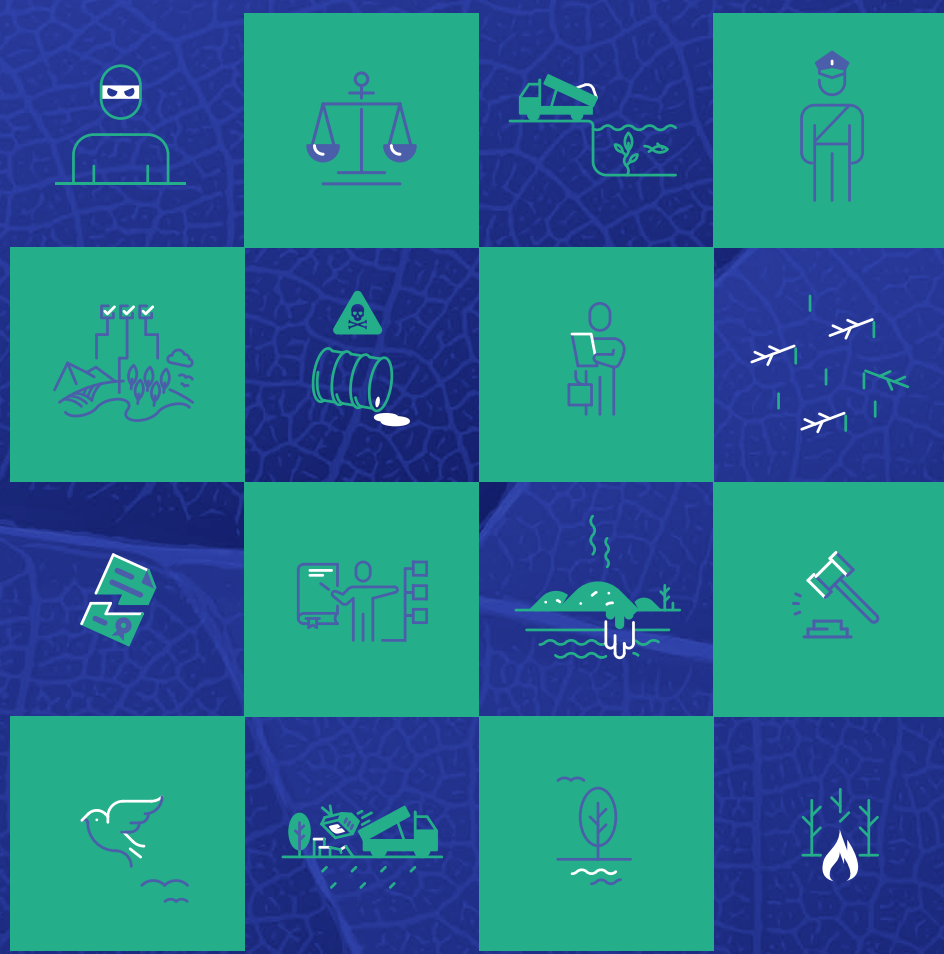




European
Commission



Combating environmental crimes and related infringements

A summary guide

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2021

Directorate-General for Environment

Introduction



This summary guide explains how EU Member States can combat environmental crimes and related infringements. It focuses on waste and wildlife crimes but is not limited to these. The Directorate-General for Environment of the European Commission prepared this guide, which is non-binding. It summarises the larger Guidance Document on combating environmental crimes and related infringements¹, which was adopted under the European Commission's 2018 Environmental Compliance Assurance Action Plan². Readers looking for further insights should consult the main Guidance Document.

¹ [Environmental Compliance Assurance, Guidance Document – Combating environmental crimes and related infringements](#)

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on EU actions to improve environmental compliance and governance, COM(2018) 10 final.

1

What are environmental crimes and related infringements?



What are environmental crimes?

An environmental crime is a crime that harms or endangers the environment.

A crime is an unlawful action or failure, usually serious. Criminal law enables law enforcement agencies to investigate crimes and bring suspects before a court; and it allows those courts to convict suspects based on evidence – and to impose prison sentences or large fines.

What are related infringements?

- Other kinds of crime, such as fraud and tax evasion, which criminals commit alongside environmental crimes; or
- Unlawful actions and failures that governments can – or must – counteract without using criminal law. Administrative law can address infringements that are not crimes, for instance.

Why combat environmental crimes and related infringements?

For five reasons:

1. Environmental crimes and related infringements often occur together and they may not be easy to tell apart.
2. All infringements that harm or endanger the environment undermine its protection. This is irrespective of whether the criminal law applies.
3. Unless counteracted, all infringements undermine people's faith in the law.
4. **Criminal law** is necessary for the most serious infringements, but
 - **administrative law** allows governments to use their powers – including enforcement powers – to control environmental threats without relying on criminal law; and
 - **civil law** allows governments or others to protect the environment through contracts and agreements, and to seek court orders against those who unlawfully damage other people's property or health – again without relying on criminal law.
5. Even where governments can use criminal law, circumstances may justify the use of administrative or civil law – either in addition to or instead of.



2

Waste crimes and infringements

‘Waste’ means substances or objects discarded by people. Waste laws require people to discard their waste in a controlled way.

Waste crimes and infringements include:



Dumping waste in the countryside or operating illegal landfills;



Operating legal waste facilities illegally – for example, by accepting types of waste that are prohibited under a waste permit;

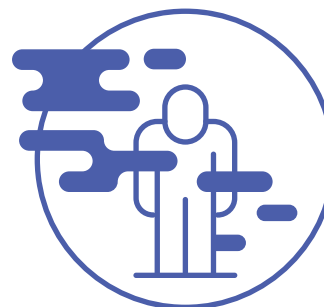


Trafficking waste, i.e. moving waste, especially across frontiers, without the necessary legal permission.

What harm do waste crimes and infringements cause?



Water and air pollution, and
land contamination



Harm to human health, and nuisances
such as odour from illegal landfills



Harm to wildlife



Loss of government revenues



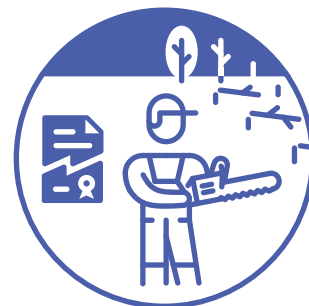
Illegal waste businesses gain an
unfair competitive advantage over
legitimate businesses

3

Wildlife crimes and infringements

'Wildlife' means wild animals and plants, together with the natural habitats in which they live. Wildlife laws protect wildlife sites, prohibit the hunting, capture and killing of certain wild species, and prohibit or limit trade in certain wild species within and between countries.

Wildlife crimes and infringements include:



Destroying or damaging protected wildlife sites without permission;



Illegally killing protected wild species;



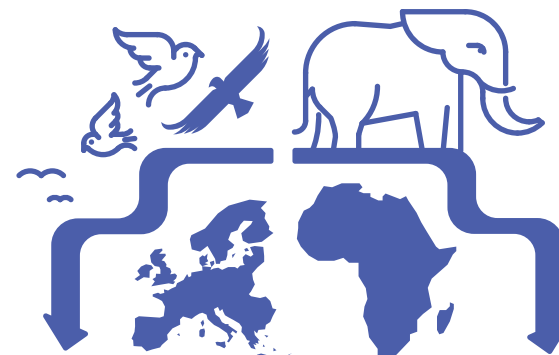
Illegally trafficking wildlife.

What harm do wildlife crimes and infringements cause?

Wildlife crimes and infringements contribute to:



Loss of the size, distribution or functioning of protected habitats;



Deterioration of populations of protected species.

4

What does 'combating' crimes and infringements involve?



'Combating' means:

- Promoting compliance with the law, and preventing crimes and infringements;
- Discovering and investigating crimes and infringements;
- Responding to crimes and infringements through enforcement actions.

Enforcement actions should aim at:

- Stopping crimes and infringements from continuing and causing harm;
- Imposing effective, proportionate and dissuasive sanctions on offenders;
- Removing financial gains from offenders;
- Making offenders pay to restore the environment.

'Environmental compliance assurance' is the umbrella term for all of this.

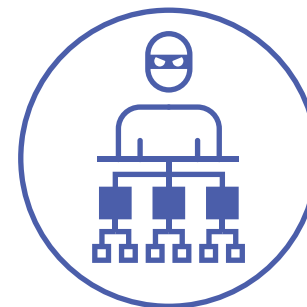
5

What challenges do Member States face?



Offenders not fearing consequences

Offenders often see what they do as 'low risk, high profit', calculating that it will not be traced back to them – and that enforcement will either not happen or be weak.



Organised crime

The involvement of organised crime increases the scale and seriousness of environmental crimes and infringements – and reduces the chances of easily curbing them.



Cross-border crime

Some crimes concern more than one country – for example, illegal waste exports.



Difficulties in discovering and investigating

Clandestine activities make it hard to trace the culprits, even when authorities discover the harm.



Companies acting as a shield

Crimes and infringements may be committed through companies, obscuring the real culprits, with companies subsequently filing for bankruptcy.

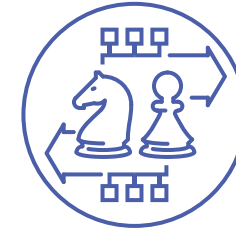


Difficulties in taking enforcement actions

Authorities need to put together convincing dossiers of evidence, in particular for criminal prosecutions.

6

How can Member States combat crimes and infringements effectively?



I. By being strategic

Member States should:

- recognise the harm caused by environmental crimes and infringements;
- employ the right tools to combat them. The ‘toolboxes’ in Chapters 7, 8 and 9 list many of these;
- develop intelligent strategies to use the tools. The case study in the box is an example;
- make the most of data and information, as explained in Chapter 10;
- publish enforcement policies, as mentioned in Chapter 9.

EU funds supported a strategy to combat the illegal poisoning of protected wild birds in Spain. This combined raising public awareness with the training of over 500 police officers and forest rangers in the use of investigation tools. Successful results included more criminal prosecutions and convictions.



II. By being professional

The challenges require specialisation.

Member States need to have the right professionals:

- environmental inspectors, police and customs, to discover and investigate crimes and infringements;
- scientists and technicians, to accurately assess them;
- financial analysts, to ‘follow the money’;
- data analysts, to produce statistics;
- legal and other staff, to rewrite permits or otherwise use administrative law;
- prosecutors, to prepare criminal cases for trial;
- judges, to oversee criminal trials and impose sentences.

Member States need to support these by:

- safeguarding the independence and impartiality of these professionals;
- giving them the right powers and duties;
- providing adequate staffing and financial resources;
- providing clear operational guidance;
- providing appropriate training.

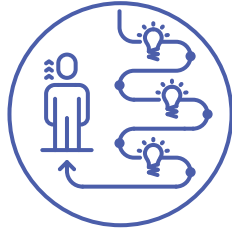


III. By being joined up

The professionals who combat crimes form a ‘compliance assurance chain’.

Cooperation and coordination are important because:

- Professionals depend on the quality of each other’s work along the chain.
- Crimes, such as illegal waste movements and wildlife trafficking, do not respect borders and Member States need to help each other.



IV. By learning from experience

Individual compliance assurance bodies can:

- regularly evaluate their own work – see Chapter 10;
- agree to peer reviews by representatives of other compliance assurance bodies;
- encourage staff to share experiences and insights through European networks of professionals.

Key European professional networks:

- **IMPEL**, representing environmental authorities, in particular, environmental inspectors;
- **ENPE**, representing environmental prosecutors;
- **EnviCrimeNet**, representing police and enforcement officers;
- **EUFJE**, representing judges;
- **NEPA**, representing the heads of environment protection agencies.



V. By maintaining public confidence

Member States can maintain public confidence by:

- raising awareness of environmental crimes and infringements;
- enabling victims and the wider public to safely report them;
- publicising that offenders can and do face consequences.

7

The promotion and prevention toolbox

This toolbox is relevant to the public, business sectors and specific businesses.





'Crime-proofed' legislation and rules

This means drafting legislation, regulations and permits to avoid creating loopholes that offenders can exploit.



Targeted compliance promotion

This means promoting compliance by:

- Raising public awareness, for example about waste dumping.
- Providing businesses with guidance, advice and other compliance support.
- Publicising efforts to combat crimes and infringements, including successful investigations.



Financial security

This means requiring the operator of a landfill or other risky installation to provide financial guarantees. These will pay for the costs of cleaning up if the operator goes bankrupt.

8

The discovery and investigation toolbox

Some tools are mainly for discovery and others mainly for investigation. Discovery means knowing that crimes and infringements have been committed. Investigation means knowing who has committed them – and how and why. Authorities can also turn discovery tools such as inspections into investigation tools and use investigation tools for discovery.



I. Discovery tools



Routine inspections and controls

These involve authorities carrying out routine site visits or document or vehicle checks on activities that carry risks. Waste treatment and waste shipments are examples.



General surveillance

This means gathering information about particular places or activities. One example is using satellites and aircraft to record images of land use changes.



State-of-the-environment and pressure monitoring

This involves monitoring the condition of water, air and soil, and of natural habitats and wild species, and monitoring the polluting emissions from certain pressure points, such as pipes and chimneys. Such monitoring can show that crimes and infringements have occurred.



Reactive inspections

These involve authorities reacting to incidents, accidents and complaints.

Complaints – from whistle-blowers, victims and the wider public – can provide valuable information. The Commission has published a separate summary guide for complaint handling:

[*Environmental complaints – summary guide \(europa.eu\)*](#).

II. Investigation tools



Targeted surveillance and intelligence gathering

This means gathering information when authorities suspect that infringements have occurred or are occurring. Targeted aerial surveillance of a specific landfill site is an example.



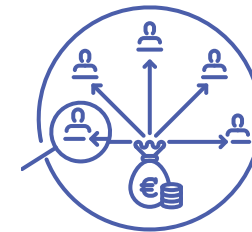
Interviews of suspects and witnesses

This means recording the accounts of people who know what lies behind an infringement.



Expert and forensic analysis

This involves gaining an accurate understanding of the chain of cause and effect. It establishes the evidence linking an infringement to suspects – and the evidence linking the suspects' conduct to environmental harm.



Financial investigations

These look into how much money a crime generated, how that money changed hands and who benefitted financially.

9

The enforcement toolbox

The choice of enforcement tools depends on:

- The nature and seriousness of the infringement. For example, relevant authorities should stop ongoing infringements and criminally prosecute the most serious ones.
- The strength of the evidence obtained through investigation.

A published enforcement policy can explain how a compliance assurance authority will achieve the enforcement aims mentioned in Chapter 4. It can help ensure a consistent approach.





Application of criminal sanctions – imprisonment and fines

This involves different professionals acting along the compliance assurance chain, in particular:

- Police passing evidence against named suspects to prosecutors.
- Prosecutors reviewing the evidence, preparing charges, organising witnesses to appear in court, and proving the suspects' guilt.
- Judges overseeing trials, making decisions on the evidence and handing down sentences.

Prosecutors must prove guilt beyond reasonable doubt. Sanctions should be effective, proportionate and dissuasive.



Application of administrative fines

This typically involves a single authority – such as a local authority or environment protection agency – imposing a fine on a business for infringing the conditions of a permit or similar requirements. The process is less burdensome than applying criminal sanctions – but administrative sanctions are more limited.



Confiscation and asset recovery

These involve confiscating the proceeds of crime and any assets acquired from them.



Notices and court injunctions

These are demands by an authority or a court requiring an offender to:

- stop doing something negative, such as causing illegal pollution; or
- do something positive, such as restoring a damaged nature site.

Typically, an authority will start with a notice to cease activities or make improvements and, if that fails, seek a court order.



Withdrawal of operating permits, dissolution, disbarment and confiscations

These remove a *capacity* to commit environmental crimes and infringements:

- withdrawing an operating permit means a facility can no longer be used for illegal activities;
- dissolving a company has the same effect;
- disbarring convicted criminals from running new companies discourages repeat offending;
- confiscating vehicles and equipment means not seeing them reused to commit crimes.

10

Making the most of data and information



The flows of data and information

Compliance assurance authorities receive and produce lots of texts and images.

Managing the flows

Making the most of data and information requires:

- data management resources, for example data analysts and data storage facilities;
- good data collection;
- good data and information sharing arrangements;
- use of statistical and other analytical tools;
- production of statistics;
- respect for professional secrecy;
- protection of personal data.

Three important uses

Data and information are important for targeting, evaluating and communicating.

1. Targeting

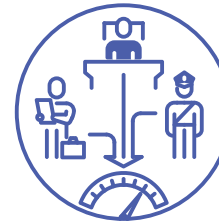
Targeting covers the work of discovering and investigating crimes and infringements, and taking enforcement actions. It is forward-looking.

2. Evaluating

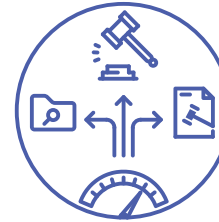
Evaluating means looking back at work done to see whether it has produced the right results. Authorities can use **indicators** to understand patterns.

3. Communicating

Compliance assurance authorities need to communicate what they do, to the public and others.



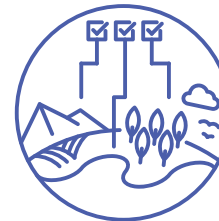
Input indicators show the number of professionals and the amount of resources engaged.



Output indicators show the number of activities carried out, for example inspections as well as detections, prosecutions and convictions.



Intermediate outcomes indicators show the effectiveness of activities, for example compliance rates of inspected facilities.



Final outcome indicators show the state of the environment in terms of what the law seeks to safeguard.

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