

# Waste Crime (WG2)

Final Report

2016–2020



## LIFE-ENPE Project LIFE14 GIE/UK/000043

Action B2: Working groups to improve  
consistency and capacity

July 2020

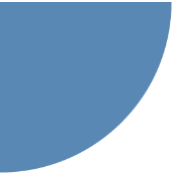
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EU FORUM OF JUDGES FOR THE ENVIRONMENT  
UE FORUM DES JUGES POUR L'ENVIRONNEMENT



With the contribution of the LIFE financial instrument of the European Community



## List of abbreviations

COP25	2019 UN Climate Change Conference
DPP	Director of Public Prosecutions (Ireland)
EA	Environment Agency (England, UK)
EASME	Executive Agency for SMEs
ECA	Environmental Compliance Assurance
ENPE	European Network of Prosecutors for the Environment
EPA	Environmental Protection Agency (Ireland)
ERA	Academy of European Law
ESG	External Steering Group
EU	European Union
EUFJE	European Union Forum of Judges for the Environment
H-LAB	High-Level Advisory Board
HMRC	Her Majesty's Revenue and Customs (UK)
IGBE-BIM	Bruxelles Environnement
IMPEL	European Union Network for the Implementation and Enforcement of Environmental Law
LoR	letter of request
NHMC	Natural History Museum of Crete
NIEA	Northern Ireland Environment Agency
NRW	Natural Resources Wales
REDEMPA	Latin American Network of Environmental Public Prosecutors Offices
SEPA	Scottish Environment Protection Agency
TFS	transfrontier shipment (waste)
UNITAR	United Nations Institute for Training and Research
UNU	United Nations University
UoC	University of Crete
WEEE	waste electrical and electronic equipment
WG	Working Group
WSR	(EU) Waste Shipment Regulation

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# 1.0 Introduction

## LIFE-ENPE Project Working Groups

The LIFE-ENPE project has formed four Working Groups (WGs) to build capacity and consistency in implementing EU environmental law. These WGs have facilitated meeting the overarching LIFE-ENPE project aim which is: *“To improve compliance with EU environmental law by addressing uneven and incomplete implementation across Member States through improvements to the efficiency and effectiveness of prosecutors and judges in combating environmental crime”*.

The role of the WGs is to build capacity and consistency in implementing EU environmental law, with their activities forming a key project preparatory Action (Action B2: Working groups to improve consistency and capacity). The WGs comprise specialists in each area of focus, the majority of whom are prosecutors, although some judges and technical specialists (non-legal) were also invited to contribute.

Over three and a half years, from December 2016 to June 2020,<sup>1</sup> the LIFE-ENPE WG activity has resulted in a series of awareness-raising, training and guidance outputs comprising events (e.g. workshops), training packs and webinars for onward sharing and promulgation amongst all LIFE-ENPE stakeholders.

The LIFE-ENPE project proposal sets out the methods<sup>2</sup> the WGs would need to employ to achieve this, including the convening of three workshops or meetings a year, with one coinciding with the annual conference. At each, the participants would:

- *“Explore where prosecutor and judicial capacity-building is most needed and how this can be best achieved;*
- *Examine current practices across Europe;*
- *Gather practitioner views and practical examples of the management of serious and complex cases; and*
- *Identify best practice.”*

<sup>1</sup> Activity extended by six months due to the Covid-19 pandemic.

<sup>2</sup> LIFE14 GIE/UK 000043 Technical Application Forms Part B – technical summary and overall context of the project, p. 60.



## Working Group 2

Working Group 2 (WG2 Waste Crime) addresses the prosecution of **waste crime** in Europe, originally comprising six members from six different countries. One of the WG members (Leonora Mullett, Ireland) left the group in December 2018 and three new members from two different countries joined after the annual conference in October 2019 (Elisabete Matos and Joaquim Morgado, Portugal; Kateřina Weisssová, Czech Republic) (see Table 1.0). All WG members are public prosecutors with specialisms in environmental and waste crime. Since it was formed in December 2016, WG2 has met either in person or remotely on six occasions, including at the annual ENPE conferences of 2017, 2018 and 2019.

The LIFE-ENPE WG2 First-stage Interim Report<sup>3</sup> identified the topic of focus to be the transfrontier shipment of waste and, in particular, the implementation and application of the EU Waste Shipment Regulation (WSR) EC No. 1013/2006.

**Table 1.0 LIFE-ENPE WG2 membership**

Working Group member	Country	Role
Rob de Rijck (Chair)	Netherlands	Prosecutor
Kristina Persson	Sweden	Prosecutor
Antonio Vercher	Spain	Prosecutor
*Leonora Mullett	Ireland	Prosecutor
Howard McCann	UK (England)	Prosecutor
Marc Van Cauteren	Belgium	Prosecutor
**Joaquim Morgado	Portugal	Prosecutor
**Elisabete Matos	Portugal	Prosecutor
**Kateřina Weisssová	Czech Republic	Prosecutor

\* left group in December 2018.

\*\* joined group in October 2019.

Following discussions at the group meeting held in Heraklion, Crete, in October 2018, it was agreed to expand the subject area and remit of the group to also include *general illegal deposit, treatment and storage of wastes* as well as the transfrontier shipment of waste.

This WG2 Final Report provides a summary of the findings from WG2 activities, reflecting the conclusions on waste crime from the LIFE-ENPE Capitalisation and Gap-filling report (LIFE-ENPE Action A1 – Cap & Gap report),<sup>4</sup> and the findings from the group's own review of

<sup>3</sup> WG2 First-stage Interim Report December 2017.

<sup>4</sup> LIFE-ENPE Capitalisation and Gap-filling report, March 2017.

existing training for prosecutors on waste crime in Europe, included in the WG2 First-stage Interim Report and added to in the Second-stage Interim Report.<sup>5</sup>

It also presents the WG2 outputs, in the form of the training and awareness-raising material developed and delivered by the group, and reports on the group's outreach activities across Europe and beyond, to meet the LIFE-ENPE project objectives and aim.

<sup>5</sup> LIFE-ENPE Second-stage Interim Report, March 2019.



## 2.0 WG2 topics, activities and findings

### WG2 topic(s) of focus

The topic of focus for WG2 was agreed following careful consideration of the LIFE-ENPE Capitalisation and Gap-filling (Cap & Gap) report conclusions on waste crime, and the group's investigation of existing training materials already available in the area of transfrontier shipments of waste, including the provision of an inventory of training materials.

The Cap & Gap report, completed in March 2017 as a “baseline” report to describe the landscape of environmental crime prosecution and reporting in Europe, was a key preparatory action (Action A1) of the LIFE-ENPE project. The report drew the following conclusions in relation to waste crime:

- There is a lack of joined-up thinking and common standard of regulation and enforcement across EU jurisdictions in tackling waste trafficking and illegal dumping.
- There is a link between the perpetrators of many of the waste crimes in Europe and organised crime groups, and they are geographically mobile.
- Clearer guidance, understanding and expertise in the definition of waste are required to help tackle the problem, in particular in the preparation of cases.

The following recommendations were then offered by the report:

1. *“Waste crime often must be considered alongside other forms of transnational, organised crime (people, drug and weapon trafficking, etc.);*
2. *Like these crimes, and perhaps to an even greater extent, addressing waste crime both in terms of enforcement and prosecution requires specialist knowledge, training and equipment, all of which must be developed within EU Member states;*
3. *Member states should consider the development of specialist courts or judges and how these might work within their domestic systems;*
4. *Consistency of approach between jurisdictions is vital as there is a strong tendency for these criminal groups to shift their basis of operations to whichever regime is least*

*disruptive (either in terms of law and regulation, or more often in terms of practical implementation) to their business model;*

5. *Some of the best data available is in relation to WEEE<sup>6</sup> and it is almost certainly worth exploring how knowledge in this area has developed more clearly and consistently than for other aspects of waste so as to learn lessons for the broader waste regimes.”*

Although not all of the conclusions and recommendations were recognised and supported by WG2, the group wanted to identify a waste crime topic area or areas where training was needed, including the consideration of training resources that *were already available*, in order to design what *additional* training was required and where collaboration with existing programmes would be of benefit.

*The key objective here was to ensure that there would be no duplication of effort or materials relating to training and awareness-raising, available now and/or being developed elsewhere.*

The first task was to identify what topics within the theme of international waste shipment needed to be developed into training materials for prosecutors, based on the template offered by the DOTCOM Waste project and through contact with organisations such as ERA<sup>7</sup> on what waste crime prosecution training was ongoing in Europe.

Training materials on related waste regulatory activities, (e.g. the Basel Manual) were considered and included in an “Inventory of (training) materials” (LIFE-ENPE WG2 First-stage Interim Report, September 2017, Annex 1.0).

The recommendations from the Cap & Gap report were also revisited and discussed before the group agreed on the following actions:

- *“To continue to expand the ENPE database of waste crimes and encourage dialogue and sharing of experiences (consultation on EU Waste Shipment Regulation – WSR) to enable the sharing of methods used and cases completed when tackling waste crimes;*
- *To continue to work with projects such as DOTCOM waste (focussing on WEEE) and ensure efficiencies through joint training events;*
- *To discuss possible collaborative opportunities with ERA in 2018/19 for training.”*

The group recognised that the existence and expansion of the ENPE crimes database had improved the sharing of experience and formal requests for information, both within Europe and beyond.<sup>8</sup> Additionally, contact via the group members and facilitated by the group through their meetings and discussions at the ENPE annual conference had enabled more regular and

<sup>6</sup> Waste electrical and electronic equipment, [http://ec.europa.eu/environment/waste/weee/index\\_en.htm](http://ec.europa.eu/environment/waste/weee/index_en.htm)

<sup>7</sup> Academy of European Law, <https://www.era.int>

<sup>8</sup> WG2 Meeting minutes, 28 March 2018, Item 1.

widespread contact between environmental prosecutors dealing with waste shipment regulations across Europe and across the globe, such as letters of request (LoRs) between prosecutors of different jurisdictions in formally sharing information relating to cases.

## WG2 activities and findings

In carrying out the agreed actions as set out above, over the duration of the group's activities for the project it undertook three broad areas of activity: *consultation*, *development of training tools* and *delivery of training*.

### Consultation

The experience and skills of the prosecutors making up the group have been usefully deployed in providing collegial input to formal consultations on waste regulation and enforcement where requested.

Based on the operational experience of its members, in April 2018 WG2 provided comments on the EU public consultation on the evaluation of the Waste Shipment Regulation EC No. 1013/2006, as required under its Article 60 2(a) (see Annex 2.0).

The shared input reflected the approaches and experiences of the different European countries that the group's members represent, therefore providing a very useful and comprehensive commentary.

Additionally, on 14 April 2020 Rob de Rijck, WG2 Chair, commented in his capacity as an expert, on a draft of the WasteForce project's Prosecutor's Guidance. Howard McCann, WG2 member from England (Environment Agency), also responded to numerous requests from EU countries relating to the Waste Shipment Regulation.

### Development of training tools and delivery of training

In September 2017 Rob de Rijck wrote an article on the Ecocrime Directive for the Themis Network's Action Toolkit (see Annex 1.0).

As set out on their website:

"Themis is an informal regional network of national authorities responsible for natural resources management and protection, and for the development, implementation and enforcement of environmental laws, in particular on nature conservation, in EU candidate countries, potential candidates and countries with EU Association Agreements: Albania, Bosnia and Herzegovina, Kosovo\*, the former Yugoslav Republic of Macedonia, Moldova, Montenegro and Serbia. Croatia is a member of the network as an observer and provides expertise and experience in relation to the EU accession process.

“The network’s mission is to protect the environment by improving the capacities of its members to implement and enforce legislation on natural resources and forestry, and to combat environmental crimes.”

For more information, please see <http://themisnetwork.rec.org/about-themis.html>.

More recently, WG2 members have continued to work with related waste crime projects, such as the contributions of Rob de Rijck and Howard McCann to the High Level Advisory Board (H-LAB) of the United Nations University (UNU) WasteForce<sup>9</sup> project, which aims to boost the operational activities and capacities of authorities involved in the fight against illegal trade and management of waste, and Kateřina Weisssová’s membership of the H-LAB for Project Strike.<sup>10</sup>

WG2 has continued taking collaborative opportunities with ERA<sup>11</sup> to ensure efficiency, maximise synergies and remove the likelihood of duplication of effort and outputs in the provision of training for environmental prosecutors in Europe.

For example, from 9 to 11 March 2020 Kristina Persson delivered training, based on her webinar, to delegates attending the ERA training workshop on waste regulation in Trier, Germany.



In addition, WG2 has also contributed directly to training events run by the WasteForce project (see above). Howard McCann is pictured, left, delivering training at an event in Lisbon, Portugal, in November 2019.

The group considered that the most effective way of providing a fully transferable and comprehensive training package for sharing expertise in applying the Waste Shipment Regulation was to develop a short animated

<sup>9</sup> “Waste Enforcement Forensics and Capacity Building” (WasteForce) project, which is a follow-up of the DOTCOM Waste project that ended in December 2017.

<sup>10</sup> “Project Strike: Stronger Training and Increased Knowledge for better Enforcement”, an ISFP-funded project building on the results of the DOTCOM Waste project and the WasteForce project [www.wasteorceproject.eu](http://www.wasteorceproject.eu).

<sup>11</sup> Academy of European Law, <https://www.era.int>; Kristina Persson provided training on behalf of ENPE at Trier (09-11 March 2020) and April (via webinar).

training film (first presented at the WG2 training workshop in Nicosia, Cyprus), together with a



more detailed webinar in collaboration with specialists in training media. These were for inclusion on the ENPE website and for onward promulgation via various specialist platforms and media such as LinkedIn.

Rob de Rijck, WG2 Chair, is pictured, left, delivering the introduction to the WG2 workshop held at the Ministry of Finance in Nicosia, Cyprus, in March 2019.

Both the animation and webinar have now been shared many hundreds of times and are available here: <https://www.environmentalprosecutors.eu/waste-crime>.

## 3.0 Conclusions

The final reporting for all WGs, as set out in the LIFE-ENPE project proposal, needs to comprise:

- A suite of training material(s) for prosecutors.
- Dissemination of outputs to prosecuting organisations in 30+ states.
- Dissemination of training materials through the website with 50+ hits per month.
- Delivery of training via seminars, webinars and third-party organisations to at least 20 organisations by end of project.
- A final report (including training materials) by 28 February 2020 (deliverable).

All of the above project requirements have been met by WG2, with most metrics listed having been exceeded.

The training material for prosecutors has been developed over the course of the group's activities and together represents a comprehensive set of tools for enforcement specialists involved in the regulation of international waste shipments (Annex 1.0). These materials have been shared with prosecuting organisations in over 30 states and, through interrogation of the ENPE website data, it is evident that website hits and downloads of the materials via the WG2 website page exceed 50 per month at present.<sup>12</sup>

From the WG2 outreach activities, listed in Table 2.0 in the next section, over **635** delegates have benefited directly from face-to-face delivery of WG2 training or awareness-raising guidance; over **500** delegates have benefited from remote delivery of the WG2 training outputs (e.g. via webinar) and the WG2 training materials have been accessed 92 times from the ENPE website.

This Final Report was not published until June 2020, so the original deliverable deadline of 28 February 2020 was not met. The circumstances around the Covid-19 pandemic resulted in some training events being postponed or altered, and as their reporting metrics were due to be reported, these circumstances caused a delay in the production of this final report.

<sup>12</sup> LIFE-ENPE Second Impact Report, June 2020.

Despite this unforeseen and unavoidable delay, the group has worked well to achieve the results listed above without significant impediment, with all other deliverables provided on time and to the satisfaction of EASME, and having established a growing reputation for delivering accessible and useful technical training on tackling waste crime across Europe.



## 4.0 Outreach and next steps

The LIFE-ENPE project is an Information and Governance project, based on sharing information and developing best practice for dissemination. Developing the awareness-raising and training outputs from the four WGs and their onward promulgation through outreach activities to end-users are key elements of Action B2.

A key factor in the group's activities meeting these project requirements, and WG2 outreach in general, has been the significant amount of co-operation and collaboration with other projects and work areas with similar aims and objectives.

### Collaboration with other projects and initiatives with similar objectives

WG2 has collaborated with and contributed to the following projects, initiatives, events, activities and articles and training outputs during its activities in the context of meeting the LIFE-ENPE B2 objectives:

- LIFE SMART WASTE (Ref: LIFE13-ENV/UK/000549)
- IMPEL Waste and TFS Expert team
- WasteForce Project (Ref: ISFP/2017/AG/ENV/821345)
- United Nations University (UNU) DOTCOM Waste project
- United Nations Environment Programme (UNEP)
- EU Directorate General for Environment, Environmental Compliance Assurance (ECA) forum (waste crime)
- THEMIS
- European Law Academy (ERA).

## Next steps

As set out in the network Sustainability Strategy included in the LIFE-ENPE After-LIFE report, the role of WG2 is set to continue under ENPE aisbl beyond the end of the LIFE-ENPE project.

There are proposals for a workshop to investigate, report on and provide solutions to tackling the illegal development, sale and use of unauthorised pesticides across Europe, with more than 20 prosecutors from 16 European countries having already contributed and agreed to participate.

Furthermore, given the well-received work that WG2 has put into consultations on various policy areas (e.g. EU Waste Shipment Regulation consultation) and training initiatives, the feasibility of the suggestion to offer expert opinions on environmental criminal law in cases before the Court of Justice of the European Community appears a worthwhile area for exploration.

Finally, and most importantly, the LIFE-ENPE Project Board and team would like to express their sincere gratitude for the commitment, loyalty and hard work put in by each and every Working Group member.

We look forward to working with them all in the future.

**Table 2.0 LIFE-ENPE WG2 Summary of outreach activities 2017–2020**

Key including number of delegates trained/recipients of awareness-raising or guidance

	Training/awareness-raising shared passively with stakeholders; number in receipt of training: 1000+
	Training/awareness-raising delivered directly to delegates face to face; number in receipt of training: 670
	Training/awareness-raising delivered 'virtually', e.g. by webinar; number in receipt of training: 500+
	Meeting where WG2 training/awareness-raising outputs discussed or shared; number present: 95+

Date of communication	Communication type	Nature of communication/event title	Who met with/ sent/spoke/ presented on behalf of the WG?	Who was present at the meeting/ event/received copies (include number of delegates)?	What was said/delivered on behalf of the WG?
12 and 13 May 2016	Workshops/ Events/Media	ENPE Annual conference (Action B3), Utrecht, Netherlands as part of EU Four Networks Conference (IMPEL; EnviCrimeNet; ENPE; EUFJE)	Rob de Rijck (RdR)	192 delegates – environmental crime enforcement professionals from Europe and beyond	WG2 presentation (RdR) provided on proposed WG2 work plan.
21 June 2016	Articles/ Updates	DOTCOM Waste article provided by Federico Magalini for ENPE Newsletter	Shaun Robinson (SR)	All recipients of the ENPE newsletter (approx. 220 stakeholders)	An article was provided outlining the DOTCOM waste project and links to ENPE (WG2) in particular around waste prosecutor training and potential synergies.
22 November 2016	Meeting	Networking meeting between ENPE (Meg Ellis, Peter Ashford and Shaun Robinson) and LIFE SMART WASTE (George Hope, SEPA). Rob Hayes (EA) also in attendance	SR, Peter Ashford, Meg Ellis	George Hope, Business Unit Manager for LIFE SMART WASTE project; SR, PA, ME	Summary of ENPE aisbl association and LIFE-ENPE project including details of WG2 activities in the presentation. LIFE SMART WASTE presentation provided by GH. Declaration of co-operation signed by both parties and networking opportunities via WG2 in particular discussed.

Date of communication	Communication type	Nature of communication/event title	Who met with/ sent/spoke/ presented on behalf of the WG?	Who was present at the meeting/ event/received copies (include number of delegates)?	What was said/delivered on behalf of the WG?
28 November 2016	Personal contact	Ian Bryson, LIFE SMART WASTE confirming link to ENPE website	SR	Ian Bryson LIFE SMART WASTE; users of LIFE SMART WASTE website (unknown)	Confirmation of insertion of link to ENPE website, including links to WG2 activities, from LIFE SMART WASTE website.
13 February 2017	Meeting	EU Enforcement Networks Steering Group meeting	Anne Brosnan, SR	Chris Dijkens (IMPEL), Miroslav Angelov (DG ENV), and EnviCrimeNet	Overview of WG1 and WG2 (wildlife; waste) including opportunities for further networking in accordance with EU direction; summary of Networks Conference and ENPE contribution to organising and resourcing.
01 March 2017	Workshops/ Events/Media	LIFE SMART WASTE External Steering Group workshop	SR	18 ESG members including SEPA; Crown Office and Procurators Fiscal Service; NRW; HMRC; IMPEL; EA, NIEA; Irish EPA; Cambrensis; Police Scotland; Cranfield; ACR+	Brief summary of WG2 LIFE-ENPE activities relevant to the LIFE SMART WASTE project.
27 July 2017	Articles/ Updates	LIFE-ENPE mentioned in LIFE SMART WASTE electronic progress update flyer	SR	Ian Bryson and LIFE SMART WASTE team; users of the flyer (unknown)	LIFE-ENPE project, including WG2 activities, noted as linked project in the dissemination and co-operation section of the flyer.
17 September 2017	Articles	THEMIS Actions Toolkit	RdR, WG2 Chair wrote an article for the Toolkit	All end users of the toolkit (unknown)	WG2 activities included.

Date of communication	Communication type	Nature of communication/event title	Who met with/ sent/spoke/ presented on behalf of the WG?	Who was present at the meeting/ event/received copies (include number of delegates)?	What was said/delivered on behalf of the WG?
21 September 2017	Workshops/ Events/Media	EU Environmental Crime Enforcement Networks Conference (IMPEL; EnviCrimeNet; ENPE); Magdalen College, Oxford	ENPE aisbl and LIFE-ENPE Board members, ENPE Members and Observers	155 delegates from around Europe and the world, comprising prosecutors, judges, police and other enforcement professionals	LIFE-ENPE WG2 presented updates on activities in breakout session (35 delegates approx.).
26–29 September 2017	Workshops/ Events/Media	DOTCOM Waste training workshop; Rome	Howard McCann	All training delegates attending the workshop from Europe (35 delegates)	Overview of ENPE activity including WG2 waste crime and TFS work.
30 October– 1 Nov 2017	Workshops/ Events/Media	Seminar on Interventions and Interactions of Public Bodies in the fight against environmental crime including a meeting with the Latin American Network of Environmental Public Prosecutors Offices (REDEMPA); Brasilia, Brazil	Anne Brosnan	All representatives attending from REDEMPA including many senior prosecutors and judges from across Latin America and France (number unknown)	AB presented at a seminar which gave ENPE an international profile and highlighted the important work ongoing to counter environmental crime, in particular transboundary crime such as waste shipments (WG2) so that a joined-up approach can be taken with overseas partners.
09 November 2017	Meeting	Joint EUFJE/ENPE meeting with ERA to discuss possibilities of joint training for LIFE-ENPE working groups	RdR, Lars Magnusson, Anne Brosnan, Jan Van den Berghe, Carol Billiet, SR	Kleonike Pouliki and Jean-Philippe Reagarde of ERA; SR; RdR; CB; LM	An overview of the organisation and in particular the LIFE-ENPE project working groups (including WG2) was provided, with specific reference to the training objectives.

Date of communication	Communication type	Nature of communication/event title	Who met with/ sent/spoke/ presented on behalf of the WG?	Who was present at the meeting/ event/received copies (include number of delegates)?	What was said/delivered on behalf of the WG?
10 November 2017	Workshops/ events/Media	DOTCOM Waste training workshop; China	Howard McCann	All training delegates attending the workshop from China (35 delegates)	Overview of ENPE activity including WG2 and TFS work
14 November 2017	Meeting	LIFE SMART WASTE External Steering Group	SR	24 ESG members including SEPA; Crown Office and Procurators Fiscal Service; NRW; HMRC; IMPEL; EA, NIEA; Irish EPA; Legambiente; Police Scotland; IBGE-BIM	Brief mention of the LIFE-ENPE WGs, in particular waste by SR in overview/update (WG2)
25-26 June 2018	Meeting	Meeting between LIFE-ENPE and LIFE Natura Themis in accordance with declaration of co-operation and to progress organisation of the conference at University of Crete and NHMC	SR (ENPE), LIFE Natura Themis team from UoC and NHMC	Michalis Probonas; Jorgos Sbokos; 5 NHMC staff	Presentation provided by SR on LIFE-ENPE and ENPE including WG2 activities. Meeting to discuss outputs and common objectives. Planning to ensure synergies are realised in future. Conference venue visited and logistics discussed.
29 August 2018	Meeting (via teleconference)	SR met with Iain Brockie of LIFE SMART WASTE (teleconference) to update on their respective projects and discuss items going forward to the Crete conference	SR	Iain Brockie (SEPA), Project Manager of LIFE SMART WASTE, via teleconference; SR	Overview provided on ENPE and LIFE-ENPE aims, objectives, outputs and ambition, including WG2 latest activities, through presentation delivered via teleconference.

Date of communication	Communication type	Nature of communication/event title	Who met with/ sent/spoke/ presented on behalf of the WG?	Who was present at the meeting/ event/received copies (include number of delegates)?	What was said/delivered on behalf of the WG?
23–24 October 2018	Workshops/ Events/Media	ENPE annual conference – joint event with Life RfH; LIFE Natura Themis; IMPEL Water Crimes; NHMC, Heraklion	All ENPE Board, LIFE-ENPE Board, 17 members; 14 WG members	104 specialists including water crimes expert group	Rob de Rijck presented WG2 update.
23–25 November 2018	Workshops/ Events/Media	LIFE conference: “International Perspectives on Prevention on Waste Crime”; Athens	Dr Jorgos Sbokos (LIFE Natural Themis) shared some of the experiences reported by presenters and contributors to the LIFE-ENPE conference in Heraklion	All delegates (100+)	ENPE was mentioned, in the context of the annual conference and its overall objectives and in particular around waste crime (WG2).
05–06 December 2018	Meeting	Meeting of High-Level Advisory Board (H-LAB) for IMPEL WasteForce project	RdR as a member of H-LAB	All WasteForce project members (Associated Beneficiaries and Co-ordinator), other H-LAB members	Overview of WG2 activities in the context of ENPE and the WasteForce project.
12–13 March 2019	Workshops/ Events/Media	ECA Environmental Crime workshop	RdR attended on behalf of ENPE	EU DG Environment (ECA) representatives; MS prosecutors and specialists; other enforcement specialists including	A document summarising wildlife and waste crime is being drafted by the workshop group. RdR is reasonably happy with it. ECA relies on ENPE (WG2) for this type of work.



Date of communication	Communication type	Nature of communication/event title	Who met with/ sent/spoke/ presented on behalf of the WG?	Who was present at the meeting/ event/received copies (include number of delegates)?	What was said/delivered on behalf of the WG?
				prosecutors, judges etc. (40)	
February 2019	Workshops/ Events/Media	WSR animation training published on website and widely shared via ENPE newsletter	RdR	All stakeholders receiving newsletter (420); all website visitors viewing and downloading training (number unknown)	Link to ENPE website at end.
28–29 March 2019	Workshops/ Events/Media	LIFE-ENPE WG2 and WG3 waste and air pollution crime workshops, Nicosia, Cyprus	RdR (Chair); SR (facilitator), Jan Van den Berghe (speaker), WG2 and WG3 (delegates and speakers)	34 delegates: Attorney General for Cyprus; judges; prosecutors, inspectors, police; specialists (IMPEL)	WG2 and WG3 were introduced in the context of the LIFE-ENPE project and wider ENPE aisbl organisation. WG2 activities introduced, including animation training on WSR.
16 May 2019	Workshops/ Events/Media	ENPE WSR training video (animation) included on (IMPEL) WasteForce website	ENPE (WG2 Waste Crime)	Nancy Isarin, IMPEL, project manager of WasteForce; all end users of the IMPEL WasteForce site (number unknown)	Notification and sharing of ENPE WG2 WSR video training, including contributions to WasteForce project (H-LAB).
22 May 2019	Articles/ Updates	ENPE Member (Croatia Ministry of Energy & Environment), via WasteForce (IMPEL project), shared WSR training video through LinkedIn	ENPE Member via WasteForce (IMPEL)	LinkedIn users (number unknown)	Notification and sharing of ENPE WSR training video via LinkedIn.

Date of communication	Communication type	Nature of communication/event title	Who met with/ sent/spoke/ presented on behalf of the WG?	Who was present at the meeting/ event/received copies (include number of delegates)?	What was said/delivered on behalf of the WG?
28–30 October 2019	Workshops/ Events/Media	ENPE annual conference in conjunction with Eurojust; The Hague, Netherlands	All ENPE Board members (apart from J-P Rivaud), SR and LIFE-ENPE Board members	100 delegates from all over Europe and beyond; 32 countries represented; 65 different organisations involved	All LIFE-ENPE WG updates and outputs (x4); animation training (WG2) shared; general updating on all ENPE activities.
27–29 November 2019	Workshops/ Events/Media	Livestreamed training of WasteForce project training workshop at Lisbon	Antonio Vercher Noguera and Howard McCann	All delegates and those downloading the livestream (number unknown)	Brief summary of ENPE and LIFE-ENPE WG2 as part of training; specialist ENPE prosecutors contributing to the training.
13 December 2019	Workshops/ Events/Media	UN Climate Change COP25 conference Madrid	Antonio Vercher Noguera and RdR	Global participants/ delegates; ENPE members invited/ presenting; articles in Spanish national press (El Mundo) and radio RE2	ENPE included in preamble to a breakout session including pollution from shipping (LIFE-ENPE WG2).
12 February 2020	Webinar	WSR training webinar developed by WG2 (Kristina Persson with assistance from Lars Magnusson) published on ENPE website	Kristina Persson; RdR; Lars Magnusson	All website users	Kristina Persson and LM WG2 provided the training, ENPE, LIFE-ENPE and WG2 introduced as part of the webinar.
March 2020	Training	UNU WasteForce project (UNITAR and IMPEL) Münster, Germany	Howard McCann	All delegates/ attendees	Cancelled due to Covid-19
March 2020	Training	UNU WasteForce project (UNITAR and IMPEL) Ljubljana, Slovenia	Howard McCann	All delegates/ attendees	Cancelled due to Covid-19

Date of communication	Communication type	Nature of communication/event title	Who met with/ sent/spoke/ presented on behalf of the WG?	Who was present at the meeting/ event/received copies (include number of delegates)?	What was said/delivered on behalf of the WG?
<i>March 2020</i>	<i>Training</i>	<i>UNU WasteForce project (UNITAR, UNEP and IMPEL) Bangkok, Thailand</i>	<i>Howard McCann</i>	<i>All delegates/ attendees</i>	<i>Cancelled due to Covid-19</i>
14 April 2020	Training	UNU WasteForce project (UNITAR and IMPEL)	RdR	Discussions with project team on training	RdR provided input by consultation.
08 May 2020	Articles/ updates	WG2 WSR animation and webinar shared via ENPE website to all ENPE Members and DG ENV	RdR	All ENPE members (41) plus 200 prosecutors (Romania); 800 specialists (Lithuania including 650 prosecutors); 19 prosecutor offices in Greek courts of appeal; 63 prosecutor offices in Greek courts of first instance; 6 Irish prosecutors in Director of Public Prosecutions	Animation and webinar shared.
<i>TBC autumn 2020</i>	<i>Training</i>	<i>ERA waste crime training; Warsaw, Poland</i>	<i>Kristina Persson</i>	<i>All delegates/ attendees</i>	<i>KP's seminar presentation to be used.</i>

# Annex 1.0 Training outputs

Click on the image to open the video in your browser.



# Annex 2.0 Letter: Consultation on Waste Shipment Regulation



To the European Commission  
DG Environment

Via [WSRevaluation@trinomics.eu](mailto:WSRevaluation@trinomics.eu)

Rotterdam, April 25, 2018

Re : Public Consultation on the Evaluation of the Waste Shipment Regulation

Dear Sir, Madam,

By means of this letter, the *European Network of Prosecutors for the Environment ENPE* would like to contribute to the Public Consultation on the Evaluation of the Waste Shipment Regulation.

ENPE is a formal not for profit association by Belgian law with its seat in Brussels. Its aim is to contribute to protecting the environment by supporting the operative work of environmental prosecutors and to contribute to protecting the environment by supporting the implementation and enforcement of national, European and International environmental law by environmental prosecutors, having particular regard to the protection of public health, the desirability of achieving sustainable development and the prevention of organised crime in the field of the environment. More information on ENPE can be found on its website [www.environmentalprosecutors.eu](http://www.environmentalprosecutors.eu).

In order to fulfil its obligations under a LIFE+ programme 2015 – 2020, ENPE has established four working groups for its activities, one of which is the Working Group on Waste, specifically the Waste Shipment Regulation. This contribution to the consultation fits in with the objectives and activities of this Working Group.

#### *General remarks*

It is important to note that this reaction to the consultation results from the prosecutor's perspective. The comments and suggestions offered have therefore regard chiefly to the enforcement aspects of the WSR. In general, it must be noted that regulations such as the WSR appear not to have been drafted with a specific view on enforcement. This is important, for the risk of non compliance in the area of waste management has been recognized throughout the history of the subject. Besides comments from the enforcement point of view, two further suggestions for improvement of the WSR are offered in this letter.



A second remark of a more general character is that prosecutors' experience shows that there is a lack of uniformity of approach to the WSR across the EU. How uniformity is achieved in practice may be very difficult. Networks like ENPE and IMPEL aim to assist with this, but these networks cannot in themselves be the solution to this problem.

#### *Concerning interpretation of terminology*

There are numerous examples of difference in interpretation of relevant terms not only between Member States, but also between authorities within Member States. One way of encouraging uniformity would be to clarify on EU level differences of opinion in interpretation.

One important example is the question what the term *export* means. The United Kingdom and the Netherlands, for instance, would appear to take a different view to Sweden. Case law in both the United Kingdom and the Netherlands has taken the view that an export means the action of leaving the community in that an export takes place long before it has left the national jurisdiction. Sweden, on the other hand, would appear to suggest that an export has only taken place once the consignment has left Swedish jurisdiction.

The term *shipment* is not fully defined in the WSR. In the ECJ *Wood Trading* case (C-2002/277) a 'shipment' is a shipment in its entirety in that it starts at the point of loading and continues until its recovery in the destination country. This ruling pre-dates the 2006 version of the WSR as it ruled on the definition of shipment in the 1993 version of the Regulation. The meaning of 'shipment' in the WSR 2006 would appear to be narrower than that of EU *Wood Trading*, although it does include a planned shipment.

The definition of *dealer/broker* as part of that of *notifier* can be problematic. Firstly, it refers to a person *under the national jurisdiction of a country*. Prosecutors encounter numerous instances of registered brokers or people arranging shipments based in countries outside those of dispatch or even outside the Union. It becomes difficult or almost impossible to enforce against such a broker/person. Some Member States require the broker/person to have a physical presence in the country of dispatch, such as a registered office with employees, but not all Member States do so. This definition could be amended to include an actual physical presence in the country of dispatch. If this were not possible, another solution to this problem should be sought.

Secondly, the definition refers to a registered dealer or registered broker. A broker or dealer could argue that as they are not registered they are not the notifier for the purposes of the definition.

#### *Concerning accessibility, references, and internal coherence of EU legislation*

EU law is very difficult to navigate and relationships between parts of EU legislation are not always clear. On occasion, this proves an obstacle to effective enforcement. The following examples can be given.

For enforcement practitioners, the Annexes to the WSR are difficult to handle. To determine whether material is Green List one is referred to Annex III that then refers to Annex V and its introductory notes then Part 1 List B. This can probably be made simpler. Likewise,





consolidating the Green List Regulations would be very useful. Commission Regulation 2007/1418 can also be difficult for prosecutors to work with. A clear view on all existing restrictions in third countries is not easy to obtain.

Article 2 (6) WSR defines the essential term *recovery* via a reference to Article 1 (1)(f) of *Directive 2006/12 on waste*. This Directive, however, has been repealed by *Directive 2008/98 on waste*. As a result of this, the reference in the WSR to the new Waste Directive is unclear. More specifically, it is unclear how recovery in the WSR relates to Article 3(15) – 3(18) of Directive 2008/98.

Through *Regulation (EU) 2014/660*, the WSR term *illegal shipment* has been extended by amendment of Article 50. It is not clear how these extensions relate to the definition of 'illegal shipment' in Article 2 (35) WSR. In the Netherlands, only illegal shipments as defined in the latter Article are criminal offences.

*Waste ships* are a category of waste with a high risk of threatening the environment and labour conditions, as the recent *Sea Trade* case in the Netherlands shows. ENPE foresees difficulties with how the *Ship Recycling Regulation 2013/1257* will interact with the WSR in the future. Ships flying an EU flag are now excluded from the scope of the WSR. So an EU flagged shipped could be exported as hazardous waste to a third country but no longer be in breach of Article 36. Instead there may be a breach for not recycling a ship at an approved facility.

Further, Directive 2008/99 (also see below) requires that categories of violations of the WSR shall be sanctioned with criminal penalties. Neither Directive 2008/99 nor the Ship Recycling Regulation, on the other hand, requires the same for violations of the Ship Recycling Regulation.

The interaction between the WSR and the *Animal By-Products Regulation 2009/1069* is also problematic. In practice, it may be difficult to distinguish which regulation applies.

The legal force of the *Correspondents' Guidelines* can in some cases be made clearer. The guidelines are in principle merely guidance and not legally binding. The updated Guideline on WEEE, however, is more or less completely inserted into Annex VI to the *WEEE Directive 2012*. These guidelines are therefore a legal requirement under the WEEE Directive but not under the WSR. A simple way to avoid any argument or confusion would be to replicate Annex VI to the WEEE Directive as an Annex to the WSR.

### *Concerning sanctioning*

It is not a new insight that sanctioning practices for WSR violations differ widely between Member States. This hinders effective, proportionate and dissuasive sanctioning and is an obstacle to the level playing field. It appears to be caused by three factors.

Firstly, enforcement authorities in the Member States do not take into account sanctioning practices in other Member States. For criminal enforcement, ENPE aims to contribute to harmonization of sanctioning through its database with national criminal sentences, but this in itself cannot be a sufficient remedy.



Secondly, in most Member States, legal persons can be – and in practice are – criminally sanctioned for WSR violations, but in some they cannot.

Thirdly, it can be questioned whether sanctioning authorities in Member States are sufficiently aware that both the WSR in Article 50, Section 1 and *Directive 2008/99 on the protection of the environment through criminal law* in Articles 3(c), 5 and 7 require effective, proportionate, dissuasive and, in important categories of cases, criminal sanctions for WSR violations.

#### *Two further suggestions*

Making it a requirement of the WSR that the *Annex VII document* must be sent to the competent authorities concerned prior to shipment, at least the competent authority of dispatch, would strengthen the authorities' information position. This could be done electronically. At the moment the document just has to accompany the shipment.

*Repatriation* by the competent authority of dispatch is an expensive process. It may be reconsidered whether the system of financial guarantees is a sufficient remedy.

#### *Finally*

The above reflects the great importance that ENPE attaches to the enforcement of EU environmental legislation. I trust that it is of relevance for your evaluation of the WSR. ENPE and its Working Group on Waste will be glad to provide any additional information that you may require.

Yours Sincerely,

Rob de Rijck  
Vice-President  
European Network of Prosecutors for the Environment

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