

European Network of Prosecutors for the Environment

Réseau des Procureurs Européens pour l'environnement



ENPE newsletter - Issue 19

15 May 2023

Message from ENPE President Anne Brosnan

Dear Colleagues,

We are pleased to share our 19th ENPE newsletter, which closely follows our recent conference in La Rochelle, France on the 27-29 April 2023. This conference was organised and hosted jointly by ENPE and the University of La Rochelle under the title “The Sea - The World’s Largest Crime Scene – the case of environmental crime”.



With over 120 delegates in attendance, we heard from colleagues from as far afield as the US, Mauritius, Spain, France and Ukraine – all with the common aim of tackling environmental crime at sea. More details are included below. (conference opening photo above courtesy of the ULaR 27/04/23)

Our ENPE members and member representatives continue to support training events across Europe and beyond and we are very grateful for their continuing assistance. Capacity building is a key element of our work plans and we welcome participation from our membership as do our colleagues and stakeholders organising their training events.

In court, we were very pleased to hear of the first court decision applying the BIOVAL calculation method for compensation for natural damage. The case related to the illegal trapping and killing of starlings (*Sturnus vulgaris*) for consumption in Belgium and resulted in a significant fine. We have also shared details of other significant environmental crime cases from Spain and England in this issue - please see our ‘interesting cases’ section below for more details.

Looking forward, we are joining our colleagues from EnviCrimeNet, IMPEL and EUFJE for the next 4 Networks conference which is due to be held in Rome on the 28 & 29 September 2023, where we will also be convening our Annual General Meeting. The format will follow that of successful 4 Networks events in 2016, 2017 and 2021. All our members are invited to attend.

Last but by no means least, we are pleased to announce that the annual ENPE Gaia awards are now open for nominations - so please do get in touch if you would like to make a submission.

Anne Brosnan ENPE President and Shaun Robinson ENPE Project Manager.

“The Sea – The World’s largest crime scene: the case of environmental crime”

From the 27-29 April 2023, at La Rochelle in France, ENPE and the University of La Rochelle jointly organised and hosted an international conference entitled “*The Sea – The World’s largest crime scene: the case of environmental crime*”. With over 120 delegates and speakers attending from Europe, Africa



and North America, we shared experiences of tackling environmental crime at sea under different legislation and jurisdictions. Those presenting included the senior prosecutor with responsibilities for the coastline immediately adjacent to the conference venue in Charente-Maritime, France; the Deputy Chief of the Office for International crime and Maritime Law of the US Coastguard; the Senior State Counsel for Mauritius and the Head of the Environmental

crime unit in French Martinique. A particularly interesting but also poignant presentation was delivered by the Ukraine Prosecutor General’s Office regarding the death of a significant number of cetaceans in the Black Sea, following warship activity in the area arising from the conflict. (ENPE President Anne Brosnan is pictured with Board members David Smith & Rob de Rijck meeting Interpol’s Michele Viale), photo courtesy of A Michelot 05/23).



Demonstrating that maritime environmental crime also affects land-locked countries, we also heard from the High Public Prosecutor’s Office in Prague, Czech Republic, concerning the



successful prosecution of a case of ‘glass eel’ smuggling using a sophisticated network through various European countries. We would like to thank our hosts, the university of La Rochelle for their excellent organisation and for ensuring all attendees enjoyed the pleasant and

picturesque setting of La Rochelle. (photos courtesy of S Robinson & A Michelot 05/23).

For more information please use the link below to access the video recording of the recorded sessions:

<https://videos.univ-lr.fr/droit-economie-gestion/la-mer-la-plus-grande-scene-de-crimes-au-monde-le-cas-de-la-criminalite-environnementale/>

Four Networks conference & ENPE AGM, Carabinieri Officers School, Rome, Italy 28-29.09.2023

The four environmental crime enforcement networks – EnviCrimeNet, IMPEL, ENPE and EUFJE will be hosting their next joint conference at the Carabinieri Officers School in Rome from the 28-29 September 2023. ENPE members are invited to register, at this hybrid event, with places available for both ‘in person’ and ‘virtual’ attendance.

The conference, entitled “Co-operation in strengthening environmental enforcement” will include ENPE presentations focussing on prosecuting environmental crimes, with examples provided, in particular, on making environmental crimes unprofitable.

As usual, we will arrange our AGM in the margins of the event in order to maximise efficiencies around attendance and travel.



ENPE Gaia Awards 2023



This will be the second year of the ENPE Gaia Awards, presented to those involved in prosecution activity, representing outstanding contributions to the fight against environmental crime. As with last year, our judging panel will assess all applications and make the awards at our main annual conference, which this time is in Rome on the 28-29 September 2023 (see above) as part of the 4 Networks event. The award winners get to keep a hand-made statuette in the form of the Greek Goddess ‘Gaia’ (Mother Earth) to recognise particularly significant contributions to fighting environmental crime. Open to prosecutors and specialists involved in combatting environmental crime, nominations for the three categories of award are

made over the course of the year until the award presentation event usually held in the Autumn. The categories are:

- “overall contribution in the fight against environmental crime”
- “case of the year” and
- “innovation and excellence in combatting environmental crime”.

Please do nominate your colleagues and yourselves for important work in this area. Please contact Shaun Robinson at shaun.robinson@environmenta-agency.gov.uk for more details including the application form.

Albania develops experts in the field of investigation and analysis of wildlife crime.

Albania has established its first five experts in the field of investigation and analysis of wildlife crime, trained by experts with many years of experience from Junta de Andalucía in Spain



Representatives from the National Inspectorate for the Protection of the Territory, State Police, Food Safety theVeterinary Institute, and Albanian Ornithological Society have successfully completed a Wildlife Crime Academy (WCA) course, organized by Vulture Conservation Foundation and Junta de Andalucía, supported by EU LIFE programs. The participation of Albanian representatives was supported by the BalkanDetox LIFE project.

ENPE Board member wins UNEP Medal of Honour

ENPE Board member Dr Antonio Vercher, Prosecutor of the Co-ordinating Chamber of the Environment for the State Attorney General's Office of Spain, was recently awarded a medal from the United Nations Environment Programme (UNEP) for his work in combatting the illegal trade in ozone depleting substances. We congratulate Antonio on his award in recognition of tackling a significant and growing area of environmental crime. (photo courtesy of A Vercher 04/23).



News from the European Commission



Proposal for a new Environmental Crime Directive and strengthening enforcement of EU environmental legislation

We were grateful to Dr Miroslav Angelov of the Directorate General for Environment (DG ENV) for providing a very helpful summary and update of the 'state of play' in this important area of work in time for our recent conference in La Rochelle. Dr Angelov outlined and expanded on the following areas in his presentation:

- Legal basis and technique for scope definition – including recent clarification of 'unlawful conduct';
- Refined definition of offences and introduction of new offences – including specific details of conduct to be criminalised and clarification of terms;
- Detailed provisions on type and level of sanctions for natural and legal persons – including ancillary sanctions and measures;
- Provisions on jurisdiction and limitation periods – including collection of statistical data on environmental crimes;
- Recognition of the role of the civil society – including protection for persons who report environmental crimes;
- Provisions on strengthening the enforcement chain – including sufficient human and financial resources and appropriate training for specialists.

More details are available via the following links:

- Commission proposal: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0851>
- The mandate of the EP adopted recently (together with the opinions of the other EP committees involved): https://www.europarl.europa.eu/doceo/document/A-9-2023-0087_EN.pdf
- The Council General Approach agreed last December: <https://www.consilium.europa.eu/en/press/press-releases/2022/12/09/council-agrees-its-negotiating-mandate-on-the-environmental-crime-directive/>

Thanks to Dr Angelov and his team at DG ENV for their work on this important Directive and for their update for our members, particularly at such a busy time.

ENPE outreach

ENPE presenting at EU LIFE SWiPE project training events

Mr Pasquale Fimiani, Deputy Prosecutor General at the Italian Supreme Court in Rome and representative for the ENPE member organisation for Italy, the Italian Environmental network of Prosecutors General, participated as one of the keynote speakers at the opening of a Wildlife Crime training event, hosted by the WWF Italy, in Rome. This event formed part of the EU LIFE SWiPE project capacity building actions with the focus on training prosecutors and other specialists in prosecuting wildlife crime. (Mr Fimiani is pictured above; C Campanaro)



Elsewhere in Europe, ENPE Supporting Member Professor Jurj Remus continued with his support to the

same project through the delivery of training in prosecution of environmental crime at two events in Romania – in Sinaia and Vișeu de Sus. Remus and colleagues presented on the European normative acts that regulate the trafficking of protected species, offences regarding the trafficking of protected species as provided

for by Romanian legislation, crimes of poaching of protected species and the illegal export of hunting trophies. In addition, Remus presented in detail on the crime of money laundering from the illegal wildlife trade, an issue that is being reported with increasing regularity in Europe. Remus is pictured presenting to a large audience in Sinaia, above and Vișeu de Sus, above left. (Photos courtesy of J. Remus 04/23).



For more details on this project please visit: [LIFE SWiPE | WWF \(wwfadia.org\)](https://www.lifewildlife.org/)

ERA EU Waste Legislation and Combating Waste Crime; EU Water legislation: January - May 2023

The European Academy of Law (ERA), has continued to deliver its programme of training activities in relation to EU Water legislation and in addition, waste legislation as reported in our last issue. ENPE members are assisting in the delivery of this training including presenting both 'in person' and online. Many of the sessions have been delivered in the host nation language which has enabled these events to reach a wider audience than is normally the case. We are particularly grateful to all of the (many) ENPE members and member representatives who have taken part in this worthwhile and well-received initiative. Thank you.

Interesting cases

First BIOVAL court decision

The first court decision applying the BIOVAL calculation method for compensation of nature damage was made at the Court of First Instance in East Flanders, Belgium on 7 March this year (2023). The BIOVAL project is a joint EUFJE, IMPEL and ENPE project with the aim of creating a non-binding, practical instrument to value ecological damages in court. BIOVAL focuses not on sanctioning, but on financial restoration.

The case in question was about illegal trapping and killing of (77) starlings (*Sturnus vulgaris*) (for consumption). The compensation was calculated based on the criteria of the BIOVAL report and resulted in a valuation of 200 euro per bird. The defendant was sentenced to a community service of 120 hours and must pay compensation of 15,400 euros to the Environment and Nature Fund of the Flemish government within 4 months. The decision is the subject of an appeal which the Court of Appeal will judge in the coming months.

UK Operation NUTMEG – Essex man receives 14-month jail sentence for illegal waste importation and burning (article from Environment Agency, England's 'Enforcement')

This case involved use of drone footage for extra impact at court. On 2 August 2022 Shane Boutwell was given a 14- month immediate custodial sentence for operating a regulated facility (namely a waste operation) and disposing of controlled waste. He deposited, treated and stored approximately 3,800 tonnes of mixed household and commercial waste between 18 May 2020 and 20 November 2020 at Bradwell Wick, and approximately 500 tonnes at Lower Burnham Road between 13 July 2020 and 28 January 2021. Officers visited both sites on a number of occasions (including during COVID restrictions) and gave Mr Boutwell every chance to stop his activities and remove the waste. Officers also made a pre-plea visit to Bradwell Wick on 28 April 2022, deploying an Unmanned Aerial Vehicle (UAV, or drone) to capture the situation on site, before revisiting on 29 June in response to reports of burning.

Sentencing Boutwell to 14 months imprisonment, Her Honour Judge Loram KC told him that the two sites were, “professional operations for your own gain. The impact of your behaviour on others was profound. You affected legitimate businesses and encouraged others to sink to the bottom like you.” Judge Loram made an Order under Regulation 44 Environmental Permitting Rules, 2016, requiring Boutwell to clean up

both sites upon his release from prison and ordered him to return to court in September 2023 for consideration of claims for prosecution costs and the confiscation of the proceeds of crime.

Cases from Spain

Mining entrepreneur sentenced for environmental damage

The Criminal Chamber has confirmed a sentence of 4 years in prison to a mining entrepreneur for the environmental damage caused in a protected area with the exploitation of the Nueva Julia open-pit coal mine, in the municipality of Cabrillanes, Spain.

The Court rejected the ten grounds of the appeal filed by the convicted against the judgment of the Provincial Court of León, which imposed the aforementioned prison sentence and the payment of more than 24 million euros, as civil liability, for a crime against natural resources and the environment. For more details please see the link below:

[Confirmed the sentence of 4 years in prison for the mining entrepreneur Victorino Alonso for the exploitation of the open sky of Nueva Julia | News | Cadena SER](#)

Investigations into illegal ground water abstractions

The **Civil Guard** has carried out 54 inspections in pig farms in **Alhama de Murcia, Cartagena, Fuente Alamo, Torre Pacheco and Totana** allegedly related to illegal groundwater extractions, and Irregular discharges. For more details see the link below to the Spanish ministry website:

[The Environmental Prosecutor's Office coordinates an investigation in the Region of Murcia against 15 people for crimes against natural resources and Environment - Fiscal.es](#)

Contact

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