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From: Hungarian 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 Hungary

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 evaluation report concerned.

Delegations will find in the Annex the follow-up report of Hungary regarding the recommendations that were made in the report ST 11585/18 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 HUNGARY

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

The evaluation report on **HUNGARY** as set out in doc. ST 11585/18, was adopted by the LEWP/COPEN WP on **14/09/2018**

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

Recommendation n. 1. develop a multi-agency platform with defined goals in order to formulate the strategy at central level in order to have a cohesive approach to all areas of environmental crime and priorities environmental crime at ministerial level

The unified action of the various authorities is ensured by the establishment of a National Environmental Security Taskforce (hereinafter: NEST Taskforce) in 2021, modelled on the INTERPOL National Environmental Security Taskforce (NEST), which operates in the field of environment and nature protection in the domestic system. (See also Rec 8.)

The establishment of the Environmental Security Task Force Hungary is implemented through a project registered under the project number BBA-5.2.1/32017-00006, with the support of the Internal Security Fund and co-financed by the Ministry of Interior.

The Parties consider it a priority objective to establish effective and mutually supportive forms of cooperation and to improve the quality of their professional activities, in particular in the prevention and eradication of offences against the environment and nature. They attach particular importance to the following:

- (a) reducing the illegal dumping, storage and transport of hazardous and non-hazardous waste (hereinafter referred to as waste);
- (b) the prevention and reduction of environmental pollution caused by water pollution, misuse of plant and soil protection products and the coordination of the work carried out in this context (safety protection of the area at risk, detection of polluters);
- (c) the protection of protected natural areas and values, Natura 2000 sites, the protection of protected species of fauna and flora and forests, and the reduction of illegal trade in endangered species of fauna and flora;
- (d) to express the common interests of the Parties with a view to the effective detection and prevention of illegal activities damaging or endangering natural values, to making better use of each other's experience and capabilities, to mutual assistance and to the effective implementation of the tasks laid down by law.

The aim of the cooperation is that the authorities carrying out professional and official tasks related to environmental protection and nature conservation, as well as the professional police, customs, law enforcement, crime prevention, intelligence, law enforcement and economic protection specialties of the cooperating authorities exchange information in a complex manner, in accordance with national interests, territorial and local specificities and needs, and carry out their activities accordingly.

Members of the Task Force are :

the Ministry of Agriculture

the National Authority for Tax and Customs Administration

the National Police Headquarters

the Ministry of Innovation and Technology

the National Directorate General for Disaster Management

the Government Office of the Pest County

the National Food Chain Safety Office.

Recommendation n. 2. work on reliable statistics at central level, allowing Hungary to recognise the development of environmental crime and environmental infringements and to focus the available resources more efficiently

Recommendation n. 3. establish prevention programmes and awareness-raising campaigns aimed at the public and the private sector, including a dedicated hotline for reporting environmental crime

The Crime Prevention Department of the National Police Headquarters, Directorate General of Criminal Investigation regularly carries out crime prevention awareness-raising activities on this topic.

As an example we would like to mention the latest development that National Council for Crime Prevention and the Csongrád-Csanád County Police Headquarters have launched an interactive board game called „Save the Earth! Green Patrol” - for primary school children and distributed it to the educational institutions concerned.

Recommendation n. 4. consider appointing one government body at central level as the lead for the enforcement and administration of environmental and waste matters

Recommendation n. 5. consider completing the reorganization of the police structure so that the NBI may call for action to be taken at local level and easily take over cases with serious implications (global effect)

Crime Prevention Department of the National Police Headquarters is responsible for the specialised management of investigations, while the specialised field is represented internationally by the NBI. In addition, the NBI unit is responsible for coordination between the partner services and for training in the field at home.

As regards the right to take over cases and to give instructions, this proposal has not been implemented. In this respect, it is however worth underlining that the Department of the National Police Headquarters, as the specialised management unit, has the power to give professional instructions on cases.

The referral of individual investigations to the NBI falls under the authority of the National Police Commissioner, which is an established practice among the relevant bodies.

Recommendation n. 6. consider enhancing the human resources of the Government Office of Pest County and the NBI to enable them to perform their tasks efficiently, given the extended powers to be allocated following the introduction and approval of the NEST project

Since the mutual evaluation was held, the Environmental Crime Unit of the NBI has been expanded by 2 persons.

Recommendation n. 7. consider having more qualified staff at local stations (as regards the police, administrative authorities and customs at the border) who can recognize and identify trends in environmental crime and/or environmental infringements, in particular waste crime

The NEST Working Group, focusing on the fight against environmental crime, has organised training for a total of 197 public authority employees (Police, National Tax and Customs Administration, National Park Directorates and disaster management staff) during two training weeks in 2021 (27 September - 1 October 2021 and 18-22 October 2021), followed by a similar number of training sessions in spring 2022. The NEST Task Force plans to organise similar training against environmental crime for a further 2,500 people by 2029.

In addition to the face-to-face training, the NBI is developing an on-line training curriculum on waste crime investigation for selected staff of local police forces, with the support of the Police Education and Training Centre, under the AMBITUS international ISF (Internal Security Fund) project.

Recommendation n. 8. set up a platform for interagency cooperation and coordination of efforts in the area of environmental crime, in particular waste crime, at central level

The cooperation agreement establishing the national NEST Working Group was signed on 31 March 2021 by the relevant bodies (Ministry of Agriculture, Ministry of Innovation and Technology, National Tax and Customs Administration, National Directorate General for Disaster Management, National Food Chain Safety Office, Pest Control Government Office, and National Police Headquarters).

The NEST Working Group is responsible for the formulation of a national enforcement strategy, the exchange of information and the provision of a forum for professional consultation, the development and delivery of training sessions for staff of partner organisations and the organisation of targeted operations involving the work of several authorities.

The coordination of cooperation within the Parties' organisations shall be carried out by the staff members designated by the Parties in the field of the different levels of cooperation and in consultation with the members of the Working Group. The participating Parties, whose organisational structure so permits, undertake to establish a network of contact points to support activities consistent with the objectives of the Working Group.

The Parties shall ensure that their respective designated personnel participate in their pre-identified training, education, training, refresher training and leadership development programmes and that they are provided with the relevant training aids. The Parties shall ensure that they delegate trainers and students from their respective organisations when requested to do so. The Parties shall provide each other with access to textbooks, reference books, methodological materials and other informative publications of mutual use, as required.

The Parties shall ensure the flow of information to each other, undertake to inform each other, as far as possible and without delay, of infringements or data indicating infringements falling within their respective competences, in compliance with the provisions on data management, and, upon request of the other Party, to provide information within the time limit specified therein to the Party entitled to exercise the competences defined by law on the basis of the information concerned.

The Parties undertake to notify the Ministry of Agriculture and the National Directorate General for Disaster Management in the event of suspected violations of the law, which they detect and which affect the areas of responsibility of the Ministry of Agriculture and the National Directorate General for Disaster Management with regard to water as an environmental element, of unlawful acts against the environment and nature, as well as of the detection and occurrence of effects which endanger them, in compliance with the applicable legal provisions and without jeopardising the interests of the investigation.

The Parties shall establish a joint implementation strategy at the regular annual meetings of the Working Group, in which they shall define priorities for more effective action against acts of environmental and nature damage, make use of available statistical data and contribute to the coordination of professional interests.

The Parties undertake to place emphasis on making available the innovative tools at their disposal for the purposes of the Task Force.

The Parties shall cooperate in pursuing opportunities offered by national and international tenders.

The Parties undertake to jointly evaluate the cooperation by 31 March of each year, as appropriate, on the basis of the experience gained in the course of the cooperation, in particular in the event of possible changes in legislation. In the context of this activity, the Parties may propose amendments to the Agreement with a view to improving the effectiveness of cooperation.

The Parties undertake to take account of the recommendations of the Working Group in their operations and in the preparation of their work plans.

The Parties undertake to provide, on a rotational basis where possible, the resources and facilities for the meetings of the Task Force and to ensure that their delegates are provided with the necessary facilities to carry out the tasks related to the activities of the Task Force.

The Parties shall jointly review, as appropriate, the need to amend legislation affecting their respective responsibilities in relation to the matters covered in Chapter I. The Parties shall develop, after mutual consultation, their proposals for legislative amendments.

The Parties undertake to support and cooperate with each other in social awareness-raising and crime prevention campaigns focusing on this issue.

The Parties undertake to appoint a participant to the Working Party in the event of the termination of their respective organisational unit participating in the Working Party due to reorganisation, in order to ensure the continued involvement in the Working Party.

The Ministry of Agriculture, in order to ensure that the aspects of its areas of responsibility are enforced and fulfilled, in particular:

- (a) prevent the unlawful possession, acquisition, keeping, marketing, introduction into, export from, transit through, damage to or destruction of, or unlawful trade in, protected and specially protected species of fauna and flora of conservation importance in the European Communities and species listed in Annexes A and B to the Council Regulation of the European Communities on the conservation of species of wild fauna and flora by regulating trade therein, and species protected by national legislation;
- (b) prevent the unlawful significant alteration of a Natura 2000 site, a protected cave, a protected natural area or a community of protected organisms or their habitat;
- (c) facilitate cooperation in relation to the performance of the tasks of the Nature Conservancy;
- d) assist in the professional training of the Parties' personnel.

Within the limits of its capacity, it contributes to the implementation of meetings, training and further training organised by the Working Party by providing the venue and facilities free of charge.

Notify the Parties of information relating to offences against the environment and nature, in particular

- (a) the unlawful acts and their prevention affecting natural values and areas, in particular protected natural values and areas, Natura 2000 areas and forests, as described in paragraph 21(a) to (b);
- (b) technical and other sports and recreational activities carried out without authorisation in protected nature areas, Natura 2000 areas and forests, as well as unlawful traffic and the prevention of such activities.

Provide technical assistance to the Parties to prevent illegal activities that directly or indirectly harm the interests of the sectors for which it is responsible.

The Parties shall provide each other with a list of experts and consultants that may be seconded for the detection of offences against the environment and nature directly or indirectly affecting their areas of responsibility, as well as for damage assessment and remediation, with the name of the specialised field and all contact details, and a list of the first and second instance authorities, with their competence and jurisdiction and contact details, as well as a list of laboratories with appropriate accreditation, together with their contact details.

The National Authority for Tax and Customs Administration in relation to

- a) legal and illegal shipments of waste;
- b) materials subject to metal trade licensing;
- c) endangered species of animals and plants covered by the Washington Convention (CITES);
- (d) pet animals;
- e) timber imports into the European Union (FLEGT);
- f) hunting trophies;
- g) hazardous chemicals;
- h) radioactive materials;
- (i) plant protection products;
- (j) fluorinated greenhouse gases and ozone depleting substances, undertakes the obligations set out below:

Assist, upon request, in the control of waste shipments crossing the national border; organise and carry out, with the involvement of the competent Parties, a national operation to detect unauthorised shipments of battery waste as hazardous waste; if requested, take part in international actions for the preservation of natural assets within its remit, and, if necessary, carry out organisational and coordinating tasks; ensure cooperation when specific information is received from the authorities participating in the Task Force concerning suspected offences, pay particular attention to customs and law enforcement controls when carrying out checks on clothing, luggage and vehicles, where the legal conditions are met; inform the Parties of the experience gained during study visits abroad, at international conferences and meetings of European Union bodies, and ensure the mutual exchange of documents summarising the international experience available to them; on request, provide the Parties with information on available traffic data in a format and manner agreed at expert level.

The National Police Headquarters establish and operate a network of trainers specialised in environmental crime and related offences; organise continuous training for the staff of the training network; ensure the flow of information to the delegates to the Task Force, thereby creating a police organisational structure to support the work of the Task Force, provide assistance in the implementation of official measures, both from a law enforcement and a security point of view, where necessary and requested, following prior consultation; where appropriate, provide technical support to the investigating body in relation to investigations into crimes against the environment and nature; share best practices, new modus operandi and other information of relevance to the other Parties obtained in the course of international contacts, subject to data management rules.

On the part of the Ministry of Innovation and Technology, the cooperation involves the departments of the Deputy State Secretariat for the Development of the Circular Economy, Energy and Climate Policy, Public Services Development. It informs the Parties of the information available on environmental and nature-damaging activities in the waste management sector; share with the Parties the data available from the National Environmental Information System in order to support the Parties' professional work on environmental protection and nature conservation; ensure the flow of information to the delegates to the Working Group on the activities of the bodies under its supervision and professional direction, thereby facilitating the professional work of the Working Group and the Parties and supporting cooperation.

The National Directorate General for Disaster Management shares best practices and other information relevant to the other Parties obtained in the course of international contacts, subject to data management rules; ensures that, during inspections by the industrial safety authorities (in particular when staff involved in the control of the transport of dangerous goods inspect the vehicle and its cargo) and during inspections by the water and water protection authorities, where the legal conditions are met, increased attention is paid to the detection of illegal activities related to the possession of environmental, natural, cultural and economic assets; in the course of inspections by the industrial safety authorities (in particular when inspecting the transport of dangerous goods) and in the case of illegal activities damaging the environment discovered during inspections by the water and water protection authorities, in addition to its other legal obligations, notify the Parties through the Working Party of irregularities within their competence; at the request of the Task Force, assist in the detection of illegal acts causing environmental damage by carrying out inspections by the industrial safety, water and water protection authorities within its remit.

The Government Office of the Pest County has undertaken to enforce and fulfil the aspects of its areas of responsibility, in particular

(aa) to prevent the illegal possession of or trade in highly protected animal species,

(ab) to prevent illegal transboundary movements of waste,

(ac) to provide technical assistance to the Parties;

inform the Parties, at their prior request, of information relating to illegal acts against the environment and nature which give rise to proceedings within their jurisdiction and of the procedural steps taken in relation thereto; participate, upon reasonable request, in on-site inspections related to the proceedings of the Parties and provide technical assistance in the course of such proceedings; upon request and without delay, provide for the confiscation and, where appropriate, the professional and lawful disposal of illegally held specimens of highly protected species of animals found in connection with the Parties' procedures; notify the Parties, through the Working Party, of any irregularities within their competence in the course of the control of transboundary movements of waste, in the event of the detection of illegal activities which are harmful to the environment; upon specific request, provide the Parties with official documents to assist them in the detection and proof of illegal acts against the environment and nature which directly or indirectly endanger the areas of their responsibility.

The National Food Chain Safety Office ensures the participation of its experts in international and national control actions.

Any organisation operating in accordance with the purpose of the Working Party may join the Working Party, provided that it agrees to accept the cooperation agreement establishing the Working Party, in particular the implementation of the common commitments listed in the joint commitments, and that the Working Party unanimously supports the membership. The Working Party shall decide by a qualified majority on the number of members that may be delegated by the organisation so associated. By signing the minutes of the meeting of the Working Party on the admission, the adhering organisation becomes a full member of the Working Party.

Representing public administrations, NGOs and companies whose activities are compatible with those of the Working Group and whose cooperation is beneficial to both parties, the participation of a member with the right to consult may be ensured as a strategic partner in the thematic group on the topics of their activity. The Chair shall inform the priority strategic partners of the activities of the Task Force on an annual basis. This information shall be limited to information relevant to the common field of activity, taking into account the interests of the organisations participating in the Task Force.

Recommendation n. 9. provide an information-sharing platform for the competent authorities, including administrative authorities, on a regular basis, which should enhance the ability of the investigative authorities to perform their duties and investigations

The NEST Working Group, together with the Co-authorities, meet on the basis of the cooperation agreement at regular intervals, as set out in its rules of procedure, to identify specific tasks in support of cooperation and joint action.

Recommendation n. 10. strengthen the training capacity of all authorities involved in the detection, investigation and prosecution of environmental crime (whether civil servants or LEA officers), which should enable them to perform their own tasks and cooperate with relevant partners

Investigations into waste management offences outside the remit of the NBI are generally the responsibility of local investigating authorities. Because of the special nature of the offence, investigations are supported by the professionally instructed staff of the relevant county specialised department.

Close cooperation with the partner authorities is a priority in the police response to waste, in order to ensure that the necessary procedures are carried out quickly and effectively and that the waste is properly managed.

In order to operate this system of tasks, methodological aids and professional information are compiled by the National Police Headquarters, thus informing the investigating staff about uniform good practice and changes in standards.

The development of good cooperation with partner services is the objective of the training described in point 7. In addition, each territorial unit is independently responsible for establishing and maintaining good cooperation with the partner authorities in its area of competence.

Recommendation n. 11. take appropriate measures to provide more structured training for judges on EU environmental crime and encourage them to attend it frequently

Both administrative and criminal law approaches are systematically integrated into the court's training system.

The National Judicial Office, Hungarian Academy of Justice regularly organises both in-service and on-line training courses on the subject.

A large-scale in-service training was carried out in 2018 with 66 participants on the specificities of forensic expert activities in criminal, civil and administrative litigation, with a focus on environmental, nature protection and water issues.

In the light of the pandemic, in the last 2-3 years, in-service training has been on site and replaced by e-learning training for all specialised fields, available on line and accessible to a much wider range of judges.

For example, last year - between 6 April and 20 April 2021 - 266 people attended the e-learning training on the practical aspects of environmental crime and animal protection. The training, which is based on a continuously updated curriculum, is advertised and available every year for interested or specialised judges.

Recommendation n. 12. be encouraged to look at environmental crime and more specifically illegal shipment of waste from a broader perspective, as a part of economic crime frequently committed by organised crime groups, and take into consideration the economic aspects and the financial implications for the natural environment and society

The violation of the waste management regime under Section 248 of the Penal Code has been comprehensively amended as of 1 March 2021. The facts of the report are no longer in force, the current text is as follows:

Section 248 (1) of the Criminal Code who

(a) carries out waste management activities without registration or notification, or without a permit or in excess of the limits of the permit, or

(b) carries out any other unlawful activity with waste and is likely to endanger human life, limb, health, land, water, air or their components or the life of a living organism

shall be punishable by a maximum term of imprisonment of up to three years for an offence.

(2) Whoever, in a place not authorised for that purpose by an authority

a) endangers human life, bodily injury, health, land, water, air or their components or the specimens of living organisms or

b) a significant quantity of

waste, shall be punishable with imprisonment for a term of up to three years.

(3) The punishment shall be imprisonment for a term of one to five years if the offence specified in paragraph (1) or (2)

a) hazardous waste,

(b) a particularly large quantity of waste, or

(c) as a specific repeat offender

a very serious offence.

(4) The penalty shall be imprisonment for a term of two years to eight years if the offence specified in subsection (3)(a) is also a misdemeanour under subsection (3)(b).

(5) A person who commits the offence by recklessness shall, for a misdemeanour

(a) in the case specified in subsections (1) and (2), to one year,

(b) two years in the case specified in paragraph (3),

(c) in the case provided for in paragraph (4), for three years

shall be punishable by a maximum term of imprisonment of up to three years.

(6) For the purposes of this section

(a) environmental damage and nature damage shall be offences of a similar nature in terms of specific recidivism;

(b) waste management activity means waste management within the meaning of the Waste Act, provided that the term 'shipment' shall include import into, export from and transit through the country;

(c) a significant quantity of waste means a quantity of waste exceeding 1000 kg or 10 cubic metres;

(d) a particularly substantial quantity of waste is 10 times the quantity of a substantial quantity of waste.

The amendment was necessary because a review of the relevant case law showed that the basic criminal law definition of waste in the Criminal Code differed from the definition of waste management, which was a fundamental obstacle to the application of the basic criminal law definition. The narrower wording of the Criminal Code also meant that it was only possible to identify the waste status if an expert was appointed. This led to lengthy proceedings and often to cases of lack of evidence.

In this context, it was necessary to supplement the facts of the case in order to allow objective factors to be used as a basis for criminal liability above a certain quantity. Accordingly, a person who disposes of waste where it would otherwise not be permitted, in the absence of an official authorisation, and in quantities exceeding 1 000 kg or 10 cubic metres is liable to a maximum term of imprisonment of up to three years for a criminal offence.

Since there have been significant changes in the waste management sector as regards the way in which official procedures are initiated, it was appropriate to also penalise any failure to make a declaration required for the commencement or continuation of waste management activities, so that the law also penalises waste management activities carried out without registration or notification.

A further tightening is the new definition of qualifying cases, so that not only the offence of hazardous waste is considered more serious, but also the offence of particularly large quantities of waste or of a particular repeat offence. Environmental damage and nature damage are similar offences in terms of specific repeat offences. In addition, a new combined qualifying offence has been introduced, where the offence is committed with a particularly large quantity of hazardous waste, punishable by imprisonment of between 2 and 8 years.

Also from 1 March 2021, the Penal Code was amended to introduce a new category of criminal offences. Article 73(c), which excludes certain offences from the possibility of not confiscating waste in exceptional cases. Under the amendment, in the case of violations of the rules on environmental damage and waste management, it is not possible to dispense with confiscation in the cases provided for in Article 72(1)(a) and (c), i.e. in any case, the confiscation of the thing which was used or intended to be used as a means of committing the offence or for which the offence was committed or which was used for the purpose of removing the thing after the completion of the offence is required.

The amendment of Article 248 of the Criminal Code and the rules on confiscation also responds to the recommendation, as the offence of committing large quantities of waste may be linked to economic or organised crime. Also, confiscation as a measure involving the deprivation of property is a specifically economic and financial disincentive.

It should also be pointed out that if illegal waste shipments are considered to be a form of economic crime, often committed by groups involved in organised crime, then not only the offence of waste management may be established, but also a number of other offences. In these cases, the Criminal Code also provides for the possibility of extended confiscation of assets, which is a very effective means of action, since, if the offender is found guilty, the property related to the specific offence may be confiscated, along with other property of the offender, under certain conditions.

Finally, reference should also be made to Act CIV of 2001 on criminal measures against legal persons, under which, in addition to natural persons, measures may also be taken against legal persons if the offence was intended to or resulted in the acquisition of an advantage for the benefit of the legal person or if the offence was committed using the legal person.