



Council of the
European Union

Brussels, 14 November 2018
(OR. en)

14129/18

LIMITE

ENFOPOL 550
COPEN 386
ENV 746

NOTE

Subject: Evaluation report on the eighth round of mutual evaluations "The practical implementation and operation of European policies on preventing and combating Environmental Crime"
- Report on the CZECH REPUBLIC

**EVALUATION REPORT ON THE
EIGHTH ROUND OF MUTUAL EVALUATIONS**

**The practical implementation and operation of European policies on
preventing and combating environmental crime**

REPORT ON THE CZECH REPUBLIC

Table of Contents

1. EXECUTIVE SUMMARY	7
2. INTRODUCTION	12
3. GENERAL MATTERS AND STRUCTURES	15
3.1. Action plan or similar strategic documents against environmental crime	15
3.2. National programmes/projects with regard to waste crime	17
3.3. Statistics on waste	18
<i>3.3.1. Main trends with regard to waste crime</i>	<i>22</i>
<i>3.3.2. Number of registered cases of waste crime</i>	<i>22</i>
3.4. Domestic budget allocated to prevent and fight against waste crime, and support from EU funding	24
3.5. Prevention of waste crime	25
3.6. Conclusions	28
4. NATIONAL STRUCTURES	30
4.1. Judiciary (prosecutors and courts)	30
<i>4.1.1. Internal structure</i>	<i>30</i>
<i>4.1.2. Capacity for and obstacles to prosecuting and sanctioning waste crime</i>	<i>33</i>
4.2. Law enforcement authorities	35
<i>4.2.1. Organisational structure of, and cooperation between, investigative authorities involved in preventing and combating waste crime</i>	<i>35</i>
<i>4.2.2. Investigative techniques/tools</i>	<i>38</i>
<i>4.2.3. Capacity of and obstacles to successful investigation of waste crime</i>	<i>38</i>
4.3. Other authorities/institutions	40
4.4. Cooperation between and exchange of information among national authorities	46
<i>4.4.1. Cooperation and coordination</i>	<i>46</i>
<i>4.4.2. Access to information and focal points on intelligence</i>	<i>49</i>
4.5. Training	51
4.6. Conclusions	53

5. LEGAL ASPECTS	57
5.1. Substantive criminal law	57
5.1.1. <i>Description of national legislation pertaining to waste crime</i>	58
5.1.2. <i>Other rules or judiciary instructions</i>	63
5.1.3. <i>Determination of the seriousness of waste crime</i>	63
5.1.4. <i>Links to other serious criminal offences</i>	65
5.1.5. <i>The role of the NGOs</i>	65
5.2. Procedural, jurisdictional and administrative issues	65
5.2.1. <i>Difficulties encountered with regard to evidence</i>	65
5.2.2. <i>Measures other than criminal or administrative sanctions</i>	66
5.2.3. <i>Treatment of seized objects</i>	67
5.3. Environmental restoration	68
5.4. Jurisdiction	69
5.4.1. <i>Principles applicable to the investigation of waste crime</i>	69
5.4.2. <i>Rules in case of conflicts of jurisdiction</i>	71
5.5. Conclusions	71
6. COOPERATION	74
6.1. International cooperation	74
6.1.1. <i>Forms of cooperation in cross-border cases</i>	74
6.1.2. <i>Channels for the exchange of information and the use of EU databases</i>	74
6.1.3. <i>Difficulties faced in judicial cooperation relating to waste crime</i>	76
6.1.4. <i>Operational performance of JITs in waste crime</i>	76
6.2. Cooperation with EU agencies and networks	76
6.2.1. <i>Cooperation with Europol and Eurojust</i>	76
6.2.2. <i>Experience resulting from the use of various environmental networks</i>	77
6.3. Cooperation between the Czech Republic and Interpol	78
6.4. Cooperation with the private sector	79
6.4.1. <i>The involvement of the private sector/ public-private partnership (PPP)</i>	79
6.4.2. <i>Liability regarding the obligation to pass on information to competent authorities</i>	79
6.5. Conclusions	81
7. Illegal trafficking of waste	82
7.1. National structure	82

7.1.1.	<i>Detection of illegal shipments of waste</i>	84
7.1.2.	<i>Specificity of illegal shipment of waste</i>	85
7.1.3.	<i>Measures on shipments of waste</i>	86
7.2.	Inspections	87
7.2.1.	<i>Methodology of inspections and follow-up</i>	87
7.2.2.	<i>Specific inspections with regard to waste electrical and electronic equipment (WEEE) and end-of-life vehicles (ELVs)</i>	87
7.2.3.	<i>First inspection plan</i>	89
7.2.4.	<i>Challenges with regard to the taking back of illegal waste shipments</i>	89
7.3.	Conclusions	90
8.	Management of Hazardous Waste	91
8.1.	The classification of hazardous waste and the challenges in its management	91
8.2.	The system of inspections and the authorities involved	92
8.3.	Measures for the protection of the environment and human health in the treatment of hazardous waste	93
8.4.	Trends in illegal hazardous waste management	95
8.5.	Conclusions	96
9.	ILLEGAL PRODUCTION OR HANDLING OF DANGEROUS MATERIALS	97
9.1.	The concept of dangerous materials	97
9.2.	Types of illegal activities related to illegal production and handling of dangerous materials and current trends in that field	98
9.3.	Procedural aspects	100
9.3.1.	<i>The means of collecting evidence and of handling dangerous materials</i>	100
9.3.2.	<i>Cooperation with European and international partners</i>	101
9.3.3.	<i>Techniques of investigation</i>	101
9.3.4.	<i>Main obstacles to successful investigation and prosecution</i>	102
9.3.5.	<i>Training</i>	102
9.4.	Conclusions	103
10.	FINAL REMARKS AND RECOMMENDATIONS	104
10.1.	Recommendations	104
10.1.1.	<i>Recommendations to the Czech Republic</i>	105

*10.1.2. Recommendations to the European Union, its institutions,
and other Member States 107*

10.1.3. Recommendations to the Commission..... 107

Annex A: Programme for the on-site visit and persons interviewed/met..... 108

Annex B: Persons interviewed/met 113

Annex C: List of abbreviations/glossary of terms..... 117

1. EXECUTIVE SUMMARY

The visit was well organised by the Czech authorities and included meetings with the relevant bodies with responsibilities in the field of preventing and combating environmental crime, e.g. the Ministry of the Environment, the Ministry of the Interior, the Ministry of Justice, the Czech Environmental Inspectorate (CEI), the customs authorities, the police, the fire and rescue services, the prosecution authorities and the Czech Environmental Information Agency (CENIA). During the visit the evaluation team did not have the opportunity to meet judges.

Two visits were carried out at the National Institute for Nuclear, Chemical and Biological Protection and the Facility for Energy Recovery of Waste respectively.

During the on-site visit the Czech authorities did their utmost to provide the evaluation team with information and clarifications on the legal and operational aspects of preventing and combating environmental crime; cross-border cooperation; and cooperation with EU agencies.

The evaluation team concluded that the Czech Republic has a whole range of legislative instruments giving adequate priority to safeguarding the environment, including in the area of waste crime, and that the institutional set-up for environmental management is fairly comprehensive: the Waste Act provides for a hierarchical structure, with the Ministry of the Environment and the CEI being the main actors in this field.

The Ministry of the Environment exercises state supervision, ensures coordination and also plays an administrative role when it comes to appeals. The CEI carries out regular inspections and imposes a significant number of fines of varying levels. The regional authorities, along with the municipalities (municipalities with extended responsibility and small municipalities), also have competencies and powers to impose sanctions in respect of environmental violations falling within their purview. The regional authorities are authorised to carry out (waste-related) inspections for those waste activities which they have licensed, and the municipalities have competence with regard to local waste management.

There is no comprehensive strategic document in the Czech Republic setting out the priorities of the national policy for the fight against environmental crime; however, the CEI does have a plan of inspections and checks. In the evaluators' view, a more strategic overall approach might help to improve the prevention and combating of environmental crime, including waste crime.

Although there is a well-developed set of information and data collection tools in the Czech Republic, the different institutions have their own systems for collecting statistics, including on environmental violations, within their areas of competence. Although the different institutions collect and share data from these information systems in a pragmatic way, the evaluation team believes that consideration could be given to improving the existing information-sharing channels to allow for a more consistent and coherent way forward for comparing and analysing this information among institutions.

The evaluation team believes that the Czech authorities could consider developing a more integrated system for the collection and analysis of statistics on environmental crime, including waste crime, possibly with links to existing information and data collection systems. This would allow for a strategic evaluation of the system for preventing and combating environmental violations, and give an overall picture of the phenomenon, which would also help in assessing the effectiveness of the system.

The Czech authorities have adopted a number of preventive measures in the area of environmental crime and are already engaged in awareness-raising campaigns and educational activities in this area, including a programme for the support of non-governmental non-profit organisations. However, the evaluation team has the impression that these activities could be further promoted to enhance trust in the public authorities dealing with the prevention and combating of environmental crime, encourage NGOs to play an even greater role, and encourage citizens to be more active in this field.

The general impression of the evaluation team is that, at administrative level, the Czech environmental system prioritises environmental violations adequately and works properly and efficiently.

The police and the public prosecutor's offices have a wide range of legal instruments for dealing with various environmental crimes: charges can be brought against both natural and legal persons; the illegally obtained proceeds of crime may be confiscated; SITs (special investigative techniques) can be used (including observation, infiltration, telephone tapping, etc.).

The Czech Republic prefers an administrative-based approach to the management of environmental offences, including waste offences. An administrative enforcement system based on fines is used for most environmental violations.

Thus, the evaluation team is of the opinion that in the Czech Republic the potential of the law enforcement and criminal law systems is not being used to its full extent: the police and customs authorities, along with the prosecutor's offices and the judiciary, could be more involved in tackling environmental crime, including waste crime. Criminal prosecution, for many reasons, is minimal in this field (based on the *ultima ratio* principle) and only a small number of environmental violations are dealt with as criminal cases.

Moreover, it is sometimes difficult to distinguish when environmental cases should be dealt with by administrative or criminal proceedings. When it comes to unauthorised waste disposal, the only clear distinction in the legislation is possible substantial damage to the environment costing CZK 500 000 or more. In the opinion of the evaluation team, clearer predefined criteria for evaluating any evidence collected and calculating the damage could help make it easier to identify the applicable regime (whether administrative or criminal).

The evaluation team believes that the establishment by the Czech authorities of a methodology for assessing the scale of the environmental damage and a standardised protocol stipulating when the established facts have to be followed up administratively or judicially could support the competent authorities dealing with cases of environmental crime, including waste crime.

In the Czech Republic, cooperation and coordination between the different authorities most frequently take place on an informal and ad hoc basis, on the basis of personal contacts, which seem to work quite well. However, the evaluation team believes it would be preferable to have a more formal and structured framework for inter-institutional cooperation, based on protocols or memoranda of understanding.

Taking into account the multifaceted nature of environmental crime, it would be useful to enhance training activities, including by establishing regular inter-institutional planning of training sessions and promoting joint training for law enforcement and judicial authorities.

Although the Czech authorities participate in some of the activities organised by EU and international bodies and networks in the area of the environment, such as IMPEL, the evaluation team believes that there could be room for further improvement as regards international cooperation in this field, for example via participation in JITs for cross-border environmental crime cases.

There is a clear system of distribution of competencies among the Czech authorities involved in the control and inspection of shipments of waste, as indicated in the Waste Shipment Control Plan (WSCP), and the main actor in this area is the CEI. The main obstacles encountered by the Czech authorities as regards the detection of illegal waste shipments are: the fact that the waste may already have been disposed of; the traceability of the persons who commit the offences; and difficulties in communication with third countries.

Czech legislation contains a definition of dangerous substances on the basis of their toxic properties or potential for misuse in violation of the prohibitions laid down in Section 7 of Act No 19/1997 Coll.

The illegal production or handling of hazardous materials in the Czech Republic is tackled by the competent administrative services, the police and the customs authorities, in cooperation with the fire rescue service and the National Institute for Nuclear, Chemical and Biological Protection, which have very good and modern technologies for the detection, sampling and decontamination of hazardous materials and play a key role in this area, especially in providing expertise.

The evaluation team identified a number of best practices in the Czech system for protection of the environment, for instance:

- the State Environmental Fund of the Czech Republic (SEF), which is funded *inter alia* by administrative fines for environmental violations and contributes to investments aimed at protecting and improving the environment and to the costs of environmental remediation in the event of damage;
- the CENIA, a single central body tasked with the collection and management of all administrative information and data in the area of the environment and the operation of relevant information systems, accessible to all competent authorities involved in waste management and, where appropriate, to the public;
- a high-quality experience to face up to the black market related to illegal scrap metal by a new system, where payments can only be made through a bank transfer and through registration of the supplier;
- the mandatory use of the 'A' plate on trucks transporting waste, which makes it possible to save time and effort in identifying and tracking waste shipments and in related inspections;
- new online tracking system for hazardous waste shipment (SEPNO).

In the light of the above, the evaluation team considers that, overall, the Czech Republic has achieved a good level of management of environmental matters and has all the necessary instruments to combat environmental crime efficiently, including waste crime. However, reconsidering the approach to these forms of crime, involving all the competent authorities and using all the tools in a more efficient way, could help to enhance the overall effectiveness of the Czech system for protection of the environment.

2. INTRODUCTION

Following the adoption of Joint Action 97/827/JHA of 5 December 1997¹, a mechanism was established for evaluating the application and implementation at national level of international undertakings in the fight against organised crime. In line with Article 2 of the Joint Action, the Working Party on General Matters including Evaluations (GENVAL) decided on 14 December 2016 that the eighth round of mutual evaluations should be dedicated to the practical implementation and operation of European policies on preventing and combating environmental crime.

The choice of environmental crime as the subject for the eighth mutual evaluation round was welcomed by Member States. However, due to the broad range of offences covered by environmental crime, it was agreed that the evaluation would focus on those offences which Member States felt warranted particular attention.

To that end, the eighth evaluation round covers two specific areas: illegal trafficking in waste and illegal production or handling of dangerous materials. It should provide a comprehensive examination of the legal and operational aspects of tackling environmental crime, cross-border cooperation and cooperation with relevant EU agencies.

¹ Joint Action of 5 December 1997 (97/827/JHA), OJ L 344, 15.12.1997, p. 7.

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives² (date of transposition: 12 December 2010), Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law³ (date of transposition: 26 December 2010), and Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste⁴ (date of entry into force: 12 July 2007) are particularly relevant in this context.

In accordance with the decision taken by GENVAL, the evaluation round does not cover criminal activities linked to other types of environmental crime, such as illicit wildlife trafficking, the illicit timber trade, the illicit fish trade or air pollution.

Furthermore, Directive 2008/98/EC requires the Member States to create waste management plans and waste prevention programmes, the latter by 12 December 2013. The objective of these programmes is to present a coordinated national approach to waste prevention, defining targets and policies, and aiming to decouple economic growth from the environmental impact of waste generation.

Experience from past evaluations shows that Member States will be in different positions regarding the implementation of the relevant legal instruments and programmes, and the current process of evaluation could also provide useful input to Member States that may not have sufficiently implemented all aspects of the various instruments.

² OJ L 312, 22.11.2008, p. 3.

³ OJ L 328, 6.12.2008, p. 31.

⁴ OJ L 190, 12.7.2006, p. 1.

Moreover, the Council conclusions of 8 December 2016 on countering environmental crime⁵ recognise that combating environmental crime requires a comprehensive multidisciplinary approach at all levels, better cooperation and exchange of information between the competent authorities, including third countries, and enhanced dialogue and cooperation with relevant international organisations. Also, the Council conclusions of 18 May 2017 on setting the EU's priorities for the fight against organised and serious international crime between 2018 and 2021⁶ establish the fight against environmental crime as the one of the EU's priorities.

Taking all the above elements into consideration, the evaluation aims to be broad and interdisciplinary and to focus not only on the implementation of various instruments for fighting environmental crime, but also - and mainly - on the related operational aspects in the Member States. Therefore, it will encompass cooperation among environmental, police, customs and judicial authorities at national level, as well as with Europol, Interpol and Eurojust. The evaluation will also cover operational practices in the Member States with regard to waste treatment operations and establishments and undertakings which collect and transport waste.

The order of visits to the Member States was adopted by GENVAL on 5 May 2017. The Czech Republic was the fourteenth Member State to be evaluated during this round of evaluations. In accordance with Article 3 of Joint Action 97/827/JHA, a list of experts with substantial practical knowledge in the field and prepared to participate in the evaluations, designated by the Member States, has been drawn up by the Presidency.

The evaluation teams consist of three national experts, supported by staff from the General Secretariat of the Council and observers. For the eighth round of mutual evaluations, GENVAL agreed with the Presidency's proposal that the European Commission, Eurojust and Europol should be invited as observers.

⁵ 15412/16, ENFOPOL 484 ENV 791 ENFOCUSTOM 235.

⁶ 9450/17, COSI 107 ENFOPOL 247 CRIMORG 107 ENFOCUSTOM 133.

The experts charged with undertaking the evaluation of the Czech Republic were Mr Faustino Gaudin (Spain), Ms Justina Grigaraviciene (Lithuania), and Mr Frans Geysels (Belgium). The following observers were also present: Ms Giovanna Giglio (General Secretariat of the Council) and Mr Andreas Mausolf (Europol).

This report was prepared by the expert team with the assistance of the General Secretariat of the Council, based on findings arising from the evaluation visit that took place in the Czech Republic between 21 and 25 May 2018, and on the Czech Republic's detailed replies to the evaluation questionnaire, together with its detailed answers to ensuing follow-up questions.

3. GENERAL MATTERS AND STRUCTURES

3.1. Action plan or similar strategic documents against environmental crime

No single strategic document setting out a comprehensive policy and establishing a coordinated national approach and relevant priorities in respect of actions against environmental crime has been developed in the Czech Republic yet.

There are however some documents dedicated to the environmentally sound management of waste:

- The *Waste Management Plan of the Czech Republic for the period 2015-2024* (WMP), which was approved on 22 December 2014 and entered into force on 1 January 2015⁷, sets out the strategic framework for the administrative approach to waste management, which prioritises waste disposal approaches according to the pan-European waste hierarchy. The WMP is a tool for the control of waste management and the realisation of a long-term strategy for the disposal of waste, the packaging of waste and the handling of end-of-life products. The main goals of the plan include preventing waste generation and increasing recycling and use of materials from waste. It indicates competencies and tasks for the authorities involved in inspections of waste shipments and related facilities, as well as risk assessment related to waste streams.

The plan contains a number of measures and tools related to combating waste crimes (e.g. principles for decision-making in cases involving transboundary shipments, imports and exports, and measures for limiting waste storage outside dedicated sites and for securing the disposal of waste where the producer is unknown or has ceased to exist); it could help to identify needs in relation to illegal actions in the waste management sectors.

⁷ An English version of the WMP is available online from the website of the Ministry of the Environment of the Czech Republic (MoE): [https://www.mzp.cz/C1257458002F0DC7/cz/plan_odpadoveho_hospodarstvi_aj/\\$FILE/OODP-WMP_CZ_translation-20151008.pdf](https://www.mzp.cz/C1257458002F0DC7/cz/plan_odpadoveho_hospodarstvi_aj/$FILE/OODP-WMP_CZ_translation-20151008.pdf).

There is also a sectoral strategic document related to waste crime in a particular area, namely, the shipment of waste:

- The *Waste Shipment Control Plan* (WSCP)⁸, which was drawn up by the CEI in cooperation with the General Directorate of Customs (GDC) and the MoE (Ministry of the Environment), approved in 2016 and valid for the period 2017-2019. The WSCP, which provides for regular controls on shipments of waste, is a tool for the enforcement of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (WSR Regulation). This document, which also emphasises the administrative approach to the control of waste shipments and provides for regular controls on transboundary shipments of waste, indicates the competencies and tasks of the authorities involved in inspections of such shipments and related facilities, as well as risk assessment related to waste streams.

The WSCP can be considered as an action plan based on a strategic approach to combating violations and crime in the area of waste shipment, and it should therefore be continuously and periodically (annually) reviewed or updated.

3.2. National programmes/projects with regard to waste crime

A document entitled '*Complex solution to negative phenomena in metal waste repurchase*' was approved by the government on 29 July 2015 (Resolution No 611/2015) and focuses on the theft of metals and their illegal repurchase at waste collection points (WCPs). The proposed measures cover four areas: prevention, regulations, control and enforcement. Prevention includes training WCP operators in their duties, while regulations include electronic registration of payments, consideration of income from metal repurchase with regard to social allowance limits, elaboration of a methodology for withdrawal of permits for the operation of WCPs, or installation of CCTV.

⁸ The plan is available online (Czech version only) from the CEI website:
<http://www.cizp.cz/file/6t4/Plan-final-verejny.pdf>.

Another document, issued by the Institute for Sustainable Development of Towns and Municipalities in 2013, is entitled '*Methodology for carrying out controls of metal waste collection points from the perspective of towns and municipalities*'. It is aimed at tackling illegal practices in the handling of repurchased secondary resources and at improving the efficiency of checks in cooperation with a number of subjects. The methodology reflects the need for efficient checks on WCPs by the local authorities. It is aimed at members of staff of municipalities who are authorised to carry out checks of WCPs pursuant to Section 80 (1d) of *Act No 185/2001 Coll. on Waste and amending certain other acts* ('Waste Act') in order to verify whether legal entities and natural persons authorised to conduct business dispose of waste in accordance with the Waste Act.

3.3. Statistics on waste

The CEI publishes figures in its annual reports⁹. Information on unauthorised waste shipments is contained in the annual reports prepared on the basis of Article 13(3) of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and Article 51(2) of Regulation No 1013/2006 on shipments of waste.

Administrative environmental statistics are collected by the administrative authorities (CENIA). Statistics on illegal waste shipments are collected only by the CEI. Information on illegal waste shipments is also reported to the MoE by the Customs Administration.

The police and the public prosecutor's office collect information on cases of environmental crime in line with their own responsibilities and have their own systems for the collection of statistics on environmental crime.

⁹ The annual report for 2016 is available from the CEI website:
<http://www.cizp.cz/file/nN7/42553-CIZP-VZ-zlom-EN-www.pdf>.

The police's statistical outputs are not compiled according to specific environmental or waste criminal offences. The basic criterion in the production of statistical outputs is the classification according to the tactical-statistical classification of crime (TSK). Criminal activities related to unauthorised waste disposal are classified under code TSK 850 in cases of intentional criminal conduct linked to the threat to the environment, TSK 851 in cases of unintentional criminal conduct linked to the threat to the environment and, possibly, TSK 871 for operational incidents and accidents. Individual TSKs are created exclusively according to the main criminal offence; other offences committed in parallel with the main offence are thus irrelevant for a particular TSK definition. Although no statistics are available for waste crime, they can be compiled from the data on overall crime statistics.

Comprehensive statistics on illegal waste shipments are not kept by the police; the latter can provide only data (not statistics) drawn from their databases (information systems). During the visit, data were provided on the number of cases in which the police authorities dealt with dossiers in this field.

Waste crime statistics are collected by two systems of statistics relating to the judicial system, namely, the statistics of the public prosecutor's office and the statistics of the courts. The statistics presented by the public prosecutor's offices (PPOs) (two cases in 2016) do not include all the investigations opened in this area (which were later either discontinued or led to prosecution in the ensuing years), but only those at the stage of criminal prosecution.

Judicial statistics are kept and processed within the CSLAV Judicial Statistical System (Central Statistical Sheets and Reports) according to the main criminal offence. Special statistics relating exclusively to waste-related crime (irrespective of the specific merits of the criminal offence) are not kept within the PPO system. Every year a statement on the activities of the public prosecution service is presented to the government by the Supreme Prosecutor's Office via the Minister of Justice, and contains a chapter devoted to an environmental crime.

The CENIA is the national agency for the collection and processing of waste data. It is a state-funded institution within the MoE, which operates several systems managing relevant waste management data and is responsible for the collection, evaluation, interpretation and distribution of waste information. There are four main waste management information systems managed by CENIA:

- ISOH, the Waste Management Information System (nationwide comprehensive waste management system), which has a register of authorised treatment facilities and files and contains complete data on the production and waste management for the whole Czech Republic with the possibility of cross-referencing reported data between originators and authorised persons. The ISOH database for waste monitoring (online and offline) provides information on consignees and consigners of waste and on the amount of waste being shipped.
- ISPOP, an integrated system for fulfilling reporting obligations, which has one 'reporting window' for different reporting requirements (report on waste production and management, annual reports, continuous evidence, etc.) by the entities concerned;
- SEPNO, an online system of evidence of hazardous waste shipment (a separate module of ISPOP accessible only to its registered users), provides an online service for the reception and processing of Hazardous Waste Shipment Reports in electronic form and evidence of such reports, for access by competent state authorities (MEC, RA, CEI, MoE);
- HNVO, a system for the evaluation of hazardous waste properties (a separate module of the ISPOP database, accessible only to its registered users), provides a web service for users who want to rule out the hazardous properties of waste (i.e. want to manage waste as 'Other waste'). It provides for the online submission of applications and the issuing of certificates or notifications for waste managers.

The results of inspections (number of inspections conducted during the indicated time frame, violations detected, fines or sentences imposed) are publicly available in the Czech Republic through CEI annual reports and CEI press releases.

The Czech Republic has established a register of waste treatment facilities (including brokers/dealers).

As illustrated above, the Czech Republic has a complex system of statistics collected separately by each individual administrative and judicial authority involved in preventing and combating this form of crime, each of them with their own systems. The different systems do not use common concepts or data collection clusters related to environmental crime. No overall integrated statistics on waste crime are available in the Czech Republic (i.e. figures for reported violations, decisions not to investigate certain types of cases, investigations carried out, prosecutions and convictions).

This means that it is not possible to have a proper picture of the phenomenon of environmental crime and its developments and trends at national level, or to track all cases from the administrative authorities, the police, the prosecutors' offices and the courts, with a view to making a coherent analysis of waste crime and of progress in the detection of such crime and administrative or judicial follow-up.

In particular, the evaluators believe that the Czech authorities could consider making further efforts to develop a more integrated system for the collection and comparison of data over several years, with a breakdown by activities, waste streams, imposed fines and sentences, in order to assess the effectiveness of prevention and combating actions. Furthermore, metadata analysis, if used properly, might make it easier to identify irregular forms of behaviour in this area.

A good step in this direction will be the planned adoption in 2019 of new legislation that will introduce an obligation for all authorities involved in combating environmental crime to provide information on administrative offences, fines and sentences to the MoE. However, this would not apply to information collected by the judicial authorities.

3.3.1. Main trends with regard to waste crime

In order to identify waste crime trends, the analysis of existing waste crime should take into account information and data over a period of several years. As the CEI does not perform any analysis of criminal activities in respect of waste crime, the related trends cannot easily be identified.

However, according to the Czech authorities, crime linked to illegal waste disposal is a fairly marginal issue in the Czech Republic compared to other forms of criminal activity. The majority of cases relate to the illegal storage or disposal of waste.

The Czech Republic provided a specific example: a positive trend showing a decrease in violations of legal norms in the waste management field as regards metal waste collection points where stolen metalware had been repurchased in the past.

3.3.2. Number of registered cases of waste crime

Most of the detected violations (99 %) are dealt with administratively. Just a few criminal files are opened and dealt with by the police at the request of the public prosecutor's office. The data provided in the questionnaire show that, in 2016, there were around 2 196 inspections and administrative processes, as opposed to only two cases investigated under the Criminal Code.

The frequency of regular inspections, as provided by the law, is specified only for facilities in possession of an 'integrated permit' (see the Industrial Emissions Directive - IPPC). Hazardous waste landfills are inspected every year, and inspections of other hazardous waste management facilities (de-emulsification stations, hazardous waste incinerators, decontamination and biodegradation lines, etc.) are carried out at longer intervals. The CEI draws up an inspection plan each year for the whole waste management chain and in respect of other obligations (EPR schemes, etc.).

As indicated above, the majority of cases relate to the illegal storage and disposal of waste, thus most of the inspections carried out by the CEI or by the police were focused on waste management facilities (landfills, waste producers, waste collection and repurchase facilities and incineration plants).

As regards waste collection, 147 administrative proceedings were initiated and fines totalling CZK 3 354 000 were imposed in 2016. As regards inspections of waste producers, 191 administrative proceedings were initiated for violations of registration and reporting obligations, as well as for unsorted waste collection.

According to the MoE, in the course of 2016, the CEI prioritised inspections of hazardous waste landfills, hazardous waste incinerators, municipal waste incinerators (facilities for energy use of waste), and decontamination facilities (biodegradation areas, solidification lines, neutralisation stations). Based on the results of a total of 417 inspections of waste disposal and waste management facilities, 81 administrative proceedings were initiated for the purposes of imposing a fine (or setting up corrective measures), and at the end of the year the fines (i.e. without all administrative proceedings having been completed) totalled CZK 5 279 000. Similarly, a total of 153 submissions were received and investigated.

Annually, there are only a few cases dealt with by the police of the Czech Republic (PCR). Offenders camouflaged their criminal activities via the fictitious conversion of the waste category, or they reported such conversion via facilities which they had not used, or they reported the operation of such facilities which did not correspond to their capacity.

As of 2016, there were no serious cases of illegal cross-border waste shipment, with the exception of individual illegal shipments imported to the Czech Republic or exported abroad, mainly to African countries. However, there is evidence of possible illegal waste shipment from other EU Member States, for the purposes of disposal and/or landfill on the territory of the Czech Republic.

In the context of joint actions with the PCR and the Customs Administration of the Czech Republic (CACR), where the vehicles transporting waste were inspected directly on the roads, six administrative proceedings were initiated for the infringements detected and 11 decisions were taken to impose a fine (totalling CZK 515 000).

The CACR, in its capacity as police authority, investigated only two cases of unauthorised waste disposal, of which one was postponed and one was transferred to the PCR.

The total number of criminal prosecutions of waste crime is, however, extremely low, just a few cases per year (e.g. two cases in 2016 and one case in 2017), and the last criminal case of waste crime concerning a legal person was recorded in 2014.

3.4. Domestic budget allocated to prevent and fight against waste crime, and support from EU funding

Funding to combat environmental crime is mainly drawn from the budget of the Ministry of the Interior. The MoE does not have any special financial means for preventing and combating waste-related crime. The CEI does not have a special budget allocated for inspections of cross-border waste shipment, but in the area of waste, the annual budget is earmarked in particular for sampling, analysis, expert and forensic expert assessments. These funds are drawn continuously for both scheduled and unplanned control actions and cases. The CACR does not have a special budget for inspections of cross-border waste shipments; all inspections, including costs, are funded under the general CACR budget.

It should be mentioned that the Czech Republic's State Environmental Fund (SEF) is a state-owned institution in the field of the environment, which has been substantively contributing to investments aimed at protecting and improving the environment in the Czech Republic.

This fund is financed *inter alia* by administrative fines imposed on offenders, in particular payments for pollution or damage to individual environmental sectors (waste water discharge charges, land tax levies, air pollution charges, and waste collection fees) and the related repayments of the loans granted and their interest. Administrative fines for illegal transboundary movements of waste go entirely to this fund (100 %) and, of the fines imposed for other waste crimes, 50 % go to this fund and 50 % to municipalities.

Part of the proceeds consist of subsidies from the state budget earmarked for expenses occurred in the administration of the technical assistance under the EU programmes.'

The financial resources of the fund are intended for remedial actions and other environmental needs; beneficiaries of SEF support include the full spectrum of individuals, legal entities and local authorities such as regions, municipalities and associations of municipalities, as well as state entities, corporate bodies, non-profit organisations, business entities and natural persons, both entrepreneurs and non-entrepreneurs.¹⁰

The evaluation team considers that the establishment of the SEF is a very useful measure, that can be considered as a good practice.

3.5. Prevention of waste crime

Measures to prevent unauthorised waste disposal include informing persons and businesses about their obligations under the Waste Act and Regulation (EC) No 1013/2006 on Shipments of Waste, and carrying out frequent inspections during shipments of waste and in the respective facilities.

The MoE exercises state supervision in the area of waste disposal, with the exception of protection of public health. The CEI oversees compliance, by legal entities and natural persons authorised to conduct business, with the provisions and decisions of the MoE and other administrative authorities in the area of waste disposal. It also conducts inspections.

¹⁰ Detailed information on the SEF's management is published annually in the SEF's management reports (available online from: <https://www.sfzp.cz/o-sfzp-cr/vyrocní-zpravy/>).

The public prosecutor's office primarily plays the role of a public prosecutor (i.e. public action) in the system of bodies designated for the prevention and combating of waste crime. The CACR and the PCR are also involved in the prevention and combating of waste crime.

The Czech Republic's *Waste Prevention Programme* (WPP)¹¹, which was drawn up in line with Directive 2008/98/EC of 19 November 2008 on waste and repealing certain Directives and approved by the government on 27 October 2014 (Resolution No 869/2014), is aimed at enhancing prevention by reducing the amount of waste produced as well as its hazardous properties.

With the adoption in 2015 of the implementing decree related to the amendment to the Waste Act (No 223/2015 Coll.), the list of metal waste which can be repurchased from the operator of a waste disposal or waste collection facility in non-cash payments only was extended. The operator is also obliged to: identify the persons from whom the waste is repurchased or taken; identify the waste being repurchased or taken; and keep records of these actions. This simple legal measure has resulted in a significant decrease (50 %) in the number of metal thefts in the country.

All electronic devices shipped for re-use must be tested and accompanied by a certificate of functionality.

The representative of the MoE pointed out that the Czech authorities have already made considerable efforts in developing public awareness campaigns and in the educational system at all levels.

¹¹ The WPP is available online from the MoE website:
[https://www.mzp.cz/C1257458002F0DC7/cz/predchazeni_vzniku_odpadu_navrh/\\$FILE/O-O-EN_WPP_Czech-20150407.pdf](https://www.mzp.cz/C1257458002F0DC7/cz/predchazeni_vzniku_odpadu_navrh/$FILE/O-O-EN_WPP_Czech-20150407.pdf).

In its Facebook website, the MoE regularly provides information on current events in the sphere of the environment, including waste management, and on new legislation. It also shares links to examples of good practice, e.g. how to reduce waste, packaging waste, etc. In 2012, the web and mobile application *ZmapujTo* – 'Map it' – was created to enable citizens to inform the authorities about unauthorised dumps and other similar problems in their cities and municipalities (www.zmapujto.cz).

In addition, the Ministry of the Environment of the Czech Republic (MoE) has long supported the activities of NGOs in the field of waste prevention through the NGO non-profit support programme. Annual subsidies are provided from the state budget for projects by civic associations and public benefit companies. As part of the project of the Technological Agency of the Czech Republic on 'Searching for new methods of information support in the implementation of the Czech Republic prevention programme', the MoE published a methodology for integrating waste prevention into teaching, for individual schools at all grades and for out-of-school education. The 'I Love Food, I Do not Waste' initiative – organised by 'The Really Healthy School' association with the aim of reducing food waste in schools and at home – is helping to educate students.

Investments are also being made into publications, leaflets, brochures, etc. As part of the project of the Technology Agency of the Czech Republic on 'Searching for new methods of information support in the implementation of the Czech Republic waste prevention programme', the MoE issued leaflets to citizens informing them about the prevention of waste in households and the prevention of electrical, food, textile and packaging waste.

In addition, various seminars and lectures focusing on waste prevention in different fields, using different approaches, are held in the Czech Republic. There are many seminars in which representatives of the MoE and the CEI regularly take part. Some of these seminars are organised by the MoE and are aimed at the private sector (for example, the 'PAYT tour', the 'BIO tour', etc.). These seminars take place throughout the Czech Republic and during the seminars the MoE introduces new legislation. Some of the seminars are organised by the private sector, and these too are aimed at the private sector. The MoE and CEI representatives often take part as lecturers in these seminars.

According to the Czech authorities, the public is generally aware of environmental issues and challenges: "Citizens report some violations in the area of waste crime." However, the evaluation team has the impression that citizens could be even more active in this respect.

Initiatives such as conducting further awareness-raising campaigns and publicising information on successful cases could be a way forward for enhancing trust in the public authorities and encouraging citizens to be more active in reporting violations, as the public would be aware that the authorities react properly to complaints.

3.6. Conclusions

- There is no single comprehensive strategic document in the Czech Republic setting out the priorities of the national policy for the fight against environmental crime; however, the National Waste Management Plan contains a number of measures related to the fight against waste crime, the CEI has a plan for inspections and checks, and there is also a separate document on inspections of transboundary shipments of waste, based on a strategic approach. In the evaluators' view, a more strategic overall approach encompassing monitoring and law enforcement activities to target violations and failure to comply with the requirements of the relevant environmental legislation would be useful; for that purpose, the Czech Republic could consider developing a comprehensive policy and action plan for combating environmental crime.

- In the Czech Republic, cases of non-compliance with legal requirements in the area of waste management mainly fall into the administrative category (99 %), while the total number of criminal prosecutions of waste crime is statistically irrelevant. Indeed, waste crime is largely dealt with as an administrative matter in the Czech Republic.
- Although in the Czech Republic there is a well-developed set of data information collection tools, the different institutions have their own systems for collecting statistics on environmental violations, including waste violations and crimes. The evaluation team, therefore encourages the Czech authorities to consider improving the existing information-sharing channels in order to provide a more consistent and coherent way forward for comparing and analysing this information among institutions.
- The online system SEPNO is a very useful tool for tracking hazardous waste shipments.
- The evaluation team encourages the Czech authorities to consider developing a more integrated system for the collection and analysis of statistics on environmental crime, including waste crime, with coordinated clusters and analysis of metadata. This would make it possible to analyse trends and developments and would also make it easier to assess the effectiveness of the system and the actions taken by all the authorities involved in preventing and combating environmental crime. The introduction in 2019 of an obligation for the competent authorities to provide information to the MoE on administrative offences, fines and sentences will be a good step in this direction. However, it seems this will not apply to information collected by the judicial authorities.
- The Czech authorities have adopted a number of preventive measures in the area of environmental crime and are already engaged in awareness-raising campaigns. The evaluation team believes that further promoting these campaigns and providing more information to the public on law enforcement activities and instances in which environmental crimes have been successfully combated could be a good way forward to enhance trust in the public authorities and to encourage NGOs and citizens to be more active, including when it comes to reporting violations to the competent authorities.

- It is worth mentioning the requirement to use non-cash means of payment and to register the supplier when purchasing or repurchasing metal waste. This measure, which increases the traceability of such waste and facilitates the identification of the suppliers, has significantly reduced illegal activities in this area and is considered by the evaluation team as an example of good practice.
- Many seminars and lectures are organised by both the MoE and the private sector in the Czech Republic. The evaluation team believes that such initiatives are a useful measure for the prevention of environmental crime and should be continued and, where appropriate, developed further.
- In the Czech Republic there are no specific budgetary allocations for preventing and combating waste crime. The Czech Republic's SEF is financed *inter alia* by administrative fines for environmental violations, and contributes to investments aimed at protecting and improving the environment, as well as remediating environmental damage. The evaluators believe that this fund is a valuable source of financing and makes it possible to carry out effective remedial actions, and can therefore be considered as an example of good practice. The Czech authorities could also consider earmarking a portion of this fund for preventing and combating waste crime.

4. NATIONAL STRUCTURES

4.1. Judiciary (prosecutors and courts)

4.1.1. Internal structure

The Ministry of Justice - the Criminal Law Unit of the Legislative Department - is responsible for drafting and amending criminal legislation, including the transposition of EU legislation, while the International Criminal Department is responsible for international and cross-border judicial cooperation in criminal matters. However, the Ministry of Justice is marginally engaged in environmental crime.

The system of PPOs is four-tiered and is headed by the Supreme Public Prosecutor, who is appointed and dismissed by the government on a proposal from the Minister for Justice. In addition, there are two high PPOs, eight regional PPOs and 86 district PPOs. Each public prosecutor's office is headed by the respective leading public prosecutor, who is appointed by the Minister for Justice on a proposal from the Supreme Public Prosecutor.

The public prosecutor's office, on whose behalf individual public prosecutors always act in criminal proceedings, is given the power to exercise supervision over the observance of the principle of legality in the pre-trial phase of criminal proceedings. It is solely responsible for criminal indictment, and during trial before a court its role is to act as the party representing public prosecution in criminal proceedings (i.e. public action).

The public prosecutor is authorised *inter alia* to issue binding instructions to the police authorities (the PCR, CACR, etc.), to annul their decisions and replace them with decisions of its own, to take part in the execution of acts of the police authorities, to carry out a specific act or conduct the entire investigation in person, and to issue resolutions in all circumstances. The public prosecutor is the only subject of the proceedings that may decide about the core of the matter in the pre-trial phase of the criminal proceedings.

In the Czech Republic, criminal activity related to waste is dealt with in the framework of the general court system. There is no special public prosecutor's office, nor is there any other specialised body in the Czech public prosecution system assigned solely to deal with environmental crime cases.

In the prosecutor's office there are two informal groups of prosecutors whose tasks include analysing environmental issues and maintaining international cooperation in this field. However, the evaluation team considers that, although there seems to be a spirit of willingness, the lack of specialised structures means that these efforts may not be effective in the long term.

A national correspondent for crimes against the environment operates within the Supreme Public Prosecutor's Office to gather information, provide education and methodological help to ordinary public prosecutors struggling with environmental crime cases. Once a year the national correspondent issues a 'Bulletin'.

The public prosecution system mirrors the system of ordinary courts, which is four-tiered and consists of the district courts, the regional courts, the high courts, the Supreme Court and the Supreme Administrative Court. Under the constitution of the Czech Republic, only the courts decide on guilt and punishment for criminal offences.

As regards criminal proceedings, the district courts and the regional courts may conduct the first-instance trial proceedings. Unless provided otherwise, the first-instance proceedings are conducted by the district court.

The regional court conducts the first-instance proceedings for criminal offences for which the law prescribes a prison sentence of at least five years or an exceptional prison sentence (imprisonment of between 20 and 30 years or life imprisonment).

The court conducting the first-instance proceedings is the court of the district in which the offence was committed. If the crime scene cannot be determined or if the crime was committed abroad, the proceedings are conducted by the court in the district in which the accused person lives, works or resides; if such places cannot be located or are outside the territory of the Czech Republic, the proceedings are conducted by the court in the district in which the offence was discovered.

The court is bound by the indictment of a prosecutor and can only decide on an act (conduct) referred to in the indictment. However, the court may define the act differently from the prosecutor.

An appeal against a judgment by the district court is decided on by the superior regional court. An appeal against a judgment by the regional court as the court of first instance is decided on by the superior high court. The Supreme Court decides on extraordinary appeals and on any complaints about violations of the law, which may be filed by the Minister for Justice.

The above information regarding the court system was provided by the Czech authorities in writing as the evaluation team did not have the opportunity to meet judges during the visit.

4.1.2. Capacity for and obstacles to prosecuting and sanctioning waste crime

Waste crime in the strictest sense, as defined in criminal law, is handled by the law enforcement authorities (police and customs authorities, public prosecutors and courts).

However, in the Czech Republic there is a longstanding preference for punishing waste crime under an administrative rather than a criminal system. In principle, judicial and administrative systems operate in parallel in this area, but in the vast majority of cases waste violations are dealt with under administrative law, with follow-up control and sanctioning mechanisms implemented by the administrative authorities.

The criminal law approach is seen as the 'last resort' for solving the problem, and is therefore used on an exceptional basis in this area: only a few cases of environmental crimes are brought before the courts each year. Criminal penalties are applied only in extreme cases, while the vast majority of sanctions for illegal activities related to waste are in the form of fines imposed by the administrative authorities.

According to the prosecutors the team met during the visit, the main obstacles to the prosecution and punishment of waste crime cases are:

- the difficulties in detecting this type of crime, known as 'invisible crime';

- the complexity of the legislation requiring a large amount of evidence of the crime, which makes it easier for perpetrators to defend themselves successfully compared to other crimes, and means that the chances of successful prosecution are low;¹²
- the difficulties in determining the real perpetrator of the crime, as there are many co-offenders who receive illegal assets from the victim's bank account and pass them on;
- the difficulties in determining the scale of the environmental damage, due to the lack of availability of sufficient expertise and of a specific methodology for this purpose;
- the difficulties in gathering sufficient evidence to prove criminal activities and liability in the area of waste management;
- the difficulties in determining the criminal liability of legal entities, as the relevant provisions of the Czech legislation adopted (only) in 2012 are not yet fully applied in practice. Since it only costs CZK 1 to set up a company in the Czech Republic, it is very easy to establish 'fictitious' companies (known colloquially as 'white horses' in the Czech Republic).

However, there are no plans for either legislative or other measures within the framework of the PPOs to increase the capacity for detecting and prosecuting waste-related offences in the Czech Republic.

Although the administrative approach does not come up against the problems faced in criminal prosecutions, as listed above, it must be stressed that there are some penal measures, such as forfeiture or seizure of assets, that have proved extremely useful in tackling environmental crime, which is motivated mainly by financial gain; such measures can be enforced more easily by the courts than by the administrative authorities.

¹² For example, a quality criterion such as '*considerable extent of costs*', as contained in § 298, makes it impossible to prosecute a case successfully if the waste in question cannot be found (or even no longer exists), since there is no longer any way of determining the costs.

The administrative authorities are obliged to refer a case to the police or the PPO only if they suspect that a criminal offence has been committed; similarly, if the police receive a complaint but considers that it does not involve a criminal offence, they can close the file immediately and not involve the PPO. However, if the police close a case with a proposal to lodge an indictment and hand it over to a public prosecutor, the latter can subsequently lodge an indictment with a court of law, which ultimately deals with the case and decides.

The prosecutors maintain that they have sufficient access to information via databases and registers to examine the administrative environmental files and discuss them with the administrative authorities and the police, over whom they have supervision powers.

However, in the opinion of the evaluation team, PPOs could play a more active role in the pre-trial phase. To that end, the Czech authorities could consider establishing more systematic communication between all the competent authorities, possibly on the basis of standardised guidelines, which would facilitate the process of deciding whether the environmental violation can be qualified as a criminal or as an administrative offence.

4.2. Law enforcement authorities

4.2.1. Organisational structure of, and cooperation between, investigative authorities involved in preventing and combating waste crime

The detection and investigation of waste-related crime is carried out under the Criminal Procedure Code by the PCR and by the Czech customs authorities (CACR), which have also policing powers.

The highest level of the PCR is the Presidium. The PCR has adopted an internal regulation (Police President's Directive No 103) stipulating that the PCR should have an Investigation Service (CPIS), coming under the exclusive competence of the criminal police, for the purpose of combating environmental crime, including illegal waste management and disposal.

Within the framework of the PCR, at central level these crimes fall within the competence of the CPIS Bureau of the Police Presidium, which forms part of the Economic and Financial Crime Department (specifically two police officers of the Economic Crime Department). The CPIS Bureau provides methodological guidance and direct assistance in solving individual cases. However, environmental crime cases are only part of the police officers' workload in the CPIS Bureau.

As environmental crime is mainly motivated by financial gain and is often closely related to other economic crimes (money laundering, tax evasion, etc.), from an organisational perspective the CPIS Bureau is well placed to deal with the financial aspects of environmental crime investigations.

Within the regional police directorates, one officer at the Economic Crime Department has specific expertise in waste crime, and, within each territorial department of the PCR, there are also CPIS officers specialised in environmental crime.

According to the internal regulations, crime associated with illegal waste management is dealt with directly by the personnel assigned to the various departments of the CPIS at the level of the territorial police departments of the PCR, which have a crucial role at local level in detecting this type of crime, which is often an invisible form of crime.

None of these specialists, however, are assigned exclusively to the detection and investigation of environmental crime; they also investigate other forms of crime, especially economic crime. These experts receive continuous training and support, including methodological guidance, from the higher sections of the PCR, especially the CPIS Bureau.

If the administrative authorities, in the first phase of administrative inquiries regarding violations of waste disposal norms, identify a criminal act under Section 298 of the Criminal Code, they report these findings to the police, handing over relevant documentation providing proof of the suspected criminal act. The police authority subsequently initiates criminal proceedings under Section 158 (3) of the Criminal Procedure Code, gathers all necessary means of evidence and identifies the specific (natural or legal) entity or entities responsible for violating the law.

If the police authority gathers enough evidence to prove the offender's liability, the case is closed with a proposal to lodge an indictment and handed over to a public prosecutor for initiating prosecution according to Section 160 of the Criminal Procedure Code.

The CACR is an armed security service, subordinated to the Ministry of Finance. Its General Directorate of Customs (GDC) - Investigation Division is tasked with investigations of both domestic and transboundary shipments of waste pursuant to Section 77 of the Waste Act.

Surveillance services supervise (domestic and cross-border) road transport of goods falling within the competencies of the customs authorities. They also verify, via documentation and physical checks, whether the shipments of waste are accompanied by the relevant documents required under EU and national legislation and whether the waste category declared corresponds to the information in the documents. According to Section 12, 2d) of the Criminal Procedure Code, the CACR has police powers within the competencies of the Customs Administration, but only at the first stage of criminal proceedings, before the opening of the criminal prosecution. In this context, the CACR can use special investigative techniques (SITs), such as tapping phone calls, surveillance of persons, etc., to detect and investigate suspected crimes under Section 298 of the Criminal Code. They may impose fines within their competencies.

The customs authorities do not have specific expertise on waste and usually perform such checks in consultation with the CEI.

Where a crime is suspected, the CACR hands over the case to the police and does not establish a dossier for the public prosecutor. If they detect administrative irregularities, they refer the matter to the CEI and/or the regional authorities to be dealt with administratively.

Police activities are supervised by the public prosecutor's office, which is entitled to issue binding instructions to the police and to annul their decisions and replace them with decisions of its own; the PPO can also take part in the execution of acts of the police authorities, carry out a particular act itself or conduct the entire investigation.

4.2.2. Investigative techniques/tools

In the detection and investigation of environmental crime, including waste crime, the PCR uses the standard methods and means that can be used in criminal proceedings, i.e. those based on the Criminal Procedure Code and where appropriate on the Act on the Police. This includes SITs, which can involve observation, infiltration and telephone tapping. According to the Czech authorities, these special techniques can be used in investigations into environmental crime, but need to be authorised by a prosecutor or a judge.

For cases detected by the CACR in its capacity as a police authority, the detection process is carried out according to standard procedures and no special methods or investigative techniques are used.

The capabilities and equipment of the forensic units, financial units and cybercrime units have not been used, for cases falling within the purview of either the PCR or the CACR, to investigate waste crime.

4.2.3. Capacity of and obstacles to successful investigation of waste crime

According to the Czech authorities, the main problem in tackling waste crime is the lack of workforce (personnel) and insufficient technical resources. The police stressed that the number of police officers in the CPIS territorial departments dealing with environmental crime could be increased, especially by recruiting specialists (chemists, engineers, biologists and so on).

It is a well-known fact that environmental crime, including waste crime, is often a hidden form of crime that needs to be tackled proactively, as if nothing is done to detect its existence, it would be an arduous task to uncover it; consequently, if no findings are made, the impression given is that such crime does not exist and, at the same time, environmental crime could increase in an unrestrained manner.

According to the prosecutors encountered during the visit, the nature of waste crime, as a victimless crime, leads to a lack of motivation on the part of witnesses; consequently, the visible involvement of the law enforcement authorities (LEAs) in combating this form of crime may have a preventive effect and increase the chance of voluntary cooperation by the subjects concerned.

From the point of view of detection and investigation, taking into account the nature of environmental crime, the competent authorities often face problems in terms of collecting evidence, identifying the specific facilities where the illegal waste is stored (e.g. outside approved facilities in open areas) and assessing the possible damage to the environment.

Other obstacles to successful investigation are linked to the traceability of the persons who commit the waste offences and communication with them, especially with foreigners (as in some cases involving African countries), as well as the traceability of the documents due to the incorporation of fictitious firms in the chain of companies employing 'white horses' in the role of executives.

As regards the activities of the CACR, it has dealt with only a small number of cases. In this respect, it is worth drawing attention to the absence of specific findings and the difficulty of securing international cooperation in detecting waste crime with a significantly international character, as well as the difficulty of bringing this type of crime as far as the stage of the criminal prosecution of perpetrators.

Taking all the above-mentioned factors into account, the evaluation team takes the view that the allocation of more human and technical resources to environmental crime could contribute to a more active role of the LEAs in seeking out and tackling this form of crime.

4.3. Other authorities/institutions

The Czech Republic has adopted an administrative-based approach to the management of environmental violations, and unlawful conduct relating to waste which does not constitute a criminal act under Section 298 of the Criminal Code is dealt with as a misdemeanour or as an administrative offence, handled primarily by administrative authorities (the CEI), and investigated and sanctioned by means of administrative proceedings.

The Czech administrative waste management authorities act according to their competences within the following framework:

– State level:

According to the Waste Act, the MoE is the central authority of the state administration in the area of waste management. The MoE is the leading body in the area of environment and the policy-making authority, and its tasks include the preparation and submission of proposals for legislation and the development of the waste management plan of the Czech Republic, as well as of other strategic and policy documents in the area of waste management.

The MoE exercises state supervision in the field of waste management, except for the protection of public health, and coordinates all the authorities involved in waste management, providing them with methodological guidance.

The MoE is also the focal point and competent authority in the field of transboundary movements of waste and is competent to authorise legal entities to evaluate specific hazardous properties of waste. Furthermore, the MoE is the body responsible for appealing against the decisions of the CEI and of the regional authorities.

The CEI, established in 1991 by the MoE, is an expert body responsible for overseeing compliance with the environmental legislation on the part of legal entities and natural persons authorised to conduct business, with jurisdiction over the entire country; despite the CEI's independence, its director is appointed by the MoE. The CEI is divided into ten regional inspectorates, two branches and a directorate, and has a delegation in each region.

The CEI plays a key role in the enforcement of environmental legislation; in particular, its waste management department is the enforcement authority for waste management.

The CEI does not formally carry out activities relating to waste crime *stricto sensu*, within the meaning of criminal law. The CEI is the main supervisory authority and can perform checks and inspections – including unannounced inspections - as well as investigations at every administrative level throughout the country. Moreover, the CEI may impose fines for non-compliance with mandatory obligations, set conditions and deadlines for achieving compliance and implement measures to correct any identified deficiencies.

The CEI may ask the regional authority to suspend the operation of a waste disposal facility if the operator of that facility fails to comply with the legislation on waste management, thereby giving rise to the risk of serious environmental damage.

The CEI is also responsible for inspections of hazardous waste within the territory of the Czech Republic.

Within the framework of transboundary shipments of waste, the CEI is authorised to carry out relevant inspections in on-site waste facilities and at the 'former' border crossing points and road networks in cooperation with the PCR and the CA. It is also authorised to carry out documentary and physical checks of waste loads. The CEI does not have the same competences as the police in the investigation of crimes, and CEI inspectors often encounter reluctance on the part of legal entities to communicate with the administrative authority; consequently, their ability to obtain adequate evidence is limited.

Appeals against the CEI's decisions may be lodged with the MoE or with the administrative courts.

The CEI is responsible for filing criminal complaints with the public prosecutors via the PCR in the case of suspected criminal offences, and with other state administrative authorities (regional administration offices, business administration offices) on the basis of suspected administrative violations of environmental legislation.

The evaluation team considers that both the MoE, which has a clear organisation and structure, and the CEI have developed an active role in combating environmental violations. The CEI is continuously scheduling inspections (more than 3 000 inspections per annum) and sampling and has imposed a substantial number of fines.

– Regional level:

There are 14 regions in the Czech Republic (13 regions plus the capital city of Prague). The regional authorities adopt waste management plans in line with the waste management plan of the Czech Republic. The regional authorities supervise compliance with the legal provisions and with the decisions of the MoE and other administrative authorities in the area of waste management on the part of legal entities, natural persons authorised to conduct business and municipalities. They are also responsible for licensing waste management facilities to operate within their territories and in this respect can perform inspections.

The regional authorities also monitor the payment of fees for the landfilling of waste by the landfill operators, and check whether the authorised persons are complying with the method for evaluating the hazardous properties of waste.

The regional authorities may impose fines on legal entities and natural persons under Section 66(6) of the Waste Act and suspend the operation of waste management facilities. They are also entitled to appeal against the decisions of the municipal authorities with extended competences and of the other municipal authorities.

– Municipal level:

There are around 6 258 municipalities in the Czech Republic (in 2016).

The 200 municipalities with extended competences, which represent the main cities and the associations of municipalities, have a broader competence than other municipalities. They monitor compliance with the legal provisions (Waste Act) and the decisions of the MoE and other administrative authorities in the field of waste management on the part of legal entities, natural persons authorised to conduct business and municipalities, and compliance by the authorised persons with the method for evaluating the hazardous properties of waste.

They are responsible for issuing permits to legal entities, including waste management facilities. They are also entitled, within the scope of their competences, to carry out inspections within their territories and within the territories of small municipalities. They may impose fines on legal entities and natural persons authorised to conduct business pursuant to Section 66 of the Waste Act.

Finally, there are the small municipalities (which bear direct responsibility for the physical management of waste within their territory). Each municipality or city may create a waste management system within its own territory. Municipal authorities check whether legal entities and natural persons authorised to conduct business are using the municipal waste disposal system established by municipalities on the basis of a written agreement with the municipality, and whether a natural person who is not an entrepreneur is disposing of waste in accordance with the law. They check whether legal entities and natural persons authorised to conduct business are ensuring the recovery or disposal of waste in accordance with the Waste Act, and monitor the payment of fees for the landfilling of waste by landfill operators. Municipal authorities may impose a fine pursuant to Section 69 on natural persons or legal entities and natural persons authorised to conduct business pursuant to Section 66 of the Waste Act.

In general, any local authority can contact the CEI directly if it believes it does not have sufficient capacity to deal with environmental cases.

The CEI, the regional administrations, the municipal authorities of municipalities with extended competences and the municipalities all have the power to impose sanctions in the area of waste crime. Various levels of fines can be imposed by the various administrative authorities, ranging from the most minor to the most severe sanctions, for an amount up to CZK 50 000 000 for the illegal classification or management of hazardous waste. The actual amount of the fines imposed is calculated taking into account the potential harm to the environment, which may be different in each case. In order to ensure a more harmonised approach, all inspectors are able to consult previous decisions in similar cases.

In the sphere of administrative sanctions, in addition to administrative punishment, confiscation and forfeiture may also be ordered. Judicial and administrative punishment systems operate in parallel, and the initiation of criminal prosecution proceedings does not exclude the possibility of imposing a forced administration or other remedy under another legal regulation.

It is, however, possible that, in the initial phase of administrative inquiries regarding the violation of waste disposal norms, the administrative authority identifies unlawful conduct equivalent to a criminal act under Section 298 (and indeed such cases have occurred). In such cases the administrative authority reports its findings to the police and hands over relevant documentation providing evidence of the suspected criminal act.

According to Czech legislation, the MoE supervises regional authorities, while the latter supervise the municipal authorities of the municipalities with extended powers and the municipal and local administration authorities. The MoE is the main methodological supporting body for regional authorities, the main supervisory body in the field of waste management and also the authority competent to decide/hear on appeal against decisions of the regional authorities. The regional authorities are supporting bodies for municipalities and also the authority competent to decide/hear on appeal against decisions of the municipal authorities.

Likewise, citizens can appeal against the decisions of the various administrations, including those issued by the CEI, and can appeal to the MoE, whose decision may be subject to judicial review by the administrative court.

The fire rescue service and the research and scientific institutions actively assist the national authorities in preventing and combating environmental crime, providing them, where appropriate, with proven evidence, collecting samples, testing and - where necessary - cleaning the polluted areas. These institutions are very well equipped for the collection and evaluation of samples from various sources and hazardous places and have access to mobile laboratories and sampling devices. They also carry out important international activities, including training courses.

Other authorities with specific sectoral responsibilities in the area of the environment are:

- the Ministry of Agriculture, which coordinates the implementation of controls of compliance with obligations relating to the use of treated sludge on agricultural land;
- the Ministry of Health, which executes supreme state supervision and controls the execution of state administration in the area of public health protection in waste management. It also authorises legal entities or natural persons to evaluate specific hazardous properties of waste;
- the Ministry of Finance, which cooperates in drafting legislation in the field of waste management and in the area of taxes and fees;
- the Ministry of Industry and Trade, which cooperates in the field of raw materials and secondary raw material policies.

The Czech Trade Inspection Authority monitors compliance with the obligations regarding entry into and circulation within the market of batteries and accumulators and the marking thereof, and ensures take-back by the manufacturer and the last vendor.

The institutional organisation and distribution of competences, as described above, reflects the administrative-based approach adopted in the Czech Republic towards tackling environmental violations. According to the Czech authorities, administrative penalties allow violations of waste legislation (e.g. a failure to maintain records) to be dealt with swiftly, with the necessary degree of expertise, and permit the application (paradoxically) of more severe sanctions compared to a court of law (as far as pecuniary penalties are concerned, courts tend to apply milder sanctions). In addition, all the procedural rights of an accused person (as is typical of criminal proceedings enshrined in ECHR case-law) are also fully guaranteed in administrative proceedings.

4.4. Cooperation between and exchange of information among national authorities

4.4.1. Cooperation and coordination

The effectiveness of measures to prevent and combat environmental crime, including waste crime, depends to a large extent on coherent action and close, interactive and continuous cooperation between the different authorities both horizontally and vertically. Any action to prevent and combat such crimes will succeed only if all stakeholders are genuinely involved in tackling them and only if each step of the law enforcement process - detection of illegal activities, investigations, prosecution and sanctioning - is effective and properly linked to the others.

At the top of the institutional organisation of the Czech Republic, the coordination of the main stakeholders in the field of the environment is ensured by the MoE, which convenes regular meetings of all regional and local authorities. Cooperation on the basis of a working group on cross-border waste shipments is also facilitated by the MoE.

The CEI coordinates its regional authorities, and regions play a coordinating role in relation to municipalities.

Both the MoE and the CEI cooperate with the police, including by providing relevant data to combat illegal activities relating to the environment. The CEI, however, is not obliged to inform the police about administrative cases and fines imposed; only if it suspects possible criminal infringements does it submit formal reports to police, following prior (usually informal) consultation on the case in question.

The CEI also cooperates with municipal authorities, public health authorities, customs authorities, the fire rescue service, the CPR, the financial administration of the Czech Republic and other administrative authorities, and in some cases with regional and municipal administrations, and provides them with professional assistance. It also cooperates with the inspection authorities of other EU Member States and with the IMPEL network.

The fact that the inspectors do not have the same powers as the police means that a report to the police is endorsed and approved beforehand by the CEI's own management, without the involvement of the public prosecutor's office. The police may request the cooperation of the CEI in the evaluation or provision of documents (e.g. records, etc.), or in the analysis of waste (e.g. to assess whether or not it is hazardous), or of the integrated rescue service in the case of large-scale damage.

Cooperation at a higher level takes place between the CEI Directorate and the PCR presidium (information and cooperation on cases under investigation, provision of training for police officers, etc.).

The customs authorities cooperate with the MoE and the CEI and are obliged to inform the local police authorities about all cases they open.

The MoE leads the Council for Waste Management of the Czech Republic, an advisory body to the Minister for the Environment, composed of leading ministry experts, union representatives and experts from the private sector.

The MoE also convenes regular meetings of an informal working group composed of representatives of the MoE, the CEI, the CACR and the PCR to discuss and exchange information and put forward proposals for amending the legislation and for planning joint controls in cooperation with neighbouring countries.

As regards cooperation in the area of illegal waste disposal, an interdepartmental working group, which includes police officers from several bodies - the CPIS Bureau, the Traffic Police Directorate, the Alien Police Service and the Order Police Service - has been established for dealing with and identifying solutions for cross-border waste shipment problems.

In the field of the collection and repurchase of metal waste, a specialised interdepartmental team - the Czech Trade Inspection Authority - composed of representatives of the CEI, the PCR and the GDC has been established for the detection of serious crimes in this area. This team met for the first time in January 2016 and has since been meeting on a regular basis twice a year; its activities include coordinating individual inspection and sanction powers, and compiling reports on statistics in relation to inspections and sanctions, etc.

The CACR authorities cooperate with the MoE, the CEI and the offices of regional administrations on inspections. In non-criminal matters, the CEI may directly assist the customs authorities in the inspections. The CACR investigation departments turn to other bodies if necessary. The CACR offices are commonly involved in the exchange of information and planning of inspections with the CEI. Once a year the CEI receives information about inspections conducted by the CACR.

Customs representatives are members of an informal group on waste issues which, however, does not tackle criminal activities.

The CEI carries out joint actions with the PCR and the CACR, where vehicles transporting waste are subject to direct inspections on the road.

As regards cooperation with other authorities, the PCR does not perceive any obstacles worthy of note. The CACR also has positive experience of cooperation with other authorities. The MoE sees a practical obstacle in the lack of capacity or limitations in the mutual provision of information resulting, for example, from the Tax Code.

The fire rescue service cooperates with all LEAs and provides assistance in the gathering of evidence and in the immediate localisation of damage, providing all the necessary rescue-related activities within its competence.

The general framework for cooperation between the competent authorities in the area of waste crime is set out in the Waste Act. There is no established formal (official) protocol of coordination between authorities, apart from a framework Agreement on Cooperation between the PCR and the CEI on the transfer of information and cooperation in specific cases of waste crime. Even though the evaluation team had the perception that all the stakeholders exchange information quite effectively, it considers that it could also be useful to establish a more formal framework for cooperation and the exchange of information.

According to the evaluation team, the 'Femme' case conducted by the district public prosecutor in Louny is a positive example of a multidisciplinary approach in which all the relevant stakeholders were able to work together using all the tools available in successful criminal proceedings; such an approach could also be adopted in the future. It is especially remarkable that in this case the first step was the confiscation of the offender's assets.

4.4.2. Access to information and focal points on intelligence

Access to information by all the competent authorities plays a key role in effectively tackling environmental crime, which is often invisible and difficult to detect; consequently, efficient forms of cooperation based on a strategic intelligence-led approach are of utmost importance in this area.

Data collected and managed by CENIA can provide a certain amount of relevant information to the competent authorities: for example, ISOH can provide data to the police, the judiciary of the Czech Republic (especially the courts), the financial authorities and the CEI; data in the WMIS are provided by the various authorities involved in waste management: authorised users are the staff of the MoE, the CEI, the RA, the SEF, the Department of Transport and the Department of the Environment ORP / SOP, and the PCR, whereas only selected information from this database is publicly accessible via the internet; ISPOP enables access to reports for the competent state authorities (municipalities with extended competence of delegated state administration ('MEC'), the regional authorities ('R'), the CEI and the MoE. HNVO is accessible to the competent state authorities. SEPNO is also accessible to the competent state authorities (MEC, RA, CEI, MoE, CACR).

The information collected and managed by CENIA in the various information systems it operates allows easy and rapid access both for all the competent authorities involved in waste management and, to some extent, for the general public via the internet; furthermore, the possibilities of interlinking the different systems are being explored. The evaluation team therefore considers this approach to be a good example of information collection and distribution in the area of waste management.

According to the evaluators, SEPNO in particular is an effective tool for tracking domestic shipments and managing hazardous waste because both senders and recipients are obliged to submit information about each shipment of hazardous waste and can obtain e-transport bills.

The CEI uses its own database of waste shipment permits. A database of devices (online) allows for confirmation of whether consignees of waste are authorised to receive a specific type of waste.

Online access to information is essential in the case of roadside checks involving real-time verification of information contained in the transport documents. It is necessary to maintain direct contact between customs offices, the CEI, the MoE and if necessary the police in ad hoc cases (and in particular shipments currently in progress).

The police underlined that there is an active and regular exchange of information with the administrative authorities; they receive CEI reports and have access to databases and registers containing data on criminal proceedings (initiated, returned to administrative authorities, etc.) originating from different systems, which, however, are not interconnected.

As regards the exchange of information between the CEI and the police, the main focal points are the CPIS Bureau of the Police Presidium of the Czech Republic and the Directorate of the CEI - Department of Waste Management. There is an online system of direct cooperation within individual regions and territorial departments, but such cooperation also takes place on the basis of personal emails and telephone communications.

The CACR does not use a unified database; it uses the 'ISOH' Waste Management Information System.

The Czech authorities indicated that judges can obtain information from databases and registers; however, these issues could not be examined in any more detail by the evaluation team as there was no contact with judges during the visit. On the basis of cross-border cooperation, other mechanisms for various kinds of legal assistance are used, as defined in the *Act on International Judicial Cooperation in Criminal Matters* (Act No. 104/2013 Coll. as amended). The Public Prosecutor's Office does not use any special databases or registries in relation to waste crime.

No focal point has been established in the Czech Republic for intelligence information on waste crime.

4.5. Training

Every civil servant working for the ministries or other state authorities is required to attend regular training courses. There are no specialised waste crime inspectors in the CEI; there are only police officers, customs officers, prosecutors and judges specialising in environmental crime. CEI waste management inspectors supervise the entire scope of the Waste Act and other relevant legislation in the area of the environment.

Taking into account the substantial number of supervised issues, regular training (following the initial training of new inspectors) is provided for inspectors, and a three-day training course is usually coordinated by the competent CEI Directorate once a year. Individual training courses in specific areas of expertise, self-study and in-house training are also provided. Trainers are officials of the CEI or MoE, or external trainers.

Nationwide meetings of all entities' stakeholders involved in waste management are organised to exchange information on individual cases as an additional form of training.

Separate training on WSCP for both the CEI and other authorities is facilitated by the MoE and includes individual methodical guidance on case management and case solving (learning via cases) in cooperation with the CEI Directorate.

The CPIS Bureau is responsible for expert police training at various levels of the PCR in the field of environmental crime. Regular annual training includes three-day seminars covering various areas of environmental crime. In previous seminars, a considerable proportion of the total course time has been dedicated to illegal waste disposal. Furthermore, a six-week course for CPIS personnel was renewed within the framework of lifelong learning, where one whole block is dedicated to issues relating to environmental crime.

The personnel of the CACR tasked with customs proceedings are trained in prohibitions and restrictions within customs proceedings. While customs officers in the position of a police authority do not have any specialised training in the field of waste, they usually cooperate with and request the expertise of the CEI experts. Waste will be part of a basic course for customs fraud investigators.

The MoE provides training for the police and customs with regard to TFS.

The Czech authorities find that involving the supervisory authorities in the events organised by IMPEL - Waste and TFS on a regular basis is also beneficial from the point of view of the exchange of experience.

Active participation in the events organised by CEPOL or other bodies is hampered by the current workload of police officers, financial costs and, in some cases, insufficient language skills.

Several guidelines are available as a source of information, e.g. the 'Transboundary shipment of waste' manual, based on the English original IMPEL - Waste(s) Watch, 'Manual for classifying waste to the Green List', the 'Methodology of the Ministry of the Environment of the Czech Republic for the Transboundary Transport of Used Tyres', the MoE's 'WSCP Guidelines' and the 'WSCP Methodology' published by the DGCA.

As regards judges and prosecutors, who - given the small number of environmental cases dealt with in criminal proceedings - are not specialised in environmental crime, the Judicial Academy is responsible for providing training, including in this field.

In 2018, the focus is on waste-related issues and criminal offences committed in connection with fires, explosions and other accidents. Environmental crime matters are usually included in a multi-day seminar (approximately once every two to three years), which focuses on selected topics of substantive criminal law.

Seminars focusing on the criminal liability of legal entities take place approximately twice a year; every second or third seminar is dedicated to environmental crime. A one-day seminar focusing specifically on waste issues was organised by the Judicial Academy for the first time in April 2018.

4.6. Conclusions

- The evaluation team considers that the institutional set-up for environmental management in the Czech Republic is quite clear and simple: the Waste Act outlines a hierarchical administrative structure, with the Ministry of the Environment at the top and a clear distribution of competences between the central authorities (MoE and CEI) and the territorial authorities.

- The system for monitoring and sanctioning violations of environmental (including waste) legislation is based on the attribution of competences to several authorities. At the administrative level, not only the CEI, but also regions and municipalities with extended competences and municipalities can perform inspections and checks and impose various levels of fines.
- The Czech Republic has a clearly defined system and allocation of competences as regards the LEAs.
- The PCR has a central service dealing with environmental crime, which forms part of the economic and financial crime department, and, from an organisational perspective, the CPIS Bureau is well placed to deal adequately with the financial aspects of environmental crime investigations.
- However, in practical terms, the lack of human and technical resources hampers opportunities for the police to tackle environmental crime, including waste crime, proactively, seeking out these often invisible forms of crime; therefore it cannot be excluded, also taking into account the very small number of environmental criminal cases, that some criminal offences in this area may remain undetected, thereby giving the impression that such crime does not exist.
- In principle, proceedings and decision-making in the field of criminal offences lie exclusively within the competence of law enforcement and judicial authorities, and only the courts may decide on guilt and punishment for a criminal offence. However, these authorities play only a secondary role in this field, as the vast majority of environmental violations are dealt with by the administrative authorities and only a small number are prosecuted and brought before the courts.

- This reflects the administration-centred approach adopted in the Czech Republic towards tackling environmental (including waste-related) crime, where the basic form of regulation of waste management takes place in accordance with administrative law, with control and sanctioning mechanisms implemented by the administrative authorities. According to the Czech authorities, the main reason for the predominance of administrative over criminal proceedings in this area is that administrative procedures are considered easier to handle than judicial follow-up, and (paradoxically) allow more severe financial sanctions to be imposed than those that may be imposed by the courts.
- In the light of the above, the evaluation team has the perception that the fight against environmental crime, including waste crime, in the Czech Republic is hampered by a certain lack of priority.
- According to the evaluation team, the aforementioned administrative approach to environmental crime has the disadvantage that certain investigative and protective measures available in criminal proceedings cannot be used in administrative procedures.
- Therefore, the Czech authorities are encouraged to re-assess the balance between the administrative and criminal approaches to environmental crime so as to enable criminal law to fully play its repressive and deterrent function in this area.
- Environmental crime should be tackled in a multidisciplinary way and cooperation should take place at regional, national and international level. However, in the Czech Republic there is neither a specific legislative framework nor any protocols or inter-institutional agreements for cooperation and coordination between the different authorities, which most frequently take place on an informal and ad hoc basis. Although this does not seem to give rise to any problematic issues in practice, in the opinion of the evaluation team it would be preferable to have a more formal and structured framework for inter-institutional cooperation.

- The centralisation in a single body - the CENIA - of the collection and management of information and data in the area of the environment, including general data regarding waste management, together with the operation of several information systems, provides an easily and rapidly accessible service for all competent authorities involved in waste management, and to some extent for the general public as well. The SEPNO system, which tracks shipments of hazardous waste, is of particular interest. According to the evaluation team, this approach to information management may be regarded as a good practice.
- However, as regards law enforcement, relevant information on environmental crime in the Czech Republic seems to be dispersed among the various bodies. The evaluation team believes that a more structured exchange of information, based on a strategic intelligence-led approach to environmental crime, would improve the information flow among the different authorities and the effectiveness of measures to combat this form of crime. In particular, the communication of information to the prosecutors' offices could be improved so as to enable them to evaluate relevant aspects of possible criminal offences.
- There are no specialised waste crime police officers, customs officers, prosecutors or judges specialising in environmental crime. The evaluation team believes that greater specialisation of such authorities would be useful, and, to that end, the Czech authorities could consider increasing the range of training activities targeted at the specific needs of each authority in order to improve their knowledge, skills and motivation for tackling environmental crime more effectively. The establishment of a network of expertise for magistrates dealing with cases of environmental crime could also be considered as a useful measure to increase specialisation.
- Each authority conducts training within its own sphere of competence. Taking into account the multi-layered nature of this crime, it would also be useful to establish regular inter-institutional schedules of training courses and to promote joint training courses for law enforcement and judicial authorities, as well as the participation of prosecutors and criminal judges in annual events organised by the CEI on issues relating to waste crime.

5. LEGAL ASPECTS

5.1. Substantive criminal law

Legal definitions of criminal offences are concentrated in domestic criminal law in Act No. 40/2009 Coll., Criminal Code, which is the only act containing legal definitions of criminal offences in respect of which criminal proceedings may be initiated before the courts.

Instead of or in addition to the punishment stipulated for the given facts of an offence, it is possible to impose another punishment recognised by law, within the limits stipulated in Section 53 (1) of the Criminal Code and Section 15 (3) of Act No. 418/2011 Coll. on the criminal liability of legal persons and proceedings against them.

Although, in the Czech Republic, only the courts may decide on guilt and punishment for a criminal offence, the concept of criminal liability as subsidiary to legal non-criminal (e.g. administrative) liability results from Section 12(2) of the Criminal Code, according to which the criminal liability of the offender for a criminal offence and the criminal penalties associated with it (criminal sanctions) may be applied only in socially harmful cases in which the exercise of liability under other legislation is insufficient. In some borderline cases, the court may conclude that it is sufficient to assert non-criminal liability (e.g. pursuant to *Act No. 250/2016 Coll. On Liability for Offences and Proceedings*) and transfer the case for extrajudicial consideration.

However, the distinction between administrative infringements and criminal cases to be dealt with by means of administrative or criminal proceedings respectively is not always simple. A clear determinant in Section 298(2) of the Criminal Code as regards unauthorised waste disposal is possible (existing) substantial damage to the environment, as referred to in Article 3 of Directive 2008/99/EU, which has been fixed at the amount of CZK 500 000 or more - corresponding to around EUR 20 000 (Section 138 of the Criminal Code) - but there are no clear criteria for the evaluation and assessment of such damage.

Furthermore, certain violations are referred to in both the administrative and criminal codes – e.g. 'inconsistency in documents', the only difference in this respect being the term 'grossly', which could be quite difficult to evaluate in practice. Thus it is not clear when in practice such inconsistencies should be treated as administrative or criminal violations.

The system of criminal sanctions in the Czech Republic is based on dualism, the two branches being represented by penalties and protective measures. Penalties, as the legal consequences of a criminal act, may be imposed only if the criminal act is committed by a criminally liable offender. On the contrary, protective measures are of a purely preventive nature and may also be imposed for criminal acts committed by persons who are not criminally responsible (on grounds of insanity or minority), and which, under certain circumstances, may also affect objects belonging to a person other than the person who committed the crime.

5.1.1. Description of national legislation pertaining to waste crime

The Czech Republic transposed Directive 2008/99/EC on the protection of the environment through criminal law into national legislation through Act No. 40/2009 Coll., which amended the previous Criminal Code of the Czech Republic.

Environmental crime is regulated by a specific chapter of Part Two of the Criminal Code - special part Chapter VIII - criminal offences against the environment.

However, in the case of crime relating to waste and hazardous materials, the individual provisions of the Criminal Code always refer to non-penal legislation, and in particular to Act No. 185/2001 Coll. (Waste Act), based on which, instead of or in addition to the criminal sanctions, it is possible to impose another punishment recognised by law, within the limits stipulated in Section 53(1) of the Criminal Code and Section 15(3) of Act No. 418/2011 Coll. on the criminal liability of legal persons and proceedings against them.

Within this framework, conduct falling within the definition of 'waste crime' may in particular be criminalised as unauthorised waste disposal pursuant to the following provisions:

Section 298 - Unauthorised waste disposal:

- (1) Whosoever, even negligently, breaches another legal regulation on disposal of waste by transporting waste across a state border without a notification or request for consent, or provides false or grossly distorted information or conceals significant information, will be sentenced to a term of imprisonment of up to one year or to the prohibition of specific activities.*
- (2) Whosoever, even negligently, contrary to another legal provision, stores waste or deposits, transits or otherwise disposes thereof and thus causes environmental damage or hazards, the removal of which leads to considerable expenditure, will be sentenced to a term of imprisonment of up to two years or to the prohibition of specific activities.*
- (3) An offender will be sentenced to a term of imprisonment of between six months and three years or to the prohibition of specific activities if he*
 - a) commits the act referred to in sub-section (1) or (2) as a member of an organised group,*
 - b) gains substantial profit for himself or for another by means of such an act, or*
 - c) commits such an act repeatedly.*
- (4) An offender will be sentenced to a term of imprisonment of between one year and five years or to a pecuniary penalty if*
 - a) he gains for himself or for another extensive profit by means of the act referred to in sub-section (1) or (2), or*
 - b) such an offence concerns dangerous waste.*

This provision, in paragraphs 1 and 2, refers to two separate basic criminal offences. Paragraph 1 deals with conduct corresponding to the conduct referred to in Article 3(c) of Directive 2008/99/EC of the European Parliament and of the Council on the protection of the environment through criminal law ('Directive 2008/99/EC'). Paragraph 2 corresponds to Article 3(b) of the same Directive.

The lower threshold for the term of imprisonment is not defined in respect of unauthorised waste disposal, and it can therefore be stated that no minimum penalty is set for natural persons. The upper threshold of imprisonment is set at one year for conduct pursuant to Section 298(1) of the Criminal Code, and at two years for conduct pursuant to Section 298(2) of the Criminal Code. If the offence of unauthorised waste disposal is committed under some of the circumstances conditioning the imposition of a higher level of punishment, according to Section 298(4) of the Criminal Code, the offender is punishable by a term of imprisonment of up to five years. Five years' imprisonment can therefore be considered the maximum possible punishment for natural persons.

Criminal sanctions for legal persons are laid down by Act No. 418/2011 Coll. on the Criminal Liability of Legal Entities and Proceedings against them, as amended. In general, a legal person may be punished under Section 15(1) of this Act, and such legal persons committing the offence of unauthorised waste disposal may be punished by a pecuniary penalty, the confiscation of an item, prohibition of an activity, a ban on participation in public contracts or in public tenders, or by publication of the sentence. The scale of the pecuniary penalty is between CZK 20 000 and CZK 1 460 000 000. The punishments of prohibition of an activity and a ban on participation in public contracts or in public tenders may be imposed for a period of between one and twenty years.

The general aggravating circumstances are specified in Section 42 of the Criminal Code. The mitigating circumstances are similarly outlined in Section 41 of the Criminal Code. The special aggravating factors for the offence of unauthorised waste disposal, i.e. the circumstances conditioning the use of a higher punishment rate, are referred to in Section 298(3) and (4) of the Criminal Code. They specify, in accordance with paragraph 3 of that provision, the facts such as that the offender commits the criminal offence as a member of an organised group, gains substantial profit for himself or for another, or commits such an act repeatedly; and, pursuant to paragraph 4 of the given provision, gains for himself or for another extensive profit, or such an offence concerns dangerous waste.

The crime of unauthorised waste disposal (Section 298) is considered special in relation to the crimes of environmental damage and environmental hazard (Sections 293 and 294). Therefore, if criminal conduct possesses attributes of both crimes, it will be qualified only as a crime of unauthorised waste disposal (Section 298).

In the event that certain types of waste crime cannot be classified under Article 298 of the Criminal Code, it would be possible, subject to the relevant conditions, to consider their sanctioning as general crimes of environmental damage and environmental hazard pursuant to Section 293 of the Criminal Code or negligent environmental damage and environmental hazard under Section 294 of the Criminal Code (listed below).

Section 293 Environmental Damage and Environmental Hazard

- (1) *Whosoever, contrary to another legal act, intentionally damages or endangers soil, water, air, forest or another component of the environment to a larger extent or within a larger area, or in such a way that it may cause serious detriment to health or death, or if it is necessary to expend considerable costs in removing the effects of such conduct, or whosoever intentionally increases such damage or threat to a component of the environment or aggravates its aversion or mitigation, will be sentenced to a term of imprisonment of up to three years or to the prohibition of a specific activity.*

- (2) *An offender will be sentenced to a term of imprisonment of between one year and five years if*
- a) *he repeatedly commits the act referred to in sub-section (1),*
 - b) *he commits such an act because he breached an important duty arising from his employment, occupation, position or function, or a duty imposed on him according to the law,*
 - c) *he causes permanent or long-term damage to a component of the environment,*
 - d) *removal of the effects of such an act requires considerable expenditure, or*
 - e) *he commits such an act with the intention of gaining for himself or for another substantial profit.*
- (3) *An offender will be sentenced to a term of imprisonment of between two and eight years if he commits such an act with the intention of gaining for himself or for another extensive profit.*

Section 294 - Negligent environmental damage and environmental hazard

- (1) *Whosoever, contrary to another legal regulation, out of gross negligence damages or endangers soil, water, air, forest or another component of the environment to a larger extent or in a larger area, or in such a way that it may cause serious detriment to health or death, or if it is necessary to expend considerable costs in removing the effects of such conduct, or whosoever out of gross negligence increases such damage or threat to a component of the environment or aggravates its aversion or mitigation, will be sentenced to a term of imprisonment of up to six months or to the prohibition of a specific activity.*

(2) *An offender will be sentenced to a term of imprisonment of up to two years or to the prohibition of a specific activity if*

- a) *he commits the act referred to in sub-section (1) because he breached an important duty arising from his occupation, profession, position or function, or a duty imposed on him by law,*
- b) *he causes permanent or long-term damage to a component of the environment, or*
- c) *removal of the effects of such an act requires considerable expenditure.*

5.1.2. Other rules or judiciary instructions

The Supreme Court issues a collection of judicial decisions and opinions, in which opinions of the Supreme Court taken by the College or the Plenary and selected decisions of the Supreme Court and other courts are published, thus providing the courts with guidance for assessing guilt and sanctions in this area. Regarding the decision-making process of the Supreme Court, which is relatively sporadic in this area, at least two important case-law decisions on the issue of waste crime should be mentioned: the resolution of the Supreme Court of 18 July 2007, file no. 5 Tdo 725/2007, and the resolution of the Supreme Court of 28 November 2001, file no. 5 Tz 274/2001 (published under no. 36/2002 in the collection of judicial resolutions and opinions of the Supreme Court in criminal matters).

5.1.3. Determination of the seriousness of waste crime

The seriousness of waste crime is mainly defined according to a quantitative criterion linked to the concept of 'substantial damage' within the meaning of Article 3(b) of Directive 2008/99/EC, which refers to the costs necessary to eliminate the damage or endangerment of the environment resulting from the crime.

The criminal sanction of unauthorised waste management is limited to cases which have a more serious and more significant environmental impact: to enforce liability for the offence of unauthorised waste disposal in accordance with Section 298(2) of the Criminal Code, which forms the basis of the criminal law regulation of waste management, the removal costs must amount to CZK 500 000. Waste crime is even more serious in cases where it is committed under any of the circumstances in which a higher sanction under Section 298(3) and (4) of the Criminal Code may be imposed.

However, the prosecutors interviewed by the evaluation team stressed that it is difficult to assess and prove the costs necessary to remedy environmental damage, and in the context of criminal proceedings it is for the judge to consider whether a certain type of conduct is harmful or not.

Other elements for determining the seriousness of the crime are the circumstances of the offence, the offender's motive, intent and purpose, and other criteria that are decisive for the determination of the type and extent of the punishment.

Sanctioning of other less serious cases of unauthorised waste disposal is carried out in accordance with the relevant provisions of administrative law.

When interpreting the concepts of 'significant deterioration/substantial damage', the corresponding national concepts of 'damage to, or threat to, the environment in respect of which large or large-scale costs need to be expended' stem from the assessment of the costs for eliminating the consequences of the damage to the environment (this will essentially be the amount of the costs of ecological damage) referred to in Section 138(1) and (2) of the Criminal Code.

According to the evaluation team, the criteria for the evaluation of the evidence gathered in order to identify the harmful consequences of waste violations in terms of severity (wider scope) are not sufficiently well defined, thereby making it difficult to prove the fulfilment of the relevant requirements to identify the applicable waste management regime (administrative or criminal) in cases of non-compliance. A more accurate description of such criteria could facilitate the assessment of the extent of the damage.

5.1.4. Links to other serious criminal offences

The Czech authorities stated that the police authorities had not encountered any cases revealing links between waste crime and other forms of serious crime, such as organised crime, corporate-related offences and corruption. However, they also indicated that organised groups could apparently be involved in the illegal shipment of waste; although the Czech authorities have not yet come across any such cases, they believe that criminal activities relating to illegal waste disposal may be considered among the most latent forms of crime in the Czech Republic.

5.1.5. The role of the NGOs

The Czech authorities have a number of programmes relating to cooperation with NGOs in the area of environmental crime. This includes support provided by the Ministry of the Environment of the Czech Republic (MoE) for the activities of NGOs in the field of waste prevention.

NGOs may have the status of '*parte civile*' in criminal proceedings to the extent that they may lodge a criminal complaint and be both a subject and a party to such proceedings, including adhesion proceedings, by means of which the injured party has an opportunity to obtain compensation for damages or non-material damage and to recover the assets which the defendant obtained as a result of the offence. NGOs, however, are unable to initiate criminal proceedings themselves.

5.2. Procedural, jurisdictional and administrative issues

5.2.1. Difficulties encountered with regard to evidence

In general, according to the Czech authorities, there are difficulties in obtaining evidence relating to waste crimes. It is almost impossible to retrospectively prove which specific waste was the subject of the (domestic or transboundary) shipment, if the waste has already been shipped to the destination and has already been processed or removed or has become the waste part of a larger 'pile' prior to waste processing or disposal operations.

In one case, for example, the CEI failed to provide evidence of the incineration of waste from pharmaceuticals, which was detected in a landfill. Similarly, it is very difficult to obtain evidence that waste which has been sent to the Czech Republic by means of a transboundary shipment and which has already been dumped or burned corresponds to the declaration as stated in the transportation documents.

Furthermore, there is no established methodology to assess the scale of the environmental damage, and primary responsibility for gathering evidence lies with the administrative authorities (CEI) which, as stated above, do not have access to the same and more effective investigative tools used by the police to gather relevant additional evidence.

The difficulties in the gathering and evaluation of evidence are also linked to the need for such evidence to be assessed by means of relevant experts' opinions, often requiring an interdisciplinary approach, which can cause delays in proceedings due to the long period required for the assessment of damage in criminal matters relating to environmental crime.

5.2.2. Measures other than criminal or administrative sanctions

Measures other than criminal or administrative sanctions include corrective measures pursuant to the Misdemeanours Act, remedial measures pursuant to the Waste Act and protective measures pursuant to Section 98(1) of the Criminal Code.

Environmental legislation (administrative and criminal law) in the Czech Republic is focused on using forfeiture and confiscation as an initial step in such procedures, something which the evaluation team regards as a very valuable approach which could be highly successful in effectively combating environmental violations.

According to Section 77(7) of the Waste Act, where a customs authority suspects that a transboundary shipment is an illegal shipment of waste under the Waste Shipment Regulation, or that the transboundary shipment of waste is in breach of the required permit, it must order the suspension of the transport and the placement of the vehicle in a designated place in a designated location, seize the vehicle and the cargo documents, prohibit the continuation of driving, and prevent the continuation of driving by technical means.

Pursuant to Section 15(1) of the Act on the Criminal Liability of Legal Entities, the latter may be subject to the dissolution of a legal person, confiscation of its assets, pecuniary penalties, confiscation of an item, a prohibition of activity, a ban on participation in public contracts or in public tenders, a ban on receiving donations and subsidies and the publication of a sentence.

Under Section 15(2) of the aforementioned Act, a protective measure may be imposed on a legal person in order to forfeit an item or part of the assets. The nature of the confiscation may be both confiscation of an item or assets and protective measures of forfeiture of an item or a part of the assets, through which a non-conviction-based confiscation may be executed (i.e. all these confiscation measures are classified as criminal sanctions, although - given the dualism of criminal sanctions - are not always regarded as a penalty).

According to the prosecutors interviewed by the evaluation team, it is sometimes difficult to determine the liability of a legal person. In fact, there have been a small number of cases of environmental offences involving the criminal liability of legal persons in the Czech Republic (e.g. the Metalimex, Demme and SVS Delta Racing cases).

5.2.3. Treatment of seized objects

Pursuant to Section 9(1) of Act No. 279/2003 Coll., enforcement of the seizure of a defendant's assets and administration of the seized assets is effected either by the Office for the Representation of the State in Property Matters or by the court in whose area the secured property is located. This does not apply to certain assets of a specific nature (for example, the administration of radioactive waste and sources of ionising radiation is managed by the Radioactive Waste Repository).

If an administrator of the seized property cannot perform the administration, the administration of that property will be ensured by the state authorities competent to manage certain types of state property, or via another person conducting business in a certain area or sufficiently qualified to administer the property in question, on the basis of an agreement and for an agreed payment, or free of charge.

The provisions of the Criminal Procedure Code (Section 345, Section 349(b), Section 358, Section 358(b)) provide that a copy of the judgment pronouncing the sentence for the confiscation of assets, or for forfeiture of assets, must be sent by the presiding judge to the competent state authorities.

5.3. Environmental restoration

Criminal liability in the field of environmental protection primarily serves a preventive and repressive purpose. However, the imposition of criminal sanctions on offenders does not *per se* have any direct effect on alleviating the environmental damage caused by the criminal activities, and further measures may be implemented for this purpose by the administrative authorities.

In cases where an offender is known, responsibility for environmental restoration lies with the offender, who is requested by the CEI to remedy the damage caused. Remedies must be provided by the offender at his/her expense. If the offender is unknown, the state must remedy the damage, and may also make use of the State Environmental Fund of the Czech Republic (SEF) comprised of administrative fines when an ad hoc programme/plan for the remediation of damage is issued.

The possibility of remedying environmental damage within the framework of criminal proceedings (the 'adhesion procedure') is provided for under Sections 228 and 229 of the Criminal Procedure Code, which allow the injured party, under the conditions pursuant to Section 43(3) of the Code, to propose that the court order the accused party to pay the damages in a conviction.

In addition, in the context of criminal proceedings, the court has the power to impose on the offender an appropriate restriction or a reasonable obligation (Section 48(4) of the Criminal Code) aimed at remedying the consequences of the offender's conduct.

The concept of 'effective regret' pursuant to Section 33 of the Criminal Code and Section 11 of the Criminal Liability of Legal Entities Act enables criminal liability to be avoided if the perpetrator has prevented or remedied a harmful consequence; the court takes into consideration the offender's attempt to compensate for the damage or eliminate other harmful consequences of the act as an attenuating circumstance under Section 41(j) of the Criminal Code in determining the type and scope of punishment pursuant to Section 39(1) of the Criminal Code.

The application of criminal liability is without prejudice to the possibility of applying preventive and corrective measures according to administrative legislation (Waste Act, Waste Water Act, Environmental Act, Ecological Degradation Act and other special legal regulations).

According to the Czech authorities, the simultaneous imposition of corrective measures and punishment is in line with the *ne bis in idem* principle, since corrective measures are instruments that primarily serve to restore the state of the environment and cannot be identified as sanctions even though they have similar effects in relation to obligated entities. Unlike sanctions, they directly affect the state of the environment. The possibility of concurrence is also based on an explicit legal regulation (Section 29 of the Environmental Act, Section 86(3) of the Nature Conservation Act).

5.4. Jurisdiction

5.4.1. Principles applicable to the investigation of waste crime

For the criminal offence of unauthorised waste management, the provisions concerning the territorial applicability of criminal laws contained in Sections 4 to 11 of the Criminal Code apply. For the criminal liability of legal entities, Sections 2 to 5 of the Act on the Criminal Liability of Legal Entities apply.

If the waste crime was committed only partially outside the territory of the Czech Republic and partially within its territory, Czech legislation will apply according to the principle of territoriality.

If the offence is committed entirely outside the territory of the Czech Republic, Czech legislation will apply in the following cases (although some are not applicable in practice to waste crimes):

- according to the principle of personality, in cases where such a crime has been committed abroad by a citizen of the Czech Republic, a stateless person who has permanent residence in the Czech Republic or a legal entity having its registered office in the Czech Republic;
- according to the principle of registration, when the offence is committed on board a ship or other vessel, or on board an aircraft or other means of air transport registered in the Czech Republic;
- according to the principle of passive personality, in the case of a criminal offence committed against a citizen of the Czech Republic or against a stateless person who has permanent residence in the Czech Republic, if an offence is punishable at the place of its commission, or if the place in question is not subject to any jurisdiction.

The subsidiary principle of universality applies:

- when the offence is committed by a foreign national or a stateless person who is not allowed to reside permanently in the Czech Republic, if the crime is punishable under the law in force at the place of commission, if the perpetrator was apprehended in the Czech Republic and extradition or transfer proceedings were carried out and the offender has not been extradited or transferred and a foreign state or other authorised person who has requested the extradition or transfer of the offender has requested the criminal prosecution of the offender in the Czech Republic;
- when the offence was committed by a foreigner, a stateless person who has no permanent residence in the Czech Republic or a legal entity without a registered office in the Czech Republic for the benefit of a legal entity having its registered office in the Czech Republic.

5.4.2. Rules in case of conflicts of jurisdiction

Beyond the mechanism for the resolution of conflicts of jurisdiction in criminal proceedings as provided for in Council Framework Decision 2009/948/JHA (implemented in the national law of the Czech Republic by Act No. 104/2013 Coll. on International Judicial Cooperation in Criminal Matters, hereinafter referred to as 'IJCCM'), it is possible, in the event of such a dispute, to contact a national member of Eurojust with a request for assistance in resolving such a dispute. According to the information available, no disputes regarding competence in respect of environmental crime have been addressed thus far in the Czech Republic either through Eurojust or through the mechanism set out in the above Framework Decision.

5.5. Conclusions

- The Czech Republic has a comprehensive legislative framework relating to environmental crime, including waste crime, and the public prosecutor's office and the police have a wide range of legal instruments for dealing with such crime: charges can be brought against both natural and legal persons, and the illegal proceeds of crime may be confiscated. The Czech authorities pointed out that the Czech Republic has transposed Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law into national legislation.
- The current Czech environmental legislation provides for both administrative and criminal proceedings and for the possibility of imposing both administrative and criminal law sanctions. Certain violations are referred to in both the Administrative and Criminal Codes.
- Nevertheless, in the Czech Republic, criminal law is considered as a subsidiary means of repression (*ultima ratio* principle), and the criminal liability of the perpetrator and the criminal law consequences associated therewith, in accordance with Section 12(2) of the Criminal Code, apply only in socially harmful cases, where the application of liability under other legislation is insufficient.

- However, there could be a more precise distinction between the cases of environmental violations to be dealt with in administrative or in criminal proceedings. As regards unauthorised waste disposal, the only clear distinction in the legislation is the possible substantial damage to the environment, which is fixed at the amount of CZK 500 000 or more as regards unauthorised waste disposal. In the opinion of the evaluation team, clearer predefined criteria for evaluating the evidence gathered and calculating the damage could contribute to an easier identification of the regime applicable (whether administrative or criminal).
- Since the seriousness of environmental crime depends on the costs necessary to remedy the environmental damage, the evaluation team takes the view that this could cause delays and hamper the efficient identification of the applicable environmental regime (whether administrative or criminal).
- Furthermore, in the opinion of the evaluation team, the establishment in the Czech Republic of a formal agreement or protocol among the competent authorities dealing with environmental violations, indicating whether environmental cases have to be followed up administratively or judicially, in order to implement standardised criteria, would be useful in order to address situations in which it is necessary to evaluate the existence of environmental crimes.
- In general, according to the Czech authorities, there are difficulties in obtaining evidence relating to waste crimes, especially if the waste has already been disposed of domestically or shipped abroad. Although, in the Czech system, primary responsibility for gathering evidence in this field lies with the administrative authorities (CEI), the evaluation team is of the opinion that, if necessary for the purpose of the criminal proceedings, there is nothing to prevent the prosecutors and courts from asking the police, which has access to more effective investigative tools, to gather relevant additional evidence.

- Liability for costs and the obligation to remedy environmental damage lie with the offender; in the case of an unknown offender, the state assumes responsibility for the remedial actions, using *inter alia* the State Environmental Fund of the Czech Republic (SEF), which is comprised of administrative fines from which financial resources can be used for remediation purposes.
- The limited number of criminal cases relating to environmental offences, including waste crime, does not allow any conclusions to be drawn regarding the effectiveness of criminal proceedings 'versus' administrative procedures and of the measure of forfeiture in combating environmental crime.
- Although NGOs are involved by the MoE in certain programmes, and may lodge complaints and act as *parte civile* in criminal proceedings relating to environmental (including waste crime) cases, the evaluation team is of the opinion that they could play a more active role in the area of waste crime.
- The Czech Republic has transposed Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings into national law. It has extraterritorial jurisdiction over crimes committed abroad as well as over crimes committed by non-nationals, under certain conditions laid down in the Criminal Code.

6. COOPERATION

6.1. International cooperation

6.1.1. *Forms of cooperation in cross-border cases*

For cooperation and mutual legal assistance on cross-border cases of crime against the environment, the relevant provisions of the Criminal Code and Act 104/2013 Coll. on International Judicial Cooperation in Criminal Matters, as amended, as well as EU instruments and international conventions are applied. However, according to the PCR, these cases are very rare.

The CEI cooperates with the inspection authorities of other EU Member States and with the IMPEL network.

The International Police Cooperation Department is part of the Police President Secretariat. The PCR participates in inspections within the framework of joint actions on the transboundary shipment of waste, mainly with a view to ensuring the correct procedures in stopping vehicles.

The Czech authorities indicated that in the future, a good form of cooperation between the PCR and the customs authorities could be the use of inspections of selected carriers in the framework of customs surveillance patrols.

Due to the small number of environmental criminal cases that are prosecuted in the Czech Republic, it is quite obvious that it is very unlikely for prosecutors to be involved in international cooperation in this area.

6.1.2. *Channels for the exchange of information and the use of EU databases*

The MoE uses the network of Member States' contact points and the Commission within the EU and the National Contact Points Network within IMPEL; in the case of the latter, this covers waste shipments.

Furthermore, the MoE uses the network of representatives of the EU Member States who participate in the work of the Working Party on International Environment Issues (Basel Convention) and is the contact point of the Basel Convention as well as for transboundary waste shipments.

As regards the obligation to cooperate resulting from Article 50 (6) of Regulation No 1013/2006 (WSR), under which Member States are requested to appoint persons responsible for cooperation, the Czech Republic appointed representatives from the MoE and the CEI. The national correspondent under Article 54 of the above Regulation is also a representative of the MoE.

The CENIA is a contact point for the European Environmental Agency.

For police cooperation, especially the exchange of information, the Europol/Interpol channels (via the national police authority) are used, as well as the SIS and SIRENE channels.

The CACR, within its area of competence, maintains regular communication with foreign partners.

For mutual legal assistance (MLA), in particular for the gathering of evidence, the Supreme Prosecutor's Office is responsible for sending MLA requests, filed to the competent prosecutor upon proposal of the police authority (where pre-trial proceedings are conducted), or to the Ministry of Justice (in proceedings before the court), as well as for receiving MLA requests. According to the Czech authorities, the centralised reception of MLA requests contributes to greater efficiency in dealing with such requests.

In the case of states with which international treaties make direct contacts possible, MLA requests are directly communicated by public prosecutors or courts to the foreign authorities and received at the level of regional prosecution offices and regional courts.

6.1.3. Difficulties faced in judicial cooperation relating to waste crime

According to the Czech authorities, no major specific problems are encountered by the judicial authorities in international cooperation regarding cross-border investigation of environmental crimes. All the problems generally encountered in providing/requesting MLA are dealt with in direct contact between the relevant judicial authorities of the other states concerned. The contact points of the European Judicial Network, which assist in such cases and can assist at any stage of criminal proceedings, play an important role in this regard, as does Eurojust.

6.1.4. Operational performance of JITs in waste crime

The Supreme Public Prosecutor's Office, which is generally active in the field of negotiating Joint Investigation Teams (JITs), does not record any instances of such teams in the case of waste-related crime as of the date of this report. The Czech authorities are, however, aware that such teams could produce good results in specific cases.

The CACR has had positive experience with the use of JITs in other areas; however, in the sphere waste-related crime it has never participated in JITs.

6.2. Cooperation with EU agencies and networks

6.2.1. Cooperation with Europol and Eurojust

The PCR is the national contact point (International Police Cooperation Department) for Europol. As a result of the EMPACT's EnviCrime project, the Czech authorities have subscribed to a number of 'Operational Action' initiatives for 2018, including the 'Europol Analysis Project', which seeks to enhance operational information exchange at international level and to make it possible to analyse data.

However, due to national-level commitments and a lack of personnel and funds, the Czech Republic does not take part in the activities and events within the TECUM project, supported by Europol, for police cooperation in the area of waste crime. For that reason, the Czech Republic would prefer rather shorter events, especially of a regional nature, in which it could, if they were planned sufficiently in advance, be fully involved.

The PCR and the CACR use the full range of Europol products and tools. Relevant national authorities are briefed on Europol's strategic reports.

The CACR has had generally good experience of cooperation with Europol and takes part in Europol EMPACT Environmental Crime Activities; however, it has not yet had any experience with waste crime cases.

According to the Czech authorities, Eurojust plays an important role in assisting in case of difficulties with MLA requests.

6.2.2. Experience resulting from the use of various environmental networks

The various law enforcement bodies are generally familiar with working in an international context.

The Czech Republic regularly participates in events organised by the European Network for the Implementation and Enforcement of Environmental Law (IMPEL) - Waste and TFS cluster - with representatives of the Waste Department of the MoE and of CEI. The Czech authorities consider their involvement in IMPEL an opportunity both to exchange practical experience in detecting and penalising illicit waste management (especially within the framework of Enforcement Actions and NCP Exchange Days) and to establish personal relationships with colleagues from other countries, which prove useful in dealing with specific cases of illegal shipments of waste. However, the Czech Republic does not have the capacity to get involved in all the IMPEL projects.

The Czech Republic, in particular the CACR, is involved in EnviCrimeNet; however, it does not (yet) take part in expert communications on the EPE platform on environmental crime, and the information acquired in this context is currently not used in practice. The PCR does not actively participate in these networks, for lack of capacity and personnel.

A magistrate at the public prosecutor's office (High PPO in Prague) participates in the European Network of Prosecutors for the Environment (ENPE). As stated in the answers to the questionnaire, judges of the Supreme Administrative Court participate in the EU Forum of Judges for the Environment (EUFJE), exclusively for exchanges of experience and information, but not for dealing with specific cases.

In general, the Czech authorities consider cooperation with the entities mentioned above very positive and find it fast, efficient and at a good level. In practice, however, there were no concrete cases of such cooperation being used to resolve any problems in providing or requiring legal assistance in criminal matters in cases.

6.3. Cooperation between the Czech Republic and Interpol

The Czech Republic has a positive view of cooperation via Interpol. The International Police Cooperation Department is the national contact point for Interpol. In the framework of international cooperation, the CPIS Bureau follows standard procedures in the form of requests for cooperation and responses to others' requests through DIPC.

At international level, the CACR has generally good experience of cooperation with Interpol and also cooperates with the World Customs Organisation.

6.4. Cooperation with the private sector

6.4.1. *The involvement of the private sector/ public-private partnership (PPP)*

Within the competences of the CEI, some external meetings/workshops for stakeholders and entities are held with regard to the requirements of legislation.

The private sector is obliged to transmit information on the waste it produces or handles in compliance with the conditions set out in Act No. 185/2001 Coll., on Waste. Failure to comply with these obligations may result in penalties under the same Act.

The MoE leads the Council for Waste Management of the Czech Republic, an advisory body to the Minister of the Environment, composed of leading experts of ministries, representatives of unions and of the private sector. The MoE provides information to the other members within the Council on waste management, including any information on preventing and combating waste-related crime, and the representatives of unions and of the private sector provide feedback to the MoE.

The evaluation team visited the Waste-to-Energy Plant in Prague, which converts waste into ash, flue gas and heat by the incineration of waste materials; it was presented by the Czech authorities as an example of cooperation with the private sector, but as matter of fact, only 4% of the Waste-to-Energy Plant is private, while 96% of the company is public.

6.4.2. *Liability regarding the obligation to pass on information to competent authorities*

In the Czech Republic, whoever has something that can serve for evidence purposes is obliged (pursuant to Section 78 of the Criminal Procedure Code) to submit it upon request to the court, the public prosecutor or the police authority. However, no one is required to submit or hand over something that could serve as evidence against himself/ herself or those close to him/her. Where something that may be used for the purposes of evidence has not been presented or handed over upon request, it may be obtained in pre-trial proceedings at the order of the presiding judge, public prosecutor, or a police authority, from a person who has it at their disposal (pursuant to Section 79 of the Criminal Code).

Under Section 8 (1) of the Criminal Procedure Code, representatives of the private sector, namely natural persons and legal entities, are obliged (without undue delay and in principle at no cost) to comply with requests from the LEAs in the performance of their duties. The obligation to cooperate is included in other legal acts regulating the activities of individual authorities involved in criminal proceedings (in particular Act No. 273/2008 Coll., on the PCR, as amended).

Under Section 158 (3a) of the Criminal Procedure Code, the police authority is entitled to request explanations from natural persons, legal entities, and state authorities before commencing a criminal prosecution and to invite the person concerned to appear in order to provide explanations. If the person invited for purposes of explanation does not appear, without sufficient excuse, he/she may be brought in and, if necessary, may be fined up to CZK 50 000. The person must be informed as to any possible negative consequences of failure to appear for explanations.

Pursuant to Section 66 of the Criminal Procedure Code procedural fines may be imposed, even repeatedly, on a person who, despite a previous warning, disturbs the proceedings or acts offensively towards the court, public prosecutor or police authority, or, without sufficient excuse, disobeys an order or fails to comply with a summons issued under the Criminal Code.

As regards waste legislation in particular, the provision of information by the private sector can be divided into two levels: information on waste management, resulting from the so-called reporting obligations under the Waste Act (Section 39 and Section 40 of the Waste Act); and information submitted on the basis of a request from the inspection bodies to carry out an inspection.

The obligation for entities to provide, on demand, information related to the subject matter of control (i.e., in this case, waste management) is laid down by Act No. 255/2012 Coll., on Control. For example, in Section 8 (c) of the Control Act it is stated that the controller is entitled to request provision of data, documents and matters relating to the subject of the inspection or to the activity of the inspected person (hereinafter referred to as 'documents'); in justified cases, the controller can secure original documents. If the person subject to control does not provide those documents (that information) to the inspection body, a fine of up to CZK 500 000 may be imposed.

Anyone can report a crime by means of a criminal complaint or submit a complaint to the enforcement institutions. The private sector is not very active in submitting criminal complaints, whereas it is more active in submitting complaints to CEI, especially in cases of violations of obligations related to extended producer responsibility (EPR).

6.5. Conclusions

- The most active institution in international cooperation and networks in the Czech Republic in the area of environmental crime, including waste crime, is the MoE. The various law enforcement bodies are accustomed to working in an international context. However, police and customs have limited capacity for active involvement in cross-border cooperation.
- The Czech Republic has a positive view of the possibilities offered by Europol and Eurojust and of cooperation within the various networks in the area of environmental crime (IMPEL, EnviCrimeNet, ENPE), but the involvement of the Czech authorities in the activities of these bodies and networks could be increased.
- The evaluation team is therefore of the opinion that there is room for improvement on the part of the Czech Republic as regards international cooperation, with a view to increasing the effectiveness of investigation of cross-border environmental crime.
- This should focus *inter alia* on exchange of information on actions taken by the authorities of other countries and exchange of best practices in combating crimes in transboundary movements of waste.
- For the sake of efficiency in the fight against environmental crime, including waste crime, the evaluation team believes that the Czech Republic could set focal points in each institution involved for the timely exchange of information.

- The Czech Republic has not yet participated in JITs in the area of environmental crime and is encouraged to consider this possibility for cooperation, exchange of information and evidence, in possible future cross-border cases of environmental crime, including waste crime.
- The establishment of the Council for Waste Management of the Czech Republic, an advisory body to the Minister of the Environment, composed of leading experts from ministries, representatives of unions and the private sector, led by MoE, can be considered as a good practice of cooperation with the private sector. In the Czech Republic, such cooperation could, however, be developed further, including through the provision of regular workshops to private stakeholders, organised not only by CEI but also by the latter jointly with other authorities.

7. ILLEGAL TRAFFICKING OF WASTE

7.1. National structure

The competences and tasks of the authorities involved in the inspection of waste shipments are indicated in the Waste Shipment Control Plan (WSCP), which also contains a regular schedule of controls of transboundary shipments of waste and risk assessments relating to waste streams.

The MoE is the competent authority for transboundary shipment of waste and the focal point both for the Basel Convention and under Regulation 1013/2006. The MoE takes decisions on consent or restriction of transboundary movements of waste in the territory of the Czech Republic and cooperates with the authorities of other countries regarding illegal shipments of waste. The MoE sends instructions to the GDC to carry out inspections in accordance with special legal regulations. The MoE serves as an authority for appeals against CEI decisions.

The CEI is the key actor as regards checking for and penalising of illegal waste shipments. It supervises and enforces Regulation 1013/2006 (on the basis of the planning of inspections or of complaints) and carries out TFS inspections at border crossing points/roads, including document checks as well as physical inspections of waste, with the assistance of police or customs. In 2016 it carried out 94 inspections of transboundary movements of waste into the Czech Republic.

The CEI may impose sanctions and corrective measures for violations of Regulation 1013/2006 and of the Waste Act. The CEI also assists the competent authorities with illegal transport take-back procedure, and cooperates with neighbouring countries. No information about inspections on the transit of such shipments was provided to the evaluation team.

The PCR and the CACR carry out inspections on the roads of vehicles transporting waste.

The CACR is competent to register vehicles, trucks and trains, and has some police powers. It supervises and carries out inspections on both domestic and cross-border road transportation of waste (including waste entering the EU territory from third countries) and conducts checks of goods to verify compliance with the conditions prescribed by national and EU legislation.

In line with Regulation 1418/2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 – export to non-OECD countries – customs officers check the lawfulness of waste export to certain countries in relation to applicable restrictions.

When the customs authorities identify a suspicious waste shipment, they inform the CEI, which can then investigate the case further. They may also request the CEI to assist in inspections with relevant expertise.

In 2016, the CACR investigated only two cases of violation of Section 298 of the Criminal Code (unauthorised waste disposal), one of them concurrent with Section 261 of the Criminal Code (breach of regulations on circulation of goods in relation to foreign states); one was postponed, one was passed on to the police.

The CACR does not have a special budget for inspections of transboundary waste shipments: all inspections, including costs, are funded under the general CACR budget

The PCR records and documents suspicious phenomena and circumstances indicating illegal transboundary shipments of waste to the Czech Republic in the context of border check procedures and within 25 km of the border. The PCR, where appropriate, hands over the identified cases to the CEI and the CACR to impose corrective measures, and provides assistance to both authorities.

The PCR also participates in inspections in the framework of joint actions on transboundary shipments of waste, and its tasks are mainly connected with ensuring correct procedures in stopping vehicles. The CPIS police authorities would be involved in these actions only in the scenario of a criminal activity detected on the spot and where there was a need to carry out on-the-spot investigations.

7.1.1. Detection of illegal shipments of waste

As described above, the key role in the detection of illegal shipments of waste is played by the CEI.

With a view to detecting illegal transboundary waste shipments, inspections are carried out on the basis of the Waste Shipments Plan and of risk profiles and analysis. Inspections can also be carried out randomly on the basis of information received from the MoE or other institutions, including information on exports and imports received from customs. The MoE carries out cross-checks, which are also able to detect illegal waste disposal, and then refers the case to the CEI.

Illegal transboundary shipments of waste are also detected in the scheduled inspection activities of the customs authorities, in some cases during targeted inspections based on concrete information. Criminal investigation by the CACR as a police authority in this field is, however, not frequent. The inspection plan provides for the participation of the customs in joint inspections with the CEI in the framework of the transboundary waste shipment inspections.

When the MoE is informed of infringements of transboundary shipments of waste detected by the authorities of other countries, it transmits the information to the CEI, which takes action to respond to the information submitted to the MoE.

As regards transboundary shipments of waste, the main obstacles are the traceability of the persons who commit the offence and difficult and inadequate communication with third countries. In particular, the Czech authorities encounter some problems with international waste shipments to African countries (e.g. case Lagos in Nigeria).

According to the Czech authorities, obstacles to the detection of waste violations include cases where the CEI inspectors learn about suspicious transports of waste that has already been disposed of, so that it is not possible to verify its actual properties according to the documents.

7.1.2. Specificity of illegal shipment of waste

Illegal shipments of waste may be related to domestic transporting or transboundary movements of waste. Control of illegal shipment of waste includes inspections and checks not only on roads, but also of facilities related to those waste shipments.

For illegal transboundary shipments of waste, the procedures are indicated in Regulation 1013/2006 and the legal measures and sanctioning are applied in accordance with the national legislation.

Usually, transboundary movements of 'green-listed' waste are controlled randomly, because Regulation 1013/2006 does not impose control and information collection obligations on national competent authorities. Information on 'green-listed' waste is usually collected via annual waste reporting. There have been cases where municipal waste was classified as 'green-listed' waste and shipped without the required documents.

However, the latest example is the import of partially processed components of municipal waste from Italy bound for landfills or incinerators in the Czech Republic, which is contrary to national rules on the import of waste. Imported waste is deliberately declared as waste for recovery (e.g. plastics), but in fact it is a non-usable component of municipal waste that is cost-effective for the sender and the recipient, with a view to its disposal. The modus operandi is the incorrect declaration of waste as so-called green-listed waste, so that its shipment does not have to be subject to notification and consent.

Nevertheless, the bulk of irregularities detected by the CACR consist of less serious errors in the documents, whereas criminal activities were involved in only two cases investigated by CACR, from which no general conclusions on the modus operandi can be drawn.

7.1.3. Measures on shipments of waste

For domestic movements of waste, legal entities and natural persons authorised to conduct business taking part in the shipment of waste as senders or receivers are obliged to keep records and to report the transported hazardous waste. The records need not be produced for in-house transportation carried out by own means of transport, unless the transportation goes beyond the site of the facility.

The records are produced electronically via an integrated environmental reporting system for tracking domestic movements of hazardous waste – SEPNO – which was launched in 2018 and is managed by CENIA. This system provides an online service for the reception and processing of hazardous waste shipment reports in electronic form and evidence of such reports, which senders and receivers are obliged to submit about each shipment of hazardous waste.

The Czech Republic is a landlocked country, and its principal means of transport of products are trucks and trains. There is an obligation in the Czech Republic to label waste trucks and lorries with the plate 'A' (from the German word 'Abfall' , meaning 'waste'; also legally required in Germany). According to the evaluation team, this method is very useful in facilitating the identification and tracking of waste shipments and the related inspections, and could be considered as a good practice.

Inspectors may also use the online MA ISOH system, which provides information on individual processed car wrecks, including photographic documentation and access to the Central Vehicle Register; this information can be used in cases of VIN code re-use (in collaboration with the police). The CACR also uses the ISOH registry.

7.2. Inspections

7.2.1. Methodology of inspections and follow-up

The inspections use: the 'Transboundary shipment of waste' manual, based on the English original IMPEL - Waste(s) Watch; the 'Manual for Waste Classification in the Green List'; and the 'Methodology of the MoE of the Czech Republic for Transboundary Transport of Used Tyres'.

The European Commission's Correspondents' Guidelines are used as supplementary tools in inspections of transboundary shipments of waste. When assessing transboundary shipments of ELVs, the Correspondents' Guidelines No 9 is applied. At present, a national methodology for the transboundary shipment of WEEE based on Correspondents' Guidelines No 1 is being prepared.

7.2.2. Specific inspections with regard to waste electrical and electronic equipment (WEEE) and end-of-life vehicles (ELVs)

Inspections of the disposal of WEEE are carried out by the CEI, especially in waste collection and waste repurchase points and also in other places for which this kind of waste can be located. WEEE can only be handed over within the take-back system (EPR scheme) facilitated by the manufacturers of electrical and electronic products and by subjects processing WEEE.

The cases of illegal transboundary movements of WEEE mostly relate to the unlawful shipment of second-hand WEEE to Africa. In this regard, an appropriate legislative amendment has been adopted, regulating the export of WEEE declared as goods and not as waste. Transboundary shipments of used electric and electronic equipment should be accompanied by certificates of functionality. Based on specific experience with shipments of WEEE to Africa, customs clearance measures have been taken. A risk profile is set up, and smart forms are used, in the form of checklists.

A particular case of illegal shipment from the Czech Republic to Nigeria via Germany of WEEE was detected in 2017 and, thanks to successful international cooperation, criminal proceedings are about to be completed. There have also been cases where contaminated WEEE were classified as not hazardous.

The CEI carries out inspections in the area of ELV disposal - inspections of ELV scrapyards as downstream facilities (run by legal or natural persons) related to shipments of waste. According to the CEI, the main problems with ELVs are illegal dismantling (without authorisation) and operation of vehicles that were supposed to be shredded. The SEPNO system's tracking of domestic movements of hazardous waste also contains information about facilities related to management of ELVs.

The Czech authorities do not have much experience with cross-border transport of ELVs. There are cases of ELVs exported to Africa, as a set of spare parts or as spare parts as such, but not as waste, which usually do not correspond to the requirements of second-hand goods, and these cases are thus classified as exports of waste under the provision of Article 50 of Regulation 1013/2006.

Inspections of customs authorities are carried out ad hoc on individual cases of imports of damaged vehicles. Cases of actual ELV imports are rare.

7.2.3. First inspection plan

The inspection plan elaborated by the CEI in collaboration with the GDC and the MoE was adopted in 2016 for the period 2017-2019.¹³

7.2.4. Challenges with regard to the taking back of illegal waste shipments

The most problematic issues in illegal transboundary waste shipments are the return of waste to third countries and insufficient cooperation with third countries, as well as long delays and the third countries' unwillingness to communicate, which often makes the withdrawal of waste impossible in practice.

Where a relevant authority in the third country does not reply to an MoE request for return of waste from an illegal shipment or a request for take-back is refused, the MoE tries to find alternative solutions to illegal shipments, generally by disposing of / recovering the illegal waste in a licensed facility in the Czech Republic.

Another challenge is associated with 'waste tourism', where it is difficult to trace persons responsible for the illegal exporting of second-hand goods to third countries and to return the consignment to the Czech Republic. In some cases, there may be different interpretations as to whether the load constitutes waste or not.

There is a register of waste managers in the Czech Republic (including brokers/dealers).

¹³ The plan is available online from the CEI website:
<http://www.cizp.cz/file/6t4/Plan-final-verejny.pdf> (Czech version only).

7.3. Conclusions

- There is a clear system of distribution of competences among the authorities involved in the control and inspections of transboundary shipments of waste, as indicated in the Waste Shipment Control Plan (WSCP). The main actor in this area is the CEI, which also carries out inspections of waste shipments in cooperation with neighbouring countries, whereas the police and customs play a secondary role (mainly stopping and checking vehicles on the road). This means that only the CEI has a broad overview of inspected waste shipments.
- The inspection plan was adopted in 2016 for the period 2017-2019.
- In the view of the evaluation team, the obligation to label waste trucks and lorries with the 'A' plate is very useful in facilitating the identification and tracking of waste shipments and the performance of related inspections, and can therefore be considered a good practice.
- Different interpretations of waste / non-waste status may be an obstacle to efficient detection of illegal transboundary waste shipments.
- In the view of the evaluation team, the online data collection system (SEPNO), launched in 2018 and managed by CENIA, is a good tool for tracking domestic shipments and management of hazardous waste, because senders and receivers are obliged to submit information about each shipment of hazardous waste and obtain an e-transport bill.
- There is a register of waste managers in the Czech Republic (including also brokers/dealers).
- The main obstacles encountered by the Czech authorities as regards the detection of illegal waste shipments concern: cases where waste has already been disposed of; traceability of the persons who committed the offences; and difficulties in communication with third countries.
- In the view of the evaluation team, the obligation to accompany shipments of used electric and electronic equipment with a certificate of functionality can be an effective means of detecting illegal shipments of WEEE.

8. MANAGEMENT OF HAZARDOUS WASTE

8.1. The classification of hazardous waste and the challenges in its management

The Waste Act provides for an obligation to classify waste by type and category. The primary responsibility for classifying the waste lies with the waste producer; however, if the producer is not able to specify in detail the characteristics of waste, such classification is performed by legal entities authorised and certified by the MoE, including the assessment of hazardous waste and the identification of its hazardous properties.

The waste has to be classified as hazardous waste if it has at least one of the hazardous properties listed in the Annex to Commission Regulation (EU) No 1357/2014 of 18 December 2014, if listed in the Waste Catalogue (pursuant to Decree No 93/2016 Coll., on the Waste Catalogue) as hazardous waste, or if mixed or contaminated with any of the wastes listed in the Waste Catalogue as hazardous. The originator and the authorised person handling hazardous waste are required to issue the hazardous waste identification sheet and distribute it to the hazardous waste disposal facilities.

For hazardous waste disposal to count as a criminal offence, the relevant criteria in terms of severity must be met. In practice, however, when it comes to detecting non-compliance with the applicable waste management regime, this requirement is a serious problem, since proving the fulfilment of the environmental criteria (greater scope, larger territory) is often very difficult.

Management of hazardous waste is evidently more expensive than of non- hazardous waste. Most violations in this area concern cases where authorised persons who initially receive the waste as hazardous have handled it as non-hazardous waste. Mixing of waste associated with fictitiously declared waste management is a problem that the CEI also occasionally encounters during inspections. In several cases, the CEI also came across cases where waste was reported as incinerated in a dedicated plant, but it was mixed with other waste and landfilled or transferred to another municipal waste incinerator instead; or where waste was mixed with sludge from a wastewater treatment plant, etc.

In the past, the CEI has repeatedly dealt with cases where hazardous waste was stored at a designated place where it was temporarily secured, however, in the long term, it posed a risk to the environment or to health; such an act could not be prosecuted as a criminal offence, but only as a misdemeanour.

The Fire Rescue Service and the National Institute for Nuclear, Chemical and Biological Protection are both very well equipped with special devices for the identification of the content of unknown substances.

8.2. The system of inspections and the authorities involved

The CEI is responsible for inspections of hazardous waste on the territory of the Czech Republic, from the production to the processing or disposal of such waste.

The inspection of waste producers focuses on the classification of waste, the sorting system and collection and transfer to authorised persons. The CEI inspectors check authorised persons and the transport of waste on the basis of hazardous waste reporting sheets. For the authorised persons, the inspection is aimed at verifying compliance with the operating rules and the conditions of the permits issued and approved by the regional authorities.

The frequency of inspections, as provided for by law, is set only for facilities that possess the so-called Integrated Permit (see the Industrial Emissions Directive - IPPC). Hazardous waste landfills are inspected on an annual basis, whereas inspections of other hazardous waste management facilities (de-emulsification stations, hazardous waste incinerators, decontamination and biodegradation lines, etc.) are carried out at longer intervals. The CEI produces inspection plans annually.

Regional authorities and municipal authorities of municipalities with extended competence, though only with limited territorial scope, have similar control competences, including that of checking whether the authorised persons comply with the correct method of evaluation of the hazardous properties of the waste. However, in practice they conduct far fewer inspections than the CEI.

The National Institute for Nuclear, Chemical and Biological Protection plays a key role in this area and may be involved if nuclear, biological or chemical products (NBC) are found in the waste.

Cooperation with the fire service is key in this area as it has the knowledge, expertise and the resources needed to detect, neutralise and treat hazardous waste.

8.3. Measures for the protection of the environment and human health in the treatment of hazardous waste

In the Czech Republic, waste can only be disposed of in installations which are designed for waste management under the Waste Act. This waste management must not endanger human health or damage the environment, and pollution limits laid down by special legislation (e.g. the Air Protection Act or the Water Act) must not be exceeded. Mixing of hazardous wastes with each other or with other wastes, substances or materials is prohibited.

Packaging of hazardous wastes is regulated by Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, as amended; the European Agreement on the International Carriage of Dangerous Goods by Road - ADR (Geneva 1957), promulgated in the Collection of Laws as Law No 64/1987 Coll., as amended; Regulations on the International Carriage of Dangerous Goods by Rail (RID), which is Annex C to the Convention on International Carriage by Rail (COTIF), promulgated in the Collection of Laws as Law No 8/1985 Coll., as amended.

The originator and the authorised person handling the hazardous waste are obliged to ensure that hazardous waste is visibly labelled in the way and to the extent stipulated by an implementing legal regulation and a graphic symbol in accordance with the directly applicable EU legislation on the classification, labelling and packaging of substances and mixtures to the extent stipulated by the implementing legal regulation. Hazardous waste with property HP 9 'infectious' is indicated by the graphic symbol prescribed by the implementing legal regulation. The originator and the authorised person handling hazardous waste are required to issue the hazardous waste identification sheet and distribute it to the hazardous waste disposal facilities.

Wastes can only be dumped in landfills which, by their technical design, meet the requirements for storing the specific type of waste. The decisive factors for the disposal of waste in landfills are their composition, miscibility, hazardous properties and the content of harmful substances in aqueous extraction. Wastes specified in Decree No 294/2005 Coll., on the conditions of landfilling of waste and its use on the surface of the land and amending Decree No 383/2001 Coll., on waste management details, cannot be dumped in landfills. Wastes which may have a negative impact on the environment when mixed and untreated wastes, with the exception of wastes laid down in an implementing regulation and wastes whose bulk cannot be reduced via treatment or whose dangerous properties cannot be eliminated. Hazardous wastes may only be dumped in hazardous waste landfills.

Hazardous wastes can only be handled by the operator on the basis of the consent of the competent government authority; the collection and transport of hazardous waste are not subject to consent. Legal entities and natural persons authorised to conduct business taking part in the shipment of waste are obliged to keep records and to report the transported hazardous waste. The records are produced electronically via an integrated environmental reporting system. Records need not be produced for in-house transportation carried out by own means of transport unless the transport goes beyond the site of the facility.

The case where a waste crime concerns hazardous waste is one of the circumstances incurring the application of a higher penalty rate, namely a penalty of one to five years' imprisonment, pursuant to Section 298 (4) of the Criminal Code. For this reason, for the purpose of criminal prosecution, it is always necessary to determine whether the offence related to the waste concerns hazardous waste or non-hazardous wastes.

8.4. Trends in illegal hazardous waste management

The main types of case dealt with by the CEI in the control of management of hazardous waste and related trends are:

- attempts at false reporting by facilities that do not describe the real situation (mixing and landfilling of waste instead of reported incineration etc.);
- handling hazardous waste as non-hazardous in order to reduce expenses;
- fictitious treatment of hazardous waste as belonging to the 'other waste' category without proper treatment, by legalising the conversion of the waste category (at least 'on paper', facilitated by various technologies) to the category of green waste or products (e.g. as fuel), to obtain a reduction in the fee for the deposit of hazardous waste;

- abuse of so-called trading via brokers, where the transfer of waste to certain intermediaries is probably fictitious (where the law requires that an intermediary must have the status of an authorised person, who in such cases, however, does not have any waste disposal technology), often purpose-made trading companies, which are run, for example, by 'fictitious' executives;
- fictitious transfers of waste to such intermediaries, where however the waste appears to be processed before reaching these intermediaries; or reporting of fictitious waste and fictitious invoicing for waste management.

The police pointed out certain difficulties with these forms of crime, which include the need for hidden forms of investigation, requiring thorough elaboration and massive deployment of operational measures, and the fact that the criminal activities are often perpetrated in the territory of multiple regions or have an international element.

8.5. Conclusions

- In the Czech Republic, under the Waste Act, there is an obligation to classify waste by type and category. The primary responsibility for classifying the waste lies with the producer; but if this is not feasible the classification is performed by authorised legal entities. The criteria for classifying waste as hazardous are set out in Commission Regulation (EU) No 1357/2014 of 18 December 2014 and in the Waste Catalogue.
- The MoE is responsible for authorising and certifying legal entities to perform the classification of waste, including for the assessment of hazardous waste and the identification of its hazardous properties. Competence for detecting and investigating cases of illegal production or the handling of hazardous materials lies with the CEI, as well as with the regional and municipal authorities.

- The system of permits for facilities dealing with hazardous waste and the monitoring of their activities is well established in the Czech Republic and the relevant competences are assigned to the administrative authorities.
- With regard to hazardous waste, the Fire Rescue Service has a key role, as it has the knowledge, expertise and resources needed to detect, neutralise and treat hazardous waste.
- The National Institute for Nuclear, Chemical and Biological Protection, a specialised body which provides well-developed technical assistance and has a standby service as well as a mobile intervention unit, may be involved and provide expertise if NBC products are found in waste.

9. ILLEGAL PRODUCTION OR HANDLING OF DANGEROUS MATERIALS

9.1. The concept of dangerous materials

The definition of a highly dangerous substance is based on Section 7 of Act No. 19/1997 Coll., on Certain Measures Related to the Prohibition of Chemical Weapons. Under this provision, substances are classified as dangerous for their toxic properties or abusive potential in violation of the prohibitions laid down in this Act: highly dangerous substances, dangerous substances and less dangerous substances. The classification of these substances is defined by the State Office for Nuclear Safety by Decree No. 208/2008 Coll., implementing the Act on Certain Measures Related to the Prohibition of Chemical Weapons.

According to the Atomic Act, a radioactive substance is any substance containing one or more radionuclides and whose activity or mass activity is not negligible from the viewpoint of radiation protection.

The base nuclear material, according to Section 2 (j) point 1 of the Atomic Act, means nuclear material which is a uranium comprising a mixture of isotopes occurring in nature, uranium depleted by isotope ²³⁵U or thorium, and each of these items in the form of a metal, alloy, chemical compound or concentrate as well as materials containing one or more of those items in a concentration or quantity exceeding the values specified in an implementing legal regulation.

The definition of bacteriological (biological) and toxin weapons is set out in Act No. 281/2002 Coll., on Certain Measures Related to the Prohibition of Bacteriological (Biological) and Toxin Weapons.

9.2. Types of illegal activities related to illegal production and handling of dangerous materials and current trends in that field

The cases of illegal activities in the handling of dangerous materials involve the production, possession and provision of substances and relevant sanctions. The Criminal Code contains two offences specifically affecting the handling of radioactive substances, highly dangerous substances, nuclear material and special fissionable materials

Unauthorised handling of CBRN materials is defined according to Sections 281 and 282 of the Criminal Code as follows:

– Section 281 Unauthorised production and possession of radioactive substances and highly dangerous substances

- (1) *Whoever manufactures, imports, exports, transports, handles or obtains for another person radioactive substances or highly dangerous substances or objects intended for production thereof without an authorisation, even out of gross negligence, will be sentenced to imprisonment for one year to five years, to a pecuniary penalty, or to prohibition of certain activity.*

...

– **Section 282 Unauthorised production and possession of nuclear material and special fissionable material**

- (1) *Whoever manufactures, imports, exports, transports, handles, or obtains for another person base nuclear material, or objects intended for production thereof without an authorisation, even out of gross negligence, will be sentenced to imprisonment for two to ten years.*
- (2) *Whoever manufactures, imports, exports, transports, handles, or obtains for another person special nuclear material, or objects intended for production thereof without an authorisation, even out of gross negligence, will be sentenced to imprisonment for eight to fifteen years.*

...

Trade with military material without an authorisation or a license is punishable under Section 265 of the Criminal Code.

One of the most significant cases was the attempt to sell radioactive fissionable material containing Uranium²³⁵ radionuclides, which was legally classified as a crime of illicit manufacture and possession of radioactive material and highly dangerous substance pursuant to Section 186 (1) (3) (b) of the Criminal Code from 1961.

Cases of the crime of fraud pursuant to Section 209 of the Criminal Code were also recorded, where substances of different natures are passed off as the above-mentioned materials via falsely acquired documentation and counterfeit certificates of origin. Due to the fact that only individual cases have been discovered in this area so far, it is impossible to identify trends in the field.

9.3. Procedural aspects

A key role as regards dangerous substances is played by the National Institute for NBC Protection. It cooperates with the state authorities, including by providing assistance to the police in the criminal investigation of cases regarding dangerous materials, and provides a standby service as well as a mobile intervention unit. One of its main tasks consists in specifying conditions and requirements for radiation protection of the public and of the personnel handling ionising radiation sources (e.g. laying down limits and defining controlled zones).

Furthermore, the Institute works on specifying emergency planning zones and licensees' emergency preparedness requirements under the Atomic Regulation. Its responsibilities also include monitoring the status of the exposure of the public and personnel handling ionising radiation sources throughout the territory of the Czech Republic.

Another noteworthy task of the Institute lies in the coordination of activities of the Radiation Monitoring Network in the Czech Republic and the international exchange of radiation situation data.

The evaluation team visited the Institute and received a very positive impression: it has modern facilities with various types of laboratories, high-tech instruments and very sophisticated equipment; however, the members of the Institute's management whom the evaluation team met complained of inadequate human resources taking into account their significant responsibilities.

9.3.1. The means of collecting evidence and of handling dangerous materials

Specialised state institutions, namely the State Institute for Nuclear Safety, the State Institute for Nuclear and Biological Protection and the State Institute of Chemical, Nuclear and Biological Protection, are competent authorities in this area of responsibility. The Fire Rescue Service is responsible for immediate response in the case of hazardous materials.

Where appropriate, final decisions regarding the nature of the substance may be made by the court on the basis of the relevant evidence, especially on the basis of relevant expert opinions or expert evidence by the above-mentioned services.

9.3.2. Cooperation with European and international partners

International police cooperation in the detection and investigation of these criminal activities regarding the handling of dangerous materials is carried out mainly via Europol and Interpol communication channels. In some cases, the cooperation takes place directly with neighbouring countries, e.g. with Slovakia. The State Institute for Nuclear Safety is active in international cooperation within its competencies, providing assistance with mobile laboratories in neighbouring countries.

9.3.3. Techniques of investigation

The visit to the Institute of Nuclear Safety showed the high-level technical and knowledge preparedness for the sampling, handling and decontamination of hazardous materials, with the use of mobile laboratories allowing to react and get first urgent results.

The firearms and hazardous materials department T4 has a unit dealing with hazardous materials (CBRN). The presentation of the Fire Rescue Service provided the evaluation team with information regarding the use of devices in the detection and recognition of dangerous materials, such as spectrometers, etc.

The CACR participates in the inspections at the borders and in the territory of the Czech Republic, which include regular checks of goods subject to bans and restrictions and random or targeted checks carried out on the basis of information received.

Inspections of shipments of hazardous products are carried out in the same way as those for shipments of waste.

9.3.4. *Main obstacles to successful investigation and prosecution*

According to the Czech authorities in the Czech Republic, no particular problems regarding hazardous substances (asbestos, PBC, etc.) have yet been raised.

The main challenge in investigating and detecting criminal activities regarding the handling of dangerous materials is to gather adequate and sufficient evidence, which demands expertise, and sometimes penetration into criminal groups and establishing trust with the perpetrator.

Although the CACR has competence for this area of crime, it does not have sufficient knowledge about hazardous materials.

9.3.5. *Training*

The PCR periodically organises instructional methodical seminars, which address, *inter alia*, ways of conducting investigations of cases regarding the handling of dangerous materials, including training on the degree of risk, possibilities of cooperation in the detection of related criminal activities, and the procedure used by the police for dealing with CBRN materials. Participants in these instructional methodological activities are police officers mainly from the regional police departments, and sometimes from departments with national competence.

Joint exercises of the components of the Integrated Rescue System focusing on the detection of CBRN materials are also conducted. The instructional methodical seminars cover among other things the latest knowledge acquired by the NCOC, in close cooperation with the other components of IRS and other stakeholders, especially the State Institute for Radiation Protection and the State Institute of Chemical, Nuclear and Biological Protection.

The Judicial Academy regularly organises seminars on crimes involving dangerous substances such as CBRN materials. The Judicial Academy also organises specialised one-day seminars on Fire and Explosion Issues (they are usually held once every two years; the next is currently planned for 2018): Title VII (Generally Dangerous Criminal Acts, Division 1: Criminal Acts Threatening the Public), Sections 272 to 289 of the Criminal Code (the issue of occupational injuries and the status of labour safety inspectorates, possibilities of cooperation with LEAs; investigation of fires and explosions, endangering the safety of the public).

Members of CACR performing customs procedures are trained in prohibitions and restrictions in customs procedures. A new course for customs fraud investigators is being prepared, which will cover issues relating to waste and dangerous materials.

The Institute of Nuclear Safety regularly organises practical seminars and training for authorities with the simulation of real situations.

9.4. Conclusions

- The Czech legislation contains a definition of dangerous substances on the basis of their toxic properties or abusive potential in violation of the prohibitions laid down in the law, which divides them into three categories: highly dangerous substances, dangerous substances and less dangerous substances.
- The illegal production or handling of hazardous materials in the Czech Republic is tackled by the competent administrative authorities, the police and the customs, as is the case for non-hazardous materials. However, with regard to hazardous materials, cooperation with the fire services and/or specialist bodies is always necessary in order to safely identify, analyse and treat such materials.

- In the Czech Republic there are very good and modern technologies for the detection, sampling and decontamination of hazardous materials, and the institutions disposing of these technologies and devices are ready to assist the LEAs 24/7. In particular, the National Institute for NBC Protection has high-tech instruments and very sophisticated equipment, though it indicated it lacks sufficient staff to cope with its responsibilities.
- The main challenge in investigating and detecting criminal activities regarding the handling of dangerous materials is the gathering of sufficient evidence, which demands specialised expertise and adequate investigative measures.
- In the Czech Republic, training in dangerous materials is provided for the police, the customs, the rescue services and the judiciary. Nevertheless, as dealing with dangerous substances requires a high level of expertise, the Czech authorities could consider whether more extensive and continuous training could further support the enforcement authorities in this respect.

10. FINAL REMARKS AND RECOMMENDATIONS

10.1. Recommendations

As regards the practical implementation and operation of the Directives and the Regulation, the expert team involved in the evaluation of the Czech Republic was able to review the system in the Czech Republic satisfactorily.

The Czech Republic should follow up on the recommendations given in this report 18 months after the evaluation and report on progress to the Working Party concerned.

The evaluation team thought it appropriate to make a number of suggestions for the attention of the Czech authorities. Furthermore, based on the various good practices, related recommendations are also proposed to the EU, its institutions and agencies.

10.1.1. Recommendations to the Czech Republic

The Czech Republic:

- is encouraged to work on a more strategically-oriented approach on preventing and combating environmental crime, in particular by developing a national strategic document setting out the priorities of national policy in this respect or by strengthening a strategically-oriented approach on preventing and combating environmental crime in existing strategic documents, in order to ensure coherent and consistent actions in this area;
- could consider establishing an action plan focusing on 'waste crime' and based on a multidisciplinary approach. For this purpose, a similar approach to that of the 'wildlife' action plan¹⁴ currently being drawn up by the Czech authorities might be considered;
- could consider dedicating a share of the SEF of the Czech Republic to actions for preventing and combating environmental crime;
- should consider developing links between waste information/data collection systems of the different institutions involved, improve the sharing channels in order to acquire a more global picture of environmental crime, including waste crime, and a more consistent and coherent way to compare and analyse this information among institutions and to facilitate assessing the effectiveness of the national system in this area;
- should consider highlighting and analysing the links between environmental crime and other criminal activities (e.g. organised crime, forgery, use of false documents, fraud, corruption, money laundering.) in order to obtain a comprehensive overview of the phenomenon;

¹⁴ The Ministry of Home Affairs is currently developing a strategic document, namely an Action Plan in line with the EU Action Plan against Wildlife Trafficking, based on a multidisciplinary approach, but that plan will focus exclusively on tackling wildlife crime.

- could consider developing the police's environmental unit further, so that it could act both as a platform to support and promote a multidisciplinary approach to environmental crime and as an active partner at international level (Interpol, Europol and EU);
- could further enhance the training activities on tackling environmental crime, in particular by ensuring a continued focus on basic and further training for officers in the relevant police and customs units, by establishing regular inter-institutional planning of training activities and by promoting joint training of law enforcement and judicial authorities;
- should consider taking measures to promote the specialisation of prosecutors and judges in environmental crime; in particular, it could consider designating a special prosecutor supported by a specialised structure working exclusively in the criminal environmental area, who could also be an institutional representative of the Prosecutor's Office and likewise could liaise with the other environmental authorities;
- should consider promoting more structured information exchange between the competent environmental administrations (environmental inspectors), police and customs services as well as the judiciary (prosecutors and courts);
- should consider the formalisation of cooperation and communication among the national authorities competent to tackle environmental crime, e.g. through the development of a formal agreement or protocol;
- should re-assess the balance between the administrative and the criminal approach to environmental crime, so that criminal law could fully play its repressive and deterrent function in this area.

*10.1.2. Recommendations to the European Union, its institutions,
and other Member States*

The Member States:

- could consider the possibility of establishing a fund, supplied, *inter alia*, by administrative fines for environmental violations, to contribute to action aimed at protecting and improving the environment, including remedial actions (similarly to the SEF in the Czech Republic);
- should consider establishing, where appropriate, a coordinated information and data collection system in the area of the environment, drawing on the example of the CENIA, accessible to all competent authorities involved in preventing and combating environmental crime and, where appropriate, to the public;
- could consider establishing rules on increasing the traceability of metal waste and facilitating the identification of the suppliers, taking into account, where appropriate, the practice of the Czech Republic;
- could consider introducing an obligation to make any shipment of waste visible by labelling (e.g. a black A on a white background as in Germany and the Czech Republic) heavy goods vehicles and/or containers carrying waste, as this could facilitate the tasks of the competent authorities.

10.1.3. Recommendations to the Commission

The Commission could consider:

developing recommendations/guidelines on the criteria for the criminalisation of violations related to environmental law;

developing guidelines on developing national strategies defining coordinated measures and actions on preventing and combating environmental crime, (e.g. strategy, action plan);

establishing uniform requirements on the labelling of lorries and trucks transporting waste across the EU.

ANNEX A: PROGRAMME FOR THE ON-SITE VISIT AND
PERSONS INTERVIEWED/MET

Evaluation Visit Programme (21 - 25 May 2018)

Venue:

Ministry of the Interior of the Czech Republic

Nad Štolou 936/3, Praha 7, Room No 107

Monday 21 May

11.00-15.00 Arrivals of evaluation team members at Václav Havel Airport Prague

Transfers from the airport to the Hotel Belvedere Prague

(Milady Horákové 19, Praha 7)

16.30-17.30 Preparatory internal meeting of the evaluation team

From 17.00 Informative meeting on course of evaluation visit

(Hotel lobby)

After 18.00 Welcome dinner: Lokál Nad Stromovkou

(Nad Královskou oborou 232/31, Praha 7)

Tuesday 22 May

8.30-9.00 Arrival and registration

9.00-10.00 Official opening of the evaluation visit: *Opening remarks*

- **Mr Jiří NOVÁČEK**, First Deputy Minister of the Interior for Section of Internal Security and Police Education, MoI
- **Mr Erik GEUSS**, Director of the Czech Environmental Inspectorate (CEI)
- **Mr Jaromír MANHART**, Director of Waste Department, MoE

10.00-11.30 Ministry of the Environment: *Waste disposal issues*

- **Mr Jan MARŠÁK**, Deputy Director of Waste Department, Head of Concepts and Technologies Unit
- **Ms Jana SAMKOVÁ**, Head of Transboundary Shipment of Waste and International Cooperation Unit, Waste Department
- **Ms Petra URBANOVÁ**, Concepts and Technologies Unit, Waste Department
- **Ms Gabriela BULKOVÁ**, Concepts and Technologies Unit, Waste Department
- **Ms Petra CHOUTKOVÁ**, Take-back Policies Unit, Waste Department
- **Mr Josef BENEŠ**, Technical Legislation Unit, Legislative Department

11.30-11.45 Coffee break / networking

11.45-12.30 Czech Environmental Information Agency: *Information systems*

- **Ms Gabriela BUDA ŠEPELOVÁ**, Head of Waste Management Unit, CENIA, Czech Environmental Information Agency
- **Ms Martina POLČÁKOVÁ**, Head of Integrated System of Reporting Obligations and Integrated Pollution Register Unit, CENIA, Czech Environmental Information Agency

12.30-13.15 Lunch break / networking

13.15-14.45 Czech Environmental Inspectorate: *Inspections of wastes*

- **Mr Lukáš KŮS**, Head of Waste Management Unit, Technical Protection and Integrated Prevention Department, CEI Directorate
- **Mr Martin ZEMEK**, Waste Management Unit, Technical Protection and Integrated Prevention Department, CEI Directorate

14.45-15.00 Coffee break / networking

15.00-16.00 MoE, CENIA, CEI Experts' discussion with the evaluation team

16.00-17.00 Internal meeting of the evaluation team

Wednesday 23 May

8.45-9.00 Arrival and registration

9.00-10.00 Ministry of Justice: *Legal aspects*

- **Mr Ondřej LEBL**, Criminal Law Legislative Unit, Legislative Department

10.00-10.15 Coffee break / networking

10.15-11.45 Public Prosecutor's Office: *Procedural and jurisdictional aspects, international cooperation*

- **Mr Jan VYCHYTA**, Municipal Public Prosecutor's Office, Prague 1
- **Ms Kateřina WEISSOVÁ**, Representative of the Czech Republic to ENPE, High Public Prosecutor's Office in Prague
- **Mr Miroslav RŮŽIČKA**, National Environmental Crime Correspondent, Supreme Public Prosecutor's Office in Brno
- **Ms Radka PAVLIŠOVÁ**, District Public Prosecutor's Office, Louny

11.45-12.30 Lunch break / networking

12.30-16.00 (incl. 2-hour transfer) **Visit to the National Institute for Nuclear, Chemical and Biological Protection: *Competence and cooperation with state authorities in dangerous materials***

- **Mr Tomáš DROPA**, Director of the National Institute for NCB Protection
- **Ms Markéta WEISHEITELOVÁ**, Deputy Director for Other Operation, Head of Laboratory of Toxic Substances
- **Mr Martin URBAN**, Head of Chemical Protection Department
- **Mr Michal DYMÁK**, Head of High-volume Testing Unit

16.00-17.00 Internal meeting of the evaluation team

Thursday 24 May

8.45-9.00 Arrival and registration

9.00-10.30 Police: *Law enforcement in area of wastes, international police cooperation*

- **Col. Jaroslav VILD**, Deputy Police President for Criminal Police and Investigation Service
- **Lt.-Col. Michal PLESL**, Economic Crime Department, CPIS Bureau
- **Lt.-Col. Eva KARYCHOVÁ**, International Police Cooperation Department, Police Presidium

10.30-10.45 Coffee break / networking

10.45-12.15 Police and Fire Rescue Service: *Dangerous materials*

- **Col. František ŠIMON**, Head of Dangerous Materials Unit, NCOC CPIS
- **Lt.-Col. Tomáš HOLUB**, Dangerous Materials Unit, NCOC CPIS
- **Cpt. Karel MUSIL**, Chemical laboratory, Population Protection Institute, Ministry of the Interior - General Directorate of the Fire Rescue Service
- **Cpt. Jiří ULBRICH**, Chemical laboratory, Population Protection Institute, Ministry of the Interior - General Directorate of the Fire Rescue Service

12.15-13.00 Lunch break / networking

13.00-14.00 General Directorate of Customs: *Inspections and Investigations*

- **Lt. Ladislav HOLÍK**, Investigation Coordination Department, GDC

14.00-14.15 Coffee break / networking

**14.15-17.00 (incl. transfer) Visit to the Facility for Energy Recovery of Waste:
*Cooperation with state authorities, inspections and final utilisation of waste***

- **Mr Tomáš BALOCH**, Ecologist of the facility
- **Mr Lukáš KŮS**, CEI Directorate
- **Mr Martin ZEMEK**, CEI Directorate
- **Ms Jana SAMKOVÁ**, MoE Waste Department

17.00-19.00 Final internal meeting of the evaluation team

After 19.00 Farewell dinner: Letenský zámeček

(Letenské sady 341, Praha 7)

Friday 25 May

8.30-9.00 Arrival and registration (all participants)

9.00-11.30 Wrap-up meeting

11.30-12.00 Lunch break / networking

After 12.00 Transport from Hotel Belvedere Prague to airport

15.40-18.40 Departure of evaluation team members from Václav Havel Airport Prague

ANNEX B: PERSONS INTERVIEWED/MET

Meetings on 22 May 2018

Venue: Ministry of the Interior of the Czech Republic

Person interviewed/met	Organisation represented
Mr Jiří NOVÁČEK	Ministry of the Interior
Mr Štěpán KONOPÁSEK	Ministry of the Interior
Mr Roman VENTURA	Ministry of the Interior
Mr Jan MARŠÁK	Ministry of the Environment
Ms Jana SAMKOVÁ	Ministry of the Environment
Ms Petra URBANOVÁ	Ministry of the Environment
Ms Gabriela BULKOVÁ	Ministry of the Environment
Mr Erik GEUSS	Czech Environmental Inspectorate
Mr Jaromír MANHART	Ministry of the Environment
Ms Petra CHOUTKOVÁ	Ministry of the Environment
Mr Josef BENEŠ	Ministry of the Environment
Ms Gabriela BUDA ŠEPELOVÁ	CENIA, Czech Environmental Information Agency
Ms Martina POLČÁKOVÁ	CENIA, Czech Environmental Information Agency
Mr Lukáš KŮS	Czech Environmental Inspectorate
Mr Martin ZEMEK	Czech Environmental Inspectorate

Meetings on 23 May 2018

Venue: Ministry of the Interior of the Czech Republic

Person interviewed/met	Organisation represented
Mr Ondřej LEBL	Ministry of Justice
Mr Jan VYCHYTA	Municipal Public Prosecutor's Office
Ms Kateřina WEISSOVÁ	High Public Prosecutor's Office
Mr Miroslav RŮŽIČKA	Supreme Public Prosecutor's Office
Ms Radka PAVLIŠOVÁ	District Public Prosecutor's Office
Mr Štěpán KONOPÁSEK	Ministry of the Interior
Mr Roman VENTURA	Ministry of the Interior

Venue: National Institute for Nuclear, Chemical and Biological Protection

Person interviewed/met	Organisation represented
Mr Tomáš DROPA	National Institute for NBC Protection
Ms Markéta WEISHEITELOVÁ	National Institute for NBC Protection
Mr Martin URBAN	National Institute for NBC Protection
Mr Michal DYMÁK	National Institute for NBC Protection
Mr Petr OTÁHAL	National Institute for NBC Protection
Mr Michal DŘEVÍNEK	National Institute for NBC Protection
Mr Štěpán KONOPÁSEK	Ministry of the Interior
Mr Roman VENTURA	Ministry of the Interior

Meetings on 24 May 2018

Venue: Ministry of the Interior of the Czech Republic

Person interviewed/met	Organisation represented
Mr Jaroslav VILD	Police Presidium of the Police of the Czech Republic
Mr Michal PLESL	Police Presidium of the Police of the Czech Republic
Ms Eva KARYCHOVÁ	Police Presidium of the Police of the Czech Republic
Mr František ŠIMON	Police of the Czech Republic
Mr Karel MUSIL	Fire Rescue Service of the Czech Republic
Mr Jiří ULBRYCH	Fire Rescue Service of the Czech Republic
Mr Ladislav HOLÍK	General Directorate of Customs
Mr Štěpán KONOPÁSEK	Ministry of the Interior
Mr Roman VENTURA	Ministry of the Interior

Venue: Facility for Energy Recovery of Waste

Person interviewed/met	Organisation represented
Mr Tomáš BALOCH	Facility for Energy Recovery of Waste
Mr Martin ZEMEK	Czech Environmental Inspectorate
Ms Jana SAMKOVÁ	Ministry of the Environment
Mr Štěpán KONOPÁSEK	Ministry of the Interior
Mr Roman VENTURA	Ministry of the Interior

Meetings on 25 May 2018

Venue: Ministry of the Interior of the Czech Republic

Person interviewed/met	Organisation represented
Mr Michal PLESL	Police Presidium of the Police of the Czech Republic
Mr František ŠIMON	Police of the Czech Republic
Mr Jan MARŠÁK	Ministry of the Environment
Mr Jan MARŠÁK	Ministry of the Environment
Ms Jana SAMKOVÁ	Ministry of the Environment
Ms Petra URBANOVÁ	Ministry of the Environment
Ms Gabriela BULKOVÁ	Ministry of the Environment
Mr Jaromír MANHART	Ministry of the Environment
Ms Petra CHOUTKOVÁ	Ministry of the Environment
Ms Hana NENUTILOVÁ	Ministry of the Environment
Ms Gabriela BUDA ŠEPELOVÁ	CENIA
Ms Martina POLČÁKOVÁ	CENIA
Mr Lukáš KŮS	Czech Environmental Inspectorate
Mr Martin ZEMEK	Czech Environmental Inspectorate
Mr Jan VYCHYTA	Municipal Public Prosecutor's Office
Mr Ondřej LEBL	Ministry of Justice
Mr Štěpán KONOPÁSEK	Ministry of the Interior
Mr Roman VENTURA	Ministry of the Interior

ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	CZECH OR ACRONYM IN ORIGINAL LANGUAGE	CZECH OR ACRONYM IN ORIGINAL LANGUAGE	ENGLISH
CACR	CSČR	<i>Celní správa České republiky</i>	Customs Administration of the Czech Republic
CBRN substances	<i>CBRN látky</i>	<i>Chemické, biologické, radiologické a nukleární látky</i>	Chemical, biological, radiological and nuclear substances
CEI	ČIŽP	<i>Česká inspekce životního prostředí</i>	Czech Environmental Inspectorate
CENIA	CENIA	<i>CENIA, česká informační agentura životního prostředí</i>	CENIA
CPIS	SKPV	<i>Služba kriminální policie a vyšetřování</i>	Criminal Police and Investigation Service
CPIS Bureau	ÚSKPV	<i>Úřad služby kriminální policie a vyšetřování</i>	Criminal Police and Investigation Service Bureau
ELV	<i>autovrak</i>	<i>Vozidlo s ukončenou životností</i>	End-of-life vehicle
GDC	GŘC	<i>Generální ředitelství cel</i>	General Directorate of Customs
MoE	MŽP	<i>Ministerstvo životního prostředí</i>	Ministry of the Environment of the Czech Republic
MoI	MV	<i>Ministerstvo vnitra</i>	Ministry of the Interior of the Czech Republic
MoJ	MSP	<i>Ministerstvo spravedlnosti</i>	Ministry of Justice of the Czech Republic

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	CZECH OR ACRONYM IN ORIGINAL LANGUAGE	CZECH OR ACRONYM IN ORIGINAL LANGUAGE	ENGLISH
National Institute for NCB Protection	<i>SÚJCHBO, v.v.i.</i>	<i>Státní ústav pro jadernou, chemickou a biologickou ochranu, v.v.i.</i>	National Institute for Nuclear Chemical and Biological Protection
NCOC	<i>NCOZ</i>	<i>Národní centrála proti organizovanému zločinu</i>	National Centre Against Organised Crime
PCR	<i>PČR</i>	<i>Policie České republiky</i>	Police of the Czech Republic
PPO	<i>SZ</i>	<i>Státní zastupitelství</i>	Public Prosecutor's Office
SEF	<i>SFŽP ČR</i>	<i>Státní fond životního prostředí České republiky</i>	State Environmental Fund of the Czech Republic
WEEE	<i>OEEZ</i>	<i>Odpadní elektrická a elektronická zařízení</i>	Waste electrical and electronic equipment
