

EU Framework on Environmental Crime under Scrutiny

Thomas Wahl



News

AUTHOR

Thomas Wahl

Senior Researcher
Max Planck Institute for the
Study of Crime, Security and
Law

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Ten years after the criminal law directives on environmental crime and ship source pollution were agreed upon, the EU is now carrying out a thorough evaluation and assessment of the legal framework. On 15 November 2019, the Council tabled the [draft final report on the eighth round of mutual evaluations](#), which was devoted to the practical implementation and operation of European policies on preventing and combating environmental crime. The report summarises the main findings and recommendations and draws up conclusions in view of strengthening the prevention of and fight against environmental crime across the EU and internationally.

Since the range of offences covered by environmental crime is broad, the eighth round of mutual evaluations focused on those offences which Member States felt warranted particular attention, i.e., illegal trafficking in waste and illegal production/handling of dangerous materials. The evaluation involves a comprehensive examination of the legal and operational aspects of tackling environmental crime, cross-border cooperation, and cooperation with relevant EU agencies. Evaluation missions to individual Member States started in September 2017 and ended in February 2019. The evaluation missions resulted in detailed reports on each of the 28 Member States.

The general report underlines, *inter alia*, that environmental criminal offences in the examined areas remain undetected, as this type of crime is often “invisible.” It is therefore considered a “control crime,” which, as such, has to be tackled proactively. The report also includes several recommendations aiming at improving the situation when fighting environmental crime. Member States should, for instance, adopt a comprehensive national strategy setting out priorities to fight these crimes. Another weak point identified was the lack of statistical data on the crimes and of information on the flow of cases from administrative and law enforcement authorities. Therefore, Member States are called on to work out a method by which to collect systematic, reliable, and updated statistics in order to enable a strategic evaluation of the national systems.

In addition to the eighth round of mutual evaluations, the Finnish EU Council Presidency intensified discussions on the adequacy of the current EU criminal law framework on environmental crime, with the aim of identifying areas in which further approximation of the Member States’ criminal laws may be advisable. To this end, the Finnish Presidency presented a [report on the “state of environmental criminal law in the European Union”](#) on 4 October 2019.

The report lists relevant developments in the EU’s environmental policy since the 2008 Directive on the protection of the environment through criminal law and the 2005 Directive on ship source pollution (amended in 2009). The report also summarises the input given at various meetings regarding further devel-



opment of the EU's regulatory framework in the field of environmental criminal law. Discussions focused on the following topics:

- Areas of environmental crime where criminal activity is considered to be more frequent or serious;
- Successes and challenges in countering environmental offences;
- Possible additional minimum rules on criminal sanctions in the area of environmental crime;
- The clarity of environmental criminal law.

The justice ministers of the Member States took note of the draft final report on the eighth round of mutual evaluations and the Finnish Presidency report at their [JHA Council meeting on 3 December 2019](#).

The Commission is currently also carrying out a comprehensive evaluation of the 2008 Environmental Crime Directive (cf. the [evaluation roadmap](#)). This evaluation seeks to collect a comprehensive set of data on the scale of environmental crime. It will analyse the effectiveness of the Directive's current scope and its consistency with other, relevant EU level legislation. Among others, the evaluation is based on a wide public consultation and on targeted consultations with experts and practitioners dealing with combating environmental crime. The results of the evaluation are expected to be published in spring 2020.

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