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**NOTE**

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From: Croatian Delegation  
To: Delegations

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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 Croatia

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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 Croatia regarding the recommendations that were made in the report ST 9178/1/19 REV1 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 CROATIA**

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 Croatia as set out in doc. ST 9178/1/19 REV 1, was adopted by the LEWP/COPEN WP on 14.06.2019.

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

***Recommendations to Croatia:***

***1. Waste crime should be clearly identified as a national priority at political level, leading to the establishment of a national enforcement strategy involving all relevant authorities.***

In 2017, the Croatian Parliament adopted *Nature Protection Strategy and Action Plan for the period 2017-2025*. The document stressed the importance of the *National Waste Management Plan for the period 2017-2022*, and was adopted based upon the Sustainable Waste Management Act.

The same year saw the adoption of the *Strategic Plan of the Ministry of the Interior and Protection and Rescue Institutions for the period 2018-2020* defining the scope of these authorities as activities of maintaining the public order and safety. Public safety issues are punishable behaviors (criminal offenses, misdemeanors...), natural and technical and technological accidents and disasters (fires, extreme weather events, *environmental pollution*, epidemics, terrorism, war etc.) threatening life, personal integrity, property, economy and democratic society values, with harmful, tragic or disastrous consequences.

Although there is no separate strategy or action plan explicitly identifying environmental crimes as national priority, extensive application of provisions set out in the above mentioned documents comprises environmental crimes in its entirety, including waste-related crimes.

It is important to note that at national level, representatives of the then Ministry of Environmental Protection and Energy, Ministry of Finance and Ministry of the Interior signed an *Agreement on cooperation in exercising control of the movement of transboundary shipments of waste* in 2016. The objective of the Agreement was to strengthen the cooperation between all the relevant authorities involving enforcement of law related to the control of waste shipments movement.

***2. The issue of specific funding and a budget to tackle waste crime, including an increase in human resources and trained expert inspectors in the field, should be addressed.***

Law enforcement authorities are direct beneficiaries of the Croatian state budget funds. The State Budget Act provides for a balanced budget, meaning that revenue and income must be proportionate to expenditure and expenses. The state budget is adopted by a representative body, which is the Croatian Parliament, at proposal of the finance minister.

Financial funds planned for the suppression of crimes against the environment fall into the category of general funds budgeted to activities performed by the law enforcement authorities.

***3. Formal inter-ministerial cooperation should also involve officials from the Ministry of Justice, prosecutors and judges, none of whom have been involved to date.***

The formal cooperation with the Ministry of Justice has not produced possible solutions that would include judges. It is important to note the independence of judges, which is guaranteed by the Constitution. Not less important are formal obstacles, impeding designation of judges specialized for environmental cases. This is due to a random system of assigning cases to judges. Based upon the Courts Act, the Rules on the work with e-File system were adopted, providing for a uniform information system for the management of and the work with judicial cases. The system involves standard applications, computer and telecommunications equipment and infrastructure, system program equipment and tools, as well as all the data entered, stored and transferred via the system from all types of registers at municipal, county and commercial courts, High Commercial Court and the Supreme Court of the Republic of Croatia.

On the other hand, during the evaluation, formal cooperation was established with the State Attorney's Office of the Republic of Croatia, whose representatives were directly involved in the evaluation. Please note that the State Attorney's Office and the Judicial Academy of Croatia, among others, participate as partners to the WWF Adria in the project dubbed LIFE Successful Wildlife Crime Prosecution in Europe (SWiPE) within the LIFE 2014-2020 Program since the 2019 call for proposals. The project was approved by the European Commission and the initial project activities are ongoing and lasting until 2023. The objective of the Project is strengthening capacities in the suppression of environmental crimes (illegal trafficking, logging, hunting and fishing, poisoning and destruction of wildlife habitats) and a more effective prosecution. The Project coordinator is the WWF Bulgaria with participation of a dozen associated beneficiaries from 12 countries (BG, RO, HU, SK, UA, HR, B&H, RS, BE, PL, IT, ES). The WWF Adria represents Croatian beneficiaries.

Although not strictly dealing with the specialized topic of illegal trafficking in waste and/or illegal production or handling of hazardous waste, planned project activities did address these two topics as well.

Specifically, these planned project activities refer to establishing visible points of contact between specialized state attorneys within the existing state attorney structure, and representatives of units of all the authorities involved in detection and suppression of environmental crime. These points of contact within the existing structure, i.e. the specialized centers, would be established in the territory of the Republic of Croatia, taking into account the diversity of types of environmental crimes and their related specifics, in order to successfully detect and prosecute these criminal offenses, while acquiring knowledge on how to differ criminal offense from mere misdemeanors, which would result in larger numbers of criminal reports and cases solved.

The intended establishment of visible and specialized points of contact within the State Attorney's Office regarding environmental crimes, together with specialized teams within the existing structures of detection authorities, is the precondition for strengthening inter-ministerial cooperation in investigating and prosecuting environmental crime, which we believe will promote the development of best practices in the field of the suppression of environmental crime.

***4. Statistics should be improved by working on a centralised method for collecting systematic, reliable and updated statistics, showing the number of notifications, investigations, prosecutions and convictions.***

Differences in competences and assigning authorizations for collection, assessment, storage, processing and use of data within different law enforcement authorities, as well as differences in statistics processing methodologies and monitoring parameters do not allow for a centralized method of collecting systematic, reliable and updated statistics. Methodologies for displaying statistical data are subject to specific needs of each law enforcement authority involved, and is directed at satisfying their particular needs and enhancing their specific performance.

## ***5. The distinction between crimes and misdemeanours should be better defined.***

We believe that no additional definition of the difference between the criminal offense and misdemeanor is necessary beyond the following:

Chapter XX of the Croatian Criminal Code is entitled “Criminal offenses against the environment”. Its Article 196(1), defines the criminal offense of “Endangerment of the environment with waste”, and incriminates the behavior of whoever, contrary to regulations, in a single shipment or in several shipments which appear to be linked, undertakes illicit movement of waste in a non-negligible quantity. The provision was introduced to transpose Article 3(c) of the Directive 2008/99/EC. Illegal shipment is the one contrary to the Regulation on the control of transboundary movements of wastes, and Regulation (EC) No 1013/2006 and its amendments. The quantity of waste has to be non-negligible, which may be executed in a single shipment or in several shipments which appear to be linked. The Waste Catalog Ordinance, adopted on the basis of the Sustainable Waste Management Act, defines that a negligible quantity of certain waste depends upon the property of the substance contained in the waste, but in any case is less than 1 000 kg of hazardous waste or 10 000 kg of non-hazardous waste.

Furthermore, Article 196(2) of the Croatian Criminal Code also incriminates the behavior of “whoever, contrary to regulations, discards, disposes of, collects, stores, processes, imports, exports or transports waste, or mediates in such an activity, or in general manages or handles waste in a manner that can over longer period of time or to a considerable degree jeopardize the quality of air, soil, underground, water or sea, or to a considerable degree or over a wider area jeopardizes animals, plants or fungi, or the lives or health of people”. Thus, the behavior resulting in abstract endangerment of the environment (the so-called “crime of aptitude”) is incriminated. This is the highest degree of protection in terms of protecting the environment (eco-centric concept). To prove a case is far easier since it is sufficient to prove the possibility of endangering the environment, people or biological world, without having to prove that the direct endangerment occurred.

Following the input made by the Customs Administration in the course of the evaluation, with regards to treating illicit behaviors as misdemeanors, on 16 May 2019, the Customs Administration adopted a mandatory order to take action, stressing the obligation to file a criminal report based upon reasonable suspicion that a crime has been committed, which is the lowermost level of doubt.

***6. In any case, for all cases of non-compliance detected, regardless of quantity, inspectors should contact the Public Prosecutor's Office in order to clarify whether non-compliance should be addressed as a misdemeanour or as a criminal offence.***

In view of the previously submitted report (under recommendation 5), although the law clearly defines cases of criminal offenses and those of misdemeanors, the current tendency is to file a criminal report and notify the competent first-instance State Attorney's Office.

***7. Croatia should also enhance the ability to analyse and 'analyse and plot trends in data and statistic and track the illegal movement of waste inside and outside the state.***

Prompted by conclusions made at operational meetings of the law enforcement authorities, the plan is to create an application for mutual exchange of information on events, including criminal offenses and misdemeanors against the environment, between all of the enforcement authorities. The application should also preferably involve data mapping with spatial data management and related features.

***8. General awareness of damage and dangers caused to the environment should be raised within all the institutions.***

Raising awareness of the effects, harmfulness and imminent threats resulting from environmental crimes is a lengthy process. Continued communication and operational meetings between the stakeholders involved in the suppression of environmental crimes aims to level up awareness, which would lead to strict compliance with the law and activities performed only within statutory and mandated powers. Within the operational cooperation in the suppression of environmental crimes, the intention is also to launch public campaigns whose basic task will be to raise awareness among citizens as well.

***9. It is recommended that all the relevant actors take a more proactive approach in order to increase the number of investigations and prosecutions and achieve a higher sentencing rate.***

A more proactive approach aiming at increasing numbers of investigations and prosecutions, as well as at improving communication between the law enforcement authorities resulted indeed in greater numbers of criminal reports having been filed in 2020. In eleven months of 2020, a total of 12 criminal reports were filed against perpetrators of the criminal offense of “endangerment of the environment with waste” while 2018 saw only 3 such reports – a significant increase. Also, please note that there are several ongoing criminal investigations that have been conducted for over a year due to their complexity.

***10. Croatia should enhance the expertise of all relevant actors (police, customs, Public Prosecutor's Offices and judges), including though focus-oriented training and joint training courses.***

The control of transboundary movements of waste in the Republic of Croatia is conducted by environmental protection inspectors of the State Inspectorate, authorized officers of the Ministry of Finance’s Customs Administration and police officers of the Ministry of the Interior. Environmental protection inspectors and representatives of the Customs and the Police participated in the IPA 2009 Project “Strengthening the capacities for control of transboundary movement of waste”. The Project outcomes were used in exercising the control, as well as for drafting Guidelines on activities of environmental protection inspectors in the control of transboundary movement of waste. The State Inspectorate the document on 31 March 2020. The Guidelines were sent to all inspectors involved in the control of transboundary movement of waste in Croatia, and now serves as a tool for the implementation of the control.



The Police Academy planned for education and training programs, specialization and professional training courses in 2020. It included a specialized training course “Criminal investigation of environmental crimes” to be conducted every year where both lecturers and trainees would be recruited from representatives of Environmental protection inspection, nature protection inspection, the Customs Administration and the State Attorney’s Office. Within the framework of the scientific research and professional cooperation with home and foreign institutions and organizations, the Police College Research Center was to organize several round tables aiming at improving expertise of all relevant stakeholders. Unfortunately, due to the SARS-CoV-2 disease (COVID-19) and the consequences of the strong earthquake in Zagreb, completely devastating the Police College building, which was supposed to host the courses, it was not possible for the specialized training courses or the round table lectures to be held. Instead, they have been rescheduled to take place in 2021.

For the purposes of the above mentioned training courses and subsequent use in business processes in 2020, the General Police Directorate published 1,000 pocket handbooks entitled “Control of transboundary movements of waste”, which was originally published for the IPA 2009 Twinning Project “Strengthening the capacities for control of transboundary movement of waste”.

***11. It is recommended that waste crime specialist teams be set up within all the relevant stakeholder departments.***

Appreciating the recommendation for such specialist teams within all the relevant stakeholder departments, while being aware of the issues posed by environmental crimes, the plans are made for the following period to establish teams through sub-specialization of specialists where environmental crimes would be only one area of expertise within activities and framework of crimes in correlation with environmental ones.

In addition, the need for further active approach in the field of environmental protection calls for future reorganization in the law enforcement, which would involve establishment of specialized units. However, since such comprehensive and purposeful reorganization requires much more time than currently available, for now it is not possible to directly meet this recommendation.

***12. Croatia should increase cooperation among all stakeholders responsible for the recognition, detection, investigation, prosecution and sentencing of environmental crime.***

In order to facilitate the compliance with Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste (OJ L 190/1, 12.7.2006) to be implemented with Commission Regulation (EU) No 255/2013 amending, for the purposes of adaptation to scientific and technical progress, Annexes IC, VII and VIII to Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste (OJ L 79, 21.3.2013), as well as to prevent illegal shipments of waste, the Agreement on cooperation in exercising control of the movement of transboundary shipments of waste was signed.

The Agreement provides for environmental protection inspectors, in cooperation with the officers of the Customs Administration within the Ministry of Finance and of the Border Police Directorate of the Ministry of the Interior, exercising the control of shipments of waste at waste management facilities, as well as in ports, railroad stations, roads and external and internal borders.

The basis for this cooperation between the above mentioned inspectors and officers was formed during the IMPEL-TFS Project – Verification 2, and the IPA 2009 Twinning Project “Strengthening the capacities for control of transboundary movement of waste”.

The cooperation and involvement of all of the above mentioned participants in 2020 resulted in 97 illegal shipments of waste having been detected through search of vehicles and containers at the Croatian border crossing points. All the relevant stakeholders involved in the control of transboundary movement of waste shipments in Croatia are conducting further inquiries and evidence collecting actions regarding the shipments.

***13. It is recommended that efforts should focus on intelligence-gathering regarding environmental crime or waste crime.***

Following the answer to the previous recommendation, please note that in addition to the mutual cooperation dating back to 2009, it was precisely through the Eighth round of mutual evaluations that practical implementation of European policies in prevention and suppression of environmental crimes was used for immediate improvement of the cooperation among all stakeholders. This resulted in the increase of detected illegal shipments of waste in 2019 and 2020. The intelligence gathered is exchanged directly via electronic mail or through regular operational meetings held at weekly or monthly basis.

***14. It is recommended that the police be empowered by law to carry out inspections on waste shipments transported by road, waterborne shipments and waste management facilities, without needing specific suspicious grounds in order to do so.***

The Sustainable Waste Management Act defines measures for the prevention or reduction of adverse effects of waste on human health and the environment in a way that reduces the amount of waste in generation and/or production of waste. It also provides for waste management without the use of procedures posing threat to human health and the environment while using valuable properties of the waste. Furthermore, the Act establishes a waste management system including the order of priority of waste management, principles, objectives and methods of management of waste, strategic and program documents in waste management, waste management responsibilities and obligations, waste management locations and facilities, waste management business operations, transboundary movement of waste, waste management information system, and administrative and inspection control of waste management.

Regarding the inspections of the application of the Sustainable Waste Management Act and its related regulations, the Act defines that the inspection is conducted by environmental protection inspectors. In addition to the environmental protection inspectors, the Sustainable Waste Management Act also provides that the supervision of the implementation of the Act and its related regulations referring to the responsibilities and obligations of producers, transboundary movements of waste, as well as the procedure for the mediation and trafficking in waste, is also carried out by authorized officers of the ministry competent for customs administration and the ministry competent for the internal affairs.

Of course, depending on the complexity of the case, especially regarding transboundary movement of waste, coordinated inspections are carried out in accordance with the Agreement, involving both environmental protection inspectors and authorized officers of the ministry competent for customs administration and the ministry competent for internal affairs, i.e. the police.

***15. It is recommended organising regularly public information campaigns, improving how public can be compliant and increasing reporting of environmental crime from small to large non-compliances.***

While recognizing the major importance of public information campaigns in achieving the intended objectives of suppressing the environmental crime, budgetary constraints have impeded organization of effective public campaigns, all the more in light of the current COVID-19 pandemic. National law enforcement plans involve applying for the Internal Security Fund – ISF POLICE, where one of the scheduled items is the organization of public information campaigns.

***16. There should be more guidance and engagement with industry to improve environmental compliance; the authorities should engage with industry contact groups to discuss the implementation of environmental legislation; there should be proactive not reactive approach.***

The Environmental protection inspection conducts regular annual inspections of legal and natural persons whose business operations involve waste managements in any aspect. As appropriate, the coordinated inspections also involve customs and police officers. This may be considered a proactive approach where inspections provide for direct communication with the business entities. Inspections also present an aspect of general prevention where businesses registered in waste management operations are deterred from crimes related to illegal shipments of waste.

***17. The inspection plan should include more details on the strategy for tackling illegal waste shipments and concerted actions should be identified.***

A waste shipment control plan has been drawn up in the Republic of Croatia for the period 2020-2023, adopted on the basis of the Agreement on cooperation in exercising control of the movement of transboundary shipments of waste and agreed between the State Inspectorate, the Ministry of Finance and the Ministry of the Interior. One of the main objectives of the Plan is the control of green list waste shipments (especially plastic waste, end-of-life motor vehicles and their parts, electric and electronic waste, scrap metal, wood waste) which comprised most of the illegal shipments detected in 2019. The year saw 332 illegal waste shipments detected during inspections of waste management companies and 14 during search of vehicles at border crossing points.

The implementation of both the Agreement and the Waste shipment control plan for the period 2020-2023, is expected to bring significant improvement in cooperation between the state authorities involved in the law enforcement of waste shipment inspection in the following period, as well through joint inspections and a fast and efficient exchange of information and experiences in exercising control of transboundary movement of waste shipments.

***18. Extension of PRIs – WEEE, ELVs, Batteries, Farm Plastics, etc. – the 'polluter pays' principle is recommended.***

The Sustainable Waste Management Act stipulates that the producer of the product from which waste is generated, i.e. the waste producer, is to cover the costs of managing such waste, taking into account the environmental protection principles laid down by law governing the protection of the environment and the EU acquis, the principles of international environmental law and scientific knowledge, the world's best practices and professional rules and, in particular, the 'polluter-pays principle', pursuant to which the waste producer, the previous and/or current holder, covers the costs of waste management measures and is financially liable for remediation measures to be undertaken due to damage caused by or likely to result from waste.

The Sustainable Waste Management Act defines 16 specific categories of waste, which are important either for the potential harm to the environment and to human health, or for their dangerous quantities. The management of special waste categories is governed by specific ordinances.

For six specific categories of waste (packaging, tires, oils, batteries and accumulators, vehicles, electrical and electronic equipment), the EPR (Extended Producer Responsibility) scheme was introduced with producers being charged a fee for placing a product on market, which product generates a specific category of waste. In addition, a separate collection and processing system was put in place.

***19. Croatia should participate more intensively in international and regional fora dedicated to cooperation in the field of environmental crime, for example through consistent engagement with IMPEL and yearly exchanges, and a commitment to ensuring consistent application of enforcement measures in the field.***

The willingness of the General Police Directorate to engage actively in international platforms focusing on joint cooperation in the field of prevention and suppression of environmental crime resulted in the participation in EMPACT “Environmental crime” priorities of the 2018-2021 EU Policy Cycle. Since 2019, the Republic of Croatia has been actively participating in the operations included in the annual operational action plans, intensifying cooperation with several countries.

Furthermore, recognizing the importance and issues of illicit waste trafficking, in particular medical waste, the General Police Directorate, with other stakeholders – the Environmental protection inspections and the customs, actively engaged in the operation organized by EUROPOL called ‘Retrovirus’, with the objective to prevent the illicit trafficking in medical waste and contain the spread of COVID-19 infections.

Also in 2020, the General Police Directorate participated in the operation “30 Days at Sea“ organized by INTERPOL, whose objective was the prevention of maritime pollution.

Regarding international aspects of the environmental protection, the State Inspectorate acts through a number of formal and informal organizations and networks, with which EU authorities closely cooperates aiming at combating environmental crime in the most efficient way possible.

In 2020 the Environmental protection inspection continued its cooperation with EU and international organizations and institutions in accordance with its work plan, through active work and participation in networks, organizations and working groups, primarily through IMPEL (European Union Network for the Implementation and Enforcement of Environmental Law), Technical Working Group on SEVESO inspections (TWG2) and the Mutual Joint Visit Program.

The Trans-Frontier Shipment of Waste (TFS) Project is also conducted within IMPEL, whose objective is to strengthen and further develop a network of EU prosecutors in charge of the prosecution of environmental crimes with special emphasis on transboundary transport of waste involving the Environmental protection inspection as well.

The Environmental protection inspection also participates in the work of IMPEL LIFE SWEAP – Shipment of Waste Enforcement Actions Project, aiming at improving the control of transboundary waste trafficking in the Republic of Croatia. The EU establishes rules for waste management and objectives for the recovery of waste material in order to reduce risks related to waste management. Regulation (EC) No 1013/2006 on shipments of waste (WSR) provides for several measures for countering illegal shipments of waste.



Furthermore, the Environmental protection inspection participates in the IMPEL network's project entitled "End of Life of Ships", applying Regulation on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC (Regulation (EU) No 1257/2013 of 20 November 2013).

The Environmental protection inspection also participates in the European Network of Prosecutors for the Environment (ENPE) through LIFE-ENPE waste & air pollution Working Group workshops, addressing environmental crimes in assisting practitioners by providing connection to exchange experiences and information on environmental crimes. This facilitates a more efficient prosecution of environmental crimes but also the exchange of knowledge and best practices in dealing with such crimes, creating a larger community of experts in the field of environmental crime in Europe.

***20. Specific engagement with neighbouring countries by way of MOUs is needed to tackle cross-border waste crime more effectively, as well as the development of relationships with other Countries of destination or origin.***

On 6 February 2020 the Environmental protection inspection of the State Inspectorate organized a joint meeting gathering competent authorities of the Republic of Croatia and the Republic of Slovenia aiming at advancing the control of transboundary movement of waste governed by Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste.

Ever greater numbers of illegal shipments of waste in transboundary waste trafficking in Croatia, particularly in 2019, have called for improvements of the existing cooperation with the neighboring countries, especially at operational level, in order to effectively stop the flows of illegal import of waste to Croatia. The initiative for such a meeting was also recognized by Croatian and Slovenian national coordinators within the IMPEL network, European non-profit organization established for the purpose of connecting state administration authorities, especially those related to environmental protection inspection, in EU Member States.

The meeting was attended by representatives of competent authorities of the Republic of Croatia (environmental protection inspectors of the State Inspectorate, Customs Administration of the Ministry of Finance, and the Ministry of the Interior's Criminal Police Directorate and Border Police Directorate), and representatives of competent authorities of the Republic of Slovenia (Inspectorate for the environment and spatial planning General Police Directorate, Customs Administration and Inspection Directorate of the Financial Administration).

Topics of the meeting included best practices of both the countries addressing prevention and prosecution of illegal shipments of waste, where future joint steps in combating illegal transboundary waste shipments were agreed upon. Specially recognized was the need for a more intense cooperation of the Slovenian and Croatian competent authorities in terms of undertaking joint inspections of transboundary movement of waste shipments at the countries' borders while also including most important roads (waste shipment routes). Moreover, additional efforts will be made for a timely exchange of all necessary information on a daily basis. The need for acquiring knowledge on the part of all of the participants involved in the conduct and control of transboundary waste trafficking was also specially addressed.

In the conduct of inspections, the cooperation with Slovenia's competent authorities is a well-established practice.