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NOTE

From: General Secretariat of the Council
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 Czech Republic

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 revised follow-up report of Czech Republic regarding the recommendations that were made in the report 14129/1/18 REV1 COR1 for the Eighth Round of Mutual Evaluations.

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 Czech Republic

Recommendation 1:

Work on a more strategically-oriented approach on preventing and combating environmental crime, in particular by developing a national strategic document setting out the priorities of national policy in this respect or by strengthening a strategically-oriented approach on preventing and combating environmental crime in existing strategic documents, in order to ensure coherent and consistent actions in this area;

The Government of the Czech Republic took note of the Evaluation Report by Government Resolution No. 41 of 13 January 2020. Based on Recommendation 1, this Resolution has required the ministers of interior, environment, justice, and finance to submit to the Government a strategic material aimed at preventing and combating waste-related crime. The strategic material will be submitted by 30 September 2020.

The **Strategy to Prevent and Combat Waste-Related Crime for the Years 2021 – 2023** was approved by the Government of the Czech Republic on 5 October 2020 by government resolution No. 984.

The submitted Strategy defines measures in the area of prevention and combating waste-related crime based on the conclusions and recommendations of the Evaluation Report and on the identification of the needs of stakeholders, especially bodies operating in the field of environmental law enforcement (Czech Environmental Inspectorate, the customs authorities, the police). These bodies were actively involved in the preparation of the Strategy. The measures are implemented according to the approved schedule.

At the end of 2020 the measure No. 1 (Establish a functional inter-agency team) was already completed.

During 2021, the responsible entities worked to implement other measures with following substantial developments: Measures No. 2 (Draft a proposal to review cooperation agreements) and No. 5 (Educate public prosecutors about environmental crime and establish a network of specialised public prosecutors) were completed.

Just before completion is first part of measure No. 4 (Review of the existing training system for employees of environmental law enforcement agencies focused on waste-related matters and proposal of additional measures). Measure No. 7 (Prepare an analysis evaluating the adequacy of the use of administrative or criminal sanctions for environmental crime with a focus on the illicit waste disposal) will be completed after the adoption of the new Directive on the protection of the environment through criminal law.

At the same time, all responsible entities are working on implementation of measures that have a deadline by the end of 2022.

Recommendation 2:

Consider establishing an action plan focusing on 'waste crime' and based on a multidisciplinary approach. For this purpose, a similar approach to that of the 'wildlife' action plan¹⁴ currently being drawn up by the Czech authorities might be considered;

The Action Plan is part of the submitted Strategy. The measures are implemented according to the approved schedule.

Recommendation 3:

Consider dedicating a share of the SEF of the Czech Republic to actions for preventing and combating environmental crime;

The draft of the new Waste Act contains a provision stating that if a black dump is found and no person responsible for the waste is identified, the municipal authority of the municipality with extended powers may secure waste that endangers the environment to prevent from leakage of pollutants into the environment, or may remove illegally deposited waste and hand it over to a waste facility.

The costs of the removal of black dumps incurred by the municipality with extended powers would be covered from the SEF funds. The costs associated with the removal of black dumps will be addressed through specific calls of the national program, administered by the SEF. The conditions for the provision of support, eligible expenditure, the rate of co-participation and the form of support will be set within the specific call.

Recommendation 4:

Consider developing links between waste information/data collection systems of the different institutions involved, improve the sharing channels in order to acquire a more global picture of environmental crime, including waste crime, and a more consistent and coherent way to compare and analyse this information among institutions and to facilitate assessing the effectiveness of the national system in this area;

With regard to information systems that collect data related to waste, it is necessary to specify in more detail what information from which information systems is needed for which authority (between the police, Czech Environmental Inspectorate, the customs authorities, Ministry of the Environment) and to specify this within bilateral agreements on access to databases, possibly revise existing agreements (linked to recommendations 9 and 10).

The follow-up to this recommendation is included in the submitted Strategy (measure No. 5).

Recommendation 5:

Consider highlighting and analysing the links between environmental crime and other criminal activities (e.g. organised crime, forgery, use of false documents, fraud, corruption, money laundering.) in order to obtain a comprehensive overview of the phenomenon;

The issue of the links between environmental crime and other criminal activities should be given more attention and data should be obtained in particular from criminal proceedings. However, due to the fact, that most cases are resolved within the administrative proceedings and the Police of the Czech Republic does not have an overview of cases of

illegal waste management, it is not possible to perform such an analysis. If methodological material is to be developed based on the strategy, the actual links between environmental crime and other criminal activities should be analysed and taken into account in future policy making.

The follow-up to this recommendation is included in the submitted Strategy (measure No. 3).

Recommendation 6:

Consider developing the police's environmental unit further, so that it could act both as a platform to support and promote a multidisciplinary approach to environmental crime and as an active partner at international level (Interpol, Europol and EU);

The need for further strengthening and structurally developing the specialized police expertise has been recognized by other authorities and bodies operating in the field of enforcement of environmental law.

Given that this is a managerial decision of the top police management, further steps in this direction are considered in the framework of the Concept of the Development of the Police of the Czech Republic for the period 2022 – 2026.

Recommendation 7:

Further enhance the training activities on tackling environmental crime, in particular by ensuring a continued focus on basic and further training for officers in the relevant police and customs units, by establishing regular inter-institutional planning of training activities and by promoting joint training of law enforcement and judicial authorities;

At present, there is lack of regular structured interinstitutional training on illegal waste for environmental law enforcement agencies. Joint trainings are rather the exception. The result is the difficulty of holding joint trainings, the absence of joint training planning - events on a similar topic take place in close proximity, thus overlapping each other, the

absence of continuing education, the absence of differentiation of education into basic and further vocational education for advanced staff.

In 2018, the first one-day seminar specifically focused on the issue of illegal waste was held at the Judicial Academy. In 2019, this seminar was held again, organized in cooperation with the Police Presidium of the Czech Republic, as a joint one for members of the Police, dealing with the issue of crime against the environment. A three-day joint seminar on this issue is also planned for 2020 (with the presence of representatives of the customs authorities). As the past seminars were positively received, it should be repeated in the coming years. To develop added value, other initiatives are considered, for example an e-learning course, which could be provided to law enforcement bodies at any time if necessary, or a printed-paper educational brochure.

The follow-up to this recommendation is included in the submitted Strategy (measure No. 4).

Recommendation 8:

Consider taking measures to promote the specialisation of prosecutors and judges in environmental crime; in particular, it could consider designating a special prosecutor supported by a specialised structure working exclusively in the criminal environmental area, who could also be an institutional representative of the Prosecutor's Office and likewise could liaise with the other environmental authorities;

A specialization in environmental crime has been established at the system of Public Prosecutor's Offices, as an optional one at some district public prosecutor's offices and mandatory at regional public prosecutor's offices. Crimes against the environment in the first instance fall within the substantive jurisdiction of the district public prosecutor's offices. There is no specialization in the courts at first instance.

Strengthening the specialization of public prosecutors in the field of environmental crime, including the establishment of a network of specialized public prosecutors, is supported by the Public Prosecutor's Office.

The follow-up to this recommendation is included in the submitted Strategy (measure No. 5).

Recommendation 9:

Consider promoting more structured information exchange between the competent environmental administrations (environmental inspectors), police and customs services as well as the judiciary (prosecutors and courts);

The exchange of information exists on an informal basis based on links formed between responsible personnel over time. Greater structure and formality could be set up with methodological material (see the commentary to Recommendation 11), the creation of a formal functional inter-ministerial team or the template for/conclusion of formal cooperation agreements.

The follow-up to this recommendation is included in the submitted Strategy (measures No. 2 and 3).

Recommendation 10:

Consider the formalisation of cooperation and communication among the national authorities competent to tackle environmental crime, e.g. through the development of a formal agreement or protocol;

Some agreements exist, their revision would be appropriate. This would be appropriate to follow up with the establishment of a functional inter-ministerial team.

The follow-up to this recommendation is included in the submitted Strategy (measures No. 2 and 3).

Recommendation 11:

Re-assess the balance between the administrative and the criminal approach to environmental crime, so that criminal law could fully play its repressive and deterrent function in this area.

The reason for the unequivocal predominance of administrative sanction over criminal sanction is the setting of the legislative framework and the fact that most of the acts in question do not actually fulfil the characteristics of the material elements of the criminal offenses in question. The fact that administrative sanctions prevail shall not be considered wrong per se. These are effective in many cases. It is therefore primarily necessary to assess whether and to what extent a deviation of the relationship between administrative and criminal sanctions in favor of more frequent imposition of criminal sanctions is desirable resp. necessary for practice. Subsequently, it shall be assessed in what ways this can be achieved. Based on the analysis, it will then be necessary to consider whether a change in legislation is necessary in this context, or whether creation of a methodological material on which all stakeholders agreed would appear to be a more appropriate tool.

The follow-up to this recommendation is included in the submitted Strategy (measure No. 7).