



**Government of the Republic of North Macedonia**

# **Cooperation in strengthening environmental enforcement**

**Enforcement of legislation related to environmental crime in North Macedonia**

**State Environmental Inspectorate  
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# 1.Relevant EU legislation and international law

- Environmental Crime Directive 2008/99/EC on the protection of the environment through Criminal law
- **Bilateral Screening N.Macedonia, July 3-7 2023, Brussels, Cluster 4 Green Agenda and sustainable connectivity: Ch.27-Environment and Cl.changes (expected report till end of 2023)**



# 1. National legislative framework 1/2

## •**CONSTITUTION LAW** (Official Gazette No. 52/1991")

I. Basic provisions: Article 8 (rule of law, arrangement and humanization of space and protection and promotion of the environment and nature and respect for generally accepted norms of international law).

II. Basic freedoms and rights of man and citizen: 2. Economic, social and cultural rights, Article 43 Every person has the right to a healthy environment, Everyone is obliged to promote and protect the environment and nature, the Republic provides conditions for realizing the right to the citizens of a healthy environment.

III. Organization of state government: 4. Judiciary, 5. Public Prosecutor's Office,

•**CRIMINAL CODE** (Official Gazette No. 37/1996, 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/ 2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 115/2014, 132/2014, 160/2014, 199/2014, 196/2015, 226/2015, 97/2017, 248/2018, 36/2023 and 188/2023).

-Chapter twenty-two, CRIMINAL OFFENSES AGAINST THE ENVIRONMENT AND NATURE, Pollution of the environment and nature: 24 articles (218-234) / criminal acts.

•Criminal offenses against the environment were introduced for the first time in 1996 with the basic text of the CC.

•Violator can be any person, legal or physical, in addition to some offenses it can also be an official or responsible person

•Intent and negligence, - Inciting, aiding and abetting, -Criminal sanctions are penalties, precautionary measures and security measures.

•**CRIMINAL PROCEDURE LAW** (Official Gazette no. 150/2010, 100/2012, 142/2016 and 198/2018).

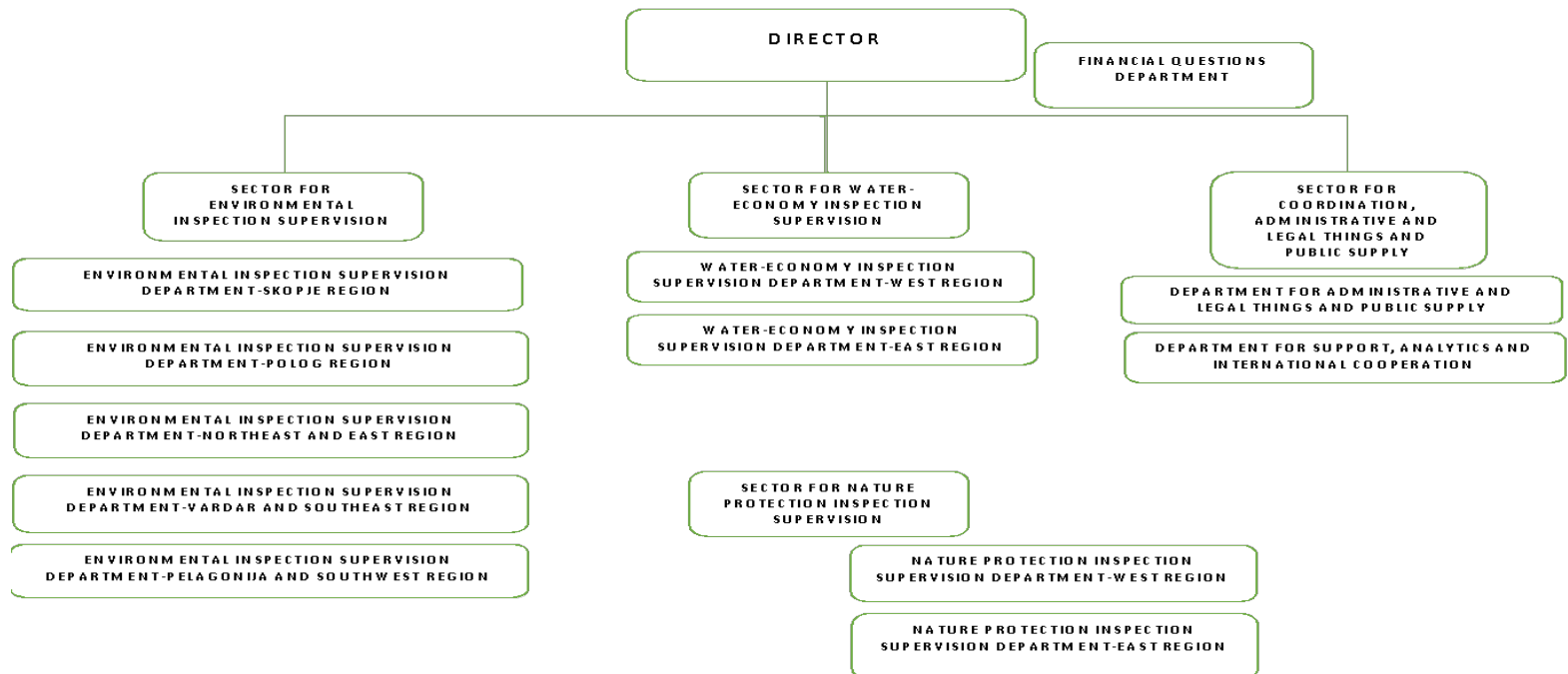
•This law establishes the rules that enable the fair conduct of the criminal procedure, so that no one innocent is convicted, and the perpetrator of the crime is sentenced to a criminal sanction under the conditions provided for in the Criminal Code and based on a legally conducted procedure.

# 1. National legislative framework 2/2

- **LAW ON THE ENVIRONMENT** ("Official Gazette" No. 53/2005; 81/2005; 24/2007; 159/2008; 83/2009; 48/2010; 124/2010; 51/2011; 123/2012; 93/2013; 187/2013; 42/2014; 44/2015; 129/2015; 192/2015; 39/2016 and 99/2018, 89/2022 and 171/2022).
- **All environmental legislation is aligned with the Offenses Act.**
- **Other related laws:**
  - Inspection Supervision Law;
  - Environmental Inspection Law,
  - Environmental Law,
  - Nature Protection Act,
  - Water Law
  - Ambient Air Quality Act,
  - Waste Management Law
  - Soil Protection Law (under preparation) and
  - Law on Control of Industrial Emissions (in parliamentary procedure).

# 1. Institutional framework 1/8

- The **MINISTRY OF JUSTICE** is a state administration body responsible for the transposition of the Environmental Crime Directive.
- **MINISTRY OF ENVIRONMENT AND SPATIAL PLANNING (MoEPP)** is a state administration authority responsible for performing activities in the field of environmental protection.
- **MINISTRY OF INTERIOR AFFAIRS, POLICE** is the competent institution for criminal prosecution of so-called environmental crimes in cooperation with judicial authorities and the State Environmental Inspectorate, municipal environmental inspectors
- **STATE ENVIRONMENTAL INSPECTORATE** – a body in charge of implementing the legislation, performing inspections. The inspectors initiate criminal proceedings before the Basic Public Prosecutor's Office.



# 1. Institutional framework 2/8

## State Environmental Inspectorate

- In the Nature Inspection Department there are two departments: Nature Inspection Department - West and Nature Inspection Department East.
- There are two departments in the Water Management Inspection Department: Water Management Inspection Department - West and Water Management Inspection Department - East.
- There are also two departments in the Department for Coordination, General and Legal Affairs and Public Procurement: the Department for General and Legal Affairs and Public Procurement and the Department for Support, Analytics and International Cooperation of the Inspectorate.
- There is also a Financial Unit.



# 1. Institutional framework 3/8

## State Environmental Inspectorate

According to the existing systematization within the State Inspectorate (53 positions are systematized), the current situation is as follows:

- 1 general inspector for the environment,
- 3 head inspectors (environment, nature protection and water management) – head of department,
- 6 senior inspectors - head of departments (3-Environment, 1-Nature Protection and 2-Water Management),
- 12 environmental inspectors and
- 3 junior inspectors (1 for each type).

The total number of inspectors is 25, plus 4 administrative officers. (29+1 Director).

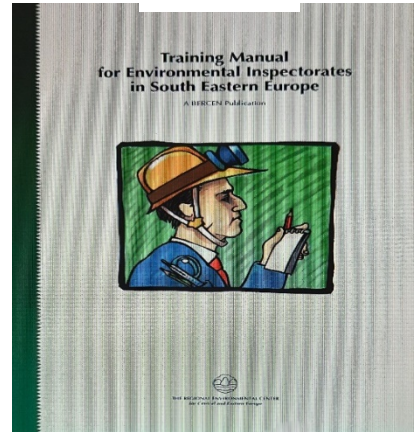
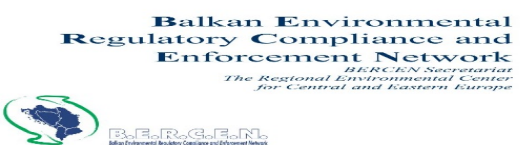
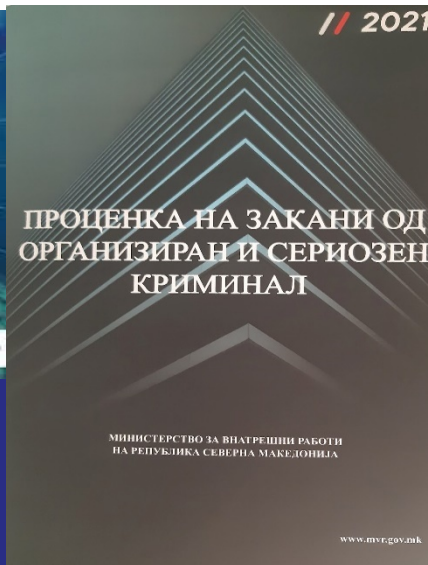


# Institutional framework 4/8

## State Environmental Inspectorate (SEI)

- **New Environmental Inspection Law**, in line with RMCEI 2001, Art.23 EU IED, SEVESO and TFS Requirements.
- The duties of the **SEI** are described in 28 laws and approx. 260 by-laws. Prepared 50 checklists, 6 SOPs, 12 factsheets (figures about different industrial installation).
- **3.000 inspections per year.**
- List of controlled installations (operators, A-IED 125, protected areas/national parks (90, IUCN), hydro systems...),
- Risk-based planning (Risk-based planning methodology and complexity in accordance with the law, the criteria of IRAM), based on IMPEL best practices.

# ENVIRONMENTAL INSPECTION – Networks, Trainings, Docs... (Topics Envicrime from 2007...) Institutional framework 5/8



# Institutional framework 6/8

## Judicial Bodies

**1. PUBLIC PROSECUTOR** - is in charge of prosecuting environmental crimes.

- “BPP POCC”-Basic Public Prosecutor's Office for prosecuting organized crime and corruption-skopje, jurisdiction for the entire territory.
- Basic Public Prosecutor's Offices (22), Higher Public Prosecutor's Offices (4).

### 2. COURT SYSTEM

**BASIC COURTS** (27) with basic competence for the areas for which they were established, are competent to decide in the first instance on criminal acts and misdemeanors, namely:

- for crimes for which a prison sentence of up to five years is determined by law as the main punishment, if for some crimes the jurisdiction of another court is not foreseen,
- for crimes for which the jurisdiction of a court with basic jurisdiction is determined by a special law,
- to carry out investigations or investigative actions for criminal acts under their jurisdiction, for all types of offenses, except for offenses that are by law placed under the authority of a state administration body or organization or other body that exercises public powers and for appeals and objections to the procedures for which these courts are competent.

### CRIMINAL COURT

- **The Basic Criminal Court** is a criminal court with basic and extended competence for the area of the Skopje planning region.
- In the Basic Criminal Court of Skopje, a specialized court department has been established, competent for the trial of acts in the field of organized crime, for the entire territory of the country.

### HIGHER ADMINISTRATIVE COURT

**The higher administrative court is competent:**

- To decide on appeals against the decisions of the Administrative Court made in the first instance;
- To decide on a conflict of competences between the authorities of the Republic, between the municipalities and the City of Skopje, between the municipalities of the City of Skopje and after disputes arising from a conflict of competences between the municipalities and the City of Skopje and the holders of public powers, if this is provided for by law, if no other protection is provided by the Constitution or the laws and
- to perform other tasks determined by law.

**THE COURT OF SECOND INSTANCE IS THE HIGHER AND APPEAL COURTS 4 (Skopje, Bitola, Gostivar and Stip)**

# Institutional framework 7/8

## Judicial Bodies

### **SUPREME COURT:**

The Supreme Court of the Republic of North Macedonia is the highest court in the country and ensures unity in the application of laws by the courts. The Supreme Court exercises judicial authority over the entire territory of the Republic and has its headquarters in Skopje.

### **JURISDICTION:**

- decides in the second instance against the decisions of its councils when it is determined by law;
- decides in the third and last instance on appeals against the decisions of the appellate courts;
- decides on extraordinary legal remedies against the final decisions of the courts and the decisions of its councils when it is determined by law;
- decides on a conflict of jurisdiction between basic courts from the area of different appeal courts, a conflict of jurisdiction between appellate courts, a conflict of jurisdiction between the Administrative Court and another court, a conflict of jurisdiction between the Higher Administrative Court and another court and decides on the transfer of local jurisdiction at these courts;
- decides at the request of the parties and other participants in the procedure for violation of the right to trial within a reasonable time, in a procedure established by law before the courts in the Republic of North Macedonia in accordance with the rules and principles established by the European Convention on Human Rights and Fundamental Freedoms and starting from the case law of the European Court of Human Rights and performs other tasks determined by law.



# Institutional framework 8/8

## Judicial Bodies

### **ADMINISTRATIVE COURT:**

The Administrative Court, for the purpose of ensuring judicial protection of the rights and legal interests of natural and legal persons and for the purpose of ensuring legality, decides in administrative disputes on the legality of the acts of the bodies of the state administration, the Government, other state bodies, the municipalities and the city of Skopje, organizations determined by law and of legal and other persons in exercise of public powers (holders of public powers), when they decide on the rights and obligations in individual administrative matters, as well as on acts passed in misdemeanor proceedings. In particular, the Administrative Court is competent to decide:

- on the legality of the individual acts adopted in the electoral procedure and of the individual acts for elections, appointments and dismissals of public office holders, if this is determined by law, as well as for the acts for the appointment, appointment and dismissal of leading civil servants, if otherwise not defined by law,
- about the legality of the acts of the bodies of the state administration, the Government and holders of public powers, adopted in the form of a regulation, if they regulate individual relations,
- for a dispute arising from the implementation and execution of the provisions of concession agreements, public procurement agreements that are of public interest and for any agreement in which one of the parties is a state authority, an organization with public powers, a public enterprise, the municipalities and the city of Skopje , concluded in the public interest or for the purpose of performing a public service (administrative contract),
- against individual acts of the bodies of the state administration, the Government, other state bodies, the municipalities and the city of Skopje, organizations determined by law and of legal entities and other persons exercising public powers (holders of public powers), when for resolution in the second instance against such act, no other legal protection is provided and
- decides on a conflict of competences between the authorities of the Republic, between the municipalities and the city of Skopje, between the municipalities of the city of Skopje and after disputes arising from a conflict of competences between the municipalities and the city of Skopje and the holders of public powers, if this is provided by law, if by the Constitution or the laws do not provide for any other judicial protection.

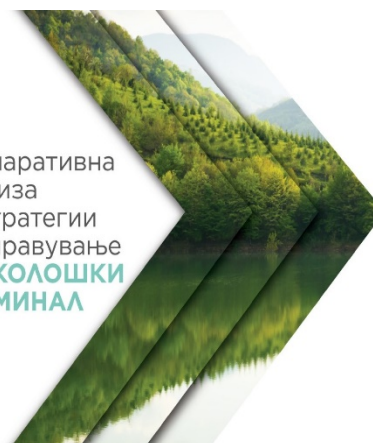
## **2. Compatibility/Compliance Assessment**

- The Directive has been transposed at great extend into the national legislation (more than 92%).
- Full implementation after the accession of country to the EU.

# 3.Implementation, enforcement

## PROJECTS FOR ENVIRONMENTAL JUSTICE (MASA-MACEDONIAN ACADEMY ON SCIENCE AND ARTS, MINISTRY OF JUSTICE, MoEPP, SEI, CIVIL SECTOR, UNIVERSITIES, MOI, JUDICIAL BODIES, ACADEMY OF JUDGES AND PROSECUTORS) AND GOOD ENVIRONMENTAL MANAGEMENT: (PUBLICATIONS):

- The Center for Legal Research and Analysis within the Project for Good Environmental Management prepared the analysis **The Role of the Constitutional Courts in the Protection of the Environment and the Right to a Healthy Environment.**
- ENVIRONMENTAL JUSTICE CURRICULUM FOR THE TRAINING OF JUDGES AND PUBLIC PROSECUTORS.
- COMPARATIVE ANALYSIS OF STRATEGIES FOR DEALING WITH ENVIRONMENTAL CRIME.
- ROADMAP FOR ENVIRONMENTAL POLICIES IMPLEMENTATION.
- GAP AND GAP ANALYSIS – CHALLENGES AND OPPORTUNITIES FOR THE ENVIRONMENTAL INSTITUTIONAL AND LEGAL FRAMEWORK.
- ENVIRONMENTAL PROTECTION THROUGH THE PRISM OF THE PRACTICE OF THE EUROPEAN COURT OF HUMAN RIGHTS – GOOD AND BAD PRACTICES IN R. N.MACEDONIA





# 3. Implementation, enforcement

- The Center for Legal Research and Analysis has produced an informative video about the most common crimes against the environment in the Republic of North Macedonia for which judgments have been issued in the period from 2017 to 2021, i.e. 56 judgments for usurpation of real estate, 20 judgments for illegal hunting and fishing, 6 verdicts for illegal exploitation of mineral resources, 8 verdicts for torturing animals, 3 verdicts for devastation of forests, 1 verdict for endangering the environment and nature with waste.
- However, many crimes remain unprocessed and without appropriate sanction, and the fines for these crimes are very low. Therefore, an urgent increase in fines is needed in order to prevent new crimes from being committed. In the new Criminal Code, increases in the penalties for crimes committed against the environment are proposed, and in addition to liability for natural persons, liability for legal persons has also been introduced.
- **Environmental Compliance Action Plan for Combating Environmental Crimes and Related Offenses, Guidelines Guide**

# 4. Further plans for harmonization 1/4:

- The introduction of a new crime against the environment, **Ecocide**, as well as partial amendments to Chapter 22 of the Criminal Code, have been proposed by the CLRA based on comprehensive analyzes and cooperation with all concerned institutions.
- **Amendments to the Criminal Code** was adopted by the Macedonian Assembly (September 2023, published in OG No.188 September 7, 2023).
- **Implementation of the law and directive (2024-2026)**



**ECOCIDE:** He who violates the law, with the intention of causing damage to the environment, will take action or shall fail to take an action which would serious or widespread or long-term damage to the environment has occurred, shall be punished with a prison sentence of at least ten years or life imprisonment."

## **4. Further plans for harmonization 2/4: 2023-2024**

- **New EU Twinning Project of the Ministry of Interior (expected to start till end of 2023)-Strengthening the institutional capacities in dealing with organized criminal groups and criminal cases related to cultural heritage and **environmental crime**).** The specific objective of this project is strengthening the capacities for prevention, investigation and prosecution of criminal cases against the environment and movable and immovable cultural heritage through strengthened inter-institutional cooperation and inter-disciplinary approach with establishment of National Environmental Security Task Force's-NEST and new organizational structure for protection of the environment and cultural heritage. State Environmental Inspectorate will be one of the main beneficiary institutions.
- **New EU Twinning Project of the State Environmental Inspectorate (final stage before the announcement of the call, 24+3 months duration, 1 mil.euro, possible start January 1<sup>st</sup> 2024) - Strengthening the capacities for enforcement of the environmental legislation).** The purpose of the project is to establish effective implementation and enforcement of environmental legislation in the country. One of the activities will be preparing of the National Environmental Platform for establishment of mechanism for prevention and combat of environmental crime.
- Follow-up support activities USA and FRANCE

## 4. Future Plans 3/4

continuous from 2024

- Continuous organization of trainings for public prosecutors, as well as for judges, with the aim of familiarizing them with the main elements of environmental crime, the method of determining damage and determining responsibility.
- Strengthening the capacities of competent institutions for penal provisions for caused damage, crimes in the environment.
- Strengthening the capacities, interests and motivation of civil society organizations for monitoring and reporting crimes in the environment.
- Creation of a database or e-register that will contain an overview of crimes committed against the environment, which should be publicly available.

## 4. Future Plans 4/4

continuous from 2024

- Repurposing of the funds from the paid fines for financing activities for the improvement of the environment (in the absence of the Environmental Fund to be included in the Environmental Investment Program, which will increase the funds provided for financing the activities of civil society organizations for this problem).
- Establishing contact and cooperation with environmental experts (the Register is maintained by the Ministry of Justice) in order to obtain information on the implementation of criminal proceedings for crimes against the environment where expert services are required.

**THANK YOU FOR YOUR ATTENTION!**

**State Environmental Inspectorate  
Darko Blinkov, National IMPEL Coordinator**