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NOTE

From: Estonian Delegation
To: Delegations

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

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

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

Delegations will find in the Annex the follow-up report of Estonia regarding the recommendations that were made in the report ST 6767/1/2019 REV 1 for the Eighth Round of Mutual Evaluations.

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

FOLLOW-UP TO REPORT ON ESTONIA

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

The evaluation report on Estonia as set out in doc. 6767/1/2019 REV 1, was adopted by the LEWP/COPEN WP on 19/03/2019.

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

Recommendation n. 1

1. consider prioritising the prevention of and the fight against environmental crime at central level e.g. by developing a holistic approach involving all relevant bodies involved in environmental issues which could be achieved e.g. by developing a national strategy and/or by establishing a national forum/working group to discuss and coordinate common efforts on environmental security; (cf. 3.1 and 3.6)

Actions taken :

The Parliament of Estonia (Riigikogu) adopted on 12.11.2020 “The Foundations of the Criminal Policy until 2020” (State Gazette RT III, 13.11.2020, 6). According to its section 4.3. environmental crimes are considered as a priority. It is important to take measures related to both the prevention and detection of environmental crimes as well as set more detailed priorities on environmental crime.

On 14.04.2020 Minister of Justice, Minister of Interior and Minister of Environment signed a joint declaration on priorities related to environmental crimes. All ministers agreed that it was important to consider fight against environmental crime as one of the priorities of criminal policy and cooperate in the area of strengthening measures related fight against environmental crime.

The authorities have also prepared a joint declaration and action plan to implement criminal policy priorities.

Recommendation n. 2

2. enhance the collection of comprehensive statistics in order to obtain an integrated and overall picture of the phenomenon of environmental crime, in particular waste crime, e.g. by gathering relevant figures enabling it to follow the development of cases at all stages of the proceedings, be they criminal or administrative; (cf. 3.3.2 and 3.6)

Actions taken :

The Environment Board creates every year a consolidated report on breaches of environmental regulations, damages, offences and administrative proceedings as well as on inspections that have been carried out.

Recommendation n. 3

3. look into environmental crime from a broader perspective and also focus on the economic and financial aspects of this type of criminality, and use other methods of classifying the entire chain of actions performed by alleged perpetrators, e.g. by checking links with organised crime or other fraudulent activities; (cf. 3.6, 4.4.2, 4.6 and 5.5).

At the level of Central Criminal Police there are also activities taking place related to mapping of threats and creation of situation reports, including on organized crime, serious economical crime and their links to environmental crime. Crime trends are being monitored and accordingly resources are being planned, if necessary together with the Environmental Board.

Actions taken :

Meetings of the Prosecutor General's Office and Central Criminal Police take place to discuss and analyse cases. A multilateral agreement is planned between Police and Border Guard Board, Prosecutor's Office and Environmental Board to facilitate cooperation, including in the area of surveillance activities and related needs.

Recommendation n. 4

4. consider increasing the level of specialisation of prosecutors, e.g. by providing them with more training; (cf. 4.1.1, 4.1.2, 4.5 and 4.6)

Actions taken:

Traditional annual roundtable meetings are continued to discuss problems related to detection and investigations of environmental crimes. These meetings are attended by both investigators and prosecutors.

Prosecutors dealing with environmental crime investigations have been offered relevant trainings by CEPOL.

The Prosecutor's Office has also joined the programs by ERA and EJTN. Within these programs also international trainings on fight against environmental crime have been conducted. The Prosecutor's Office participates also at annual meetings of environmental crime prosecutors of Baltic Sea states and exchange information with neighbouring countries.

Recommendation n. 5

5. establish a way to encourage judges to be more involved in activities focused on environmental crime at national and international level (e.g. EUFJE) and to offer them opportunities to increase their knowledge by undergoing more frequent training; (cf. 4.1.1, 4.5, 4.6 and 6.2.2 and 6.5)

Actions taken :

Both the training boards of the Prosecutor's Office and courts have regular meetings and thematic trainings are being planned jointly.

Recommendation n. 6

6. consider providing environmental investigators with a full range of powers, comparable to those of police investigators, in respect of detecting and investigating environmental crime; (cf. 4.2.1, 4.2.2 and 4.6)

Actions taken:

The Ministry of Environment has proposed on 24.09.2019 the Ministry of Justice suggestions related to amendments of the Code of Criminal Procedure and provide additional powers to Environmental Board to conduct surveillance activities. At the moment these proposals haven't been agreed as further analysis and consultations would be needed.

Meetings between Ministers of Justice, Interior and Environment took place in 14.04.2020 and 05.05.2020 and decision was made to strengthen the cooperation between Police and Border Guard Board and Environmental Board in the area of conducting surveillance activities.

As of now the Environmental Board has created a post of additional investigator since III quarter of 2020. Additional multilateral cooperation agreement on surveillance activities' needs has been envisaged between the Prosecutor's Office, Police and Border Guard Board and Environmental Board.

Recommendation n. 7

7. be encouraged to maintain the functionality of the current Environmental Inspectorate (EI) to ensure that its tasks are conducted in the future; (cf. 4.2.1, 4.6, 7.1.1, 7.2.1 and 7.3)

Actions taken:

On 01.01.2021 the merger of Environmental Inspectorate and Environmental Board was completed. The new organization guarantees also the independence of state supervision and pre-trial investigation as these functions have been allocated in different units. In addition the investigation department has received additional post in order to ensure more effective investigations.

Recommendation n. 8

8. make better use of the existing capacity of the police and customs in relation to intelligence-led policing, by sharing information with the EI on alleged environmental crime, in particular waste crime; (cf. 4.4.1, 4.4.2 and 4.6)

Actions taken:

There are regular communications and exchange of information between regional units of the police and Central Criminal Police. There is also cooperation with the Customs and Tax Board with whom a cooperation agreement has been envisaged.

Recommendation n. 9

9. better delineate between criminal offences and misdemeanours, and work on the terms/constituent elements of crimes to be defined by laws or specified in binding or non-binding instruments (e.g. in Article 363 through 368 - significant quantities and threats to the environment); (cf. 5.1.1 and 5.5)

Actions taken:

The Ministry of Environment has proposed on 24.09.2019 the Ministry of Justice to amend the Penal Code Articles related to environmental crimes and increase the threshold of the several offences and include „significant amount“ as one of the elements of the offence. At the moment the Penal Code hasn't been changed. One of the main reasons has been the discussion on new Directive which could hopefully add more legal clarity and could be used as a guidance to shape domestic legislation.

There are also plans to amend the Waste Act and provide more detailed regulation on damages caused to environment.

Recommendation n. 10

10. consider reviewing the criminal law and, specifically, those provisions dedicated to the fight against environmental crime, in particular waste crime, to allow for more efficient detection, investigation and prosecution of environmental crime (waste crime is not listed in the catalogue for surveillance and the EUR 4 000 threshold which hampers the fight against environmental crime should be reconsidered); (cf. 5.1.1, 5.1.2 and 5.5).

Actions taken:

There have been discussions between the Ministry of Environment and Ministry of Justice related to expand the catalogue of criminal offences for which surveillance activities can be conducted.

Ministry of Justice has agreed to expand the catalogue and include there also criminal offences related to activities without environmental license as well as violations of cross-border waste transport regulations.

Amendments to the Code of Criminal Procedure have been prepared and submitted to the Parliament.

Recommendation n. 11

11. be encouraged to strengthen cooperation with third countries to improve its capacity to combat the illegal shipment of waste; (cf. 7.1.3, 7.2.2, 7.2.4 and 7.3)

Actions taken:

Estonia will continue participation in different international cooperation formats, including the initiatives taken by Europol and Interpol. Estonia cooperates also with its neighbouring countries. For instance, a JIT agreement has been concluded with Finland.

Recommendation n. 12

12. consider strengthening its capacity to detect and fight against the illegal management of dangerous substances, e.g. by dedicating special legislation to this area and expanding the training opportunities available to practitioners; (cf. 9.1, 9.2, 9.3.5 and 9.4)

Actions taken:

Estonian authorities continue to participate at trainings organized by CEPOL. In addition Estonia continues participation at different sectoral joint LEA operations, including related to G-gases.

(poss.) GENERAL REMARKS
