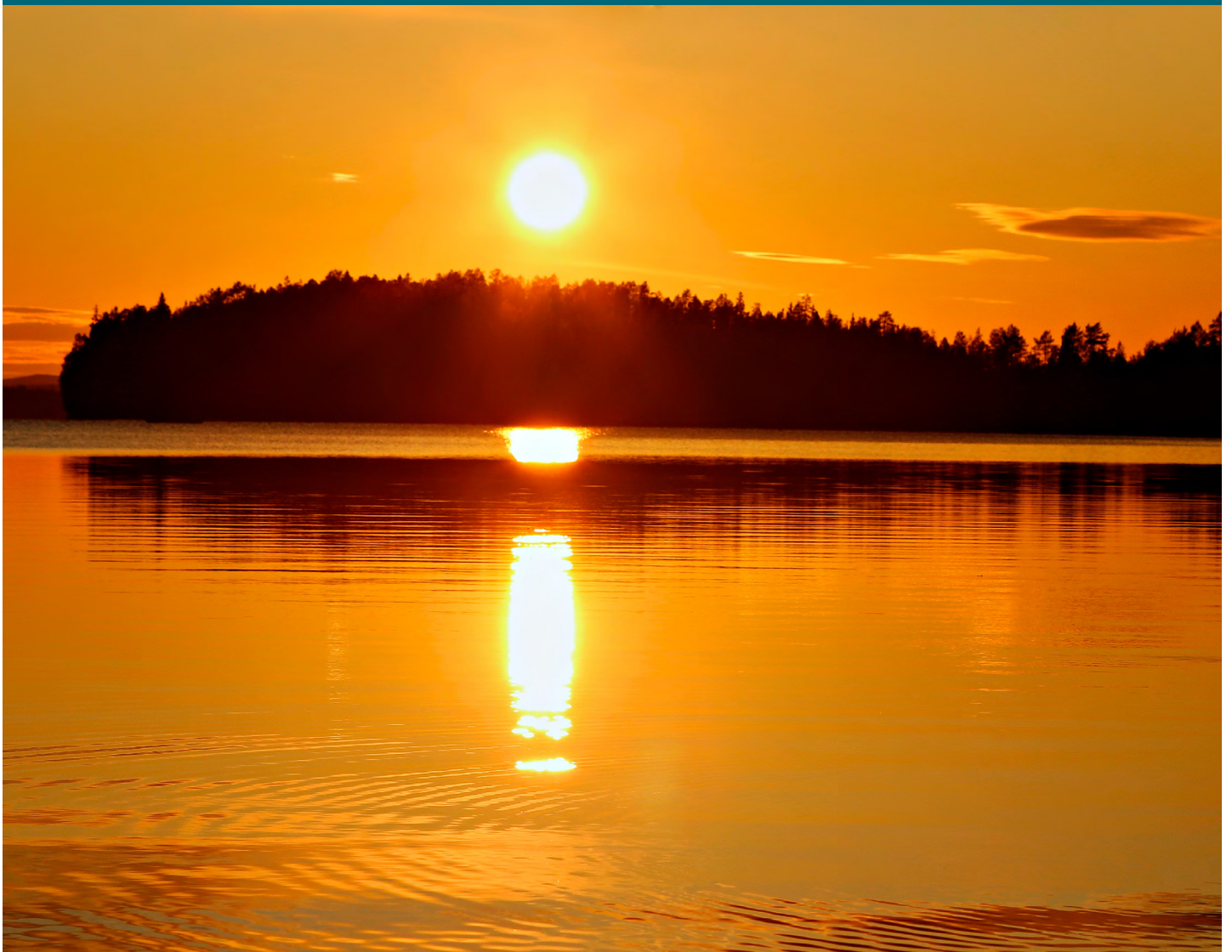


ENVIRONMENTAL CRIME REPORT 2020

The National Working Group on Monitoring Environmental Crime 01 July, 2020



Content

1 Introduction	2
2 Inter-agency cooperation	2
3 Environmental training in the Police University College	3
4 Questions relating to the assessing the amount of criminal proceeds	4
5 International legal and police-to-police assistance in environmental crime cases	4
6 Environmental crime related threats	4
6.1 Situation in Finland.....	4
6.2 Situation abroad	5
7 International operations.....	7
7.1 International cooperation.....	7
7.2 Eurojust and environmental offences.....	8
7.3 International surveillance operation – 30 Days at Sea	8
8 International instruments and national legislation on environmental crime	9
8.1 International treaties on environmental crime.....	9
8.2 EU law on environmental crime	9
8.3 Finnish legislation on environmental crime	10
8.4 Recent changes in the EU legislation and Finnish laws on the environment	10
9 Supervision and control.....	11
9.1 Supervision and control of environmental laws	11
9.1.1 Duties of the ELY Centres and municipal environmental authorities.....	11
9.1.2 Duties of the Finnish Environment Institute	14
9.1.3 Duties of the Finnish Safety and Chemicals Agency	14
9.2 Police.....	14
9.2.1 Duties of the police.....	14
9.3 Border Guard	15
9.3.1 Duties of the Border Guard	15
9.3.2 Administrative oil discharge fee	16
9.3.3 Criminal sanctions and the administrative oil discharge fee	17
9.3.4 Command of marine environmental accident response operations transferred to the Border Guard	17
9.4 Customs	18
9.4.1 Duties of Customs.....	18
9.4.2 Supervision and control of importing, exporting and transiting protected plants and animals	18
9.4.3 Supervision and control of the transport of dangerous goods and radioactive substances	18
9.4.4 Control of substances that deplete the ozone layer and fluorinated greenhouse gases	19
9.4.5 Supervision and control of international shipments of waste.....	19
9.5 National prosecution authority	19

10 Environmental offences reported to the criminal investigation authorities.....	20
10.1 Environmental offences under the Criminal Code	20
10.2 Impairment of the environment (Criminal Code, Chapter 48, section 1)	20
10.2.1 Aggravated impairment of the environment (Criminal Code, Chapter 48, section 2)	21
10.2.2 Environmental infraction (Criminal Code, Chapter 48, section 3).....	23
10.2.3 Negligent impairment of the environment (Criminal Code, Chapter 48, section 4)	23
10.2.4 Nature conservation offence (Criminal Code, Chapter 48, section 5)	23
10.2.5 Aggravated nature conservation offence (Criminal Code, Chapter 48, section 5 a)	25
10.2.6 Building protection offence (Criminal Code, Chapter 48, section 6)	25
10.3 Natural resource offences under the Criminal Code.....	25
10.3.1 Hunting offence (Criminal Code, Chapter 48 a, section 1)	25
10.3.2 Aggravated hunting offence (Criminal Code, Chapter 48, section 1 a)	26
10.3.3 Fishing offence (Criminal Code, Chapter 48 a, section 2)	28
10.3.4 Forestry and timber offences (Criminal Code, Chapter 48 a, sections 3 and 3 b).....	28
10.3.5 Concealing of poached game and aggravated concealing of poached game (Criminal Code, Chapter 48), sections 4 and 4 a)	28
10.4 Environment-related offences endangering health and safety	28
10.4.1 Criminal Code, Chapter 44, section 1 and Chapter 34, sections 4 and 5: Health offence, endangerment of health and aggravated endangerment of health.....	29
10.4.2 Explosives offence and radioactive material possession offence (Criminal Code, Chapter 44, sections 9 – 11 and 12 a)	30
10.4.3 Careless handling (Criminal Code, Chapter 44, section 12).....	31
10.4.4 Transport of dangerous substances offence (Criminal Code, Chapter 44, section 13).....	31
10.5 Violations of the Water Act.....	32
10.6 Offences under other Acts	32
10.6.1 Violations of the Waste Act	35
10.6.2 Detected oil discharges and imposed oil discharge fees	35
10.6.3 Criminal investigation into oil discharges from vessels.....	36
10.7 About the number of environmental offences in prosecution and courts of law	38
10.8 About the number of environmental crime cases forwarded to prosecution and referred to court	40
10.9 Environmental offences reported to the criminal investigation authorities and forwarded to prosecution.....	41
11 Conclusions.....	41

1 Introduction

In this Environmental Crime Report, environmental crimes reported to the police, Customs and Border Guard are presented per offence covering the years 2015 – 2019. Environmental crime statistics are compiled according to the offence type based on which the criminal act was investigated. The type may change when the case is referred to prosecution for consideration of charges and again in the court procedure. The Report also gives some examples of various environmental offences as well as statistics compiled by the criminal investigation authorities and courts.

The total numbers of environmental offences referred to in Chapter 48 of the Criminal Code and natural resource offences referred to in Chapter 48(a) of the Code both decreased in 2019, but the year 2018 cannot be considered particularly exceptional in the same terms. The offences endangering health and safety listed under Chapter 44 of the Criminal Code also include criminal acts that can have a significant impact on the environment, and the number of such offences also grew in 2019. The number of violations classified into environmental offences dropped in 2019. Therefore, it can be stated with confidence that the total number of offences considered as environmental offences decreased in 2019. Approximately one in every three investigated environmental offences pursuant to Chapters 48 and 48(a) and Chapter 44 is referred to the prosecution service.

The environmental supervision authorities and criminal investigation authorities have implemented The Environmental Crime Prevention Strategy and the Action Plan in inter-agency cooperation. The Implementation Group chaired by the Ministry of the Environment monitors and supervises the implementation of the Action Plan. Operations of regional cooperation groups consisting of the authorities responsible for environmental crime prevention have gotten off to a good start since their establishment in 2016. The well-established form of cooperation now covers the entirety of the national territory. Thematic cooperation groups have also been established, and they collaborate with the regional groups. The groups have enhanced inter-agency cooperation and exchange of information, held joint training events as well as planned and carried out carefully planned joint operations which have resulted in detecting environmental offences that would not have been otherwise reported to the authorities. As environmental crime is for a large part a dark figure i.e. unreported and unrecorded, intensified investigative cooperation in crime detection has produced good results in solving environmental offences.

The National Working Group on Monitoring Environmental Crime produces situational awareness of environmental crime in Finland. The Working Group has issued Annual Reports on environmental crime since 1997. In 1998, the Working Group issued its first Annual Report to the International Criminal Police Organization, INTERPOL. Contribution of Finnish authorities in the development, monitoring and annual reporting of environmental crime prevention efforts has achieved international attention as a unique example of best practices and a model report. Over the years, the Working Group has made numerous recommendations for enhancement of environmental crime prevention, development of inter-agency cooperation and amendments to legislations. The recommendations have also been put to practice. For example, the Working Group recommended the drafting of a national strategy for environmental crime prevention; it was implemented, and now Finland has a national strategy in place.

The National Working Group on Monitoring Environmental Crime is chaired by Chief Superintendent Arto Hankilanoja of the National Police Board, and the secretary is Detective Chief Inspector Riku Lindqvist of the National Bureau of Investigation. The Working Group's other members are Chief Superintendent Juha Tuovinen of the Ministry of the Interior, Katariina Paakkanen of the Ministry of Justice, Legal Adviser Tia Laine-Ylijoki-Laakso of the Ministry of the Environment, Senior Customs Inspector Tarja Koskenlaakso of Customs, Crime Prevention Unit, Border Guard Chief Superintendent Silja Hallenberg of the Ministry of the Interior, Border Guard Department, District Prosecutor Heidi Nummela of the Prosecution Authority, South Finland Prosecution District, Senior Adviser Hannele Nikander of the Finnish Environment Institute, Jonna Lahdelma of the Häme Centre for Economic Development, Transport and the Environment and Heikki Holopainen of the North Karelia Centre for Economic Development, Transport and the Environment.

2 Inter-agency cooperation

The Centres for Economic Development, Transport and the Environment (ELY Centres) engage in regular supervisory cooperation with municipal environmental authorities, since their duties are similar and even

parallel to an extent. Environmental authorities, police, Border Guard, Customs and rescue services cooperate in environmental matters through cooperation groups and on an *ad hoc* basis.

In recent years, Customs has investigated several wide-ranging series of nature conservation offences. Investigation into these cases has clearly highlighted the need for inter-agency cooperation between the Ministry of the Environment, Finnish Environment Institute, ELY Centres and the Customs. Such cooperation will be consolidated and developed in the future. Expert roles of the Ministry of the Environment, the Finnish Environment Institute and ELY Centres intertwine at many points of criminal investigation. Customs has contributed to criminal investigations their expertise, cooperation with prosecution and international collaboration. Regular exchange of information and development of cooperation in training are especially necessary in light of the increasingly rapid impact of international criminal phenomena on Finland.

Customs is part of the European Union customs system and is thus the supervisory authority for the import, export and transit of goods. It is only natural that Customs is cooperating with the other environmental authorities in matters of supervision and criminal investigation on a regular basis. Cooperation between Customs and the Finnish Environment Institute is particularly crucial in the supervision and control of international shipments of waste in order to detect and prevent illegal international shipments. Since the implementation of the National Inspection Plan in the beginning of 2017, other supervisory authorities, such as the ELY Centres, municipal environmental authorities and the police, have participated more actively in supervising and controlling international waste shipments. Cooperation between Customs and the Finnish Environment Institute also plays a major role in the control of the transport of animals and plants subject to a licence, enabling the investigation and prevention of unlicensed and illegal transfers.

Inter-agency cooperation is a key element in supervision and control of oil discharges. In that respect, the Border Guard works in cooperation with the police, Finnish Environment Institute and the Finnish Transport Agency (Traficom) in investigating grounds for imposing administrative oil discharge fees and in criminal investigations relating to such discharges. Inter-agency cooperation between the supervisory authorities is of utmost importance, as the Border Guard was made the chief supervisory authority for ship-to-water discharges from the start of 2019. At the same time, responsibility for combating oil and chemical spills from vessels in the Finnish waters and economic zone was transferred to the Border Guard. In future, the Border Guard will also decide on guiding ships to safe harbour, and draw up respective plans in cooperation with Traficom, the Finnish Environment Institute and the Finnish Transport Infrastructure Agency.

3 Environmental training in the Police University College

By: Kari Koppanen, Detective Sergeant, Police University College

The Environmental Crime Prevention Strategy and the Action Plan drawn up for the years 2015–2020 will be continued. The aim will remain the same: enhancing inter-agency cooperation between national and regional authorities responsible for environmental crime prevention. The Police University College (POLAMK) held seven training seminars in environmental matters in 2017–2019. The one held in 2019 dealt with topics such as appearing as a witness in court, responsibilities of bankrupt estates, operational risks of modern farms and handling an aggressive customer. The seminars were held through a video link, and participants gathered environmental crime groups set up in various regions to follow presentations. Feedback on the contents of the seminars and expert lectures was very positive. Material of all the seminars is available (in Finnish only) on the website "Ympäristörikokset" of the Ministry of the Environment.

Those seven seminars met well the need for training. It would serve the purpose to continue for example, by holding a similar training seminar once a year. In fact, the POLAMK will hold a seminar for the regional environmental crime groups on 19 – 20 October, 2020. In addition to networking, participants have an opportunity to share best practises with each other. Attendance in the seminar will be limited to the regional groups, who will be invited to appoint their representatives.

The POLAMK will continue to provide training on the criminal investigation authorities' basic work and governing laws as contact instruction. The next Course on Investigation into Serious Environmental Crime Cases will be held on 05 – 09 October 2020, and it will be targeted to prosecutors, heads of criminal investigation and environmental crime investigators.

4 Questions relating to the assessing the amount of criminal proceeds

Environmental offences are often committed on financial motives. Environmental obligations are not complied with, because they are thought cost too much money. From the perspective of crime prevention, it is not only important to prevent criminals from profiting from environmental crimes, but also to confiscate and forfeit the proceeds from their crimes to the state, as it makes neglecting environmental obligations less tempting.

In environmental offences, authorities assess criminal proceeds together in inter-agency cooperation. Assessing may, however, be difficult and the amount is often one of the key points in trial. As forfeiting criminal proceeds is not a criminal sanction, only extra proceeds gained through the offence may be ordered forfeit. The proceeds may consist of additional income or generated savings. The principles of net and gross proceeds are often applied to the calculation of the correct amount. The court must consider which expenses are taken into account in the assessment of proceeds, so that only the actual proceeds of crime will be forfeit. Criminal proceeds must always be ordered forfeit to the state, regardless of the seriousness of the criminal act in question.

5 International legal and police-to-police assistance in environmental crime cases

The National Bureau of Investigation handled a few police-to-police and legal assistance cases in environmental matters and conducted criminal investigation into an illegal international waste shipment in 2019. The National Bureau of Investigation and Customs frequently exchange information with their foreign counterparts to maintain global situational awareness of environmental crime. INTERPOL and Europol also disseminate regular updates, reports and communications on environmental crime to law enforcement authorities of their Member States.

6 Environmental crime related threats

6.1 Situation in Finland

Statistically, the environmental crime situation has remained almost the same for several years. A slightly smaller number of environmental crime cases were filed in 2019 than the previous year, but in a longer perspective, the year 2019 is no different from the other years. Environmental crime related threats affecting Finland change as the world around us changes. Especially in Central Europe, dumping and transporting waste across national borders are serious and lucrative forms of crime in which organised crime networks are also active in seeking fast profit. An increase in transporting waste by lorry and ship from Finland for illicit dumping abroad (especially in the Baltic States) would be a particularly alarming scenario from the perspectives of both Finland and the destination country of the waste stream. Based on the detected and investigated cases involving illegal international shipments of waste referred to prosecution, it may be concluded that Finland is a part of the Central European environmental crime scene.

However, it is evident that only a fraction of environmental offences is reported to criminal investigation authorities. Estimates of the dark figure of environmental crime are most often based on comparing Finnish crime statistics to those of Sweden and Norway. Statistically, there is more environmental crime in Sweden than in Finland. It must be, however, kept in mind that there are some differences in national legislations and that the figures are not directly proportional to each other. For example, the Swedish supervisory authority has a statutory duty to report all criminal suspicions to the police, which is not the case in Finland. Regardless, Swedish authorities estimate that the dark figure of environmental crime is high in Sweden, too. The European Union's Working Party on General Matters including Evaluation (GENVAL) visited Finland in November 2017. The Working Group issued its final report on the visit in February 2018. The report does not indicate any such environmental crime threats in Finland that the Finnish authorities would have neglected.

For years, the National Working Group on Monitoring Environmental Crime has brought attention to the perceived low risk of apprehension in environmental offences. One of the key threats and prevention issues in the field of environmental crime is the possibility that the low risk of apprehension would lead to an increase in organised environmental crime committed in connection with usual business operations in the pursuit of financial profit. Courts have also adopted a rather lenient sentencing practice in environmental crime cases, as the most common sanction for impairment of the environment is a day fine or, in rare cases, conditional imprisonment. Since amending the environmental crimes section of the Criminal Code in 1995, an unconditional prison sentence has been passed only once, namely in the so-called 'Lokapojat' case.

6.2 Situation abroad

Globally, environmental crime is considered a very significant form of crime. It is estimated that environmental crime produces third-high financial profit after arms trafficking and drug crime. According to INTERPOL's estimate, proceeds gained from environmental crime amount to 110 – 281 million dollars per year.¹ Offenders committing environmental offences are very often well internationally connected, so international cooperation between law enforcement authorities is globally considered very important.

To people living in Finland, international threats posed by environmental crime may seem very distant. Finland is a welfare state, and many of the forms of environmental crime are non-existent here. For example, there is no crime in regard to the access to clean water and hardly any crime involving unauthorized logging. According to INTERPOL, threats posed by environmental crime can be divided into four: fisheries crime, forestry crime, pollution crime and wildlife crime. The most important threats in Finland are pollution crime and criminal operations relating to poor management of waste. According to the current understanding, plastic waste crime would not be a problem in Finland, but in general, it is considered a global threat. China put a halt to almost all import of plastic waste in the beginning of 2018. Before that, a considerable amount of waste collected in Europe and North America was shipped to China.² As China has refused to take in plastic waste anymore, new places for management must be found.

Globally, food related crime is an increase. Food crime is understood as a dark figure of crime that is not identified in the chain of control by food safety authorities. Those offences are almost always motivated by financial profit. For example, a food product can be falsified by adding cheaper ingredients and then sold as a genuine product. Food crime may have serious impact on public health. Several cases of food crime have been identified in Finland, too.

Unlawful operators interested in bird nests in spring nesting season

By: Jyri Sorvali, Senior customs inspector, Customs

The spring nesting season also springs collectors of rare species (plants and birds' eggs) into action with the aim to make criminal profit on their findings. Various authorities also recognise both the diversity of nature and species of the North and illegal operators' interest in them. In regard to collecting birds' eggs, the Nordic countries have aimed to enhance the exchange of information on matters of unlawful egging and to raise the level of public awareness.

Eggs are stolen from nests mostly for two reasons. First, eggs are 'blown' and included in collections and for sale and secondly, eggs are hatched into pets or for hobby or breeding purposes. During past decades, it has been especially springtime in Lapland that has tempted not only Finnish, but international egg thieves to Finland. Based on the detected cases, egg collectors usually move around in the territories of several countries in the North and set their destinations specifically in those areas where very rare species of birds have been found to nest.

European eels poached and trafficked to Asia

By: Jyri Sorvali, Senior customs inspector, Customs

The past decades have seen a collapse in the eel stock in Europe. There are roughly twenty species of eels in Europe, of which the European eel (*Anguilla anguilla*), also found in Finland, is listed so critically endangered that its export to non-EU countries is prohibited by CITES laws. The eel is in high demand in Asia, in

¹ <https://www.interpol.int/News-and-Events/News/2019/INTERPOL-makes-public-appeal-to-help-track-environmental-fugitives>

² <https://advances.sciencemag.org/content/4/6/eaat0131.full>

particular. Due to high demand and great financial profits gained from trafficking, eels are excessively poached and trafficked in Europe.

Most of the eel are caught in the coastal areas of Spain, Portugal, France and Britain. Criminal groups aim to smuggle illegally caught baby eels, that is, so-called 'glass' eels alive from Europe to Asia where they are farmed and sold as raw material to food industry. Depending on the time of the year, the price per kilo of smuggled 'glass' eels may be thousands of euros on the illegal market.

During transportation, the caught baby eels stay alive about two days in proper conditions. That is why they are primarily trafficked to Asia on passenger flights or as express freight. The authorities may be given false information on the export indicating the eels as incorrect species of fish, for example. Cases very often involve forged documents. Offshore companies are also used to cover traces of crime.

Finnish authorities have not detected any cases of eels trafficking yet, but they monitor changes in the routes used in smuggling and in modi operandi used by organised crime in close cooperation with other law enforcement authorities in Europe.

Situation in the neighbour countries

The big picture of crime in Finland's neighbouring areas is built through direct contacts, public criminal statistics and information obtained from the media. Their environmental crime situation is part of that big picture.

Russia

The least information is available on the environmental crime situation in Russia. The most common environmental and natural resource offences investigated in Russia are timber thefts and relate to poaching endangered large predators. Eighteen heads of criminal investigation and environmental crime investigators of various police departments in Finland attended an international seminar on environmental crime in the Main Consulate General of Finland in St. Petersburg, Russia, in February 2019.. The Russian delegation consisted of representatives of the St. Petersburg police, Russian Ministry of the Interior and the Environmental Committee and the St. Petersburg waterworks. Questions relating to the environment have been key stones of the cooperation between Finland and Northwest Russia for a long time.

Sweden

Roughly 4,000 – 6,000 environmental offences are filed in Sweden every year. No statistics on environmental offences committed in 2019 had been published at the time of writing this Report, but a total of 4,249 environmental offences/violations were filed in 2018, representing a 10 % decrease from 2017 (4,733 environmental offences/violations). 1,147 of them were actual environmental offences and 424 were offences against protected species. The rest were offences or violations considered as some other environmental offences. Statistics on offences against the Swedish Criminal Code are published on the website of the Swedish National Council for Crime Prevention.³

Criminal investigation was conducted in 2,568 environmental crime cases in 2018. Roughly 7 % of all reported cases were referred to prosecution.⁴

According to the statistics, roughly 424 offences against the protected species were filed in Sweden in 2018; in Finland, these offences are considered as nature conservation offences. The number of offences relating to nature conservation filed in Sweden can be considered high. Sweden has invested in investigation into nature conservation offences, and therefore they have many international criminal investigations into those cases. Often, large amounts of money change hands illegally in offences against protected animals.

Norway

³ Swedish National Council for Crime Prevention <http://bra.se>

⁴ <https://www.bra.se/bra-in-english/home/crime-and-statistics/crime-statistics/processed-offences.html>

No statistics on environmental offences committed in 2019 had been published at the time of writing this Report. A total of 4,910 environmental offences/violations⁵ and 970 hunting and fishing offences or violations were filed in Norway in 2018. 2,628 cases of environmental offences and violations as well as 486 hunting and fishing offences were solved. Norway's criminal law statistics are published on the website of Statistics Norway.⁶

A national specialist unit for environmental crime prevention operates 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/miljokrim; in Norwegian only).⁷ Additionally, environmental crime investigation is also conducted by local police departments whose criminal investigators have been trained in environmental crime investigation.

Estonia

Environmental crime prevention and investigation in Estonia have advanced significantly after the government and legislative reform of 2011. The Estonian environmental inspection agency⁸ has served as the central authority for environmental violations since 01 September, 2011. The Inspectorate was then invested with also full criminal investigation powers. Former police detectives, among others, were then hired as criminal investigators.

The number of actual environmental offences in Estonia is quite small. Actual environmental offences are included in Chapter 20 of the Estonian Criminal Code. According to the statistics on offences against the Estonian Criminal Code, the annual number of actual environmental crimes has been about twenty in past years.⁹

Finnish and Estonian authorities work in exceptionally close cooperation in preventing environmental offences. During past years, they have had joint criminal investigations into cases involving illegal export of waste.

7 International operations

7.1 International cooperation

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 (WCO). Other important information exchange and cooperation bodies include the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES Convention) and the CITES Secretariat in charge of the implementation of the CITES Convention. In the field of environmental crime, authorities also cooperate in the frameworks of the 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).

In 2018 – 2019, the European Commission has been drafting an Action Plan on Environmental Compliance Assurance together with the Member States. One of the actions concerns prevention of environmental crime. As a result of this work, guidance on best practices on strategies for prevention of environmental offences and violations will be published by the end of the year.

INTERPOL's environmental crime programme consists of three working groups operating in the sectors of pollution crime, wildlife crime and fisheries crime. Finland has traditionally had a permanent seat in the Working Group on pollution crime. More information on INTERPOL's initiatives in preventing environmental crime is available on the INTERPOL's web site.¹⁰

⁵ Offences against nature and the environment, Poisoning as a danger to public health and serious environmental offences, Other offences against nature and the environment

⁶ Statistics Norway, <http://www.ssb.no/en/sosiale-forhold-og-kriminalitet/statistikker/lovbrudde/aar>

⁷ www.okokrim.no

⁸ Keskkonnainspektsioon, www.kki.ee

⁹ https://www.kriminaalpoliitika.ee/sites/krimipoliitika/files/elfinder/dokumendid/kuritegevus_ees-tis_2018_viidetega_lisadele.pdf

¹⁰ <https://www.interpol.int/Crime-areas/Environmental-crime/Environmental-crime>

In 2011, Europol established a cooperation body for developing best practises for environmental crime prevention, namely EnviCrimeNet.¹¹ Finnish police member has attended EnviCrimeNet meetings since the beginning in March 2011.

EnviCrimeNet had its meeting in Helsinki in November 2019. Sixteen members of the network attended, and Finnish authorities were also very well represented. The meeting dealt with current topics and international aspects of environmental crime.

Slovakia raised the fight against environmental crime as one of the priorities of its first Presidency of the Council of the European Union in the latter half of 2016. Thanks to the initiative shown by Slovakia, the Council of the EU also made environmental crime one of the focus areas of EMPACT (European multi-disciplinary platform against criminal threats). More information on the EMPACT cooperation platform is available on the website.¹²

7.2 Eurojust and environmental offences

Eurojust is to assist prosecutors in environmental crime cases with international dimensions and supports national law enforcement agencies and prosecutors in handling cases of serious cross-border crime. Eurojust was established in 2002 to enhance cooperation between national authorities of the Member States in prevention of serious crossborder crime with an impact on the European Union. Eurojust has 26 national representatives, one from each Member State. In addition to them, Denmark has seconded a representative to Eurojust. There are also liaison officers assigned by third countries working in Eurojust. The representatives working in The Hague are experienced prosecutors, judges or police officers with similar powers.¹³

Eurojust is to coordinate cooperation between national authorities through the various stages of criminal investigation and prosecution. Eurojust also resolves practical problems caused by differences in the judicial systems of Member States.¹⁴

Eurojust has a financial crimes unit with an environmental crime sub-unit. The team is led by a prosecutor serving as the contact point for environmental crime matters, who works in concert with major stakeholders, such as the European Commission, ENPE (The network of prosecutors in environmental crimes), EnviCrimeNet, Europol, IMPEL and the projects launched by these bodies, along with other interest groups.

Within its remit, Eurojust has assisted in dozens criminal investigations into environmental offences. The number of environmental offences is low in comparison to other criminal cases in which Eurojust has been involved, largely due to the same factors as the low number of filed environmental offences at the national level. If an offence is not identified or investigated by a Member State, neither will it be handled by Eurojust. Environmental offences are also lost in the statistical data under other forms of crime. The majority of the cases handled by Eurojust have concerned the illegal trade in protected species and the illegal transport of waste. Eurojust has assisted in such cases by taking measures such as providing insight into the legislation of different states, assisting with the execution of requests for legal assistance, coordinating prosecution and arranging witness hearings between courts of different Member States.¹⁵

7.3 International surveillance operation – 30 Days at Sea

In October 2018, the Border Guard took part in the Operation 30 Days at Sea led by INTERPOL, and served as one of the operation's contact points in Finland. The purpose of the operation was to prevent and detect environmental offences and illegal discharges of waste at sea. Authorities from 58 countries taking part in the 30 Days at Sea operation conducted more than 5,200 inspections, detecting more than 500 violations and leading to at least 185 criminal investigations.

¹¹ <http://envicrimenet.eu/EN/>

¹² <https://www.europol.europa.eu/crime-areas-and-trends/eu-policy-cycle-empact>

¹³ <http://www.eurojust.europa.eu/about/background/Pages/History.aspx>

¹⁴ <http://www.eurojust.europa.eu/Pages/languages/fi.aspx>

¹⁵ District prosecutor Heidi Nummela, who served as a national expert at Eurojust between 01 March, 2018 - 31 October, 2018.

INTERPOL led another global operation titled Operation 30 Days at Sea 2.0 in October 2019 with aim to detect and tackle illegal discharges mainly at sea areas. The Border Guard was in charge of national coordination of the operation, and the Finnish Transport and Communications Agency (Traficom) also participated in it. In practice, the operation was coordinated by the West Finland Coast Guard District.

Approximately 200 enforcement authorities in 61 countries took part in the second part of the Operation 30 Days at Sea in which more than 3,000 offences were detected during 17,000 inspections. Finnish authorities made 21 inspections during the Operation, and patrol aircraft were in the air for 50 hours. Two oil discharges were detected: a fine was imposed in one case, and the other case is under investigation by the West Finland Coast Guard District.

8 International instruments and national legislation on environmental crime

8.1 International treaties on environmental crime

Finland has ratified a number of international treaties on energy and the environment. These treaties cover areas such as the protection of bodies of water and the atmosphere, the exploitation and protection of natural resources, waste, flora and fauna, energy and space. Examples of the multilateral treaties signed by Finland include the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel 22 March 1989, Finnish Treaty Series 44–45/1992), Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), (Washington 03 March 1973, Finnish Treaty Series 44–45/1976), Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL) (London 02 November 1973, Finnish Treaty Series 51/1983), Protocol on Environmental Protection to the Antarctic Treaty (Madrid 04 October 1991, Finnish Treaty Series 5/1998) and the Helsinki Convention (HELCOM) on the Protection of the Marine Environment of the Baltic Sea Area (Finnish Treaty Series 2/2000).

A total of 180 countries have signed the CITES Convention, which covers approximately 30,000 plant species and more than 5,500 animal species, in more than 900 of which trade is completely prohibited, with trading in the remainder being subject to licence (with "trade" referring to import or export across national borders). Common CITES legislation has been in place in the European Union since 1984 and was amended in 1997 (Council Regulation 338/97/EC). In addition to the import and export across the EU's external borders, the CITES Regulations of the Council and Commission also regulate the trade between and within Member States. The import regulations are stricter than required by the CITES Convention, with more species regulated than specified in its Appendix referring to the species.

In 2018, the Ministry of the Environment published a guide on the impact of international environmental treaties on Finland. The guide discusses the central environmental treaties signed under the UN and the environmental cooperation carried out in the framework of these treaties.¹⁶

8.2 EU law on environmental crime

Today, a significant part of Finnish environmental legislation originates from the European Union. Since the majority of EU enactments are issued as directives, they need to be transposed into national legislation either through Acts or government decrees. Directives are normally minimum directives by nature, meaning that stricter levels of protection can be provided for in national legislation.

On 19 November 2008, the European Parliament and Council issued Directive 2008/99/EC on the protection of the environment through criminal law (Environmental Crime Directive). The purpose of the Directive is to guarantee a high level of environmental protection in Member States by providing for minimum requirements on the punishments imposed for causing serious harm to the environment. The Directive is grounded in

¹⁶ http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/161026/YO_2018_Kansainvaliset_ymparistosopimukset.pdf?sequence=1&isAllowed=y

concern for an increase in environmental offences and their impact, increasingly extending beyond the national borders of the countries in which the offences were committed. The changes required by the Directive were implemented in Finland with legislative amendments that entered into force on 25 December 2010.

Finland had the Presidency of the Council of the European Union since July to December 2019. Environmental crime was one of the topics that Finland introduced in discussions in the field of criminal justice. In addition, the eighth round of mutual evaluations concerning measures to counter environmental crime in the Member States was finalised during the Finnish Presidency. The Commission is currently assessing the adequacy and sufficiency of the prevailing rules in the field of environmental criminal law.

National transposition measures complementing the provisions of the Ship Recycling Regulation (Regulation (EU) No 1257/2013) entered into force in September 2017. The Regulation is based on the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships that is not in force yet. Finland is currently making preparations for the ratification of the Convention.

8.3 Finnish legislation on environmental crime

Environmental offences are provided for in both the Criminal Code and specific environmental laws. The most serious offences, which can result in a sentence of imprisonment, are included in Chapter 48 of the Criminal Code. The penal scale ranges from a fine to imprisonment for at most six years, depending on the seriousness of the criminal act. Provisions of Chapter 9 of the Criminal Code, titled “Corporate criminal liability”, on corporate fines also apply to the environmental offences referred to in Chapter 48. The inclusion of penal provisions in the Criminal Code emphasises the reprehensibility of the criminal acts. In addition to the Criminal Code, actual environmental laws, such as the Waste Act, Water Act, Nature Conservation Act and Environmental Protection Act provide for a variety of violations punishable by fine.

Natural resource offences referred to in Chapter 48(a) of the Criminal Code are closely related to environmental offences. They are criminal acts connected to hunting, fishing and forestry for which a sentence of imprisonment can be passed. With the exception of the aggravated hunting offence provided for in Chapter 48(a), section 1(a), corporate fines cannot be imposed in these cases. More lenient violations are provided for in the Hunting Act, Fishing Act and Forest Act.

Environmental offences and natural resource offences are also subject to forfeiture provisions. Illegal proceeds gained from such criminal acts shall be ordered forfeit to the state. In practice, a corporate entity can be made to compensate the waste processing costs saved through its illegal actions, for example. Subject to certain conditions, the criminal proceeds, instruments and tools of crime as well as objects and property which have been produced, manufactured or brought about by way of an offence, or at which the offence has been directed, can be ordered forfeit to the state. In respect to a poached animal or illegally collected plant, an amount corresponding to the value of the specimen as a representative of its species can also be forfeit to the State.

8.4 Recent changes in the EU legislation and Finnish laws on the environment

Management responsibilities for combating oil and chemical discharges from vessels in Finnish waters were transferred from the Ministry of the Environment to the administrative branch of the Ministry of the Interior in the beginning of 2019. The transfer was implemented by amending the Rescue Act (379/2011). The amendments concerned matters such as combating oil and chemical discharges from vessels, building civil defence shelters and training of rescue service personnel. The Act on Oil Pollution Response (1673/2009) was repealed at the same time, and oil pollution response was transferred to rescue services. In addition, amendments to Chapter 12 of the Act on Environmental Protection in Maritime Transport (1672/2009) transferred the role of primary supervisory authority for discharges from ships from the Finnish Environment Institute to the Border Guard. At the same time, the requirement provided for in Chapter 12, section 14 for ships to deposit a payment guarantee before being permitted to continue their voyage after violating the above-mentioned Act or provisions issued under it was transferred from the Finnish Environment Institute to the Ministry of the Interior, in practice the Border Guard.

Amendment to the Fishing Act: A decree on the conservation values of declining and endangered species of fish by the Ministry of Agriculture and Forestry

The penalty regime for violations of fishing regulations has been further developed by including a new forfeiture provision as section 119 in the Fishing Act (379/2015). In addition to forfeiture provisions in Chapter 10 of the Criminal Code (13/1889), the value of illegal catches of endangered or declining fish species shall be forfeited to the state based on the value of the species in question as conservation targets. The Decree (427/2019) enforcing the amendment to the Fishing Act entered into force on 01 May, 2019.

The purpose of the amendment to the Fishing Act is to preserve and conserve endangered and declining species of fish. The previous penalty regime was found ineffective in respect to poaching, in particular. Sanctions for the illegal taking of fish have previously been lenient, and that is why the penalty regime has not had a general deterrent on potential offenders. The deterrent effect of the penalty regime has been weakened even more by the fact that a substantial number of suspected cases of fishing offences and violations of the Fishing Act have not been referred to courts, mostly due to decisions to close criminal investigations and waive prosecution on the grounds of minor significance of the acts.

Since the amendment entered into force, the Fishing Act has included a forfeiture provision for a situation in which a person committing a criminal act punishable as a fishing offence or fishing violation referred to in the section 119(1) of the Act keeps a catch of the fish species listed in the section. In order the forfeiture provision to apply, the person must have committed one of the criminal acts referred to in the Fishing Act, section 119(1) and have kept the catch of the fish species listed in the section. In a situation like that, the value of illegal catches is forfeited to the state based on the value of the species in question as conservation targets.

Due to the amendment to the Fishing Act, the Ministry of Agriculture and Forestry issued a decree on the values of declining and endangered species of fish (614/2019). The decree entered into force on 17 May 2019. The section 1 of the Decree lists 23 different conservation values ranging from 50 to 7,510 euros. In the Vuoksi river basin and Hiitolanjoki watercourse shown in the maps in Annexes 1 and 2 to the Decree, for example, the value of a catch of the landlocked salmon with an adipose fin is 7,510 euros whereas the value of a catch of the fin clipped freshwater brown trout is 1,750 euros. The conservation values are based on calculations by the Natural Resources Institute of Finland (LUKE) of the practical costs of replacing the affected conservation target. The values are defined based on the conservation needs of the target, its ability to regenerate and the size of the population at a reproductive age.

Catching threatened and declining species is, however, permitted provided that the closed seasons, catch sizes and other fishing restrictions are taken into account. When the accidentally caught fish is under the catch size limit and/or of an endangered and therefore protected species, it must be immediately returned to the water even if it is dead. In addition to the provisions on the conservation of individual fish species and stocks, anglers must also respect and follow the general rules and restrictions laid down in the Fishing Act.

9 Supervision and control

9.1 Supervision and control of environmental laws

9.1.1 Duties of the 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 compliance with the environmental laws in Finland. Jurisdictions of ELY Centres and the municipal environmental authorities are partly parallel in this regard. In addition, the Finnish Environmental Institute and Finnish Safety and Chemicals Agency (Tukes) have certain supervision duties.

The ELY Centres are vested with licensing and supervisory duties pursuant to the Environmental Protection Act, Nature Conservation Act, Water Act and Waste Act. A general task of the ELY Centres is to promote protection of the environment, oversee public interest in environmental and water matters and act as an injured party or defendant before courts and other authorities. These duties have been provided for in the Act on the Centres for Economic Development, Transport and the Environment (897/2009). Pursuant to the Water Act, Environmental Protection Act and Waste Act, the ELY Centre will be the injured party in environmental offences committed against the public interest.

Essential permitting and supervision duties lie with municipalities pursuant to the Environmental Protection Act and related special legislation. Environmental authorities in municipalities, frequently municipal environmental boards, are appointed by municipal councils to carry out licensing and supervisory duties provided for in environmental legislation. A single body can also serve as a joint authority for more than one municipality.

When detecting an unlawful situation, the supervisory authority has an obligation to take measures to restore legality. The supervisory authority operates in accordance with provisions of the Administrative Procedure Act and the Act being supervised. Possible approaches to supervision include requests for information, inspections (with possible recommendations recorded in an inspection record), recommendations and administrative enforcement orders. The supervisory authority is under an obligation to report any unlawful acts or negligence detected to the police, unless the statutory conditions for waiving the obligation are met. As a rule, the reporting obligation can only be waived, if the criminal act is to be considered of minor significance under the circumstances and the public interest does not demand charges to be brought.

The Environmental Protection Act (527/2014) requires the public supervisory authority (ELY Centres) and municipal environmental authorities to draw up a plan for regular supervision in their region. The supervision plan must include information on the environmental conditions of the area, activities that pose a risk of pollution and the resources and means available for supervisory purposes. The plan must describe the organisational structure of supervision, criteria for risk assessment and cooperation between the authorities in charge of the supervision. The supervision plan must be reviewed regularly. The state supervisory authority and municipal environmental authority shall regularly supervise and control activities subject to an environmental permit, notification or registration through periodic inspections. The inspection targets and frequency of the inspections must be determined based on the assessment of environmental risks. A supervision plan is only required for supervision of functions provided for in the Environmental Protection Act, performed by facilities holding an environmental permit. However, some of the supervisory authorities have also included in their plans supervision measures provided for in the Waste Act, Water Act and Chemicals Act.

The state supervisory authority and municipal environmental authority must draw up a programme (supervision programme) for the periodic inspections of activities subject to a permit, notification or registration and on their other regular supervision. The supervision programme must include information on the targets of the supervision and the regular supervisory measures to which they are subjected. The supervision programme must be kept up to date.

Fees for the supervision of environmental permits were introduced on 01 January 2015. The supervision fees are defined in government decree No 1397/2014 of 30 December 2014, and the amending decree No 1372/2018. The supervisory authority may collect a fee for periodic inspections included in the supervision programme as well as for inspections related to the rectification of violations or negligence, accidents or the suspension of operations.

Supervision is both proactive and retroactive. Proactive supervision refers here to assessing the need to apply for an environmental permit for or file a notification of the functions, statements on the permit applications and notifications issued to the Regional State Administrative Agency and municipalities, participation in the inspections and negotiations related to the processing of permit applications, and appeal procedures. Retroactive supervision means legality control focusing on the supervision and control of compliance with the rules of the permit or other regulations, and it consists of checking reports (annual reports, monthly reports, reports on interferences, reports on monitoring the state of the environment), 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 the lawful state of operations. Supervision will be backed up with recommendations, administrative enforcement and/or reporting to the police for criminal

investigation, if necessary. The supervision authorities also monitor the environmental impact of operations and possible changes to operations or other conditions.

Pursuant to the Environmental Protection Act, the Ministry of the Environment can also issue more detailed supervision instructions to the supervisory authorities. The Ministry of the Environment has issued a guide on environmental permit supervision on 16 May 2016 (Ympäristöhallinnon ohjeita 2/2016) with a risk assessment guide added in the end of 2017. The guide is primarily intended for the ELY Centres.

The ELY Centres can act as injured parties in environmental crime cases referred to in the Waste Act, Water Act and Environmental Protection Act. In such cases, the ELY Centre concerned has the right to be heard during the criminal investigation and in court hearings. It also has an independent right to bring charges and to appeal against court decisions.

Possible further measures in supervision of the compliance of the Nitrates decree in light of the ne bis in idem principle

Directive of the Council of the European Communities concerning the protection of waters against pollution caused by nitrates from agricultural sources (91/676/EEC) has been transposed into Finnish legislation by the government decree No 1250/2014 on limiting certain emissions from agriculture and horticulture (the Nitrates Decree). The purpose of the decree is to prevent and reduce emissions into surface water, groundwater, soil and air caused by the use, storage and processing of manure and other fertilisers and by livestock production. The decree is applied to storing manure and related requirements for structures as well as to the use and application of fertilizers, for example.

The ELY Centres and municipal environmental authorities supervise and control the compliance with the Nitrates Decree. Provisions on supervision of the compliance with the Decree are included in Chapter 28 of the Environmental Protection Act. Provisions on legal sanctions are included in sections 224 and 225 of the same Act.

Compliance with the Nitrates Decree is also monitored as part of agricultural subsidies and related cross-compliance with Regulation (EU) No 1306/2013 of the European Parliament and of the Council, Commission Delegated Regulation (EU) No 640/2014 and Commission Implementing Regulation (EU) No 809/2014. At national level, the matter is regulated by the Act on the implementation of agricultural subsidies (192/2013) and by the government decree on the statutory management requirements for cross-compliance and the monitoring of compliance with them as well as of the good agricultural and environmental conditions (7/2015).

The Finnish Food Authority steers and administers the supervision and control of the agricultural subsidies. Compliance with the Nitrates Decree is monitored annually in connection with cross-compliance inspections on roughly 500 – 600 farms in each year. The annual number of non-compliance with the Nitrates Decree detected in context of those inspections or of other control measures related to agricultural subsidies has varied between 187 and 255 in the years of 2015 – 2019. Based on the notifications, 0 – 5 % of the received agricultural subsidies may be recovered as a penalty for non-compliance with the decree. In continuous or repeated cases of non-compliance – which there are 5 – 26 cases detected in each year – the penalty varies between 15 and 100 %.

Possible recovery of agricultural subsidies does not preclude criminal proceedings in the matter. The EU Court of Justice has ruled in Cases C-210/00 Käserei Champignon Hofmeister and C-489/10 Bonda that the penalty imposed in the event of non-compliance with those requirements constitutes a specific administrative instrument forming an integral part of the scheme of aid with an intention to ensure the sound financial management of public funds of the European Union.¹⁷ The Supreme Administrative Court has also considered the recovery of agricultural aids in the light of the *ne bis in idem* principle in its ruling in Case KHO 2015:57ruling that recovering the aids on the basis of intentional non-compliance with the requirements set for the aid or intentional neglect

¹⁷ Anna-Liisa Tanskanen: Vihertyvä maataloustuki, p. 252. Joensuu 2019.

of the said requirements does not constitute a criminal penalty. Therefore, the previously imposed fines did not prevent the recovery of the agricultural aids.

Pursuant to section 188 of the Environmental Protection Act, the supervisory authority is to report any act or negligence referred to in sections 224 and 225 to the police for criminal investigation. However, no notification is necessary, if the act is considered of minor significance under the circumstances and the public interest does not require charges to be brought. Irrespective of the possible recovery of agricultural subsidies, the supervisory authority must always assess the need for making a separate request for criminal investigation in the event of non-compliance with the Nitrates Regulation, in particular, if the non-compliance is considered as repeated or intentional.

9.1.2 Duties of the Finnish Environment Institute

Pursuant to the Waste Shipment Regulation (EC) No 1013/2006, the Finnish Environment Institute is the licensing and supervisory authority in international waste shipments. It is also responsible of cooperation with other competent authorities in supervision of such shipments. The supervision and control measures are based on the national inspection plan referred to in the EU Waste Shipment Regulation. The focus areas for inspections are selected on the basis of a risk assessment. All types of waste are inspected at the location where the waste is generated and, depending on the type of waste, during collection, transport or processing.

The Finnish Environment Institute is the competent authority under the Ozone Regulation (EC) No 1005/2009 and F-Gas Regulation (EC) No 517/2014. Supervision authorities referred to in the Nature Conservation Act (527/2014) supervise and control the maintenance of refrigeration equipment in the side of their other supervision duties. The Finnish Environment Institute supervises certain internationally traded hazardous chemicals regulated by the POPs Regulation (EC) No 850/2004 and PIC Regulation (EC) No 649/2012, along with compliance with the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Finnish Treaty Series 107/2004).

The Finnish Environment Institute is the competent permit authority referred to in the CITES Regulation (EC) No 338/97 (this duty is related to the implementation of the CITES Convention and the permit authority referred to in the Act on the Protection of Whales and Arctic Seals (1112/1982).

The Finnish Environment Institute works in cooperation with the Finnish Transport and Communications Agency (Traficom) in prevention of evading and violating of the Regulation (EU) No 1257/2013 of the European Parliament and of the Council on ship recycling and monitors implementation of the Regulation in Finland.

9.1.3 Duties of the Finnish Safety and Chemicals Agency

The Finnish Safety and Chemicals Agency (TUKES) is tasked with the supervision, control, inspection and licensing of the large-scale industrial handling and storage of hazardous chemicals in order to uphold technical safety. TUKES investigates accidents and collects information on accidents in the industries under its supervision into the Damage and Accident Register (VARO). TUKES maintains the qualifications register for refrigeration professionals and supervises compliance with their competence requirements.

9.2 Police

9.2.1 Duties of the police

The police are the general crime prevention authority investigating all criminal acts regardless of type. Information on possible environmental offences usually reaches the police through three channels: from private citizens, the supervisory authorities or the observations made by the police, for example in connection with normal law enforcement or criminal investigations. As a rule, supervisory authorities are required to report any suspected offences they detect. A report is not required, however, if the offence is of minor significance and it has not violated the public interest.

The police have a duty to conduct criminal investigation into the matter reported, whenever there

are grounds to believe that a criminal offence has been committed. Criminal investigation is usually conducted by the local police, but it may be taken over by the National Bureau of Investigation, if so required by the nature of the case. Environmental offences nearly always require the criminal investigation authority to make an advance notification to the prosecutor and cooperate closely with the prosecution. Customs and the Border Guard also conduct criminal investigation into environmental offences within their jurisdictions.

Approximately one in three environmental offences reported to the police is solved. When the criminal investigation is complete, the case is referred to prosecution. As a rule, the prosecutor is required to bring charges for the suspected offence, if they consider the act to be a criminal offence under the law, there is probable cause to support the guilt of the suspect and the other requirements for bringing charges are met. Subject to certain conditions, the prosecutor may also waive charges in the matter. If charges are brought, the case will be heard by a district court. If the decision is appealed, the case will be heard by the Court of Appeal, followed in some cases by the Supreme Court.

9.3 Border Guard

9.3.1 Duties of the Border Guard

Alongside its other statutory duties, the Border Guard also has jurisdiction over criminal investigation into environmental offences and natural resource offences. For example, the Border Guard supervises 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).

In practice, the Border Guard mostly investigates natural resource offences, primarily hunting and fishing offences, and petty violations of the above-mentioned material Acts under the supervision and control of the Border Guard. The Border Guard also plays a key role in preventing and combating marine environmental crime.

The Border Guard's threshold for taking environmental offences under investigation is low. All environmental crime detected in the context of the Border Guard's own supervision and control measures are investigated. The Border Guard investigates cases falling under its competence or refers them to the police if required by the scope of the investigation or the availability of resources.

Pursuant to section 2, subsection 2 of the Act on Cooperation between the Police, Customs and the Border Guard (687/2009), the Border Guard may carry out an urgent crime preventive measure in the area of responsibility of the police or Customs on behalf of those authorities using its statutory powers, if such measure cannot be postponed. The competent criminal investigation authority concerned must be notified of the measure without undue delay. The above-mentioned Act ensures an expeditious response by the authorities and the efficient performance of their statutory duties. The Border Guard and police have set up joint investigation teams when necessary to enhance the investigation of hunting offences, in particular.

The Border Guard performs a variety of official duties in Finland's territorial waters. It is a multi-sectoral marine authority that maintains a high level of readiness at all times (24/7) with highly trained personnel, equipped with the marine and aerial fleets and technical surveillance equipment required by its operations. The Border Guard is a modern European Coast Guard Authority and a part of the European Border and Coast Guard comprising of the European Border and Coast Guard Agency Frontex, European Maritime Safety Agency EMSA, European Fisheries Control Agency EFCA and the coast guard authorities monitoring the borders of EU Member States.

Since the start of 2019, the Border Guard has been leading measures preventing environmental damages in sea areas and served as the chief supervisory authority in controlling ship-to-water discharges in Finnish waters. The Border Guard is responsible for the prevention of environmental damage in accordance with the Rescue Act (379/2011). Cooperation with other authorities prescribed in law is essential in carrying out both supervisory and preventing duties. In prevention and detection of oil discharges, the Border Guard's principal partners are the Navy, Meritaito Oy and the Finnish Transport and Communications Agency (Trafi-com).

The Border Guard is responsible for international cooperation in the field by representing Finland at meetings related to international treaties, especially in the Baltic Marine Environment Protection Commission (HELCOM) and Nordic cooperation meetings (Copenhagen Convention). Cooperation with the European Maritime Safety Agency's (EMSA) satellite-based CleanSeaNet oil discharge detection service and EMSA's working group for prevention of oil discharges is also important in developing the field. The Border Guard is also a competent authority in prevention of oil discharges pursuant to the Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic (MOSPA).

The purpose of detection and prevention of oil discharges is to interrupt illegal activities detected in Finland's territorial waters, take oil spill response measures and to safeguard the investigation of administrative oil discharge fees and to secure criminal investigation conducted in the case. The Border Guard's Dornier aircraft monitor Finnish waters nearly every day. Both Finland's territorial waters and exclusive economic zone are comprehensively covered by the patrol flights. Aerial monitoring has also been coordinated with Swedish and Estonian authorities, and the Border Guard also monitors the territories of those states to an extent.

The Dornier aircraft have been specially outfitted for detecting oil spills in cooperation with the Finnish Environment Institute. The extensive efforts in detecting oil discharges also serve as a deterrent. The system of detecting and preventing oil discharges is complemented by the European Maritime Safety Agency's (EMSA) CleanSeaNet satellite imaging service, which provides satellite images of Finland's territorial waters. The images permit the detection of possible oil discharges even in the dark and in cloudy weather conditions. CleanSeaNet delivers the images and the detected suspicious oil discharges to the Border Guard. The Command Centre of the West Finland Coast Guard District inspects the images and dispatches an aircraft or some other unit to verify the findings and determine whether the substance is oil or something else.

The Border Guard also participates in the monitoring of aerial emissions from ships and of detrimental anti-fouling systems used to protect ships.

The EU Regulation establishing a control system for ensuring compliance with the rules of the common fisheries policy requires all Member States to maintain fisheries monitoring centres tasked with the monitoring of professional fishing and fishing efforts. The Border Guard also performs the duties of the fisheries monitoring centre referred to in the Control Regulation.

9.3.2 Administrative oil discharge fee

Pursuant to the Act on Environmental Protection in Maritime Transport, the Border Guard is the only authority with the powers to impose an administrative oil discharge fee on a vessel for an illegal oil discharge into the sea. The legislation of Åland extends oil discharge fee regulations to cover the territory of Åland. The Border Guard also takes care of duties related to imposing oil discharge fees in the territory of Åland.

Under the Act on Environmental Protection in Maritime Transport, the Border Guard shall impose an oil discharge fee on vessels discharging mineral oil or oily mixtures into the sea in Finland's territorial waters or exclusive economic zone. The fee can only be waived for discharges that are minor in volume and impact on the environment. For foreign ships in transit in Finland's exclusive economic zone, the discharge must also cause major damage or a risk of major damage to Finland's natural resources for the fee to be imposed. The fee can also be waived or reduced in exceptional circumstances, such as if the oil has been discharged into the sea due to an emergency or accident in order to save lives or due to some other comparable reason. The amount of the oil discharge fee is determined based on the amount of oil discharged and the gross tonnage of the ship, in accordance with the rates specified in the Annex to the Act on Environmental Protection in Maritime Transport.

The imposition of the fee does not require establishing who caused the discharge on the ship or whether the act was intentional or negligent. However, the Border Guard is required to collect objective evidence on the fact that the discharge originated from a specific vessel and that it was not a question of the above-mentioned exceptional circumstances. The Border Guard conducts the investigation required for the administrative oil discharge fee procedure. Statements on the environmental impact of oil discharges are requested from the Finnish Environment Institute, if necessary. The Forensic Laboratory of the National Bureau of Investigation is requested to analyse the oil samples and to issue opinions on them. The Border Guard has assigned the West Finland Coast Guard in Turku with the administrative oil discharge fee procedure.

dure. The unit leads the investigation required for the imposition of the fees. All units of the Air Patrol Squadron and Gulf of Finland Coast Guard assist the West Finland Coast Guard in the above-mentioned investigations.

Provisions on the administrative oil discharge fee were included in the Act on the Prevention of Pollution from Ships (300/1979) on 01 April 2006. There were hardly any amendments made in the provisions on the oil discharge fee of the Act on Environmental Protection in Maritime Transport. The Act entered into force from the beginning of 2010 in connection with the general reform of legislation on waste discharges from vessels. The administrative oil discharge fee is a much heavier financial sanction than a fine imposed on the basis of the Criminal Code. The legislation was largely drawn up on the basis of the system in use in Sweden. The key difference in the two systems is that in Sweden, the amount of the oil discharge fee is based on annual rate determination criteria (in Swedish: *prisbasbelopp*) defined in the legislation, which allow making annual increases to the oil discharge fee whenever required. In Finland, however, the oil discharge fees have remained the same since the entry into force of the Act, and as they are based on the Table of Rates appended to the above-mentioned Act, raising the oil discharge fee would require amending the Act.

According to a comparison made in 2019, the oil discharge fee rates of Finland and Sweden are very close to each other. The Border Guard considers it important that the oil discharge fees of the two countries would be maintained at the same level in order to avoid making oil discharges more lucrative in the territory of one state than of the other. Developments in oil discharge fees in Sweden should be monitored closely, and measures to raise the monetary rates specified in the Table of Rates appended to the Act on Environmental Protection in Maritime Transport should be taken when necessary.

9.3.3 Criminal sanctions and the administrative oil discharge fee

According to Chapter 12, section 6 of the Act on Environmental Protection in Maritime Transport, the Border Guard is the primary supervisory and control authority in the detection of ship-to-water discharges from vessels in Finland's territorial waters and within Finland's exclusive economic zone. Under the Act on Environmental Protection in Maritime Transport, the police are also responsible for monitoring oil discharges from vessels. According to Chapter 12, section 8 of the Act on Environmental Protection in Maritime Transport, the police are the supervisory and control authority in inland waters and Finland's territorial waters.

The criminal justice system takes priority over the administrative oil discharge fee. When court has found someone guilty of impairment of the environment, for example, for an unlawful discharge of oil to the sea, an administrative oil discharge fee shall not be imposed on the same party. An administrative oil discharge fee imposed on the same party before the verdict shall be reversed upon appeal. No administrative oil discharge fees imposed by the Border Guard have been reversed as of yet.

9.3.4 Command of marine environmental accident response operations transferred to the Border Guard

Command responsibilities for operations in response to oil and chemical discharges from vessels in Finland's waters were transferred to the Border Guard in the beginning of 2019, when the direction of marine environmental accident response operations was transferred from the Ministry of the Environment to the administrative branch of the Ministry of the Interior in accordance with the Government Programme.

In practice, the Border Guard leads response operations to oil and chemical discharges from vessels in Finland's territorial waters, on the open sea and in Finland's exclusive economic zone. Rescue departments are responsible for management of response operations to oil and chemical discharges from vessels on the coast and in the archipelago. The Border Guard already has command of maritime rescue operations in response to accidents at sea. The purpose of the transfer was to expedite command and decision-making processes in complex maritime accidents and to make better use of the leadership and executive capabilities and special expertise of the Border Guard and rescue services.

Maritime rescue operations in response to environmental and other type of accidents are based on a cost-effective multi-purpose fleet and close cooperation between parties involved, namely state and municipal authorities, shipping companies and voluntary organisations. The branch of environmental administration

and the Finnish Environment Institute continues to contribute their expertise to environmental damage prevention and response. The objectives are to maintain the high quality of environmental damage response and develop those capabilities even further. At the same time, the Border Guard became the supervisory and control authority with primary responsibility for discharges from vessels.

9.4 Customs

9.4.1 Duties of Customs

Customs is tasked with facilitating trade in goods and ensuring its legality, the efficient collection of customs duties and protection of society, the environment and citizens in its operational field. Customs is responsible for levying customs duties, the customs control of imports and exports and international transport, other customs clearance measures and the compilation of statistics on foreign trade. Customs is a competent criminal investigation authority investigating customs offences within its jurisdiction.

For carrying out the principal tasks, Customs is divided into a Foreign Trade and Taxation Department, Supervision Department, Administrative Department and Customs Office Department. Customs consists of seven independent customs posts, each with its own offices. These are Maritime Customs, Airport Customs, Vaalimaa Customs, Nuijamaa Customs, Imatra Customs, Tornio Customs and Mariehamn Customs.

Finnish Customs is part of the EU customs system. It is a government agency steered by the Ministry of Finance through performance management. Customs cooperates with the private business sector as well as with domestic and foreign authorities.

9.4.2 Supervision and control of importing, exporting and transiting protected plants and animals

The import, export and transit of endangered plant and animal species and the products derived from them, specified in more detail in the Annex to the EU CITES Regulation 338/97, are subject to licence. A major part of CITES products is imported into the European Union from third countries, so the import restrictions protect the environment and biodiversity of those countries. The CITES export restrictions, on the other hand, protect the environment of the EU. EU Regulation 338/97 also provides for activities involving the above-mentioned species on one hand, between the Member States and, on the other hand, within each Member State.

In Finland, Customs is tasked with monitoring compliance with the regulations on the international trade in the endangered plant and animal species specified in the above-mentioned EU legislation.

9.4.3 Supervision and control of the transport of dangerous goods and radioactive substances

Customs also has a significant role in the protection of the environment as the supervisory and control authority for radioactive and hazardous substances. Shipments leaving and entering Finland are inspected at border crossing points both by customs officers on duty and mobile supervision teams. Efficient supervision seeks to ensure that shipments in violation of the regulations are handled right at the border.

All of the most important border crossing points have fixed measuring instruments for radiation – in other words, gates for both passenger and freight traffic. Customs also employs portable meters in addition to the gates. In the early 2000s, some radiating shipments were still sent off back to the countries of departure, but no such cases have occurred 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 source of radiation has not been possible. Alarms are caused by calcium chloride, pottery and fertilisers, for example. No illegal shipments of actual nuclear materials (plutonium, uranium) have been detected as of yet.

Customs has organised special inspections of the road transport of hazardous substances and taken part in the EU-/EEA-wide waste shipment control operations conducted by the Finnish Environment Institute. Finnish border controls are some of the best in Europe, and the control systems have improved significantly in recent years.

9.4.4 Control of substances that deplete the ozone layer and fluorinated greenhouse gases

To protect the ozone layer, the manufacturing, use, import and export of substances that deplete the ozone layer are primarily prohibited. The import and export restrictions controlled by Customs apply both to substances that deplete the ozone layer and the products that contain such substances. The restrictions apply to new, regenerated and recycled substances alike. The import of fluorinated gases into the European Union as chemicals or in devices is regulated and requires a quota or a licence to use the quota. It is one of the duties of Customs to control the import and export of the above-mentioned substances and devices containing such substances. The Finnish Environment Institute is notified of the import and export of illegal substances and devices identified by the control activities, and criminal investigation is launched, if necessary. The Finnish Environment Institute then reports the illegal trade in substances that deplete the ozone layer and fluorinated gases to the European Commission.

9.4.5 Supervision and control of international shipments of waste

Customs is also tasked with the supervision and control of international waste shipments regulated by Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (Waste Shipment Regulation). Section 22 of the Waste Act (646/2011) specifies that the Finnish Environment Institute is the competent authority referred to in Article 53 of the Waste Shipment Regulation in Finland. It is also responsible for the supervision and control of compliance with the regulations applying to crossborder shipments of waste.

Customs and the Finnish Environment Institute cooperated in the supervision and control of waste shipments in 2019. The efficient supervision and control by the authorities and joint operations have without a doubt contributed to the continued detection of illegal exports of waste. The supervision and control have been focused on the waste streams which are either assessed or detected to relate to illegal activities. For example, scrap cars and their spare parts as well as scrap electrical and electronic devices are such waste. Checking containers used in the export takes a lot of human resources, because the containers have been loaded up, and indicating what part of the shipment is scrap, is possible only after testing. It is quite common that in cases like these, all goods in the shipment are not included in the export declarations or they are reported to Customs insufficiently. Collecting evidence may take time, and the exporter is responsible for storage costs incurred for the storage period. Especially when the container is sent back to Finland by some other country, transportation and storage costs may be significant. Pursuant to the EU Waste Shipment Regulation, the Finnish Environment Institute may require the exporter to deliver the waste for processing within a certain period of time. If the exporter does not comply, the Finnish Environment Institute takes care of delivering the waste at the exporter's expense.

According to the EU Waste Shipment Regulation, the exporter must be able to show that they are not exporting waste. Second-hand goods may be classified as waste, unless there is sufficient evidence to show that they are not. The supervisory authority may request the exporter to give an account of the goods within a specified period. If the exporter fails to give the account or the account is insufficient, the transportation or shipment is handled as illegal shipment of waste. For the detection of illegal international waste shipments, it is required that the national cooperation between the Finnish Environment Institute and Customs functions well. In addition to national cooperation and the exchange of information, the authorities facilitate international cooperation networks in many ways in the inter-agency operations.

For about five years, considerable amounts of construction and demolition waste have been exported from Finland to Estonia for reutilisation. The largest amount, roughly 65,000 tons, was exported in 2016. The amounts exported have decreased since then mainly because Estonian authorities have intervened in the operations of the pre-treatment facilities receiving the waste as they had violated the requirements defined in their environmental permits for example, by exceeding the permitted storage quantities. Large amounts of waste may serve as an incentive to illegal activities. Shipments of demolition and construction waste cannot be imported or exported without waste shipment permits issued by authorities of all countries concerned.

9.5 National prosecution authority

The National Prosecution Authority carried out an organisational reform on 01 October 2019, when it started its operations as a national authority. It comprises of five prosecution districts: Southern Finland, Western Finland, Northern Finland, Eastern Finland and Åland.. A national system of specialization was implemented in the context of the reform. Posts of specialised district prosecutors were set up for the most specialised prosecutors, whose main task is to prosecute the most challenging cases in the field of their specialization

independent on the prosecution districts where they work. Based on the safeguarded objects of legal protection, the areas of specialization were divided into three: crimes targeted at *economic life*, *individual persons* and, more generally, at *interests of security and safety*. Environmental offences are classified as crimes against interests of security and safety. Two special prosecutors were appointed for environmental crimes. They work in cooperation with district prosecutors handling environmental crimes in the prosecution districts.

10 Environmental offences reported to the criminal investigation authorities

Environmental crimes reported to the criminal investigation authorities are presented in this Report by offence type. Authorities conducting criminal investigation into environmental crime are the police, Customs and the Border Guard. Environmental crime statistics are compiled according to the type of offence investigated in the criminal investigation phase. If cases are referred to prosecution and to court, offence types may change. The statistics do not reflect the actual environmental crime situation or provide actual information on threats to the environment, because the dark figure of environmental crime is high, and the unreported mass of criminal incidents is not likely to be detected by the authorities.

10.1 Environmental offences under the Criminal Code

Chapter 48 of the Criminal Code provides for environmental offences. These are *impairment of the environment*, *aggravated impairment of the environment*, *environmental infraction*, *negligent impairment of the environment*, *nature conservation offence*, *aggravated nature conservation offence* and *building protection offence*. Punishment for these offences ranges from a fine to imprisonment of six months up to maximum of six years.

Table 1. Environmental offences under Chapter 48 of the Criminal Code filed by the criminal investigation authorities in 2015 – 2019.

Environmental offences under the Criminal Code	2015	2016	2017	2018	2019
Impairment of the environment (Criminal Code, Chapter 48, section 1)	166	188	198	201	188
Aggravated impairment of the environment (Criminal Code, Chapter 48, section 2)	5	11	6	12	6
Negligent impairment of the environment (Criminal Code, Chapter 48, section 4)	5	7	2	0	0
Environmental infraction (Chapter 48, section 3)	181	275	215	248	222
Nature conservation offence (Criminal Code, Chapter 48, section 5)	37	29	47	53	63
Building protection offence (Criminal Code, Chapter 48, section 6)	3	1	2	4	1
Total	397	511	470	518	480

10.2 Impairment of the environment (Criminal Code, Chapter 48, section 1)

Impairment of the environment refers to, for example, introducing, emitting or disposing an object or a substance into the environment or violating specific obligations provided for in environmental protection or waste legislation so that the act is conducive to causing contamination of the environment or a health hazard. The statutory definition of the offence is highly complex, containing a variety of *modi operandi* and many references to material environmental legislation. The offence is punishable when committed intentionally or through gross negligence. Impairment of the environment is punishable by a fine or imprisonment to at most two years.

The majority of suspected cases of impairment of the environment are investigated by the police. Criminal investigation into suspected environmental offences is generally conducted by the financial crime unit of the local police department. Environmental offences referred to criminal investigation typically involve unlicensed destruction of various types of waste or storage of waste on residential or industrial properties.

In addition to the police, Customs or the Border Guard can also conduct the criminal investigation into suspected impairment of the environment. Cases of impairment of the environment detected by Customs in 2019 consisted of exports or imports of waste without a waste shipment permit.

Cases investigated by the Border Guard mainly consisted of illegal oil discharges from ships.

Summaries of selected court cases in 2019:

Impairment of the environment, Supreme Court, case ref. KKO 2019:52

As the main shareholder and CEO of a company, the defendant was responsible for the fact that the company had taken soil from a gravel pit located in a Class I groundwater area in violation of the permit regulations. The company had also dumped waste soil on the same site. The Supreme Court had to consider four legal questions: 1) is it a question of impairment of the environment referred to in Chapter 48, section 1 of the Criminal Code or aggravated impairment of the environment referred to in section 2 of the same Chapter; 2) did the offence generate any proceeds; 3) should the punishment be increased; and 4) should a prohibition to pursue business be ordered to the defendant.

Based on the grounds referred to in the ruling, the Supreme Court considered that it was not proven that the act had been conducive to cause a particularly high risk of impairment of the environment. The defendant was found guilty of impairment of the environment. The Supreme Court found the defendant guilty also of another case of impairment of the environment and increased the sentence. The defendant was sentenced to a joint punishment of a conditional prison term of seven months. The prosecutor's claims concerning the criminal proceeds were rejected, because the prosecutor had not produced evidence to support the claim that the defendant would have gained personal benefit from the offences committed in the context of the company's operation. The Supreme Court found it indisputable that the defendant had been the major shareholder in the company, but it was not evidence on financial gain. No evidence was produced to support the view that the financial spheres of interest of the defendant and of the company would have been identical. Therefore, the Supreme Court considered that the defendant could not be ordered to forfeit any possible financial proceeds possibly gained by the company from his criminal activities. The prosecutor's claim for forfeiture from the defendant was rejected, but the company was ordered to forfeit 270,000 euros to the state; considerably less than the amount claimed by the prosecutors. After assessing the defendant's activities as a whole, the Supreme Court considered that it was not necessary to issue a prohibition to pursue business to prevent inappropriate and harmful business activities. The prosecutor's claim for issuing a prohibition to pursue business was rejected.

Impairment of the environment (Criminal Code, Chapter 48, section 1)

Helsinki Court of Appeal on 14 February 2019, decision No 19/106230, case ref. R17/2265

The defendant exported material classified as dangerous waste in violation of the Waste Act, decree issued on the basis of the Act and Regulation (EC) No 1013/2006 on shipments of waste. The shipment, loaded and sealed by the defendant himself in the sea container, consisted of half-cut sections of 20 wrecked cars from which the hazardous fluids had not been removed. There were approximately 110 litres of oil and some 55 litres of coolants in the cars. The destination of the shipment from the Vuosaari harbour was the United Arab Emirates which is not a member of the OECD. The district court found the defendant guilty of the impairment of the environment provided in Chapter 48, section 1 of the Criminal Code. The defendant appealed the case, and the Court of Appeal was to consider, for example, whether the exported half-cut sections of cars had been waste and to what extent the defendant was aware of that. The Court was also to consider whether the suspected criminal act had been conducive to danger. The Court of Appeal did not change the District Court's ruling in respect to imputability, but reduced the number of day fines to 40. (no information available on finality)

10.2.1 Aggravated impairment of the environment (Criminal Code, Chapter 48, section 2)

Aggravated impairment of the environment is the aggravated form of the offence. If the damage or danger of damage caused by impairment of the environment is especially serious or the offence is committed in pursuit of considerable financial gain, or the offence was planned, the perpetrator can be sentenced for aggravated impairment of the environment. Punishment for the offence is imprisonment for at least four months and at most six years.

In 2019, the police filed six cases of aggravated impairment of the environment. In all the cases, a suspicion of an aggravated environmental offence was reported either by an ELY Centre or municipal environmental authority. In 2019, all filed cases are under criminal investigation by local police departments. The majority of the cases involve littering the environment with various types of waste, but some of the criminal investigations also concern the unlicensed/illegal use of soil materials. A half of the cases of aggravated impairment of the environment filed in 2019 relate to suspected discharges of oil to the ground or to the water system.

The cases filed as aggravated impairment of the environment were committed all around the country. No geographical trend can be identified in aggravated environmental offences in Finland.

The fact that suspects of the aggravated environmental offences are generally known at the time the criminal incident reports are filed also supports the view that only a fraction of the environmental offences committed are reported to the police.

Following the Prosecutor General's order to bring charges, district prosecutor ordered the Border Guard to investigate the following case as aggravated impairment of the environment: A vessel was suspected of having discharged a considerable amount of mineral oil to the sea in the area of the marker light and radio beacon Suomen Leijona (*The Lion of Finland*) in Finland's exclusive economic zone in June 2019. The Border Guard received a satellite image of the suspected oil discharge. It was also verified by the Border Guard's patrol aircraft. According to the HELCOM log, the estimated amount of mineral oil in the sea was roughly 9,000 – 39,000 litres (9–39 m³).

Criminal investigation into the oil discharge was started simultaneously with the response measures. The Border Guard's patrol vessels Tursas, Uisko and Turva together with the Navy's pollution control vessel Halli took response measures at the incident site by removing oil from the sea. The measures were taken at the thickest oil spills observed by the Border Guard's Dornier aircraft.

The Border Guard units took samples of the discharged oil at the sea. Reference samples were taken through the area of discharge and from the vessels that had sailed nearby that area. According to the laboratory statement, the source of oil in the sea is very likely from one of the sampled vessels. Criminal investigation into the case is underway, and will continue to the year 2020. Due to the incident, the Border Guard has also started an administrative investigation to determine the conditions for imposing an oil discharge fee.

Summary of a selected court case in 2019

Aggravated impairment of the environment, Supreme Court, case ref.: KKO 2019:102

The Supreme Court considered the so-called Case Talvivaara. The case has received a lot of media attention. The Supreme Court was to consider environmental damages caused in the business operations of a major mining company from the perspective of criminal justice. The Supreme Court had granted leave to appeal to the person, who was the company's CEO and chair of the board at the time, and another person, who was the company's mining operations director then. The granted leave to appeal was, however, limited to concern the interpretation of the penal provision on impairment of the environment. The question in the Supreme Court was whether the statutory definition of the provision was met in a situation in which the levels of harmful substances in the waste water released from the mine were considerably higher than estimated in the mine's environmental permit as there had been no precise levels set for the emissions of those harmful substances in the permit. The Supreme Court considered in its ruling that information on the emissions included in the application for the permit and given in the summary part of the decision on the environmental permit are part of the environmental permit and thus, the permit conditions referred to in the provision on the impairment of the environment. The emissions exceeding dozens of times the levels stated in the application for the environmental permit had not been considered by environmental authorities, so the harmful substances had also been released without a permit to the environment. So, the harmful substances had been released to the environment both in violation of the permit conditions and without a statutory permit. The case concerned environmentally harmful levels of sodium, sulphate and manganese detected in waste water released from the mine. The emissions of these substances had been up to a hundred times higher than the company had indicated in its application for the environmental permit. The Supreme Court had also granted leave to an appeal on a question concerning the Court of Appeal's reasoning, but the Supreme Court upheld the ruling, and also rejected the defendants' applications for leave to an appeal in other respects.

10.2.2 Environmental infraction (Criminal Code, Chapter 48, section 3)

If the impairment of the environment referred to in Chapter 48, section 1 of the Criminal Code is considered of minor significance when assessed as a whole, the offender is sentenced for an environmental infraction. The penal scale ranges from a fine to imprisonment for at most of six months.

Nearly without exception, the suspected environmental infractions reported to the police concern waste or scrap disposed or left in inappropriate locations in small quantities. Offenders are usually not known at the time of reporting. In cases in which the offender is identified, the most common sanction is a fine imposed by the police.

Almost all of the environmental infractions investigated by the Border Guard concerned illegal oil discharges from ships that were considered of minor significance when assessed as a whole.

Summary of a selected court case in 2019

Environmental infraction (Criminal Code, Chapter 48, section 4)

East Uusimaa District Court on 11 June 2019, decision No. 19/126969, case ref. R 18/3268/766

The company's CEO and a foreman had violated the order issued by the Environment Centre of Vantaa in the company's operations by crushing at least 900 tons more aggregate at one of the company's sites than it was allowed in the order. The aggregate was to be transported and used at the company's other sites. The act was conducive to causing additional noise, tremor and dust to the environment and consequently, littering, contamination of the environment or a health hazard. Taking into account the minor significance of the danger caused to the environment, of the health hazard and of the damage, the act was considered of minor significance as a whole. The case had fallen under the statute of limitations, because the most severe punishment for environmental infraction is a fine. The prosecutor had waived the charge against the CEO and the foreman, but prosecuted the company instead. According to the prosecutor, the company was to forfeit at least 4,050 euros to the state as financial proceeds from the crime. He also argued the district court to impose a corporate fine amounting to at least 20,000 euros to the company. According to Chapter 8, section 9 of the Criminal Code, the minimum period of limitation for a request for forfeiture is five years, so the request for forfeiture had not been time-barred. Therefore, the prerequisites for examining the forfeiture were in place. According to Chapter 8, section 7 of the Criminal Code, the minimum period of limitation for a request for forfeiture is five years, so the request for forfeiture had not been time-barred. Consequently, the prerequisites for examining the corporate fine were in place. The district court ordered the company to forfeit 4,050 euros to the state as financial proceeds and imposed a corporate fine of 5,000 euros. (no information available on finality)

10.2.3 Negligent impairment of the environment (Criminal Code, Chapter 48, section 4)

The penal provision applied to negligent impairment of the environment extends punishment to certain negligent acts that otherwise would not be punishable as impairment of the environment due to the prerequisite of imputability. According to the baseline statutory definition, impairment of the environment is only a criminal offence when committed intentionally or through gross negligence. Application of the provision requires the damage or risk of damage caused to health or the environment to be particularly great. The penal scale ranges from a fine to a maximum of one year of imprisonment.

Negligent impairment of the environment is a rare offence, with only a few criminal investigations conducted by the police each year. No cases of negligent impairment of the environment were filed in 2019.

10.2.4 Nature conservation offence (Criminal Code, Chapter 48, section 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 or protected, restricted or placed under an injunction based thereon shall be sentenced for a nature conservation offence. Import or export of protected species of plant or animal in violation of the CITES Convention is also punishable. The penal scale ranges from a fine to a maximum of two years of imprisonment.

The nature conservation offences investigated by the police usually involve unlawful destruction species of plant or animal or unauthorised logging in protected areas. The existence of the Siberian flying squirrel has been jeopardised in many cases due to unauthorised logging. Many of the suspected cases of nature conservation offences concerned killing protected barnacle geese or wolves, either alive or dead.

Table 2: Nature conservation offences under Chapter 48 of the Criminal Code filed by the criminal investigation authorities in 2015 – 2019.

Nature conservation offences (Criminal Code, chapter 48, section 5)	2015	2016	2017	2018	2019
Police	33	29	46	52	58
Customs	3	0	1	0	4
Border Guard	1	0	0	1	1
Total	37	29	47	53	63

Summary of a selected court case in 2019:

Nature conservation offence (Criminal Code, Chapter 48, section 5)

North Karelia District Court on 25 July 2019, decision No 19/132169, case ref. R 19/152

In violation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein, chairpersons of three hunting clubs (associations) and a treasurer had together used for commercial gain, sold, kept for sale and offered for sale specimens referred to in Annex A of that Regulation. The hunting clubs had organised a joint hunt, and three bears were legally shot. The bears were slaughtered in the hunting clubs' butchering sheds, and the bear skins, skulls and bacula were given to the persons, who shot the bears, whereas the hunting clubs were to share, use or sell the meat. When the bears were butchered and skinned, the hunting clubs made a joint decision to offer the carcasses for sale to a company that had a village store in Savonlinna. The company's representative came soon to collect the carcasses and to sign the sale and purchase agreement.

As the Finnish brown bear (*Ursus Arctos*) is one the species referred to in Annex A of the CITES Convention and therefore, requires the maximum protection, the hunting clubs should have requested the Finnish Environment Institute to issue a so-called EU certificate for selling the meat before the actual sale. There was no EU certificate requested or issued for the sale of the carcasses of the above three bears.

The chairpersons and the treasurer of the hunting clubs had agreed about the sale of the meat by the clubs or at least approved the decision on the sale made under the name of the hunting clubs, respectively, with full knowledge. Based on their stations, they had decision-making powers on the use of the bear meat and were aware of the forthcoming sale of the meat. Therefore, they should have obtained the EU certificate for the meat before the sale. So, the criminal act and negligence were specifically contrary to their obligations.

Some of the defendants were also prosecuted for violating the Food Act, because the bears were butchered and skinned in a butchering shed of one of the three hunting clubs not approved as a game-handling establishment. Therefore, inspecting the meat had not been possible. The person, who bought and advertised the meat, was also prosecuted for a nature conservation offence and violation of the Food Act.

Each of the three hunting clubs was imposed a corporate fine of 850 euros for a nature conservation offence, ordered to pay 800 euros as a victim surcharge and to forfeit financial proceeds from the sale to the State. Some of the defendants were imposed 30 day fines for the nature conservation offence and some were imposed a day fine of 40 euros for both the nature conservation offence and violation of the Food Act. The company that had bought the bear meat was imposed a corporate fine of 2,000 euros for the nature conservation offence, to forfeit the bear meat to the state and to pay 800 euros as a victim surcharge. The defendants were also ordered to pay 80 euros as victim surcharge, respectively. (no information available on finality)

10.2.5 Aggravated nature conservation offence (Criminal Code, Chapter 48, section 5 a)

A new provision in the Criminal Code on aggravated nature conservation offence entered in force in the beginning of 2016. This modus operandi of the nature conservation offence had not been criminalised before. An offence may be considered aggravated, when it is considered aggravated as a whole and it puts natural resources at serious risk, is committed in pursuit of considerable financial gain or in an especially systematic manner. Punishment for the offence ranges from four months to four years of imprisonment.

In 2019, one case of aggravated nature conservation offence was filed by the police. The case was about moving a specimen of protected species of animal from its natural habitat elsewhere.

10.2.6 Building protection offence (Criminal Code, Chapter 48, section 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 the protection of actual buildings, the provision also applies to the destruction of relics referred to in the Act on Archaeological Remains, among other things. Punishment ranges from a fine to imprisonment of maximum of two years.

One building protection offence was reported to the police in 2019.

10.3 Natural resource offences under the Criminal Code

Chapter 48(a) of the Criminal Code provides for natural resource offences, which are presented in Table 3. The penal provisions concern hunting, fishing, forestry and timber as well as protection of the Antarctic. A hunting prohibition with a minimum duration of one year and maximum duration of five years is also provided for in the Chapter. Compared to the previous years, there was a clear drop in the total amount of the natural resource offences in 2019.

Table 3: Natural resource offences recorded by the criminal investigation authorities in 2015 – 2019.

Natural resource offences	2015	2016	2017	2018	2019
Hunting offence (Criminal Code, Chapter 48 a, section 1)	191	131	131	163	120
Aggravated hunting offence (Criminal Code, Chapter 48 a, section 1 a)	9	15	16	12	12
Fishing offence (Criminal Code, Chapter 48 a, section 2)	4	8	9	8	2
Forestry offence (Chapter 48 a, section 3)	2	0	4	1	6
Unlawful exploitation of mineral resources in the Antarctic (Criminal Code, Chapter 48 a, section 3 a)	0	0	0	0	0
Timber offence (Criminal Code, Chapter 48 a, section 3 b)	0	0	0	0	0
Concealing poached game (Criminal Code, Chapter 48 a, section 4)	1	0	0	0	0
Aggravated concealing poached game (Criminal Code, Chapter 48 a, section 4 a)	0	0	2	0	0
Total	207	154	162	184	140

10.3.1 Hunting offence (Criminal Code, Chapter 48 a, section 1)

A person, who intentionally or through gross negligence hunts using a prohibited trap or trapping method or hunts in violation of an order given on protecting game or without a hunting permit, or when hunting, endangers or harms a person or the property of another person. Punishment ranges from a fine to imprisonment of maximum two years. A total of 120 hunting offences were reported to the criminal investigation authorities last year.

The hunting offences investigated by the Border Guard are committed in a wide variety of ways. In the investigations begun in 2019, the subjects of the suspected offences included elk and black grouse. Cases

involving the use of hunting devices and hunting methods prohibited by the Hunting Act were also investigated as hunting offences.

Table 4: Hunting offences recorded by the criminal investigation authorities in 2015 – 2019.

	2015	2016	2017	2018	2019
Hunting offence (Criminal Code, Chapter 48 a, section 1)					
Police	176	121	126	156	116
Border Guard	15	10	5	7	4
Total	191	131	131	163	120

Summary of a selected court case in 2019:

Hunting offence (Criminal Code, Chapter 48 a, section 1)

Kainuu District Court on 17 April 2019, decision No 19/117697, case ref. R 19/220

The defendants took part in a lawful elk hunt. According to the decision on two hunting permits, the hunting party was allowed to shoot one elk and two calves, and they had shot the elk already. One of the defendant's two dogs, who had been released to find an elk, started to bark and the defendant decided to follow the dog. He saw that the dog was barking at an elk, and he used his mobile phone to call about that to two other persons.

After that, he shot the elk in question. All three defendants took part in butchering the elk and then went to get an ATV to transport the carcass on a special mat out of the woods. As they arrived to their cars, they lifted the carcass together, placed it on one of the defendant's trailer and drove it to the hunting club's butchering shed where all three took part in skinning. Two of the defendants chopped the carcass in the butchering shed on the following day, transported the pieces to the garage of the person, who had shot the elk, and cut the meat into smaller pieces. The pieces of meat were then shared between the three defendants. The prosecutor primarily argued that they all would be punished for the hunting offence, respectively, pursuant to the Criminal Code, Chapter 48 a, section 1. Alternatively, two of the defendants, who were not present in the kill, should have been punished for the aggravated concealing poached game pursuant to the Criminal Code, Chapter 48 a, section 4.

The district court found the defendants guilty of hunting offences and imposed day fines of 80 and 40 euros to them, respectively. The rifle together with a telescopic sight and magazine were forfeited to the state as instruments of crime and 2,400 euros as the value of the elk hunted without a permit. The defendants were also imposed a hunting ban and ordered to pay 80 euros each as victim surcharge.

10.3.2 Aggravated hunting offence (Criminal Code, Chapter 48, section 1 a)

A hunting offence is deemed aggravated when it is committed in a particularly brutal or cruel manner or if the object of the offence is a particularly large amount of game. An offence committed in a planned manner or one seeking considerable financial gain may also be considered aggravated. Killing or injuring certain animals, such as wolverine, lynx, bear, deer, otter or wolf, may also meet the statutory definition of the aggravated hunting offence, if the offence is aggravated also when assessed as a whole. The media has covered the widespread hatred of wolves as well as poaching of wolves and other large predators extensively in recent years.

In 2019, criminal investigation authorities filed in total twelve suspected aggravated hunting offences; the number is the same as in the previous year.

In five of the cases, the police or Border Guard was able to identify the culprit. The criminal investigation authorities succeeded in investigating those criminal acts in a particularly efficient manner by detecting suspected offences through various means of control and supervision, for example Coercive measures affecting personal freedom and various forensic analysis methods, both in the field and in the laboratory, were employed in those investigations.

The notable cases of the aggravated hunting offences last year concerned lynx, bears, wolves and, in one case, a deer. The aggravated hunting offences filed in 2018 were mainly committed in Northern Finland. No cases were investigated in the Capital region.

A fraction of hunting offences is not reported or detected, hunting without a required permit and unlawful killing of species of animal, in particular. Detection and criminal investigation into hunting offences is also hindered by the “law of silence” possibly observed by local residents and hunters.

When reported hunting offences were studied more closely, it was discovered in many cases that there were extra shotgun pellets in the carcasses of wolves that had been shot or put down legally. It has been argued in the current and previous cases of aggravated hunting offences that the wolf was killed as an act of necessity, and those arguments were probed in the criminal investigation, too. The acts of necessity usually call for so serious weighing up the evidence and legal aspects that the assessment of justification or grounds of exemption from liability remains nonetheless with judicial authorities i.e. prosecutors and judges. It is not often that evidence produced on justification of the act of necessity has been so clear that the head of investigation been able to decide to waive or discontinue the criminal investigation on that basis.

In 2019, the Border Guard started criminal investigation to one case of aggravated hunting offence involving a bear.

Table 5: Hunting offences recorded by the criminal investigation authorities in 2015 – 2019.

Aggravated hunting offence (Criminal Code, Chapter 48, section 1 a)	2015	2016	2017	2018	2019
Police	8	13	14	10	11
Border Guard	1	2	2	2	1
Total	9	15	16	12	12

Summary of a selected court case in 2019:

Aggravated hunting offence, etc. (Criminal Code, Chapter 48a, section 1a)

Ostrobothnia District Court on 28 November 2019, decision No. 19/152673, case ref. R 19/113

Three defendants were prosecuted for various kinds of hunting crimes in the Ostrobothnia District Court. One of the defendants had shot in a farm more than 200 cats using a small-bore rifle. When shooting, he had employed a source of artificial light to blind the cats. He had shot some of the cats from a motor vehicle. He and one of the other two defendants had employed the same method in shooting hares and a roe deer with a gun not permitted in hunting hares. Those two defendants had employed the same method in shooting hundreds of cats. The prosecutor argued that the defendants facing charges of aggravated hunting offences had employed unlawful ways of hunting without required permits in an area where they had no hunting right.

The prosecutor considered that the hunting offence was aggravated also when assessed as a whole, because there was a great number of animals killed, the offence was committed over a long period of time, some of the animals were left wounded and they had depleted the game population in the area. The men had unlawfully hunted hares, roe deers, white-tailed deers and foxes. Some of the defendants were also facing charges of a nature conservation offence, poaching, firearms offence and animal welfare offence. The prosecutor called on the district court to forfeit the car and firearms used in hunting, or their value, to the state, to impose a hunting ban on the defendants and to cancel their valid hunting licenses.

She also argued that the value of the hunted animals should be forfeited. The statute of limitations had expired in relation to some of the offences of minor significance, and therefore the district court dismissed the respective charges.

The district court imposed a hunting ban on the defendants and sentenced them to conditional imprisonment of four months (hunting offence), of six months (aggravated hunting offence and nature conservation offence – both committed as a young person) and of nine months (aggravated hunting offences, nature conservation offence, firearms offence). The firearms were forfeited to the state. The district court approved some of the damage claims and rejected some. The defendants were ordered to pay the values of the protected species

of animals, for example, as damages to the hunting clubs and to pay 80 euros each as victim surcharge. (no information available on finality)

10.3.3 Fishing offence (Criminal Code, Chapter 48 a, section 2)

A person, who fishes to a considerable extent in violation of an order given regarding the protection of fish or crayfish, fishing tackle, or the minimum size of fish or crayfish, shall be sentenced for a fishing offence. Punishment ranges from a fine to imprisonment of maximum of two years.

Table 6. Fishing offences filed by the criminal investigation authorities in 2015 – 2019.

Fishing offence (Criminal Code, Chapter 48 a, section 2)	2015	2016	2017	2018	2019
Police	2	4	8	3	1
Border Guard	2	4	1	5	1
Total	4	8	9	8	2

Summary of a selected court case in 2019:

Fishing offence (Criminal Code, Chapter 48 a, section 2)

East Uusimaa District Court on 26 June 2019, decision No 19/129648, case ref. R 18/737

Contrary to the Fishing Act's provisions on catching fish and fishing gear, the defendant fished Pernaja bay waters in front of the island of Sandholmen by setting gill nets in the water and letting them to freeze. The act was conducive to cause unnecessary harm and disturbance to the environment. The defendant had a right to engage commercial fishing in Metsähallitus' water area, but in the autumn of 2016, he failed to pull the gill nets out of the water and they froze. Metsähallitus had reminded the defendant in writing of retrieval of the gill nets, but he did not pull all of them within the given deadline: consequently, Metsähallitus retrieved nets from three different places and removed tens of kilos dead fish and a water bird from them. The district court imposed 45 day fines for the fishing offence on the defendant and ordered him to pay 80 euros as a victim surcharge. (no information available on finality)

10.3.4 Forestry and timber offences (Criminal Code, Chapter 48 a, sections 3 and 3 b)

A person, who violates a provision of the Forest Act pertaining to protected forest areas or protected areas, or harms a natural environment that is particularly important from the point of view of the biodiversity of the natural forest, shall be sentenced for a forestry offence. A person, who in violation of the EU Timber Regulation places on the market unlawfully harvested timber or products made from such timber, shall be sentenced for a timber offence. The maximum sentence for a forestry offence is two years of imprisonment and that for a timber offence six months of imprisonment.

10.3.5 Concealing of poached game and aggravated concealing of poached game (Criminal Code, Chapter 48), sections 4 and 4 a)

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. The sentence for the baseline statutory definition ranges from a fine to at most one year of imprisonment, and from a fine to at most three years of imprisonment for the aggravated offence.

10.4 Environment-related offences endangering health and safety

The offences endangering health and safety listed under chapter 44 of the Criminal Code also include criminal acts that may have a significant impact on the environment. The protected objects of these provisions include human life and health and personal property. The above-mentioned other penal provisions of the Criminal Code may also apply to environmental offences. The total number of offences endangering health and safety increased clearly from the previous years.

Table 7. Offences endangering health and safety under the Criminal Code filed by the criminal investigation authorities in 2015 – 2019.

Offences endangering health and safety provided for in the Criminal Code	2015	2016	2017	2018	2019
Health offence (Criminal Code, Chapter 44, section 1)	11	5	13	13	11
Endangerment of health (Criminal Code, Chapter 34, section 4)	0	2	2	2	0
Aggravated endangerment of health (Criminal Code, Chapter 34, section 5)	0	0	0	0	0
Causing a risk of spreading an animal disease (Criminal Code, Chapter 44, section 4 a)	7	3	6	6	10
Genetic technology offence (Criminal Code, Chapter 44, section 9)	0	0	0	0	0
Nuclear energy use offence (Criminal Code, Chapter 44, section 10)	0	1	1	0	0
Explosives offence (Criminal Code, Chapter 44, section 11)	117	149	119	127	145
Careless handling (Criminal Code, Chapter 44, section 12)	223	277	275	269	318
Radioactive material possession offence (Criminal Code, Chapter 44, section 12 a)	0	0	0	0	0
Transport of dangerous substances offence (Criminal Code, Chapter 44, section 13)	6	6	6	15	3
Total	364	443	422	432	487

10.4.1 Criminal Code, Chapter 44, section 1 and Chapter 34, sections 4 and 5: Health offence, endangerment of health and aggravated endangerment of health

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, Food Act or Act on Hygiene of Food 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 penal scale ranges from a fine to imprisonment for at most of six months.

A person, who operates a radiation source in violation of the Radiation Act, uses nuclear energy in violation of the Nuclear Energy Act or 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 as provided for in chapter 34, section 4 of the Criminal Code. The penal scale ranges from a minimum of four months to a maximum of four years of imprisonment. 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.

Summary of a selected court case in 2019:

Health offence, etc. (Criminal Code, Chapter 44, section 1)

Ostrobothnia District Court on 14 March 2019, decision No 19/111697, case ref. R 18/609/723

The defendant was prosecuted for violation of section 79 of the Food Act, marketing offence provided for in the Criminal Code, Chapter 30, section 1 and for health offence provided for Chapter 44, section 1.

Violation of the Food Act: The defendant sold food in premises for which a notification had not been submitted in accordance with the Food Act. In his store selling locally grown food, he kept canned beef as well as fresh and smoked beef for sale and kept the meat in a refrigerator he had acquired

himself. The sale of the products was discovered on 10 February 2017 when the premises were inspected. At that time there were food cans produced in December 2015 offered for sale. Contrary to the section 13, subsection 1 of the Food Act, the defendant had not notified the control authority on the point of sale or the refrigerator.

Marketing offence: The defendant had given false or misleading information of his business efforts, although the information was relevant to the customers. He had attached labels that were originally intended for another product to the beef cans. The list of ingredients on the labels was also different from the one printed on the lids. In some of the labels, the list of ingredients had been crossed out by hand. The labels read "100 % beef" although, according to the list of ingredients, the product contained ingredients not allowed in canned whole meat. The labels also read "No additives", but according to the list of ingredients on the lid, there were in fact additives in the meat. The labels also carried a food business number that was not the number of the real manufacturer of the product. The defendant also had put a label reading "fresh bottom round roast" to smoked bottom round roast offered for sale.

Health offence: The defendant offered food for sale in violation of the Food Act or provisions issued on the basis thereof in a way that the act was conducive to cause danger to another person's life or health. In his store selling locally grown food, the defendant kept fresh and smoked meat for sale and kept the meat in a refrigerator he had acquired himself. The sale of the meat was discovered on 10 February 2017 when the premises were inspected and at that time, there were roughly 30 kilos of fresh and smoked meat offered for sale. As a food business operator, the defendant had failed to see to traceability of the food he offered for sale in a manner required by the Food Act. He had also failed to see to adequate labelling of the food or the packages to facilitate traceability as required by the Food Act. The following were missing from the meat packages that the defendant offered for sale: the ID mark (manufacturer's code), name of the food, reference number or code proving the link between the meat and the animal/group of animals, approval number of the slaughterhouse, approval number of the cutting hall, country of origin as well as the name and contact details of the food business operator. Due to the defendant's negligence, the origin of the meat kept for sale was fully unclear and therefore, selling the meat to consumers was conducive to endangering life or health.

The defendant pleaded guilty to the acts, and the district court imposed 25 day fines for all the above offences and ordered him to pay 80 euros as a victim surcharge. (no information available on finality)

10.4.2 Explosives offence and radioactive material possession offence (Criminal Code, Chapter 44, sections 9 – 11 and 12 a)

An explosives offence involves violations of the Act on the Safety of the Handling of Dangerous Chemicals and Explosives or of provisions given pursuant to it. Punishment ranges from a fine to imprisonment of maximum of two years.

The police investigate roughly 100 – 150 cases of explosives offences each year, either reported to or detected by the police. An explosives offence is typically detected when police find unlicensed (stolen, for example) explosives during a search conducted in relation to another suspected offence.

Summary of a selected court case in 2019:

Explosives offence (Criminal Code, Chapter 44, section 11)

East Uusimaa District Court on 02 December 2019, decision No 19/152967, case ref. R 19/3642

The defendant was prosecuted for an explosives offence, because he had had possession of a stick of a type of ammonium nitrate in violation of the Act on the safe-handling and storage of dangerous chemicals and explosives. The stick contained roughly 100 grams of the explosive and an electronic fuse. The district court sentenced the defendant to a suspended imprisonment of three months for the explosives offence and several other criminal acts and ordered him to pay a victim surcharge of 80 euros. (no information available on finality)

10.4.3 Careless handling (Criminal Code, Chapter 44, section 12)

A person, who uses, handles or stores a firearm, fire or an explosive, a chemical or other corresponding substance that is dangerous to health or the environment or a radioactive substance so that the act is conducive to causing a danger to the life, health or property of another, shall be sentenced for careless handling. The penal scale ranges from a fine to imprisonment for at most of six months. The police investigate around 200 – 350 cases of careless handling in a year.

Summaries of selected court cases in 2019:

Careless handling (Criminal Code, Chapter 44, section 12)

Vaasa Court of Appeal on 05 December 2019, decision No 19/153307, case ref. R 18/224

In order to kill weeds, the defendant had spread herbicide using a tractor mounted sprayer on a field he had rented. The field is located next to two residential lots. The commercial name of the herbicide the defendant used is Barclay Gallup 360. The defendant had spread the herbicide on a very windy day, although according to the directions of use, it was not advisable to do so. The wind had blown from the field towards the houses next to the field and carried herbicide to the area of the residential lots. The defendant was charged with careless handling pursuant to the Criminal Code, Chapter 44, section 12 and environmental infraction provided in the Criminal Code, Chapter 44, section 3. The district court agreed with the prosecutor on the way of the herbicide had been spread, but considered that there was no evidence produced on the windy weather. The district court dismissed the charge of the environmental infraction on the grounds that the defendant had not committed the act intentionally or through gross negligence, and imposed 10 day fines to the defendant for careless handling. The defendant was also ordered to pay damages to the victims for dead plants. The court of appeal did not make any substantial changes in the district court's ruling, but did decrease the amounts of damages. (no information available on finality)

10.4.4 Transport of dangerous substances offence (Criminal Code, Chapter 44, section 13)

A person, who violates the Act on the Transporting of Dangerous Substances so that the action is conducive to endangering the life or health of another or endangering the property of another, shall be sentenced for a transport of dangerous substances offence. The annual number of cases reported to the authorities has varied from a few to less than two dozen cases.

Summary of a selected court case in 2019:

Transport of dangerous substances offence (Criminal Code, Chapter 44, section 13)

South Karelia District Court on 06 September 2019, decision No 19/138319, case ref. R 12/302

The defendant drove a tank truck carrying a dangerous substance in a manner in violation of the Act on Transporting of Dangerous Substances so that the act was conducive to cause danger to the lives, health or property of other persons. He drove a tank truck carrying liquefied methane from Petergof in Russia to Lieksa in Finland. Methane is a natural gas that is flammable and may form explosive mixtures with air. It is also an asphyxiant; exposure may cause a lack of oxygen and even death. On the Russian side of the border, the defendant noticed that one of the valves was not completely closed, and there was methane leaking in the air. The defendant drove the tank truck across the border to Finland, although transporting dangerous substances is prohibited in circumstances in which the tank is damaged and due to the quality of the substance, the transport is conducive to put people and property at risk. The leak was discovered at the Imatra border crossing point, where the authorities stopped the transport. The authorities had to stop passenger and freight traffic through the border crossing point for the time they secured the transport. Rescue authorities succeeded in melting off the ice jamming the valve by pouring warm water over it and subsequently, the valve was fully closed. The district court imposed 40 day fines to the defendant for a transport of dangerous substances offence and ordered him to pay 80 euros as a victim surcharge. (final)

10.5 Violations of the Water Act

The penal provisions applying to the Water Act are compiled in Chapter 16 of the Act. The criminal acts are: violation of a permit under the Water Act and violation of the Water Act, unless a more severe punishment is provided for in the Criminal Code. Permit violations include undertaking a water resources management project requiring a permit without a permit granted by the permit authority, while violations of the Water Act include preventing the free flow of water in a body of water and neglecting to inform the authorities.

Table 8. Violations of the Water Act filed by the police in 2015 – 2019.

Penal provisions of the Water Act (Chapter 16, sections 2 – 3)	2015	2016	2017	2018	2019
Permit violation against the Water Act (Chapter 16, section 2)	1	3	3	5	4
Violation of the Water Act (Chapter 16, section 3)	8	4	6	10	8
Total	9	7	9	15	12

Summaries of selected court cases in 2019:

Violation of the Water Act (Water Act, Chapter 16, section 3)

Kymenlaakso District Court on 03 October 2019, decision No 19/142794, case ref. R 19/846

The defendants were charged with aggravated impairment of the environment pursuant to the Criminal Code, Chapter 48, section 2, as they had failed to find out if they needed a permit for their dredging project and to apply the required permit. They also failed to notify the regional ELY Centre and the owner of the water area about the dredging project.

Roughly 50 m³ of material were removed from the dredging zone that measured roughly 250 m² to a depth of 20 – 30 cm below water level. The zone located on a river bottom that was highly contaminated with dioxins, furans and mercury. The dredging was conducive to impairment of the environment when dioxin and furan compounds and mercury contained in the sediment were released into the water and spread further to the aquatic environment. The released contaminants put at least benthic animals in danger, probably the aquatic life in more general terms, and momentarily caused a significant increase in the level of harmful substances in the river.

The prosecutor argued that the danger caused to the environment had been particularly serious considering the high purity, stability and bioaccumulation of the released contaminants. In addition, people's health had been significantly compromised. The prosecutor also presented alternative charges of violation of the Water Act and permit violation provided in the Water Act.

The defendants were also prosecuted for aggravated impairment of the environment as they had dumped the highly contaminated waste soil on the property. The district court imposed 20 day fines to the party, who had ordered the work, for violation of Chapter 16, section 3 of the Water Act. As to the dredging, the district court considered it proved, but held that the defendants had not been able to assume or know that the water area was contaminated. (no information available on finality)

10.6 Offences under other Acts

In addition to the penal provisions presented above, there are more than two dozen penal provisions applying directly to the environment or touching on it. For example, section 147 of the Waste Act, section 225 of the Environmental Protection Act, section 118 of the Fishing Act, section 25 of the Off-Road Traffic Act, section 58 of the Nature Conservation Act, section 17 of the Land Extraction Act and section 7 of the Act on Fishing in the River Tornionjoki Fishing Region – they all include penal provisions. When compared to the number of environmental and natural resources offences provided in the Criminal Code, the total number of minor offences is clearly higher. Table 9 shows violations reported to the criminal investigation authorities in 2015 – 2019. The authorities filed 174 violations of the Waste Act last year. In 2019, the police filed 430 violations of the Fishing Act. A closer look to individual penal provisions reveals that some of the offences

have been hardly ever committed. These include chemical violations, building protection violations and antiquities violations, for example. Very rarely applied penal provisions have not been included in the Table below. Considering the total numbers, the number of infractions classified as environmental offences in 2019 was clearly the lowest one in five years.

Table 9. Other environmental offences filed by criminal investigation authorities in 2015 – 2019.

Offences under other Acts	2015	2016	2017	2018	2019
Violations of the Waste Act	193	215	160	163	174
Fishing violation	865	602	485	566	430
Off-road traffic violation	233	251	280	260	174
Violation of the Nature Conservation Act	36	26	28	21	27
Violation of the Extractable Land Resources Act	3	4	7	8	4
Violation of the Act on Fishing on the Tornionjoki Fishing Zone	0	0	0	0	0
Violation of the Nature Conservation Act	9	18	14	18	28
Transport violations (hazardous substances)	501	374	419	421	325
Building violation	27	38	28	23	42
Building protection violation	0	0	0	0	0
Violation of the Antiques Act	4	2	3	1	0
Hunting violation	134	114	63	90	106
Forestry violation	4	3	12	22	25
Violation of the Hunting Act	207	173	176	173	129
Total	2,216	1,820	1,675	1,766	1,464

Summary of a selected court case in 2019:

Violation of the Nature Conservation Act (Nature Conservation Act, section 58)

Helsinki District Court on 20 May 2019, decision No 19/122956, case ref. R 17/7284

Then defendant, acting in behalf the company, purchased and acquired for commercial purposes and kept with intent to sell animal parts referred to in Annex A of the CITES Regulation (EC) No 338/97 or derivatives thereof in violation of the Article 8 of the Regulation. The defendant was the company's CEO and private entrepreneur. He decided and ordered where the company bought bear meat (*Ursus arctos*) and made the purchase contracts on behalf of the company. In this capacity, the defendant failed to make sure on case by case basis that the meat/seller had an EU certificate required by the CITES Regulations which would have allowed the sale of the meat and at the same time, justified its purchase had been issued to the meat offered for sale/the seller (i.e. allowed making an exception to the main rule of purchasing and acquiring bear meat for commercial purposes).

The company had acquired for commercial purposes/bought 99.55 kilos of bear meat (*Ursus arctos*) from a company in Estonia without making sure that the purchase conditions were met. The meat had been imported from Estonia to Finland, although the meat/the seller had no EU certificate issued by a competent authority allowing the sale/acquisition of the meat to Finland.

The district court imposed 30 day fines for violation of the Nature Conservation Act. (no information available on finality)

Summary of a selected court case in 2019:

Fishing violation (Fishing Act, section 118)

North Karelia District Court on 12 June 2019, decision No 19/127199 case ref. R 19/78

The defendant was prosecuted for a fishing offence and two fishing violations committed in 2016 – 2018. The acts concerned catching fish protected under the Fishing Act, failing to meet the

obligation to release fish into water pursuant to section 58 of the Finnish Act and failing to mark the fishing tackle pursuant to section 48 of the Fishing Act.

The prosecutor argued that the defendant had intentionally poached fish to a considerable extent in violation of the Fishing Act and provisions on the protection and the minimum size and failed to meet the obligation to release the catch pursuant to section 58 of the Fishing Act. The defendant had caught 15 protected salmon trouts and landlocked salmons, all with an adipose fin, and another 15 landlocked salmons and landlocked salmons without an adipose fin. Some of the catch was also undersized fish. According to the prosecutor, the defendant was to forfeit the value of the protected fish i.e. 625 euros to the state as criminal proceeds. As the exact amount of the proceeds from crime had not been established, the amount was estimated based on the weight of the catch (25 kilos) and the sale price a salmon fillet (25 euros/kilo).

Based on the produced evidence and related uncertainty factors, the district court considered that the defendant's poaching had not been extensive or professional, but the acts, however, met the statutory definition of the fishing violation. Some of the individual acts had fallen under the statute of limitations, so the district court considered only four landlocked salmons with an adipose fin and ten landlocked salmons without the fin. The district court imposed 20 day fines for three fishing violations to the defendant and dismissed the prosecutor's claim for forfeiture (625 euros). (no information available on finality)

Summary of selected court case in 2019 (after the amendment to the Fishing Act)

North Karelia District Court on 17 November 2019, decision No 19/148746, case ref. R 19/1234

The defendant had intentionally or through negligence poached fish in violation of the Fishing Act and provisions on the protection of fish and fishing ban by poaching a landlocked salmon with an adipose fin below the Lieksankoski power plant in Lieksanjoki in the Vuoksi river basin during a closed season. The salmon was in 84 cm in length. The defendant failed to meet the obligation to release the salmon provided in section 58 of the Fishing Act, but kept the catch.

The district court imposes 25 day fines to the defendant for a fishing violation and forfeited 7,150 euros as criminal proceeds pursuant to the section 1, subsection 1, paragraph 4 of the Ministry of Agriculture and Forestry's decree on the conservation values of declining and endangered and fish (614/2019). (no information available on finality)

Violation of the Hunting Act (Hunting Act, section 75)

Rovaniemi Court of Appeal on 10 December 2019, decision No 19/153846, case ref. R 19/604

The defendant had kept two dogs unleashed in violation of section 51 of the Hunting Act. He had either let his dogs out unleashed or locked them on the veranda so negligently that the dogs succeeded in getting out unleashed. His elkhound similar to the Jämthund and another person's Rottweiler had run to the injured party's reindeer enclosure at the time when the dogs were to be kept on leash, chased reindeers, killed one and mauled another so bad that it had to be put to death. According to the injured party, a carcass of a doe carrying a calf had been found in the enclosure later on. And even after that a doe had given birth to a dead calf and a carcass of another doe carrying a calf had been found. The injured party argued that the reason for the above deaths and one miscarriage was severe stress caused by the dogs.

The district court had imposed 25 day fines to the defendant for violation of the Hunting Act and ordered him to pay roughly 8,500 euros as damages. The Court of Appeal upheld the district court's decision. (no information available on finality)

Building violation (Land Use and Building Act, section 185)

Central Finland District Court on 20 September 2019, decision No. 19/139423, case ref. R 119/1018

The defendants were prosecuted for building an outbuilding of approximately 9 m² (floor area) on their property without a building permit or an action permit. The outbuilding was constructed in 2013 – 2014. They had the outbuilding standing on the property without a required building permit or action permit on their property, and by the spring of 2019 had not moved it. The local building control authority had given a notification to the defendants to remove the outbuilding by 20 June 2014 at the latest. The defendants had not moved it by that date. On 04 April 2017, a decision on administrative enforcement supported by a conditional fine to the defendants to demolish or otherwise remove the outbuilding by 31 May 2017 at the latest. The defendants appealed the decision the case to the Hämeenlinna Administrative Court, the court set a new deadline to 30 June 2018. The defendants did not observe that deadline, either. The outbuilding unlawfully stood in the same place where it was built in 2013 – 2014, without a building permit, until the spring of 2019.

The district court considered that it had not been established in the case that the defendants had been informed by the local authorities before the decision on administrative enforcement of 04 April 2017 that making a notification on the construction work was insufficient. Therefore, the defendants constructed the outbuilding in good faith. Therefore, the outbuilding was unlawfully in the place in question only after 30 June 2018 i.e. the deadline for removal set by the administrative court. The defendants moved the outbuilding away in the spring of 2019. The district court also considered credible that it had not been possible to remove the outbuilding in the winter when the ground was covered by snow or ice. According to the district court, the defendants had no possibilities to act otherwise and considered that under those circumstances, it had not been established that the defendants had intentionally refused to move the outbuilding after 30 June 2018. The district court dismissed the charges. (no information available on finality)

10.6.1 Violations of the Waste Act

The majority of the incidents reported by the environmental authorities or citizens are filed as violations of the Waste Act. Typically they are cases of littering or dumping or uncontrolled handling of waste. Private persons or companies have neglected their duty to manage their own waste, and the waste (for example, domestic waste, furniture, appliances or construction waste) has been dumped in the forest or some other place where it does not belong. Society, and sometimes private property owners, incur costs from the collection of such waste.

The violations of the Waste Act investigated by Customs mostly consisted of the export of used batteries from Finland to Estonia and the other Baltic States by Estonian, Latvian and Lithuanian citizens.

10.6.2 Detected oil discharges and imposed oil discharge fees

In addition to Finland's waters and exclusive economic zone, the Border Guard supervises and controls oil discharges from vessels in Estonian waters in the Gulf of Finland and Swedish waters in the Gulf of Bothnia. A high percentage of the oil discharges detected immediately in territorial waters and the exclusive economic zone through supervision and control are efficiently verified and the parties responsible for the discharges brought into the administrative oil discharge fee procedure. The Border Guard's Dornier aircraft patrol over Finnish waters nearly every day.

The Border Guard participates in international cooperation in the Baltic Sea in accordance with the common principles agreed under the Baltic Marine Environment Protection Commission (HELCOM). The above-mentioned cooperation in the field of oil discharge detection has demonstrated its functionality in practice. The busiest shipping routes are monitored in cooperation with Sweden and Estonia, in particular. 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 sent off by several countries.

Finnish, Swedish and Estonian aircrafts used in monitoring sea traffic in the Baltic Sea have equipment to monitor the environment, and with the help that equipment, monitoring sea traffic is also possible in bad weather conditions and in the dark. Side-looking radars enable detection of oil spills up to tens of kilometres distant from the route of the patrolling aircraft. The aircraft are also outfitted with equipment suitable for identifying vessels. Satellite images on suspected oil discharges were received from the CleanSeaNet service, a European satellite-based oil spill and vessel detection service of the European Maritime Safety Agency (EMSA).

In 2019, the Border Guard detected 52 oil discharges in comparison to 23 detected cases in Finland's territorial waters in 2018. The number of oil discharges more than doubled, but it is still close to the average of

the past ten years. The majority of the detected discharges occurred close to shore or port, and were very minor in volume. The focus areas of oil discharge detection are the exclusive economic zone and Finland's territorial waters. As in recent years, discharges in these areas were low. A total of four oil discharges were detected in the focus area; one of them was an exceptionally large. In respect to the leaked amount of oil, the discharges have been small, with the exception of three discharges.

One new administrative oil discharge investigation was launched in 2019 to determine the conditions for imposing an oil discharge fee. Two oil discharge fee decisions were made, with the payment of an oil discharge fee ordered in both cases.

An appeal against an oil discharge fee imposed by the Border Guard in 2011 was pending in the Supreme Court. The appeal process regarding the oil discharge fee in question was initiated in 2011, and the legal points of the case have been considered by all three levels of the court system. In 2014, the Supreme Court overruled a Court of Appeal decision appealed against by the Border Guard, by which the Court of Appeal had released the appellant of the oil discharge fee imposed by the Border Guard in a written procedure. At the same time, the Supreme Court returned certain aspects of the case to the Court of Appeal. The Court of Appeal heard the case again and decided to uphold the oil discharge fee imposed by the Border Guard. In 2015, the Supreme Court granted the appellant leave to appeal against the latest decision made by the Court of Appeal. The Supreme Court requested a preliminary ruling on the matter from the European Court of Justice in 2016. In December 2017, the European Court of Justice held an oral hearing on the matter, and Finland attended the hearing. The decision of the Advocate General of the European Court of Justice was published in February, and the Court delivered its ruling in July 2018.

In June 2019, the Supreme Court issued a judgment exempting the ship from the oil discharge fee imposed by the Border Guard and ordered that the security placed on behalf of the ship was to be returned. In addition, the state of Finland was ordered to reimburse some of the other party's legal costs and to pay them damages for the delay of the trial. More details of the case in the summary of the court case below.

10.6.3 Criminal investigation into oil discharges from vessels

According to a memorandum of understanding (MoU) between the Border Guard and National Police Board, responsibility for criminal investigation of oil discharges from ships was transferred from the police to the Border Guard from the beginning of 2011. With the MoU, the competent criminal investigation authorities agreed on the referral of criminal investigation responsibilities in Finland's territorial waters and exclusive economic zone to the Border Guard. However, the police still conduct criminal investigation of oil discharges from vessels in inland waters and when the nature or scope of the investigation so requires or the police requests the referral of the investigation under its jurisdiction, for example due to a connection with another serious offence.

The Border Guard has centralised the investigation of oil discharges from ships, along with the administrative investigations related to oil discharge fees, with the West Finland Coast Guard. Criminal investigation into maritime environmental crimes is conducted by the head of criminal investigation and the criminal investigator, both specialised in the subject matter. The Gulf of Finland Coast Guard and Air Patrol Squadron support the West Finland Coast Guard also in taking measures related to criminal investigation of oil discharges from ships.

In 2019, the Border Guard started criminal investigation into a particularly serious oil discharge in Finland's exclusive economic zone. In addition, a summary penal order for a fine was given in two of the cases, while one case resulted in caution. In two cases, investigation is going on, and in two other cases, investigations were terminated on the account of insignificance of the leaked amount.

Administrative oil discharge fee for a marine oil discharge in Finland's exclusive economic zone

Maritime Court in the Helsinki District Court on 30 January 2012, case ref. 12/4786 (L11/30287 and L11/498873); Helsinki Court of Appeal on 31 January 2013, case ref. 297 (S12/708), Supreme Court on 04 June 2014, case ref. 1197 (S2013/271); and Helsinki Court of Appeal on 18 November 2014, case ref. 2179 (S14/1591), Supreme Court of 25 June 2019, case ref. 1159 (S2015/71) and Court of Justice of the European Union on 11 July 2018, case ref. C-15/17

In July 2011, a Border Guard aircraft on a monitoring flight noticed that a Panamian freight vessel discharged oil into the Gulf of Finland south from Inkoo while in transit through Finland's exclusive economic zone.

When the plane contacted the vessel, the oil discharge stopped and the vessel continued its journey to St. Petersburg.

The Border Guard plane documented the discharge by taking both photographs and video and also took samples of the oil in the sea water. The oil spread some 37 kilometres in a strip at least ten kilometres wide. The samples of the discharged oil were delivered to the Forensic Laboratory of the National Bureau of Investigation for analysis. The plane crew estimated on the basis of a commonly used calculation method that the volume of the oil discharge was approximately 0.898 – 9,050 m³, in other words, some 900 – 9,000 litres.

The Finnish Transport Safety Agency (Traficom) made a Port State Control request on the vessel to a Russian competent authority and, on the basis of the request, Russian authorities took reference samples of the oil on board. The Forensic Laboratory verified that there was mineral-based oil found in the samples taken from the sea water. In addition, the Finnish Environment Institute issued a preliminary opinion on the impact of the oil discharge on the environment. When the vessel was returning, the Border Guard stopped the vessel in a place south from Hanko and ordered the vessel to deposit 17,112 euros as a financial security. If not paid, the vessel would be detained. At that time the Border Guard already had clear, objective evidence on the quality and extent of the oil discharge and on its environmental impact. After the financial security was deposited, the decision to detain the vessel was withdrawn and the vessel could resume its journey.

After closing an administrative investigation to the case, the Border Guard decided to impose an oil discharge fee of 17,112 euros to the vessel's owner in September 2011. The Border Guard had also started criminal investigation into the case. In October 2011, the prosecutor ordered on request by the head of investigation that the criminal investigation was to be terminated pursuant to section 4, subsection 4 of the Criminal Investigation Act (449/1987) due to reasons pertaining to costs.

Both the owner of the vessel and its master appealed the detaining of the vessel, security measures relating to imposing the security fee and the security fee imposed on the vessel to the Helsinki District Court sitting as a Maritime Court. It was the first time ever that a court had to consider the security measures taken by the Border Guard and the application of an increased threshold (significance criterion) referred to Chapter 3, section 1, subsection 1 in the Act on Environmental Protection in Maritime Transport (1672/2009) to an oil discharge from a foreign ship in transit through Finland's exclusive economic zone. The Maritime Court gave its ruling in January 2012 and rejected the appellants' claims in respect to both the security measures and the oil discharge fee.

The ship owner appealed the Maritime Court's ruling to the Helsinki Court of Appeal. According to the appeal, the facts in dispute were whether the oil discharge had actually caused any major damage or a risk of major damage to Finland's coastline or to any interests pertaining thereto, or to the natural resources of its territorial sea or of its exclusive economic zone and whether the Finnish authorities had had any competence in respect to the foreign vessel in transit due to the oil discharge. In addition, there was a new argument made in the appeal stating that the Border Guard had imposed the oil discharge fee to a wrong legal person.

In January 2013, the court decided the case in a written procedure and discharged that company from its obligation to pay the oil spill fine on the ground that the oil discharge fee had been imposed to a wrong party. The court of appeal released the appellant from the obligation to pay the oil discharge fee and ordered the state to cover the legal expenses. Due to the position the Court of Appeal had taken in the matter of the responsible party, it did not consider the grounds for imposing an oil discharge fee at all. The ruling was not unanimous. One of the judges disagreed with the ruling and he would have dismissed both the appeal and legal expenses as unfounded.

In January 2014, the Supreme Court granted leave to appeal to the Border Guard and ordered that the ruling on the legal expenses made by the Court of Appeal was not be enforced for the time being. In June 2014, the Supreme Court decided to repeal the ruling made by the Court of Appeal stating that the Border Guard had had the authority to impose the oil discharge fee to the ship owner, and referred the case back to the Helsinki Court of Appeal for assessing the grounds for imposing the oil discharge fee.

In October 2014, the Helsinki Court of Appeal had an oral main hearing in the case. The Helsinki Court of Appeal gave its ruling in the matter in November 2014 accepting the Maritime Court's conclusion in the fact that the oil discharge from the vessel had caused a major damage or at least a risk of major damage to Finland's coastline or to its interests pertaining thereto, or to the natural resources in its territorial sea or its

exclusive economic zone. The Court of Appeal considered further that the oil discharge from the vessel had violated both the provisions of the MARPOL 73/78 – International Convention for the Prevention of Pollution from Ships and of the Act on Environmental Protection in Maritime Transport. Therefore, the Court of Appeal did not find any reason to change the Maritime Court's ruling. The decision on placing a monetary security made by the Maritime Court was also kept in force until the decision on the oil discharge fee has been enforced or until it is otherwise ordered in the case. The ruling was unanimous.

In 2015, the Supreme Court granted leave of appeal to the appellant in respect to the most recent Court of Appeal's ruling. The Supreme Court was to consider whether the oil discharge from the vessel caused a major threat or a risk of a major threat defined in Chapter 3, section 1, subsection 1 of the Act on Environmental Protection in Maritime Transport.

The Supreme Court referred the matter to Court of Justice of the European Union for a preliminary ruling. In December 2017, the Court of Justice of the European Union held an oral hearing on the matter in Luxembourg in which Finland also attended. The decision of the Advocate General of the court was published in February, and the court delivered its ruling in July 2018. The ruling did not reveal any such circumstances based on which the measures taken by the Border Guard would have been considered to be contrary the European Union law. In the opinion of the Border Guard, the ruling supported the position that the measures executed by the Finnish authorities had been in line with the MARPOL 73/78 and the European Union law.

In June 2019, the Supreme Court released the shipping company from its obligation to pay the oil discharge fee imposed in 2011 and ordered the state to cover some of legal expenses claimed by the other party. The Supreme Court also ordered the state to pay 1,500 euros as damages to the shipping company due to the delayed court hearing. The decision on placing a security for the oil discharge fee became void, and the Legal Register Centre released the monetary security that had been placed for the vessel.

According to the Supreme Court's ruling, the matter was not a particularly extensive one, but it could be considered legally challenging, as it was a question of judicial interpretation of an international convention with no previous legal praxis. In fact, it had been necessary to refer the case to the Court of Justice of the European Union for a preliminary ruling. There was no knowledge of standard interpretation of UN Convention on the Law of the Sea (UNCLOS) as to the assessment of whether damage or the threat of damage is major, either. Furthermore, there were different views given in the judicial literature on the threshold of major damage.

In its ruling, the Supreme Court set the evidentiary threshold considerably high stating that no evidence or even an estimate of the proportion of oil mixed with water or submerged to the bottom had been provided in the case. In addition, it had also not been established in which direction and at what speed the oil had spread since the incident. The ruling referred to the opinion of the Finnish Environmental Institute stating that the oil may have had the negative impacts on the exclusive economic zone mentioned in the opinion and considering the extent and spread of the oil discharge, it could have been assumed that the negative impacts would spread to a relative extensive area and affect many different species. However, according to the Supreme Court, no evidence had been provided as to the intensity and duration of the expected effects which would have led to the conclusion that the discharge had caused significant damage or threat of damage to natural resources of the exclusive economic zone. In addition, the Supreme Court found that the evidence produced on the probability of the oil ending up on the Finnish coast or in a nearby Natura area in the circumstances of the case was insufficient.

The Supreme Court's ruling has resulted in efforts to identify needs for possible amendments in the Act on Environmental Protection in Maritime Transport. Mutual cooperation between various authorities has also been intensified and steps taken to develop the opinion procedure on environmental damages caused by oil discharges, in particular, and to survey the evidence available in general.

10.7 About the number of environmental offences in prosecution and courts of law

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

Table 10. Environmental offences and infractions forwarded to prosecution in 2015 – 2019.

Environmental offences	2015	2016	2017	2018	2019
Impairment of the environment (Criminal Code, Chapter 48, section 1)	68	65	79	91	71
Aggravated impairment of the environment (Criminal Code, Chapter 48, section 2)	7	5	3	10	7
Environmental infraction (Criminal Code, Chapter 48, section 3)	18	34	32	34	30
Negligent impairment of the environment (Criminal Code, Chapter 48, section 4)	4	3	0	2	0
Nature conservation offence (Criminal Code, Chapter 48, section 5)	23	8	20	17	19
Building protection offence (Criminal Code, Chapter 48, section 6)	1	3	1	1	1
Total	121	118	135	155	128

Table 11. Natural resources offences forwarded to prosecution in 2015 – 2019.

Natural resource offences	2015	2016	2017	2018	2019
Hunting offence (Criminal Code, Chapter 48 a, section 1)	97	41	36	32	39
Aggravated hunting offence (Criminal Code, Chapter 48 a, section 1 a)	7	2	5	9	7
Fishing offence (Criminal Code, Chapter 48 a, section 2)	1	1	4	4	1
Forestry offence (Chapter 48 a, section 3)	0	1	0	1	0
Unlawful exploitation of mineral resources in the Antarctic (Criminal Code, Chapter 48 a, section 3 a)	0	0	0	0	0
Timber offence (Criminal Code, Chapter 48 a, section 3 b)	0	0	0	0	0
Concealing poached game (Criminal Code, Chapter 48 a, section 4)	0	0	0	0	0
Aggravated concealing poached game (Criminal Code, Chapter 48 a, section 4 a)	0	0	0	0	0
Total	105	45	45	46	47

Table 12. Offences endangering health and safety referred to prosecution in 2015 – 2019.

Offences endangering health and safety provided for in the Criminal Code	2015	2016	2017	2018	2019
Health offence (Criminal Code, Chapter 44, section 1)	3	5	6	5	7
Endangerment of health (Criminal Code, Chapter 34, section 4)	0	0	1	1	0
Aggravated endangerment of health (Criminal Code, Chapter 34, section 5)	0	0	0	0	0
Causing a risk of spreading an animal disease (Criminal Code, Chapter 44, section 4 a)	0	1	0	1	2
Genetic technology offence (Criminal Code, Chapter 44, section 9)	0	0	0	0	0
Nuclear energy use offence (Criminal Code, Chapter 44, section 10)	0	1	1	0	0
Explosives offence (Criminal Code, Chapter 44, section 11)	63	48	49	70	42
Careless handling (Criminal Code, Chapter 44, section 12)	48	67	53	59	63

Radioactive material possession offence (Criminal Code, Chapter 44, section 12 a)	0	0	0	0	0
Transport of dangerous substances offence (Criminal Code, Chapter 44, section 13)	2	4	0	4	5
Total	116	126	110	140	119

Table 13. Offences against the Water Act forwarded to prosecution in 2015 – 2019.

Penal provisions included in the Water Act	2015	2016	2017	2018	2019
Permit violation against the Water Act (Chapter 16, section 2)	3	1	3	1	1
Violation of the Water Act (Chapter 16, section 3)	1	2	0	0	3
Total	4	3	3	1	4

Table 14. Other environmental offences forwarded to prosecution in 2015 – 2019.

Offences under other Acts	2015	2016	2017	2018	2019
Violations of the Waste Act	19	19	21	22	12
Fishing violation	11	10	18	17	0
Off-road traffic violation	7	10	10	9	4
Violation of the Nature Conservation Act	9	7	10	0	4
Hunting violation	30	18	11	16	13
Forestry violation	3	3	4	10	4
Violation of the Nature Conservation Act	1	6	2	2	7
Transport violations (hazardous substances)	5	7	2	2	5
Building violation	9	16	16	8	12
Violation of the Extractable Land Resources Act	0	5	1	0	4
Total	94	101	95	86	65

10.8 About the number of environmental crime cases forwarded to prosecution and referred to court

In 2019, prosecutors brought charges for offences provided for in Chapter 48 of the Criminal Code 65 times, that is, in 52.4 % of cases. The average time taken for the consideration of charges was 5.96 months. A total of 33 charges were brought for the offences provided for in Chapter 48 a of the Criminal Code, amounting to 71.7 % of all cases. In these cases, the average duration of consideration of charges was 4.04 months.

Table 15. Trend in the number and proportion of charges dismissed in full or in part in 2015 – 2019.

Year	Sentenced as charged	Charge dismissed in full or in part	Proportion of dismissed cases (%)	All decisions
2015	176	48	21.43 %	224
2016	160	50	23.81 %	210
2017	113	37	24.67 %	150
2018	157	41	20.71 %	198
2019	142	52	22.71 %	229

The average fine imposed for offences under Chapter 48, section 1 of the Criminal Code amounted to approximately 50 day fines.

10.9 Environmental offences reported to the criminal investigation authorities and forwarded to prosecution

The National Working Group on Monitoring Environmental Crime has been monitoring environmental crime since 1997. To the extent an offence may carry a sentence of imprisonment; the penal provisions for environmental offences are collected in the Criminal Code. Various other Acts contain more lenient penal provisions in addition to those. This has an effect on monitoring environmental crime and so does assessing which offences are to be regarded as environmental offences. Our legislation provides for several criminal acts that also touch upon environmental matters. Thus, it is difficult to take all neglect and criminal acts related to the environment into account in the monitoring. This Report mainly deals with environmental related criminal acts decreed as criminal offences in the Criminal Code.

The environmental offences and violations with an environmental dimension detected by Customs and forwarded to prosecution have mostly concerned the export of scrap electrical and electronic devices and scrap batteries. The nature conservation offences and violations investigated by Customs typically concern imported goods of animal or plant origin requiring a licence, either sent to Finland by post or carried by passengers. In some cases, offences were committed in the course of business operations. The offenders in the investigated cases have been Finnish and foreign natural persons, along with some Finnish legal entities. These offences are described in more detail in the chapters above. The number of environmental and nature conservation offences referred to Customs for criminal investigation decreased slightly from the past year.

Environmental offences investigated by the Border Guard are typically detected in connection with the border control performed outside the border crossing points. The Border Guard has excellent capabilities for supervision and control in matters relating to the environment, since the agency is active on land, sea and air, and has equipment appropriate to the task. Also civilians report environmental offences to the Border Guard.

The numbers of environmental and natural resource offences filed by the Border Guard took a decrease from the previous year. The Border Guard investigated a total of 201 cases of environmental and natural resource offences or infractions in 2018, with the corresponding figure in 2019 being 188 cases.

In addition to these, the Border Guard also filed four game offences in 2018. The numbers of criminal acts relating to fishing and hunting and off-road traffic violations detected by the Border Guard, in particular, took a clear drop when compared to the previous year.

11 Conclusions

The value of the nature and environment and the ways to protect them have recently become emphasized in social discourse, in part due to the debate on the climate change and the increasing threat to the endemic diversity and biodiversity of nature. Therefore, it can be assumed that new, stricter regulations will be introduced in the near future, which will increase costs in the form of, among other things, reducing emissions and treating waste and soil. Thus, there is a risk that the environmental offences through which offenders aim to avoid proper emission and waste management in order to minimize their environmental protection costs and required investments in protective measures, will produce more lucrative profits to criminals. It is likely that the number of environmental offences detected and reported to the authorities will increase in future years due to intensified operations by the authorities and stricter regulations.

Aggravated impairment of the environment is typically committed in the context of business activities when the offence usually relates to storing, handling or dumping waste materials, waste soil and various chemicals or dumping them or unlawful digging or handling and storing soil materials. Cases of impairment of the environment have been committed in handling liquid manure, carcasses and crops to be destroyed, for example. It is typical to the impairment of the environment committed in business life that the cases involve considerable proceeds from crime as well as damages and significantly high restoration costs.

Environmental values are given priority in the assessment of the seriousness of environmental offences, and they are the primary objects of protection with regard to environmental offences. More weight could be placed on the expenses incurred from repairing environmental damage caused by an offence and the amount of possible restoration costs in the assessment of the seriousness of environmental offences and

the significance of environmental values. Restoration costs in even relatively minor environmental offences can be quite high. If this is not taken into consideration, it will distort the comparison between different types of crime and lead to a less severe legal practice deviating from the principle of proportionality in comparison to other crimes.

Criminal activities relating to technologies used in circular economy will increase. Criminal investigation authorities have investigated cases relating to biofuels in West-European countries, for example. In any society, organised crime filters in such areas where the proceeds are as high as possible.

Based on the big picture of environmental crime, the following become emphasized: smoothness of mutual cooperation between supervisory and criminal investigation authorities, prevention and detection of criminal offences, confiscation of criminal proceeds, informing the public and implementation of The Environmental Crime Prevention Strategy and the Action Plan. The national strategy group continues the activity found efficient and will update the Action Plan at regular intervals.

The environmental supervision authorities have a key role on developing environmental protection and control and therefore, in prevention of environmental offences. Their success in prevention decreases the number of environmental offences reported and detected by the criminal investigation authorities. Active operations of regional cooperation groups become emphasized in developing inter-agency cooperation between the authorities. Each police department has its own regional working group focused on environmental crime; those groups have contributed to the inter-agency cooperation and in building the overall picture of environmental offences in Finland. With the help of good regional cooperation, the authorities aim to respond to unlawful acts efficiently and quickly.

Environmental crime may produce considerable financial and other illegal benefits. To prevent such crime being profitable to the perpetrator, attention should be specifically paid to tracing and recovering the criminal proceeds at the criminal investigation phase. Active inter-agency cooperation becomes emphasised in the tracing and recovering the proceeds of crime. The evaluation of the proceeds of crime is not always straightforward at the moment when a request for investigation is made. In the beginning of the criminal investigation, possible criminal proceeds are not always known or they have not been specified clearly enough. The amount of criminal proceeds is a continuous process of assessment in the criminal investigation. The proceeds or a part thereof may remain unclaimed, if they are not presented and underscored in the request for investigation in a sufficient manner.

Releasing information to the public on measures taken by different authorities, results of investigations and court decisions can increase the prevention of environmental crime in general. Training and guidance in environmental crime matters should be an on-going process. The National Monitoring Group emphasises the need for raising the level of expertise on environmental crime among the authorities and allocating resources in a way that special expertise in environmental crime prevention is enhanced.