



## ENPE newsletter - Issue 18

21 November 2022

### Message from ENPE President Anne Brosnan

Dear Colleagues,

Welcome to this our 18<sup>th</sup> ENPE newsletter, commemorating our 10-year anniversary and recalling the meeting on 12 of September 2012 when our ENPE Statutes were signed in Brussels. In fact, it was further back, in 2011 that the ENPE initiative was first conceived at a conference organised by EUFJE, the European Commission and the Belgian Judicial Training Institute, entitled “Combatting Environmental Offences” held in Durbuy, in Belgium. It was at Durbuy, very much at the instigation of EUFJE, that a number of prosecutors from EU Member States came together and agreed that a formal network of public prosecutors should be established, to share and develop best practices in combatting environmental crime. We are indebted to our Belgian colleagues, Prof. Dr Luc Lavrysen and Judge Jan Van Den Berghe in this regard.

The idea became reality after a first introductory telephone meeting between interested parties. Ms Marianne Wenning, then Director of Legal Affairs and Cohesion at the Directorate General for Environment (DG ENV), European Commission, was present to witness the signing of the statutes, alongside the ENPE founder members. The establishment of ENPE completed the group of enforcement networks reflecting the ‘chain of compliance’ in the fight against environmental crime, alongside EnviCrimenet, IMPEL and EUFJE.

We are very grateful to those original members for their commitment and foresight and I am pleased to say that three of us are still Board members today: Lars Magnusson (Sweden), Jean-Philippe Rivaud (France) and myself, although my colleague Jonathan Robinson was the leading member for the Environment Agency (England) then. We look forward to many more years and anniversaries to come.

The 10-year anniversary was marked by a series of meetings and a celebratory dinner. These events commenced with a liaison meeting with colleagues from Eurojust, the US Department of Justice, the EU Commission and Europol, hosted by Eurojust at their offices in the Hague on the 29 September 2022. This was followed by an informal dinner in the evening where a toast to the ENPE network was made, to recognise our 10 years of activity, as well as a toast recognising the 20-year anniversary of Eurojust.

The following day, we were pleased to welcome our members, invited guests and speakers, together with the US Delegation to a wider meeting to share case studies around environmental crime prosecutions and

to formally launch the latest phase of ENPE activity. This relaunch, of our new work programme, which runs until the end of 2024, included the reconvening of our specialist working groups. This busy day was concluded with our AGM which was well attended by our members both in person and virtually, via weblink.

What is very clear from all the presentations, discussions and interactions on both days is that environmental crime is a serious challenge for our age. The need



for extended international collaboration is greater than ever, as we witness the increasingly global nature of these crimes and do all in our power to challenge, confront and stop illegal activity.

Attendees from the Eurojust, ENPE and US DoJ meeting and workshop 29/09/22 are pictured above. (photo courtesy of Eurojust 2022)

Thanks again to all who contributed and attended the event and those that couldn't make it but continue to support our work. It is much appreciated.

Anne Brosnan ENPE President and Shaun Robinson ENPE Project Manager.



The original ENPE founder members are pictured left at the signing of the Statutes in Brussels in September 2012.

Photo courtesy of ENPE 20212.

## ENPE AGM, Eurojust, The Hague, Netherlands 30.09.2022

ENPE President Anne Brosnan chaired the 2022 ENPE AGM which took place on the 30 September 2022. The General Secretary, Treasurer and President's reports were all shared and presented, along with an update of ENPE members (now numbering 51 in total representing 31 countries) and the key achievements of the year.

Officer appointments were not covered because of a delay in the updating of changes at Belgian Companies House. It is envisaged that a separate meeting to confirm these will be convened at some point in 2023. We were very pleased to see so many of our members attending in person and look forward to a similar turn out next year.

## Inaugural ENPE GAIA Award winners 2022

For the first time ever, we were delighted to present the ENPE Gaia Awards – representing outstanding



contributions in the fight against environmental crime, at our main meeting in The Hague on 30 September.

These awards, in the form of the Greek Goddess 'Gaia' (Mother Earth) as hand-made bronze statuettes, have been designed and cast in Heraklion, Crete and are the result of an idea that was conceived in 2019 to recognize particularly significant contributions to fighting environmental crime. Open to prosecutors and specialists involved in

this area of prosecution, nominations for the three categories of award are made over the course of the year from January until the award presentation event, usually held in the Autumn.

Our first award winner for "overall contribution in the fight against environmental crime" was **Dr Miroslav Angelov, of the European Commission's Directorate General for Environment, based in Brussels.**

Dr Angelov is pictured above left receiving his award from Shaun Robinson of ENPE.

The second award winner, for "case of the year" was **Mr Teodor Nita, a Public Prosecutor from Constanta in Romania** who is pictured right after receiving his award at the ENPE and Eurojust liaison meeting on 30 September 2022.



(T Nita 2022)



The third category of award for “innovation and excellence in combatting environmental crime” was won by



**Mr. Moulay El Hassan Daki, pictured left, the King's Prosecutor General at the Court of Cassation, Kingdom of Morocco.** Mr Daki's award was collected by his colleague Mr Mohamed Oukhlifa at the same meeting.

We have worked with Moroccan prosecutors for some time and have appreciated their welcome contribution to the joint ENPE and UNEP Convention for Migratory Species (CMS) work in setting up training to address the Illegal Taking and Killing

of Wild Migratory Birds (IKB). This area was the focus on the ENPE Wildlife Crime Working Group from 2016-2020 and



involved a workshop in Segovia. We are pleased to report on a successful twinning programme between the government prosecutors of Spain and Morocco. Our ENPE Board member Dr Antonio Vercher, is pictured

above on his recent visit to Morocco as part of this twinning programme.

The Spanish and Moroccan participants are pictured on the left, including our ENPE Observer member representative, Mr Mohamed Oukhlifa, pictured on the far right of the group, from the Court of Cassation, Kingdom of Morocco. (photos courtesy of M. Oukhlifa & A. Vercher 2022)

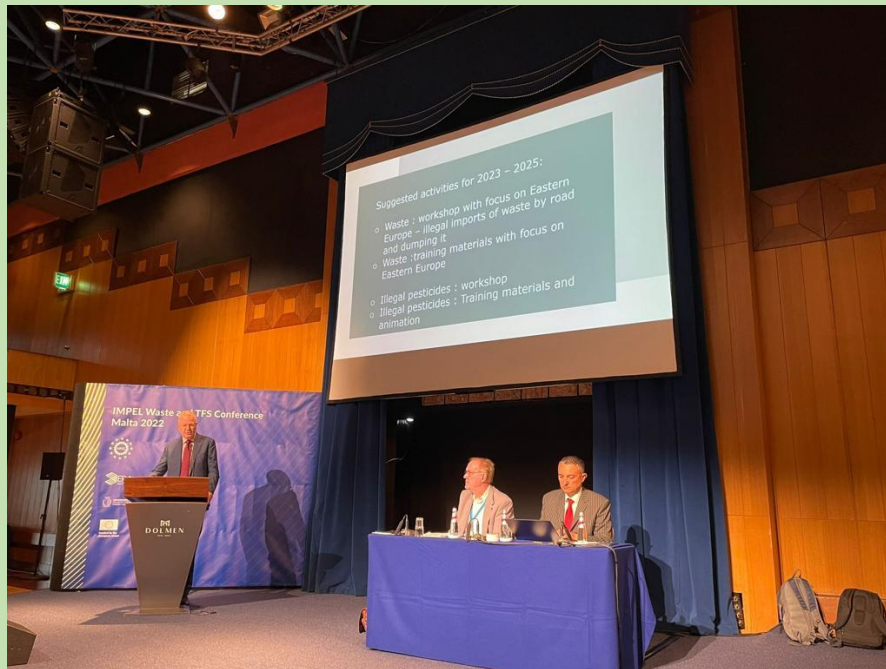
## **ENPE represented at IMPEL's Waste & TFS conference, Malta**

From 8 to 10 November, Vice-President Rob de Rijck represented ENPE at the IMPEL Waste & TFS Conference in St. Paul's Bay, Malta. Due to COVID, the annual meeting of IMPEL's Transfrontier Shipments cluster had not been held for two years. Therefore, the conference theme was *Waste Shipments and Circular Economy after COVID-19, What has happened?*

The agenda for the hybrid, two-and-a-half day conference contained three types of subjects. The first was a series of updates on activities by various organizations and networks. Evidently, the first was on the IMPEL Waste and TFS Projects, but there were also updates by the European Commission, by the Czech

EU presidency on the current revision of the Waste Shipment Regulation and by the Secretariat of the Basel, Rotterdam and Stockholm Conventions. In the updates by partner networks, alongside those by EUFJE and EnviCrimeNet, Rob informed the conference about the plans for the near future of ENPE's newly convened Waste and Illegal Pesticides Working Group.

The second subject area of the conference comprised (in part) technical briefings on waste topics such as



the end-of-waste criteria and the problem of substances of very high concern such as Chromium VI.

The third topic was one which the ENPE Waste and Illegal Pesticides Working Group certainly must consider more deeply. The proposal for a revision of the Waste Shipment Regulation, currently being negotiated by the European Council, holds some important new provisions on enforcement. If these provisions are accepted, an enforcement group chaired by the

EU Commission will be established and the EU Anti-Fraud Office (OLAF), will come to play a role in enforcement of the Waste Shipment Regulation.

In the discussion on this, in which representatives from both the Commission and OLAF participated, Rob emphasized that if these provisions are adopted, criminal law must be represented in this WSR enforcement group. Rob is pictured above delivering his presentation at the event. (photo courtesy of IMPEL 2022)

## **ENPE members delivering training to combat Wildlife Crime: EU LIFE SWiPE project**

As a member of their Expert Steering Group, ENPE has been pleased to assist the EU LIFE programme-funded 'SWiPE' Project, which stands for *Successful Wildlife Prosecution in Europe*, and is focussed on training specialists to strengthen prosecution of wildlife crime in the Balkan region of Eastern Europe. On 29-30 June 2022, two ENPE representatives, Paul Stimson (Crown Prosecution Service of England and Wales, UK and Teodor Nita, (Court of Cassation, Constanta, Romania) delivered training sessions on prosecuting wildlife crime at the SWiPE wildlife crime workshop, held in Madrid Spain. Both presentations were well received and the organisers and delegates were grateful to have benefitted from the experiences of both speakers during related discussions in the margins of the event.

More recently, Professor Remus Jurj, Associate Professor of Environmental Criminal Law at the Maritime University of Constanța, Romania and a Supporting Member of ENPE, delivered specialist training to the delegates in Romania as part of the SWiPE workshops held there.

Between August and November 2022, Remus was chosen as one of the experts to train delegates through FLORA & FAUNA INTERNATIONAL, who are one of the organisations implementing the project.

Remus, together with Chief Prosecutor Vasile Drăghici, from the Prosecutor's Office attached to the Constanța Court of Appeal, Constanta, Romania, delivered the presentations concerning wildlife crime relating to poaching and trafficking, in particular, in relation to CITES and protected species.

More specifically, the training delivered by Remus covered the following topics:

- European and International Regulatory Acts;
- Offences regarding CITES Protected Aquatic Fauna Species;
- Offences regarding CITES Protected Terrestrial Species of Fauna;
- Hunting and Poaching;
- Investigation of Crimes Committed on CITES Protected Wildlife Species.

The courses were held between October 12-14, 2022 in Sarmisegetusa, Hunedoara County in the south-west of the country and October 26-28, 2022 in Mahmudia, Tulcea County, in the Danube Delta area in the south-east of Romania.

Both were well attended with judges, prosecutors, police officers, environmental guard commissioners and customs officials all participating in the first training of this type and format held in Romania.

The trainees very much appreciated the contributions of the experts, and the prosecutors emphasized that it was the first course they attended in which the expert prosecutors analysed and comparatively explained the constitutive elements of the crimes regarding poaching and trafficking in CITES protected species, which are regulated in Romania using several laws, as well as the powers of the ascertaining bodies,





the administration of the evidence and the determination of the damage. Remus is pictured delivering a training session above. (photos courtesy of R.Jurj November 2022)

For more details on this project please visit: [LIFE SWIPE | WWF \(wwf.adria.org\)](#)

## ENPE at the UNITE Environmental Crime International Seminar South East Asian Prosecutors Bangkok and El Paccto

ENPE International Vice-President Mr. Jean-Philippe Rivaud attended the UNITE Environmental Crime International Seminar in Bangkok from 18-20 October 2022. The event brought together prosecutors and



specialists including UNITE members and associates from all over South East Asia, and introduced several prosecutor networks covering the region (see image on left). Speakers from Europol, Interpol and the UNODC presented on the issues and challenges in tackling environmental, particularly wildlife crimes in South East Asia. Jean-Philippe, pictured below, presented on a special session titled “**Status of the cooperation at regional level and between**

**Southeast Asia and EU**” bringing to bear his wealth of experience in working in prosecution in Latin America and France, as well as his role as ENPE International Vice-President.

Earlier in the year, Jean-Philippe had also attended and made an intervention at the EL PACCTO project’s event held in Paris on 30-31 May 2022, which focussed on tackling organised environmental crime in Latin America. EL PACCTO stands for the Europe Latin America Programme of Assistance against Transnational Organised Crime, an EU-funded international programme that works with Latin American countries by addressing organised crimes, by focussing on issues to strengthen the chain of compliance.



(J-P Rivaud 2022)

This event was attended by colleagues from the EU, Eurojust and Europol amongst others. As enforcement agencies increasingly recognise the global aspect of environmental crime, it is valuable for ENPE to be involved in contributing to these initiatives going forward. We look forward to hearing more from our colleagues in Latin America and South East Asia and future co-operation in prosecuting environmental crimes. For more information on the organisations, their work and upcoming events please see, for SEAJust:

<https://www.unodc.org/unodc/en/organized-crime/SEAJust/index.html>; and for EL PACCTO: <https://www.elpaccto.eu/en/about-el-paccto/what-is-el-paccto/>

## Estonia prosecutors visit Spanish environmental prosecutors as part of twinning programme

ENPE Board member Dr Antonio Vercher, as Prosecutor of the Co-ordinating Chamber of the



Environment for the State Attorney General's Office of Spain, met with an Estonian delegation of prosecutors as part of a successful bilateral exchange programme in June of this year.

The Estonian group, headed by Prosecutor General Anders Parma, was interested to find out about the Spanish approach to prosecuting environmental crime and in particular how the Spanish model works, involving the different enforcement agencies.

This successful visit also included meetings with SEPRONA, The Nature Protection of the Spanish Civil Guard, the Spanish Forest Agency and the Municipal Police of Madrid. The group are pictured with Dr Vercher above. (photo courtesy of the Spanish Ministry of Environment).

## ENPE participates in the ELI INTERPOL- PCWG podcast in conjunction with Sidley Austin LLP

The Environmental Law Institute (ELI) is an international non-profit organisation based in the USA, which provides advice, analysis and opinion on environmental law matters to government, business and academia. It broadcasts regular podcasts, discussing important topical environmental issues. Their latest podcast, in conjunction with the legal firm Sidley Austin LLP, focussed on the work of INTERPOL's **Pollution Crime Working Group (PCWG)**.

As a PCWG Board member, ENPE President Anne Brosnan was invited to participate alongside colleague Joe Poux (pictured) who is Deputy Chief of the Environmental Crimes





Section, Environment & Natural Resources Division of the US Department of Justice and who chairs the PCWG. For access to the podcase please use the following link:

[People Places Planet Podcast - The Enforcement Angle: INTERPOL's Pollution Crime Working Group](#)

[youtube.com](#)

## News from the European Commission

### TAIEX-EIR Multi-country Flagship Workshop on Environmental Compliance & Governance November 14 2022



The Technical Assistance and Information Exchange Instrument (TAIEX) of the European Commission (EC), which supports public administration in the adoption and application of European Union (EU) Legislation organised a workshop as part of the Environmental Compliance Assurance (ECA) initiative's Environmental Compliance and Governance Forum on 14 November in Brussels.

This workshop was convened to “*discuss issues related to ensuring environmental compliance, in particular combating environmental crime in general and the proposal for a new Environmental Crime Directive*” (from the workshop agenda). Another key area covered at the event was the implementation of the EC's Zero Pollution Action plan, in particular, to agree next steps and concrete actions in relation to environmental compliance.

As one of the key stakeholders, ENPE was invited to participate and present at the event, which was also attended by key EC representatives, EU Member State attendees and independent specialists.

## ENPE outreach

### Training & capacity building with partner organisations & projects

#### CEPOL Wildlife crime & Waste Crime training: Budapest, November & December 2022

ENPE member Teodor Nita, a prosecutor from Constanta in Romania, provided training, including the presentation of an interesting case study showing how international collaboration between prosecutors can lead to successful outcomes, at a CEPOL training event from the 07-10 November 2022 in Budapest.

CEPOL is the European Agency for Law Enforcement Training [CEPOL | European Union Agency for Law Enforcement Training \(europa.eu\)](#) and is also running a second training workshop in Budapest in December focussed on tackling illegal waste activities. ENPE Waste Working Group member Howard

McCann, a prosecutor from the Environment Agency (England) will deliver a training presentation at that event, sharing his wealth of experience in prosecuting international waste crime.

## **ERA EU Water Pollution Law training: 18 October & 15 November 2022**

The European Academy of Law (ERA), has developed a programme of training activities in the framework of their project “*Co-operation with national judges in the field of environmental law*” in collaboration with the European Commission’s Directorate General for Environment (DG ENV).

In focussing on of webinars on EU water legislation in the first instance, ENPE has assisted in drafting a slide pack which looks at controlled water protection focusing on the investigation, prosecution, and adjudication of water-related crimes. We delivered the slide pack on 18 October & 15 November 2022 at ERA events, presenting online, which was well received by the many delegates in attendance. The training will be delivered virtually in other European languages, with the slide pack translated by ERA. We would be very interested in hearing from any European prosecutors, including both ENPE members and non-members, who would wish to participate in the training, including in the delivery of the presentations.

## **IMPEL Water & Land Conference 2022, 11-12 October 2022 Lisbon, Portugal**

Our colleagues at the European Union Network for the Implementation and Enforcement of Environmental Law, (IMPEL) Water and Land group held their 2022 conference on 10-11 October 2022 as a hybrid event both online and in person in Lisbon, Portugal. The conference, which was opened by the Minister for the Environment and Climate Action,



Portugal, the Inspector General of the Portuguese Environmental and Agricultural Inspectorate, IGAMAOT, and the Head of Unit for

Environmental Rule of Law and Governance from the European Commission (EC), was very well attended with over 150 delegates from 35 different countries registered in person and online. (photos courtesy of A. Brosnan 2022)



As well as IMPEL's own activities in this area, the event focused on the practical aspects of implementing the EC's Zero Pollution Action Plan and the new Environmental Crime Directive. ENPE President Anne Brosnan was one of a number of guest speakers presenting at the event to share our work and activity updates with the delegates. Anne is pictured above delivering her presentation at the event.

## **ENPE represented at the OPFA-WASTE workshop and final event.**

The Operational Facility for Fighting Illicit Waste Trafficking (OPFA-WASTE) project, has now concluded final closing event held in Rome on 26 October. Its aim is to *foster international police co-operation and set harmonised investigation methodologies in the field of Illicit waste trafficking*. ENPE was represented by our Board member and ENPE Treasurer, Aisling Kelly, who was impressed with the project outcomes.

Earlier in the year, on the 29 and 30 September, the project held its final workshop, an event attended by Specialist enforcement officer (waste crime), Dr Paul Salter from the Environment Agency (England), who represented ENPE and provided the following feedback in his conference report:

*"Clearly the scale of the problem in Italy is far worse than in the UK, so understanding how the Italian authorities tackle the analytical investigation of these sites was of great interest. Some of the novel techniques used for pollutant identification were of particular interest, for example the use of infra-red camera equipped drones to identify asbestos on sites."*

We are grateful to the project for the invitations to attend and participate in their events and look forward to continued contact with the group. For more information please see: [Operational FACility fighting illicit WASTE trafficking \(opfawaste-project.eu\)](https://opfawaste-project.eu)



## Interesting cases

### Retired director of waste firm guilty of operating illegal landfill site

Article by Declan Brennan, Irish Times  
Mon Nov 14 2022

The retired director of a waste management company has been found guilty of three counts relating to the operation of an illegal landfill site.

Tony Dean (70) of Woodhaven, Milltown, Dublin was found guilty by a jury at Dublin Circuit Criminal Court on Monday of offences contrary to the Waste Management Act, 1996.

He had pleaded not guilty to two charges that he, as then director of Nephin Trading Ltd, disposed of or undertook the recovery of waste at a facility in Kerdiffstown, Naas, Co Kildare otherwise than in accordance with the waste licence then in force, between October 2003 to September 2006 and, separately, between September 2006 and November 2008.



Photo courtesy of D.Smith EPA Ireland

He had also denied a third charge that he held or recovered waste in a manner likely to cause environmental pollution at the Kerdiffistown site between October 2003 and November 2008.

The jury returned guilty verdicts on all three counts after 58 minutes of deliberations. The case was adjourned to December 12th for sentencing.

After a four-week trial, lawyers for the Director of Public Prosecutions and defending counsel made closing speeches last week summarising their cases to the jury.

Dean Kelly SC, prosecuting, said that between 2003 and 2008 a “mountain of waste” was deposited on a 25 acre site in Kerdiffstown in a way that breached two licences issued by the Environmental Protection Agency (EPA) in October 2003 and in September 2006. He said the licence did not allow for the waste to be stored in the way it accumulated and that the waste accumulated in a way that caused environmental pollution. He said the defence case was it was being stored in order to be eventually recycled.

He said the expert evidence during the trial was that the site was “an active landfill” with an estimated annual 4.8 million gallons of leachate - contaminated liquid generated when rainwater moves through a solid waste disposal site.

“This site walks, talks and smells like an illegal landfill,” Mr Kelly said. He said the activities of the company showed complete contempt of the licence issued to it and of the people living in the area and that it was a flagrant abuse of the waste laws.

He said that Dean was “the cog at the centre of the wheel, the entire nest of companies that is the Dean Waste empire”. He said the evidence was Dean was the kind of boss who was “on site and got his boots and hands dirty” and “knew exactly what was moving through his business”.

Barry White SC, defending, submitted to the jury that there was no evidence of negligence on the part of his client. He said his client was a visionary who had the ambition to buy an existing dump and set up a recycling operation there. He said in the mid 1990s “we had no recycling” and his client was one of the first, if not the first, who believed in moving from landfill to the recovery of waste.

## **Social media bragging leads to suspended prison sentences over illegal fishing**

Discover how social media posts led to a successful prosecution for the English Environment Agency’s North East fisheries enforcement officers and Northumbria Police.



Two social media users have been handed suspended prison sentences after they bragged about their illegal salmon and sea trout fishing trips. Connor Bell (30), of Bexhill Road, Sunderland appeared at South Tyneside Magistrates Court Magistrates’ Court on Tuesday 26th July, where he pleaded guilty to using unlicensed gill nets to catch salmon and sea trout on the River Wear, including at a location near Fatfield, in the county of Tyne and Wear. At a hearing on Tuesday 16th August, he was sentenced to 5 months imprisonment, suspended for 18 months, and ordered to do 200 hours of unpaid work.

In addition, Mr Bell was ordered to pay £1,000 costs and a victim surcharge of £128.

Michael Hutchinson (39) of Cranberry Road, Sunderland also appeared for similar offences and one other offence of handling the illegally caught fish. Hutchinson was sentenced to 2 months imprisonment, suspended for 18 months, and ordered to undertake 200 hours of unpaid work. Mr Hutchinson was also

ordered to pay £1,000 costs and a victim surcharge of £128.

Gill nets are designed to catch fish by their gills and are rarely licensed in rivers, due to their ability to catch large numbers of migratory fish in a short period of time, as well as their potential for catching and killing fish indiscriminately. Gill nets are also capable of causing injury or indeed killing sea birds and mammals.

## **The court case**

Representing the Environment Agency, lawyer Matthew Treece told the court that files on Bell's mobile phone and Hutchinson's social media pages had highlighted multiple weekends of illegal netting during the summers of 2020 and 2021, along with photographs of both men posing with catches of up to 14 fish at a time. Images from Hutchinson's Facebook profile also showed a relative, with the captured fish, along with comments from Hutchinson encouraging them to become a "fine young poacher."

On sentencing, District Judge Garland told the defendants: "You don't know how lucky you are to avoid going on a trip to Durham this morning. I view and the law views the things you were up to as extremely serious. These weren't boyish pranks. You were out there putting a large net across a confined space of river where it was highly likely you were going to catch fish or one sort another. And you did."

"If you hadn't gone round bragging on Facebook about what fish you were catching you wouldn't have been in as much trouble as you are."

Following the case David Shears, Senior Fisheries Enforcement Officer in the Environment Agency (England), North East, said: "With salmon stocks reaching crisis in many of England's rivers, this level of illegal activity could have a serious impact on the sustainability of future stocks in the River Wear. That's why we take reports of suspected poaching seriously and work closely with the police to take action where appropriate."

"We're committed to tackling illegal fishing of all kinds, whether online or off, and as this case clearly demonstrates, we will take action, especially where potentially damaging methods are used."

PC Peter Baker, Wildlife Officer at Northumbria Police,, England said: "We are really pleased to have been able to deliver effective justice and show the impact of illegal fishing and poaching. We are privileged to see a varied amount of marine wildlife around our area, and we should all play a part in protecting and supporting the environment. As a Force, we take all reports of this nature seriously and are committed to taking appropriate and robust action against the minority found to have been involved in such offences in the region's waterways."

"Through our co-ordinated efforts with partners, we will continue to educate the public to prevent further offences from taking place."

Article and photos courtesy of Environment Agency, England, UK



## ENPE website crimes database

We continue to encourage submissions for inclusion on the ENPE crimes database. The database is part of the ENPE website <https://www.environmentalprosecutors.eu/> and is building a collection of case law for all three ENPE working group subject areas (wildlife crime, waste crime & air pollution). The database is of a non-operational character and concerned with legal aspects only. Names of defendants and other identifying information are left out. Because the main function of the database is supporting the ENPE network of prosecutors, access to it is not public, but is subject to authorisation by ENPE. Environmental prosecutors in Europe are invited to request an authorisation - please contact Rob de Rijck or Lars Magnusson on [r.de.rijck@om.nl](mailto:r.de.rijck@om.nl) or [Lars.Magnusson@aklagare.se](mailto:Lars.Magnusson@aklagare.se). Case law, with identifying details omitted and together with the relevant database keywords and a summary in English, can be submitted via the national ENPE contact points.

### Contact

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Please do visit our website: [www.environmentalprosecutors.eu](http://www.environmentalprosecutors.eu)



Co-funded by the  
European Union