under specific legislation pertaining water, waste, customs, nuclear activities, generic environmental protection legislation, generic criminal legislation or any other legislation with harsher punishments. The minimal/maximum punishments listed refer to the minimal possible (smallest crime identified that could be taken into account) and the maximal possible (for example, an eco-crime following which a disaster occurred, due to which more than two people died or were grievously wounded).

¹²¹ The amounts in SEK remain the same, SEK 150,000. The revised amounts reflect the current exchange rate (on 14 January 2020)

	Article 3(f)	Article 3(g)	Article 3(h)	Article 3(i)
	- 30 days – 3 years - a fine <u>Negligence</u> 6 months – 3 years	- 30 days – 5 years - a fine <u>Negligence</u> 6 months – 3 years	- 30 days – 8 years - a fine <u>Negligence</u> - up to 3 years - a fine up to 8 years only in case of irreparable damage or destruction of the environment <u>Intent and Negligence</u> up to 5 years or a fine (EUR 160 and EUR 331,930)	- 30 days – 5 years - a fine <u>Negligence</u> - up to 2 years - a fine No criminal sanction identified
Before transposition SK¹²³	<u>Intent and Negligence</u> up to 2 years or a fine (EUR 160 and EUR 331,930)	<u>Intent and Negligence</u> 6 months - 3 years or a fine (EUR 160 and EUR 331,930)		<u>Intent</u> 1 - 5 years or a fine (EUR 160 and EUR 331,930) <u>Negligence</u> 6 months - 3 years No specific criminal sanction identified
Before transposition			-up to 2 years -6 months – 3 years under aggravating circumstances -1 year – 5 years if offence committed to make profit or another aggravating circumstance. -3 – 8 years if offence committed with the intention of or causes a large-scale damage.	
UK¹²⁴	<u>Conviction on indictment</u> Unlimited fine <u>Summary conviction</u> - up to 6 months - a fine (up to EUR 5,867)	<u>Conviction on indictment</u> - up to 5 years - unlimited fine <u>Summary conviction</u> - up to 6 months - fine (up to EUR 5,867)	<u>Conviction on indictment</u> - up to 2 years - unlimited fine <u>Summary conviction</u> - up to 12 months - fine (up to EUR 23,475) England, Wales, Scotland: <u>Summary conviction</u> up to 6 months Northern Ireland: criminal fines	<u>Conviction on indictment</u> Unlimited fine <u>Summary conviction</u> Fine (up to EUR 5,867) Criminal fines
Before transposition				

¹²² The fine imposed must be an amount of between 30 and 360 times the daily wage of the perpetrator.

¹²³ The court may impose a fine between EUR 160 and EUR 331,930 on the offender of an intentional criminal offence whereby he gained or tried to gain material benefit.

¹²⁴ Summary convictions and convictions on indictment are selected for less serious and more serious cases respectively. The revised amounts reflect the current exchange rate (on 14 January 2020).

Table 3 Maximum levels of fines applicable to natural persons (Euros)

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)	Article 3(f)	Article 3(g)	Article 3(h)	Article 3(i)
AT	3,600,000	3,600,000	3,600,000	3,800,000	3,600,000	3,600,000	1,800,000	3,600,000	3,600,000
BE									
FED	56,000,000	N/A	32,000,000	N/A	16,000,000	800,000	16,000	800,000	32,000,000
FL	4,000,000	4,000,000	4,000,000	2,000,000	N/A	4,000,000	4,000,000	4,000,000	2,000,000
WR	8,000,000	8,000,000	8,000,000	8,000,000	N/A	8,000,000	Gap	8,000,000	8,000,000
BR	8,000,000	8,000,000	8,000,000	8,000,000	N/A	8,000,000	8,000,000	8,000,000	8,000,000
BG	25,000	25,000	2,500	15,000	10,000	10,000	10,000	5,000	2,500
CY	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000
CZ ¹²⁵	1,460,000	1,460,000	1,460,000	1,460,000	1,460,000	1,460,000	1,460,000	1,460,000	1,460,000
DE	10,800,000	10,800,000	10,800,000	10,800,000	10,800,000	10,800,000	10,800,000	10,800,000	10,800,000
DK	No minima or maxima fine levels are set by law.								
EE	The level of the fine is linked to the offender's income. Maximum fine is 500 daily incomes of the person.								
EL	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000
ES	No fine	288,000	216,000	288,000	216,000	288,000	288,000	288,000	288,000
FI	The level of the fine is linked to the offender's income.								
FR	150,000	150,000	75,000	150,000	75,000	300,000	300,000	300,000	75,000
HR	The level of the fine is linked to the offender's income								
HU	809,000	809,000	809,000	809,000	809,000	809,000	809,000	809,000	809,000
IE	15,000,000	15,000,000	500,000	3,000	500,000	500,000	63,486	500,000	500,000
IT	100,000	100,000	26,000	120,000	100,000	4,000	200,000	from 3,000	120,000
LT	156,000	156,000	78,000	156,000	156,000	156,000	156,000	156,000	78,000
LU	750,000	750,000	100,000	500,000	500,000	750,000	750,000	750,000	500,000
LV	860,000	860,000	860,000	430,000	860,000	860,000	430,000	860,000	860,000
MT	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000
NL	87,000	87,000	87,000	878,000	87,000	87,000	87,000	87,000	87,000
PL	270,000	270,000	270,000	270,000	270,000	270,000	270,000	270,000	270,000
PT	300,000	300,000	300,000	300,000	300,000	180,000	180,000	180,000	120,000

¹²⁵ A monetary penalty is imposed only where the offender sought to secure or secured for themselves or for another person any material benefit for intentional crimes.

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)	Article 3(f)	Article 3(g)	Article 3(h)	Article 3(i)
RO	31,500	31,500	31,500 6	31,500	31,500	31,500 22	25,2006	25,2006	No fine.
SE	14,220 ¹²⁶	14,220	14,220	14,220	14,220	14,220	14,220	14,220	14,220
SI	The level of the fine is linked to the offender's income.								
SK	331,930	331,930	331,930	331,930	331,930	331,930	331,930	331,930	331,930
UK	No minima or maxima fine levels are set by law.								

¹²⁶ The amounts in SEK remain the same, SEK 150,000. The revised amounts reflect the current exchange rate (on 14 January 2020)

Table 4 Maximum levels of prison sanctions applicable to natural persons

	Article 3(a)	Article 3(b)	Article 3(c)	Article 3(d)	Article 3(e)	Article 3(f)	Article 3(g)	Article 3(h)	Article 3(i)
AT	20 years	20 years	1 year	20 years	20 years	2 years	5 years	2 years	1 year
BE									
FED	10 years	N/A	3 years	N/A	10 years	None	3 months	None	3 years
FL	5 years	5 years	5 years	2 years	N/A	5 years	5 years	5 years	2 years
WR	3 years	3 years	3 years	3 years	N/A	6 months	Gap	6 months	3 years
BR	2 years	2 years	2 years	2 years	N/A	2 years	2 years	2 years	2 years
BG	20 years	20 years	4 years	15 years	15 years	5 years	5 years	3 years	4 years
CY	10 years	10 years	10 years	10 years	10 years	10 years	10 years	10 years	10 years
CZ	3 years	2 years	1 year	3 years	16 years	3 years	3 years	3 years	1 year
DE	15 years	15 years	15 years	15 years	15 years	5 years	5 years	15 years	5 years
DK	6 years	6 years	6 years	6 years	Gap	6 year	6 years	6 year	6 years
EE	5 years	5 years	2 year	5 year	5 years	5 years	5 years	5 years	2 year
EL	20 years	20 years	20 years	20 years	20 years	20 years	20 years	20 years	20 years
ES	12 years	5 years	1 year	5 years	5 years	2 years	2 years	2 years	3 years
FI	10 years	6 years	2 years	10 years	10 years	4 years	4 years	4 years	6 years
FR	3 years	3 years	2 years	3 years	2 years	6 years	6 years	6 years	2 years
HR	15 years	15 years	15 years	15 years	15 years	8 years	8 years	8 years	3 years
HU	20 years	20 years	5 years	20 years	20 years	5 years	5 years	5 years	3 years
IE	5 years	5 years	3 years	1 year	3 years	3 years	2 years	3 years	3 years
IT	10 years	10 years	6 years	10 years	10 years	6 months	2 years	18 months	2 years
LT	10 years	6 years	3 years	6 years	10 years	4 years	4 years	5 years	2 years
LU	5 years	5 years	6 months	1 year	5 years	1 year	1 year	1 year	3 years
LV	10 years	5 years	5 years	2 years	8 years	5 years	2 years	5 years	4 years
MT	Life	Life	Life	Life	Life	Life	Life	Life	Life
NL	Life	15 years	15 years	15 years	Life	6 years	6 years	6 years	6 years
PL	5 years	5 years	5 years	8 years	5 years	5 years	5 years	2 years	2 years
PT	10,67 years	10,67 years	3 years	10,67 years	10,67 years	5 years	2 year	5 years	1 year
RO	15 years	15 years	15 years	5 years	20 years	5 years	15 years	15 years	3 years
SE	6 years	6 years	2 years	2 years	2 years	6 years	4 years	None	2 years
SI	12 years	12 years	12 years	12 years	8 years	3 years	5 years	8 years	5 years
SK	10 years	8 years	8 years	10 years	Life	2 years	3 years	5 years	5 years
UK	5 years	5 years	2 years	2 years	5 years	6 months	5 years	2 years	None

Table 5 Sanctions applicable to legal persons

MS	3(a)	3(b)	3(c)	3(d)	3(e)	3(f)	3(g)	3(h)	3(i)
AT	The sanctions for legal persons correlate to the respective length of imprisonment set for natural persons, with a fine of minimum 40 daily units (corresponding to an imprisonment of up to 1 year) to a maximum of 180 daily units (corresponding to a lifelong imprisonment). One daily fine spans between EUR 50 and 10,000. If the corporation is non-profit oriented, serves humanitarian or church purposes the daily unit shall amount to at least EUR 2 and maximum EUR 500.								
	up to 720 daily units, i.e. EUR 7,200,000	up to 720 daily units, i.e. EUR 7,200,000	up to 720 daily units, i.e. EUR 7,200,000	up to 720 daily units, i.e. EUR 7,200,000	up to 720 daily units, i.e. EUR 7,200,000	up to 720 daily units, i.e. EUR 7,200,000	up to 360 daily units, i.e. EUR 3,600,000	up to 720 daily units, i.e. EUR 7,200,000	up to 720 daily units, i.e. EUR 7,200,000
Before transposition ¹²⁷	No criminal corporate liability. In administrative penal law, pecuniary fine imposed on the (responsible) representative: fine up to EUR 36,340	No criminal corporate liability. In administrative penal law, pecuniary fine imposed on the (responsible) representative: fine up to EUR 36,340	No criminal corporate liability. In administrative penal law, pecuniary fine imposed on the (responsible) representative: fine up to EUR 7,270					No criminal corporate liability. In administrative penal law, pecuniary fine imposed on the (responsible) representative: fine up to EUR 29,070.	No criminal corporate liability. In administrative penal law, pecuniary fine imposed on the (responsible) representative: fine up to EUR 29,070.
BE	The numbers sometimes summarise data: when the transposition of one same Art. 3 offence happened through several federal or regional offences sanctioned by fines with different minima and maxima, the table only mentions the lowest minimum and the highest maximum fine that applies to legal persons. This situation is coded by adding an * to the penalty levels. The fine levels have been multiplied with the current 'opdecieimen' (now x8).								
<i>Fed</i>	EUR 4,000 – 112,000,000*	N/A	EUR 4,000 – 64,000,000*	N/A	EUR 12,500 – 16,000,000	EUR 4,000 – 800,000	EUR 2,000 – 96,000*	EUR 4,000 – -600,000	EUR 4,000 – 64,000,000
<i>FL</i>	EUR 4,000 – 8,000,000*	EUR 4,000 – 8,000,000*	EUR 4,000 – 8,000,000*	EUR 4,000 – 4,000,000	N/A	EUR 4,000 – 8,000,000*	EUR 4,000 – 8,000,000*	EUR 4,000 – -	EUR 4,000 – 4,000,000

¹²⁷

As already mentioned, the “Before transposition” sections are based on HUGLO LEPAGE & Partners. (2007). Study on environmental crime in the 27 Member States. The study (and thus the information included in the table) only considers the following offences: unlawful discharge of hazardous substances into water (here under letter a); unlawful dumping of waste (here under letter b); illegal shipment of waste (here under letter c); unlawful significant deterioration of a protected habitat (here under letter h); unlawful trade in or use of Ozone Depleting Substances (here under letter i).

MS	3(a)	3(b)	3(c)	3(d)	3(e)	3(f)	3(g)	3(h)	3(i)
WR	EUR 4,000 – 16,000,000	EUR 4,000 – 16,000,000	Gap 4,000 – 16,000,000	EUR 4,000 – 16,000,000	N/A	EUR 4,000 – 16,000,000	Gap	8,000,000* EUR 4,000 – 16,000,000	Gap EUR 4,000 – 16,000,000
BR	EUR 4,000 – 1,600,000*	EUR 4,000 – 1,600,000*	EUR 4,000 – 1,600,000*	EUR 4,000 – 1,600,000*	N/A	EUR 4,000 – 1,600,000	EUR 4,000 – 1,600,000	EUR 4,000 – 1,600,000	EUR 4,000 – 1,600,000
Before transposition FED									
									-Illegal uses, imports, exports of goods containing ODS: EUR 160 – EUR 8,000,000 -Export of ODS: EUR 40 – EUR 240,000
FL	EUR 2.5 – EUR 5,000	EUR 12.5 – EUR 56,000	EUR 12.5 – 596,000					EUR 12.5 – 50,000	-Illegal uses of ODS: EUR 3 – 300 -trade in ODS waste: EUR 12.5 – 56,000
WR	EUR 26 – EUR 1,000,000	-Illegal dumping: EUR 2.5 – 50,000 - Intentional offence: EUR 12,5 – 140,000 - Illegal dumping causing harm to human health: EUR 75 – 50,000 - Intentional illegal dumping	- EUR 2.50 – 50,000 -intent: EUR 2.50 – 125,000 -causing harm to human health: EUR 75 – 50,000 -causing harm to human health and intent: EUR 75 – 300,000					EUR 12.5 – 300	

MS	3(a)	3(b)	3(c)	3(d)	3(e)	3(f)	3(g)	3(h)	3(i)
		causing harm to human health: EUR 75 – 280,000							
BR	EUR 2.5 – 5,000	- Illegal dumping of a person's own waste: EUR 2.5 – 25,000 - If dangerous: EUR 5 – 500 - Illegal dumping of waste other than own waste: EUR 5 – 2,500 - If dangerous: EUR 15 – 7,500	- EUR 375 – 25,000 - If dangerous waste: EUR – 130,000					EUR 0.25 – EUR 125	
BG	Legal persons are not criminally liable for these offences								
	up to EUR 500,000 ¹²⁸	up to EUR 500,000 ⁴³	up to EUR 500,000 ⁴³	up to EUR 500,000 ⁴³	up to EUR 500,000 ⁴³	up to EUR 500,000 ⁴³	up to EUR 500,000 ⁴³	up to EUR 500,000 ⁴³	up to EUR 500,000 ⁴³
Before trans-position	EUR 75 – 2500	EUR 750 – 2,500	EUR 1,750 – 5,000				EUR 50 – 25,000	No sanction identified	
CY	Same as for natural persons: up to EUR 500,000								
Before trans-position	N/A	up to EUR 34,500	up to EUR 34,500				up to EUR 17,250	up to EUR 34,500	
CZ	Fine is imposed in terms of daily rates, the total number of which shall be at least 20 and at most 730 full daily rates. A daily rate shall amount to at least EUR 40 and at most EUR 80,000 per day. Hence, fines can theoretically range from EUR 800 to 58,400,000. Daily rates are determined by the court on the basis of various preconditions.								
Before trans-position	No corporate criminal liability								
DE	Quasi-criminal (or: 'administrative') fines up to EUR 10,000,000 (intent) and up to EUR 5,000,000 (negligence)								
Before	No corporate criminal liability; administrative fine up to EUR 500,000								

¹²⁸ But not less than the equivalent of the benefit when it is of financial nature, or if the benefit is not of purely financial nature or its size cannot be determined, a penalty of EUR 2,500 to 50,000. These are established in the Law on Administrative Violations and Sanctions. Other sanctions are provided for in sectoral legislation and are, as a rule, less severe.

MS	3(a)	3(b)	3(c)	3(d)	3(e)	3(f)	3(g)	3(h)	3(i)
trans-position									
DK	Fines applicable for natural persons are applicable for legal persons - Unlimited								
Before trans-position	Unlimited								
EE	EUR 3,200 to 16,000,000								
Before trans-position	Up to EUR 16,000,000	Up to EUR 16,000,000	Up to EUR 16,000,000					Up to EUR 16,000,000	Up to EUR 3,250
EL	Same as for natural persons: EUR 3,000 to 500,000 (intent) – up to EUR 150,000 (negligence)								
Before trans-position	EUR 146.73 – EUR 14,673.51	EUR 146.73 – EUR 14,673.51	EUR 146.73 – EUR 14,673.51					EUR 146.73 – EUR 14,673.51	No penalties identified
ES	The fine is expressed on number of days, with each day carrying with it a monetary fine. The monetary fine per day varies from EUR 30 to 5,000 for legal persons.								
	1 – 5 years (up to EUR 9,000,000)	3 months – 3 years (up to EUR 5,400,000) or 2 to 4 times the value of the damage caused	3 months – 3 years (up to EUR 5,400,000) or 2 to 4 times the value of the damage caused	3 months – 3 years (up to EUR 5,400,000) or 2 to 4 times the value of the damage caused	Only administrative fines up to EUR 30,000,000	Only administrative fines from EUR 500 to 2,000,000	Only administrative fines from EUR 500 to 2,000,000	Only administrative fines from EUR 500 to 2,000,000	1 to 3 years (up to EUR 5,475,000) or 2 to 4 times the value of the total damage
Before trans-position	No criminal penalties								
FI	EUR 850 to 850,000								
Before trans-position	EUR 850 to 850,000								
FR	up to EUR 750,000								
Before trans-position	Up to EUR 375,000	Up to EUR 375,000	Up to EUR 375,000	Up to EUR 750,000	Up to EUR 375,000	Up to EUR 1,500,000	Up to EUR 1,500,000	Up to EUR 1,500,000	Up to EUR 375,000
								Up to EUR 150,000 ¹²⁹	Up to EUR 375,000 ¹³⁰

¹²⁹ This sanction was not listed in the Huglo Lepage study. However, Article L. 331-27 of the French Environmental Code provided in its version applicable from 2006 to 2008 that legal persons could be liable for the infraction specified in Article L. 331-26 of the French Environmental Code.

¹³⁰ This sanction was considered to be of EUR 750,000 in the Huglo Lepage study. However, Article L. 521-21 of the French Environmental Code in its version applicable in 2007 provided for a criminal sanctions of EUR 75,000 that could be multiplied by five for legal persons (so EUR 375,000).

MS	3(a)	3(b)	3(c)	3(d)	3(e)	3(f)	3(g)	3(h)	3(i)
HR	EUR 1,966 to 1,966,100	EUR 1,966 to 1,966,100	EUR 1,966 to 1,966,100	EUR 1,966 to 1,966,100	EUR 1,966 to 1,966,100	EUR 1,966 to 1,572,800	EUR 1,966 to 1,572,800	EUR 1,966 to 1,572,800	EUR 655 to 1,310,374
Before trans-position	N/A								
HU	The maximum level of fine is three times the financial benefit gained or aimed to be gained, but at least 500,000 HUF (EUR 1,500). If the benefit gained or intended to be gained through the criminal act is not financial advantage, the court imposes the fine considering the financial situation of the legal entity, but at least HUF 500,000 (EUR 1,500).								
Before trans-position	The maximum level of fine is three times the financial benefit gained or aimed to be gained, but at least 500,000 HUF (EUR 1,737)								
IE	Fines applicable for natural persons are applicable for legal persons.								
Before trans-position	Up to EUR 3,000 (summary) – up to EUR 15,000,000 (indictment)	Up to EUR 3,000 (summary) – up to EUR 15,000,000 (indictment)	Up to EUR 3,000 (summary) – up to EUR 500,000 (indictment)	Up to EUR 3,000 (summary)	Up to EUR 5,000 (summary) – up to EUR 500,000 (indictment)	Up to EUR 5,000 (summary) – up to EUR 500,000 (indictment)	Up to EUR 1,904 (summary) – up to EUR 63,487 (indictment)	Up to EUR 5,000 (summary) – up to EUR 500,000 (indictment)	Up to EUR 5,000 (summary) – up to EUR 500,000 (indictment)
Before trans-position	Up to EUR 1,500 (summary) – up to EUR 37,000 (indictment)	Up to EUR 2,260 (summary) – up to EUR 15,000,000 (indictment)	Up to EUR 2,260 (summary) – up to EUR 15,000,000 (indictment)	No sanction available				Up to EUR 2,260 (summary) – up to EUR 75,000 (indictment)	Up to EUR 3,000
IT	One quota is between EUR 258 and EUR 1,549								
Before trans-position	150 – 600 quotas (up to EUR 929,400)	600 up to 929,400 quotas (up to EUR 929,400)	150 – 500 quotas (up to EUR 774,500)	No sanction available	400 – 800 quotas (up to EUR 1,239,200)	up to 250 quotas (up to EUR 387,250)	up to 250 quotas (up to EUR 387,250)	150 – 250 quotas (up to EUR 387,250)	150 – 250 quotas (up to EUR 387,250)
Before trans-position	No corporate criminal liability (for environmental crimes)								
LT	Up to EUR 3,900,000								
Before trans-position	Up to EUR 362,025								

MS position	3(a)	3(b)	3(c)	3(d)	3(e)	3(f)	3(g)	3(h)	3(i)
LU	up to EUR 1,500,000	up to EUR 1,500,000	up to EUR 200,000	Up to EUR 1,000,000	Up to EUR 1,000,000	up to EUR 1,500,000	up to EUR 1,500,000	up to EUR 1,500,000	up to EUR 1,000,000
Before trans-position	No corporate criminal liability								
LV ¹³²	Fine from 20 to 75,000 times the minimum monthly wage - EUR 8,600 to EUR 32,250,000	Fine from 20 to 75,000 times the minimum monthly wage - EUR 8,600 to EUR 32,250,000	Fine from 20 to 75,000 times the minimum monthly wage - EUR 8,600 to EUR 32,250,000	Fine from 10 to 50,000 times the minimum monthly wage - EUR 4,300 to EUR 21,500,000	Fine from 20 to 75,000 times the minimum monthly wage - EUR 8,600 to EUR 32,250,000	Fine from 20 to 75,000 times the minimum monthly wage - EUR 8,600 to EUR 32,250,000	Fine from 10 to 50,000 times the minimum monthly wage - EUR 4,300 to EUR 21,500,000	Fine from 20 to 75,000 times the minimum monthly wage - EUR 8,600 to EUR 32,250,000	Fine from 20 to 75,000 times the minimum monthly wage - EUR 8,600 to EUR 32,250,000
Before trans-position	For less serious crimes: a monetary levy. For the serious and especially serious crimes: liquidation, limitation of rights, confiscation of property or monetary levy may be applied.								
MT	A fine of not less than EUR 20,000 and not more than EUR 2,000,000								
Before trans-position	EUR 1150 - 2300	EUR 1150 - 2300	EUR 1,155 - 115,500					EUR 462 - 2315	EUR 1165 - 2315
NL	Pursuant to the Act on Economic Offences, fine up to EUR 870,000. Pursuant to the Penal Code, legal persons can be subject to higher fines, i.e. one category higher than for natural persons. If the offence is punishable by a fine in the sixth category and that category does not permit an appropriate penalty, a fine may be imposed up to a maximum of 10 % of the annual turnover of the legal person in the business year preceding the judgment or decision. Currently, these levels of the six categories vary from EUR 435 (Category 1) to EUR 870,000 (Category 6).								
Before trans-position	Felony: fine up to EUR 450,000 Misdemeanour: fine up to EUR 45,000								
PL	Fine between EUR 250 and 1,250,000, but not higher than 3% of the yearly income of the entity								
Before trans-position	EUR 146.73 - 14,673.51	Financial penalty up to a maximum amount of 10% of incomes applicable for	No corporate criminal liability					Financial penalty to a maximum amount of	Up to EUR 150 / 1kg of substance

¹³¹ The information in this section is based on a reform project presented on 14 April 2005 by the Lithuanian Government to the Parliament. However, the Huglo Lepage study stressed that the Lithuanian authorities had not confirmed if the project had been adopted (see HUGLO LEPAGE & Partners. (2007). Study on environmental crime in the 27 Member States, Annex II, p. 45).

¹³² Fines are expressed as the minimum monthly wage which usually changes every year (EUR 430 in 2019). The range of the fine depends on the gravity of the offence (criminal violation, less serious, serious or especially serious crime). Offences under this Directive are either less serious or serious crimes.

MS	3(a)	3(b)	3(c)	3(d)	3(e)	3(f)	3(g)	3(h)	3(i)
		violation of the provisions on collection of waste management where it may cause a serious damage.						10% of incomes	
PT	The daily fine unit is set by the court, between EUR 100 and 10,000.								
	10 -1280 days (up to EUR 12,800,000)	10 -1280 days (up to EUR 12,800,000)	10 - 600 days (up to EUR 6,000,000)	10 -1280 days (up to EUR 12,800,000)	10 -1280 days (up to EUR 12,800,000)	10 - 600 days (up to EUR 6,000,000)	10 - 360 days (up to EUR 3,600,000)	10 - 600 days (up to EUR 6,000,000)	10 - 240 days (up to EUR 2,400,000)
Before trans-position	No corporate criminal liability								
RO ¹³³	EUR 2,520 - EUR 441,000	EUR 2,520 - EUR 441,000	EUR 2,520 - EUR 441,000	EUR 2,520 - EUR 252,000	EUR 2,520 - EUR 441,000	EUR 2,520 - EUR 252,000	EUR 2,520 - EUR 441,000	EUR 2,520 - EUR 441,000	EUR 2,520 - EUR 252,000
Before trans-position	EUR 296 - EUR 222,649	EUR 296 - EUR 222,649	EUR 296 - EUR 222,649					EUR 145 - EUR 2,220	No specific sanction
SE	A fine of EUR 474 ¹³⁴ (SEK 5000) to 247,400,000 ¹³⁵ (SEK 500,000,000)								
Before trans-position	Administrative sanctions (environmental sanction charges)	Administrative sanctions (environmental sanction charges)	Administrative sanctions (environmental sanction charges)					Administrative sanctions (environmental sanction charges)	No specific criminal penalty identified
SI	For the offences for which the prescribed punishment for a natural person is under three years of imprisonment, the maximum fine is EUR 500,000. For the offences for which the prescribed punishment for a natural person is over three years, only the minimum fine of EUR 50,000 is prescribed for the legal person, which means that the maximum amount may reach EUR 1,000,000.								
Before trans-position	EUR 0,004 - EUR 40,000	No fine	No fine					EUR 0,064 - EUR 40,000	No criminal liability identified
SK	Confiscation of a sum of money between EUR 800 to 1,660,000								
Before trans-position	Up to +/- EUR 2,168,818	Up to +/- EUR 2,168,818	Up to +/- EUR 2,168,818					Up to +/- EUR 2,168,818	No specific sanction

¹³³ This is calculated using the minimum and maximum punishments foreseen in the tables above for natural persons. Fines for legal persons are based on these values.

¹³⁴ The amount in SEK remains the same. The revised amount is based on currency exchange rate on 14 January 2020.

¹³⁵ The maximum amount for corporate fines has been increased as of 1 January 2020 from SEK 10 million to SEK 500 million.

MS position	3(a)	3(b)	3(c)	3(d)	3(e)	3(f)	3(g)	3(h)	3(i)
UK	Identified								
	Same as for natural persons								
	Unlimited on indictment								
Before trans-position	<i>Summary conviction</i> Up to EUR 30,000 (England, Wales, Northern Ireland); up to EUR 60,000 (Scotland) <i>Indictment:</i> unlimited	<i>Summary conviction</i> Up to 30,000 <i>Indictment:</i> unlimited	<i>Summary conviction</i> EUR 1,500 – 7,500; 600 – 3,000 for Northern Ireland <i>Indictment:</i> Unlimited				Up to 7,500	EUR	<i>Summary conviction</i> Up to EUR 7,500 <i>Indictment:</i> Unlimited

Annex 11 – TABLE OF CONVICTIONS AND SANCTIONS

NUMBER OF CONVICTIONS FOR ENVIRONMENTAL CRIME

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Austria¹³⁶											
Total convictions						9	8	12	7	7	
Waste crimes ¹³⁷						3	6	8	3	3	
Wildlife crimes ¹³⁸						0	1	0	3	1	
Other environmental crimes ¹³⁹						6	1	4	1	3	
Bulgaria¹⁴⁰											
Total convictions	0	3	2	8	24	11	23	11	6	4	5
Waste crimes	0	0	0	1	19	10	12	7	1	1	2
Wildlife crimes	0	2	1	4	3	1	10	3	5	3	3
Other environmental crimes	0	1	1	3	2	0	1	1	0	0	0
Croatia¹⁴¹											
Total convictions			344	278	263	174	143	106	91	102	63
Waste crimes			3	5	1	1	6	10	3	0	3
Wildlife crimes			223	168	157	109	71	43	41	49	20
Other environmental crimes			118	105	105	64	66	53	47	53	40
Czechia^{142,143}											
Total convictions	103	93	36	65	38	61	68	69	59	48	56
Waste crimes	3	2	0	0	2	1	1	1	0	0	1

¹³⁶ Source: Austrian Ministry of Justice, Security Report (Sicherheitsbericht), 2017:

https://www.bmi.gv.at/508/files/SIB_2017/04_SIB_2017-Justizteil_web.pdf

¹³⁷ Only includes waste shipment (i.e. § 181b StGB intentional treatment or shipment of waste endangering the environment; and § 181c StGB negligent treatment or shipment of waste endangering the environment).

¹³⁸ Wildlife crimes include intentional damage to animal or plant populations, other endangering of animal or plant populations, negligent endangering of animal or plant populations, illegal trade with protected species.

¹³⁹ Includes intentional and negligent impairment of the environment (this might include waste crime other than shipment of waste), serious impairment due to noise, and Operation of a plant constituting a risk for the environment.

¹⁴⁰ Source: Member State Data Sheet provided by the Bulgarian Ministry of Justice.

¹⁴¹ Source: Member State Data Sheet provided by the Croatian Ministry of Justice.

¹⁴² Source: Member State Data Sheet provided by the Czech Ministry of Justice.

¹⁴³ Environmental crimes correspond to Sections 293-308 of the Czech Criminal Code (Criminal offences against environment) and sections 281 5 Unauthorized Production and Possession of Radioactive Substances and Highly Dangerous Substances) and 282 (Unauthorized Production and Possession of Nuclear Material and Special Fissionable Material). Waste crimes correspond to section 298 of the Czech Criminal Code i.e. 'Unauthorized Waste Disposal'. Wildlife crimes correspond to sections 299 (Unauthorized Disposing with Protected Wild Animals and Herbs) and 300 (Negligent Unauthorized Disposal with Protected Wild Animals and Herbs) of the Czech Criminal Code

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Wildlife crimes	3	3	2	4	1	11	16	12	3	5	8
Other environmental crimes	97	88	34	61	35	49	51	56	56	43	47
Finland¹⁴⁴											
Total convictions¹⁴⁵						62	88	68	67	61	105
Waste crimes ¹⁴⁶						27	40	32	23	28	46
Wildlife crimes ¹⁴⁷						3	6	13	12	2	4
Other environmental crimes						32	42	23	32	31	55
France¹⁴⁸											
Total convictions ¹⁴⁹					488	557	459	487	521	534	545
Waste crimes ¹⁵⁰					227	240	190	204	209	200	200
Wildlife crimes ¹⁵¹					261	317	269	283	312	334	344
Other environmental crimes ¹⁵²					0	0	0	0	0	0	1
Germany¹⁵³											
Total convictions	1620	1435	1411	1277	1181	1174	1185	1177	1145	1224	1364
Waste crimes	1140	1014	986	870	797	864	882	892	819	886	1027
Wildlife crimes	45	45	48	38	47	34	31	34	28	40	49
Other environmental crimes	435	376	377	369	337	276	272	251	298	298	288
Hungary¹⁵⁴											
Total convictions					123	197	195	161	129	164	
Waste crimes ¹⁵⁵								133	100	124	

¹⁴⁴ Source: Member State Data Sheet provided by the Finnish Ministry of Environment.

¹⁴⁵ Numbers of convictions are indicated per defendant. The total number of convictions includes the most serious environmental crimes penalized in the Finnish Criminal Code.

¹⁴⁶ Figures in Waste crimes are only minor waste offences. Serious waste crimes are included in the total figure.

¹⁴⁷ Figures provided for wildlife crimes do not include Natural resources crimes such as fisheries, forest and hunting crimes (the amount per year is about 200).

¹⁴⁸ Source: Member State Data Sheet provided by the French Ministry of Justice.

¹⁴⁹ Numbers of convictions are provided by private person – i.e. in 2018, 545 private persons have been convicted for at least one breach of environmental law. Figures are available from 2012, date of creation of the common data management system for criminal proceedings for all first instance criminal Courts – Cassiopée.

¹⁵⁰ Waste crimes include the emissions of ionising substances or radiations in air, water or soil; the collection, transport and management of waste causing death or severe health impairment or substantial environmental degradations; waste shipment according to the Waste Shipment Regulation; the operation of dangerous activities or the use or storage of dangerous substances causing death or severe health impairment or substantial environmental degradations; the production, storage, treatment, use, transport, export or import of dangerous radioactive materials or substances.

¹⁵¹ Wildlife crime include the killing, destruction, possession or capture of specimens of protected wild fauna and flora, the trade of specimens of protected wild fauna and flora, and degradations of habitats in a protected site.

¹⁵² Other environmental crimes include the production, import and export, selling or use of ozone depleting substances.

¹⁵³ Source: Member State Data Sheet provided by the German Federal Ministry of Justice.

¹⁵⁴ Source: Council of the European Union (2018), Evaluation report on the eighth round of mutual evaluations "Practical implementation and operation of European policies on preventing and combating environmental crime". Report on Hungary, p.19-20.

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Wildlife crimes ¹⁵⁶											
Other environmental crimes ¹⁵⁷					123	197	195	28	29	40	
Ireland¹⁵⁸											
Total convictions	12	19	13	14	10	11	9	11	7	23	21
Waste crimes	10	19	13	13	9	11	9	11	7	23	20
Other environmental crimes ¹⁵⁹	2	0	0	1	1	0	0	0	0	0	1
Latvia¹⁶⁰											
Total convictions	85	88	62	62	62	59	73	62	55	67	62
Waste crimes ¹⁶¹	0	0	0	1	0	0	0	0	0	0	5
Wildlife crimes ¹⁶²	85	88	62	61	62	59	73	62	55	67	57
Lithuania¹⁶³											
Total number of criminal trials¹⁶⁴	8	18	24	26	20	19	17	8	8	12	7
Waste crimes	0	0	0	0	0	0	0	0	0	1	0
Wildlife crimes	6	9	7	8	9	11	10	6	6	3	5
Other environmental crimes ¹⁶⁵	2	9	17	18	11	8	7	2	2	8	2
Luxembourg¹⁶⁶											

¹⁵⁵ 'Waste crimes' includes convictions reported under 'Violation of waste management regulations'.

¹⁵⁶ None of the categories of crime reported could be identified clearly as wildlife crimes.

¹⁵⁷ 'Other environmental crimes' includes convictions reported under: 'Damaging the natural environment', 'Other types of damage to the natural environment' and 'Environmental offences'. These might include convictions for wildlife crimes.

¹⁵⁸ Source: Irish Environmental Protection Agency: <http://www.epa.ie/enforcement/prosecute/> last accessed 07.02.2020. There is no available data concerning wildlife crimes from this agency as wildlife crime is a competence of the National Parks and Wildlife Service, which did not provide data.

¹⁵⁹ 'Other environmental crimes' include air pollution, farm operation without a license, failure to complete upgrade works to water supplies under the European Union (Drinking Water) Regulations, etc.

¹⁶⁰ Source: Member State Data Sheet provided by the Permanent Representation of Latvia to the EU.

¹⁶¹ Waste crimes include Violation of Provisions Regarding the Management and Utilisation of the Earth, or its Depths, Waters and Forests; Violation of Provisions Regarding the Use of the Natural Resources of the Sea, Violation of Provisions Regarding the Circulation of Radioactive and Chemical Substances, Unlawful Activities Involving Ozone Depleting Substances, Violation of Provisions Regarding Waste Management, Unauthorised Burial of Dangerous Substances in Waters and Depths of the Earth, Pollution of the Sea, Pollution and Littering of the Earth, Forests and Waters, Pollution of the Air of the Atmosphere, Operation of Facilities without Treatment Structures, Unlawful Operation of Facilities, Failure to Take Measures for the Elimination of Environmental Pollution, Concealment of Data regarding Environmental Pollution.

¹⁶² Wildlife crimes include: Forest Arson, Destruction and Damaging of a Forest through Negligence, Arbitrary Cutting and Damaging Trees, Arbitrary Fishing and Acquisition of Aquatic Animals, Illegal Manufacture, Acquisition, Storage, Sale, Transportation and Forwarding of Electro-Fishing Equipment, Illegal Hunting, Blasting and Other Acts Committed in Violation of Provisions for Protection of Animals, Destruction and Damaging of Special Areas of Protection, Destruction and Damaging of Specially Protected Animals and Plants, Violation of the Trading Provisions of Specimens of Endangered Wild Animal and Plant Species.

¹⁶³ Source: Member State Data Sheet provided by the Lithuanian Ministry of Justice.

¹⁶⁴ Number of convictions for environmental crime are not collected by the Prosecutor General's Office of the Republic of Lithuania. Therefore, the data presented in the table are the number of criminal trials for breaches of environmental law.

¹⁶⁵ Other environmental crimes include crimes related to violations of the Regulations governing environmental protection or the use of natural resources (which might include some waste and wildlife crimes), illicit trade in the substances depleting the ozone layer and the destruction or devastation of protected areas or protected natural objects.

¹⁶⁶ Source: Council of the European Union, 8th Round of Mutual Evaluations - 'The practical implementation and operation of European policies on preventing and combating Environmental Crime'. Report on Luxembourg, 2019, p.22. No breakdown by types of crime is available.

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Total convictions						15	25	20	27	30	20
Poland¹⁶⁷											
Total convictions			72	59	30	46	28	49	53	34	
Waste crimes ¹⁶⁸			46	40	23	32	19	29	36	25	
Wildlife crimes ¹⁶⁹			8	5	1	2	3	4	2	1	
Other environmental crimes ¹⁷⁰			18	14	6	12	6	16	15	8	
Portugal¹⁷¹											
Total convictions¹⁷²	86	60	75	77	113	126	135	120	137	139	189
Waste crimes ¹⁷³	3	3	3	3	0	0	5	0	0	0	3
Wildlife crimes ¹⁷⁴	0	0	0	0	4	10	11	16	13	8	13
Other environmental crimes ¹⁷⁵	82	57	71	74	108	116	119	104	124	130	173
Romania											
Total convictions¹⁷⁶					0	3	1	1	4	2	2 ¹⁷⁷
Total convictions¹⁷⁸									518	641	528
Slovenia¹⁷⁹											
Total convictions¹⁸⁰							29	31	32	39	27
Spain¹⁸¹											
Total convictions¹⁸²	527	617	691	676	799	882	929	929	975		
Wildlife crimes ¹⁸³	84	80	96	80	119	145	171	220	263		
Other environmental	443	537	595	596	680	737	758	709	712		

¹⁶⁷ Polish Ministry of Justice: [http://orka2.sejm.gov.pl/INT8.nsf/klucz/ATTBA2K5H/\\$FILE/i29226-o1.pdf](http://orka2.sejm.gov.pl/INT8.nsf/klucz/ATTBA2K5H/$FILE/i29226-o1.pdf)

¹⁶⁸ Includes convictions under Article 183 (unlawful management and import and export of waste), 184 (unlawful dealing with radioactive materials) and 185 (serious crimes related to waste and radioactive materials) of the Polish Penal Code.

¹⁶⁹ Includes convictions under Article 181 of the Polish Penal Code (damage caused to plants and animals).

¹⁷⁰ Includes convictions under Articles 182 (environmental pollution), 186 (failure in preservation or application of protection devices for water, air and soil), 187 (damage to legally protected areas and objects) and 188 (land use violations and business activities harmful to protected area environments).

¹⁷¹ Source: Member State Data Sheet provided by the Portuguese Ministry of Justice.

¹⁷² The data includes convicted in criminal cases in the first instance judicial courts. The counting of convicted persons takes into account the most serious crime for which they were convicted.

¹⁷³ Waste crimes include crimes of pollution.

¹⁷⁴ Wildlife crimes include damage to nature.

¹⁷⁵ Other environmental crimes include forest fires.

¹⁷⁶ Source: Council of the European Union, 8th Round of Mutual Evaluations - 'The practical implementation and operation of European policies on preventing and combating Environmental Crime'. Report on Romania, 2019, p.24. No breakdown by types of crime is available. Includes offences against the environment laid down in GEO No 195/2005 (Framework Environmental Law) and other special laws related to environmental offences.

¹⁷⁷ Figure for the first semester of 2018.

¹⁷⁸ Source: Member State Data Sheet provided by the Romanian ministry of Justice. The data cover poaching crimes, crimes regarding fishing and aquaculture, and crimes against forestry regulations.

¹⁷⁹ Source: Annual reports of the State Prosecutor's Office, available at <https://www.dt-rs.si/letna-porocila>

¹⁸⁰ Including both natural and legal persons.

¹⁸¹ Source: Council of the European Union, 8th Round of Mutual Evaluations - 'The practical implementation and operation of European policies on preventing and combating Environmental Crime'. Report on Spain, 2019, p.24.

¹⁸² Includes crimes related to: Environment, Town planning and land use planning, Historical heritage, Flora and fauna, Forest fires, Cruelty to domestic animals.

¹⁸³ Wildlife crimes include crimes reported under the label 'fauna and flora'.

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
crimes ¹⁸⁴											
Sweden¹⁸⁵											
Total convictions¹⁸⁶							293	272	241	210	266
Waste crimes ¹⁸⁷											
Wildlife crimes							27	17	16	9	7
Other environmental crimes							266	255	225	201	259

¹⁸⁴ Other environmental crimes include crimes reported under the labels: Environment, Town planning and land use planning, Historical heritage, Forest fires, Cruelty to domestic animals. Waste crimes could not be identified, they might be included under 'Environment'.

¹⁸⁵ Source: Member State Data Sheet provided by the Swedish Ministry of Environment.

¹⁸⁶ Number of cases convicted in court or imposed by a penalty order.

¹⁸⁷ Specific data on waste crimes are not available since waste criminality is enforced under several different offences. The number of waste crimes is therefore included in "Other environmental crimes".

LEVEL OF SANCTIONS IMPOSED AS A RESULT OF PROSECUTIONS OF ENVIRONMENTAL CRIME (AVERAGE FINE IN EUR)

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Finland¹⁸⁸											
Average fine						N/A	N/A	N/A	N/A	N/A	N/A
Average fine – waste						727	620	658	867	660	893
Average fine – wildlife						240	267	1533	664	524	422
Average fine – other						676	2895	1095	2032	2322	801
France¹⁸⁹											
Average fine ¹⁹⁰					1,405	1,546	1,709	3,129	5,911	2,047	1,916
Average fine – waste					1,775	1,579	2,292	4,921	5,492	2,588	1,403
Average fine – wildlife					1,033	1,519	1,244	1,525	6,246	1,695	2,231
Ireland¹⁹¹											
Average fine	3,437.5	22,883.3	8,523.1	2,214.3	11,615	6,227.3	2,677.7	1,825,645	3,585.7	5,413	4,571.4
Average fine – waste	3,325	22,883.3	8,523.1	2,115.4	12,822.2	6,227.3	2,677.7	1,825,645	3,585.7	5,413	4,500
Average fine – other	4,000	0	0	3,500	750	0	0	0	0	0	6,000

¹⁸⁸ Source: Member State Data sheet provided by the Finnish Ministry of Environment.

¹⁸⁹ Source: Member State Data sheet provided by the French Ministry of Justice.

¹⁹⁰ Includes unsuspended and suspended sanctions.

¹⁹¹ Source: Irish Environmental Protection Agency: <http://www.epa.ie/enforcement/prosecute/> last accessed 07.02.2020. There is no available data concerning wildlife crimes from this agency as wildlife crime is a competence of the National Parks and Wildlife Service, which did not provide data.

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Latvia¹⁹²											
Average fine	637,45	1 304,30	896,41		1 138,30	853,72	1 173,33	1 506,86	2 053,33	2 200	
Average fine – waste	-	-	-	1 6647,60	-	-	-	-	-	-	6 880,00
Average fine – wildlife	637,45	1 304,30	896,41	2 525,60	1 138,30	853,72	1 173,33	1 506,86	2 053,33	2 200	2 066,67

LEVEL OF SANCTIONS IMPOSED AS A RESULT OF PROSECUTIONS OF ENVIRONMENTAL CRIME (TOTAL FINES IN EUR)

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Bulgaria¹⁹³											
Total fines ¹⁹⁴	N/A	0	1,842	7,874	8,948	2,045	3,323	8,181	4,602	2,556	5,624
Total fines – waste	N/A	0	256	0	6,647	1,023	0	6,135	3,068	0	2,556
Total fines – wildlife	N/A	N/A	1,534	5,113	2,301	1,023	2,556	2,045	1,534	2,556	3,068
Total fine – other	N/A	N/A	51	1,227	0	0	767	0	0	0	0

¹⁹² Source: Member State Data sheet provided by the Latvian Ministry of Justice.

¹⁹³ Source: Member State Data sheet provided by the Bulgarian Ministry of Justice.

¹⁹⁴ Data initially provided by the Bulgarian Ministry of Justice in Bulgarian Lev. Data were converted to Euros on 05.02.2020 on <https://www.xe.com/>, using the conversion rate: 1 BGN = 0.511292 EUR.

LEVEL OF SANCTIONS IMPOSED AS A RESULT OF PROSECUTIONS OF ENVIRONMENTAL CRIME (TOTAL NUMBER OF FINES)

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Germany¹⁹⁵											
Total fines	1541	1371	1336	1221	1122	1131	1141	1144	1109	1186	1331
Total fines – waste	1106	975	944	843	778	843	856	881	796	864	1008
Total fines – wildlife	40	42	43	35	38	32	27	30	24	40	47
Total fine – other	395	354	349	343	306	256	258	233	289	282	276

¹⁹⁵ Source: Member State Data sheet provided by the German Ministry of Justice.

STATISTICS ON SENTENCES OF IMPRISONMENT IMPOSED AS A RESULT OF PROSECUTIONS OF ENVIRONMENTAL CRIME

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Bulgaria¹⁹⁶											
Total number of people sentenced	N/A	4	1	3	15	8	8	4	2	1	4
Total number of people sentenced – waste crimes	N/A	0	0	0	10	8	6	4	1	1	3
Total number of people sentenced – wildlife crimes	N/A	3	0	1	0	0	2	0	1	0	1
Total number of people sentenced – other	N/A	1	1	2	5	0	0	0	0	0	0
Croatia¹⁹⁷											
Total number of people sentenced			201	165	236	140	132	91	76	90	55
Czechia¹⁹⁸											
Total number of people sentenced¹⁹⁹	50	60	22	43	30	54	53	53	53	36	46
Total number of people sentenced – waste crimes	3	1	0	0	2	1	0	1	0	0	1
Total number of people sentenced – wildlife crimes	1	1	1	3	1	10	11	6	3	3	7
Total number of people sentenced – other	46	58	21	40	27	43	42	46	50	33	38
Finland²⁰⁰											
Total number of people sentenced						13	7	5	5	15	22
Total number of people sentenced – waste crimes						11	6	2	1	11	9
Total number of people sentenced – wildlife crimes						0	0	2	0	0	0
Total number of people sentenced – other						2	1	1	4	4	13
France²⁰¹											
Total number of					119	116	81	112	139	149	155

¹⁹⁶ Source: Member State Data Sheet provided by the Bulgarian Ministry of Justice.

¹⁹⁷ Source: Member State Data sheet provided by the Croatian Ministry of Justice.

¹⁹⁸ Source: Member State Data sheet provided by the Czech Ministry of Justice.

¹⁹⁹ Both unsuspended prison sentences and suspended prison sentences are included. Data on highest, lowest and average sentence were not provided.

²⁰⁰ Source: Member State Data sheet provided by the Finnish Ministry of Environment.

²⁰¹ Source: Member State Data sheet provided by the French Ministry of Justice.

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
people sentenced²⁰²											
Total number of people sentenced – waste crimes					65	67	52	70	61	77	65
Total number of people sentenced – wildlife crimes					54	49	29	42	78	72	90
Total number of people sentenced – other					0	0	0	0	0	0	0
Germany²⁰³											
Total number of people sentenced	64	49	51	47	53	35	40	26	28	30	23
Total number of people sentenced – waste crimes	0	0	0	0	0	0	0	0	0	0	0
Total number of people sentenced – wildlife crimes	5	3	5	3	9	2	4	4	0	0	2
Total number of people sentenced – other	59	46	46	44	44	33	36	22	28	30	21
Latvia²⁰⁴											
Total number of people sentenced	42	40	27	21	16	15	14	23	15	20	24
Total number of people sentenced – waste crimes											3
Total number of people sentenced – wildlife crimes	42	40	27	21	16	15	14	23	15	20	21
Total number of people sentenced – other	0	0	0	0	0	0	0	0	0	0	0
Portugal²⁰⁵											
Total number of people sentenced²⁰⁶		6	6	7	8	10	20	5	12	15	21
Sweden²⁰⁷											
Total number of people sentenced²⁰⁸							3	2	1	0	6
Total number of people sentenced – wildlife crimes							2	1	1	0	6

²⁰² In 2018, 155 sentences of imprisonment were imposed on private persons having breached environmental law. The average length of the sentence was 167 days. Both unsuspended and suspended sanctions are counted.

²⁰³ Source: Member State Data sheet provided by the German Ministry of Justice.

²⁰⁴ Source: Member State Data sheet provided by the Latvian Ministry of Justice.

²⁰⁵ Source: Member State Data sheet provided by the Portuguese Ministry of Justice.

²⁰⁶ The data includes convicted persons in criminal cases in the first instance judicial courts, to whom the sentence imposed was imprisonment. The counting of convicted persons takes into account the most serious crime for which they were convicted.

²⁰⁷ Source: Member State Data sheet provided by the Swedish Ministry of Environment.

²⁰⁸ Specific data on waste crimes are not available since waste criminality is enforced under several different offences. The number of waste crimes is therefore included in 'Other environmental crimes'.

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Total number of people sentenced – other							1	1	0	0	0

AVERAGE SENTENCES OF IMPRISONMENT IMPOSED AS A RESULT OF PROSECUTIONS OF ENVIRONMENTAL CRIME (MONTHS)

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Finland²⁰⁹											
Average sentence						3	1,7	6,8	5,2	6,2	4,7
Average sentence – waste						2,5	1,8	6,5	2	5,6	3,9
Average sentence – wildlife								9			
Average sentence – other						5,5	1	3	6	8	5,3
France²¹⁰											
Average sentence					4.4	4.7	4.9	5.3	5.3	5.3	5.6
Average sentence – waste					5.3	5.4	5.8	6.4	7.0	5.4	5.8
Average sentence – wildlife					3.3	3.8	3.4	3.5	3.9	5.3	5.4
Latvia²¹¹											
Average sentence	14	14.6	11	7.8	8.6	10.6	8.6	8	21.5	14	16.6
Average sentence – wildlife	14	14.6	11	7.8	8.6	10.6	8.6	8	21.5	14	16.6

NUMBER OF SANCTIONS IMPOSED ON LEGAL PERSONS IN RELATION TO BREACHES OF ENVIRONMENTAL LAW

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Czechia²¹²											
Total number of legal persons sanctions ²¹³							1	1			1
Waste							1				
Wildlife											
Other breaches of environmental law								1			1
Finland²¹⁴											

²⁰⁹ Source: Member State Data sheet provided by the Finnish Ministry of Environment.

²¹⁰ Source: Member State Data sheet provided by the French Ministry of Justice.

²¹¹ Source: Member State Data sheet provided by the Latvian Ministry of Justice.

²¹² Source: Member State Data sheet provided by the Czech Ministry of Justice.

²¹³ Legal persons were not criminally liable before 1st January 2012 when their criminal liability was established by the Act no. 418/2011 Coll., on Criminal Liability of Legal Persons and Proceedings against them. Only statistical data since 2014 are available.

²¹⁴ Source: Member State Data sheet provided by the Finnish Ministry of Environment.

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Total number of legal persons sanctions						1	4	1	4	3	5
Waste						1	3	0	0	1	1
Wildlife						0	0	0	0	0	0
Other breaches of environmental law						0	1	1	4	2	4
France²¹⁵											
Total number of legal persons sanctions ²¹⁶					62	72	58	46	58	61	75
Waste					59	55	51	36	47	55	59
Wildlife					4	17	7	10	11	6	16
Other breaches of environmental law					0	0	0	0	0	0	0
Ireland²¹⁷											
Total number of legal persons sanctions	12	16	12	13	10	10	9	11	7	21	21
Waste	10	16	12	12	9	10	9	11	7	21	20
Other breaches of environmental law	2	0	0	1	1	0	0	0	0	0	1
Portugal²¹⁸											
Total number of legal persons sanctions ²¹⁹									4	3	
Sweden²²⁰											
Total number of legal persons sanctions ²²¹							206	215	194	200	195
Waste											
Wildlife							3	7	7	1	0
Other breaches of environmental law							203	208	187	199	195

²¹⁵ Source: Member State Data sheet provided by the French Ministry of Justice.

²¹⁶ Number of sanctions by legal persons: i.e. in 2018, 75 legal persons were found guilty of at least one breach of environmental law.

²¹⁷ Source: Irish Environmental Protection Agency: <http://www.epa.ie/enforcement/prosecute/> last accessed 07.02.2020. There is no available data concerning wildlife crimes from this agency as wildlife crime is a competence of the National Parks and Wildlife Service, which did not provide data. Legal persons include county councils and companies.

²¹⁸ Source: Member State Data sheet provided by the Portuguese Ministry of Justice.

²¹⁹ The data includes legal persons convicted in criminal cases in the first instance judicial courts. The counting of convicted persons takes into account the most serious crime for which they were convicted.

²²⁰ Source: Member State Data Sheet provided by the Swedish Ministry of Environment.

²²¹ The data include the number of cases where a company fine has been imposed. Normally a company fine addresses a legal person but sometimes it is imposed on a natural person for a crime conducted within a business.

LEVEL OF SANCTIONS IMPOSED ON LEGAL PERSONS FOR BREACHES OF ENVIRONMENTAL LAW (€)

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Finland²²²											
Average fine						4,000	10,625	6,000	21,250	15,167	116,000
Average fine – waste crimes						4,000	4,167			7,500	14,000
Average fine – wildlife crimes											
Average fine – other							30,000	6,000	21,250	1,900	141,500
France²²³											
Average fine ²²⁴					5,477	22,795	13,248	8,477	16,152	19,025	6,885
Average fine – waste crimes					5,464	14,027	11,256	9,341	18,075	20,070	6,818
Average fine – wildlife crimes					5,750	57,867	23,973	5 255	4,458	7,883	7,366
Average fine – other											
Ireland²²⁵											
Average fine	3,437.5	26,993.3	9,950	2,346.2	11,615	6,550	2,677.7	1,825,645	3,585.7	5,869	4,571.4
Average fine –	3,325	26,993.3	9,950	2,250	12,822.2	6,550	2,677.7	1,825,645	3,585.7	5,869	4,500

²²² Source: Member State Data sheet provided by the Finnish Ministry of Environment.

²²³ Source: Member State Data sheet provided by the French Ministry of Justice.

²²⁴ Total sanction (unsuspended sanction and suspended sanction).

²²⁵ Source: Irish Environmental Protection Agency: <http://www.epa.ie/enforcement/prosecute/> last accessed 07.02.2020. There is no available data concerning wildlife crimes from this agency as wildlife crime is a competence of the National Parks and Wildlife Service, which did not provide data. Legal persons include county councils and companies.

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
waste crimes											
Average fine – other	4,000	0	0	3,500	750	0	0	0	0	0	6,000

LEVEL OF SANCTIONS IMPOSED ON LEGAL PERSONS FOR BREACHES OF ENVIRONMENTAL LAW

	2014	2015	2016	2017	2018
Sweden²²⁶					
Total fines ²²⁷	709,305	625,444	834,862	532,755	884,552
Total fines – waste crimes					
Total fines – wildlife crimes	19,680	6,559	7,965	5,154	0
Total fines – other	689,708	618,957	826,994	527,589	884,592

²²⁶ Source: Member State Data sheet provided by the Swedish Ministry of Environment.

²²⁷ Data initially provided by the Swedish Ministry of Environment in Swedish Krona. Data were converted to Euros on 03.02.2020, using the conversion rate: 1 SEK = 0.0937304 EUR.