Introduction

It was in 1998 when the Finnish Environmental Crime Monitoring Group reported on environmental crime in Finland to Interpol for the very first time. Over the years, the Monitoring Group has made numerous recommendations and identified future trends. The most important proposal was drafting a National Environmental Crime Prevention Strategy for all authorities taking part in prevention work in order to ensure effective environmental crime prevention. The Monitoring Group recommends that authorities develop and enhance their mutual cooperation in detection and prevention of environmental crime, as effective cooperation between the authorities is an essential precondition for success in prevention and investigation of environmental crime. Joint training sessions and seminars arranged on a regular basis improve the expertise of the supervisory authorities, criminal investigation authorities and prosecutors. The Monitoring Group recommends that knowledge is transferred from senior to younger employees also at local level whenever there are changes in personnel.

In previous years, we have titled the Annual Reports on the basis of the year when statistical data was compiled. However, from now on, the Reports are titled according to the year of publication. So, this Report in your hand is Annual Report 2017, although statistics in it are from the year 2016. In recent years, national and international emphasis has been placed on the importance of cooperation between authorities in environmental crime prevention. In 2015, National Environmental Crime Prevention Strategy and Action Plan were adopted. The Council of the European Union adopted the Council Conclusions on countering environmental crime in the end of 2016. It should be noted here that the Council Conclusions are not legally binding, but the work will continue by preparing a more detailed Action Plan in 2017.

In this Report, environmental incidents reported to the criminal investigation authorities (police, customs, border guard) are presented per offence covering the years 2012 - 2016. Statistics on environmental offences are compiled on the basis of the offence investigated. The title of the case may change when the case is referred to the prosecution, and again in the court procedure. The Report contains also examples of various environmental offences. The number of environmental offences - especially the number of environmental infractions - is higher than in 2016. As environmental offences remain hidden for the most part, more efficient cooperation by authorities in detection partly explains the rise in the number of environmental crime in 2016.
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1 The Finnish National Group for Monitoring of Environmental Offences

Based on Resolution AGN/65/RES/25 made by the INTERPOL General Assembly on 23 – 29 October 1996, a national working group connected with the National Bureau of Investigation (NBI) was founded on 01 October 1997. Duties of this working group were agreed to include monitoring environmental crime and development in cooperation with various supervisory authorities. The Finnish Environmental Crime Monitoring Group, as the working group has been called since then, also prepares an annual report on environmental crime situation in Finland.

In 2016, the Monitoring Group is chaired by superintendent Arto Hankilanoja (National Police Board) and the secretary is forensic chemist Niina Viitala (NBI). Members of the Group are: police inspector Seppo Sivula (Ministry of the Interior), senior adviser Ville Hinkkanen (Ministry of Justice, Legislative Affairs), senior specialist for legal affairs Tia Laine-Ylijoki (Ministry of the Environment), detective superintendent Janne Järvinen (National Bureau of Investigation), senior customs inspector Heidi Björk (Customs, Crime Prevention), chief superintendent Silja Hallenberg (Border Guard Dept., Ministry of the Interior), district prosecutor Heidi Nummelä (East Uusimaa District Prosecutor’s Office), senior advisor Hannele Nikander (Finnish Environment Institute) and lawyer Satu Lyytikäinen (Uusimaa Centre for Economic Development, Transport and Environment).

The Monitoring Group also gives assistance and advice when legal assistance is requested from Finland. The Monitoring Group has submitted the Annual Report since 1997.

2 Multi-agency cooperation

In the previous Annual Reports, the Monitoring Group has recommended that a national environmental crime prevention strategy should be drafted for all the authorities tackling with environmental crime in order to secure the efficiency of their work. Towards the end of 2014, the Ministry of the Environment and the Ministry of the Interior set up a joint working group to build an overall picture of various forms of national cooperation, identify problems in it and on this basis, to prepare a draft for national strategy and action plan in environmental crime prevention. Members of the working group represent all key authorities in the field. The joint working group limited their work to concern only offences and violations referred to in Chapter 48 of the Criminal Code (and to other laws referred to therein).

The National Environmental Crime Prevention Strategy was ready in 2015, and the aim is to meet the objectives set therein by 2020. The joint working group has published an Action Plan for the new operational period i.e. for the years 2017 – 2018 already.

According to the Action Plan, joint working groups operating at the regional level were to be established. By today, the regional working groups have started their work and their work cover the whole territory of the country. There are one to three operational joint working groups consisting of various authorities preventing environmental crime established in operational territories of all police departments. Also, there are joint working groups focusing on specific themes. These two types of joint working groups cooperate with each other. For example, a joint working group for a capital area was set up on Helsinki Police Department’s initiative. Members of the group represent not only Helsinki Police Department, but police departments of West Uusimaa and East Uusimaa, National Bureau of Investigation, Finnish Environmental Institute and the Helsinki Centre for Economic Development, Transport and the Environment (ELY Centre).

Joint working group meetings have dealt with topical matters, such as roles of the authorities in environmental crime prevention, threshold for lodging a criminal complaint, actual crime cases, experts as witnesses, new trends in environmental crime and ways to enhance cooperation. They have agreed e.g. on regular meetings and rotation of meeting arrangements, mutual cooperation, operational goals, exchange of information and mutual procedures. In addition, they have also organised mutual training sessions and carried out joint operations.

For example, the police checked waste transportations in Kajaani and Oulu in the context of a traffic stop operation focused on heavy traffic in October 2016. Some 70 waste transportations were checked, a quarter of which were given a warning and a written admonition by the local ELY Centre to update mainly licensing matters to the state required by law. The operation was found so successful that the aim is to effectuate it in 2017, too. In October 2016, West Uusimaa ELY Centre and the police arranged a Day of Hazardous Waste Control simultaneously in five municipalities. It was also considered as a success.

With the help of pre-planned joint operation, the authorities have been able to detect a significant number of environmental offences that would have been not been otherwise reported to criminal authorities for investigation. As environmental crime is for the main part hidden crime, enhanced cooperation between the authorities in crime detection partly explains the increase in the total number of reported environmental crime in 2016.

2.1 Cooperation between supervisory authorities

Centres for Economic Development, Transport and the Environment (ELY Centres) and environment protection authorities of municipalities cooperate on a regular basis in monitoring, as they have similar duties which partly overlap. However, this cooperation should be further improved and the division of labour made clearer. It is especially important for the appropriate allocation of resources.

Environmental authorities, police, border guard, customs and rescue authorities co-operate in environmental matters in joint working groups and on a case by case basis. In recent years, the customs has investigated several series of nature protection offences. The investigation of these cases clearly highlighted a need for cooperation between authorities at the Ministry of the Environment, Finnish Environment Institute, ELY Centres and the customs. This cooperation will be enhanced and developed in future. Expert roles of the Ministry of the Environment, the Finnish Envi-

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The customs is a part of the customs system of the European Union and therefore, a supervisory authority in respect to import, export and transit of goods. In this light, it is natural that the customs is cooperating on a regular basis with the other environmental authorities in matters of supervision and of criminal investigation. Particularly, cooperation between the customs and Finnish Environment Institute in detection and prevention of transfrontier waste shipments is of utmost importance. As the National Inspection Plan was implemented in the beginning of 2017, other supervisory authorities, such as ELY Centres, environmental authorities in municipalities and police, become more actively part in controlling transfrontier waste shipments.

Their cooperation is also important in supervision of transfers of animals and plants subject to licence as well as in cases under criminal investigation. Multi-agency cooperation is a key element in control of oil discharges. In respect to monitoring oil discharges, the border guard works in cooperation with police, the Finnish Environment Institute and the Finnish Transport Agency (Trafi) in investigating prerequisites for imposing administrative oil discharge fees and in criminal investigation relating to such discharges.

2.2 Questions relating to defining criminal proceeds

Defining proceeds from crime is one of the most complex questions in the whole criminal procedure. Assessing proceeds gained through crime is often difficult, and it is exactly the value of the proceeds that is the most controversial question in court proceedings. Defendants often strongly contest the value of criminal proceeds given in calculations made by environmental and criminal authorities. When calculating the value of proceeds from crime, the terms used are ‘net profit’ and ‘gross profit’. When deciding the amount of criminal proceeds, the court must assess whether the nature of the criminal action in question was such that deducting operational costs is possible. It is in the interests of defendants that the court would assess the value of proceeds to be forfeited to the State as low as possible and that when considering the amount of the net profit, the court would accept deduction of operational costs to the maximum value possible.

The Monitoring Group is aware of the fact that there are several cases pending in courts of appeal in which district courts ordered significantly smaller amounts to be forfeited than prosecutors demanded. The Monitoring Group is waiting decisions made by respective courts of appeal and subsequently, analyses the necessity of possible further measures.

2.3 International and mutual assistance in environmental crime cases

Of all requests for international legal assistance and police-to-police assistance, international search warrants and other operational correspondence in 2015, the NBI Interna-
ional Affairs Division filed only two as environmental crime cases. One case concerned a request for exchanging information between Interpol Bureaux and the other case, a request for interviewing parties involved in an environmental offence committed abroad. The police filed no international requests for legal assistance in environmental criminal matters in 2016.

3 Hazards relating to the environment and environmental offences

3.1 Environmental hazards

Potential hazards to the environment have been listed, e.g., in the Government Resolution on the Security Strategy for Society. The Strategy lists e.g. the following as essential disruptions for society:

- Disruption in the water supply (incl. sanitation)
- Disruption in the waste disposal
- Outbreak of an epidemic of serious animal or plant disease
- Mass extinction of species
- Widespread contamination of soil or waters
- Storm or flooding and a dam disaster
- Accidents or hazards relating to hazardous substances (e.g., chemical, biological and radiological substances, and explosives), and the use of said substances for activities aimed at causing significant physical or social damage or destruction.

Environmental hazards refer to such changes in the environment which may cause danger to the health or living conditions of the population by destroying the preconditions of business, agriculture and forestry, contaminating water resources, endangering the existence of species and eroding infrastructure.

In practice, environmental changes could be sudden environmental accidents or more slowly progressing hazards to the environment, such as gradual contamination or pollution of the environment resulting in harmful changes reaching deep into the basic functions of ecosystems and often causing massive damage.

Environmental hazards can be generated, first of all, by extreme forces of nature. The most likely extreme natural phenomena in Finland are storms, heavy rains and a sudden rise in water levels. The adverse effects target in the first place the functioning of critical infrastructure. Extreme phenomena can jeopardise the population's health and safety and be conducive to causing an environmental catastrophe which, in turn, could have a long-term impact on the environment and living conditions. Environmental hazards can also be generated by human activity, such as:

- Poor industrial planning of the use of raw materials;
- Use of land and minerals;
- Use of potable water;
- Logging;
- Industry and urban waste; and
- Use of military force by nations.

Major disasters could also bring about widespread destruction or hazards to the environment. Plants dealing in hazardous substances, e.g. nuclear power plants and the so-called Seveso plants may be considered as the worst culprits for industrial major accidents as they contain an inherent risk for a major accident. An accident in these types of plants could result in a radiation or chemical accident, presenting a clear danger to water sources and the environment. Nuclear radiation or emissions of other hazardous substances may restrict the use of certain for years to come.

Possible global consequences include climate change, ozone depletion, loss of biodiversity, depletion of non-renewable natural resources, diminishing potable water resources and land erosion. Potential regional and local consequences are the effect on the Baltic Sea and, as a result of industrial production, heavy metal or chemical concentrations in the environment and poor waste management contaminating the soil.

3.2 Hazards relating to environmental offences

3.2.1 Situation in Finland

From a national point of view, no major changes have taken place in hazards relating to environmental crime since the previous Annual Reports. In an exceptional case detected in 2016, several tens of loads of waste had been transported by a lorry from Finland to Estonia in 2015 for dumping. The defendant was sentenced to prison in February 2017, and the case gained some media attention in Estonia.1

Especially in Central Europe, cross-border waste transportations and dumping are serious business activities in which organised crime groups are also involved for high profits.

With the exception of certain individual cases, not any very serious or extensive cases of impairment of the environment or cases that would have been committed in a particularly methodical manner have been detected. It may be, however, that the criminal investigation authorities become aware only a fraction of the actual number of environmental crimes.

The estimate of the proportion of environmental offences not known to authorities is based on comparison of environmental crime figures between Finland and our neighbouring countries, Sweden and Norway. Regardless of the approximately ten-fold number of environmental crimes committed in Sweden, national authorities estimate that a great part of environmental offences are never reported.

Low risk of apprehension
As one of the hazards in the field of environmental crime, the working group considers a scenario where a low risk of apprehension for environmental crimes would increase the number of environmental crimes committed as a part of business operations pursuing for financial gain. Also, courts have adopted a quite lenient sentencing practise in environmental crime cases. In practise, courts usually impose day fines for impairment of the environment, and very seldom, conditional prison sentences. Since amending the environmental crimes section of the Criminal Code in 1995, an unconditional prison sentence has been passed only once in the so-called ‘Lokapoja’ case.

### 3.2.2 Situation in our neighbouring countries

Our current situational awareness is based on direct contacts, publicly available crime statistics and information published by the media.

**Russia**

The least amount of information on the situation in our neighbouring countries has been received about the status of environmental crime in Russia. Detective Janne Järvinen visited St. Petersburg in May 2014 to introduce the activities of the Monitoring Group in the seminar arranged for environmental authorities, and gained some information on environmental offences investigated in Russia. The most common environmental or natural resources offences are so-called forest thefts or relate to hunting endangered large predators. It seems that investigating and gaining evidence for waste and dumping offences are especially difficult in respect to proving factual environmental harms that is apparently required by national laws.

**Sweden**

According to statistical data, the annual number of environmental offences varies in Sweden between 4,000 - 6,000 cases. Statistics on the criminal offences committed in 2016 were not published in Sweden at the time of finalising this report, but in 2015, there were a total of 5,750 environmental offences committed, of which 1,485 are actual environmental offences and the rest, 2,125 cases are mainly waste violations. Crime statistics are available on the web site of the Swedish National Council for Crime Prevention.2

According to the statistics, clearance rate is low: only 3% of all cases. A total of 165 persons were found guilty of having committed an environmental offence. There is a chart on the web site of the Swedish National Council for Crime Prevention indicating that the annual clearance rate is in a slight decrease, because until the year 2010, the at least 5% of the offences were cleared.3 The Finnish Police College has also published a comparative study “Grass is greener on the other side” by lina Sahramäki and Terhi Kankaanranta on preventing and investigating environmental cases in Finland and in Sweden.4

**Norway**

A total of 2,409 environmental offences and violations as well as 1,366 hunting and fishing offences or violations were committed in Norway in 2016 (Source: Statistics Norway, www.ssb.no).5 In Norway, the national specialist unit for environmental crime prevention works under the authority of the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim, www.okokrim.no). The agency also publishes Miljøkrim e-magazine (www.okokrim.no/miljo.krim; in Norwegian only).6 Additionally, environmental crime investigation is also carried out in local police departments by crime investigators who have received separate environmental crime training.

**Estonia**

We note that significant development has taken place in Estonia in respect to preventing and investigating of environmental crime during the year 2011. Since 01 September 2011, the Environmental Inspectorate of Estonia (Keskonnainspektsioon, www.kki.ee)7 has acted as an authority with central responsibility for environmental offences. The Inspectorate has also full criminal investigation powers, and former police detectives, among others, have been hired as criminal investigators.

The number of actual environmental crimes in Estonia is relatively small. Actual environmental offences are included in Ch. 20 of the Estonian Criminal Code (“20. ptk. Keskkonnnavastased kuriteod”) According to Estonian criminal statistics, there were 34 actual environmental offences reported to authorities in 2014 (www.kriminalpolitiika.ee).8 In addition, the website of the Environmental Inspectorate of Estonia (Keskonnainspektsioon, www.kki.ee) shows statistics on environmental violations processed administratively and the fines and fees levied in those cases. According to the Inspectorate, there were a total of 2,906 environmental violations reported to authorities in 2015 and there were fines levied to more than a thousand persons in these cases amounting to 262,086 euros in total. The great number of persons is explained by the fact that the number also includes persons fined for fishing and hunting violations. In respect to hazards, the Monitoring Group learned in 2016 about a case of several waste transports taken from Finland to Estonia for dumping. Offenders were sentenced in Estonia in February 2017.

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4 http://www.okokrim.no
6 www.okokrim.no
7 Keskkonnainspektsioon, www.kki.ee
8 www.kriminalpolitiika.ee/
3.2.3 International operations

There are several international organisations and bodies focusing in prevention of environmental and natural resource offences. For law enforcement authorities, the most important ones are: INTERPOL, Europol and World’s Customs Organisation. In addition to those, the CITES Secretariat implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is important partner in cooperation and exchanging information.

Other cooperating partners in cooperation are IMPEL European Union Network for the Implementation and Enforcement of Environmental Law), ENPE (The European Network of Prosecutors for the Environment) and EVFJE (The EU Forum of Judges for the Environment).

INTERPOL environmental initiatives include three working groups leading projects in fisheries crime, pollution crime and wildlife crime. Finland has had a permanent representative in the Pollution Crime Working Group. More information on INTERPOL’s initiatives in preventing environmental crime is available on the INTERPOL’s home page.9 In 2011, EUROPOL established a cooperation body for developing best practises for environmental crime prevention, namely EnviCrimeNet.10 A Finnish police member has attended EnviCrimeNet meetings since the beginning in March 2011. In the spring 2016, EUROPOL hosted an EnviCrimeNet training seminar on investigating environmental offences as part of financial crime investigation, viewed particularly from the angle of establishing criminal proceeds.

The latter half of 2016, Slovakia had the Presidency of the Council of the European Union for the first time. Slovakia had prevention of environmental crime as one of the Presidency’s priorities. Towards the end of 2016, there were two Environmental Conferences arranged in Bratislava.

4 International agreements and legislation on environmental offences

4.1 International instruments


The CITES Convention covering some 30,000 species of flora and an excess of 5,500 species of fauna has been ratified by 180 Member States. The Convention prohibits trading in about 1,000 species whereas trading in certain other species is subject to licence (“trading” means import or export across international borders). The CITES legislation is common to all the EU Member States, and has been followed since 1984 and, as amended, since 1997 (Council Decree 338/97/EU).

The CITES regulations set by the Council and Commission, in addition to the trade between the Member States, also provide on the trade within single Member States. Provisions on import are stricter than the Convention, and there are more species covered than by the Convention.

Finland ratified the International Convention for the Control and Management of Ships’ Ballast Water and Sediments in 2016 (IMO). The Convention will enter in force in September 2017. Ships in international traffic need to install on-board ballast water treatment systems. Exchanging ballast water in the Baltic Sea will be prohibited, and the nearest place where the exchange is possible will be in the North Sea. For installing on-board ballast treatment systems, there will be a five-year transfer period. In Finland, the supervision authority will be Finnish Transport Agency (Trafi). The border guard and police are also monitoring how laws and regulations are followed in the sea area. Regulations are not applied to ships and vessels of the border guard, nor those used in rescue. Invasive aquatic species may drift especially from tropical waters to very sensitive Baltic Sea area along with exchanges of ballast waters. Effects of the introduction of such species may cause significant harm to the ecosystem and consequently, to fishing and quality of water.

Finland also ratified the Nairobi Convention on the Removal of Wrecks (IMO). Registered owners of ships of at least 300 GRT of are required to maintain compulsory insurance in this respect. The Convention was implemented by amendments in the Sea Act that entered in force on 27 January 2017. The provisions concern ships sunk after the entry of the Act amending the Sea Law. The competent authority is...
Finnish Transport Agency (Trafi).

Regarding Åland, it should be noted that without the approval of the Provincial Parliament of Åland, international agreements undertaken by Finland do not automatically enter into force in the Åland Islands in so far as those agreements concern issues under the competence of the Provincial Parliament.

### 4.2 European Union legislation on environmental offences

Today, a significant part of the Finnish legislation on environmental offences comes from the European Union. Since most Union acts are adopted in the form of directives, they must be implemented in Finland by means of either Acts or Government decrees. Directives are usually so-called minimum directives. It means that at a national level it is also possible to issue provisions which set a stricter level of protection than provided by the directive. In certain cases, the variation in penalties and penal scales between the Member States has been viewed as vitiating the efficiency of Union legislation, and in particular environmental legislation. Member States are not equal in terms of criminal sanctioning which has led to the emergence of systems of different levels in Europe. These systems are not uniform for all Europeans, which is likely to result in the transfer of criminal activities to those parts of Europe where regulation and supervision are not as efficient as they should be. This was part of the reason for the adoption of the so-called Environmental Crime Directive (Directive 2008/99/EC of the European Parliament and of the Council on the protection of the environment through criminal law, OJ L328/28; 19 November 2008), which came into force on 26 December 2008. Its aim is to guarantee a high level of environmental protection in the member countries by setting minimum requirements for liability for penalty for actions impairing the environment. The concern over increasing environmental crime and its effects that increasingly extend beyond the borders of the country where the crimes are committed was in the background of adopting the Directive. Changes required by the Directive were implemented in Finland by amendments in respective legislation that entered into force on 25 December 2010.

### 4.3 Finnish legislation on environmental offences

The Criminal Code of Finland and various special environmental Acts contain provisions on environmental offences. The most serious acts in which prison sentences are possible have been collected into Chapter 48 of the Criminal Code. Penal scales vary from a fine to the maximum of six years of imprisonment, depending on the seriousness of the criminal act in question. Provisions on corporal criminal liability and corporate fine referred to in Chapter 9 of the Criminal Code are also applied to the environmental offences referred to in Chapter 48. The reason why environmental offences were included as a separate entity in the Criminal Code is to emphasise the blameworthiness of the acts. Other laws forming the actual environmental legislation, such as the Waste Act, Water Act, Nature Conservation Act and the Environmental Protection Act, include minor offences punishable by a fine at the most.

Natural resource offences provided for in Chapter 48 of the Criminal Code are similar to environmental offences. They include offences relating to hunting, fishing and forestry for which the maximum punishment is imprisonment. Imposing a corporate fine is not possible in these cases with the exception of an aggravated hunting offence (Criminal Act, Ch. 48a, s (1 a)). The Hunting Act, Fishing Act and Forest Act contain provisions on minor violations. Provisions on forfeiture apply to environmental and natural resources offences, too. Proceeds of crime are forfeited to the State also in these cases. Forfeiture may also concern compensating costs caused by waste management saved by illegal actions. Proceeds from crime, instruments used in the commission of crime as well as an object or property which has been produced, manufactured or brought about by way of an offence, or at which an offence has been directed, may be forfeited to the State under certain conditions.

### 4.4 Proposals for amendments in law

Provisions on nature conservation and environmental offences were amended in the beginning of 2016. The purpose of the amendment is that the nature of nature conservation offences and environmental crime cases as financial crimes would be considered in the assessment in more detail than before so that sanctions ordered for them would correspond better to blameworthiness of the acts. A new provision on an aggravated nature conservation offence was included in Chapter 48 a, section 5a of the Criminal Code. A nature conservation offence could be considered aggravated if it is deemed aggravated when assessed a whole and it puts nature in serious risk, there financial benefit was sought in the offence or it was committed in a particularly methodical manner. The penalty scale runs from imprisonment for four months to imprisonment of at most four years. Until now, the maximum punishment for nature conservation offences has been imprisonment for at most two years. The provision concerning aggravated impairment of the environment (Chapter 48, s 2) was amended so that the grounds of assessment of seriousness of the act reflect the extent of neglect and of gaining financial gain better that before. Now, impairment of the environment may be considered aggravated if the act was committed in a particularly methodical manner or for considerable financial gain. Impairment of the environment is by nature a financial crime by which the offender seeks financial benefit by neglecting obligations set in law. An amendment to the Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste has been implemented since the beginning of 2016. The amendment concerned mostly preparation of country-specific inspection plans to enhance supervision and control of waste shipments. In Finland, the inspection plan for the years 2017 - 2019 was implemented in the beginning of 2017. The plan focuses on illegal waste shipments reported to the Finnish Environmental Institute by type of waste. On the basis of risk assessment, used lead batteries, waste electrical and electronic equipment (WEEE), scrap vehicles and spare parts for them and construction waste were selected as particular points of emphasis. De-
pending on the type of waste, inspections will be taken at places where waste is created as well as at collection points, transportation and management of waste.

The above amendment was implemented by amending section 124 of the Waste Act. In the same context, the section 117 a containing special provisions on waste electrical and electronic equipment (WEEE) were further specified. These amendments entered into force on 01 January 2016. Inspection plans for such operations referred to in section 124(1), points 1 - 4 of the Waste Act of which can be reasonably assumed to relate to transfrontier shipments of waste are prepared by ELY Centres and municipal environmental authorities.

5 Supervision

5.1 Supervision and control of compliance with environmental legislation

Duties of the Centres for Economic Development, Transport and the Environment (ELY Centres) and municipal environmental authorities (Centres for Economic Development, Transport and the Environment (ELY Centres) and municipal environmental authorities are chiefly responsible for monitoring the environmental laws in Finland, and their competence in monitoring-related matters is partly overlapping. The Finnish Environmental Institute and Finnish Safety and Chemicals Agency (Tukes) also have certain supervision duties. ELY Centres have permit and supervisory duties defined in the Environmental Protection Act, Nature Conservation Act, Water Act and Waste Act. The general responsibilities of ELY Centres are improving environmental protection, attending to the public interest in environment and water-related matters, and to act as a complainant or responding to the claims in courts of justice and other authorities. According to the Water Act, the Environmental Protection Act and Waste Act, ELY Centres are eligible to act as injured parties in environmental offences, if some public interest has been violated. Essential permitting and supervision duties lie with the municipalities following the Environmental Protection Act and related special legislation. In a municipality, an environmental protection authority (often, an environmental protection committee) appointed by the municipal council is responsible for the above duties. One and the same committee may also serve as a joint authority for many municipalities. When detecting an unlawful state, the supervisory authority must take measures to remedy the defect. The supervising authorities operate in accordance with the regulations of the administrative law and the supervised law in question. The possible ways to proceed in supervisory matters are a request for clarification, inspection (an inspection protocol with possible admonitions), admonition and an administrative compulsion order. Supervision authorities are also under obligation to report their observations of illegal or negligent acts to the police, unless there are prerequisites provided by law for refraining from doing so.

According to the Environmental Protection Act of 2014, ELY Centres as national supervision authorities and environmental authorities in municipalities are to prepare a supervision plan for carrying out regular supervision in their area. The supervision plan is to contain information on environmental conditions and functions with a risk of pollution and to define resources and means available for supervision. The way in which supervision is organised in the municipality concerned as well as grounds for assessing risks and cooperation between supervision authorities must also be defined. The supervision plan must be checked in regular intervals. ELY Centres and environmental authorities in municipalities are to monitor and register functions subject to environmental permit with the help of periodic inspections. Targets and intervals of inspection are to be defined on the basis of assessment of risks to the environment. However, supervision plans are obligatory only in supervision of plants subject to environmental permit, but some supervision authorities have included measures supervising compliance of the Waste Act, Water Act and Chemical Act in the plan.

The State supervision authority and municipal environmental authorities must prepare a program for periodic inspections of activities subject for license and registering and other regular supervision (supervision program). The program must also contain information on supervised targets and periodic supervision measures taken, and it must be kept up-to-date. Since 01 January 2015, supervision of environmental permits has been subject to a fee, the amount of which is provided in the Government Decree number 1397/2014 issued on 30 December 2014. A fee may be collected for services such as periodic inspections defined in supervision program, for rectifying a violation or neglect and inspections relating to accidents or interception of activities. Supervision is both proactive and retroactive. Proactive supervision refers to assessment of need for environmental permits for functions defined in the supervision plan, statements given in respect to permit applications issued to Regional Administrative Agencies and municipalities, participation in inspections and discussions relating to the application procedure and appeal procedure. Retroactive supervision is legality control i.e. observing compliance with permit terms and other regulations. Retroactive supervision consists of checking reports (annual reports, monthly reports, reports on interferences, follow-up reports on environmental conditions), periodic and other inspections in plants, handling reports on exceptional circumstances and reports received from members of the public and taking administrative measures to achieve law state of operations. The possible ways to proceed in supervisory matters are admonitions, administrative compulsion orders and/or requests for criminal investigation made to the police.

The Ministry of the Environment directs and develops the carrying out of tasks compliant to different Acts, and it may also give supervising authorities more detailed instructions on supervision by virtue of the Environmental Protection Act. On 16 May 2016, the Ministry of the Environment issued a new supervision order targeted primarily to ELY Centres. The ELY Centres may appear as injured parties in environmental crime cases referred to in the Waste Act, Water Act and Environmental Protection Act. Any ELY Centre has then a right to be heard in the criminal investigation and court proceedings, to press charges and appeal court decisions. The Ministry of the Environment has granted the Uusimaa ELY Centre an appropriation for a steering development project in order to have an operational model for an ELY Centre as an injured party including templates for statements, damage claims, final statements, appeals and, possibly, ex-
pert statements as well. Upon conclusion of the project, a network of experts of the ELY Centres will be established for the purposes of cooperation and to provide advice to the ELY Centres and municipal environmental authorities in pending environmental crime cases.

**Duties of the Finnish Environment Institute**

Pursuant to the Act on Environmental Protection in Maritime Transport (1672/2009), Finnish Environment Institute is the leading supervision authority in monitoring discharges and emissions into water in Finnish territorial waters. Furthermore, the Institute is also responsible for prevention of environmental damages in accordance with the Act on Oil Pollution Response (1673/2009). Cooperation with other authorities prescribed in law is essential in carrying out both supervising and preventing duties. The most important partners in cooperation in the field of prevention of and response to oil spills and emission control are Border Guard, Finnish Navy and Finnish Transport Agency (Trafik). The Finnish Environment Institute represents Finland in international cooperation in prevention of oil spills and emission control by taking part in meetings relating to international conventions, particularly in the Baltic Marine Environment Protection Commission (Helsinki Commission) and in meeting relating to Nordic cooperation (Copenhagen Agreement). Cooperation with CleanSeaNet, a European satellite-based oil spill and vessel detection service of the European Maritime Safety Agency (EMSA), and EMSA’s working group dealing with matters relating to prevention of oil discharges is of important value for further development of these matters.

Government decree number 249/2014 provides on oil spills prevention plans prepared by rescue authorities, and preparation, contents and confirmation of joint operational plan for preventing oil and chemical spills from ships and on prevention readiness required from parties storing oil, port masters and plant operators. Prevention plans are approved by ELY Centres; joint operational plans by the Ministry of the Environment; and Finnish Environment Institute supervises statements relating to the process given to the Ministry.


**Duties of the Finnish Safety and Chemicals Agency (Tukes)**

The Finnish Safety and Chemicals Agency (Tukes) supervises, controls and grants permits for extensive industrial use and storage of hazardous chemicals. Tukes is one of the parties investigating disasters and it gathers information on accidents, damage and dangerous situations to the damage and accident database (VARO). Permits for minor industrial use and storage of chemicals are on the responsibility of the municipal chemical control authorities following the Chemical Act (599/2013). The Finnish Safety and Chemicals Agency (Tukes) keeps a register on qualified persons installing and maintaining the equipment and supervises that the given quality standards are met.

In practice, the border guard carries out criminal investiga-

**5.2 Border Guard**

**5.2.1 Duties of the border guard**

In addition to its other statutory duties, the Border Guard is a competent authority to carry out pre-trial investigation into environmental offences and natural resources offences. The border guard is, inter alia, responsible for monitoring compliance with the Hunting Act (615/1993), Fishing Act (379/2015), Nature Conservation Act (1096/1996), Environmental Protection Act (527/2014), Antiquities Act (295/1963), and Act on Environmental Protection in Maritime Transport (1672/2009).
tion mainly into natural resources offences and more specifically, into hunting and fishing offences, but they also investigate acts deemed as violations of the above mentioned substantive Acts the supervision of which falls on the border guard. The border guard also plays a key role in prevention of environmental crime at sea. The border guard’s threshold for intervening in environmental offences is low. The Border Guard aims to conduct investigation into all cases which fall within their own sphere of competence. Offences which come to the Border Guard’s notice but which are not within their competence are reported to a competent criminal investigation authority. On the basis of section 2(2) of the Act on Cooperation between Border Guard, Police and Customs (687/2009), the border guard may also take measures to ensure the prevention and investigation of offences, if the offence is not minor and the measures cannot be postponed. A competent criminal investigation authority is informed about the measures without needless delay. The law regarding cooperation between the aforementioned criminal investigation authorities is used to secure the promptness of authority operations and the effective execution of the statutory duties of authorities. Additionally, the Border Guard and the police have formed joint investigation teams, in particular to improve the investigation of hunting offences. The border guard monitors oil discharges at sea and participates in the prevention of oil damage during accidents. The aim of monitoring oil discharges in the Finnish territorial waters is to stop unlawful activities, to start pollution response measures, and to ensure that an investigation into the prerequisites of an administrative penalty fee and criminal investigation into the matter are carried out. The border guard uses Dornier airplanes on a daily basis to monitor the situation in the Finnish territorial waters. Surveillance flights are flown extensively over the Finnish territorial waters and exclusive economic zone. Additionally, flight surveillance has been adjusted together with the authorities of Sweden and Estonia, and surveillance is also carried out partly in the territorial waters of the aforementioned countries.

The Dornier planes are fitted in cooperation with the Finnish Environment Institute with special equipment suited for monitoring oil discharges. Comprehensive monitoring has also a preventive impact on unlawful oil discharges and emissions from sea vessels. Oil discharges are also detected with the help of CleanSeaNet, a European satellite-based oil spill and vessel detection service of the European Maritime Safety Agency (EMSA). More than 250 radar satellite images covering the area of Finland are received from the CleanSeaNet service in each year. Possible discharges may also be detected in the dark and in the cloudy weather. The images are delivered both to the Finnish Environment Institute and border guard for inspection. The command centre of the West Finland Coast Guard District inspects the image and in case an oil spill is spotted in the image, it ends off a unit, usually an aircraft equipped with monitoring devices, to check the suspected discharge and to identify the leaked substance in question. In regard to maritime nature conservation, the border guard will participate in control of emissions from vessels into the air and harmful antifouling systems on ships in the areas of Finnish territorial seas and exclusive economic zones. It is required by the Regulation number 1380/2013 of the European Parliament and the Council on the Common Fisheries Policy that All Member States must establish national fisheries monitoring and control centres with a view to monitor fishing and fishing efforts. The border guard serves also as the Command Centre is also the monitoring and control centre for national fisheries.

5.2.2 Administrative oil discharge fee

One of the most important duties of the border guard in the field of maritime environmental protection is participation in observation of oil leaks and other environmental accidents as well as oil prevention in Finnish sea areas and exclusive economic zone. According to the Act on Environmental Protection in Maritime Transport (1672/2009), the border guard is
the only competent authority to impose an administrative oil discharge fee as a consequence of illegal oil discharges from ships. The regulation of administrative oil discharge fees was extended to apply to the Åland region as well in the county law of Åland. The border guard is also responsible for the duties in imposing administrative oil discharge fees in Åland. According to the Act on Environmental Protection in Maritime Transport (1672/2009), the border guard must impose an oil discharge fee on vessels releasing oil or oil-based mixtures into the territorial waters and economic zone of Finland. The fee can be waived in cases of a small amount of discharge that has a minor effect on the environment. In respect to a vessel in transit on the Finnish economic zone, it is further required that the discharge causes major damage or that there is a threat of major damage. In exceptional situations, if the party liable to pay the fee shows that imposing the fee would be manifestly unreasonable because of a distress or accident situation or some other similar reason, the fee can be waived or its amount can be reduced. The amount of the oil discharge fee is determined by the volume of the oil discharge and the gross tonnage of the vessel, in compliance with the fee table regarding the Act on Environmental Protection in Maritime Transport. Identification of the person, who caused the leak on-board the vessel or whether the leak was caused by negligence or not, are not prerequisites for imposing the fee. However, the border guard has to obtain concrete evidence for the claim that the oil discharge originates from a specific vessel and that the discharge is not a matter of the aforementioned exceptional situations. For imposing an administrative oil discharge fee, investigation into the prerequisites is always conducted by the border guard. When necessary, the Finnish Environment Institute issues expert opinions on environmental impact caused by oil spills. Oil samples are analysed by the Forensic Laboratory of the National Bureau of Investigation. The NBI Laboratory also issues expert opinions on them. The oil discharge fee procedure of the border guard has been centralised at the West Finland Coastguard District in Turku that leads the investigation actions in order to impose the oil discharge fee. All units of the Air Patrol Squadron and the Gulf of Finland Coastguard District will assist the West Finland Coastguard District in the aforementioned investigation actions.

5.2.3 Criminal sanctions vs. administrative oil discharge fee

According to the Act on Environmental Protection in Maritime Transport, monitoring of oil discharges from ships and possible criminal investigation are the duty of both the police and the border guard. Chapter 12, section 6 of the Act on Environmental Protection in Maritime Transport says that the border guard is authorised to monitor the economic area and the territorial waters of Finland. According to Chapter 12, section 8 of the Act on Environmental Protection in Maritime Transport, the police is authorised to monitor the inland water areas and the territorial waters of Finland. The penal system is primary in relation to the administrative oil discharge fee. In a case where a court has issued a sentence in respect to illegal oil discharge in the sea (where the offence might be, e.g., impairment of the environment), no administrative oil discharge fee may be imposed to the same party. Similarly, an administrative oil discharge fee imposed to a party before giving a criminal sentence must be removed as a petition matter. So far, no imposed administrative oil discharge fee has been removed.

5.3 Customs

5.3.1 Duties of the customs

Finnish customs facilitates international goods trade and ensures compliance with provisions; collects the duties, tax-
es and charges on goods effectively and protects the society, environment and citizens. Customs collects customs duties as well as excise duties, vehicle tax and import VAT. It also carries out customs control of imports, exports and foreign traffic in addition to other customs measures. Customs also compiles statistics on foreign trade. Customs is a competent authority to carry out criminal investigation into customs offences. For its main tasks, customs has departments for foreign trade and taxation, enforcement, administration and for customs offices. Customs now has nine independent customs offices with subordinate branch offices: Helsinki Customs, Airport Customs, and the customs offices of Kotka, Vaalimaa, Nuijamaa, Imatra, Turku, Tornio and Mariehamn. Finnish customs is a part of the customs system of the European Union and a state agency supervised by the Ministry of Finance through performance management. Finnish customs cooperates with the trade community as well as with domestic and foreign authorities.

5.3.2 Supervision of importing, exporting and transiting protected plants and animals

Importing, exporting and transiting protected plants and animals and other related items referred to in the Decree implementing the CITES Convention (Convention on International Trade in Endangered Species of Wild Fauna and Flora) in Finland are subject to licence. A majority of the so-called CITES products imported to the European Union come from third countries. Therefore, the import restrictions protect the environment and biodiversity in these countries.

5.3.3 Controlling shipments of hazardous substances and radioactive materials

Customs has a significant role in environmental protection as the authority controlling the transports of radioactive and hazardous materials. Shipments arriving and leaving Finland are checked by border control staff at the border crossing points as well as mobile border control teams. The purpose of efficient control is to detect the shipments violating the regulations right at the state border. All of the most important border crossing points of Finland include fixed measuring instruments – in other words, gates for both passenger and freight traffic. In addition to the mentioned gates, customs officials use manual measuring devices as well. Shipments containing radioactive materials had to be turned back to their countries of origin as recently as in the early 2000’s, but there have been no similar cases since then. A few alarms are caused by vehicles at the gates annually, but the amount of radiation has always been so low that locating the radiation source has not been possible. Alarms have been caused by e.g. calcium chloride, pottery and fertilisers. So far, no illegal shipments of nuclear substances (plutonium, uranium) have been detected. Customs has organised traffic stop operations to monitor road shipments of hazardous waste and ADR shipments and taken part in EU/EEA-wide operations arranged to control movements of waste. Finnish border control is of top quality in Europe and the various control systems have been developed significantly in recent years.

5.3.4 Control over F-gases and substances depleting the ozone layer

Manufacturing, using, importing and exporting substances depleting the ozone layer is forbidden for the main part. Restrictions set on the import and export controlled by the customs apply both to substances depleting the ozone layer and products containing these substances as well as to both new, regenerated and recycled substances. Importing F-gases as chemicals or in appliances from non-EU countries is regulated and requires an allocated quota or an authorisation of quota. Customs controls export and import in the above products. Illegal import or export in these substances or products containing these substances is reported to the Finnish Environment Institute and, if necessary, criminal investigation will be commenced. Illegal trade in substances depleting the ozone layer and F-gases are reported via the Finnish Environmental Institute to the EU Council.

5.3.5 Supervision and control of transfrontier waste shipments

that monitors compliance with provisions on transfrontier waste shipments in Finland.
In 2016, the customs and Finnish Environmental Institute cooperated in supervising waste shipments. Efficient supervision and joint control operations are likely to explain a higher number of detected illegal waste shipments.

5.3.6 Collection of waste tax

As regards environmental protection, customs also plays a significant role in taxation. In accordance with the Waste Tax Act, customs collects waste tax on waste taken to dumping areas. In some cases, questions relating to waste tax have proved to be very complex. The problem is that from the tax man’s perspective, an illegal dumping area is not necessarily a dump that could be taxed for dumping waste. In this case subject to interpretation, the activities cannot be investigated even as a suspected case of tax fraud, either. However, it is possible to confiscate the cost savings acquired through illegal actions as crime proceeds (during the environmental crime investigation of the police).

The Waste Tax Act (1126/2010) became effective on 01 of January, 2011, but waste taxation of illegal dumping areas seems to remain problematic.

6 Environmental offences reported to the Finnish authorities

6.1 Legal procedure in environmental offences

The police are a general authority in the field of crime prevention and investigate all offences despite the title. There are three ways how police obtain information on a possible environmental: 1) an observation reported by a private person, 2) an observation reported by a supervisory authority or 3) as observation made by an individual police officer. As a rule, supervisory authorities are to report to the police criminal activities observed in their own fields of activity. However, reporting is not required in cases where the offence is a petty one and it has not violated any public interest.

The police are to conduct criminal investigation in a case reported to it, if there are reasons to suspect that a criminal offence has been committed. The police department of the crime scene area usually conducts criminal investigation into the case, but if nature of the case so requires, the investigation may be transferred to the National Bureau of Investigation. In most cases, environmental offences require a prosecutor be pre-notified of the case and take part in the criminal investigation. Customs and the border guard also carry out criminal investigation into environmental crime cases. Every third environmental offence reported to the police is solved. When the criminal investigation is concluded, the case is referred to the prosecutor for consideration of charges.

As a rule, the prosecutor must press charges for the suspected offence if he or she considers that the act is provided punishable by law, there are other probable causes to support the criminal suspect's guilt and other conditions for pressing charges are met. A decision to drop charges should be made on some ground specifically mentioned in the law. If the prosecutor decides to press charges, the case will be tried by a local District Court, and due to possible appeal, by the Court of Appeal, and finally in rare cases, by the Supreme Court.

6.2 Environmental offences against the Criminal Code

Environmental offences are included in Chapter 48 of the Criminal Code. The offences are: impairment of the environment, aggravated impairment of the environment, enviorn-
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6.2.1  Impairment of the environment, Ch. 48, s 1

Impairment of the environment means emitting or disposing an object or substance into the environment or violating certain obligations provided in environmental protection laws or waste legislation in a way that the act in question is conducive to causing contamination of the environment or a health hazard. Essential elements are very multifaceted. They include numerous modi operandi and a plenty of references to material environmental legislation. The offence is punishable when committed with intent or through gross negligence. Punishment for impairment of the environment is a fine or imprisonment for at most two years.

Almost without exception, criminal suspicions of impairment of the environment are investigated by the police. Suspected environmental offences are usually investigated by financial crime units of the regional police department concerned. Typical cases concern for example, illegal storage or disposal of waste material on industrial sites or private properties. Most often, the suspect is a middle-aged male.

In addition to the police, also the Customs and Border Guard have competence to investigate cases of impairment of the environment. In 2016, cases of impairment of the environment filed and investigated by the customs authorities have mainly concerned export of waste electrical and electronic equipment (WEEE) and used batteries. In two cases investigated in 2016, WEEE was attempted to be exported from the EU area in violation of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (“Waste Shipment Regulation”). In these cases, parties operating in Finland had collected WEEE in sea containers and aimed for shipping them as sea freight to various African countries. In one of these two cases, forged documents on assessment of hazardous substances and of operating condition tests had been prepared for the shipment. The third case of impairment of the environment investigated in 2016 concerned taking used batteries abroad. Due to inadequate equipped vehicles and/or faulty loading, the authorities are often forced to file transport of hazardous substances offences or similar violations in the context of cases of impairment of the environment and environmental infractions. However, all recorded cases relating to transport of hazardous substances do not relate to environmental offences.

To a great extent, the cases investigated by the Border Guard, have been illegal oil discharges from ships at territorial waters.

Examples of court rulings in 2016

IMPAIRMENT OF THE ENVIRONMENT, Criminal Code, Ch. 48, s 1

Satakunta District Court of 08 January 2016, file number: 12/100627, case ref. R 15/1887; Vaasa Court of Appeal of 23 November 2016, file number 16/148815, case ref. R 16/234

The police suspected CEO and operations manager of a sewage management company of allowing company workers to discharge a significant amount of sewage past the purification process into a river, although they were aware of insufficient capacity of the sewage treatment plant. They had also violated terms of their sewage treatment permit e.g. in respect to sample analysis, recording and reporting. At times the river water had been so pernicious that the authorities were forced to ban the usage. Prosecutor also demanded imposing a corporate fine and forfeiting 400,000 euros to the State as criminal proceeds.

The district court considered proven that the company had been receiving sewage more than the amount indicated in their environmental permit for many years already and despite that, the company had not taken any measures with a view to create sufficient operational capacity. Due to insufficient capacity, the company had to discharge unpurified sewage into a river, but it had not taken adequate measures to protect the river from pollution. The company had been operating against the terms of the environmental permit and violated the Environmental Protection Act. The district court also considered proven that the company’s actions had caused concentration of bacteria to elevate in the river and that no samples had been analysed, recorded or reported to the authorities.

To sum up, the court considered that the company was imputable for the operations. The CEO had not been aware of the discharge of sewage past the purification system, nor were there any circumstances established on the basis of which he should have been aware of such discharges. However, the company’s operations manager was imputable for authorising releases of sewage past the purification system as well as inadequacies in measuring and reporting. Considering how long the unpurified sewage water was discharged as well as the quantity and quality of the water, the district court considered actions by operations manager as aggravated negligence. The district court dismissed the charge against CEO, but imposed 80 day fines to operations manager. As the company’s management had not been involved in the offence and the company had taken measures to prevent and remove unpurified water from discharging and cooperated with authorities in establishing the circumstances by reporting, the district court did not impose any corporate fine. The district court considered that the company had not gained any profit from the criminal action.

The prosecutor appealed the case. The Vaasa Court of Appeal considered, unlike the district court, that the company’s CEO had had both an opportunity and obligation to familiarise himself with the company’s operations and especially with the terms of the environmental permit granted to the company. He should have found out the reason for the discharge of waste water past the purification system and the way in which amounts of water exceeding the quota reserved by the municipality are handled in the sewage management company operations.

Considering significance of the violated obligation for due diligence, importance of jeopardised interests and likelihood of violation as well as other circumstances relating to the act and the defendant, the court of appeal assessed that CEO should have understood the necessity of releasing water past the system and considered that his actions met the essential elements of aggravated negligence. The court of appeal imposed 50 day fines to CEO and a corporation fine of 20,000 euros to the company. In addition, a sum of
100,000 euros was forfeited to the State as financial gain from the offence.

IMPAIRMENT OF THE ENVIRONMENT, Criminal Code, Ch. 48, s 1

North Savonia District Court on 21 January 2016, decision number 16/102866, case ref. R 15/2442

The defendant had collected, handled and stored wrecked cars, scrap metal, WEEE material, tyres and lead batteries on a leased property without an environmental permit required for waste treatment in a way conducive to causing impairment of the environment and littering. The district court found the property untidy and full of rubbish and that the overall environment had been impaired. As the wrecked cars had not been emptied from liquid materials and they were standing on the sole ground, the district court considered it had been conducive to causing the liquids to leak to the ground and thus to impairment of the environment. The district court found the defendant guilty of impairment of the environment and imposed 80 day fines to him for his actions. Despite prosecutor’s argument, the district court considered that the defendant had not received any financial gain for his actions, because such actions would have not been permitted in any case.

IMPAIRMENT OF THE ENVIRONMENT, Criminal Code, Ch. 48, s 1

Supreme Court, case ref. KKO 2016:58

The case concerned whether members of a limited company’s board i.e. defendants had committed an offence of impairment of the environment by neglecting to carry out their obligations. The Supreme Court did not consider their obligation to observe due diligence in the case, but noted that on the basis of evidence produced in the case, the company board had not issued any instructions or orders to CEO as to organising management and supervision in environmental matters or delegated handling questions relating to the environment in the company.

The Supreme Court found that organisation of the company’s production in line with provisions of the environmental permit granted to the company and in general, in a way that it does not cause any harm to the environment, has been essential and significant to the field of operations in respect to the quality and scope of the company’s production and that taking care of the organisation has also required adequate financial resources. Therefore, the company board was to see that management and supervision of environmental matters in the company are organised in a professional and appropriate way. It means e.g. decision-making professional implementation of the provisions of the environmental permit and respective supervision. As the board had not considered the way to organise environmental matters at all, but management of these matters was left untouched, the Supreme Court found that the company’s board had neglected its duties. This negligence had contributed and been conducive to causing the impairment of the environment referred to in the charge.

Taking the defendants’ positions as members of the company’s board, the scope of their duties and authorisations as well as their involvement in causing and continuing illegal circumstances into consideration, the Supreme Court found that they are to be held imputable for the discharges that were both unlawful and violating the terms of the environmental permit as noted by the court of appeal. When assessing the significance of violation of the obligation to observe due diligence and importance of the jeopardised interests in the matter, the Supreme Court noted that an attention must be paid to the purpose of the penal provision to protect e.g. the soil from harmful changes and impairment. Therefore, according to the penal provision, the ultimate objects of legal protection are the nature and the environment as according to the Constitution, section 20, they are the responsibility of everyone. So, the Supreme Court considered that the violation of the obligation of due diligence in the case was significant and that jeopardised interests were important. On the above grounds, among others, the Supreme Court considered that the defendants were guilty of aggravated negligence and the impairment of the environment.

6.2.2 Aggravated impairment of the environment, Criminal Code, Ch. 48, s 2

Aggravated impairment of the environment is the aggravated form of impairment of the environment. If the damage or danger of damage caused to the environment is especially serious, considerable financial benefit is sought or the crime is committed in an especially planned or systematic manner, the defendant can be sentenced for aggravated impairment of the environment. The minimum punishment is four months and
the maximum punishment is six year imprisonment. In 2016, the police filed a total of eleven cases of aggravated impairment of the environment. In seven cases, the request for inquiry into alleged aggravated environmental crime was made by a municipal environmental authority. Two reports were received from members of the public, and one was lodged by some other authority than the environmental authority, and one case was reported to the police by an ELY Centre. Local police are conducting criminal investigation into all eleven criminal cases filed in 2016. In each case, the suspect is known to the authorities and in nine cases, criminal action was taken in the context of business operations. Most cases concern impairment of the environment through various kinds of waste material or littering through management of waste.

At least one case caught media attention: in November 2016 oil was found in a brook running through Helsinki City Park. The Financial Crime Unit of the Helsinki Police Department investigated the case of discharging oil to Maunulanpuro as aggravated impairment of the environment. The police believed on the basis of preliminary reports that a substantial amount of waste oil had been leaked to the brook from the Metsälä small industrial zone. The estimate was several hundreds of litres. Oil and an empty oil tuff jug were found from a rain gutter. The police believed that it was a question of an intentional act. On the basis of criminal investigation, it is believed that the oil discharged in Maunulanpuro and further to another brook, Haaganpuro, caused serious harm to the environment and organisms below the leakage point.11 In 2016, cases filed as aggravated impairment of the environment were geographically distributed as follows: Central Finland (3 cases), West Uusimaa (2 cases), East Uusimaa (2 cases), Ostrobothnia (2 cases), Helsinki (1 case) and Southwest Finland (1 case). The fact that criminal suspects are usually known at the time when cases are reported to the police supports the view that not all environmental crimes are reported to the police.

11 MTV3 broacasted news about the incident on 14 November 2016.

**Examples of court rulings in 2016**

**AGGRAVATED IMPAIRMENT OF THE ENVIRONMENT, Criminal Code, Ch. 48, s 2**

Helsinki District Court on 10 June 2016, decision number 16/125340, case ref. R 14/7560

A company had discharged 500 - 1,000 litres of benzene solvent into a river in violation of the Environmental Protection Act or, alternatively, without a permit required by law or in violation of permit terms. Company had no permit to direct benzene solvent into ditches or the water system. According to prosecutor, warehouse supervisor of the company’s branch and a maintenance manager had neglected their duty to see that no benzene solvent is leaked to the environment in the context of emptying a rain water gutter, instrument well or membrane well. According to the charge, warehouse supervisor had neglected his duty to ascertain that the worker emptying the instrument well or membrane well for the first time has sufficient knowledge and skills to perform the job. The warehouse was responsible for emptying the instrument wells or membrane wells in question. According to the charge, maintenance manager had neglected his duty to see that the worker emptying the instrument well or membrane well for the first time has sufficient knowledge and skills to perform the job. An alarm system for emissions from solvents had been installed in the context of the rain gutter and it was functioning well. The warehouse supervisor and maintenance manager were responsible for functioning of the alarm system. Due to these failures, the worker had bumped benzene solvent from the solvent tank for two hours.

At least 500 - 1,000 litres of the solvent were bumped out from the tank in a river. The release caused immediate and subsequent death of all fish, harm to organisms on the river bed as the solvent bound into organic matter and a temporary ban on use of the water in the area between the release point and another point 1,164 metres further down in a four-metre wide river.
According to the charge, harm caused to the environment and health and/or danger of such harm was not particularly significant considering the prolonged duration of the caused harm/danger of such harm, wide extent and other circumstances such as location of the incident in the middle of a residential centre. The offence was also considered aggravated when assessed as a whole.

Prosecutor demanded imposing a corporate fine of 100,000 euros to the company. The district court dismissed the charges. According to the district court, it was not proven that the maintenance manager would have given false instructions to the worker. Regarding the warehouse superior, the district court noted that he had given a task of emptying a membrane well to the worker knowing that he had not performed it before. The warehouse superior had left the tank field and left the worker to perform the task alone. He had not reacted to the worker's report on the water smelling like solvent, although the company had clear instructions to stop bumping in situations like that. On the above grounds, the district court noted that warehouse superior had been negligent in respect to his duty to give instructions on performing the task to the worker. The district court found that his guilt was diminished by the fact that emptying storm and melt water is not considered a particularly demanding or risky task by warehouse staff or factory staff in general.

In the warehouse, a task of emptying the membrane well was assigned to one worker alone. So, the expertise in the subject is very narrow. No evidence was produced on written instructions or other forms of guidance or any regular assessment of emptying the water. However, the district court did not consider that actions would have been seriously negligent or that harm caused to the environment would have been particularly significant in order to meet the essential elements provided for aggravated impairment of the environment.

6.2.3 Environmental infraction, Criminal Code, Ch. 48, s 3

If the damage caused to the environment provided in the Criminal Code, Chapter 48, section 1 is petty, when assessed as a whole, the offender shall be sentenced for an environmental infraction. The penalty scale runs from a fine to imprisonment for at most six months.

The environmental authorities received a total of 276 reports on environmental infractions which is more than average. The most part of environmental offences filed by the criminal investigation authorities is environmental infractions and cases of impairment of the environment. If the impairment of the environment is minor when assessed as a whole, it is a question of an environmental infraction.

Nearly always alleged environmental infractions reported to the police concern small amounts of waste dumped or left in prohibited places. In environmental infractions the offender is often unknown at the time of the reporting of the offence. If the offender is caught, the sanction is usually imposition of penalties by the police.

Environmental infraction cases reported to the border guard concern mainly minor, unlawful, oil emission of vessels. Environmental infractions filed by the customs in the recent years include scrap car batteries that are exported from Finland to Estonia or via Estonia to other Baltic countries. All cases were detected in the Helsinki ports where sea containers, vans, lorries and passenger cars were used in transportation.

In the autumn of 2016, East Uusimaa Police Department and Middle Uusimaa ELY Centre raided car repair shops in Middle Uusimaa. In fifteen of the checked thirty-seven car repair shops had inadequacies in managing hazardous waste and they were consequently served summary penal orders for environmental violations. Warnings were given for petty violations such as inadequacies in keeping waste accounts or in marking hazardous substances. This type of cooperation was tried out for the very first time, and the parties found it very functional.

Examples of court rulings in 2016

ENVIRONMENTAL INFRACTION, Criminal Code, Ch. 48, s 3

Helsinki District Court on 10 June 2016, decision number 16/125340, case ref. R 14/7560

According to the change, the chair of the board of the company and the company’s CEO had failed their obligation to apply an environmental permit referred to in Environmental Protection Act, section 27 for crushing and pulverising concrete commissioned by the company. They had polluted the environment with noise by having concrete waste crushed and pulverised as part of the company’s operations on a property owned by another company without the above mentioned permit and in violation of regulations concerning individual cases. It caused and was conducive to causing impairment of the environment (harm to the use of the company’s property through noise). The environmental board of the town had granted a permit to the commissioned company to use the property as a temporary storing place for demolition waste from the company’s own construction sites. The permit had a provision stating that crushing concrete on the property was not allowed nor was handling any other materials brought on the site. According to the permit, another environmental permit was to be applied separately if anything else but gravel was handled on the property.

A total of 2,534 tons of concrete had been brought to the property, pulverised (crushing and separating concrete from iron) for 60 hours in total and then crushed finer. Crushing and pulverising concrete had caused harm, namely noise. Prosecutor claimed forfeiture of 1,725 euros as criminal proceeds i.e. money saved from not paying the environmental permit. The district court imposed 30 day fines to one of the defendants and 45 day fines to the other in accordance with the charge and ordered, in accordance with prosecutor’s claim, to forfeit criminal proceeds to the State.

6.2.4 Negligent impairment of the environment, Criminal Code, Ch. 48, s 4

The provision on negligent impairment of the environment extends sanctioning to certain other negligent actions which would not be otherwise punishable due to the requirement of imputability. Impairment of the environment constitutes an offence, if it is committed deliberately or in gross negligence. The provision can be applied only when the damage or hazard to the environment or to the health
is particularly serious. The penalty scale runs from a fine to imprisonment for at most twelve months. Negligent impairment of the environment is a rare criminal offence, and there are only a few cases reported to the police each year.

Examples of court rulings in 2016

NEGLIGENT IMPAIRMENT OF THE ENVIRONMENT, Criminal Code, Ch. 48, s 4

Helsinki District Court on 10 June 2016, decision number 16/125340, case ref. R 14/7560

According to prosecutor, a warehouse employee had neglected to see that no benzene solvent is leaked to the environment. He had neglected to see that he had sufficient instructions for emptying an instrument well or membrane well when he was doing it for the first time. He had got instructions on the emptying and despite of that, he had bumped benzene solvent, namely a substance that is dangerous to the environment and health, from a solvent tank instead of the instrument well or membrane well for approximately two hours. At least 500 - 1,000 litres chemical bumped from the tank had ended up in a river through a rain gutter, causing death of fish and harm to organisms on the river bed as the solvent bound into organic matter and temporary ban on use of the water. According to the charge, harm caused to the environment and health, from a solvent tank instead of the instrument well or membrane well for approximately two hours. At least 500 - 1,000 litres chemical bumped from the tank had ended up in a river through a rain gutter, causing death of fish and harm to organisms on the river bed as the solvent bound into organic matter and temporary ban on use of the water. According to the charge, harm caused to the environment and health, from a solvent tank instead of the instrument well or membrane well for approximately two hours. At least 500 - 1,000 litres chemical bumped from the tank had ended up in a river through a rain gutter, causing death of fish and harm to organisms on the river bed as the solvent bound into organic matter and temporary ban on use of the water. According to the charge, harm caused to the environment and health, from a solvent tank instead of the instrument well or membrane well for approximately two hours. At least 500 - 1,000 litres chemical bumped from the tank had ended up in a river through a rain gutter, causing death of fish and harm to organisms on the river bed as the solvent bound into organic matter and temporary ban on use of the water. According to the charge, harm caused to the environment and health, from a solvent tank instead of the instrument well or membrane well for approximately two hours.

The district court dismissed the charge considering that the employee had the right to trust information given to him despite the fact that information understood as instructions turned out to be false. There was no evidence on negligence in the employee's actions when he started to perform the task. He had contacted his superior as he started to suspect that the liquid coming out of the tank was not plain rain water. As his superior advised him to continue the task despite of slight smell of solvent, the employee had bumped the liquid for a couple of hours. There was no evidence of negligent impairment of the environment in his actions.

6.2.5 Nature Conservation Offence, Criminal Code, Ch. 48, s 5

A person who unlawfully destroys or impairs a natural area, an animal, a plant or another natural object protected by the Nature Conservation Act shall be sentenced for a nature conservation offence. It is also punishable to export of import protected animal or plant species contrary to the CITES. The penalty scale runs from a fine to imprisonment for at most two years.

Nature conservation offences investigated by the police are often related to unlawful destruction of animal or plant species. Nature conservation offences investigated by the customs have mainly been about products made of animals and plants subject to licence brought by passengers from abroad or sent as postal items. In some cases, it was a question of import in the context of business. For example, preserved king cobras (Ophiophagus hannah), Candelilla wax, pieces of coral, capsules and lollipops containing Hoodia, creams containing bear bile, products made of crocodile skin, tablets containing Agarwood, butterflies, a wallet made of elephant skin, a dead protected bird, dead snakes, a skull of a crocodile and dietary supplements have been imported. In 2016, there were no nature conservation offences filed by customs. The nature conservation offences investigated by the border guard have typically been about killing protected bird species. In 2016, there were no nature conservation offences filed by the border guard, either.

Examples of court rulings in 2016

NATURE CONSERVATION OFFENCE, Criminal Code, Ch. 48, s 5

North Karelia District Court on 12 February 2016, decision number 16/106288, case ref. R 16/100

The defendant had destroyed e.g. hunted and shot three barnacle geese (Branta leucopsis). He had fired one shot at a flock of barnacle geese, and three of them were hit and fell to the ground. The defendant had taken two barnacle...
geese with him and by oversight, left one wounded goose in the field where the police found it and killed it. He also had another unlicensed shotgun in his possession. The district court imposed forty five fines to the defendant for a nature conservation offence and firearms offence. The defendant’s shotguns were seized and forfeited to the State. As the defendant had committed a nature conservation offence, the district court ordered him to compensate the value of three barnacle geese he had destroyed. The Ministry of the Environment has issued a decree on indicative values of protected flora and fauna, and according to the decree, the value of the barnacle geese in question was 336 euros; the sum was forfeited to the State pursuant to Nature Conservation Act, s 59.

**NATURE CONSERVATION OFFENCE, Criminal Code, Ch. 48, s 5**

Oulu District Court of 17 October 2016, decision number 16/142406, case ref. 16/1722

The defendant had destroyed bird nests and eggs of protected by the Nature Conservation Act. The defendant had destroyed in several occasions five tern (of Laridae) nests and ten eggs in a marina by a lake. He had attempted to prevent the birds from nesting by placing humming wires and a hawk deterrent on a jetty where at least Arctic terns (Sterna paradisaea) and common terns (Sterna hirundo) were nesting. The district court imposed twenty day fines to the defendant. A sum of 840 euros i.e. the value of the eggs he had destroyed was forfeited to the State. The district court estimated that he had destroyed at least 10 - 15 eggs. An Artic tern and common tern are valued to 84 euros each. A clutch and brood are valued according to the indicative value of a grown bird.

### 6.2.6 Nature Conservation Offence, Criminal Code, Ch. 48, s 5

A new provision on aggravated nature conservation offence was included in the Criminal Code in the beginning of 2016. This modus operandi of the nature conservation offence was criminalised earlier on. A nature conservation offence could be considered aggravated, if it is deemed aggravated when assessed a whole and it puts nature in serious risk, there financial benefit was sought in the offence or it was committed in a particularly methodical manner. The penalty scale runs from imprisonment of four months to imprisonment of at most four years. In 2016, there were two suspected cases of aggravated nature conservation offences filed by the police. A story of the case was published in Utisuuomalainen on 18 February 201612 as they were the very first cases investigated by the police. Both of the cases concerned disturbing cormorants (of Phalacrocoracidae) as well destroying their nests and eggs. All eggs in more than 300 nests were destroyed on the island of Gräsälsvådan in Vaasa. The eggs were broken by throwing them around the island. The police interested in the case as conservationists visiting the island reported the sabotage to the police in May 2016. In addition, the Southwest Finland Police Department is investigating a case of disturbing a cormorant’s nesting in Mynämäki last spring. Bird watchers found the sabotage in an island in the Mietoistenlahit bird conservation area in the end of April 2016. According to the report, the birds were young birds that had not nested yet and a few nests.

### 6.2.7 Building protection offence, Ch. 48, s 6

A person who intentionally or through gross negligence, without a permit required by the law, demolishes, destroys, impairs or covers an object of a built environment which is protected by the Land Use and Building Act is sentenced for building protection offence. In addition to actual building protection, the provision also concerns demolition and destruction of relics as stated in the Act on Archaeological Remains. The penalty scale runs from a fine to imprisonment for at most two years. Building protection offences are reported to the police from one to five times a year.

### 6.3 National resources offences against the Criminal Code

Chapter 48a of the Criminal Code of Finland applies to natural resources offences which are presented in Table 9. Penal provisions apply to hunting, fishing, forestry and timber offences. They also protect the Antarctic. The Chapter also includes a provision on a hunting prohibition that may be ordered for at least one and at most five years.

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<th>National resources offences against the Criminal Code</th>
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<th>2014</th>
<th>2015</th>
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Table 3. Natural resources offences filed by the criminal investigation authorities in 2012–2016.
6.3.1 Hunting offence, Criminal Code, Ch. 48a, s 1

A person who intentionally or through gross negligence unlawfully hunts using a trap or trapping method that is prohibited, hunts protected game or without hunting permit or when hunting, endangers or harms a person or the property of another. Scale of penalty is a fine or imprisonment for at most two years. The penalty scale runs from a fine to imprisonment for at most two years. The criminal investigation authorities filed 133 hunting offences last year which is less than an average year.

Hunting offences that are investigated by the border guard are various. In 2016, there were several reports on suspected hunting offences in which bears had been illegally hunted by using baits. Use of unlawful traps and trapping methods also were investigated as hunting offences. In addition to bears, filed reports concerned elks and eiders (of Somateria).

According to the previous Hunting Decree (816/2014), section 2(2), the game season was always closed for females of the elk accompanied by offspring less than a year old. A typical hunting offence was shooting exactly such female of the elk with an offspring less than a year old. The provision in question was amended by a decree enforced on 06 September 2016. According to the new sub-section 3, the game season for females of the elk accompanied by offspring less than a year old is closed from 01 September to the day preceding the second Saturday in October. This amendment should be conducive to causing a decrease in the number of offences that were punishable pursuant to the preceding legislation.

6.3.2 Aggravated hunting offence, Ch. 48a

The Criminal Code was amended in 2011 with a new provision on an aggravated hunting offence. A hunting offence is considered aggravated, if the offence is committed in an especially cruel manner or if a particularly large number of game is hunted. It may be a question of an aggravated offence also when the offence is committed in methodical manner or considerable financial benefit is sought with it. Harming or killing certain species, such as wolverine, lynx, bear, wild forest reindeer, otter or wolf, may also meet the elements of an aggravated hunting offence, if the offence is

<table>
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<th>Hunting offence, Criminal Code, Ch. 48a, s 1</th>
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<th>2013</th>
<th>2014</th>
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<td><strong>215</strong></td>
<td><strong>217</strong></td>
<td><strong>191</strong></td>
<td><strong>133</strong></td>
</tr>
</tbody>
</table>

Table 4. Hunting offences filed by the criminal investigation authorities in 2012–2016.

Examples of court rulings in 2016

**HUNTING OFFENCE, Criminal Code, Ch. 48a, s 1**

East Finland Court of Appeal on 08 July 2016, decision number 16/129328, case ref. R 16/298

The defendant had shot an elk in the context of lawful elk hunting. As the leader of the hunting party, he shot an elk from a public road in a manner conducive to causing a hazard to others and thus, he committed a hunting offence. The district court imposed fifty day fines to the defendant. The Court of Appeal prolonged the hunting prohibition ordered by the district court so that the total duration was 18 months and ordered the defendant to hand over his hunting card to the game management association. As the defendant had not received any financial benefit from the criminal act and the elk was handed over to the hunting club, the court of appeal dismissed prosecutor’s claim for forfeiting the value of the elk (i.e. 2,400 euros) to the State.

Picture 12. Lawfully hunted game. (Silja Hallenberg)
Wolf hatred prevailing in some extent in Finland and illegal wolf kills have received a lot of attention in the media in recent years. Since the provision on an aggravated hunting offence entered into force, criminal investigation authorities have filed 71 aggravated hunting offences in total by the end of 2016. In 2016, there were 16 suspected cases of aggravated hunting offences filed in the Crime Report Index. The corresponding figure for the year 2015 is 16. Only in four reported cases the police or border guard failed to identify the perpetrator. Criminal authorities have conducted investigations successfully e.g. by detecting suspected offences through various forms of surveillance. Investigations have also included taking coercive means limiting personal liberty and doing various kinds of forensic examinations both at crime scenes and in laboratory facilities. Target animals of aggravated hunting offences in 2016 were in seven cases a wolf, in five cases a bear, and in one case, a lynx and wolverine. The aggravated hunting offences filed in 2016 are as follows:

- Almost all of the offences were committed in Northern and Eastern Finland.
- A total of 11 criminal incidents were reported in Northern Finland and 2 incidents in Eastern Finland.
- In Southwest Finland, criminal investigation authorities investigated a case of unlawful wolf hunt in which in which encapsulated shots were found in the carcass of a lawfully killed wolf. So, the initial scene of this offence may well be in another province.
- It may well be assumed that only part of hunting related

crime is reported to the police or other criminal investigation authorities, because most often it is a question of the dark figure of crime (poaching). Also, laws of silence prevailing among local people and hunters may be so strict that hunting offences are not reported to the authorities, and as they are, investigation into the suspected offences is difficult. In 2016, the border guard investigated a total of three hunting offences which all concerned hunting bears using unlawful methods.

### 6.3.3 Fishing offence, Criminal Code, Ch. 48a, s 2

Among others, a person who fishes to a considerable extent in violation of a provision regarding the protection of fish or crayfish, fishing tackle or the minimum size of fish or crayfish shall be sentenced for a fishing offence. The penalty scale runs from a fine to imprisonment for at most two years.

### 6.3.4 Forestry offence and timber offence, Criminal Code, Ch. 48a, s 3 and s 3b

A person who fells a forest in violation of a provision the Forest Act or violates provisions of the Forest Act or a provision or order issued on its basis pertaining to protected forest areas or protected areas shall be sentenced for a forestry offence. A person, who in violation of the EU Timber Regulation launches unlawfully felled timber or any products made of such timber, shall be sentenced for a timber offence. Maximum punishment for a forestry offence is imprisonment for two years and for a timber offence, imprisonment for six months.

### 6.3.5 Concealing of poached game and aggravated concealing of poached game, Criminal Code, Ch. 48a, s 4 and s 4a

A person who hides, obtains, transports, conveys or markets game that has been obtained through a hunting offence or fishing offence shall be sentenced for concealing of poached game.
game. The penalty scale runs from a fine to imprisonment for twelve months. In the case of aggravated form of the offence, the minimum punishment is a fine and the maximum punishment is imprisonment for three years.

6.4 Offences endangering health and safety provided for in the Criminal Code

Chapter 44 of the Criminal Code contains provisions on offences that may have a significant effect on the environment. The provision protects e.g. human life and health as well as property. In respect to protecting the environment, the above-described provisions of the Criminal Code are applied.

6.4.1 Health offence, endangerment of health and aggravated endangerment of health (Criminal Code, Ch. 14, s 1 and Ch. 34, SS 4-5)

A health offence may be committed by a person, who deliberately or through gross negligence and in violation of the Pesticide Act, Product Safety Act, Chemical Act, Health Protection Act, Foodstuffs Act or Act on Hygiene of Foodstuffs Derived from Animals produces, handles, imports or deliberately attempts to import, keeps in his possession, stores, transports, keeps for sale, conveys or gives goods or substances so that the act is conducive to endangering the life or health of another person. The penalty scale runs from a fine to imprisonment for at most six months.

A person, who operates a radiation source in violation of the Radiation Act, uses nuclear energy or nuclear waste or acts in the use of nuclear energy in violation of the Nuclear Energy Act, or uses organisms that have been altered through genetic technology in a closed environment or intentionally spreads organisms that have been altered through genetic technology into the environment, in violation of the Genetic Technology Act so that the act is conducive to causing general danger to life or health, shall be sentenced for endangerment of health. The minimum punishment would be imprisonment for four months, and the maximum, for four years. If the endangerment of health is committed so that serious danger is caused to the life or health of a great number of people and the offence is aggravated also when assessed as a whole, the offender shall be sentenced for aggravated endangerment of health to imprisonment for at least two and at most ten years.

6.4.2 Explosives offence and radioactive material possession offence (Criminal Code, Ch. 44, s 9 and s 12 a)

An explosives offence deals with violating the Explosive Substances Act or a provision or an order in general. The penalty scale runs from a fine to imprisonment for at most two years.

The police investigate approximately 100 - 150 explosives offences in a year. An explosive offence is usually detected in the context of a search of premises made in respect to some other offence, as there are unlawful (e.g. stolen) explosives found in the search.

6.4.3 Careless handling, Ch. 44, s 12

Careless handling may be committed by a person who uses, handles or stores a firearm, fire or an explosive substance or product, a chemical dangerous to health or the environment or combustible and explosive, or a radioactive substance so that the act is conducive to causing a danger to the life or health of another or so that it endangers the property of another. The penalty scale runs from a fine to imprisonment for at most six months. The police investigate around 200 - 300 cases of careless handling in a year.

Examples of court rulings in 2016

CARELESS HANDLING, Ch. 44, s 12

East Uusimaa District Court on 07 June 2016, decision number 16/124745, case ref. R 15/570
The defendant had negligently handled a chemical that is dangerous to the health and environment by pouring petrol to the ground next to a back door of a restaurant and trying to ignite the petrol with a help of matches. The defendant was sentenced for this and several other offences to prison for a year. The prison sentence was conditional.

6.4.4 Transport of dangerous substances offence, Ch. 44, s 13

A person, who violates the Act on the Transport of Dangerous Goods in a manner defined in the essential elements so that the action is conducive to endangering the life or health of another or the property of another, shall be sentenced for a transport of dangerous substances. Almost twenty cases are reported to the authorities each year.

Examples of court rulings in 2016

TRANSPORT OF DANGEROUS SUBSTANCES OFFENCE, Ch. 44, s 13

Helsinki District Court on 31 August 2016, decision number 16/134505, case ref. R 15/9030

The defendants had collected 37 batteries from various parts of Finland without required permits and reports. The batteries weighed 923 kilos in total. The defendants had loaded and packed the batteries in a van and driven the overloaded vehicle without required means of security on public roads to the Port of Helsinki. They were about to leave with the cargo on a passenger ship when authorities intervened and prevented the export of waste. The district court found that transporting used batteries considered as hazardous waste with an intention to take them out of the country without a required permit for transferring waste material was conducive to causing impairment of the environment and littering and to causing danger to the health. The purpose of the permit procedure is to control that transporting and exporting hazardous waste take place in line with respective regulations and that the final repository and disposal of the hazardous waste meet the requirements set for protecting the environment. There was no certainty of the defendants’ intentions or final destination where there defendants intended to take the batteries. So, the way in which the batteries were to be destroyed, may be conducive to a risk of impairing the environment. The district court considered that the defendants had committed the act in question together and thus found them guilty for an attempted impairment of the environment and impairment of the environment in accordance with the charge. The van in use by the defendants did not meet the required standards, nor was the load packed in a proper manner e.g. to avoid short circuit or to prevent leakage and movement.

The district court found the defendants guilty of a transport of dangerous substances offence and impairment of the environment and imposed 50 collective day fines. The district court imposed a driving ban of more than seven months to the driver of the van.

6.5 Punishable acts against the Water Act

Penal provisions are included in the Water Act, Chapter 16. Punishable acts include a permit violation against the Water Act and violation of the Water Act. A person undertaking e.g. a water sources management project without a required permit may be considered as violation of a permit under the Water Act whereas a violation of the Water Act may consist of e.g. preventing the free flow of water or passage in a water body or neglecting an obligation to report.

Examples of court rulings in 2016

PERMIT VIOLATION AGAINST THE WATER ACT, Ch. 16, s 2

North Karelia District Court on 10 February 2016, decision number 16/105970, case ref. R 16/1682

The defendant had undertaken a dredging project on a lake shore without a permit required by the Water Act. He had notified the ELY Centre of the project in accordance with the Water Act, Ch. 2, s 6(3), and due to the notification, the ELY centre inspected the site on 03 October 2014. It was found in the inspection that the dredging project had been completed, although according to the Water Act, Ch. 2, s 15, the above-mentioned notification must be given 30 days prior to commencing any measure so that the ELY centre has an opportunity to take action if it is considered that a permit is needed for the project. The defendant had commissioned a dredging company to carry out the project despite the fact that according to the Water Act, Ch. 2, s 11, it is prohibited to endanger the natural state of lake with a maximum area of one hectare and no measures were allowed to be taken without an exception to the prohibition granted by the supervisory authority. The district court imposed five day fines to the defendant.

6.6 Punishable acts against other Acts

There are about a dozen penal provisions on acts directly or indirectly relating to the environment, all scattered around the legislation. Such provisions are e.g. section 147 of the

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Environmental crime report 2017

215 cases of violations of the Waste Act a total of 602 violations of the environment filed by the criminal investigation authorities in 2012–2016 are presented in Table 9.

When any of the penal provisions are examined as such, it is easy to see that some of them have not become topical ever, for example chemical offence, building protection violation or companies have neglected their duty to take care of their own waste (e.g. household waste, pieces of furniture, household appliances, building waste) and dumped them, for example in woods. Charges are incurred to the society and sometimes to private property owners, too, from cleaning.

Waste violations investigated by the customs have mainly concerned transport of waste electrical and electronic equipment (WEEE) and used batteries to Estonia and other Baltic countries by Estonian, Latvian and Lithuanian citizens.

Examples of court rulings in 2016

VIOLATION OF THE WASTE ACT (Waste Act, § 147)

Oulu District Court of 28 July 2016, decision number 16/130625, case ref. 16/864

In violation of the Waste Act, § 72, the defendant had taken cardboard and paper, some pieces of furniture and an old Christmas tree to a dumpster on a yard of a city-owned indoor swimming pool. Apparently partly due to a heavy wind, the waste material flew around and ended up scattered around the yard and the janitor had to collect it. The district court imposed ten day fines to the defendant, who also had to pay 100 euros as damages to the city to cover the cleaning costs.

6.6.2 Detected oil discharges and imposed administrative oil discharge fees

In addition to Finland’s inner and outer territorial waters and exclusive economic zone, the Border Guard monitors oil discharges in territorial waters of Estonia in the Gulf of Finland and the territorial waters of Sweden in the Gulf of Bothnia. The oil discharges observed directly during monitoring in the exclusive economic zone and the sea areas can be effectively proven, and the administrative oil discharge fee can be imposed on the party responsible for the spill.

The border guard uses Dornier airplanes on a daily basis to monitor the situation in the Finnish territorial waters. The border guard takes part in international cooperation following the principles set by HELCOM, the Baltic Marine Environment Protection Commission. This cooperation has proved its efficiency in detecting oil discharges in practise. Seaways with busy traffic are monitored in cooperation with Swedish and Estonian authorities. Cross-border cooperation is important especially in the Gulf of Finland where ships sail along the border between Estonian and Finnish exclusive economic zones. Finland also takes actively part in international operations where a certain sea area is monitored by patrol planes from several countries.

Finnish, Swedish and Estonian aircrafts used in monitoring sea traffic in the Baltic Sea have been up-to-date by installing new monitoring equipment and with the help of them; monitoring sea traffic is also possible in bad weather conditions and in the dark. A Side Looking Airborne Radar (SLAR) can be used to detect oil discharges even tens of kilometres off the flight path of the monitoring aircraft. The planes have also necessary devices for vessel identification. In 2016, more than 250 radar satellite images covering the area of Finland were received from the CleanSeaNet service, a European satellite-based oil spill and vessel detection service of the European Maritime Safety Agency (EMSA).

A total of 41 oil discharges in Finnish territorial waters was reported to the border guard in 2016 while the number of reported cases in 2015 was 66. Most of the oil spills were detected within easy reach of a port or coast, and they were

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<td>602</td>
</tr>
<tr>
<td>Off-road traffic violation</td>
<td>282</td>
<td>323</td>
<td>200</td>
<td>233</td>
<td>251</td>
</tr>
<tr>
<td>Violation of the Nature Conservation Act</td>
<td>18</td>
<td>31</td>
<td>47</td>
<td>36</td>
<td>29</td>
</tr>
<tr>
<td>Violation of the Extractable Land Resources Act</td>
<td>2</td>
<td>2</td>
<td>5</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Violation of the Act on Fishing on the Tornionjoki Fishing Zone</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Transport violations (hazardous substances)</td>
<td>13</td>
<td>7</td>
<td>7</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Yhteensä</td>
<td>1160</td>
<td>1500</td>
<td>1423</td>
<td>1336</td>
<td>1107</td>
</tr>
</tbody>
</table>

Table 9. Other punishable acts against the environment filed by the criminal investigation authorities in 2012–2016.

---

Yhteensä

1160 1500 1423 1336 1107

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VIOLATION OF THE WASTE ACT (Waste Act, § 147)

Oulu District Court of 28 July 2016, decision number 16/130625, case ref. 16/864

In violation of the Waste Act, § 72, the defendant had taken cardboard and paper, some pieces of furniture and an old Christmas tree to a dumpster on a yard of a city-owned indoor swimming pool. Apparently partly due to a heavy wind, the waste material flew around and ended up scattered around the yard and the janitor had to collect it. The district court imposed ten day fines to the defendant, who also had to pay 100 euros as damages to the city to cover the cleaning costs.

6.6.2 Detected oil discharges and imposed administrative oil discharge fees

In addition to Finland’s inner and outer territorial waters and exclusive economic zone, the Border Guard monitors oil discharges in territorial waters of Estonia in the Gulf of Finland and the territorial waters of Sweden in the Gulf of Bothnia. The oil discharges observed directly during monitoring in the exclusive economic zone and the sea areas can be effectively proven, and the administrative oil discharge fee can be imposed on the party responsible for the spill. The border guard uses Dornier airplanes on a daily basis to monitor the situation in the Finnish territorial waters. The border guard takes part in international cooperation following the principles set by HELCOM, the Baltic Marine Environment Protection Commission. This cooperation has proved its efficiency in detecting oil discharges in practise. Seaways with busy traffic are monitored in cooperation with Swedish and Estonian authorities. Cross-border cooperation is important especially in the Gulf of Finland where ships sail along the border between Estonian and Finnish exclusive economic zones. Finland also takes actively part in international operations where a certain sea area is monitored by patrol planes from several countries. Finnish, Swedish and Estonian aircrafts used in monitoring sea traffic in the Baltic Sea have been up-to-date by installing new monitoring equipment and with the help of them; monitoring sea traffic is also possible in bad weather conditions and in the dark. A Side Looking Airborne Radar (SLAR) can be used to detect oil discharges even tens of kilometres off the flight path of the monitoring aircraft. The planes have also necessary devices for vessel identification. In 2016, more than 250 radar satellite images covering the area of Finland were received from the CleanSeaNet service, a European satellite-based oil spill and vessel detection service of the European Maritime Safety Agency (EMSA).

A total of 41 oil discharges in Finnish territorial waters was reported to the border guard in 2016 while the number of reported cases in 2015 was 66. Most of the oil spills were detected within easy reach of a port or coast, and they were

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Waste violation</td>
<td>59</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Violation of the Waste Act</td>
<td>173</td>
<td>222</td>
<td>201</td>
<td>193</td>
<td>215</td>
</tr>
<tr>
<td>Fishing violation</td>
<td>613</td>
<td>915</td>
<td>962</td>
<td>865</td>
<td>602</td>
</tr>
<tr>
<td>Off-road traffic violation</td>
<td>282</td>
<td>323</td>
<td>200</td>
<td>233</td>
<td>251</td>
</tr>
<tr>
<td>Violation of the Nature Conservation Act</td>
<td>18</td>
<td>31</td>
<td>47</td>
<td>36</td>
<td>29</td>
</tr>
<tr>
<td>Violation of the Extractable Land Resources Act</td>
<td>2</td>
<td>2</td>
<td>5</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Violation of the Act on Fishing on the Tornionjoki Fishing Zone</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Transport violations (hazardous substances)</td>
<td>13</td>
<td>7</td>
<td>7</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Yhteensä</td>
<td>1160</td>
<td>1500</td>
<td>1423</td>
<td>1336</td>
<td>1107</td>
</tr>
</tbody>
</table>
very minimal in respect to quantity. Detection of possible oil leaks is focused on Finnish sea area and exclusive economic zone. Similar to recent years, not very many oil spills were detected in these areas. Administrative investigation into prerequisites for imposing an administrative oil discharge fee was started in nine cases in 2016. Taken into account the amount of leaked oil, all spills were small and detected in ports. Oil discharge fees were ordered in two cases. These two fees were the very first ones ordered in the province of Åland. Investigation into eight cases continues in 2017.

An appeal concerning an oil discharge fee imposed by the border guard in 2011 is pending in the Supreme Court. The appeal procedure in this case started in 2011, and all court levels have handled the case in respect to various legal questions. In 2014, the Supreme Court repealed the ruling made by the Court of Appeal that had exempted the appellant from liability to pay the oil discharge fee imposed by the border guard, and referred the case back to the Court of Appeal. The Court of Appeal considered the case again, and stayed the oil discharge fee imposed by the border guard in force. In 2015, the Supreme Court granted a leave of appeal in respect to the most recent Court of Appeal’s ruling to the appellant. In 2016, the Supreme Court postponed hearing the case and requested a preliminary ruling from the Court of Justice of the European Union. When the preliminary ruling is available, the Supreme Court will decide the case. So, handing the case continues in 2017.

6.6.3 Criminal investigation of oil discharges from ships

In accordance with the Memorandum of Understanding between the police and Border Guard, responsibility for criminal investigation into detected oil discharges in the Finnish territorial waters and exclusive economic zone was transferred from the police to the border guard since the beginning of 2011. However, the police still investigate oil discharges from ships in inland water areas and also cases where the nature or scope of criminal investigation measures so require. The police may also demand that criminal investigation be transferred to it because of, for example, a connection to some other serious offence.

In the border guard criminal investigation into oil discharges from ships as well as administrative investigation of oil discharge fees, has been centralised at the West Finland Coa‐

tguard District. Investigations are carried out by a head of investigation and investigators specialised in environmental offences committed at sea. The Gulf of Finland Coast‐
guard District and the Air Patrol Squadron assist the West Finland Coa‐
tguard District in measures relating to criminal investigation of oil discharges from ships.

In 2016, criminal investigation was conducted in eight cases of oil discharges from ships, of which five criminal investigations were concluded. A penal order for environmental violation was issued in penal order proceedings in two cases, two cases were forwarded to prosecution for consideration of charges, and in one case the head of investigation decided to close the investigation as there was no-one to charge. Investigation into other cases continues in 2017.
6.7 Environmental offences forwarded to prosecutors and courts of law

According to the Prosecution Authority’s statistics, the annual numbers of environmental and natural resources offences (hereafter environmental offences) received by prosecutors are as follows:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Impairment of the environment, Ch. 48, s 1</td>
<td>58</td>
<td>52</td>
<td>75</td>
<td>65</td>
<td>62</td>
</tr>
<tr>
<td>Aggravated impairment of the environment, Criminal Code, Ch. 48, s 2</td>
<td>2</td>
<td>7</td>
<td>7</td>
<td>9</td>
<td>3</td>
</tr>
<tr>
<td>Environmental infraction, Criminal Code, Ch. 48, s 3</td>
<td>24</td>
<td>29</td>
<td>32</td>
<td>18</td>
<td>35</td>
</tr>
<tr>
<td>Negligent impairment of the environment, Criminal Code, Ch. 48, s 4</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Nature Conservation Offence, Criminal Code, Ch. 48, s 5</td>
<td>20</td>
<td>16</td>
<td>24</td>
<td>23</td>
<td>8</td>
</tr>
<tr>
<td>Building protection offence, Ch. 48, s 6</td>
<td>4</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>112</strong></td>
<td><strong>109</strong></td>
<td><strong>141</strong></td>
<td><strong>120</strong></td>
<td><strong>114</strong></td>
</tr>
</tbody>
</table>

Table 10. Environmental offences and infractions forwarded to prosecutors in 2012 - 2016.

<table>
<thead>
<tr>
<th>National resources offences against the Criminal Code</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hunting offence, Criminal Code, Ch. 48a, s 1</td>
<td>82</td>
<td>76</td>
<td>96</td>
<td>97</td>
<td>40</td>
</tr>
<tr>
<td>Aggravated hunting offence, Ch. 48a, s 1a</td>
<td>4</td>
<td>6</td>
<td>6</td>
<td>7</td>
<td>2</td>
</tr>
<tr>
<td>Fishing offence, Criminal Code, Ch. 48a, s 2</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Forestry offence, Ch. 48a, s 3</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Unlawful exploitation of mineral resources in the Antarctic, Ch. 48a, s 3a</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Timber offence, Ch. 48a, s 3b</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Concealing pouched game, Ch. 48a, s 4</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Aggravated concealing pouched game, Ch. 48, s 4a</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>91</strong></td>
<td><strong>87</strong></td>
<td><strong>108</strong></td>
<td><strong>105</strong></td>
<td><strong>44</strong></td>
</tr>
</tbody>
</table>

Table 11. Natural resources offences forwarded to prosecutors in 2012 - 2016.

<table>
<thead>
<tr>
<th>Offences endangering health and safety provided for in the Criminal Code</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health offence, Criminal Code 44, s 1</td>
<td>3</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Endangerment of health, Ch. 34, s 4</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Aggravated endangerment of health, Ch. 34, s 5</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Causing a risk of spreading an animal disease, Ch. 44, s 4a</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Genetic technology offence, Ch. 44, s 9</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Nuclear energy use offence, Ch. 44, s 10</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Explosives offence, Ch. 44, s 9</td>
<td>52</td>
<td>34</td>
<td>58</td>
<td>62</td>
<td>46</td>
</tr>
<tr>
<td>Careless handling, Ch. 44, s 11</td>
<td>64</td>
<td>49</td>
<td>39</td>
<td>46</td>
<td>66</td>
</tr>
<tr>
<td>Radioactive material possession offence, Ch. 44, s 12a</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Transport of dangerous substances offence, Ch. 44, s 13</td>
<td>13</td>
<td>7</td>
<td>7</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>132</strong></td>
<td><strong>93</strong></td>
<td><strong>107</strong></td>
<td><strong>113</strong></td>
<td><strong>122</strong></td>
</tr>
</tbody>
</table>

Table 12. Offences endangering health and safety forwarded to prosecutors in 2012 - 2016.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Permit violation against the Water Act, Ch. 16, s 2</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Violation of the Water Act, Ch. 16, s 3</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>3</strong></td>
<td><strong>1</strong></td>
<td><strong>6</strong></td>
<td><strong>4</strong></td>
<td><strong>2</strong></td>
</tr>
</tbody>
</table>

Table 13. Offences against the Water Act forwarded to prosecutors in 2012 - 2016.
In 2016, prosecutors pressed charges in offences referred to in the Criminal Code, Ch. 48 in 59 times i.e. in 46.46% of the cases. They spent 4.4 months in average in considering charges. In respect to offences referred to in the Criminal Code, Ch. 48a, they pressed charges 53 times corresponding to 70.67% of the cases. In these cases, they spent 2.4 months in average in considering charges.

Punishment for imputable environmental offences is most often day fines - 30 day fines in average. In the most serious cases, environmental offences have led to imprisonment.

6.8 Environmental offences reported to the criminal authorities and transferred to prosecution for consideration of charges

The Monitoring Group has monitored environmental crime in Finland since 1997. Penal provisions on environmental offences that may lead to imprisonment are collected in the Criminal Code. There are more lenient penal provisions, however, included in several other laws. This has an effect on monitoring environmental crime as well on assessing which offences are to be regarded as environmental offences. Several acts related to environmental matters in one way or another are penalised by law. That is why it is difficult to comprehensively cover all such environmental crimes and negligent acts.

This report focuses mainly on offences against the Criminal Code and environmental offences reported to the criminal investigation authorities concerned are presented on the basis of the violated Act. Authorities conducting criminal investigation into environmental crime are the Police, Customs Administration and Border Guard. Statistics on environmental offences are compiled on the basis of the offence investigated. The title of the case may change when the case is referred to the prosecution, and again in the court procedure. Environmental crime statistics do not reflect the actual state of the environment or tell anything about possible risks, because most often it is a question of the dark figure of crime i.e. crimes that are not reported to the police. Environmental offences filed and investigated by the customs authorities as well as violations containing various kinds of elements of environmental crime have mainly concerned transport of waste electrical and electronic equipment (WEEE) and used batteries. Nature conservation offences and violations have mainly consisted of products made of animals and plants subject to licence brought from abroad as postal deliveries and imports by travellers. In some cases, the offence was committed in the context of business. In the investigated cases, offenders have been Finnish and foreign private persons as well as Finnish legal persons. Their modus operandi have been described in more detailed above. Compared to the previous year, the number of environmental offences and nature conservation offences has remained almost the same. Offences investigated by the border guard are typically offences revealed in the context of border control carried out outside border crossing points. The border guard are well placed to carry out environmental monitoring, since they perform ground, maritime and air surveillance and they have the appropriate equipment to carry out the tasks. Environmental offences are also reported to the border guard by third parties. The number of environmental and nature resources offences into which the border guard conducted criminal investigation, remained close to the one in the previous year. The total number of environmental offences and violations filed by the border guard in 2016 was 186 whereas in 2015, the number of was 189.

In addition to the above offences, the border guard also filed 17 hunting violations (2015: 11 cases), 3 violations of the Hunting Act (2015: 2 cases) and 10 game offences (2015: 8 cases). Criminal investigation was also commenced in a suspected hunting violation in the province of Åland (2015: no cases). The border guard also files two violations of marine environmental protection violations (2015: 1 case).

### Table 14. Other environmental offences forwarded to prosecutors in 2012 - 2016.

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Waste violation</td>
<td>13</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Violation of the Waste Act</td>
<td>6</td>
<td>19</td>
<td>24</td>
<td>18</td>
<td>23</td>
</tr>
<tr>
<td>Fishing violation</td>
<td>17</td>
<td>12</td>
<td>11</td>
<td>11</td>
<td>4</td>
</tr>
<tr>
<td>Off-road traffic violation</td>
<td>6</td>
<td>11</td>
<td>9</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>Violation of the Nature Conservation Act</td>
<td>4</td>
<td>5</td>
<td>8</td>
<td>9</td>
<td>8</td>
</tr>
<tr>
<td>Violation of the Extractable Land Resources Act</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>46</td>
<td>52</td>
<td>53</td>
<td>45</td>
<td>49</td>
</tr>
</tbody>
</table>

### Table 15. Trend in the number and proportion of charges dismissed in full or in part in 2012 - 2016.

<table>
<thead>
<tr>
<th>Year</th>
<th>Sentenced as charged</th>
<th>Charge dismissed in full or in part</th>
<th>Percentage of dismissed cases (%)</th>
<th>All decisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>153</td>
<td>19</td>
<td>9,30 %</td>
<td>203</td>
</tr>
<tr>
<td>2013</td>
<td>53</td>
<td>9</td>
<td>9,80 %</td>
<td>122</td>
</tr>
<tr>
<td>2014</td>
<td>92</td>
<td>24</td>
<td>18,40 %</td>
<td>130</td>
</tr>
<tr>
<td>2015</td>
<td>95</td>
<td>28</td>
<td>16,50 %</td>
<td>170</td>
</tr>
<tr>
<td>2016</td>
<td>122</td>
<td>30</td>
<td>18,98 %</td>
<td>158</td>
</tr>
</tbody>
</table>
Some vessels were suspected of using fuel with a lead content exceeding the allowed limit. The rise in the number of fishing violations and hunting violations investigated by the border guard was particularly significant when compared to the previous year.

### 6.9 Summary of the court decision issued in the Talvivaara environmental case

**KAINU DISTRICT COURT** on 13 May 2016, decision number 119685
District prosecutor Heikki Ylisirniö

**Prosecutor’s claims**

Four defendants were prosecuted for aggravated impairment of the environment. Prosecutor also demanded a corporate fine of 850,000 euros to be imposed to Talvivaara Sotkamo Oy (Company). A total of approximately 13.3 million euros was also to be jointly forfeited from the defendants and the Company as financial proceeds from the crime.

**Court ruling**

The district court imposed 90 day fines to Company's CEO and chair of the board, Mr. Pekka Perä for impairment of the environment and 60 day fines for impairment of the environment to Mr. Harri Natunen, who was the Company's CEO for seven months since April 2012 and after that, production manager. The district court also imposed 60 day fines for impairment of the environment to Mr. Lassi Lammassaari, the Company’s production manager. The charge against the division head of the metals recovery plant was dismissed. The claim for forfeiture against the private defendants was dismissed.

The district court imposed a corporate fine of 300,000 euros and ordered the Company to pay compensation of 3.5 million euros obtained as proceeds from crime on the Company.

**Modus operandi per themes:**

1. **Controlled releases of excess waters to waterways near the mine**

The charge concerned the design and research phase of the Talvivaara mine as well as the application phase for environmental and water management permits. The district court considered that the Company had neglected research and establishing the ways in which limewater rich with sodium used as a process chemical affected the consistency of waste water as well as updating information on water releases referred to in the permit application to correspond to the actual amount used. Due to the neglect, the application for water management permit included inadequate and significantly false data on concentrations of sodium and sulphate in the water discharge from the mine as this data was based on inadequate reporting of research results. The district court considered that due to the neglect, the Company could not trust and base its operations relating to sulphate and sodium discharges on the environmental permit issued to the company and found that these discharges took place without a permit required by law.

The district court dismissed other charges concerning negligence in the design phase of the mining project and environmental permit application phase on the basis of insufficient evidence produced. The district court also found that in respect to manganese, data on the water discharge given in the application for a water management permit was not binding and no limit value had been set for manganese in the permit provisions.

The district court considered proven that the Company had neglected to see that the impact of adding scrubbers increasing the use of sodium was established. In addition, the Company had neglected to research the environmental impact and hazards to the waterways caused by the consistency of the wastewater that was different from what was anticipated or the ways to diminish harmful impact. The district court found Mr. Perä guilty as charged.

The district court found that it had not been proven that the Company would have neglected to take necessary measures without delay to prevent impairment of the environment when the immediate hazards of impairment of the environment caused by mining operations became evident in the autumn of 2010.

2. **Uncontrolled water discharges and gypsum waste pond spills**

The charge concerned construction of a gypsum waste pond and the way it was used. The district court found that structural solutions designed and built in the gypsum waste pond were in violation of terms of the water management permit in respect to drains and surfaces of the construction aggregate although they did not have any other impact on the leakage from the gypsum waste pond but increasing the environmental impact of the leak in March 2010. According to the district court, the negligence was not against the private defendants’ obligations or to be considered as negligent acts by them. The district court considered that prosecutor had not produced sufficient evidence to support his claim on the gypsum waste pond having been designed and built so that the pond would not meet provisions of the waste management permit in respect to the structure, properties and purpose of use.

The district court found that in March 2010, November 2012 and April 2013, the Company had discharged sour water or sludge bearing metals and high amounts of sulphate and sodium to the environment by using the gypsum waste pond contrary to the terms of the water management permit. This unauthorised use of the gypsum pond was significantly conducive to the fact that the bottom of the pond and safety dam deteriorated allowing water or slurry spill from the pond.

The district court considered that since October 2008, since the production was started in the metals recovery plant and waste processing was started in each segment of the gypsum waste pond, the Company had neglected to see that they were used in line with the terms of the water management permit. The district court found that the leak in March 2010 resulted from that negligence. Contrary to the water management permit, the gypsum waste pond was used as reservoir for drying waters from the open pit. Those waters do not belong there, and are therefore considered as excess waters. The district court found Mr. Perä and Mr. Lammassaari guilty as charged.
The discharge in November 2012 resulted from Mr. Natunen's negligence to see that the gypsum waste pond was used in line of the water management permit. Mr. Natunen was the Company's CEO in the summer and autumn of 2012. Contrary to the permit terms, Mr. Natunen decided to discharge raffinate of approximately a million cubic metres to the gypsum waste pond walls of which had been raised earlier in the summer of 2012. The district court considered that Mr. Natunen had discharged water or slurry from the gypsum waste pond to the environment and found him guilty as charged.

3. Handling and placing process waters and waste fractions
The charge concerned handling and placing process waters and waste fractions. The district court considered that prosecutor did not produce enough evidence to prove that information on capacity of the basins used in collecting and for security referred to in the application for waste management permit was false or that the company had neglected to build the basins in question big enough.

The company had made significant changes in the permitted mining operations so that instead of one waste fraction, two waste fractions resulting from different precipitation methods were directed to the gypsum waste pond for final disposal. The district court considered that the Company had neglected to apply a permit for the change. In addition, the Company handled and stored these waste fractions in violation of the Waste Act. However, the district court found that these neglect acts would have been in violation of the private defendants' obligations and/or negligent acts. In May 2012, the Company released waters in the gypsum waste pond into the environment as well as raffinate and secondary liquid during the time between December 2012 and January 2014 running them to the open in violation of the permit terms. In respect to the incident in May 2012, the district court considered that there were no sufficient grounds given for Mr. Natunen's and Mr. Perä's involvement, so it was not possible make conclusions regarding their involvement and criminal liability. So, the district court did not find Mr. Perä or Mr. Natunen criminally liable for these actions. The district court found Mr. Perä responsible for the incidents between December 2013 and January 2014, but did not find him criminally liable, because the act was allowed due to distress and therefore, not unlawful.

4. Risk of impairment of the environment and impact of water discharges
The district court considered that water discharges, for which Mr. Perä, Mr. Lammassaari and Mr. Natunen were found criminally responsible, had been conducive to causing impairment of the environment, other similar damage to the environment and a health hazard. It was not proven, however, that the water discharges would have been conducive to causing a concrete health hazard or damage to public health.

The district court considered that controlled water discharges to the environment increased significantly levels of sulphate and sodium in the nearby waterways. That in turn was conducive to causing layering in some of the waterways, preventing natural circulation of water and acidification of the water. They caused or were at least conducive to cause impairment of the waterways at least all the way to Kalliojoki river in the North and to Kivijärvi lake in the South and a concrete risk of impairment all the way to Jormasjärvi lake in the North and to the northern part of Laakajärvi lake in the South.

According to the district court, the defendants' action was not to be considered aggravated when assessed as a whole taking into account e.g. that negligent actions resulting in the controlled water discharges and spills took place in the context of routine mining operations without anything that was totally exceptional to the operations present.

7 Conclusions
The Finnish National Group for Monitoring of Environmental Offences has published a total of eighteen reports over the years, both in Finnish and in English. One of the Annual Reports sent to Interpol was considered as a model report due to an exceptionally wide scope of cooperation between authorities.

In the Annual Reports, the Monitoring Group has made numerous recommendations for action and introduced future trends. Towards the end of 2014, the Ministry of the Environment and the Ministry of the Interior set up a joint working group to prepare a draft for national strategy and action plan in environmental crime prevention. The National Environmental Crime Prevention Strategy and the related Action Plan have contributed to the implementation of some of the previous Recommendations made by the Monitoring Group.

In the view of the Monitoring Group, the most important goal today is full implementation of the National Environmental Crime Policy and Action Plan. One of the most important tasks is to study how administrative sanctioning could be extended to cover lenient environmental offences, too. The aim is also to investigate whether it is necessary to extend administrative sanctioning to cover certain other environmental violations committed by legal persons. The Monitoring Group is of the view that extending the scope of imputability of a legal person may be worth of further consideration in order to guarantee that sanctions for offences committed by legal persons would be the same in similar cases.

Environmental offences may produce significant criminal proceeds or unlawful benefit to offenders. In order to prevent offenders from gaining profit from environmental crime, authorities should pay particular attention to tracing criminal proceeds and possibilities to forfeit the unlawful benefit in the criminal investigation.

Results from monitoring waste shipments are so positive that the Monitoring Group encourages and invites each of the regional environmental groups to plan and organise annual traffic stop operations in line with the theme of monitoring waste shipments. Such operations are important in two ways: they prevent general members of the public from committing waste offences and offenders from committing them again.