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## REPORT

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- Report on Belgium

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## 1. EXECUTIVE SUMMARY

To fully understand Belgium's specific situation, it is necessary to be aware of the complexity of its institutional landscape (Belgians themselves liken it to an administrative 'layer cake' or lasagne to illustrate the complex situation in which the different administrations constantly interact, and their competences occasionally overlap).

There are three different regions (the Brussels-Capital Region, Walloon Region and Flemish Region) which exercise various powers within three distinct cultural communities, meaning that a constant effort must be made to engage in dialogue and mutual understanding.

Responsibility for environmental matters essentially falls to the regions; the Belgian federal authorities are only involved to a very marginal extent.

That being said, it is clear that the Belgian authorities are perfectly aware of the difficulties and, in order to avoid the risk of institutional confusion, have established many and varied systems for administrative coordination which usually function horizontally, with no hierarchical arrangement of any kind. For example, the interministerial conference on the environment is the institution through which Belgium speaks with one voice on the international stage.

Even though work is undoubtedly progressing in the right direction, the institutional complexity and the disparity in the legislation remain a significant challenge. For example, the representative of the private sector noted that there was still a lot of work to be done to harmonise the legislation of the three regions. This private company considers that it is very difficult at this time to provide the public with clear and appropriate information on the different legislation in force.

The visit was very well organised and enabled the team of experts to come into contact with the most important national authorities in the area of preventing and fighting environmental crime. It should also be noted that everyone we met during the visit was very forthcoming and information was also exchanged informally during the breaks in the schedule.

The dialogue was always very open and enabled the team of experts to gain a good understanding of how the national system works, as well as its specific features.

## 2. INTRODUCTION

Following the adoption of Joint Action 97/827/JHA of 5 December 1997<sup>1</sup>, a mechanism was established for evaluating the application and implementation at national level of international undertakings in the fight against organised crime. In line with Article 2 of the Joint Action, the Working Party on General Matters including Evaluation (GENVAL) decided on 14 December 2016 that the eighth round of mutual evaluations should be devoted to the practical implementation and operation of European policies on preventing and combating environmental crime.

The Member States welcomed the choice of environmental crime as the subject for the eighth round of mutual evaluations. However, due to the broad range of offences that fall into the category of environmental crime, it was agreed that the evaluation would focus on those offences which Member States felt warranted particular attention. The evaluation therefore focuses on two specific areas, namely illegal waste trafficking and illegal production or handling of dangerous materials, and should provide a comprehensive examination of the legal and operational aspects of tackling environmental crime, cross-border cooperation and cooperation with relevant EU agencies.

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives<sup>2</sup> (transposition date: 12 December 2010), Directive 2008/99/EC of the European Parliament and of the Council on the protection of the environment through criminal law<sup>3</sup> (transposition date: 26 December 2010) and Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste<sup>4</sup> are of particular importance in this context.

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

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

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

<sup>4</sup> OJ L 190, 12.7.2006, p. 1.

In accordance with the GENVAL decision, the evaluation does not cover criminal activity linked to other types of environmental crime, such as the illegal trade in wild animals, the illegal trade in wood, the illegal trade in fish, or air pollution.

Experience from previous evaluations shows that the implementation of the relevant legal instruments is at different stages in the different Member States; the evaluation process currently under way could also be useful to those Member States that may not yet have sufficiently implemented all the aspects of the various instruments.

The Council conclusions of 8 December 2016 on countering environmental crime<sup>5</sup> underscore that combating environmental crime requires a comprehensive, multidisciplinary approach at all levels, better cooperation and information exchange between the competent authorities, including third countries, and enhanced dialogue and cooperation with relevant international organisations. The Council conclusions of 18 May 2017 on setting the EU's priorities for the fight against organised and serious international crime between 2018 and 2021<sup>6</sup> note that the fight against environmental crime is one of the priorities of the European Union.

The evaluation will nevertheless be wide-ranging and interdisciplinary; it will concentrate not only on the implementation of the legal instruments relating to the fight against organised crime but also, and most especially, on the operational aspects in the Member States.

The evaluation will therefore cover cooperation between the environmental, law enforcement, customs and judicial authorities at national level, as well as with Europol, Interpol and Eurojust. The evaluation will also look at operational practices in the Member States in relation to waste treatment operations, and the establishments and companies that collect and transport waste.

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

<sup>6</sup> 9450/17 COSI 107 ENFOPOL 247 CRIMORG 107 ENFOCUSTOM 133 CYBER 79 JAI 512.

The order of visits to the Member States was adopted by GENVAL on 5 May 2017. Belgium was the ninth Member State to be evaluated during this round of evaluations. In accordance with Article 3 of Joint Action 97/827/JHA, the Presidency has drawn up a list of experts for the evaluations to be carried out. The Member States have designated experts with substantial practical experience in the relevant field.

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

The experts responsible for the evaluation of Belgium were Ms Angela Griesbach (Germany), Mr Faustino Gudin Rodriguez-Magariños (Spain) and Mr Christophe Valissant (France). Also present were Ms Katarina Cutuk from the Commission as an observer, and Ms Carmen Necula from the General Secretariat of the Council.

This report was prepared by the expert team with the assistance of the General Secretariat of the Council, based on findings arising from the evaluation visit that took place in Belgium from 30 January to 2 February 2018, and on Belgium's detailed replies to the evaluation questionnaire together with its detailed answers to ensuing follow-up questions.

### **3. GENERAL QUESTIONS AND STRUCTURES**

#### **3.1. Action plan or similar document on combating environmental crime**

Belgium sets priority cycles for types of crime requiring special attention. Opinions were gathered from the regions, authorities and all actors. This led to the drafting of the Framework Note on Integral Security (NCSI), 2016-2019 version, which constitutes a reference framework for all actors who may contribute to an effective approach on security because of their competences and responsibilities or their social objectives. The financial and human resources are allocated to the units concerned for the purpose of achieving the objectives (local and federal police forces and inspection services of the various administrations).

The NCSI focused on five themes in the environmental field:

- 1 - combating waste fraud, which generally has a cross-border and/or international aspect and is linked to organised crime;
- 2 - combating the trade in endangered animal and flower species and the concomitant threat to biodiversity;
- 3 - animal welfare protection;
- 4 - combating energy fraud, which falls within the broader context of (organised) environmental fraud;
- 5 - combating environmental offences and environmental crime on the North Sea.

At the next stage, the police addressed these expectations in the National Security Plan (PNS) 2016-2019, but only incorporated four of the items (nos 1 to 4). Despite the request from the regions expressed in the NCSI for a single central contact point for all five subjects, the police's plan only mandated its central environmental department to deal with point 1 (combating waste fraud). For the other three, it stated that those tasks would be dealt with in the course of normal police work. That means that the work should be done on a case-by-case basis by the police force of the locality involved.

Here is an excerpt from the NCSI: *'We also consider that in order to continue to encourage the launching, organising and coordinating of responsive and multidisciplinary investigations regarding (serious) environmental crime, by means of active collection and management of information, it is essential to have a central contact point in the federal police, whose main tasks are support, coordination and image provision.'*

The local police units (of which there are 186 in Belgium) are not bound by the PNS but each draw up their own area security plan or PSZ.

The idea is that the PNS highlights the phenomena and the local police assess which ones affect their localities and how. But it is apparent that an overwhelming majority of the local police areas consider that they are not affected, believing that serious crime, as opposed to nuisances and antisocial behaviour, falls within the remit of the relevant administrative authorities and the specialist departments of the federal police.

### **The Flemish Region:**

The enforcement division of the Department of Environment and Spatial Development of the Flemish Government (of which the former Flemish Environmental Inspectorate Division (EID) is a part) works on the basis of an inspection plan, in line with the requirements of Article 50 of Regulation (EC) No 1013/2006 on waste shipment reports. This Waste Shipments Regulation inspection plan is part of the wider inspection plan of the former EID. The inspection plan includes a general description referring in particular to cooperation with other inspection services and a number of individual summaries for inspection activities relating to illegal cross-border waste shipments.

### **Brussels Capital Region:**

A waste shipment inspection plan has been drawn up for the Brussels Capital Region. The operational objectives are part of the overall inspection plan of the inspection and polluted soils division of the competent authority, Brussels Environment.

### **The Walloon Region:**

There is a Walloon inspection plan on cross-border waste shipments, which is designed to address the environmental aspects in an integrated way.

Example: Waste electrical and electronic equipment => all aspects of the issue are addressed (take-back obligations, collection, etc.) not just export aspects.

## **3.2. National programmes and projects relating to waste crime**

Awareness-raising and prevention are mostly done at the level of local police, who produce their own initiatives. The environment is not among the seven obligatory responsibilities of local police forces. However, some police units have chosen to set up a specific department for the environment. We note that those bodies conduct publicity campaigns for their citizens, often in the form of leaflets that are either distributed or placed on display stands.

Each municipality is legally required to publish a set of general police regulations. This is a collection of rules to be followed for life in the community: respect, hygiene, etc. Numerous chapters are devoted specifically or otherwise to environmental rules (waste management, recycling centres, waste sorting, animal waste, maintenance of public highways and private properties, noise/light/odour pollution, etc.). In their way, these municipal regulations play a preventive role.

At federal police level, the traffic police (WPR) and the waterways police (SPN), supported by other units with which they collaborate in planned inspections, specifically target road haulage, of which one aspect subject to inspections is the specific legislation on cross-border waste shipments and transport.

The units of the federal criminal police (PJF), divided among the judicial districts, produce action plans each year on subjects adopted in the national security plan. Follow-up and results are covered in the national 'Itinéra' programme. We note, however, that in the current year, 2017, no environment action was registered by any of these units in 'Itinéra'. This is a consequence of the fact that as much capacity as possible was committed to 'hotter' issues such as terrorism, drugs and human trafficking.

Insofar as investigation and combating of environmental offences are conducted on a voluntary rather than a binding basis, we note that the police investigation units work reactively to events that lead to findings and subsequently to investigation files being opened.

Information, training courses and theme-based days focusing on environmental aspects, developments and legislation are provided at various levels by the central service of the Federal Police:

- Specific training on cross-border waste shipments > traffic police and traffic sections of local police forces + Railway Police (SPC) and Waterway Police
- Training on 'Approach to environmental legislation' > during basic training for new police officers (trainee police inspectors).
- Environmental legislation + role of the police > Federal Police Training College.
- Environmental investigations focusing on financial gain > Training college for investigators.
- Awareness-raising stands > Local police open days and certain national fairs.
- Theme-based days > Members of the environmental network and partners.

In 1995, the Central Environmental Service (CES) developed a national project the purpose of which is - via the drafting, gathering, analysis and coding of data from its EMD form - to evaluate trends in the sector, centralise information on hauliers, firms and waste, obtain a picture of the phenomenon and relevant statistics, detect methods used and uncover anomalies and fraud.

**The Flemish Region:**

The enforcement division of the Department of Environment and Spatial Development of the Flemish Government is not aware of any national programme or project on prevention, legislation or public awareness that is specifically targeting waste crime. Most programmes regarding waste policy focus on the management of waste streams as a whole, and combating offences may just be a small part of these plans. The WSR inspection plan of the former EID mentions the capacity that will be available for WSR inspections, and refers to cooperation with police and customs, which includes training.

**Brussels Capital Region:**

A new legal framework regarding waste management was adopted in December 2016 (Decree of the Government of the Brussels Capital Region of 1 December 2016 on waste management). As a result of this Decree, every collector, dealer, broker and manager of a waste treatment plant is obliged to follow a comprehensive training course on waste management (including waste shipment). This training will run from 2018 onwards.

### 3.3. Statistics on waste crime

#### Federal police

The police departments have figures based on data from reports drawn up (in the environmental context and at CES level as regards serious environmental crime).

However, it is regrettable that most reports relating to the environment are encoded under other headings, which obscures the real scale of the phenomenon. As the criminal motive is generally financial, the investigative services safeguard and encode their findings on the basis of Criminal Code articles covering this area. Environmental offences are not lost but obscured by the federal police's initial investigations in the general national police database (BNG) and the computer systems used. This state of affairs is also reflected in the local police's results. The figures are available on the web site [www.Stat.PoliceFederale.be](http://www.Stat.PoliceFederale.be)



Type fait	Année				
	2013	2014	2015	2016	2017
<b>Criminalité de déchets grave</b>	<b>1084</b>	<b>973</b>	<b>831</b>	<b>747</b>	<b>443</b>
Déchets par un professionnel	624	593	548	520	306
Transport de déchets	363	299	200	138	94
Déchets: permis-autorisation	97	81	83	89	43
<b>Criminalité de déchets locale</b>	<b>5808</b>	<b>5856</b>	<b>5761</b>	<b>5681</b>	<b>2619</b>
Déchets par un particulier	5196	5266	5218	5155	2328
Pollution de l'air	116	157	147	147	90
Pollution de l'eau	333	275	223	221	123
Pollution du sol	151	153	160	144	60
Taxe sur l'environnement	12	5	13	14	18
<b>Biodiversité</b>	<b>2404</b>	<b>2372</b>	<b>2211</b>	<b>2243</b>	<b>1070</b>
Environnement flore faune CITES	22	23	26	23	11
Environnement flore et faune Destruction d'animaux	538	494	467	401	191
Environnement flore et faune Bien-être animal	1400	1456	1357	1503	724
Environnement flore et faune Protection de la nature	283	273	259	204	92
Environnement flore et faune Permis autorisation	158	126	102	111	52
Environnement flore et faune autre	3	0	0	1	0
<b>Urbanisme</b>	<b>3142</b>	<b>2594</b>	<b>2442</b>	<b>2374</b>	<b>1202</b>
Feux d'artifice	61	68	61	36	16
Traffic des matériaux radioactives	1	2	2	3	1



Remarque: 2017: 1<sup>er</sup> semestre

In general, we have seen a drop in the number of criminal infringement notices for environmental offences in recent years. This trend is quite natural, given that the offences are mostly dealt with via administrative proceedings. One current phenomenon is disadvantageous for combating environmental crime: the issues given priority are quite different (terrorism, drugs and human trafficking) and as a result, the available capacities are primarily focused on investigations in those areas. Since environmental crime has the peculiarity of being invisible until it is sought out, the reduction of inspections and investigations into this matter tends to reduce the number of instances recorded, even though they are in fact increasing.

### **Public prosecutor's office**

At the public prosecutor's office, the data are gathered and put into context by statistical analyses. These statistics are included in Annex 3.

### **The Flemish Region:**

The Flemish High Enforcement Council for Spatial Planning and Environment (hereinafter 'VHRM') was constituted in 2009 in order to support the Flemish Parliament and the Flemish Government with the coordination and evaluation of environmental enforcement policy, and constitutes a forum for systematic consultation between the actors responsible for enforcing environmental legislation (federal and local police, regional/provincial/municipal or inter-municipal environmental inspectors, the public prosecutor's office, the regional authority responsible for administrative penalties, etc.).

One of its key tasks is the drafting of an annual report on the enforcement of environmental legislation, based on relevant, reliable figures and qualitative data provided by the various environmental enforcement actors concerned. The final report is approved by the Flemish Government.

The annual environmental enforcement reports adopted since 2009 are publicly available (in Dutch) on the website of the VHRM: <http://www.vhrm.be/milieuhandhavingsrapport>. The 2016 report is not available yet on the website of the VHRM, but can be consulted on the website of the Flemish Government: <https://www.vlaanderen.be/nl/publicaties/detail/milieuhandhavingsrapport-2016>.

The annual reports contain, in particular, general data on the number of official reports drawn up during the year concerning violations of European and Flemish waste legislation, the action taken by the public prosecutor's office (including referrals to the regional authority responsible for administrative penalties) and the number of cases dealt with by the regional authority responsible for administrative penalties during that year. The report does not contain data on the number of waste violations that are considered to be waste-related 'criminal offences' within the meaning of points (b) or (c) of Article 3 of Directive 2008/99/EC.

The enforcement division of the Department of Environment and Spatial Development of the Flemish Government (of which the former Flemish Environmental Inspectorate Division (EID) is a part) keeps account of all cases referred to in point 35 of Article 2 WSR, for the purpose of the annual report to the European Commission provided for in Annex IX WSR.

### **Brussels Capital Region:**

Regional waste crime statistics from the law enforcement authorities are reported each year in the waste shipment report (Article 51, Regulation (EC) No 1013/2006).

As regards administrative penalties, there are regional waste crime statistics produced in the context of the penalties covered in Articles 48 – 55 of the Waste Order (Order of 14 June 2012 on Waste).

## **The Walloon Region:**

Wallonia does not have specific statistics on environmental crime.

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

In terms of the priority flows on which the federal police (SEC) particularly focuses, the following are found in the context of the indicators collected:

- liquids;
- waste representing a threat to the human or animal food chain;
- mixtures containing asbestos (soil/waste);
- waste subject to a take-back obligation (WEEE).

As for emerging trends, in 2017 the biggest files concerned fluff (residual foam from ELVs) and the trade in textile waste (collection, illegal processing and fraudulent financial flows).

## **Brussels Capital Region:**

There were 22 reports of offences drawn up on the basis of infringements of the WSR over the period 2010-2017. The administrative fines increased from EUR 625 (minimum fine) in 2010 to EUR 9 000 today.

(Serious) environmental crime is always linked to offences under the Criminal Code (corruption, money laundering, organised crime, fraud, forgery, use of false documents).

Environmental crime is organisational crime (in which a lawful enterprise develops a fraudulent system) rather than organised crime (in which an illegal association commits crimes).

We have seen criminal networks dealing in textile waste (recovery, premium fraud, processing, resale, export) supporting other international criminal networks where necessary, with ramifications in countries at war, sometimes going so far as to fund radicalism.

Infringements of social legislation are also often observed in the files (undeclared work, fraud with respect to social obligations).

### **The Flemish Region:**

The Enforcement Division of the Department of Environment and Spatial Development of the Flemish Government has no knowledge, apart from anecdotal reports, of recent cases showing links between waste crime and other forms of serious criminal offences.

In 2012 a priority note on prosecution policy in relation to violations of environmental law in the Flemish Region was drafted and adopted by the VHRM, the board of prosecutors, the Flemish Minister for the Environment and the Federal Minister for Justice. The priority note can be consulted on the website of the VHRM: (<http://www.vhrm.be/english>).

Relevant criteria for establishing priorities include inter alia the organised nature of environmental crime, illegal waste trafficking, dumping hazardous waste or large amounts of waste, direct risk to or impact on the population and public health and excessive nuisance caused.

### **Brussels Capital Region:**

No information is available.

### **The Walloon Region:**

Yes, among other forms of criminal offence recorded the following may be noted:

- forgery and use of forgeries;
- fraud with respect to social legislation/ undeclared work;
- tax fraud.

Other types of offence are suspected:

- human trafficking - irregular immigrants;
- financing of activities connected to radicalism.

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

Table 1 shows, for each prevention code, all cases concerning 'waste offences' referred to the criminal prosecution offices between 1 January 2013 and 31 December 2017.

**Table 1:** Number of cases concerning 'waste offences' referred to the criminal prosecution offices between 1 January 2013 and 31 December 2017, listed by registration year and prevention code (number & % marked in columns)

	64E - Uncontrolled waste disposal		64F - Industrial waste management		64L - Import and transit of waste (law of 12 May 2011)		TOTAL	
	n	%	n	%	n	%	n	%
<b>2013</b>	10.149	90.70	831	7.43	210	1.88	11.190	100.00
<b>2014</b>	11.590	92.61	751	6.00	174	1.39	12.515	100.00
<b>2015</b>	9.722	92.58	652	6.21	127	1.21	10.501	100.00
<b>2016</b>	9.838	93.14	635	6.01	90	0.85	10.563	100.00
<b>2017</b>	9.490	92.70	673	6.57	74	0.72	10.237	100.00
<b>TOTAL</b>	50.789	92.33	3.542	6.44	675	1.23	55.006	100.00

Source: Database of the College of Principal Public Prosecutors – Statistical analysts

The table shows that 55 006 cases concerning 'waste offences' were referred to by the criminal prosecution offices in the period between 1 January 2013 and 31 December 2017. According to the table, the overall volume of new cases dropped from 11 190 in 2013 to 10 237 in 2017. We should add that 'waste offences' represent, on average, approximately 60 % of annual environmental offences. Compared to the overall annual volume of cases referred to the public prosecution offices, the ratio is around 1.7%.

Table 2 shows the current status of the 55 006 cases being handled by the PPOs as on 8 January 2018 when the last data extract was performed. The figures are broken down by prevention code. The statuses referred to in table 2 are explained in the Annex.

Table 2: Current status, as at 8 January 2018, of the cases concerning 'waste offences' referred to the public prosecution offices between 1 January 2013 and 31 December 2017, whether or not joined to an original case, by registration year (number & % marked in columns)

	2013		2014		2015		2016		2017		TOTAL	
	n	%	n	%	n	%	n	%	n	%	n	%
<b>Information</b>	104	0.93	120	0.96	144	1.37	220	2.08	676	6.60	1.264	2.30
<b>Perpetrator reported</b>	266	2.38	17	0.14	19	0.18	29	0.27	42	0.41	373	0.68
<b>Case closed without further action</b>	1.856	16.59	1.976	15.79	1.457	13.87	1.074	10.17	901	8.80	7.264	13.21
<b>Referred</b>	237	2.12	313	2.50	67	0.64	68	0.64	57	0.56	742	1.35
<b>Immediate collection of penalty</b>	.	.	.	.	3	0.03	20	0.19	54	0.53	77	0.14

<b>Judicial probation</b>	19	0.17	28	0.22	19	0.18	50	0.47	30	0.29	146	0.27
<b>Administrative penalty</b>										80.7	42.95	
	8.036	71.81	9.543	76.25	8.344	79.46	8.772	83.04	8.262	1	7	78.10
<b>Settlement</b>	287	2.56	195	1.56	138	1.31	100	0.95	92	0.90	812	1.48
<b>Criminal mediation</b>	1	0.01	4	0.03	5	0.05	6	0.06	1	0.01	17	0.03
<b>Investigation</b>	1	0.01	5	0.04	13	0.12	16	0.15	15	0.15	50	0.09
<b>Pre-trial chamber</b>	4	0.04	4	0.03	2	0.02	2	0.02	1	0.01	13	0.02
<b>Summons &amp; follow-up</b>	375	3.35	307	2.45	286	2.72	205	1.94	103	1.01	1.276	2.32
<b>Referral to chief of police</b>	1	0.01	1	0.01	.	.	.	.	3	0.03	5	0.01
<b>Unknown/error</b>	3	0.03	2	0.02	4	0.04	1	0.01	.	.	10	0.02
<b>TOTAL</b>	11.19	100.0	12.51	100.0	10.50	100.0	10.56		10.23	100.	55.00	100.0
	0	0	5	0	1	0	3	100.00	7	00	6	0

Source: Database of the College of Principal Public Prosecutors – Statistical analysts

The table shows that 42 957 cases, i.e. 78%, gave rise to an 'administrative penalty'. Other frequent status categories are 'case closed without further action' (7 264 cases, or 13%) and 'summons & follow-up' (1 276 cases or 2%). Also, the 'preparatory inquiry' was still under way in 1 264 cases (2%), and the investigation had not yet been completed in 50 cases (<1%). We would point out that some cases may still move to a different status, in particular those currently at the judicial investigation stage.

### **3.4. Domestic budget allocated to prevention and combating of waste crime and EU financial support**

#### **The Flemish Region:**

The budget allocated for inspection of illegal cross-border shipments of waste is subject to a yearly review and is published in the inspection plan. This budget covers the number of staff and the financial envelope needed for supporting inspections.

#### **Brussels Capital Region:**

Financial resources for the Waste Shipment Inspection Plan are included in the general budget of the 'Inspection and polluted soils' division of the Brussels Environment agency.

#### **The Walloon Region:**

No information provided.

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

See reply to point 3.2 of the report.

### 3.6. Conclusion

The situation in Belgium is particularly complex. The *Note-Cadre de Sécurité Intégrale-NCSI* (framework note on comprehensive security), issued by the Ministry of Justice and the Ministry of the Interior provides the reference framework at federal level, but does not place any direct requirements on the regions. For the federal police this has provided the basis for the National Security Plan (PNS). This federal plan covers waste fraud, amongst other things, however local police authorities are not obliged to follow it but each draws up its own area security plan (PZS). These area plans focus more on issues of relevance to the particular area than on serious crimes such as waste fraud, which local police often consider to be a matter for the federal police. There is therefore a need for better coordination between the National Security Plan and the individual area security plans, or for the issues addressed by the National Security Plan also to be mandatory issues for the local police, or again for the local police forces to be required to include environmental matters in their area security plans, albeit where there is a link to local issues.

In addition, to ensure better documentation and awareness-raising on waste fraud, the statistics on environmental crime need to be improved. Though environmental crime is often linked to other offences (and so is often encoded under other headings), this makes it even less visible, whereas it is, as such, already almost invisible. As a result, the controls and investigations that are needed in this area are becoming increasingly sparse, both in number and frequency.

It is vital, at least at the level of the federal police, to increase the number of staff. Even setting aside the above suggestions, it is not possible to prosecute environmental crime to any significant extent, with just four people in the federal police dedicated to the task.

Despite the low staffing, the federal police are clearly doing some very good work on environmental matters. We must, however, draw attention to some coordination problems resulting from the wording of the national security plan, which provides for only one contact point for waste-related fraud and none at all for other environmental crime cases. Here, at least, there is a perceptible lack of coordination between the national security plan and the area security plans (leading to some gaps in coordination between the federal police and local police). This may arise from the fact that environmental crime is relegated to a matter of secondary importance and is not regarded as a priority concern for prosecution. In the current troubled context, there seem to be other priorities (radicalism, terrorism, drugs, human trafficking, etc.). Where a case is deemed to constitute a serious environmental crime, the examining magistrate is entitled to set up an investigation team and may call on any police departments that he or she considers capable of investigating the matter. Also, and this a good practice that might be extended throughout Europe, we would mention the 'ECO-form WASTE' request form, which has considerable potential and might usefully be disseminated throughout Europe with a view to the future establishment of a single, harmonised European form with similar features. It should also be stressed that the data collected using these forms could be included, on a voluntary basis, in the database on environmental crime.

The police has pointed out that pursuant to Article 44 of the Law on the Police (LFP) it is not allowed to share police information with third parties, even if they are government bodies. That is preventing it from passing on valuable information concerning possible suspects and persons who may pose a risk, which is leading to reduced efficiency and a drop in the quality of crime projections. Nevertheless, information plays a key role regardless of the nature of the criminal investigation, and particularly in the environmental field: criminal offences of this type are difficult to identify in most cases and so are virtually invisible.

In connection with the previous issue, the relevant administrations generally complain about a lack of staff. All three regions stress the lack of police officers and inspectors for controlling waste streams transported by road and ensuring good cooperation between the police and the regional environmental inspectors.

That is a very important point, since this type of crime is virtually invisible. So unless parallel efforts are made to identify criminal activities in the environmental field, such crime will spread more freely. Almost the only exception is crime linked to major environmental disasters (as shown by events in Belgium during the 'dioxin crisis' in Spring 1999). In the field of environmental crime, then, prosecution is mainly dependent on the detection systems, but the shortage of staff and the fact that environmental offences are not regarded as priorities for prosecution are considerably undermining the effectiveness of police action.

## 4. NATIONAL STRUCTURES

### 4.1. Judicial system (prosecution and courts)

#### 4.1.1. Internal structure

#### **Public Prosecutor's Office – Courts/tribunals**

Belgian legislation governing the public prosecutor's office (PPO) and courts does not make provision for public prosecutors or judges specialising in environmental matters.

At local level, however, there are magistrates in almost all districts and jurisdictions with specific expertise in environmental offences - including waste crime - who have been designated from the ranks of the PPO and the judiciary.

The PPO is organised in such a way as to enable centralised handling of environmental crime cases for each district. The public prosecutors responsible for environmental matters may also call on the environmental experts' network, with its three sub-networks in each region, mentioned in reply to question 14.

The way the judiciary is organised also allows for centralised handling of some cases using case-allocation rules. For instance, in the Antwerp and Luxembourg judicial districts environmental crime prosecutions are handled centrally, in a single section of the court of first instance, sitting in criminal proceedings.

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

Since waste crime is a form of crime where it often happens that no complaint is made, and the police only discover the offence as a result of their own initiative, both the PPO and the judiciary are completely dependent on the extent to which the police and the environmental authorities actually spend time on investigating such offences and carrying out the relevant controls.

As things stand, no capacity-related problems in this specific area have been identified in either the PPO or the judiciary, and there is no need to take any particular measures.

The commitment remains limited, in spite of the national security plan and the serious international context and denunciations (UNEP, Europol, Interpol and EU). This is contrary to Belgium's undertaking and to the various commitments it has made.

Priority has been given to crisis measures (on drugs, human trafficking and radicalism).

Information-sharing procedures are the main obstacle and are compounded by differences in legislation.

Waste crime is a form of crime in respect of which there is often no complaint lodged, which means that direct intervention is needed in order to detect it. Indeed, in most cases there are no direct victims of these offences, or else the causal link between any damage and the offence cannot be demonstrated.

Given the meagre budget and the fact that other areas have been prioritised, there is clearly less capacity for investigations and controls in this field, which has had a direct effect on the number of waste cases 'detected'. So the figures available in Belgium on environmental crime probably underestimate the real situation.

## 4.2. Law enforcement authorities

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

Within the police force, all officers have the official status of 'criminal police officer' (*agent de police judiciaire*), or 'senior criminal police officer' (*officier de police judiciaire*) in the case of certain investigators and any officer with the grade of senior inspector and above. Police officers are tasked with producing reports based on the provisions in the Criminal Code and the regional environmental regulations. However, they have limited scope vis-à-vis the administration, and in terms of enforcement methods, such as authorisation to enter the premises of a business without a search warrant.

Administrative officers are specially trained in, and dedicated to, environmental monitoring and control. In regional terms, they draw up reports, i.e. administrative or criminal police reports (in accordance with the relevant decrees), in line with their specified environment-related remit, which gives them a broad scope.

However, in Flanders some designated police officers have been granted these broad powers on a par with the above-mentioned administrative officers. To obtain that dual remit they were selected and had to pass a special exam.

The administrative inspection services, on the other hand, are organised at the level of the regions.

#### **The Flemish Region:**

In the Flemish region, the Enforcement Division of the Department of Environment and Spatial Development of the Flemish Government is the only body with full enforcement powers to carry out waste inspections, especially under the WSR and the related Regulation 1418/2007. Local environmental officers have more limited enforcement powers to carry out inspections related to waste in general and the WSR, though not Regulation 1418/2007.

Police can carry out inspections on any waste-related issue in the framework of their general inspection capacities. Customs have a specific inspection role under the WSR, but this inspection power is limited to stopping potential illegal shipments and contacting the Enforcement Division who do the follow-up. The Customs consists of one central administrative service and seven local inspection units.

### **Brussels Capital Region:**

Inspectors of the 'Inspection and polluted soils' division of Brussels Environment and of the 19 municipalities of the region are charged with checking on compliance with Regulation (EC) No. 1013/2006 on shipments of waste.

Brussels Environment has two inspectors with a thorough knowledge of the Regulation. These inspectors advise the other inspectors in the division on matters related to this specific legislation.

All inspectors receive general training on waste legislation.

The legal unit of the division is responsible for the follow-up to official reports and administrative penalties.

### **The Walloon Region:**

Research and reporting of breaches is carried out by the Department of Police and Enforcement.

Within that department, the Pollution Control Unit is specifically responsible for criminal investigations including cross-border waste trafficking.

Some of the officers have received scientific training. They have all had training in criminal law, drafting of reports and interviewing techniques.

The officers wear a uniform and are armed.

Police services:

(1) The Federal Criminal Police has its own Central Environmental Service (CES), whose main tasks are as follows:

- training provision,
- coordination,
- expertise,
- specialised support,
- data collection and distribution (via the 'ECO-form WASTE'),
- inputting data into and managing the 'Environment Experts' database,
- obtaining an overview of the phenomenon.

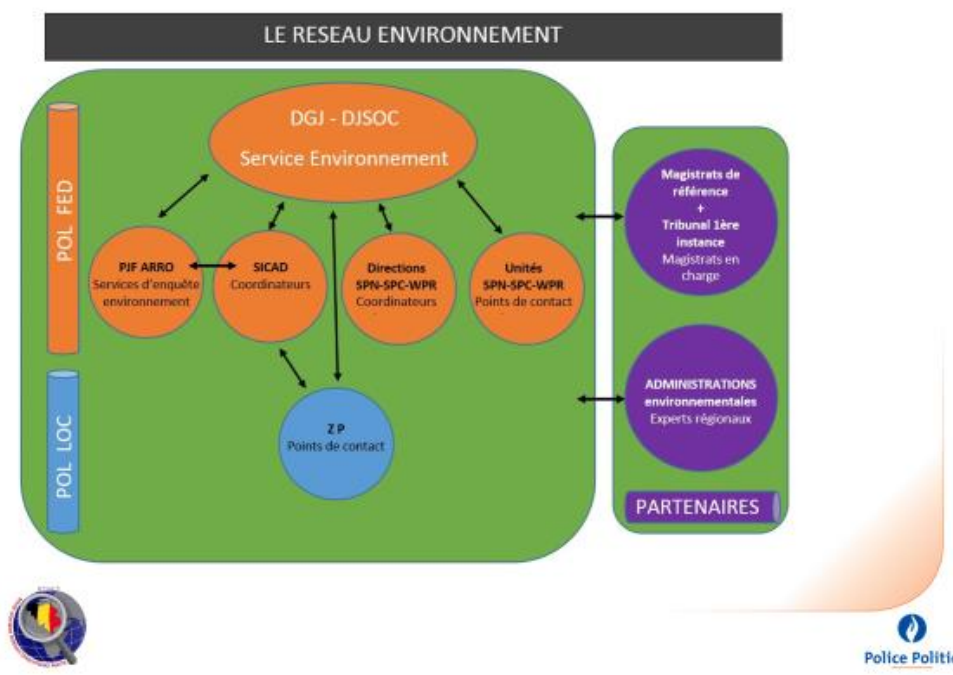
Some local units of the federal judicial police (PJF) have designated experts or have even set up special sections to deal with environmental cases.

(2) Local police forces have a leading role in investigating and reporting on environmental offences. As the local police do not have environmental duties within their mandatory remit, each local police area organises its work in this area autonomously. In some units, environmental cases are dealt with by the investigation section, in others by the officers responsible for the relevant local area. Some units, again, have chosen to set up sections to deal exclusively with environmental matters. The local officers draw up reports based on the provisions in the Criminal Code, the regional environmental regulations or the general municipal police regulations, depending on the offence.

(3) Some units from the federal General Directorate of Administrative Police have sections or experts specialised in environmental matters. That is generally the case in traffic police, waterway police and railway police units. Most units have staff belonging to the environmental network.

(4) There are some police coordinators (in the coordination directorate) in charge of environmental coordination. They liaise with the competent magistrates (specialising in the environment) and with the environmental administrations. The Central Environmental Service (CES) has suggested that the occasional meetings with partners be held regularly, however in practice that is only currently happening in a few provinces.

(5) The CES has built up a police environment network at national level. The environment network brings together experts, investigators and other persons interested in the environment. They are distributed across all the units of the federal and local police. The network operates on a voluntary basis and enables sharing of knowledge and good practices (on both a top-down and bottom-up basis). Information and training are provided to the various services participating in the network.



### **The Flemish Region:**

In the Flemish Region, at the level of the regional environmental inspectorates (part of the Enforcement Division of the Department of Environment and Spatial Development), there is no specialised body to investigate waste crime.

### **The Walloon Region:**

In addition to the staff mentioned in question 12, in Belgium the criminal police conduct environmental investigations. In many cases these investigations are conducted jointly by the police and the regions' environmental inspectorates.

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

All legal investigative techniques can be used by the police to combat environmental offences. It is the investigators' responsibility, with the support of their immediate superiors, to assess which methods and techniques to use depending on their appropriateness and proportionality.

Investigators are nevertheless limited in their actions, and certain techniques and methods can only be used to investigate a certain level of offences, as defined by the legislation. Certain techniques can only be authorised by a magistrate (warrants, etc.) and others can only be applied if serious offences are suspected which fall under the Criminal Code and are clearly defined by the law. For example, special investigative techniques are only authorised for environmental cases which concern organised crime and are under the responsibility/authorisation of an examining magistrate. No specific environmental offence has been included in the list as such. For example, 'waste trafficking' is not listed.

Nowadays, new investigative techniques (internet searches, use of ANPR data) facilitate investigations in the environmental domain and are increasingly used.

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

Depending on the direction of the environmental investigation and the possibilities available, the departments responsible collaborate with specialised police departments or administrative services. This means that there is a certain 'division' of the investigation, which is coordinated by the magistrate in charge of the case or the initiating department. At the CES, sections of the same directorate (Directorate for Serious and Organised Crime (DJSOC) = serious environmental crime) are specialised in investigations in the areas of corruption, cybercrime, finance and operational analysis. There are numerous other specialisms in the judicial and administrative directorates of the federal police. Private companies or administrative authorities are commissioned to conduct laboratory analyses because the forensic police laboratories do not have this expertise.

Challenges and obstacles:

(1) Belgium is a very small country, divided into regions, at the heart of a Europe without land borders.

Waste and environmental offences broadly speaking know no borders. The ubiquity of road transport and the presence of the port in Antwerp mean crime in Belgium is very mobile. Investigations very quickly move beyond national borders and collaboration, data collection and prosecution often involve several neighbouring Member States.

(2) Within the EU, the exchange of information and good practices is essential and provides added value. Whether as part of ad hoc cases, proactive work or the exchange of knowledge, the presence of a unique central contact point is essential for international partners such as Interpol, Europol and the EEC.

(3) The 'ECO-form WASTE' (EFA/EMD) is used as input for the expert database on waste movements. It is a reflection of shipments and trends but is completed on a voluntary basis by operational staff during their work. This means that some departments and units contribute by entering data into the database while others do not.

### Avantages d'un EMD

“Feedback “ vers le terrain.

Utilisé dans l'analyse opérationnelle  
centrée sur :  
- groupes à risque  
- comportement à risque

Utilisé dans l'analyse stratégique  
(image,...)

Source de données historiques  
(appui dans certains dossiers,  
enquêtes)

Base de constat – Infraction(s) dans  
12,5% des cas.



**ECO-form WASTE**

Basic, owner or destination		Level police		Code Police Date	
Industry/sector		Administrative control code		Decreased controls	
Transport control		Control of health			
<b>1. PLACE OF CONTROL</b>					
City					
road number		Route		No.	
roadway, State				No.	
address		Other no.		Date of file by the date	
Other					
<b>2. DATE &amp; TIME OF WASTE TRANSPORT CONTROL</b>					
Date		Month		Year	
Time		Hour		Minute	
<b>3. WASTE INQUIRY</b>					
Date		Description		IC list of codes	
Continuation no.		Quantity		IC code	
				B. D. Code	
<b>4. REFERENT PARTIES</b>					
Name		First name		Date of birth	
<b>5. FROM</b>					
Waste Producer		Street no.		Postal reference	
Zip code + city					
Country					
Shipment organizer		Street no.		Postal reference	
Zip code + city					
Country					
Carrier/shipper		Street no.		Postal reference	
Zip code + city					
Country					
Receiving facility		Street no.		Postal reference	
Zip code + city					
Country					
<b>6. MEANS OF TRANSPORT (each with a code and ID as the registration number)</b>					
truck		motor		water	
airplane		ship		other	
<b>7. TRANSPORT DOCUMENTS (each with a code and ID as the number and/or description)</b>					
Bill of lading		Transport number			
EG 1113B, Annex III					
EG 1113B, Annex VI					
Custom documents					
<b>8. DISPATCHED ADMINISTRATIONS</b>					
District		Date		Comprehended (+ version and address used in district)	
Date		Month		Year	
<b>9. SEVEN GETOUG (each with a code and ID as the position, except area control)</b>					
Group 1		Group 2		Group 3	
Group 4		Group 5		Group 6	
Group 7		Group 8		Group 9	
Group 10		Group 11		Group 12	
Send the original ECO-form to: _____ (keep a copy for your area administration)					



### 4.3. Other authorities

#### **The Flemish Region:**

The regional departments, which handle the files, impose an environmental tax, withdraw notifications, cancel the registration of waste collectors, traders or brokers, and provide information and administrative support.

#### **Brussels Capital Region:**

The interregional commission on packaging has powers to impose penalties (<http://www.ivcie-20.be/>).

#### **The Walloon Region:**

RECUPEL, for example, with regard to the monitoring of take-back of WEEE.

#### **The Flemish Region:**

Since May 2009, the Flemish Region has a mixed criminal-administrative system for enforcing environmental law based on the distinction between environmental crimes and environmental infringements. This distinction determines to a significant extent which type of penalty will ultimately be applied or given precedence.

Environmental infringements are less severe infringements of environmental law which meet a series of pre-determined conditions (e.g. no health damage or death, no illegal emissions, no dumping, management or shipments of waste) and which have been included on an exhaustive list issued by the Flemish Government. They can give rise to administrative penalties in the form of an exclusive administrative fine and, if applicable, an additional deprivation of a benefit.

Environmental crimes on the other hand are all other violations of environmental law which are not included on the limitative list issued by the Flemish Government.

Violations of environmental law are always referred to the public prosecutor's office. The public prosecutor has been assigned the leading role and has the discretion to decide whether or not to deal with the environmental crime under criminal law. The public prosecutor must notify this decision within 180 calendar days, possibly to be extended by another 180 days, counting from the day on which he or she received the report. If the public prosecutor decides to deal with the environmental crime under criminal law or if there is no or no timely decision on the matter, the possibility of imposing an alternative administrative fine is ruled out. If, however, the public prosecutor decides not to deal with the environmental crime under criminal law and considers it necessary to deal with it administratively, he or she must promptly inform the regional authority responsible for issuing administrative penalties within the Enforcement Division of the Department of Environment and Spatial Development of the Flemish Government. The regional authority responsible for issuing administrative penalties can subsequently institute proceedings to impose an alternative administrative fine, and, if applicable, an additional deprivation of a benefit.

Since the entry into force of the mixed criminal-administrative enforcement system on 1 May 2009, the number of cases referred for the imposition of an administrative penalty has steadily grown. In 2016 43 % of all environmental violations recorded in the Flemish Region (compared to 10 % in 2009) were referred to the regional authority responsible for issuing administrative penalties.

### **Brussels Capital Region:**

When a waste crime has been identified, the prosecution report is sent to the public prosecutor's office. If the public prosecutor's office decides to prosecute the environmental offence, the offender faces criminal penalties. If the public prosecutor decides not to prosecute or does not notify a decision within the six-month deadline, the administrative authority may impose an administrative fine.

## **The Walloon Region:**

Book 1 of the Environmental Code provides that second, third and fourth category offences may be prosecuted by way of administrative proceedings.

There is a link between the criminal and administrative penalty regimes.

### (a) Principle of immediate collection of penalties

For a certain number of offences which are clearly defined in the regulatory part of the Environmental Code, the officer who finds the infringement may offer to collect the penalty immediately.

The amount of the penalty to be collected is set in the Environmental Code.

### (b) Administrative penalties

When an infringement has been established, the officer sends the report to the prosecutor, with a copy to the official responsible for issuing the penalties.

The public prosecutor's office has two months to decide whether to take on the case. If the public prosecutor's office does not take on the case, administrative proceedings may be brought.

However, the possibility of imposing an administrative penalty does not apply to first category offences.

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

### *4.4.1. Cooperation and coordination*

The cooperation between the services is laid out in a cooperation agreement, although this is limited to measures, inspections and prosecution related to the WSR. The first version of this cooperation agreement dates from 1994. A new version has been under negotiation since 2009, and since then a coordination committee has met four times a year.

At local and regional level there are more temporary cooperation projects between for example police, inspectorates and customs, the most notable being the project Waste Fraud Antwerp which has coordinated WSR inspections in the port of Antwerp since 2008, under the direction of the public prosecutor's office.

In practice the major elements of this cooperation are as follows:

- (1) It works mainly on the basis of direct contacts. National and international police and administrative officials collaborate directly amongst themselves because they know each other through their particular expertise.
- (2) People can identify themselves by their location or skills by joining the environmental network on a voluntary basis. The environmental network is also linked to the magistrates' network.
- (3) Due to its coordinating role, the CES collaborates with regional partners (competent administrations, customs, specialised magistrates).
- (4) The magistrates responsible for the court cases select which departments are best placed to investigate the ongoing case. The magistrate may decide to divide up the investigative duties between different departments, which means the investigators must collaborate closely.
- (5) In the Flemish Region, the Flemish High Enforcement Council for Spatial Planning and Environment (VHRM) includes representatives of the local and federal police, members of the different environmental supervisory authorities and representatives of the public prosecutor's offices.
- (6) In the Walloon Region, a project is underway to develop a memorandum of understanding to legalise the exchange of information, promote mutual support, propose training courses and make a police representative available to work within administrative departments.

## **Public prosecutor's office**

### (a) Structural cooperation

- Various networks of experts have been set up within the College of Principal Public Prosecutors. One of these is the environmental experts' network, composed of a coordination team heading the whole network and three sub-networks for Brussels, Flanders and Wallonia.

The representatives of the federated entities belong to the environmental sub-networks, which meet regularly, so that the environmental inspectors are directly and structurally in contact with the competent environmental public prosecutors.

- For information on how contacts with the local and federal police are organised, please refer to the answer from the police below.

### (b) Cooperation by case

In certain (large scale and technically complicated) cases, the lead magistrate may call on an ad hoc team composed of both police and inspectors to support the investigation.

Other forms of cooperation:

- (1) Information on investigations conducted by local or judicial district police is collected digitally by the district information and communication services (CIDA/SICAD) and entered into the general national police database (ANG/BNG). Different applications and modules allow investigators, depending on their profile, to consult cases and information related to entities, whether they are suspects, people involved, victims or witnesses.

- (2) In addition to these administrative technical resources, investigators often communicate directly with their counterparts or with administrative departments, subject to Article 44 of the Law on the Police (LFP Article 44/11/9), which governs the transfer of police information.

The flow of information to national and international partners consists of neutral information (without personal data).

- (3) The CES maintains close ties with partners at all levels (the judiciary, administrations, international partners, local and federal police and NGOs).
- (4) A pilot project for a memorandum of understanding with the Walloon Region is underway but a significant legal hitch concerning the transfer of data needs to be resolved to systematise and regulate the transfer of police data to the administration for investigations and proceedings.
- (5) In the Flemish Region, the VHRM has commissioned a study on the problems to facilitate the exchange of information in the region. The study was conducted by Hasselt University and covered various practicalities: the quality of the information to be shared, possibilities for and appropriateness of exchange, constraints, lawfulness, etc.
- (6) Data from inspections of cross-border waste shipments is fed into the expert environmental database (in part by the police and administrative authorities). The data and statistics are publicly available. The images and information (information flows, authors, method, etc.) are transferred without restrictions because they have been depersonalised. To use specific data collected in the expert database in proceedings, the rules provided for in the Law on the Police are applicable.

### **The Flemish Region more specifically:**

Coordination happens at national level in the framework of the cooperation agreement on WSR issues, and at local level in the framework of local (temporary) projects. Exchange of information on waste-related infractions is partly ensured by the structured exchange of information that is collected during waste shipment inspections using the 'ECO-form WASTE' (EMD/EFA). Detailed information on waste shipments is registered on an 'ECO-form WASTE', which is forwarded to the central environmental service of the federal police as input for their central database. In the same way information on port inspections by the maritime police or the Flemish Enforcement Division is registered in this central database. The information in the central database is (indirectly) accessible for the regional inspectorates.

Within the cooperation agreements information exchange is organised through web portals, or ad hoc information exchanges between environmental law enforcement services (e.g. Enforcement Division), police (e.g. local and federal police) and administrative services (e.g. OVAM).

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

Official police reports are systematically sent to the judicial authorities. The judicial authorities also have access to other police documents such as information reports (RIR). Methods of transmission between police departments are outlined in the answer to question 23.

### **The Flemish Region:**

In the Flemish Region, both police and the regional Enforcement Division have access to databases related to waste activities: notifications, registration of collectors/traders/brokers, etc. These databases are maintained by the Flemish public waste service (OVAM), and are quite complete as regards the necessary certificates, registrations, authorisations, etc. required by regional and international waste legislation.

Additional information can be provided by the administrative services (e.g. OVAM) on a case-by-case basis.

### **Brussels Capital Region:**

Every inspector in the 'Inspection and polluted soils' division has access to waste register, inspection and registration databases related to waste collection, treatment and transport within the region. For information related to other regions and the national territory an individual request has to be sent to the respective authorities.

Lists of authorised waste collectors, brokers, traders, treatment plants and notifications (regarding the Waste Shipment Regulation) are available for the general public on the website <http://www.leefmilieu.brussels/>.

### **The Walloon Region:**

Staff have direct access to information from the Vehicle Registration Service (DIV) and the National Register.

All law enforcement authorities have access to the Walloon databases on carriers, collectors, waste collection centres and to information on notifications of cross-border shipments of waste.

The CES is the single central national contact point for relaying information or guiding requesters to the department which has the information. However, it is not yet fully operational for the reasons outlined in the second part of the answer to question 1.

**The Flemish Region:**

The main problem is the availability of staff in the different departments, e.g. lack of sufficient police staff to carry out road inspections in cooperation with the environmental inspectors, lack of staff at the Flemish Enforcement Division (lack of environmental inspectors) to give technical assistance during forensic investigations, etc.

**Brussels Capital Region:**

The main obstacles are:

- the lack of sufficient staff
- the interoperability of the different databases

**The Walloon region:**

The major problem as far as investigations, cooperation, etc. are concerned, is human resources.

In addition, in Belgium the different authorities speak different languages and so the staff participating in joint activities must at least be able to understand the language used by the others.

At international level, knowledge of English is also required and for road inspections, German and Spanish are very useful.

So to sum up, to ensure effective cooperation with the other national (and above all international) authorities, qualified and competent staff are needed, with at least a passive knowledge of the other languages.

## 4.5. Training

### Federal Police

Information, training courses and theme-based days focusing on environmental aspects, innovations and legislation are provided at various levels by the CES of the Federal Police:

- Specific training on cross-border shipments of waste > traffic police and traffic sections of local police forces + Railway Police and Waterway Police
- Training on 'Approach to environmental legislation' > during basic training for new police officers (trainee police inspectors).
- Environmental legislation + role of the police > Federal Police Training College.
- Environmental investigations focusing on financial gain > Training college for investigators.
- Awareness-raising stands > Local police open days and certain national fairs.
- Theme-based days > Members of the environmental network and partners.

At Federal Police level, accredited training courses (recognised and governed by accreditation packages) are administered by the National Police Academy. With regard to the environment, the focus is always on the financial aspects of crime.

## **Judiciary**

Every so often, a training course focusing specifically on 'environmental crime' (which often includes a module on waste) is organised by the Judicial Training Institute (IFJ).

In addition, judges may always take part free of charge in other training courses, provided such courses are recognised by the IFJ. Consequently, judges with expertise in that area may use these various channels to keep their knowledge up to date.

Finally, the flow of information in the environmental expertise network and in the e-group consisting of judges of the ordinary courts should not be overlooked.

## **The Flemish Region:**

The Enforcement Division of the Department of Environment and Spatial Development of the Flemish Government participates in the provision of training courses for police and customs officers (within the framework of the WSR cooperation agreement), although such courses are not organised on a regular basis. Such training courses do not focus specifically on criminal issues, but are restricted to an explanation of waste legislation.

## **Brussels Capital Region:**

All inspectors receive general training in inspection techniques, the questioning of operators, the drafting of legal reports, waste management and the traceability of waste. No training is provided on the financial aspect of IT investigations.

### **The Walloon Region:**

Our departments do not organise any specific training courses on 'environmental crime'.

However, there are courses focusing on waste, and more specifically on cross-border shipments of waste. These courses are organised when necessary and upon request, and are sometimes attended by local police officers.

Officers responsible for investigating and finding evidence of infringements of environmental law have all been provided with training in criminal law, the drafting of reports and interviewing techniques.

According to the police, the CES provides training in the various aspects of the waste phenomenon. In the basic training for new recruits, an approach to the phenomenon is taught.

In the past, CEPOL had organised training courses on environmental matters (biodiversity and waste), and these courses had been attended by participants from Belgium. CEPOL stopped investing in such courses some time ago.

### **The Walloon Region:**

In Wallonia, training courses on waste, and more specifically on cross-border shipments of waste, are the responsibility of the Department of Police and Enforcement of the Directorate-General of Agriculture, Natural Resources and the Environment. The Wallonian government provides such training to police and customs officers upon request.

Training in criminal law, the drafting of reports and interviewing techniques is also provided by internal trainers.

Officials in the Wallonian administration have never taken part in training courses provided by CEPOL, and are unaware of their existence.

#### 4.6. Conclusion

I/ Federal and regional administrations well organised and well trained:

- This comment applies in particular to the Federal Public Service for Public Health, Food Chain Safety and Environment, the regions (including the environmental inspectorates), the customs and excise administration and the Federal Police, and specifically the CES:

- the preparation and high quality of the oral presentations and written replies demonstrate that the staff are very well trained, with a high level of technical and legal expertise commensurate with the complexity of the challenges posed by environmental damage, in particular with regard to the control of waste.

- the Federal Police has established the Central Environmental Service (CES). The tasks and fields of competence of that body are well adapted to the requirements of strategic analysis, information management, expertise and training. Its role is to provide the necessary impetus in investigations in the field of environmental crime.

II/ In order to overcome the difficulties associated with the existence of three regions, each with their own legislation and in particular their own environmental inspectorates, the Kingdom of Belgium has established administrative and judicial structures at national level :

The Interministerial Conference on the Environment (CIE):

This body enables the federal and regional ministers to consult with one another on decisions relating to the environment. It may be extended to other ministers if the issue under discussion exceeds the boundaries of the environment *stricto sensu* (e.g. the 'car' file, which involves issues relating to mobility and finances). It meets at least four times a year.

The CCIEP (Coordination Committee for International Environmental Policy) provides the secretariat; members include officials from the Federal Public Service of Foreign Affairs and from the environmental administrations (both regional and federal).

## The Central Environmental Service

The Federal Criminal Police has its own Central Environmental Service (CES), whose main tasks are as follows:

- training provision,
- coordination,
- expertise,
- specialised support,
- data collection and distribution (via the 'ECO-form WASTE'),
- inputting data into and managing the 'Environment Expert' database,
- obtaining an overview of the phenomenon.

In 1995, the Central Environmental Service (CES) developed a national project to collect, analyse and encode data via the drafting of an 'ECO-form WASTE'.

This project enables sectoral trends to be evaluated and information on carriers, undertakings and waste to be centralised; it also provides a means of obtaining an overview of this phenomenon and the related statistics, as well as detecting *modi operandi* and identifying anomalies and cases of fraud.

However, this service is far too small to fulfil all those tasks (employing only four federal police officers out of a total of 12 000). Current staffing levels are insufficient given the tasks assigned to that service, and especially in view of the requirements of and challenges associated with controls and legal sanctions in the field of the management and export shipment of waste.

The existence of a national judicial network:

Various networks of experts have been set up within the College of Principal Public Prosecutors. The environmental experts' network is composed of a federal coordination team and three environmental sub-networks for Brussels, Flanders and Wallonia.

The representatives of the regions participate in the environmental sub-networks, which meet regularly, so that the environmental inspectors are in direct contact with the public prosecutors responsible for environmental matters.

The cross-border waste shipment coordination group:

The aim of the cooperation agreement is to coordinate the general policy with regard to cross-border shipments of waste, and in particular the supervision and control of shipments of waste on Belgian territory, as defined in Article 2(34) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste.

It brings together the three regions, the customs authorities, the public prosecutor's offices, the police forces and the Ministry of Justice.

The agreement concerns the role of the customs authorities, the role of the police, mutual support and training, the organisation of checks, cross-briefings and the exchange of information, as well as the organisation of transit shipments.

Once again, attention should be drawn to the number of officials concerned, in particular in the Central Environmental Service (CES). Given the tasks allocated to that service, it clearly needs to have several specialised members of staff at its disposal.

Partly in relation to staffing requirements, cooperation between the various services responsible for the environment necessitates human resources. In the long term, cooperation based on direct contacts (i.e. on a voluntary basis, through knowing someone as a result of their particular area of expertise) will be far from sufficient to ensure continuity in the fight against environmental crime. The only means of preventing the loss of all the experience and expertise already acquired when people working in the relevant area change jobs or move away from that field is by introducing fixed tasks and job descriptions and ensuring sufficient numbers of staff (employees, officials and indeed judges).

As stated above, the difficulties associated with cooperation and the fight against environmental crime are compounded by the fact that the sharing of personal information and data must comply with the rules laid down in Article 44 of the Law on the Police. Consequently, the police are not authorised to share information with third parties - even national authorities - even if such information is required by those national authorities in order to prosecute and sanction infringements, or to take preventive action.

As far as the judiciary is concerned, its main weakness is its lack of specialisation - an issue which affects both the judges of the ordinary courts and the public prosecutors. In practice, a degree of voluntary initiative on the part of good legal practitioners active in the field of environmental issues is relied on in an attempt to remedy this shortcoming, but it seems clear that this will not be an appropriate long-term solution for the future. In view of this key vulnerability in the judiciary, the presence of a group of qualified specialists is necessary as this is a complex issue encompassing a set of problems which is constantly evolving and subject to change.

Although the 2014 reform introduced the possibility of greater specialisation within the judiciary, such specialisation depends on the goodwill of the chief justice.

To facilitate communication between the administration and the judiciary, it might be useful to draw up a protocol for cooperation between the various institutions concerned.

It is evident from the expert mission in Brussels, together with all the documents communicated, that the professionals active in the field of environmental legislation (officials and judges) are highly motivated and have the legal resources necessary in order to act.

All these staff should therefore be given an opportunity to work in harmony with the aid of the appropriate tools. The drafting of protocols between these various institutions is an important tool in terms of establishing synergy, that is to say each institution working towards the same goal by different means.

A protocol has existed since 2013 between the Flemish High Enforcement Council for Spatial Planning and Environment, the College of Principal Public Prosecutors and the Federal Public Service for Justice.

This type of protocol should be encouraged between the public prosecution services in the other two regions.

Furthermore, this type of protocol could be strengthened:

- by clarifying the limits between administrative action and criminal prosecution: clarify the areas of jurisdiction of the administrative police and the criminal police. Protocols could thereby cover methods of investigating, identifying and dealing with offences and instances of non-compliance causing environmental damage,
- by the parties to the protocol specifying the precise form and content of the reports, and in particular the need to explain the environmental context,

- for the public prosecutors, such protocols could identify the different types of prosecution on the basis of the seriousness of the infringements established. In addition, despite the unclear remit of the public prosecutor's environmental specialist, a protocol could institutionalise the relationship with the regions regardless of that specialist's identity. This would ensure continuity in relations with the local public prosecutor's office regardless of any changes in the public prosecutor's priorities, even if consideration were being given to abolishing the post of specialist.

Ultimately, such a protocol could:

- define the criminal law and administrative responses;
- define the way in which environmental offences are dealt with by the public prosecutor;

The public prosecutor is responsible for overseeing judicial investigations. The existence of an operational committee at the level of the judicial districts, bringing together the public prosecutor, the regional environmental inspectors, the Federal Police and the local police, would enable investigations to be launched targeting specific establishments or undertakings.

Such a committee, which would be chaired by the public prosecutor, would have the task of sharing information and organising judicial investigations on the basis of the information received.

It might seem difficult at first to draw a distinction between minor and administrative offences. In Belgium, this is a matter for the public prosecutors, whose task (as the authority which 'deals the cards') is to determine whether the public prosecutor's office itself should prosecute a case or whether a case should follow the administrative procedure. In fact, the public prosecutors have effective tools for carrying out assessments in this area given that - on the one hand - the Walloon Region provides them with the Environmental Code and the 'éco-diagnostic' tool (an instrument which is useful for assessing damage), while - on the other hand - the Flemish Region also has an exhaustive body of legislation in that regard. However, as has been indicated by the public prosecutor's office, the criteria used to distinguish criminal offences from administrative offences ultimately depend on the specific circumstances of the case in question, and in particular the amount of damage caused and the intentional nature of the offence.

In short, it is very important to classify this type of offence as a perfectly delimited, self-contained group of offences (cluster). Since this issue is highly complex and continually evolving, and will become increasingly important in future, it ought in fact to be regarded as one of the EU's top priorities at present (since it is an issue which is becoming absolutely crucial for the survival of the planet as a whole).

Ultimately, the Belgian administrations must continue their efforts to harmonise principles, regulations and coordination between the various institutions so that the latter can work together to achieve the same objectives. Although Belgium is on the right track, the main shortcoming resides in the fact that certain institutions accord only secondary priority to this issue. In conclusion, without wishing to deny the obvious progress made and successes achieved by Belgium in matters relating to the environment, there is still room for improvement, and efficiency gains remain possible.

## 5. LEGAL ASPECTS

### 5.1. Substantive criminal law

#### *5.1.1. Description of national legislation pertaining to the criminalisation of waste*

These offences are not established as specific offences in the Criminal Code but are found in the legislation adopted at regional level.

#### **The Flemish Region:**

(a) The Flemish Decree of 23 December 2011 on the sustainable management of material cycles and waste and its implementing decrees:

- Article 12(1) lays down a general ban on the dumping and management of waste in violation of the provisions of the abovementioned Decree and its implementing decrees.

Article 14 lays down a general ban on cross-border shipments of waste in violation of the provisions of Regulation (EC) No 1013/2006 (Waste Shipment Regulation).

(b) The applicable sanctions can be found in Title XVI of the Flemish Decree of 5 April 1995 containing general provisions relating to environmental policy (DABM). Title XVI has established a general framework for a mixed criminal and administrative system for the enforcement of environmental law in the Flemish Region based on a distinction between environmental crimes and environmental infringements starting from 1 May 2009.

Environmental infringements are less severe infringements of environmental law which meet a series of pre-determined conditions (e.g. they cannot harm health or cause death, they cannot involve illegal emissions or the dumping, management or shipment of waste) and which have been included on an exhaustive list drawn up by the Flemish Government. They can only give rise to administrative penalties in the form of an exclusive administrative fine imposed by the regional authority responsible for administrative penalties. Violations which are considered environmental infringements are set out in the annexes of the implementing decree of the Flemish Government implementing Title XVI of the DABM. Environmental infringements are not referred to the public prosecutor's office, but directly to the regional authority responsible for administrative penalties.

Environmental crimes on the other hand are all violations of European or Flemish waste law that are not listed as an environmental infringement in the annexes to the implementing decree and which are subject to criminal penalties unless the public prosecutor's office decides to refer the case to the regional authority responsible for administrative penalties. In the latter case they can give rise to an alternative administrative fine.

Illegal dumping, management or shipments of waste always count as environmental crimes.

(c) Under the Flemish legislation for the enforcement of environmental law, environmental crimes are liable to the criminal penalties laid down in articles 16.6.1 to 16.6.3.(e) of the DABM or to an administrative fine amounting to EUR 250 000 (multiplied by a factor of eight for the current statutory surcharge applicable in criminal matters) if the public prosecutor refers the case to the regional authority responsible for administrative penalties in good time.

In most cases when a criminal prosecution is brought in the field of environmental crime, the courts and appeal courts will apply Article 16.6.3.(1) of the DABM, which provides for a sentence of one to five years of imprisonment and/or a fine of EUR 100 to 500 000 (to be multiplied by a factor of eight for the current statutory surcharge). Under Article 41a(1) of the Criminal Code, the minimum fine for legal persons is EUR 500 and the maximum EUR 1 000 000 (to be multiplied by a factor of eight for the current statutory surcharge).

Environmental crimes can give rise to a maximum administrative fine of EUR 50 000 (multiplied by a factor of eight for the current statutory surcharge applicable in criminal matters).

(d) Article 16.4.4 of the DABM provides that any administrative fine must be proportionate to the underlying facts. Article 16.4.29 of the DABM further specifies that the amount of the fine has to be based on the gravity, the frequency and the circumstances of the violations.

If the regional authority responsible for administrative sanctions concludes that one or more environmental violations have been committed and that the alleged offender can be held liable, it will first determine a baseline amount based on the gravity of the infringement. Elements that can influence the gravity are for example the nature of the violation, the place where the violation occurred (e.g. Natura 2000 site), its (potential) impact on the environment and public health, whether there has been fraud or deception and whether it occurred in a professional context.

Frequency is, in principle, a neutral factor and only constitutes an aggravating factor if the offender has committed similar violations in the past.

The circumstances can constitute either mitigating or aggravating factors. Mitigating circumstances are, for example, remediation (e.g. soil decontamination) or regularisation (e.g. obtaining the necessary environmental permit to exercise an activity). On the other hand, aggressive behaviour towards an environmental inspector can, for example, be an aggravating circumstance.

When criminalising environmental crime, the Flemish legislator has not set out any distinct aggravating/mitigating circumstances. Article 56 of the Criminal Code thus also applies to waste offences, so a repeat offence can lead to a harsher sentence. Other aggravating or mitigating circumstances may be taken into account by the court in the main proceedings when fixing the sentence, provided they are duly substantiated.

## **Brussels Capital Region:**

(a) - Articles 48 to 55 of the 'Waste Order' (Order of 14 June 2012 concerning waste).

- the 'Inspection Code' (Order of 8 May 2014 amending the Order of 25 March 1999 on the investigation, detection, prosecution and punishment of offences relating to the environment and other environmental legislation and establishing a code for the inspection, prevention, detection and punishment of environmental offences and environmental liability).

(b) The definition and nature of the offence (criminal/administrative);

For the purposes of the Inspection Code, an 'offence' means any infringement or crime defined by or according to a European regulation, a national laws or a regional order referred to in the Inspection Code, or according to the Inspection Code itself.

The prescribed offences are criminal offences.

(c) The minimum and maximum penalties or administrative penalties for natural and legal persons;

In case of criminal prosecution, the minimum penalty is eight days' imprisonment and/or a criminal fine of EUR 50. The maximum penalty is two years' imprisonment and/or a fine of EUR 100 000.

For legal persons, see the system under Article 41a(1) of the Criminal Code:

[Article 41a](#) (1). Fines applicable to offences committed by legal persons are:

for crimes and intermediate offences:

- where the law provides for a sentence involving deprivation of liberty and a fine, or only one of those sentences: a minimum fine of EUR 500 multiplied by the number of months corresponding to the minimum term of the deprivation of liberty, and not less than the minimum fine provided for in respect of the offence; the maximum amounts to EUR 2 000 multiplied by the number of months corresponding to the maximum term of the deprivation of liberty, and no less than double the maximum fine provided for in respect of the offence;
- where the law provides for a fine only for the offence: the minimum and maximum are those provided for by law for the offence;

for minor offences dealt with by the police:

In case of administrative prosecution, an administrative fine, ranging from EUR 50 to 62 500, can be imposed.

(d) Aggravating/mitigating circumstances.

Aggravating circumstances provided for in the Inspection Code:

- an offence causing death or serious injury to a person;
- an offence causing substantial harm to the air, to soil quality, to water quality, to animals or to plants;
- an offence causing substantial harm to a habitat in a Natura 2000 site.

In case of administrative prosecution, an administrative fine can be reduced below the statutory minimum penalty, if there are mitigating factors, depending on the case. However, an administrative fine can be doubled if there is a repeat offence within three years of the first offence.

**The Walloon Region:**

The Decree of 5 June 2008, which contains Part VIII of Book I of the Environmental Code, regulates the entire system of criminal and administrative penalties applicable to environmental offences. It introduces the notion of categories of offence, and sets the penalties.

For instance, the text provides the following:

Article D.151. (1) Infringements of the provisions laid down in subparagraphs 1 and 3 of Article D.138 fall into four categories.

Category one offences shall be liable to imprisonment of ten to fifteen years and a minimum fine of EUR 100 000 and a maximum fine of EUR 10 000 000 or only one of those sentences.

Category two offences shall be liable to imprisonment of eight days to three years and a minimum fine of EUR 100 and a maximum fine of EUR 1 000 000 or only one of those sentences.

Category three offences shall be liable to imprisonment of eight days to six months and a minimum fine of EUR 100 and a maximum fine of EUR 100 000 or only one of those sentences.

Category four offences shall be liable to a minimum fine of EUR 1 and a maximum fine of EUR 1 000.

Article D.152. Sentences may be increased to double the maximum if a new offence is committed within three years of a previous conviction, by a final and non-appealable decision, for an offence under the same provision in subparagraphs 1 and 3 of Article D.138. Moreover, in that case the minimum fine may not be any lower than three times the minimum.

Article D.153. Category one offences must have the following constituent elements:

1. an *actus reus* which would have constituted a category two offence;
2. a *mens rea* by which the offence was committed knowingly and with the intent to harm;
3. an *actus reus* consisting of the circumstance that human health has been or could be put at risk.

More specifically with regard to the offences listed under the definition of 'waste offences',

(1) the Decree of 27 June 1996 concerning waste provides as follows:

**Article 51** Whoever breaches Article 3(1) and (2), Article 6, Article 7(1), (2) and (3), Articles 8, 10 and 14, Article 19(3) and Article 23 of this Decree or the measures adopted for implementation thereof is guilty of a category two offence within the meaning of Part VIII of the decree part of Book I of the Environmental Code.

**Article 52** Whoever fails to comply with the obligations or prohibitions under Article 8a is guilty of a category two offence within the meaning of Part VIII of the decree part of Book I of the Environmental Code.

**Article 53** Whoever conceals the nature of an item of waste is guilty of a category two offence within the meaning of Part VIII of the decree part of Book I of the Environmental Code.

(2) Article 155a of Book I of the Environmental Code lays down the criminal penalties applicable to offences concerning cross-border transfers of waste.

Article D.155a(5) A person is guilty of a category two offence if they:

1. effect an illegal shipment of waste within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste;

2. breach Articles 3 to 5, Article 9(6), Articles 10 to 13, Articles 15 to 19, Articles 22, 27, 31, 32, 34, Article 35(4), Article 36(1), Articles 37 to 41, point (c) of Article 42(3), Article 42(4) and Articles 45 to 49 of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste.

(6) A person is guilty of a category two offence if they breach the provisions of Article 1 of and the provisions of the Annex to Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of cross-border movements of wastes does not apply.

For legal persons, see the system set out in Article 41a(1) of the Criminal Code (provisions applicable at federal level):

[Article 41a](#).(1). Fines applicable to offences committed by legal persons are:

for crimes and intermediate offences:

- where the law provides for a sentence involving deprivation of liberty and a fine, or only one of those sentences: a minimum fine of EUR 500 multiplied by the number of months corresponding to the minimum term of the deprivation of liberty, and not less than the minimum fine provided for in respect of the offence; the maximum amounts to EUR 2 000 multiplied by the number of months corresponding to the maximum term of the deprivation of liberty, and no less than double the maximum fine provided for in respect of the offence;

- where the law provides for a fine only for the offence: the minimum and maximum are those provided for by law for the offence;

for minor offences dealt with by the police:

### System of administrative penalties

The administrative penalty procedure is also based on the principle that there are different categories of offence. There are, of course, no prison sentences, and the financial penalties are not as high, but they are still highly dissuasive.

Book I of the Environmental Code provides as follows:

D.160

(2) The amount of the administrative fine incurred is:

1. from EUR 50 to EUR 100 000 for a category two offence;
2. from EUR 50 to EUR 10 000 for a category three offence;
3. from EUR 1 to EUR 1 000 for a category four offence.

### Aggravating/mitigating factors

With the exception of Article D.152 of the Decree of 5 June 2008 as referred to above, the legislation does not explicitly lay down any aggravating or mitigating circumstances, providing a schedule for weighting of penalties instead.

The legislation does, however, clearly stipulate that penalties must be proportional and dissuasive.

For each of the categories of offence, there is a broad range of fines or imprisonment so the judge or official imposing the penalty (for fines only) is able to weight the penalty according to the facts of the investigation which either aggravate or mitigate the circumstances in which or the reasons why the offence was committed.

### 5.1.2. *Other regulations or judicial inquiries*

#### **General**

In the 2016-2019 Belgian National Security Plan (Plan National de Sécurité - PNS), the environment was selected as a cluster and security phenomenon.

As a result, the fight against fraud involving waste, which in most cases is of a cross-border and/or international nature and linked to organised crime, is prioritised in the Framework Note on Integral Security (Note-Cadre de Sécurité intégrale - NCSI) of the Minister for Justice and the Minister for the Interior.

Environmental offences comprise all violations of regulations and legal provisions, whether at municipal, regional, federal or international level, involving environmental destruction, pollution, damage or change.

As regards **waste trafficking**, that applies to any form of environmental damage (laid down by legal provisions at regional, federal or European level) caused by non-ecological processing, elimination (dumping) or mixing of waste.

To prevent that, the following strategic objectives apply:

- Protect the environment and public health against the adverse effects of waste fraud by adopting an integrated and multidisciplinary approach to deal with it.
- Actively investigate illegal practices by inspecting shipments of waste in a multidisciplinary context (expert databases, 'ECO-form-WASTE').

- Optimise cooperation by taking an integrated and multidisciplinary approach to environmental crime, focusing particularly on the advantages gained illegally in the context of investigations assigned to the federal police.
- Guarantee to provide police expertise and support, as well as creating an accurate strategic/operational picture of environmental crime in Belgium.

The 2016 Framework Note on Integral Security (FNIS) forms the reference framework for this PNS. The PNS in question is therefore the first one, which is closely linked to the NCSI, offering the police tremendous opportunities.

In addition, the NCSI provides for a coordination group to be set up to protect public health and the environment from the adverse effects of waste fraud by means of an integrated and multidisciplinary approach. The group (which is already provided for in the 1994 cooperation agreement) will include both the regional environmental administrations and the integrated police force, customs and Public Prosecutor's Office.

### **Public Prosecutor's Office**

- For the Flemish Region:

Mention should be made here of the '2012 Memorandum on prosecution policy priorities in the context of environmental law in the Flemish Region' signed on 18 March 2013 by the Flemish Minister for the Environment and by the Federal Minister for Justice.

This memorandum on priorities also lays down general criteria (e.g. the seriousness of the offence or objecting to an inspection) as well as specific criteria (e.g. concerning the waste sector) in the context of setting priorities as regards the prosecution of environmental offences.

The priorities adopted as regards waste are as follows:

- the abandonment of large quantities of hazardous or illegal waste without any (initial) treatment
- the unlawful collection, transfer or processing of industrial waste
- waste trafficking, involving, inter alia:
  - \*liquid waste
  - \*waste entering the human and animal food chain
  - \*waste subject to a take-back obligation
  - \*soil and waste mixture
  - \*waste containing asbestos
- offences under European Union legislation involving waste shipment.
- For the Brussels Capital Region:

The fact that the Brussels Public Prosecutor's Office has exclusive jurisdiction over the Brussels Capital Region facilitates cooperation with the authorities responsible for the environment (Bruxelles-Environnement) and waste (Bruxelles-Propreté) and makes for flexibility.

In many cases these authorities are informed by the Public Prosecutor's Office that an administrative fine may be imposed on offenders.

The following criteria are taken into consideration in deciding whether an investigation will be carried out and a prosecution brought by the Public Prosecutor's Office (if the investigation proves successful):

- quantity and volume of waste
  - hazardous nature of the waste in question (asbestos in particular)
  - waste generated by businesses operating without an environmental licence (clandestine garages in particular)
  - repeated offending over time
  - professional nature of the activity generating the waste
- For the Walloon Region:

The criminal policy memorandum concerning environmental law in the Walloon Region, which was approved by the College of Principal Public Prosecutors on 20 June 2013, lays down that, as regards waste management, priority should be given to measures to combat the dumping of waste of any kind in quantities exceeding 10 cubic metres, as well as any dumping of toxic or hazardous waste, the collection, conversion and illegal shipment of industrial waste and the operation of unauthorised facilities.

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

#### **The Flemish Region:**

The system of penalties referred to in Title XVI does not require there to be 'substantial damage'. Any environmental crime may attract either a criminal or an administrative penalty. Any environmental offence may attract an administrative penalty.

For more information on the setting of the basic amount (seriousness) in the context of administrative fines.

### **Brussels Capital Region:**

Jurisdiction lies with the criminal courts, which have discretionary power.

### **The Walloon Region:**

Wallonia has not laid down any written criteria for determining the seriousness of waste crime.

Nevertheless, there is an 'Eco-diagnostic' file which makes it possible to describe the direct impact on the environment and classify environmental offences in four categories: mild, worrying, alarming and serious.

However, this classification does not take account of the financial implications, the intentional nature of the offence or its possible impact if it had been completed.

### **Judiciary**

Neither the Public Prosecutor's Office nor the bench has a specific legal reference framework to determine the seriousness of waste crime.

Nor are there any specific directives or guidelines to help judges with sentencing.

Judges in Belgium interpret the definition of 'substantial damage' referred to in Article 3 of Directive 2008/99/EC independently and on a case-by-case basis.

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

(Serious) environmental crime always is often linked to offences under the Criminal Code (corruption, money laundering, organised crime, fraud, forgery, use of false documents).

Environmental crime is organisational crime (in which a lawful enterprise develops a fraudulent system) rather than organised crime (in which an illegal association commits crimes).

We have seen criminal networks dealing in textile waste (recovery, premium fraud, processing, resale, export) supporting other international criminal networks where necessary, with ramifications in countries at war, sometimes going so far as to fund radicalism.

Infringements of social legislation are also often observed in the files (undeclared work, fraud with respect to social obligations).

#### *5.1.5. Role of the NGOs*

In the Brussels Capital Region the Inspection Code stipulates that any legal person having a sufficient interest in decision-making as regards environmental damage is entitled to submit to the competent authority any observations relating to instances of environmental damage or an imminent threat of such damage of which they are aware, and may ask the competent authority to take action under the Code.

## **Judiciary**

To report a possible offence to the supervisory authority, police or Public Prosecutor's Office in Belgium, there is no need to be acting in a particular capacity or representing a specific interest.

However, a complaint brought in civil proceedings is admissible before an examining magistrate only if the plaintiff makes a sufficiently plausible case that the reported crime or offence is damaging to them without it being necessary at this stage to furnish absolute proof of the said damage, its scale or causal link with the offence with which they are charged.

In Belgium any legal person able to show a personal interest may in principle bring a civil action in criminal proceedings provided that they can demonstrate a causal link between the offence and the damage sustained personally.

When an NGO fulfils the above-mentioned conditions, it may bring civil proceedings also in cases involving environmental damage. However, the requirement that it must be possible to demonstrate personal damage is not easy to satisfy in cases involving waste fraud.

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

#### *5.2.1. Difficulties encountered with regard to evidence*

#### **The Flemish Region:**

The damage caused is often neither measurable nor visible; it requires follow-up over a longer period of time; influence of specific technical and/or geographical characteristics.

### **Brussels Capital Region:**

Difficulties in taking representative samples of mixtures of waste.

Difficulties with analysis of (illegal) financial means.

### **The Walloon Region:**

The problems regarding evidence are dealt with further on in the report.

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

### **The Flemish Region:**

The regional authority responsible for administrative penalties may impose the withdrawal of an advantage (e.g. the price of an environmental permit application in the case of illegal exploitation). Such withdrawal is an additional penalty and may only be imposed together with an (alternative or exclusive) administrative fine.

In 2016 a withdrawal of an advantage was applied in 90 cases (in 89 cases together with an alternative administrative fine and in one case together with an exclusive administrative fine).

### **Brussels Capital Region:**

Some examples:

- the forfeiture of moveable goods that pose a danger to people or the environment
- the restoration of places to their original state or to a state with no risk or danger
- the partial or total cessation of activities
- the ban on exercising a professional activity

## **The Walloon Region:**

At the administrative level, Book I of the Environmental Code provides as follows:

### Coercive measures

Article D.149. (1) When a report is drawn up of infringement of the provisions referred to in Article D.138 (1) and (3), the mayor may, acting on the report of the agent and without prejudice to the actions provided for in those provisions:

1. order the complete or partial termination of an operation or activity;
2. place the appliances under seal and, if necessary, immediately close the establishment temporarily;
3. impose an intervention plan on the person responsible for the above-mentioned establishment, operation or activity or introduce a plan for restoration or remediation within a certain period and, where appropriate, provide collateral for the benefit of the region by following one of the procedures laid down in Article 55 of the Decree of 11 March 1999 on environmental licences in order to ensure restoration;
4. take any other useful measure to prevent a danger to the environment, including human health;

(2) Where the mayor fails to act within 15 days of the submission of the report provided for in paragraph (1) or a danger is of such imminence that the least delay poses a risk to the environment, including human health, the agents referred to in Article D.140(1) shall have the same prerogatives as the mayor.

The same applies in the case of an infringement of the Decree of 19 June 2008 on the coexistence of genetically modified cultures with conventional cultures and biological cultures, which can cause irreversible damage even if there is no risk to the environment, including human health.

(4) Where the offender has failed to introduce a restoration or remediation plan within the prescribed period or fails to fulfil the conditions of such a plan, the mayor, or else the Government, may of its own motion undertake the restoration at the offender's expense.

(5) Should the offender fail to take the measures imposed within the prescribed period, the Government or its delegate may, of its own motion or at the request of the mayor, entrust SPAQuE with the task of restoration of its own motion, to be carried out at the offender's expense. In addition, the Government or its delegate may order the latter to provide collateral pursuant to Article 55 of the Decree of 11 March 1999 on environmental licences.

The Government or its delegate shall notify by registered mail the person(s) who have to provide the collateral, stating the amount and its possible constituent elements.

If no collateral has been provided within eight days, the Government or its delegate shall serve the offender with a formal notice to pay within 24 hours or a seizure order will be issued.

The provision of collateral does not preclude continued prosecution.

Upon expiry of the deadline for the formal notice to pay, the Government or its delegate may order a seizure, to be carried out in the manner laid down by the Judicial Code.

### Criminal law provisions

Article D.155.

(2) The judge may order the judgment of conviction to be published, at the expense of the convicted person, in the manner determined by the judge.

(3) If, within ten years of an enforceable conviction for an offence committed in the practice of his profession, the convicted party commits another offence in the same context, the judge may prohibit the convicted party from engaging, personally or via another person, in a specified professional activity.

The prohibition on engaging in this professional activity may be imposed for a period of one to five years.

### **Judiciary**

Article 42 of the Criminal Code provides:

'Special confiscation shall apply:

1. To the things which constitute the object of the offence and those which served, or were intended, for its commission, if they belong to the convicted party;
2. To things produced by the offence.
3. To assets derived directly from the offence, to property and assets substituted for them and to income from these invested assets.'

Special confiscation is obligatory for the things referred to in Article 42(1) and (2) of the Criminal Code in the case of crimes. Special confiscation is optional for the things referred to in Article 42(3) of the Criminal Code.

Where provided for in regional legislation, a decision ordering expulsion in respect of waste being handled illegally, and/or restoration measures, may be imposed, optionally on pain of a penalty, where the public prosecutor's office has so requested.

### 5.2.3. *Treatment of seized objects*

The treatment of seized objects depends on the category to which they belong (documents, materials, equipment, money, etc.), their volume, on depreciation, the danger they pose or their nature (hazardous products, evidence, etc.). Several methods are used by the police services to handle court-ordered seizures:

- Deposit at the court clerk's office (by default)
- Seizure in situ (where removal is physically impossible, e.g. in the case of an animal or boat)
- Handover to a third party / sequestration (entrusted for management / preservation / maintenance)
- Destruction (hazardous, unstable)
- Transfer to the social services (CPAS - *Centre Public d'Aide Social*) (consumables)
- Resale (to avoid rapid depreciation)
- Return to the legal owner (stolen or misappropriated)
- Retention by the investigators (for analysis or use)

A seizure is carried out based on a legal ground: an item of evidence which has served its purpose, an object acquired as a result of an offence, or an object which can be used to demonstrate the truth, for analysis.

Except in the case of seizure in situ, handover to a third party or use by the service which carried out the seizure, seizure gives rise to transport, storage, conservation and management costs. In Belgium, these costs constitute legal costs. For this reason, the judiciary will be contacted. Where possible, objects seized are deposited at the court clerk's office at the court which has jurisdiction over the offence.

### 5.3. Environmental restoration

#### **The Flemish Region:**

The Flemish regional legislation puts the responsibility on the holder of the waste: 'The natural or legal person who manages the waste is obliged to take all measures that can reasonably be taken to limit danger to human health or the environment, in particular the risk to water, air, soil, fauna and flora, odour and light nuisance, in order to prevent damage to nature and landscape beauty or to limit it as much as possible.'

#### **Brussels Capital Region:**

The operator bears the costs for the measures taken by the environmental authority to prevent and remedy environmental damage, except in cases provided for in the Inspection Code (Articles 26 and 27).

#### **The Walloon Region:**

There is a hierarchy as regards restoration obligations.

The obligation lies primarily with the offender.

Failing action by the offender, the obligation may fall on the owner of the land or premises or assets (lorries, etc.), on the company liquidator, etc. - and, if necessary, on the authorities.

The authorities generally intervene as a last resort, if the offender refuses to carry out the restoration or if none of the parties has the financial capacity to do so.

But the authorities also intervene in the event of pollution when urgent intervention is required.

If the authorities intervene, they seek to recover their costs from the offender.

## **Judiciary**

A first-instance court or appeal court can only order restoration if the accused party has been found guilty of the offence giving rise to the restoration.

The convicted party is primarily responsible for carrying out the restoration. To create an incentive for the convicted party, the judge may impose a penalty in the event of non-compliance, if the public prosecutor's office so requests.

Only subsequently can the judge authorise the authority which requires restoration to be carried out to do so itself, *ex officio*, if the convicted party fails to act. In this case, the convicted party may be ordered to bear the costs.

### **5.4. Jurisdiction**

#### *5.4.1. Principles applicable to the investigation of waste crime*

No specific rules have been laid down concerning jurisdiction for waste crime involving actions which took place wholly or partly outside Belgian territory.

The general rules on jurisdiction in Chapter 2 of the Preliminary Title of the Code of Criminal Procedure, 'PROSECUTION OF CRIMES COMMITTED OUTSIDE THE TERRITORY OF THE KINGDOM', apply.

This means, among other things, that Belgian courts have jurisdiction to decide on the prosecution of offences committed abroad where Belgian nationals are involved. Needless to say, Belgian courts also have jurisdiction if the offence began in Belgium.

*5.4.2. Rules in case of conflicts of jurisdiction*

Consultation between public prosecution services and joint investigation teams prevents the same suspects being prosecuted for the same offence in two or more countries at the same time.

We are not aware of other mechanisms for resolving such conflicts.

## 5.5. Conclusion

There are two levels of prosecution: firstly, a system of administrative penalties, and secondly criminal penalties which apply to the offences referred to in Directive 2008/99/EC of 19 November 2008, and in particular points (b) and (c) of Article 3 thereof.

In the case of a serious crime resulting in major damage, the situation is clear. By contrast, it is minor offences which are really a problem since, in this case, the public prosecutor's office is the institution which determines the monetary value of the offence, based on the legal instruments referred to above. That being so, although the magistrate responsible for the investigation can refuse to grant the request by the public prosecutor's office - which would, however, be rather a strange decision - it is the judge who has the last word.

In the Walloon Region, the system for classifying offences in categories numbered from 1 to 4 is very practical, easy to use and effective. This system seems to work well, in particular with the aid of the 'éco-diagnostic' tool which makes it easier to classify an offence in one of those four categories. Accordingly, the authorities concerned, either the public prosecutor's office or the official responsible for issuing penalties, are best able to determine the appropriate penalties. Penalties (criminal or administrative) can be combined with an obligation for the offender to restore the land or premises to its original state or to a state which no longer presents any danger or constitutes any threat to the environment or human health. Even if there is no criminal prosecution, an administrative penalty can be imposed. In the Walloon Region the mayor, as well as the regional administration, has the power to take urgent precautionary measures.

Flanders has a similar system of penalties. Penalties are imposed through either an administrative or a criminal procedure. If the public prosecutor does not characterise the acts concerned as an offence, they are treated as administrative infringements.

This system of alternative administrative fines also exists in the Brussels Capital Region, in cases where the offence does not give rise to criminal prosecution.

In Belgium, it is essentially the regional administrations which have jurisdiction in environmental matters. Each region has its regulations and its own legislative system, the main features of which are briefly described below.

The Flemish administration The organisation of the VHRM (Flemish High Enforcement Council for Spatial Planning and Environment), which has an excellent structure and an excellent division of competences, made a very favourable impression on the expert team. It has a division (ED) in charge of enforcement, which has responsibility in the area of pollution (for instance waste treatment installations) and of management of the materials chain (for instance waste collection and transport). The ED is the main administrative body responsible for investigating waste offences. On the other hand, the OVAM (Public Waste Agency of Flanders) is the authority responsible for issuing waste permits. The OVAM is also the main authority for the implementation of systems to recover and analyse household waste.

In 2014, the VHRM's sphere of competence was enlarged. Since then, in addition to being the body responsible for ensuring the implementation of environmental regulations, it has taken on specific town planning competences, e.g. for land use planning and the distribution of installations across the territory. However, this new approach may prove to be a double-edged sword. Although, on the one hand, this could help to organise the whole territory more harmoniously, it would seem particularly difficult to develop joint management for such a complex set of diverse subject-matters.

In parallel and at the same time, the Walloon administration also conducts well-organised activities, has good regulations and is improving the evaluation instruments by using new tools, such as the 'éco-diagnostic' referred to above. The Environmental Code is a very practical legislative text which covers all aspects of this diverse set of very multi-faceted subject-matters. An analysis of these regulations shows that the Walloon regional system of penalties can be considered as a proportionate and dissuasive legal instrument.

Similarly, the Brussels Capital region coordinates its activities with the two other regions effectively. The existence of the 2017-2019 Waste Shipment Inspection Plan (WSIP) deserves to be highlighted, in particular. The environmental inspectors of the City of Brussels' 'inspection and polluted soils' division and from the 19 other municipalities in the region are responsible for checking compliance with the provisions and monitoring implementation of the regional regulations referred to above.

I/ The federal and regional legislation is comprehensive and enables all conduct harmful to the environment to be prosecuted:

No gaps in legislation were highlighted by practitioners. The administrations, judicial authorities and police did not mention any problem as regards the legal means available to them, whether in the definitions of offences, the Code of Criminal Procedure or the Environmental Codes.

Threats to human health are covered, in particular, in the Walloon Environmental Code, which lays down a specific offence of 'unauthorised waste management endangering health and the ecological balance'.

NGOs can report conduct harmful to the environment, including with regard to waste.

However, actions brought by NGOs before an investigating magistrate or criminal court are subject to requirements for admissibility. The organisation must produce evidence of personal injury and of a causal link between this injury and the harmful conduct. Belgium's reply highlights the difficulty of establishing the existence of damage in terms of environmental damage within the framework of waste legislation.

In the police, every officer has a general overall competence as a criminal police officer (*agent de police judiciaire*, APJ). Every police officer above the grade of Chief Inspector is a senior criminal police officer (*officier de police judiciaire*, OPJ).

Police officers are tasked with producing reports based on the provisions in the Criminal Code and the regional environmental regulations.

However, they have limited scope vis-à-vis the administration as regards methods of implementation, such as authorisation to enter the premises of a business without a search warrant.

Under the Flemish and Walloon legislation, inspectors consequently have greater investigative powers, in their area of activity (environment, waste legislation), than the local or federal police.

*Flemish Region:*

In the Flemish region, the Enforcement Division of the Environment and Spatial Development Department of the Flemish government is the only body with full enforcement powers to carry out inspections on waste.

The inspectors are empowered, in particular:

- to examine any documents and take copies of them,
- to take samples, examine articles or open packages,
- to enter installations at any time,
- to stop transports and direct them to a place of their choosing.

Walloon Region:

The inspectors are empowered, in particular, to:

- enter an establishment, installation or land (unless it is a residence) at any time,
- carry out any examination or check, demand any document, or check identity,
- immobilise a lorry for 72 hours for the purposes of an investigation.

III/ The possibility of taking urgent precautionary measures :

These measures, which are provided for inter alia in the Walloon Environmental Code, deserve particularly to be highlighted. They make it possible to act directly and as a matter of urgency in the event of imminent danger.

These precautionary measures may be taken not only by the mayor acting on the report of the inspector, but also by the regional inspectorate which increases the capacity for and speed of intervention. (Book I of the Environmental Code, Article D.149).

These two authorities may:

- order the total or partial cessation of operation or activity;
- place the appliances under seal and, if necessary, immediately close the establishment temporarily;
- impose on the operator of the installation an intervention plan, or require the operator to submit a restoration or rehabilitation plan within a specified time-limit;
- provide collateral for the benefit of the region.

## 6. COOPERATION

### 6.1. International cooperation

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

There is no legal provision via specific international protocols or agreements for the fight against environmental crime. Experience has led investigators to collaborate and get to know each other. A part of this collaboration is therefore based on interpersonal relationships which become trusted relationships.

#### **The Flemish Region:**

The regional Flemish services cooperate with their counterparts in other European countries in the following ways:

- at European level, through participation in projects undertaken by the IMPEL TFS network
- bilaterally, through regular meetings (relating to waste in general or focusing on specific waste streams) with neighbouring countries, essentially the Netherlands and, to a lesser extent, France
- multilaterally, through the cooperation agreement with the countries bordering the North Sea.

These projects offer many useful opportunities to meet fellow inspectors, to exchange best practices and to learn about new fraud schemes. However, the Enforcement Division of the Flemish government's Department of the Environment and Spatial Development does not have sufficient human resources to fully participate in these projects and cooperation initiatives, which means that its staff members are sometimes reduced to the role of spectators rather than true participants. The Enforcement Division also lacks the human resources to make use of the information and skills that are acquired as part of these cooperation initiatives in order to improve or adjust waste inspections and inspection techniques.

### **Brussels Capital Region:**

The IMPEL TFS network facilitates formal and informal contacts between inspection authorities.

### **The Walloon Region:**

Cooperation takes different forms depending on the type of case and the authorities involved.

When it is a criminal investigation, cooperation occurs using the standard methods for cooperation between the police and judicial institutions (international letters rogatory, Interpol, etc.).

The administration's inspection services:

- arrange bilateral/multilateral checks;
- exchange information informally within the limits of judicial restrictions and confidentiality requirements (investigative secrecy);
- participate in international exchanges;
- participate in international conferences or working parties.

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

As regards cross-border shipments, the contact points designated by each EU country are used. The channels used are telephone, email and post; there is no particular platform or specific network. If the evidence is to be used in proceedings, the legal channels are used: Europol (the SIENA Secure Information Exchange Network Application).

For specific identified information: EIS (Europol Information System; data not depersonalised).

For statistical or depersonalised data: EPE (Europol Platform for Experts; depersonalised data).

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

Practical problems stem largely from the fact that most of the specialised inspection services are responsible only for control and not for research, such that more police capacity is required to be able to examine technical matters and conduct hearings.

At European level, the various WSR possibilities are often a problem. For example, in Germany a legal person cannot be charged or prosecuted, unlike in other countries.

Often the fragmentation of competences is an obstacle to effective investigations in other Member States.

### *6.1.3. Operational performance of joint investigation teams (JITs) in relation to waste crime*

The police authorities and regional inspection services have no reported experience in this area.

It was noted that within the Antwerp judicial district a number of JITs (joint investigation teams) have been established with the Netherlands authorities, including in the area of waste crime.

The added value, in being able both to work faster and with more flexibility and to consult each other, is very important and necessary.

## **6.2. Cooperation with EU agencies and networks**

### *6.2.1. Cooperation with Europol and Eurojust*

The national authorities dealing with waste crime are very familiar with Europol products and tools and make use of them. Despite currently reduced staff capacity, the CES seeks to play a key role in collecting and disseminating information within a complex country where many partners (administrative bodies, judiciary) all have a role to play in the fight against environmental crime. In this regard, the CES also plays a facilitating role so that all those involved may benefit from and enable others to benefit from the data it processes, both at national and international level. The available channels that have been put in place are used to forward information from partners to other national and international entities. SOCTA: the data from the federal police's crime analysts contribute to the figures.

The CES, on behalf of the DGJ, has been a member of the steering committee since the creation of EnviCrimeNet in 2011.

Customs officers make use of the information available on EnviCrimeNet and similar expert platforms accessible via the WCO.

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

### **Federal police**

The CES co-founded EnviCrimeNet along with the Netherlands, France and Hungary in 2011 (following the Belgian Presidency of the EU; the AUGIAS project). Through its representative from the CES, Belgium is still on the steering committee.

Through the EU Tri Networks Conference (a forum which brings together ENPE, IMPEL and EnviCrimeNet). On 20 September 2017 a protocol was signed as part of efforts to develop cooperation.

The CES was in favour of the idea of bringing together (at least once a year) representatives of EnviCrimeNet, IMPEL and ENPE (MoU signed in Oxford on 20 September 2017).

### **The Flemish Region:**

If the evidence is to be used in proceedings, the legal channels are used: Europol (SIENA Secure Information Exchange Network Application).

### **Brussels Capital Region:**

The IMPEL TFS network facilitates formal and informal contacts between inspection authorities.

### **The Walloon Region:**

A) Participation in the IMPEL network.

IMPEL is an essential information exchange network for the administrative services. Exchange platforms can be used to exchange questions and answers, draw attention to general emerging trends, etc.

The annual conferences allow for direct contact between the representatives of the participating countries and these personal contacts encourage exchange and collaboration between the countries.

B) The other networks are not very well known. However, the prosecutors who are part of IMPEL TFS do exchange information.

## **ENPE**

The establishment of a European network of prosecutors for the environment (ENPE) is a crucial step towards better, structured cooperation between the different Member States at European level.

Within ENPE there are four active working groups, including one dealing with waste fraud and cross-border waste crime whose work will encompass drawing up best practices for 'prosecutors' dealing with these sometimes complex offences.

An annual conference is one way in which experience is exchanged with the other networks mentioned.

However, the Belgian public prosecutor's office is not a founding member of the ENPE non-profit association.

Internally, it was decided that Belgian environmental public prosecutors may only participate in ENPE activities on their own behalf, and may not link their participation with the public prosecutor's office.

Certain environmental public prosecutors have taken the opportunity to become a 'supporting member', so that there is a specific line of communication with ENPE.

### **6.3. Cooperation between Belgium and Interpol**

#### **Federal police**

The CES is the contact point for Europol and Interpol.

Eurojust: the federal police, through the CES, maintains close contact on an ad hoc basis.

Europol and Interpol: the federal police, through the CES, makes use of the available tools, documentation and publications, participates in the initiatives, and supplies information, data and results.

In a general sense, the CES, on behalf of the federal criminal police, plays an active role in the transfer of waste-related data and knowledge and representation in matters relating to waste.

#### **Public prosecutor's office**

Eurojust has a list of contact points in the Belgian public prosecutors' offices with expertise in the area of environmental crime.

The public prosecutor's office maintains cooperation and extremely valuable contacts with Eurojust.

The role of Interpol and Europol is less pronounced and mainly involves operational support for the police departments.

## 6.4. Cooperation with the private sector

### 6.4.1. *Involvement of the private sector/public-private partnership (PPP)*

#### **The Flemish Region:**

The Enforcement Division of the Flemish government's Department of the Environment and Spatial Development maintains regular contacts with the private sector, especially associations representing the environmental sector (or part of it), in order to agree on how to interpret the legislation, find a common approach for dealing with opportunistic behaviour, and hear the sector's view on how waste inspections should be carried out. The Flemish Enforcement Division also participates in workshops organised by the environmental sector during which explanations are given of how waste inspections are carried out and how the sector can better comply with waste legislation.

#### **Brussels Capital Region:**

The private sector is consulted on every new legal act in order to discuss the enforceability of the new measures, in particular regarding the traceability of waste materials. Go4Circle, the main association in Belgium's waste management sector, is a very valuable partner in this regard.

#### **The Walloon Region:**

No particular measures. However, it should be pointed out that prior consultation is also carried out in Wallonia.

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

**The Flemish Region:**

At regional level, there is no specific responsibility/liability laid down in the legislation.

**The Brussels Capital Region:**

There is no responsibility for 'voluntary' transfer of information.

However, the private sector is obliged to provide all necessary information following a justified request by an inspector regarding a specific topic. Refusal to respond is in itself an infringement punished by the Inspection Code.

**The Walloon Region:**

Failure to provide the information requested by the officers in charge of looking into and identifying offences is an offence in itself. It is not specific to the private sector, but applicable to any legal or natural person required to provide information.

Book I of the Environmental Code

Article D.146. Officers may, in the performance of their duties:

1. carry out any examinations, checks or investigations and gather all the information deemed necessary to ensure compliance with the provisions of paragraphs 1 and 3 of Article D.138, and in particular:

a. question any person about any matter if the information would be useful in carrying out surveillance;

- b. request to be sent or view any document, item or certificate which may be of use in the performance of their duties, make a photographic or other copy thereof, or remove the document, item or certificate from the premises against a receipt;
  - c. check the identity of any offender;
2. take samples in accordance with the provisions laid down by the government;
  3. conduct analyses in accordance with the rules determined pursuant to Article D.147. Where samples are taken for the purposes of analysis, offenders shall be immediately informed of the possibility of having a second analysis conducted at their own expense. If the official analysis reveals that an offence has been committed, a report shall be drawn up in accordance with Article D.141;
  4. stop vehicles used for transportation and check their cargo;
  5. take any necessary measures to preserve evidence, including, for a period not exceeding 72 hours:
    - a. prohibiting the moving of objects or placing under seal establishments or installations which may have been used in the commission of an offence;
    - b. stopping, immobilising or placing under seal the means of transport and other items which may have been used in the commission of an offence;
  6. in the presence of the person concerned or duly summoned, test the equipment and devices that may be in breach of the provisions of paragraphs 1 and 3 of Article D.138, or have such equipment and devices tested by the approved persons, laboratories or public and private bodies;
  7. be accompanied by technical experts;

8. apply administrative police measures enabling objects which may cause harm to the environment to be removed from circulation;

9. without prejudice to Article D.145, accompany objects until they are delivered to their destination, and sequester them;

10. bring vessels to shore in order to check their contents.

Article D.154. Under the legislation referred to in paragraphs 1 and 3 of Article D.138, it constitutes a category 2 offence to:

2. obstruct or hinder the work of the officers;

Obstructing or hindering the measures provided for in Article D.146 is considered an offence under paragraph 2 of Article D.154.

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

The federal police favours collaboration with both public and private partners. In this respect, and in order to benefit from individual expertise, it is typical to turn to the private sector. Environmental cases sometimes involve specific areas and the federations or legal professionals working in those markets are an exceptional source for gathering information or, more generally, for understanding how the sector functions.

In 2017, the CES met with:

- the corporation of second-hand vehicle exporters,
- the plant protection products federation,
- the federation of social actors in the second-hand textile sector;
- major metal-recycling companies.

On several occasions, these meetings also led the CES to publish fact sheets for the local and federal police on emerging problems with certain streams (tarmac, textiles).

**The Flemish Region:**

The Flemish Region has no experience of structural cooperation with the private sector, although it is sometimes alerted to waste crimes by the private sector, and these are followed up by the Enforcement Division, the police or local inspection services.

**The Brussels Capital Region:**

Cooperation exists with the association of end-of life vehicle (ELV) processing facilities and the insurance sector regarding the export of second-hand vehicles as opposed to ELVs.

**The Walloon Region:**

Two examples are:

- 1) Textile waste trafficking.

The companies that are licensed to collect and sort textile waste have intervened collectively with the regional inspection services to report illegal practices in the field of textile waste; these practices have in particular led to unfair competition and direct impacts on the environment (dumping of some of the less profitable textile waste in the environment, etc.).

The companies have systematically forwarded to us all information available in the field, as a result of which we have been able to carry out an extensive investigation and dismantle several illegal textile waste trafficking networks, including illegal sorting centres, illegal waste imports and exports, waste dumping, etc.

As part of these activities, other related offences were detected, such as undeclared labour and fiscal fraud.

## 2) WEEE

RECUPEL has carried out investigations using electronic tracers to see where the illegally collected and transported WEEE has been sent. RECUPEL has also completed an investigation/audit of the various inspection authorities in order to identify the existing problems in WEEE flows.

## 6.5. Conclusion

Effective international cooperation. It should be noted that very important work is being carried out in Belgium in terms of participation in European networks such as the informal network for countering environmental crime (EnviCrimeNet, of which Belgium is a founding member), the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL), the European Network of Prosecutors for the Environment (ENPE), and the European Union Forum of judges for the environment (EUFJE), and that there is good cooperation with other international bodies such as Europol, Eurojust etc.

Overall, Belgium is of the opinion that the international instruments referred to above produce many benefits. In light of its practical experience, Belgium believes that these projects offer many opportunities to develop contacts with other inspectors, exchange best practices and identify new fraud schemes.

Moreover, the Belgian authorities maintain bilateral contacts thanks to regular meetings (generally dedicated to waste or with a clear focus on specific waste flows) with neighbouring countries, primarily the Netherlands, Germany, France and Luxembourg.

Nevertheless, there appear to be some operational problems. The fact that environmental issues are not considered to be a cluster from a legal point of view means that there is a certain loss of effectiveness. For example, public prosecutors work together in the ENPE through groups which are organised spontaneously. Ultimately, the lack of autonomous environmental structures stems from the fact that collaboration is not based on an appropriate systematic framework. The somewhat voluntary nature of the collaboration could result in this cooperation becoming less operational in the long term.

However, it is remarkable that the CES (with only four people) serves as a focal point for cooperation between the various environmental and legal international networks. Once again, this shows the need to increase its staff.

As regards cooperation with the private sector (there is no information available on public-private partnerships (PPP)). Belgium (including the Walloon Region) is nevertheless on the right track because the private sector can indirectly contribute to draft legislation in the field. In addition, exchanges of information take place between the public and private sectors.

A good example of cooperation with non-profit associations is the cooperation with Go4circle. This association is making significant efforts to improve the quality of its members' environmental management. It should be added that the good relationships and good cooperation between the private company Go4circle and the authorities of the Walloon Region set an example for all the other regions in terms of the exchange of views with the private sector.

## 7. TRAFFICKING OF WASTE

### 7.1. National structure

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

Trafficking of waste has a regional dimension and is thus primarily prosecuted on the basis of specific regional legislation. Police charge offenders on this basis or on the basis of the Criminal Code if an offence of a more general nature is established. The public prosecutor's office deals with them as it sees fit, i.e. it examines the facts or passes them on to the regional administrative authorities. Reminder: the police have general powers related to the Criminal Code and to the regional waste regulations on the environment, including on waste trafficking (transit, export, and import).

#### **The Flemish Region:**

For the Flemish Enforcement Division this means:

- Role and powers: enforcement of the waste legislation (no investigative powers), especially the Flemish waste legislation and the WSR. The Flemish Enforcement Division also drafts the inspection plan for the Flemish Region, provided for by the WSR.

- Duties: the Flemish Enforcement Division has the task of carrying out inspections on waste-related issues, in accordance with the inspection plan. The Enforcement Division limits its interventions regarding waste-related problems to facilities that are classified as 'Class 1' according to the Flemish environmental legislation (VLAREM); the other facilities are inspected by local enforcement services. However, when it comes to issues relating to waste trafficking, the Enforcement Division does not limit its interventions to Class 1 facilities, as many actors such as dealers are often not classified as Class 1. The Enforcement Division also provides for the organisation of and follow-up to the return of illegal cross-border shipments of waste as laid down in Article 24 WSR.
- Specialisation: for waste issues in general, all environmental inspectors of the Enforcement Division have a basic knowledge and they can rely on several checklists and manuals. For waste trafficking and the WSR, the Enforcement Division has a team of ten specialised inspectors, four of whom are assigned to port inspections (export of waste).

### **Brussels Capital Region:**

Collaboration exists with police services and customs.

### **The Walloon Region:**

In the Walloon Region, the authority specifically responsible for investigating and identifying offences in relation to cross-border waste shipments is the Department of Police and Enforcement and especially the Pollution Control Unit.

The officers of the Department of Police and Enforcement have the status of criminal police officers.

Furthermore, the officers of the Pollution Control Unit wear a uniform and are armed. These officers have undertaken specific training on waste and cross-border waste shipments.

Besides the regional services, the police and customs services actively and successfully contribute to the investigation of offences and the prevention of illegal shipments.

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

The Federal Criminal Police (CES) gathers information via EMDs and EFAs, via its contacts with authorities and partners, via complaints or denunciations, via facts discovered in the course of other findings, on the basis of observations and following specific findings, etc.

Specific actions targeted at waste trafficking are carried out within a multidisciplinary framework. There are calls to try to calculate the proceeds from the illegal activity.

#### **The Flemish Region:**

Most of the illegal shipments of waste are detected through surveillance, whereby shipments (mostly during port inspections) are selected on the basis of risk criteria. Intelligence consists of tips from other (Belgian or foreign) agencies, warning the Enforcement Division when an illegal shipment could pass through Belgian territory. Intelligence as a basis for the selection of shipments is far less important than surveillance. Detection on the basis of complaints (by competitors in the industry) is relatively rare.

Until 2014 the Enforcement Division also carried out an analysis of waste export declarations (based on customs information) in order to identify new or dubious companies in the trade, but this annual analysis was abandoned due to a lack of staff.

### **Brussels Capital Region:**

The main sources of information are the other regional authorities with national borders, the police and customs services and the Brussels Port Authority.

Illegal waste shipments can also be detected through a detailed examination of waste registers of collectors, dealers and brokers.

### **The Walloon Region:**

Illegal shipments are detected:

- during roadside checks => very important, because they enable the discovery of clandestine waste shipments (unknown producer/collector - unknown and unauthorised storage site, non-approved haulier, etc.);
- during routine controls in the companies (for example IED controls etc.);
- on the basis of complaints (waste theft etc.);
- following intelligence, observations etc.;
- on the basis of intelligence received from other European partners;
- following a positive assessment by the risk analysis programme developed by customs (export via the ports of Antwerp, Zeebrugge and Ghent).

Obstacles to detection:

- the lack of human resources;
- in some cases, preparation for the illegal shipment is carried out in the backyards of private houses in the middle of the countryside => advance knowledge is needed;

- luck of the draw => which lorries should be chosen for roadside checks? Even refrigerated lorries are used for waste trafficking, because they are checked less often and are allowed to travel at weekends. It therefore partly down to luck when the right lorry is stopped.

### *7.1.3. Specificity of illegal shipment of waste*

There are both recurrent and emerging phenomena. The latter appear and disappear in line with developments in crime, fluctuations in commodity prices and the opportunities related to a wide variety of geopolitical factors.

Environmental fraud can be linked to other core criminal activities committed by groups of offenders (criminal organisations). However it is very rare for a company to act as a legal front for an organised criminal activity.

In practice this is marginal and it has been found that environmental crimes are committed by well-established (legitimate) companies that increase their profits through fraud. They therefore organise fraudulent shipments, processing operations, exports, etc. (fraudulent schemes). Environmental crimes are subsidiary to a real and legal activity.

A trend which has been gaining ground is fraud in the subsidy or take-back system (eco fraud).

Regardless of the system used for fraud or cheating, the aim is to earn more money, with no regard for regulations or the environment.

### **The Flemish Region:**

The most common modi operandi are:

- concealing the 'bad' or polluted waste in the back of a container or under a layer of non-polluted waste
- Muddying the waters by drawing up several consecutive administrative documents in order to conceal the identity of the original producer from the final treatment facility
- Hiding the identity of the organiser of the transportation behind a front name
- Changing the names and codes of the waste during the various stages of the shipment

### **Brussels Capital Region:**

The chain of operators in the 'illegal export of waste trade' is very long and very often obscure, which allows the identity of the lead operator to be concealed.

### **The Walloon Region:**

The modi operandi are fairly specific to the nature of the illegally shipped waste.

Some examples are:

- illegal waste is placed at the bottom or back of the trailers or lorries and covered or hidden by 'authorised' waste or other merchandise => for example: shipment under Annex VII, although a notification should have been provided;
- as mentioned above, refrigerators and other electrical and electronic equipment (WEEE) are collected and brought together in the backyards of houses, or in private or rented garages, and subsequently loaded into a specially delivered sea container which is then sent to Africa;

- the waste is packaged and transported as products rather than as waste, in sealed packaging, which makes it difficult to detect during a roadside check;
- intermediaries such as dealers and brokers are used and information on the actual producer or recipient is lost;
- false waste codes are used for the transport; the codes are changed during transport.

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

##### **The Flemish Region:**

The rules to be followed in order to ensure environmentally sound management are laid out in the Flemish environmental legislation, and enforced in accordance with the inspection plan.

##### **Brussels Capital Region:**

The provisions of the Waste Shipment Regulation are monitored and inspections are carried out in accordance with the inspection plan.

##### **The Walloon Region:**

Firstly, Walloon and European legislation defines the conditions under which the shipments may be carried out, and particularly the requirements to be met by the recipient facilities (very difficult to verify).

In Europe, a total ban on the export of hazardous waste to non-OECD countries was adopted by means of Regulation (EC) No 1013/2006 => our hazardous waste is thus mainly processed in Europe, which reduces the environmental risks of inadequate processing.

The Walloon Region also advocates a policy of waste management in the immediate vicinity.

Controls are organised to verify compliance with these legal requirements.

## 7.2. Inspections

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

The police are not proactive in undertaking systematic checks. Inspections are carried out by the administration, which has broad powers (no mandate necessary) to carry out its task.

The police visit a company when there are strong indications of fraud (reactive) in the context of legal proceedings.

On the other hand, the police regularly accompany the administrations when they carry out checks in order to provide security, detect offences not covered by the Criminal Code, and coordinate the involvement of the different services (in multidisciplinary cases).

Roadside checks carried out by the police, either alone or in collaboration with the administration, are the only exception insofar as no prior indication of fraud is required for the interception and systematic checking of lorries' cargo by specialist road units.

A set of best practices as regards cross-border waste trafficking have on several occasions been provided to services that have requested it.

### **The Flemish Region:**

The Flemish Enforcement Division mainly relies on physical inspections, i.e. visual inspection of the content of vehicles and containers. Sampling is common, but is used less frequently for shipments and more so when inspecting stocks of waste and assessing their possible end-of-waste status. The Enforcement Division has sufficient means for sampling waste; it has a contract with a specialised laboratory and all of its staff have been trained. In addition to physical inspections the Enforcement Division also carries out administrative checks on the obligatory waste registers which must be kept by all companies, especially treatment facilities and collectors/traders/brokers. These administrative checks are by nature limited and should be improved by using financial investigation techniques. Potentially illegal shipments of waste are selected either at random (roadside inspections) or based on risk criteria (port inspections).

### **Brussels Capital Region:**

The general inspection methods available for all inspections are used.

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

As with general inspections of companies (question 50), inspections relating to WEEE are the sole responsibility of the competent specialised administrative services, except where they involve transportation since checks on freight transport are carried out by the (federal) police in the different sectors (maritime, rail and road).

In large-scale operations organised by international organisations (Interpol, Europol, IMPEL), the police are involved alongside the participating administrative partners (multidisciplinary operations) in a coordinating role, and provide specific support, collect information, deliver training, ensure security for the event, distribute information and results, and prosecute specific or general offences not related to the environment.

Shipments of WEEE are regularly reported using the 'ECO-form WASTE'. The CES's second-line findings may lead to verifications and the opening of an investigation and, where appropriate, the drawing up of a legal or administrative report.

### **The Flemish Region:**

Exports of WEEE through the port of Antwerp are a priority for the Enforcement Division during port inspections. The shipments are selected on the basis of export documents or physically during quay inspections. A special inspection method for WEEE exports has been developed for use by the port inspectors of the Enforcement Division.

Other measures include monitoring of importers, management bodies (collective schemes), studies, WEEE reporting (BeWeee), and the identification of illegal streams and gaps in order to map them.

### **Brussels Capital Region:**

Monitoring of the 'extended producer responsibility' schemes provides the main framework for tracking WEEE.

The new decree on waste management (see also question 2) lays down new and very strict obligations for any operator preparing WEEE as EEE ready for export. This legal obligation gives the inspectors a clearly defined instrument as regards illegal exports of WEEE.

## **The Walloon Region:**

Checks at POS are regularly organised by the DSD to ensure that the WEEE taken back from customers leaves via a legal channel and does not disappear into secondary illegal networks.

A project to monitor WEEE movements throughout all channels is planned for the near future. It is part of the inspection plan for cross-border shipments of waste.

An audit has been carried out by RECUPEL, which is officially responsible for monitoring salvaged WEEE. The aim of the audit was to identify the problems in the WEEE salvage channels and to find the reasons for and methods by which WEEE leaves official channels.

Inspection activities and specific analyses in relation to ELVs are generally carried out in the context of support in order to ensure multidisciplinary coordination.

Sometimes the CES itself supports police units working in specialised areas (drugs, human trafficking, etc.) in order to deal with issues relating to ELVs (or any other specifically environmental offence). It is therefore responsible for the initial findings and measures. However, in order not to undermine its capacities, unless a judge orders otherwise the case is presented and entrusted to a local or federal unit or an administration for further investigation.

Shipments of ELVs are also regularly reported by means of the 'ECO-form WASTE'. The CES's second-line findings may lead to verifications and the opening of an investigation, or to the drawing up of a legal or administrative report.

### **The Flemish Region:**

The Flemish Enforcement Division does not carry out any specific inspection activities targeting illegal shipments of ELVs. This is, on the one hand, due to lack of a clear definition of an ELV, and on the other because inspections by the Enforcement Division in the port of Antwerp have shown that only a small minority of the used cars that are exported can be considered ELVs.

### **Brussels Capital Region:**

Inspections are carried out in ELV treatment facilities.

### **The Walloon Region:**

In the past there have been specific inspections for ELVs.

They are conducted either at dismantling centres or with scrap dealers, during roadside checks, etc.

Belgium is a transit country for the trafficking of waste, which is mainly transported to the port of Antwerp and from there to African destinations. This is also the case for ELVs.

#### *7.2.3. First inspection plan*

### **The Flemish Region:**

See the file 'Controleplan EVOA MI 2017.pdf'.

### **Brussels Capital Region:**

A Waste Shipment Inspection Plan 2017-2019 (WSIP) has been established for the Brussels Capital Region. The WSIP has been submitted for approval to the supervising entity, Brussels Environment.

### **The Walloon Region:**

The inspection plan for the Walloon Region can be found here:

<http://environnement.wallonie.be/dpe/Plan-d-inspection.pdf>

### **The Flemish Region:**

In the case of illegal cross-border shipments (Article 2(35) of the Waste Shipment Regulation) a return shipment procedure is initiated. In the Flemish region, the Flemish public waste service (OVAM) is the competent authority for the procedure under Article 24 of the Waste Shipment Regulation, but the Flemish Enforcement Division is responsible for the practical organisation. An internal manual for these return shipments has been drafted by the Enforcement Division, including provisions on how to cooperate with other authorities in accordance with Article 24. When it comes to drawing up reports, arrangements are made between the Enforcement Division and the competent foreign authorities or inspection services. It is usually agreed that the authority in the country of dispatch will carry out an inspection at the place of departure and draw up the report.

In following up on irregularities regarding waste in general, the inspectors of the Enforcement Division rely on their general manual on environmental enforcement instruments, which describes all the legal powers and how to use them in order to prepare the report for public prosecution and compel the offender to remedy the situation.

The Enforcement Division has no powers to confiscate.

### **Brussels Capital Region:**

General procedures are applied as described in the Inspection Code.

### **The Walloon Region:**

Offences relating to cross-border shipments of waste are dealt with in the same way as other offences, i.e. by drawing up a report.

There is good cooperation between the authorities concerned and information is shared in all cases.

Confiscation measures are applied when necessary, depending on the type of waste, its origin, its destination, etc.

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

### **The Flemish Region:**

For the Flemish Enforcement Division the main challenges are as follows:

- a shortage of staff, especially in cases where small quantities of waste are to be returned (e.g. a single ELV), since these cases may require substantial human resources;
- identification of the person responsible for the shipment; especially in cases involving illegal exports of WEEE to Africa, when the person may not be known or may have returned to Africa at the time of the inspection.
- foreign competent authorities in the country of dispatch dragging their feet, failing to respond to requests or simply refusing to take back the waste.

### **Brussels Capital Region:**

- Discussions with other national authorities on the interpretation of what is and is not waste.
- Difficulties arising from the language barrier.
- Financial responsibility for returning waste.
- Difficulties with temporary storage of the waste during lengthy procedures.

### **The Walloon Region:**

Main problems:

- There must at least be official proof that the waste came from another country.
- There are administrative formalities to complete and authorisations to obtain, which sometimes makes for a cumbersome procedure.
- Returning the waste must not pose a major risk to the environment; sometimes a local solution is better.
- It sometimes takes a while to organise the return and temporary storage is required.
- The competent authorities must sometimes organise the return themselves, even having to charter a vessel, because those responsible are insolvent, refuse to handle it, etc., which results in complex measures.

In the 1990s, the Walloon Region was ordered to return waste from the Netherlands. The Walloon offender no longer had financial means and the Dutch company applied the deadline of 30 days for the return.

A similar case occurred with France.

### 7.3. Conclusion

Checks on waste trafficking in Belgium are carried out by the police, customs and the regional inspection services. All of the authorities concerned work together very well, both in cases where Belgium is merely a transit country for illegal shipments of waste, and those where the shipments begin or end in Belgium. As required by Regulation (EC) No 1013/2006, the regions have drawn up their own inspection plans which reflect the risk analyses carried out and trends observed.

The inspection plans make it very clear that, on the one hand, these are typical waste streams comprising WEEE, paper/cardboard, metals and end-of-life vehicles (ELVs). On the other hand, waste streams require action to be taken at different stages of waste management. This is done in the Walloon Region by the Department of Police and Enforcement and in the Flemish Region by the Enforcement Division of the Department of the Environment and Spatial Development ('Departement Omgeving'). The ED is the authority that carries out checks at the port of Antwerp. In the Brussels Capital Region the 'Inspection and polluted soils' division is responsible for inspections and checks on waste shipments. In addition, collaboration between customs and the authorities of the three regions is necessary and well executed.

The customs office functions very well, especially as regards the management of the port of Antwerp. The docks have been fitted with modern infrastructure, facilities and equipment; operations are semi-automated and the staff are highly qualified. Laboratories are located next to the facilities, and there are scanners, etc. Despite the technological advances, determining which containers should be inspected remains the main challenge. Sampling is a frequently used technique but it is used less often for shipments and more during inspections of warehouses in which waste is stored, and when determining end-of-waste status (Article 6 of the framework directive).

The workload of the Belgian customs authorities is such that they try, in the interests of increasing efficiency, to focus mainly on the cases that pose the greatest risks.

The Belgian customs supervisors informed the expert team that it would be very interesting to draw up a list of companies including those which work in the regions where these issues are problematic, such as the African continent. The Belgian customs authorities are in the process of drawing up their own list of problematic companies. The customs authorities use this list to enter them in the system for automatic selection of declarations concerning export goods. However, in practice a number of problems are encountered in exchanging this type of information with other countries, e.g. the United Kingdom. Focusing on the 'bad' companies on the basis of a European 'black list' could be an excellent idea. This 'black list' could be established by including on it those companies on which penalties have been imposed in the EU over a given period, for example in the last three years.

International waste shipments: it seems very difficult to determine the true destination of the goods. The customs office uses various criteria to analyse the risks but the inspection systems vary in each particular case. It seems that there are problems in respect of how to manage the material that has been seized, since it is not easy to identify the owner and liability often falls on the holder.

## 8. MANAGEMENT OF HAZARDOUS WASTE

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

The financial stakes in the management of hazardous waste are generally higher than in that of non-hazardous waste. Given that fact, the offence levels for crime are naturally higher for hazardous waste. The criminal acts are more elaborate and more organised.

Misclassification of waste (hazardous waste presented as non-hazardous) is apparently an important enforcement issue. The experiences of the authorities in this connection are as follows:

#### **The Flemish Region:**

The Flemish Enforcement Division does not encounter this problem very often. One of the problems is the analysis of the relevant hazardous components. The classification of the CLP Regulation often refers to concentrations of certain molecules (e.g. certain lead components) whereas analysis results usually indicate the concentration of elements (e.g. lead as an element).

#### **Brussels Capital Region:**

- Difficulties in taking representative samples of mixtures of waste (e.g. polluted soils)
- Difficulties in chemical analysis (e.g. Pb/Pb<sup>+2</sup>)
- Discussions on concentrations and/or packaging materials (e.g. paint pots)
- Discussions on the classification as waste/EoW status/by-product (e.g. denatured ethanol)

## **The Walloon Region:**

Examples of actual cases:

- Asphalt-treated tarmac: some enterprises recover tarmac without taking account of polycyclic aromatic hydrocarbon (PAH) concentrations. But in some cases, HAP levels significantly exceed the danger threshold; in that case the tarmac should no longer be re-used via recovery.
- Lead-containing waste. There was a case of an enterprise which claimed that the lead in its waste was present in a non-hazardous form (see CLP classification). No institution in Wallonia was capable of a quantitative analysis that would have quantitatively differentiated the hazardous from the non-hazardous forms of lead. As far as we know, such analysis is subject to the same difficulties in other countries. In the case at hand, our administration decided that since it could not be analysed, the value corresponding to the total lead content would be taken as a reference for establishing the hazard rating of the waste.
- The problem that arises with lead also arises for other elements, particularly metals, for which it is difficult if not impossible to carry out compound by compound analyses.

## 8.2. System of inspections and authorities involved

### **The Flemish Region:**

The inspections are set out in our yearly inspection plan. The question of whether hazardous waste is to be targeted by specific inspection activities is subject to yearly evaluation, and depends inter alia on its ranking in the risk analysis carried out for waste inspections in 2016 on the basis of the WSR inspection plan. At least since 2011, specific projects targeting hazardous waste have been included in the inspection plan. Usually no fixed frequency is specified in the plan; instead, a minimum number of inspections is required. The reason for this approach is that many waste inspections (depending on the type of waste) target shipments and opportunistic behaviour, which means that there are situations and companies that are not on any list and for which a frequency cannot be determined. The minimum number of inspections in a certain waste stream or sector is for the most part dictated by the limited number of staff available.

### **Brussels Capital Region:**

At the regional level, the inspectors of the 'Inspection and polluted soils' division of Brussels Environment and of the 19 regional municipalities are responsible for the inspections.

The frequency and level of inspections carried out by Brussels Environment are defined in an overall inspection plan of the 'Inspection and polluted soils' division.

### **The Walloon Region:**

In Wallonia, the authorities responsible for inspections and checks on hazardous waste are the Soil and Waste Department (DSD) and the Police and Inspections Department (DPC).

- The DSD collects and checks information on the transportation, collection and processing of hazardous waste. That information is sent periodically (quarterly and annually) by enterprises, collectors, transporters, traders, etc., to the DSD.
- The DPC carries out field checks on transporters, collectors and producers, and also on centres for the collection and processing of waste and waste disposal centres.

There is no specified frequency for inspections.

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

### **The Flemish Region:**

These measures are laid down in environmental legislation in general, as well as in a legal system of environmental permits and registration requirements (e.g. for collectors, traders and brokers).

### **Brussels Capital Region:**

Production, processing and storage of hazardous waste is subject to an environmental permit. Collectors, traders, brokers and transporters are subject to authorisation.

### **The Walloon Region:**

There are general environmental protection measures imposed by Walloon Region law.

There are also specific environmental protection measures linked to a given operational site (waste production, collection, storage, processing etc. centres) explicitly included in the environmental permits required under the Decree of 11 March 1999 on environmental permits.

Finally, environmental protection measures linked to the transportation and collection of hazardous waste are set out in the implementation orders on certain types of hazardous waste (animal waste, PCB waste, oil waste, etc.) and in the approvals required for these activities.

### **The Flemish Region:**

The obligation for producers, treatment facilities and collectors/traders/brokers to use waste registers is laid down in (regional) waste legislation. Checking of the registers by the administration is a standard inspection method in waste inspections. For the specific purpose of verification of waste registers at treatment facilities, a manual and check-list have been developed for internal use by the Enforcement Division.

### **Brussels Capital Region:**

Full traceability and keeping of registers is obligatory for the management (from production to final treatment) of hazardous waste, under the Waste Order of 14 June 2012 and the Decree on waste management of 1 December 2016.

### **The Walloon Region:**

Walloon law requires the various participants in the waste circuit and more particularly the hazardous waste circuit to keep registers of entry and exit, processing, recovery and transportation of waste.

These registers are checked during routine checks on the enterprises, sometimes in the context of specific investigations concerning a given type of waste.

The registers must remain available to the inspectorate for at least five years.

The participants in hazardous waste management must periodically send copies or summaries of their registers.

### **The Flemish Region:**

The Flemish EID is not aware of any particular challenges in this area.

### **Brussels Capital Region:**

- Difficulties in taking representative samples of mixtures of waste (e.g. polluted soils)
- Difficulties in chemical analysis (e.g. Pb/Pb<sup>+2</sup>)
- Discussions on concentrations and/or packaging materials (e.g. paint pots)
- Discussions on the classification as waste/EoW status/by-product (e.g. denatured ethanol)

## **The Walloon Region:**

Yes. The following are examples of problems encountered:

- The representativeness of the sample. In some cases, the waste is not heterogeneous and is made up of a number of relatively large pieces of very diverse compositions. Even if an assortment of these fragments of waste is taken, shredded and the mixture obtained analysed, the result is not necessarily representative of the cargo being checked.
- Problem of lead and other metal elements.
- In some cases, the waste being checked resembles standard waste, whose approximate composition is known. In such cases, it is possible to have a very clear idea of the analyses to be carried out to establish their dangerous nature. Unfortunately, in other cases, such 'standard' waste, unknown to us, is contaminated by substances that have no direct relation to that waste. Therefore it can happen that those substances are undetected in the analyses, though they would have led to the waste being classified as hazardous. This applies mainly to organic substances, which exist in almost endless variety. The only way to avoid this problem is to carry out systematic screening, but that considerably increases the costs of investigation.
- Problem of waste from abroad (sometimes outside the EU). In some cases, we have to carry out investigations without knowing anything whatsoever about the circumstances of production.
- Problem of waste transferred abroad. In such cases we do not have the waste in our possession. Consequently, it is impossible to analyse or verify the waste. The information available 'on paper' has to suffice.

Furthermore, in those cases it is rarely possible to verify the actual destination of the waste and what happens to it. So this situation makes it difficult to determine the seriousness of the offence.

For example: some waste is sent to Asia. Is it really recovered? Does it end up in a landfill? Do the recovery conditions meet our standards?

- Language problem. In some files, the 'waste' participant has submitted to us documents drawn up in an Asian language. For example: contract for processing waste in China; this obviously makes investigations more cumbersome.

These obstacles are not always insurmountable in an investigation, but they make investigations much more laborious and also increase the cost and time required.

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

As for non-hazardous waste, the methods evolve, influenced by the cost of transportation, the volume of waste, the cost of processing, the value of the waste, geopolitical circumstances, and so on.

The three main sectors concerned are still WEEE, ELVs and contaminated soils.

As for emerging trends, in 2017 the biggest files concerned fluff (residual foam from ELVs) and the trade in textile waste (collection, illegal processing and fraudulent financial flows).

The CES puts together the events of which it is informed. A single incident is not sufficient to draw the attention of the central units unless there is a catastrophic environmental impact (e.g. FIPRONIL).

The gathering of files and information makes it possible to highlight certain practices and to disseminate information on trends in the form of figures and statistics.

### **The Flemish Region:**

The most common modi operandi are:

- concealing the 'bad' or polluted waste in the back of a container or under a layer of non-polluted waste
- Muddying the waters by drawing up several consecutive administrative documents in order to conceal the identity of the original producer from the final treatment facility
- Hiding the identity of the organiser of the transportation behind a front name
- Changing the names and codes of the waste during the various stages of the shipment

### **Brussels Capital Region:**

Avoiding classification as hazardous waste by using classification as end-of-waste, second-hand, etc. (e.g. WEEE/EEE/UEE).

Dilution of hazardous waste (e.g. polluted soils).

## **The Walloon Region:**

Yes. Trends noted include:

- Not considering the material as waste but as materials, by-products or second-hand products, and thereby getting around waste legislation.
- Declaring hazardous waste as a different category of waste and thereby benefiting from more flexible and less binding rules.
- Diluting hazardous waste in non-hazardous waste so that the final waste does not fall under rules on hazardous products and is therefore not subject to the laws on hazardous waste.

## 8.5. Conclusion

The management of waste in Belgium merits a positive assessment. Policies and inspections have been completely regionalised since the sixth reform of the state in 2011, including the transit of waste. The first point that must be stressed is the satisfactory distribution of inspection responsibilities applied by the Flemish administration (ED / OVAM). Wallonia and Brussels are also well organised and their structures operate in good coordination with the other administrations concerned.

In Belgium the flows of high-priority waste include the following main elements: waste oils, hazardous properties, chemical waste, electronic waste, metal waste and demolition waste. It was observed that a very significant problem arises in the context of detecting hazardous substances in large quantities of waste (e.g. in cases of demolition and of metal wastes). The inspection services focus on analysing the waste chain, trying to determine the specific waste flows within that chain, and on identifying the enterprises that act as bottlenecks, often traders. At first, they plan the sampling of waste at fixed intervals, leading later to monitoring of the waste flow by members of a specialist team.

The same problems are found in Belgium as elsewhere — declaring hazardous waste as non-hazardous, classifying WEEE as a product, diluting hazardous waste in other waste to take advantage of more flexible and less binding rules, concealing hazardous waste under other, non-hazardous waste.

These phenomena are only uncovered by chance, via information from the competition and/or by checks. For that reason, the number, quality, frequency and extent of the checks must be kept up.

In particular, it might be necessary, preferable and indeed more realistic for (European) legislation to define what cases count as used products and what as real waste that should not be exported and that is covered by different legislation (Directive 2000/53/EC on end-of life vehicles). For instance, Flanders has observed that only a small minority of exported ELVs are real waste.

When an illegal international transfer is detected, it is not easy to organise the return of the cargo to the country of origin, which is often unknown. In that regard, the EU should be aware of the difficulties encountered by Belgium and other European countries attempting to return such illegal waste, and it must be remembered that storing the seized goods can incur additional costs.

## 9. ILLEGAL PRODUCTION OR HANDLING OF DANGEROUS MATERIALS

### 9.1. The concept of dangerous materials

#### **Brussels Capital Region:**

The definitions are based on Regulation (EC) No 1272/2008 CLP and legislation on transport of dangerous goods such as the ADR and ADN, etc.

#### **The Walloon Region:**

Yes. The basic legislation defining the dangerous nature of a substance and thus of a material is Regulation (EC) No 1272/2008 CLP (classification, labelling and packaging).

This leads on to other legislation on the storage and handling, etc. of dangerous substances, including, in particular, the environmental licence, specific storage conditions and periodic inspections of contents.

The danger ratings set out in the CLP Regulation also form the basis for the classification of hazardous wastes.

Note: Over the years certain rules have been formulated, such as that for the classification of dangerous materials packaging waste.

Separate from the CLP legislation and this classification of dangerous substances and hazardous waste, there are also specific regulations concerning the carriage of dangerous materials by road, rail, waterway and air (ADR and ADN legislation, etc.)

In case of doubt:

### **Brussels Capital Region:**

If the legislation is insufficiently clear, the precautionary principle is used by the inspector where no analysis of the substance is available.

### **The Walloon Region:**

The CLP (EU) Regulation lays down the danger characteristics of a substance. This leads on to the kind of danger posed by the substance.

It is the inspector carrying out the check, in the first instance, who decides whether the material in question is dangerous or not.

In Wallonia the inspector, if in doubt, contacts the Major Accident Hazard (RAM) Cell at the Ministry of the Environment which deals with the issue for Wallonia.

This hierarchical decision-making principle is the same in the three regions.

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

### **Brussels Capital Region:**

Legal acts regarding the production or handling of dangerous materials stem from European regulations and directives such as:

- Regulation (EU) 2017/852 - mercury;
- Regulation (EU) No 517/2014 – fluorinated greenhouse gases;
- Regulation (EC) No 1005/2009 – depletion of the ozone layer;

- Regulation (EC) No 1069/2009 – animal by-products;
- Regulation (EC) No 850/2004 – persistent organic pollutants;
- Regulation (EC) No 1907/2006 - REACH;
- Directive 96/59/EC – disposal of PCB/PCT

### **The Walloon Region:**

Acts regarding the production or handling of dangerous materials considered to be unlawful are mainly in the form of European regulations or directives.

Examples:

Regulation (EU) No 2017/852 of the European Parliament and of the Council of 17 May 2017 on *mercury*;

Regulation (EC) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on *fluorinated greenhouse gases*;

Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer;

Regulation (EU) 1069/2009 on animal by-products;

*Regulation* (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants;

*Regulation* (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (*REACH*);

Legislation on fireworks;

Directive 96/59/EC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT).

Certain requirements as regards production and handling are also laid down in specific regional legislation as well as in environmental licences.

Note: The same principles apply in the three regions.

Offences detected in connection with dangerous materials relate mainly to the requirements laid down in the environmental licences, i.e. adequate storage conditions, period inspection of contents, etc.

In Belgium the marketing of dangerous materials is the responsibility of the Health, Food Chain Safety and Environment FPS. If an offence under these legislative provisions is detected and no remedial measure is possible (upgrading, exports outside the EU, etc.), the products are regarded as waste. They must therefore be destroyed in the same way as dangerous waste, this process being a regional responsibility.

The Economy FPS for its part is responsible for the marketing of explosives precursors (Regulation (EU) No 98/2013). A telephone number is provided by the Federal Police for reporting fraudulent transactions that contravene the Regulation.

In Belgium the production of synthetic drugs mainly involves amphetamines, MDMA (active substance in ecstasy) and their precursors (basic substance of the drug in question: P2P for amphetamine, MDP2P for MDMA) from 'pre-precursors'. The illegal production of these synthetic drugs generates tremendous amounts of hazardous chemical waste (acids, bases, toxic substances of all kinds).

Such waste is generally abandoned or dumped on public thoroughfares or released into the environment. Between 2017 and the present there have been 22 recorded instances of illegally dumped waste (26 in 2016, 13 in 2015 and 22 in 2014), the majority in the provinces of Limburg and Antwerp.

Such dumping poses a danger to those involved, the population and the environment.

### 9.3. Procedural aspects

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

The transportation of dangerous materials to a safe place is the task of either Civil Protection or a specialised company. A specialised company is responsible for storage pending destruction and destruction.

In the event of judicial findings, dangerous objects and products are handled by the CRU, whose personnel are issued with appropriate protective equipment.

The costs of transporting, storing and destroying these waste products are borne by the administrative authorities, which are authorised to destroy such waste unless the perpetrator was known.

The costs of taking and analysing samples are borne by the judicial authorities as judicial costs of the investigation.

The samples taken of the substances are analysed either by the National Institute for Crime and Criminology (Institut National de Criminalistique et de Criminologie - INCC) or by another analytical laboratory, depending on the decision of the judicial authorities.

In 2016 the judicial authorities of the Province of Limburg enacted directives aimed at the judicial and police services and containing procedures to follow in the event of sites being discovered that are linked to the production of synthetic drugs, including dumping.

Jurisdiction over the marketing or use (public health protection) of a dangerous substance lies with the Health, Food Chain Safety and Environment FPS.

The circumstances under which dangerous materials are produced, used, handled and transported and the associated risks are a matter for the regional environmental authorities.

Where dumping is discovered, a central support unit (CRU: Clan lab Response Unit) is to be notified. Depending on the circumstances, the CRU visits the location to make the necessary findings, or goes later with the company specialising in the treatment of dangerous substances to which the objects and products discovered were transported.

A detailed inventory of all the objects discovered is compiled (together with a collection of photos). It is then forwarded by official report to the judicial authorities responsible for the investigation. Samples of the substances present are also taken for analysis.

Data relating to the dumping are systematically forwarded to Europol (AP Synergy).

Apart from the CRU's specialised interventions, the work of the Federal Police's scientific laboratories with this kind of crime is confined to photographing the locations and taking samples at the request of a magistrate or expert with a view to seizure and lodgement with the court registrar. This is done for the purpose of carrying out a conventional investigation to identify those responsible for a possible case of dumping or for a narcotics laboratory.

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

No practical experience.

### *9.3.3. Investigative techniques*

No relevant experience, but evidently there have been cases of Google searches to find internet market offers for collection, sale and take-back of waste.

Similarly, the internet is used to search for companies and persons but the information in question is available to any user.

Regarding the financial aspect, we sometimes cooperate with the finance and taxation inspectorates, as happens with any investigation. In some cases the financial flows actually make it possible to assess the scale of trafficking, the links with other persons or offenders and the profits.

As a general rule, financial investigations are launched following the discovery of a dumping only if at least one suspect has been identified. The purpose of the investigation is then to recover the assets illegally acquired through drug production.

#### *9.3.4. Main obstacles to successful investigations and prosecutions*

The greatest obstacle is the task of identifying the suspects or pinpointing the production sites.

Criminals often take advantage of their closeness to the borders (in this case the Belgian-Dutch border) to cover their tracks: waste from a production site in the Netherlands may for example be dumped in Belgium and vice versa.

International police and judicial cooperation involves lengthier and more cumbersome procedures, and the priorities in terms of investigation and prosecution are not always the same on both sides of the border.

As a result, prosecutions are brought only very rarely, and in the end it is society that will have to pay the costs of dismantling and the administration of justice.

The other major obstacles are:

- the human resources available;
- the training/proficiency of the officers;
- technical and IT resources;
- budgetary resources;
- legislation and, in particular, the cumbersome nature of police techniques: Example: the 'Salduz' hearings.

These obstacles apply to all types of investigation, not only those involving dangerous substances.

#### *9.3.5. Training*

The radiological and nuclear aspects have not been regionalised and remain federal competences.

Incidents involving dangerous materials are dealt with by the fire service and civil protection.

Incident-related investigations are conducted by the police and/or inspectors from the regional environmental authorities.

At present no specific training is provided for the inspection services in the conduct of investigations in the case of chemical or biological incidents.

The CRU regularly provides training or information sessions on synthetic drug production, production sites, the hazards involved, etc..

The Federal Criminal Police wishes to set up a Forensic CBRN Pool made up of members of local and central laboratories to take action in cases of environmental contamination but at present only in a terrorist context. They would perform their tasks solely for the purpose of recovering traces urgently required and essential for the investigation, cooperating on the ground not only with their partners from Civil Protection and Defence but also with those from the INCC and Defence as regards analyses. Procedures are currently being devised both for the collection of traces and the handling of traces found in contaminated environments. The Federal Police is intending to introduce an ISF project to develop expertise and organise training courses on the subject with its European partners.

#### 9.4. Conclusion

As everywhere in Europe, the great difficulty in being able to monitor certain chemical substances such as asbestos, lead and polychlorinated biphenyl (PCB) is acknowledged. Mention of the Belgian plan to eliminate components containing PCBs would seem more or less essential here.

A single institution (ONDRAF/NIRAS), which falls within the competence of the Belgian federal authorities, has been given the task of managing radioactive waste. Regarding asbestos, apart from the fact that it has to be seen as a serious problem affecting all Member States, over 200 Belgians are estimated to have died each year from mesothelioma (cancerous cells found in the thoracic or abdominal membranes) since 2006. While the authorities certainly appear to be sufficiently aware of the extent of this problem, the considerable threat that it poses to human health must be mentioned separately.

As far as lead is concerned, it should be borne in mind that nearly all electronic devices contain the substance and the problem is therefore one that is directly linked to those devices. In addition, certain old paints still to be found on walls contain lead, and detecting it presents a challenge.

To deal with this kind of problem, Belgium requires as a matter of good practice that all waste-related activities be declared and recorded. The legislation obliges waste producers to keep a 'waste register' which can contain information on the origin of the waste, its composition, quantity, method of processing, etc..

Apart from the shortage of staff, it is also necessary to emphasise that criminals take advantage of Belgium's geographical situation as a transit country and its closeness to the borders, which complicates matters even more.

## 10. CONCLUDING REMARKS AND RECOMMENDATIONS

### 10.1. Suggestions by Belgium

### 10.2. Recommendations

#### *10.2.1. Recommendations made to Belgium*

1. Find additional instruments to coordinate the National Security Plan and the zonal security plan.
2. Consider the possibility of improving the environmental crime statistics because the judicial figures do not adequately reflect the number of cases falling into this crime category.
3. Contemplate the possibility of allowing information to be shared where Article 44 of the Law on Policing forbids the police to share information with the competent national authorities.
4. Increase the number of staff of all competent services dealing with environmental crime.
5. Consider the possibility of the network of magistrates specialising in the environment meeting several times a year for more extensive information sharing.
6. Provide magistrates with more targeted training to give them greater technical proficiency in this area.

7. Consider the possibility of drawing up a blacklist of companies involved in illegal waste trafficking.
8. Taking the good cooperation with Go4circle as the model, consider the possibility of all regional administrations holding information exchanges with the private sector.
9. Invest in a single national contact point to represent all partners of the various regions and authorities of the Belgian federal state so that information is more easily available to all and so that the exchange of information at federal, regional and international level is facilitated by the fact that it goes through that single contact point.

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

These Belgian good practices, which have proved their effectiveness, could be extended to other Member States:

1. The existence of the network of magistrates specialising in environmental matters;
2. The high-quality work and proactive approach of the Federal Police's Central Environmental Service and customs;
3. The work of Go4circle, which maintains very good contacts with the regional administrations;
4. The 'ECO-form WASTE' data and statistics are sent to the administrative authorities, which may on the basis of these denunciations carry out checks or inspection measures;
5. The 'éco-diagnostic' tool is very useful in terms of combating environmental crime and provides an immediate response;

6. The system of administrative penalties which provides an immediate and effective response, together with the fact that the mayor can impose administrative measures on the basis of an officer's report;
7. The fact that the networks and European agencies IMPEL, ENVICRIME, ENPE and Europol work well together and are well represented in international fora;
8. The fact that the authorities which issue the ecological licence (OVAM) differ from the inspectorates (ED).

## **A. ANNEXE A: PROGRAMME DE LA VISITE SUR PLACE ET PERSONNES RENCONTRÉES**

### **Programme**

#### **Mardi 30 janvier 2018**

**10h:** Visite au "Comité de coordination de la politique internationale de l'environnement" (CCPIE), SPF santé publique, sécurité de la chaîne alimentaire et environnement (*Place Victor Horta 40, 1060 Bruxelles*).

Sujets:

- mot de bienvenue - Roland Moreau
- cadre institutionnel belge (État fédéral, compétences,...) – Denis Pohl
- La loi 'normes de produits' et Reach : un cadre pour la mise sur le marché, le contrôle et les sanctions des produits. – Christa Huygh
- Autres sujets d'attention en terme de criminalité environnementale : flore et faune sauvages, produits et qualité de l'air, etc... – Denis Pohl/Bruno Cachapa Bailarote
- rôle et interaction des acteurs au niveau belge (tour de table)

Participants :

- Représentants du CCPIE/SPF Environnement : Denis Pohl, Christa Huygh, Bruno Cachapa Bailarote, Roland Moreaux (Directeur général du CCPIE),
- Représentants des régions : Martine Blondeel (Flandre), Paul Cuypers (Flandre - membre du forum d'ECHA pour la Belgique et Président du Forum National Reach), Sylvie Hilgers (Wallonie), Christian Deladrière (Wallonie), Catherine Van Nieuwenhove (Bruxelles), Ruth Maertens (Bruxelles)
- SPF justice : Stéphanie Bosly
- [Administration générale des douanes et accises](#) : Vera Jansegers
- Police fédérale : Frans Geysels, Caroline Geerts

**12h30:** Lunch

**13.30-16.30h :** Présentation par la Région wallonne (Service public de Wallonie, département de la police et des contrôles) (*Place Victor Horta 40, 1060 Bruxelles*)

Sujets : législation + services d'inspection

Participants :

- Représentants de la région :
  - Christian Deladrière (Service public de Wallonie –Département de la Police et des Contrôles - attaché) ;
  - Sylvie HILGERS (Service public de Wallonie –Département de la Police et des Contrôles - attachée)

### **Mercredi 31 janvier 2018**

**09h30 - 12h :** Présentation par la Région flamande (Vlaamse Overheid, departement Omgeving, afdeling Handhaving (*Bâtiment IBGE, Tour & Taxis, [Avenue du Port 86C/3000 à 1000 Bruxelles, salle Capreolus \(5-9A\)](#)*))

Sujets : législation + services d'inspection

Participants :

- Représentants de la région :
  - Sigrid Raedschelders (hoofd afdeling handhaving);
  - Bart Palmans (themabeheerder afval en afvaltransport afdeling handhaving);
  - Lydia Putseys (OVAM)

**12h :** Lunch (*Bâtiment "Herman Teirlinck" de la Communauté flamande, [Avenue du Port 88, 1000 Bruxelles, local 1.26](#)*)

**13h00-14h30 :** Présentation par la région de Bruxelles-Capitale (Bruxelles Environnement-IBGE) (*Bâtiment IBGE, Tour & Taxis, [Avenue du Port 86C/3000 à 1000 Bruxelles](#)*)

Sujets : législation + services d'inspection

Participants :

- Représentants de la région :
  - Catherine Van Nieuwenhove (inspecteur – Bruxelles Environnement, IBGE, département inspection);
  - Ruth Maertens (juriste – Bruxelles Environnement, IBGE, département inspection);
  - Jonas Eylenbosch (inspecteur – Bruxelles Environnement, IBGE, département inspection)

**15h-16h30 :** Présentation par le secteur privé "Go 4 Circle" (société actives dans les secteurs des déchets et du recyclage)

Sujets : point de vue de la part du secteur privé

Participants :

- Pour Go 4 Circle : Werner Annaert (directeur général) ;

### **Jeudi 1<sup>er</sup> février 2018**

**9h30 :** Présentation par le service public fédéral Finances – Douanes et Accises

Présentation par la police fédérale, police judiciaire fédérale, DJSOC, Environnement (*bâtiment de la police fédérale "RAC", Rue Royale 202A, 1000 Bruxelles*)

Sujet : Présentations et démonstration des compétences et du fonctionnement de l'administration des douanes et accises ainsi que de la police fédérale dans le cadre de la lutte contre la criminalité environnementale

Participants :

- Douanes et accises : Vera Jansegers, conseiller au SPF (Service public fédéral) finances ;
- Police fédérale: Frans Geysels (commissaire divisionnaire à la police fédérale, DJSOC, service central environnement)

**12h :** Lunch

**13h-16h** : Présentation par le pouvoir judiciaire (*RAC, Rue Royale 202A, 1000 Bruxelles*)

Sujets : Fonctionnement et approche du parquet (ministère public) + rôle du réseau d'expertise + point de vue d'un juge dans le cadre de la lutte contre la criminalité environnementale

Participants :

- Réseau d'expertise 'criminalité environnementale' du Collège des procureurs généraux:
  - Jan De Clercq (avocat-général auprès du parquet-général de Gand)
  - Jean-Noël Kraewinkels (substitut du procureur-général auprès du parquet-général de Liège)
- Tribunal de 1<sup>ère</sup> instance de Gand : Jan Van den Berghe (juge)

### **Vendredi 2 février 2018**

**09h-12h** : Visite au VHRM (Vlaamse Hoge Handhavingsraad voor Ruimte en Milieu)

(Bâtiment "Herman Teirlinck" de la communauté flamande, [Avenue du Port 88, 1000 Bruxelles, local 00.48](#))

Sujets: Coordination dans le cadre de la lutte contre la criminalité environnementale (bonnes pratiques : VHRM et COWSR), débat général, questions – réponses

Participants :

- Pour le VHRM : présentation par Michael Faure (président)
- Pour le groupe de travail COWSR : présentation par Sylvie Hilgers (Région wallonne)

**12h-13h** : Lunch (*Bâtiment "Herman Teirlinck" de la Communauté flamande, [Avenue du Port 88, 1000 Bruxelles, local 1.26](#)*)

**B. ANNEXE B: LISTE DES ABRÉVIATIONS/GLOSSAIRE DES TERMES UTILISÉS**

AINP	Aspirants inspecteurs de police
APJ	Agent de police judiciaire
ANPR	Automatic Number Plate Recognition (reconnaissance automatique des plaques minéralogiques)
BNG	Banque nationale de données policières
CIA	Carrefour d'information d'arrondissement
CRU	Clan lab Response Unit
DEEE / D3E	Déchet d'équipement électronique ou électrique
DGA	Direction générale de la police administrative
DGJ	Direction générale de la police judiciaire
DirCo	Directeur Coordinateur (police fédérale, au sein de l'arrondissement)
DirJu	Directeur judiciaire (police fédérale, au sein de l'arrondissement)
EMD / EFA	Eco Message Déchets / Eco-Formulier Afval
LFP	Loi sur la Fonction de police
NCSI	Note-Cadre de Sécurité Intégrale
OPJ	Officier de police judiciaire
PJF	Police judiciaire fédérale
PNS	Plan national de sécurité
PWC	Plan zonal de sécurité
RIR	Rapport d'informations judiciaires
SCZ	Service central environnement (Police fédérale / DGJ / DJSOC / Environnement)
SICAD	Service d'information et de communication d'arrondissement
SPC	Spoorweg Politie / Police des chemins de fer
SPF	Service public fédéral

SPF SPSCAE	SPF Santé publique, sécurité de la chaîne alimentaire et environnement
SPN	Scheepvaart Politie / Police de la navigation
TTD	Transferts transfrontaliers de déchets
VHRM	Vlaamse Hoge Handhavingsraad voor Ruimte en Milieu (département de l'environnement et du développement spatial du gouvernement flamand)
VHU	Véhicules hors d'usage
WPR	WegPolitie / Police de la route
WSR	Waste Shipment Reporting

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