



LIFE14 GIE/UK/000043



LIFE-ENPE Project

Action B2 Working groups to improve consistency and capacity

Working Group 2 (Waste crimes) Interim report and training materials

1.0 Introduction

The LIFE-ENPE project has formed four Working Groups to build capacity and consistency in implementing EU environmental law. The working groups will facilitate meeting the LIFE-ENPE project aim:

“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”.

Working Group 2 (Waste crimes) will address non-compliance and improve prosecution of **waste crime** in Europe. At an early stage, the Working Group must prioritise which specific areas of the topic it should focus its efforts on.

Working Group 2 is comprised 6 members from 6 different countries. The group has met on 2 occasions: 02 December 2016 (Brussels, Belgium) and at the ENPE Annual conference on 20 September 2017 (Oxford, UK), as well as maintaining regular contact between the Chair and WG members between times, resulting in the topics list and the catalogue of materials (Annex 1.0).

| Working Group member | Country | Role |
|----------------------|-------------------------------|------------|
| Rob de Rijck (chair) | Netherlands | Prosecutor |
| Kristina Persson | Sweden | Prosecutor |
| Antonio Vercher | Spain | Prosecutor |
| Leonora Mullett | Ireland (Republic of Ireland) | Prosecutor |
| Howard McCann | UK (England) | Prosecutor |
| Marc Van Cauteren | Belgium | Prosecutor |
| | | |

This interim report provides a summary of the relevant findings from the LIFE-ENPE Capitalisation & Gap-filling report (Action A1), the findings from the Working Group's own analysis of training needs, expressed as an Inventory of (training) materials (Annex 1.0), which presents both ongoing and proposed training and guidance programmes for the group to meet its objectives and the project aim.

In combination with the presentation provided by this Working Group to the LIFE-ENPE Annual conference on 20 September 2017 (Annex 2.0), the report has been produced to meet the following LIFE-ENPE milestone and deliverable:

| Deliverable/Milestone | Action | Deadline |
|---|-----------|-------------------|
| <i>First-stage interim report and training materials produced</i> | <i>B2</i> | <i>01/12/2017</i> |



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2.0 Capitalisation & Gap-filling report findings

The Capitalisation & Gap-filling report was published in March 2017 and was based on an extensive review of all available data on waste crime prosecution activity across Europe¹. Having considered the findings, the group did not agree with all of them. However, for the purposes of this report, a summary of the Capitalisation & Gap-filling report's findings on waste crime is provided below.

A fundamental point the report revealed was that the lack of joined up thinking and common standard of regulation and enforcement across EU jurisdictions is facilitating the continuation and escalation of the problems raised by waste trafficking and illegal dumping. This problem is exacerbated by limited knowledge and expertise in agencies that must act together in a co-ordinated way to prove that a crime has taken place.

The report linked the perpetrators of many of the waste crimes in Europe to organised crime groups and noted that they are geographically mobile - able to 'shop around' for the most beneficial regulatory climate.

Clearer guidance/understanding/expertise in the definition of waste is required to help tackle the problem, in particular in the preparation of cases. Waste crime itself is linked to a large number of other kinds of trafficking as well as financial crime.

The following recommendations were offered:

- i) Waste crime often must be considered alongside other forms of transnational, organised crime (people, drug and weapon trafficking, etc.)
- ii) 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
- iii) Member states should consider the development of specialist courts or judges and how these might work within their domestic systems
- iv) 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
- v) Some of the best data available is in relation to WEEE² 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.

¹ LIFE-ENPE Capitalisation & Gap-filling report 2017

² Waste electrical and electronic equipment

http://ec.europa.eu/environment/waste/weee/index_en.htm



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3.0 Topic areas considered for training and guidance

The group has accomplished two things:

- 1) It has identified what topics regarding international waste transportation need to be covered by training materials for prosecutors, for which the template offered by the DOTCOM Waste project³ was used;
- 2) It has collated what is already available, in terms of training materials on related waste regulatory activities, (such as the Basel Manual), in the form of an 'Inventory of (training) materials' (September 2017, Annex 1.0).

The purpose of these two activities is to identify Waste crime topic areas where training was ongoing and needed, including resources that were already available, in order to design what *additional* training is required and where collaboration with existing programmes would be of benefit.

In order to ensure that there is no duplication in the waste crime training delivered by this Working Group and other projects and organisations (e.g. DOTCOM Waste), the group has been working closely with lead contacts and sharing platforms for delivery.

4.0 Conclusions and next steps

Working Group 2 is well-established and has clear objectives. It has decided to start with its focus not on the subject of 'waste' in general, but on the subject of international waste transport. There is a significant volume of training material available already, including ongoing programmes with similar over-arching objectives to this group's.

In terms of results from the Working Group's activities so far, the waste (WSR) section of the ENPE database on case law is now operational. As to training activities, Working Group member Mr McCann, as a trainer on behalf of ENPE, took part in two training sessions on international waste shipments organised by DOTCOM Waste. These were from 26-29 September 2017 in Rome, Italy and from 10-17 October in Beijing, China.

Further, the Working Group Chair Mr De Rijck contributed material on the Ecocrime Directive in the Themis Networks Actions Toolkit for enforcement officers and legal professionals in the environmental field, published in 2017.

Both results show the collaboration that ENPE is involved with, and seeks, with other networks and programmes. The next steps for this Working Group are to:

- Continue to expand the ENPE database of Waste crimes and encourage dialogue and sharing of experiences
- Continue to work with projects such as DOTCOM waste and ensure efficiencies through joint training events
- Discuss possible collaborative opportunities with ERA⁴ in 2018/19

³ See DOTCOM Waste <http://www.dotcomwaste.eu/>

⁴ Academy of European Law <https://www.era.int>



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Annex 1.0 INVENTORY OF MATERIALS RELEVANT FOR THE LIFE-ENPE WASTE WORKING GROUP TRAINING MATERIALS

General:

1. LIFE + : requirements
2. ENPE waste working group : Topics List for Prosecutors' Module 23032017 (in DOTCOM Waste format)
3. ERA : Strategy paper 2017 - 2021 FINAL
4. ERA : ERA EC Steering Committee informal report 30062017
- 5a and 5b : Emails Rob de Rijck and Ms. Pouikli of ERA concerning ERA/ ENPE/EUFJE cooperation regarding training materials

Existing materials, possibly to be updated:

On waste:

6. ERA Trainer's Manual Module on EU Waste Law
7. ERA : e-learning module on EU Waste Law

On illegal traffic of waste and prosecution:

8. DOTCOM Waste Module 1, Legislative Landscape of Waste, (*being developed*)
9. Kristina Persson : Presentation on Transboundary Movements of Waste, August 2017
10. Howard McCann : Snapshot of the Basel Convention, 2 June 2017
11. Basel : Instruction manual for the legal profession on the prosecution of illegal traffic, Secretariat of the Basel Convention, 26 July 2011, UNEP/CHW.10/12
12. IMPEL prosecutors' workshop on the EU Waste Shipment Regulation and illegal traffic : presentation Valsain 2, Sailesh Mehta and Howard McCann (*to be updated ?*)
13. DOTCOM Waste Module 8 : Enforcement and Prosecution of Illegal Waste Shipments (*being developed*)
14. DOTCOM Waste Module 9 : Sentencing in cases of Illegal Waste Shipments (*being developed*)

Cases for study:

15. Howard McCann, Case Study on Illegal Waste Transports for the IMPEL Berne Workshop, 19 and 20 April 2016
16. Frank van Diem and others : Presentation on 'Buttercup,' September 2017

On the EU Ecocrime Directive:

17. Rob de Rijck : THEMIS Network Toolbox, Topic 4, The Environmental Crime Directive (*nearly completed*)

For consideration:

Howard McCann's webinar for CHWMEG, IMPEL webinars

Annex 2.0 Presentation from annual conference (Oxford, September 2017, attached)