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NOTE

From: Romanian 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 Romania

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 Romania regarding the recommendations that were made in the report ST 8783/1/19 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 ROMANIA

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 **ROMANIA** as set out in doc. 8783/1/2019 rev 1, was adopted by the LEWP/COPEN WP on **23 May 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 **ROMANIA** in the above evaluation report.

Recommendation n. 1

Consider prioritising the fight against environmental crime (e.g. by establishing a national strategy defining the main goals and the roles of the respective authorities involved in the fight against environmental crime)

National Environmental Guard (NEG) contribution:

NEG has an annual dedicated plan for supervision and control of waste shipments (reached the 4th edition), communicated to the European Commission as well, which are carried out specific topics of inspection and control, on several types and categories of waste - waste which are a obvious attraction for criminal groups involved in such operations of illegal trafficking and smuggling of both hazardous and non-hazardous waste.

NEG participates, according to the Law no. 56 / 6.03.2018 regarding the cooperation of the Romanian public authorities with the European Union Agency for Law Enforcement Cooperation - Europol and with Interpol, through the Europol National Unit, respectively International Police Cooperation Centre (IPCC) of the Romanian Police, for international operations against cross-border environmental crime, operations such as Enigma III Interpol, Tecum Europol, 30 days of action - Interpol, 30 days at sea - Interpol, Demeter IV and V, National Operation Watch-1, etc.

Moreover, NEG together with the representatives of the Custom Authorities took important steps, especially at the level of countering cross-border environmental crime, during joint meetings where the bases of a direct collaboration between the operative structures were laid in the mutually informed cases.

The Romanian Police contribution

Nevertheless, in order to prevent and combat illegal acts in the field of environmental protection, the Romanian Police, through specialized structures, constantly initiates national actions, check-ups and inspection activities related to the use of hazardous substances as well as plant protection products, achieving a good understanding of the criminal phenomenon in this area.

Here are some examples of actions initiated by the Romanian Police, carried out at national level, that illustrate the efficient cooperation among all the actors involved in countering environmental crime:

- The national action "TOXCONTROL", carried out between 21.11-17.01.2020 for the prevention, identification and sanctioning of criminal and contraventional acts in the regime of plant protection products and substances used in hygiene and public health, disinfection, disinsection and pest control.
- The national action "FITOS 2020", carried out between 06.04 - 29.05.2020 for improving the safety and health of citizens, preventing and combating criminal and misdemeanor acts on plant protection products and environmental protection regime.
- The national action "RETROVIRUS", carried out between 09.06 - 01.07.2020 on compliance with the legislation on hazardous waste coming from medical activities in the context of measures taken against the spread of SARS COV2 virus.
- The national action "PHOSPHINE", carried out between 27.07 - 08.09.2020, for the prevention, identification and sanctioning of criminal and contraventional acts in the regime of plant protection products, classified as toxic (T) and very toxic (T +), in particular those containing the chemical "aluminum phosphide".

Recommendation n. 2

Develop methods to collect statistics referring to waste crime in comprehensive way in order to show the development/trends in waste crime in Romania; (cf. 3.3.2 and 3.6)

National Environmental Guard (NEG) contribution:

From the operational point of view, although insufficient, NEG has its own analyzes for the identified waste streams, according with data and information from the inspection and control actions carried out and later analyzed, including by drawing up relational maps and standard case files that are communicated to Europol, or Interpol as appropriate, through IPCC of the Romanian Police, inclusive of the request. We do not know the stage at national level, or if there are other statistics related to which level we are positioned in the European or international architecture, development trends by directions of action, types and categories, frequencies, flows, areas, target groups, groups affected, costs, benefits, national damages both financial and image.

Recommendation n. 3

Implement a waste hierarchy, prioritising waste prevention and recycling to reduce opportunities to dispose of waste illegally; (cf. 3.5 and 3.6)

National Environmental Guard (NEG) contribution:

NEG approach the principle of waste hierarchy, trying to prioritize the prevention of waste and its recycling, in order to reduce the possibilities of illegal waste disposal; in all controls considers that it makes efforts to guide the economic operators carrying out waste operations in applying the best available techniques on this line of action and to act according to the current principles of minimizing of waste generating and implementation of the waste hierarchy.

Recommendation n. 4

Consider introducing landfill taxes to discourage the illegal import of household waste; (cf. 3. and 3.6)9

National Environmental Guard (NEG) contribution:

NEG considers that Romania has come already previously with a sufficient action to index the taxes in question, taking into account the characteristics of the current Romanian society and the current level of understanding of environmental issues in general. (After the evaluation mission, in January 2019 Romania informed the experts that a financial contribution for the circular economy was introduced, which are already applies to landfill waste.)

Recommendation n. 5

Is encouraged to set up a specialised unit within the police and designate prosecutors specialised in fighting waste crime at regional and/or national level; (cf. 4.1.1, 4.1.2 and 4.6)

The Romanian Police contribution:

In order to implement the recommendations of the evaluation team, at the level of the Romanian Police, steps were taken in order to set up a single specialized unit in the field of preventing and combating environmental crime.

Thus, the management of the Romanian Police approved the setting up of the Focal Point on Environmental Crime (build upon the principle already used in EMPACT FIREARMS, of the national focal points), taking over the competences in the field of reference and incorporating the attributions of the two central units that mainly dealt with environmental crime (Directorate for Weapons, Explosives and Dangerous Substances and the Public Order Directorate).

It would operate under the Directorate for Weapons, Explosives and Dangerous Substances, given that during the years 2014-2019 most of the crimes committed under the environmental protection regime were discovered by police officers within this unit.

In addition to the need to merge all environmental crime competences into a single department, the measure envisaged by the Romanian Police was motivated by the existence, at national level, of a proposal to set up an equivalent unit, at the level of the Romanian prosecutor's office (The Public Ministry), the Directorate for the Investigation of Environmental Crimes.

We expect that the measure of establishing a single structure at the level of criminal investigation bodies will be likely to streamline cooperation with other responsible bodies at national level, such as the customs authorities and in particular with the National Environmental Guard.

Recommendation n. 6

Is encouraged to develop measures/tools to maintain specialised staff within the National Environmental Guard to fight against waste crime effectively; (cf. 4.2.1 and 4.6)

National Environmental Guard (NEG) contribution:

NEG developed a specialized structure – a dedicated office to the supervision and control of waste shipments, imports, exports, which together with the workers of the NEG-Pollution Control Directorate cover as much as possible the multitude of cases in this field. In this field are extremely difficult to train specialists, requiring both time and especially a lot of study on cases, both national and disseminated at European level through the Impel networks, Envi Crime Net, ILEA-FBI, etc.

Recommendation n. 7

Consider vesting the National Environmental Guard with (limited) criminal investigative powers with regard to EU legislation on the illegal shipment of waste; (cf. 4.2.1 and 4.6)

National Environmental Guard (NEG) contribution:

Investing NEG with attributions in the register of criminal investigation, it is quite improbable because it would require the modification of an entire legal system of special implications. Thus, the competent authorities can set up joint action groups with participation of both the inspection & control authorities and the criminal investigation authorities.

Recommendation n. 8

Provide more training opportunities to practitioners involved in detecting and/or fighting environmental crime (e.g. the police, customs, prosecutors and judges); (cf. 4.5 and 4.6)

National Environmental Guard (NEG) contribution:

- Training opportunities are extremely necessary, especially conjoint, but at this level are especially recommended external experts.

The Prosecutor's Office attached to the High Court of Cassation and Justice contribution:

- In 2020, 50 prosecutors were trained by expert prosecutors on the subject of combating environmental crimes in a narrower sense without forestry, hunting and fishing crimes, with the Eurojust National Bureau also intervening in each training session.

Recommendation n. 9

Is encouraged to review the level of financial penalties applicable to waste infringements committed by corporate bodies so that they are effective, proportionate and dissuasive; (cf. 5.1.1 and 5.5)

National Environmental Guard (NEG) contribution:

The opportunity of review the financial sanctions level have to be established within the Ministry of Environment, Waters and Forests, respectively the Government of Romania.

Recommendation n. 10

Is encouraged to review its national legislation on environmental crime in order to avoid inconsistencies and to allow practitioners to apply rules on environmental crime; (cf. 5.1.1, 5.5, 9.1 and 9.2)

National Environmental Guard (NEG) contribution:

The revision of national environmental crime legislation in order to avoid inconsistencies and to allow practitioners to apply environmental crime rules is currently at the level of proposals.

The Prosecutor's Office attached to the High Court of Cassation and Justice contribution

In January 2020, the Prosecutor's Office attached to the High Court of Cassation and Justice notified the Ministry of Justice for the establishment of a working group, in order to review the national legislation in the field. So far, this working group has not met.

Recommendation n. 11

Consider developing effective ways of collecting and sampling evidence so that it is more likely to be admissible in the court; (cf. 5.2.1 and 5.5)

National Environmental Guard (NEG) contribution:

- NEG considers that the development of effective ways of collecting / taking evidence so that it is likely to be admitted / accepted without hesitation in court, should also be done by modifying or clarifying a current legal system in relation to technical standards for sampling / analysis of sample samples that accredited and authorized analysis laboratories assume in full.

Recommendation n. 12

Enhance its detection capacity including physical controls of illegal waste shipment and inspections of company premises; (cf. 7.1.2 and 7.3)

National Environmental Guard (NEG) contribution:

- Improving the detection capacity, including physical controls of waste transfers and inspections at the company's headquarters is already unfolding, it is systematically done at a level that is allowed by the number of specialists, facilities, budget allocated to analysis, but insufficient to be at the same performance compared to several standard systems respectively German, Finnish, English, Dutch.