

PRELIMINARY REPORT EXECUTIVE SUMMARY



Gendarmerie
Nationale



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THE RISE OF ENVIRONMENTAL CRIME

Environmental crime is growing. A 5 to 7% yearly growth in number of offenses in past years has turned it into one of the leading crimes on both the global and the European stage – the UN considers it now the fourth largest criminal area in the world. Low risks of prosecution, high revenues and lack of tools by the judiciary and law enforcement authorities have motivated organised and non-organised crime to expand into areas such as wildlife and timber trade or waste trafficking.

The EU is at the centre of such worrying trends: as the first economy and trading bloc in the world, the Union is one of the leading destination or transit hub for goods smuggled by environmental crime. The unique natural resources of Member States such as Romania or Poland as well as the significant demand for cheap waste disposal in countries such as Italy or Germany make Europe an appealing theatre for traffickers. The consequences of all of this are devastating – not only for the environment, but also for the whole European economy and society, which rely on the fragile natural equilibrium ensured by its ecosystems.

The rise of environmental crime in Europe requires swift action. Yet, despite the EU's strong environmental record, Member States and the Union as a whole are lacking the adequate tools to face it. European countries are still missing a common and clear definition of environmental crime and thus a shared list of which offenses are to be considered as such. The often-troublesome heterogeneity of Member States' norms and legal systems reaches its maximum regarding environmental crimes, the same offense sometimes falling under administrative, sometimes under criminal law in different countries, with huge disparities across Europe. While many Member States have extremely low penalties for serious environmental offenses, such as wildlife trafficking, lack of data also leads to a widely incomplete picture on the amount of illegal activities and damage done across Europe, further hampering cross-border cooperation. Transnational organised crime thrives in such an environment.

Yet, this could be the time to reverse such trends. The Green New Deal has put an unprecedented emphasis on environmental action, dedicating attention not only to widely addressed sectors, such as the energy transition, but also to biodiversity and the fight against wildlife trafficking or illegal logging.

In the past few years, the European Council has repeatedly recognised environmental crime as one of the top security threats for the EU and has recently included environmental crime as a priority in the EU fight against organised and serious international crime; institutions such as Europol and Eurojust have then put the issue among their priorities, promoting cooperation among national agencies. It is thus of utmost importance to translate this vision into the tools the EU needs to face environmental crime.



A quick overview of findings

A perspective on environmental crime in Europe

A universally accepted definition of environmental crimes does not exist, both on the global and the EU level, with some Member States lacking a definition at all. This strongly undermines action against envicrime, particularly concerning cross-border cooperation on transnational offenses, which are differently regarded depending on how Member States consider them (sometimes as administrative, sometimes as a criminal offense). The general picture on environmental crime in Europe is also fragmented and incomplete. In most Member States, statistics are insufficient and based on multiple individual resources, often lacking coherence. Categorization appears difficult not least because overlaps are very common.

It is however clear that the EU is strongly affected by a wide range of environmental crimes. While waste and wildlife trafficking are issues shared by most Member States, others are specific to certain areas of the EU, such as illegal logging (affecting specifically Eastern Europe). Offenses are however mixed and their variety increasing; this is the case, for instance, of carbon market frauds, which have involved several Member States, such as Poland, France, Cyprus or Lithuania.

Addressing environmental crimes is however not an easy task, due to a number of legislative, economic, and structural factors. Environmental offences are often less tangible – and thus less detectable – than others (i.e. they derive from accumulative processes or become visible after some time). Additionally, they frequently count on the collaboration of local communities, that might also gain short-term economic advantages from environmental crimes. Furthermore, in a globalised world and in an open-border Europe, most environmental crimes are transnational or have at least a transnational element (e.g. are perpetrated by international companies) frequently involving intra-EU and extra-EU trade (e.g. waste and wildlife crimes especially). Due to heterogeneous legislations, lack of data, feeble coordination, transnationality significantly complicates action.

Inadequate legislative and operative tools are another element undermining action against envicrime. This translates into the lack of a dedicated focus on environmental offenses, which in some Member States are considered only in relation to other, more consolidated kinds of crimes. Disproportionally low fines, significant room of interpretation of laws and difficulties in criminally prosecuting corporations further promotes the disregard of environmental regulations, particularly by large players.



The institutional framework

The role of Member States in fighting environmental crimes remain dominant. However, the heterogeneity and sometimes the inadequacy of the national resources allocated to the task is a major obstacle to fostering successful action on those offenses. Lack of common standards, in particular in the implementation of EU legislation, has led to significant differences in framing, investigating, enforcing and punishing environmental offences. Additionally, many Member States do not have a dedicated budget, a national plan or detailed laws against environmental crime. This blurred context brings within a number of spill-over effects, e.g. the delocalisation of environmental crimes or the difficult coordination. This is sometimes worsened by lack of transparency, as methodologies being used, information on single cases or follow-ups on investigation and cooperation among Member States are often not accessible to the general public.

A great variety of international, EU and national actors and institutions are anyway involved at various stages in combating environmental offences on the EU territory. UN convention bodies are flanked by UN agencies, regional organisations and international intergovernmental organisations. At the EU level, institutions (Commission, Parliament and Council), Courts and Agencies are involved and do cooperate in providing support to Member States and in ensuring compliance with the legal framework. Interpol, Europol and Eurojust are in particular key elements of such cooperation. In some instances, NGOs and environmental enforcement networks support the work of the above-mentioned bodies.

The EU has tried to build an ad hoc framework as the attention to the problem grew stronger, but this is in significant need of an update and an upgrade. The most important tool remains the 2008 Environmental Crime Directive (ECD), that obliges Member States to provide for criminal penalties in their national legislation in respect of serious infringements of provisions of EU law on the protection of the environment. The directive establishes a set of definitions (art. 2) and offences (art. 3) and calls for “effective, proportionate and dissuasive” penalties (art. 5). Other key pieces of EU legislation cover specific sectors (i.e. the EU timber legislation) or implement international agreements (i.e. the Ship-Source Pollution directive implementing the MARPOL convention). The EU also uses trade policy instruments to improve the implementation of multilateral agreements. However, the main weakness of such regulations lays in their vagueness which, by leaving wide space for interpretation and implementation, have not managed to promote much-needed coordination among Member States.



Envicrime and other offenses


Environmental crimes are also a fertile ground for the involvement of Organised Crime Groups (OCGs), due to their general high profit and low risk combination, low visibility and growing opportunities. OCGs participation in envicrime has grown following the recent financial crisis that harmed the global economy by hitting jobs and incomes, especially within the most fragile strata of the population. The thorough and pervasive organization of such groups allow them to take advantage of interpretation and coordination loopholes, and ultimately avoid prosecution. Their illegal involvement touches upon many sectors, starting from waste, and followed by, amongst others, trade in natural resources and forest-related activities. Additionally, organized crime is not mentioned under the ECD and environmental crime is not specifically mentioned in the TFEU.

Document fraud is also frequently associated to environmental crimes, allowing offences to appear as a legal activity. The complexity of paperwork needed to comply environmental regulations, combined with the scarce knowledge of local enforcement authorities and by overlaps of international, European and domestic regulations, make forged permits harder to detect, and surprisingly make overregulation an enemy of compliance. Misalignments between the CITES convention and the EUTR regulation are emblematic in this sense, although other sectors besides timber are affected by document fraud, such as waste trafficking and fisheries. Cybercrime – and the anonymity offered by the web, offline chats and VPNs – also offer a way to connect poachers and buyers and facilitates anonymous payments methods.

New tools

There are however a number of allies and tools to be more widely exploited or tested. Digital tools are becoming key instruments in the fight against environmental crime, starting from Earth Observation (EO) techniques (e.g. via satellites) that have been progressively used in the past decade, but could improve thanks to the diffusion of cheaper nano-satellites, drones and the increased capacities offered by the Copernicus programme. Emerging and digital technologies also offer the possibility to ease the registration and monitoring of offences.

From an institutional perspective, there are a number of platforms and collaboration projects among main concerned actors (judiciary, enforcement and others). The multi-disciplinary platform EMPACT has managed to include the topic among its priorities for its 2018-2021 cycle, with encouraging results. Given the magnitude of the problem, this is however still not enough. A dedicated focus and possibly a specific platform at the EU level are thus required. The European Green Deal could be the occasion for this change; the initiative has included the topic since its launch in the December 2019 Communication and in the 2030 Biodiversity Strategy, thus offering a chance for positive developments especially on the implementation and enforcement sides.



In this sense, a number of policy recommendations are identified in the report for the next phases at the EU level, summarized as follows: (i) recognise the gravity of environmental crimes; (ii) provide a common, European framework against environmental crimes; (iii) understand the evolution of offences and offenders; and (iv) provide visibility and political commitment to the fight against environmental crimes.

About Ambitus

The project AMBITUS aims at boosting the operational activities of the law enforcement authorities in their combat against environmental crime. AMBITUS has a dedicated research component, whose ultimate aim is to produce an “Handbook” of environmental crime in Europe by the end of the project (expected by the end of 2021). Such document will contain information on major environmental crimes in the EU, their impact on Europe and the interaction with other offenses, such as organised crime. It will contain an overview of the applicable legislative and the judiciary structure, of the type of enforcement action and of its effectiveness on the local, national and European level. It will feature an analysis of the key issues in addressing environmental crime and a series of policy recommendations on how to address these problems in such a delicate time for the European Union, as envicrime is dramatically on the rise.

Such Handbook will be compiled by merging the information obtained through the different items expected by the AMBITUS’ research component. The starting point of this process is the current document – i.e. AMBITUS’ Preliminary Report – which contains an overview of the above-mentioned issues, developed through desk research by the team of the Istituto Affari Internazionali (in charge of the analysis). The Preliminary Report will then be expanded through the answers provided by a questionnaire the team is currently sending to Law Enforcement Authorities (LEAs), the judiciary, international institutions, NGOs and think tanks across the EU-27 and outside the Union. The replies will be then discussed in a series of workshops held in at least 18 Member States. The information resulting from the questionnaire and the workshops’ debate will all be included in an updated version of the Preliminary Report, thus constituting the final Handbook on Environmental Crime in Europe.

In case you would like to participate to this exercise and/or provide information you believe may be useful, please do not hesitate to contact the IAI’s team:

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