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NOTE

From:	Lithuanian 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 Lithuania

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 Lithuania regarding the recommendations that were made in the report ST 10080/1/19 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 LITHUANIA

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 Lithuania as set out in doc. ST 10080/1/19 REV1 was adopted by the LEWP/COPEN WP on **23 September 2019**.

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

Recommendation 1 - should draw up a national strategic plan to enhance compliance in relation to environmental legislation, specifically waste regulations, involving all law enforcement authorities, administrative agencies and prosecutors; and then implement this plan also at regional level.

Lithuania pays due attention to prevention of environmental violations.

Item 92 of the National Environmental Strategy approved by Resolution No XII-1626 of the Seimas of the Republic of Lithuania of 16 April 2015 "On the Approval of the National Environmental Strategy", provides that in the field of environmental protection it is important that the application of all legal measures – sanctions, fines, economic sanctions, administrative and other penalties – and proper regulation of the mechanisms of their application – are legalized and ensured.

It is important to ensure that legal liability is provided for and applied to both natural and legal persons, and the criteria for the qualification of offences and criminal acts are clear, specific and justified, taking into account the circumstances of the violations and/or offences committed, the damage caused to the environment, its extent, conditions of environmental restoration and other circumstances. It is important to regulate all this in the legislation in order to understand what legal measures need to be taken to eliminate both infringements and their consequences.

In order to achieve preventive goals, interinstitutional cooperation is strengthened, working groups have been set up to exchange information, network has been created for representatives of environmental protection and law enforcement institutions to deal with situations. Legal regulation is being improved. Cooperation agreements have been concluded between the institutions. National measures are being put in place to implement more effective environmental control, e.g. consolidation of control authorities. Currently, state control of environmental protection is exercised by the Department of Environmental Protection, instead of the 8 Regional Environmental Protection Departments that operated on a territorial basis. These changes have ensured centralised planning of inspections on the basis of risk assessment, uniform application of legislation, better material provision. The decentralised model was abandoned, where supervisory functions were broken down through several institutions.

It is worth to mention that proposal for a Directive amending Directive 99/2008 / EC on the protection of the environment through criminal law (Directive 99/2008 / EC) Article 20 imposes an obligation on MS to draw up a national strategy to combat environmental crime.

In this case Lithuania would be required to draw up a national strategy which would take into account all aspects of the Commission's proposal:

- (a) the objectives and priorities of national policy in the specific field of crime;
- (b) the roles and responsibilities of all competent authorities involved in the fight against this type of crime;

- (c) the arrangements for coordination and cooperation between the competent authorities;
- (d) the use of administrative and civil law to combat offenses relating to the offenses covered by this Directive;
- (e) resources required and how the specialization of prevention professionals will be supported;
- (f) procedures and mechanisms for regular monitoring and evaluation of the results obtained;
- (g) assistance from European networks working on issues of direct relevance to the fight against environmental crime and related offenses.

The situation has changed since the recommendations were made so taking into account new proposal and its initiatives it would not be purposeful to approve our national strategic plan at this time.

Recommendation 2 - should consider setting up a specialist environmental unit at the police or give law enforcement power to administrative agency, like Environment Protection Department (hereinafter EPD), to tackle environmental crime.

Environmental crimes are already investigated in specialized criminal police serious crime investigation units staffed by experienced, competent police officers.

The possibility of expanding the functions of the Department of Environmental Protection by granting prosecution powers was considered, but this idea was abandoned because it would require fundamental legal changes and proper training of officials. It was decided that it would be more effective to invest more in the competence and interinstitutional cooperation of law enforcement officers.

At this stage, there is a strong focus on the cooperation between law enforcement and State Environmental Control Authority ensuring mutual assistance and the exchange of the relevant information.

Recommendation 3 - is encouraged to strengthen its inspection capacity on transboundary shipment of waste within the EPD.

The objectives of the recommendation have been largely achieved. The cooperation and exchanges of information exists between all parties working in the area of environmental crime. Further efforts are needed to strengthen control mechanisms.

Capacities for the inspection of transboundary shipments of waste have been strengthened, and training has been provided to EPD officials on the requirements for transboundary shipments of waste.

2020–2022 Inspection plan for transboundary shipments of waste was prepared, aimed at ensuring that transboundary shipments of waste comply with the established legal framework, preventing irregularities and illegal shipments of waste, strengthening the prevention of illegal shipments of waste. EPD also cooperates, shares information, organizes joint inspections of waste shipments with the Customs Department under the Ministry of Finance of the Republic of Lithuania (hereinafter referred to as the Customs), the Lithuanian Transport Administration, the Police.

Recommendation 4 - should create a national platform, based on the interinstitutional group which already exists, to define the level of threat in environmental crime involving all entities in this specific field (law enforcement authorities, administrative agencies, prosecutors) by gathering their data, exchanging of information and experience, launching effective investigations and monitor this situation by also publishing an annual report on the environmental crime situation in the country.

The objectives of the recommendation are largely achieved, further efforts are needed to enhance cooperation and improve the flow of information.

It is planned to continue the activity of the inter-institutional working group established by the order of the Minister of the Environment and the Prosecutor General, the working group would be dedicated both to sharing information and resolving issues according to the need.

In the current situation goals of recommendation achieved through institutional investigations.

The Prosecutor's office conducted an investigation into pre-trial investigations and case law on environmental crime in 2016–2020 years. Also, according to expert proposals carried out summary of pre-trial investigations and case law on environmental crime (Articles 270–274 of the Criminal Code) for two years (2018–2019) in April 7 2020.

The Police in May 2020, in order to assess the level of threat to environmental crime, carried out monitoring and analysis of 2014–2020 years of pre-trial investigations initiated in police institutions, identified problems related to unclear competence of institutions operating in the field of environmental protection, inefficient mechanism for calculating environmental damage, waste management procedures, insufficiently effective environmental control mechanism.

The Ministry of Environment of Lithuania collected statistical data on the courts processed in the Lithuanian Court Information System (LITEKO) in 2010–2019 years administrative, administrative misconduct and criminal proceedings relating to environmental infringements at first instance.

All institutions shared information with each other.

Recommendation 5 - should encourage the environmental agencies to send a copy of their reports on waste regulations violations to the competent Prosecutor's office in order to let him assess the possibility of starting a pre-trial investigation; alternatively, the Prosecutor's office should draw up guidelines to help environmental agencies with notifying it of relevant criminal cases.

The recommendation is largely implemented. The issue is the qualification of marginal cases where it is not entirely clear whether an act is an administrative offense or a criminal offense. It should be addressed through legislative measures to improve the legal framework.

It was discussed that such guidelines would be largely ineffective, advisory in nature, and should be addressed through legislation. Instead of drawing up guidelines it was decided to strengthen the cooperation by agreements.

For now cooperation and assistance is provided due to the 2020 May 12 Cooperation Agreement signed between the EPD and the Police (No. 5-IL-6448 / ADS1-2020-1). Furthermore, there is active and regular communication between specialists on problematic issues.

Also, contact persons have been appointed in the prosecutor's office and two additional contact persons have been appointed in each county, this information has been shared with the Police, the Environmental Protection Agency (hereinafter EPA) and the EPD.

Recommendation 6 - is encouraged to investigate the possibility of making use of non-governmental organisations, and more generally civil society, as a regular source of information on possible criminal activities in the environmental field. For example, the existing hotline could be modernised by introducing an anonymous web reporting platform.

The recommendation is implemented in principle. The implementation is based on data on reports of possible violations and trends.

In Lithuania, citizens and legal persons can report about environmental offences:

- in 2020 EPA set up an internal channel for reporting about violations of legislation;
- EPD has a channel for reporting;
- Emergency Response centre (24/7);
- The Prosecutor's Office performs the function of the Prosecutor's Office in accordance with the Law on the Protection of Whistleblowers of the Republic of Lithuania;
- Police officers have a duty to actively collect information (including from members of civil society) in the exercise of their functions, which is even indirectly related to possible criminal acts being committed or committed.

The police pay a lot of attention to public communication, publicity of their activities and results. Such a strategy has a significant impact on public involvement, active participation and perceptions of problem areas in public security, thus investing in trust in the police and public involvement.

Recommendation 7 - should consider joining the relevant international networks in the environmental field such as IMPEL, EnviCrimeNet, ENPE, EUFJE or the Interpol pollution crime working group.

Recommendation is implemented according to current needs of Lithuania. Prosecutor's Office in March 11 2020 became a full member of the ENPE.

The police considered the expediency of joining the activities of the EnviCrimeNet network, assessed the nature of the network (informal network) and the objectives of the activity, and reviewed the documents of previous network meetings. A decision has been taken not to appoint a Permanent Representative to participate in the network, but to provide the necessary input or information on the network's activities on an ad hoc basis, as is standard practice for some other international work formats. It should be noted that EPD is involved in the IMPEL network (European Union Network for the Implementation and Enforcement of Environmental Law).

Recommendation 8 - should significantly strengthen its level of training for all the entities involved in tackling environmental crime, especially environmental agencies, customs, police (tactical and forensics) and prosecutors.

The recommendation is considered to have been partially implemented. Lithuania recognises the benefits of permanent training.

Training for prosecutors were organized in March 2020. Organizational work was carried out, international conferences were planned, with the help of foreign experts, but events were canceled due to COVID-19.

Cooperation agreement between the EPD and the Police was signed on 12 May 2020, by which the parties undertook to provide mutual assistance and consultations, exchange relevant information, organize joint training of specialized officers and civil servants.

Due to the pandemic, the planned trainings could not be organized, but the need for training was discussed among the institutions and the most important and relevant training topics were explored. It is planned to organize trainings by II quarter 2022.

Recommendation 9 - is encouraged to take account, in environmental criminal law, of the importance of economic benefit and financial damage as an element to investigate or as an aggravating factor.

Environmental crime is related to financial interests, so this recommendation could be linked to the training recommendation. The prosecutor's office will pay attention to this aspect during the training.

Since 2019, the Police pays a lot of attention to the economic potential of all crimes, the search for and seizure of property that may have been obtained illegally or not based on legal income. In order to find and seize illegally obtained property, the police have established specialized units for the investigation of criminal police property and are actively monitoring and controlling these units and raising the competence of officers to ensure effective detection and prevention of financial gain. In addition, environmental offenses involving a possible element of illegal economic gain or fraudulent accounting are entrusted to the investigation of specialized criminal police economic crime investigation units.

Recommendation 10 - should revise the policies relating to penalties for legal persons for both administrative and criminal offenses in order to ensure that it is based on deterrence, proportionality and effectiveness.

Criminal Code amendments are initiated. The aim of this project is to review the composition of the legal norms of environmental violations, set the qualifying features of environmental damage.

The Ministry of Environment in 2021 submitted a draft of amendments of the Administrative offences Code of the Republic of Lithuania and the Law of Environment protection. Project aim is to:

- establish liability, economic sanctions for non-compliance with the requirements for the management of bio-waste (except for biodegradable garden and park waste) at the places of generation of such waste, which are regulated by legal acts;
- increase fines for improper management of waste oils classified as hazardous waste (for treatment, including unauthorized incineration or recovery, and transfer or sale to persons other than waste managers).

(poss.) GENERAL REMARKS