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## Introduction

Environmental crime damages and endangers biodiversity, ecosystems, human health, tax revenues, competitiveness, social cohesion and the economy in general. Its victims are not only those directly affected by this type of crime, but society as a whole. The effects of environmental crime are felt in the present and also have a long-term impact on future generations.

In the EU, preventing and combating environmental crime is a top priority linked to the European Green Deal, some of whose pillars are protecting our biodiversity and ecosystems, improving waste management, or reducing pollution.

Environmental crimes are illegal activities that harm the environment by exploiting, damaging, trafficking or stealing natural resources. They cover a wide range of criminal activities, including illegal trade and waste dumping (including hazardous substances), illegal trade in wildlife, serious illegal pollution, illegal, unreported and unregulated fishing and trade in timber, the illegal extraction of minerals, crimes related to greenhouse gases and energy certificates, etc. Obviously not every breach of environmental law can be considered a criminal offence but only those that cause significant damage or risk in line with criminal law as a last resort.

Considering the profits that it generates, environmental crime is the fourth largest criminal activity worldwide, only after drug trafficking, counterfeiting and people trafficking. Its growth rate varies between 5% and 7% per year. In 2016, the global economic damage caused by environmental crime was valued at between EUR 76 billion and EUR 218 billion and, since then, has continued to increase. In 2019, the World Bank assessed that the global annual economic loss from wildlife trafficking, illegal logging and fishing reached USD 1-2 trillion. In the European Union, it is estimated that annual profit is between EUR 4 billion and EUR 15 billion for the illicit waste market alone.

### **Tracking environmental crime**

From a law enforcement perspective, it should be a cause for concern that a criminal activity that generates so much profit is at the same time particularly difficult to detect, investigate and prosecute, and often goes unpunished. This explains the increasing involvement of organised crime gangs in this type of crime: there is a low risk of detection, an even lower risk of prosecution and penalties, and the returns are high.

There are many reasons behind the lack of effective detection, investigation and enforcement of environmental crime, including the existence of multiple sectors with different regulations, which are often very technically complex and require all kinds of specialised resources to deal with the problem. In fact, a major problem is the lack of necessary resources – human, technical and forensic – to effectively handle law enforcement investigations (and prosecutions) throughout the criminal chain, a problem which also affects inspections aimed at compliance with the extensive administrative regulations covering multiple different sectors.

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Historically, environmental crimes have caused less social alarm than other types of traditional crimes whose direct and immediate impact on individuals is perceived with greater concern because of the violence involved or their direct effects on property or individual rights. This may explain the low level of penalties usually associated with environmental crime. One of the conclusions of the evaluation on the implementation of the EU Environmental Crime Directive<sup>1</sup> was that the penalties imposed were not sufficiently dissuasive. The same applies to environmental criminal law in the vast majority of Member States. However, Europeans' awareness and concern about the environment is growing, as is the political priority of this area on both European and Member States' agendas<sup>2</sup>.

The combination of a number of factors, such as the high economic return of these offences, the low rate of detection and prosecution and the low level of criminal sanctions, make this lucrative and fast-developing criminal activity increasingly attractive to criminal organisations. However, proving the link between criminal organisations and this type of crime and dismantling them remains a major challenge in Europe. To meet this challenge, financial investigations must be carried out systematically and in parallel with the investigation of these crimes and their perpetrators, in order to recover criminal assets and disrupt the criminal networks involved, as well as making it possible for perpetrators to assume civil liability by repairing the environmental damage caused.

Some environmental crimes are committed through legitimate companies and businesses that later disappear or undergo corporate changes, or are linked to straw persons, which complicates investigations. In some cases, different companies are involved in the same crime, operating from different jurisdictions with the aim of making enforcement more difficult. Paradoxically, organised crime may be benefiting from the ecological transition and the green economy, as criminals are increasingly looking to infiltrate and exploit recycling and renewable energy industries, which are set to grow substantially and attract both private sector investment and public funding.

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<sup>1</sup> EU Directive 2008/99/EC on the protection of the environment through criminal law.

<sup>2</sup> 94% of citizens in all EU Member States say that protecting the environment is important to them, with over half rating it as very important. Over three-quarters agree that environmental issues have a direct effect on their daily life and health. European legislation is necessary to protect the environment, according to 83% of those surveyed (Eurobarometer Survey, March 2020). Nearly nine out of ten Europeans (87%) agree that tackling climate change and environmental issues should be a priority to improve public health (Special Eurobarometer on Climate Change, March-April 2021).

These are crimes that almost never occur in isolation but are linked to other types of crime, such as document fraud, tax evasion, corruption, money laundering or fraud. The dumping of waste from the production of illicit drugs, especially synthetic drugs and their derivatives, should be highlighted, without forgetting the environmental damage caused by other drugs<sup>3</sup>.

## **EU initiatives and international cooperation**

Europol's EU SOCTA 2021 highlights two specific environmental crimes: waste and pollution crime and wildlife crime. Within the EU, waste is trafficked from Western Europe to Central and Eastern Europe, and outside the EU, plastic waste and end-of-life ships are trafficked to Southeast Asia, and electrical and electronic waste to Africa. As stricter regulatory frameworks make lawful waste processing more complex and expensive, an ever-stronger demand for waste management services creates a market for illicit waste disposal offered by criminals at lower prices.

The EU operates as a hub for illegal wildlife trade, much of which takes place online, and is a major destination for trade in protected species and a source for trade to other regions of the world. Endemic and non-CITES<sup>4</sup> species are being increasingly trafficked to circumvent current international legislative frameworks, especially birds (parrots fetch very high prices), big cats and exotic reptiles. Wildlife traffickers also benefit from a low level of cooperation between source and destination countries. Owing to the risk of disease transmission, these crimes threaten the planet's biodiversity, endangered species and in many cases human health.

The European Multidisciplinary Platform Against Criminal Threats (EMPACT) lists environmental crime as one of its priorities (the first operational action plan in 2014), demonstrating the political priority of environmental crime in the European Union. This also had the effect of triggering the active work of Europol, which is proving essential both operationally and in terms of boosting information exchange and intelligence generation. In 2022, the implementation of EMPACT's environmental crime operational action plan resulted in 6 440 inspections and controls and 234 criminal investigations, leading to 401 arrests and the seizure of EUR 15 million worth of assets.

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<sup>3</sup> Cocaine production releases 8.9 million tonnes of CO<sub>2</sub> into the atmosphere each year, equivalent to the emissions of 1.9 million cars.

<sup>4</sup> The Convention on International Trade in Endangered Species of Wild Fauna and Flora entered into force in 1975.

Cooperation, both within the EU and at international level, needs to be significantly enhanced by strengthening the capacity of the countries of greatest interest as well as relations with relevant actors along the international trade supply chain. A number of these crimes, such as illegal logging and related trade in timber or illegal waste trafficking, have become serious threats to the security, stability, economy, natural and cultural heritage and livelihoods of the affected communities. In order to promote international cooperation, it would be very useful to have focal points within Member States to facilitate information exchange and cooperation, which is particularly relevant in a complex and growing field that involves so many sectors, agencies and entities. It is also necessary for Member States to regularly report on investigations to Europol, Eurojust, Interpol, OLAF or any relevant international agency, not only for the benefit of the criminal investigation itself, but also to improve intelligence in this area of crime.

Cooperation with Latin America<sup>5</sup>, Asia and Africa are paramount. This has led to the creation of the JAGUAR Network (Network of Police Specialised in Environmental Crime in Latin America and the European Union) in 2019 in the framework of EL PAcCTO, composed of police officers specialised in environmental crime whose purpose is to facilitate the coordination and exchange of information, intelligence and best practices between the EU and Latin America. The LIFE SATEC Project promotes networking between units specialised in environmental crime in Europe and Latin America by pooling the knowledge and experience of professionals from the EnviCrimeNet (European Network for Environmental Crime) and JAGUAR networks. Moreover, EMPACT is currently working on two operational actions to foster the creation of two networks with Asia **DELETED** and Africa **DELETED**.

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<sup>5</sup> Latin America hosts 40% of the world's biodiversity and about 25% of the world's endangered species.

## EU legal framework

Growing societal concern, together with the need to adapt the 2008 EU Directive on environmental crime to the enormous evolution of the environmental legal framework by adding new categories of offences and to address the problem of its poor practical application has led to a new proposal for a directive (in December 2021) to replace the current directive, now under interinstitutional negotiation. This legal proposal brings new environmental sectors into its scope and introduces new categories of offences,<sup>6</sup> clarifies key legal definitions that leave too much room for interpretation under the current directive (such as the concept of 'substantial damage'), defines sanction types and sanction levels and includes provisions on aggravating circumstances to ensure more effective sanctioning, taking into account the links with organised crime and the obstruction of inspection and enforcement activities. Furthermore, the future legal framework is expected to improve intelligence on environmental crime with a new reporting mechanism that will strengthen the collection and sharing of data in all Member States.

In addition to the need to strengthen the enforcement chain, including inspection, police, customs and the judiciary, as well as the need for specialisation, training and the establishment of dedicated police units, there are many other challenges currently posed by environmental crime.

The large number of different sectors makes it difficult to achieve a more coherent legal framework in Europe<sup>7</sup> in order to prevent criminals from exploiting loopholes and inconsistencies; the coherence of administrative and criminal law which should be used in synergy; the adoption and implementation of national strategies against environmental crime, accompanied by a reporting mechanism, as foreseen in the new proposed EU directive; systematic data collection, as this area is not only under-investigated but also under-reported, making it difficult to compile statistics and have a complete and precise picture of the intelligence; cooperation with the private sector, which is essential for this type of crime as it is often committed by private companies or through them, together with the use of the administrative approach; or the incorporation of innovation and advanced forensic tools to respond to increasingly sophisticated crimes.

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<sup>6</sup> Other offences include the illegal timber trade, illegal ship recycling, illegal water abstraction, a serious breach of EU chemicals legislation, serious breaches of rules on the introduction and spread of invasive alien species with Union concern or crimes related to fluorinated greenhouse gases.

<sup>7</sup> The current EU Directive on environmental crime stipulates the criminalisation of serious violations of 72 environmental pieces of legislation.

## Conclusion

It is time to resolutely address all these challenges, both in the Member States and in the EU, in order to help ensure general compliance with environmental legislation. We should place the fight against environmental crime among the core activities of law enforcement to help preserve our planet and not jeopardise its future.

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